

NORTH DAKOTA

TITLE 12.1. CRIMINAL CODE

CHAPTER 12.1-06.1. RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

12.1-06.1-01. Definitions.

1. For the purpose of section 12.1-06.1-02:

a. "Combination" means persons who collaborate in carrying on or furthering the activities or purposes of a criminal association even though those persons may not know each other's identity or membership in the combination may change from time to time or one or more members may stand in a wholesaler-retailer or other arm's-length relationship with others as to activities or dealings between or among themselves in an illicit operation.

b. "Criminal association" means any combination of persons or enterprises engaging, or having the purpose of engaging, on a continuing basis in conduct which violates any one or more provisions of any felony statute of this state or which is the willful and illegal transportation or disposal of radioactive waste material or hazardous waste.

2. For the purposes of sections 12.1-06.1-02 through 12.1-06.1-07, unless the context otherwise requires:

a. "Control" means the possession of a sufficient interest to permit substantial direction over the affairs of an enterprise.

b. "Enterprise" means any corporation, limited liability company, association, labor union, or other legal entity or any group of persons associated in fact although not a legal entity.

c. "Financial institution" means any bank, trust company, savings and loan association, credit union, or money lender under the jurisdiction of the state department of banking and financial institutions or its commissioner, or the state banking board, or the state credit union board.

d. "Illegal transportation or disposal of radioactive waste material or hazardous waste" means the transportation or disposal into a nonhazardous waste landfill or the intentional and unlawful dumping into or on any land or water of radioactive waste material in violation of section 23-20.2-09 or rules adopted pursuant to that section which were in effect on January 1, 1997, or hazardous waste in willful violation of chapter 23-20.3 or the rules adopted pursuant to that chapter which were in effect on January 1, 1997, except for the handling of conditionally exempt small quantities of hazardous waste as referenced in section 33-24-02-05 of the North Dakota Administrative Code.

e. "Pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after July 8, 1987, and the last of which occurred within ten years, excluding any period of imprisonment, after the commission of a prior act of racketeering activity.

f. "Racketeering" means any act including any criminal attempt, facilitation, solicitation, or conspiracy, committed for financial gain, which is chargeable or

indictable under the laws of the state in which the act occurred and, if the act occurred in a state other than this state, would be chargeable or indictable under the laws of this state had the act occurred in this state and punishable by imprisonment for more than one year, regardless of whether such act is charged or indicted, involving: (1) Homicide.

(2) Robbery.

(3) Kidnapping.

(4) Forgery.

(5) Theft.

(6) Bribery.

(7) Gambling.

(8) Usury.

(9) Extortion.

(10) Unlawful delivery of controlled substances.

(11) Trafficking in explosives, weapons, or stolen property.

(12) Leading a criminal association.

(13) Obstructing or hindering criminal investigations or prosecutions.

(14) Asserting false claims including, but not limited to, false claims asserted through fraud or arson.

(15) Fraud.

(16) Sale of unregistered securities or real property securities and transactions involving such securities by unregistered dealers or salesmen.

(17) Obscenity.

(18) Child pornography.

(19) Prostitution.

g. "Records" means any book, paper, writing, record, computer program, or other material.

3. For the purposes of section 12.1-06.1-08:

a. "Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network.

b. "Computer" means an electronic device which performs work using programmed instruction and which has one or more of the capabilities of storage, logic, arithmetic, communication, or memory and includes all input, output, processing, storage, software, or communication facilities that are connected or related to such a device in a system or network.

c. "Computer network" means the interconnection of communication lines, including microwave, fiber optics, light beams, or other means of electronic or optic data communication, with a computer through remote terminals or a complex consisting of two or more interconnected computers.

d. "Computer program" means a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system.

e. "Computer software" means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer system.

f. "Computer system" means a set of related, connected, or unconnected computer equipment, devices, and software.

g. "Financial instrument" means any credit card, debit card, or electronic fund transfer card, code, or other means of access to an account for the purpose of

initiating electronic fund transfers, or any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, marketable security, or any other written instrument which is transferable for value.

h. "Property" includes financial instruments, information, electronically produced or stored data, supporting documentation, computer software, and computer programs in either machine or human readable form, and any other tangible or intangible item of value.

i. "Services" includes computer time, data processing, storage functions, and other uses of a computer, computer system, or computer network to perform useful work.

CHAPTER 12.1-28. GAMBLING AND RELATED OFFENSES

CHAPTER 12.1-28

GAMBLING AND RELATED OFFENSES

12.1-28-01. Gambling - Definitions. As used in this chapter:

1. "Gambling" means risking any money, credit, deposit, or other thing of value for gain, contingent, wholly or partially, upon lot, chance, the operation of gambling apparatus, or the happening or outcome of an event, including an election or sporting event, over which the person taking the risk has no control. Gambling does not include:

- a. Lawful contests of skill, speed, strength, or endurance in which awards are made only to entrants or to the owners of entries; or
- b. Lawful business transactions, or other acts or transactions now or hereafter expressly authorized by law.

2. "Lottery" means any plan for the distribution of a thing of value, whether tangible or intangible, to a person or persons selected by chance from among participants, some or all of whom have given a consideration for the chance of being selected.

3. "Gambling apparatus" means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons, or gambling by a person involving the playing of a machine. Gambling apparatus does not include an amusement game or device as defined in section 53-04-01.

4. "Gambling house" means any location or structure, stationary or movable, wherein gambling is permitted or promoted, or where a lottery is conducted or managed. In the application of this definition, any place where gambling apparatus is found is presumed to be a gambling house, provided that this presumption shall not apply where cards, dice, or other games are found in a private residence.

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

Except as permitted by law:

1. It is an infraction to engage in gambling on private premises where the total amount wagered by an individual player exceeds twenty-five dollars per individual hand, game, or event.

2. It is a class A misdemeanor to:

- a. Sell, purchase, receive, or transfer a chance to participate in a lottery, whether the lottery is drawn in state or out of state, and whether the lottery is lawful in the other state or country;

- b. Disseminate information about a lottery with intent to encourage participation in it, except that a legal lottery may be advertised in North Dakota; or
 - c. Engage in gambling on private premises where the total amount wagered by an individual player exceeds five hundred dollars per individual hand, game, or event.
3. A person is guilty of a class C felony if that person engages or participates in the business of gambling. Without limitation, a person is deemed to be engaged in the business of gambling if that person:
- a. Conducts a wagering pool or lottery;
 - b. Receives wagers for or on behalf of another person;
 - c. Alone or with others, owns, controls, manages, or finances a gambling business;
 - d. Knowingly leases or otherwise permits a place to be regularly used to carry on a gambling business or maintain a gambling house;
 - e. Maintains for use on any place or premises occupied by that person a coin-operated gaming device; or
 - f. Is a public servant who shares in the proceeds of a gambling business whether by way of a bribe or otherwise.
4. a. As used in subsection 3 but with the exceptions provided by subdivision b of this subsection, the term "coin-operated gaming device" means any machine that is:
- (1) A so-called "slot" machine that operates by means of the insertion of a coin, token, or similar object and which, by application of the element of chance, may deliver, or entitle the person playing or operating the machine to receive cash, premiums, merchandise, or tokens; or
 - (2) A machine that is similar to machines described in paragraph 1 and is operated without the insertion of a coin, token, or similar object.
- b. The term "coin-operated gaming device" does not include a bona fide vending or amusement machine in which gambling features are not incorporated as defined in section 53-04-01, or an antique "slot" machine twenty-five years old or older that is collected and possessed by a person as a hobby and is not maintained for the business of gambling.
- c. A law enforcement officer may seize any device described in subdivision a upon probable cause to believe that the device was used or is intended to be used in violation of this chapter or chapter 53-06.1. The court shall order the device forfeited in the same manner and according to the same procedure as provided under chapter 29-31.1.

TITLE 26.1. INSURANCE

CHAPTER 26.1-30. INSURANCE POLICIES

26.1-30-02. Policy executed by gambling void.

Every insurance policy executed by way of gaming or wagering is void.

TITLE 29. JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 29-10.2. STAT GRAND JURY

29-10.2-01. Definition.

As used in this chapter, "organized crime" means racketeering, as defined in section 12.1-06.1-01, or any combination or conspiracy of two or more persons to engage in criminal activity as a significant source of income or livelihood, or to violate, aid, or abet the violation of criminal laws relating to prostitution, gambling, loansharking, drug abuse, illegal alcohol or drug distribution, counterfeiting, extortion, or corruption of law enforcement officers or other public officers or employees.

TITLE 44. OFFICES AND OFFICERS

CHAPTER 44-04. DUTIES, RECORDS, AND MEETINGS

44-04-06. Peace officers to report law violations.

The state's attorney, assistant state's attorney, sheriff, deputy sheriff, or peace officer of any county, township, city in this state, having any evidence, knowledge, or notice of any violation of any liquor, gambling, cigarette, snuff, pool hall, bawdyhouse, prostitution, white slave, or habit-forming drug laws of North Dakota shall investigate and seek evidence of the violation and the names of witnesses by whom the violation may be proved. Any peace officer shall report the information to the state's attorney of the county in which the violation occurs and shall assist the state's attorney in the prosecution of the violators of said laws.

TITLE 50. PUBLIC WELFARE

CHAPTER 50-09. AID TO DEPENDENT CHILDREN

50-09-08.5. Securing assets to satisfy past due child support.

In acting as the official agency of the state in administering the child support program under title IV-D, in cases in which there is past due child support, the state agency may secure assets to satisfy the past due

amount by issuing writs of execution under chapter 28-21. Those writs of execution may be used

to secure or seize property including:

1. Periodic or lump sum payments from:
 - a. An agency administering unemployment compensation benefits, workers' compensation benefits, or other benefits; and
 - b. Judgments, settlements, and gaming proceeds otherwise belonging to the obligor, or payable upon the obligor's demand;
2. Assets of the obligor held in financial institutions; and
3. Public and private retirement funds.

TITLE 53. SPORTS AND AMUSEMENTS

CHAPTER 53-03. CARNIVALS

53-03-03. Permit required - Terms upon which granted.

A permit to conduct a carnival must be granted upon the condition, and the contract must state, that there may not be:

1. Set up or operated any gambling device, lottery, number or paddle wheel, number board, punchboard, or other game of chance or skin game of any kind, except as otherwise permitted by law; or
2. Any lewd, lascivious, or indecent show, indecent exposure of the person, suggested lewdness or immorality, any indecent dance where persons perform, or any other lewd, immoral, or indecent show or attraction.

CHAPTER 53-04. LICENSING OF AMUSEMENT GAMES

53-04-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Amusement games or devices" includes 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, but does not apply to any machine which may constitute a lottery under the laws of this state.
2. "Person" includes any partnership, corporation, or limited liability company.

53-04-02. Annual license required - Fee.

A person may not operate, lease, or distribute an amusement game or device without first having obtained an annual license. Licenses are of two types. An operator's license entitles the licensee to operate, lease, or distribute machines at locations not owned or managed by the licensee. The operator shall affix to each machine an operator's number provided by the attorney general. The operator shall

have a business office within the state and a valid sales tax permit. A location license must 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 ten machines at one location managed or owned by that individual. An individual is not entitled to more than one location license. The location license must be displayed on or near the machines.

The annual fee for an operator's license is one thousand dollars. The annual fee for a location license is twenty-five dollars per machine.

A reinstatement fee of one hundred dollars for an operator license renewal and fifty dollars for a location license renewal is required in addition to the annual license fee for each

license renewal applied for after June thirtieth.

53-04-03. Annual license required - Fee. Repealed by S.L. 1983, ch. 545, § 4.

53-04-04. Annual license fee. Repealed by S.L. 1983, ch. 545, § 4.

53-04-05. Administering and enforcing provisions of chapter - Confiscation of machines and devices. The attorney general shall administer and enforce the provisions of this

chapter and may adopt rules as deemed necessary and expedient. The attorney general may

confiscate all machines and devices that are not covered by an appropriate license or are

machines primarily designed for gambling.

53-04-06. License to be displayed. Repealed by S.L. 1983, ch. 545, § 4.

53-04-07. All money remitted to state treasurer. All money collected under the provisions of this chapter for licenses on amusement devices must be remitted to the state

treasurer and must be credited to the general fund of the state.

53-04-08. Penalty. Any person engaged in the operating or displaying to the public of any amusement device, whether one or more, in violation of any of the provisions of this chapter

is guilty of a class B misdemeanor.

CHAPTER 53-04.1. AMUSEMENT CONCESSIONS

53-04.1-01. Definitions.

1. "Amusement concession" means any place where a single amusement game or device, or bingo, is conducted by a person for profit, and includes the area within which are confined the equipment, playing area, and other personal property necessary for the conduct of the game.

2. "Amusement games or devices" means such games and devices as electric ray guns, music boxes, picture boxes, bumper-ball, or pinball, and other similar miniature games or devices, whether or not they show a score, where a charge for playing or operating is collected, but do not include any machine which may constitute a lottery under the laws of this state. "Amusement games or devices" also means a game, contest, scheme, or device in which a person stakes or risks something of value for an opportunity to win something of value and in which the outcome depends in a material degree upon an element of chance, notwithstanding

a person's skill may also be a factor.

3. "Bingo" means that game in which each participant receives one or more cards, each of which is marked off into twenty-five squares and five horizontal rows of five squares each and five vertical rows of five squares each. Each square is designated by number, letter, or combination of numbers and letters, no two cards being identical. The players cover squares as the operator of such game announces the number, letter, or combination of numbers and letters appearing on an object selected by chance, either manually or mechanically, from a receptacle in which have been placed objects bearing numbers, letters, or combination of numbers and letters corresponding to the system used for designating the squares. The winner of each game is the player or players first properly covering a predetermined and announced pattern of squares on a card being used by the player or players.
4. "Carnival" means an aggregation of attractions including any show, circus, act, game, vending device, or amusement device, whether conducted under one management or more, or independently, temporarily set up or conducted in a public place or upon any private premises accessible to the public with or without admission fee, which, from the nature of the aggregation, attracts attendance and causes promiscuous commingling of persons in the spirit of merrymaking and revelry.
5. "Conducts" means a specified activity which occurs when a person owns, promotes, sponsors, or operates a game or activity. A natural person does not "conduct" a game or activity if the person is a participant in a game or activity which complies with this chapter.
6. "Fair" means an annual fair or exposition held by the North Dakota state fair board or any county fair board.
7. "Fair board" means the officers of any state or county fair association, or the agents of any such board, duly authorized to make any contract or issue any permit as provided in this chapter.
8. "Gross proceeds" means the total revenue received as rent for the privilege of conducting amusement games or devices, or bingo.
9. "Licensee" means an eligible organization licensed under the provisions of this chapter.
10. "Licensing authority" means the attorney general of the state of North Dakota.
11. "Net proceeds" means gross proceeds less cash prizes or the price of merchandise prizes.
12. "Person" means any natural person, firm, partnership, corporation, or limited liability company.
13. "Posted" means that the person conducting a game has caused to be placed near the front or playing area of the game a sign at least thirty inches by thirty inches [76.2 centimeters by 76.2 centimeters], with permanent material and lettering stating, at the top in letters at least three inches [7.62 centimeters] high, "Rules of the Game". Thereunder, in large, easily readable print, the name of the game, the price to play the game, the complete rules for the game, and the name and permanent mailing address of the owner of the game must be stated.
14. "Raffle" means a lottery in which each participant buys a ticket for a chance at a prize with the winner determined by a random method. "Raffle" does not include a slot machine.
15. "Rent" means the amount paid by a person or organization for the use of space to conduct amusement games or devices or bingo.

53-04.1-02. Organizations eligible. Fair boards may conduct or authorize a person to conduct amusement games or devices or bingo under the conditions of this chapter.

Notwithstanding any other provisions of this chapter, fair boards may use the net proceeds of such amusement games or devices or bingo or may use the rent as defined in this chapter to directly benefit the fair board. It is the finding of the legislative assembly that it is in the public interest to preserve agricultural fairs and expositions.

53-04.1-03. License - Fees - Application - Suspension - Revocation. A fair board shall apply for a license to conduct amusement games or devices, or bingo, from the attorney

general at least thirty days before the operation of such games. Application must be made upon

forms prescribed by the attorney general along with the submission of a fifty dollar license fee.

The license application must be signed and sworn to by the applicant and must contain the following:

1. The name and post-office address of the applicant.
2. The location at which the organization will conduct the amusement games or devices, or bingo, whether the organization owns or leases the premises, and a copy of the rental agreement if it leases the premises.
3. A statement of the applicant's previous history and association sufficient to establish the applicant is an eligible organization.
4. A statement of the educational, charitable, patriotic, fraternal, religious, or other public-spirited uses to which the net proceeds of an amusement game or device, or bingo, will be devoted.
5. Such other reasonable and necessary information as the attorney general may require.

The attorney general shall license applicant organizations which conform to the requirements of

this chapter to conduct amusement games or devices, or bingo. In addition, the attorney general

may, on his own motion based on reasonable grounds or on written complaint, suspend or

revoke a license in accordance with chapter 28-32 for violation, by the licensee or other officer,

director, agent, member, or employee of such licensee, of this chapter or any rule adopted

pursuant to this chapter. Each amusement game or device must be licensed by the attorney

general's office in accordance with chapter 53-04.

53-04.1-04. Amusement concessions. An amusement game or device, or bingo, is lawful when conducted by a person at an amusement concession, but only if all of the following

are complied with:

1. The location where the game is conducted by the person has been authorized as provided in section 53-04.1-05.
2. The person conducting the game has been issued a license pursuant to this chapter and prominently displays the license at the playing area of the game.
3. Games of chance other than the licensed game are not conducted or engaged in at the amusement concession.
4. The game is posted and the cost to play the game does not exceed five dollars.

5. A prize is not displayed which cannot be won.
6. Cash prizes in excess of five dollars are not awarded and merchandise prizes are not repurchased.
7. The game is not operated on a build-up or pyramid basis except a trade up of a prize is allowed.
8. Concealed numbers or conversion charts are not used to play the game and the game is not designated or adapted with any control device to permit manipulation of the game by the operator to prevent a player from winning or to predetermine who the winner will be. The object target, block, or object of the game must be attainable and possible to perform under the rules stated from the playing position of the player.
9. The game is conducted in a fair and honest manner.
10. A person under the age of eighteen may not play any amusement game or device, except bingo, in which cash prizes are awarded.

53-04.1-05. Permitted locations. An amusement game or device or bingo may be lawfully conducted by a person at an amusement concession provided the person has written authorization from the sponsor of the fair to conduct the amusement game or device or bingo.

53-04.1-06. Examination of books and records. The licensing authority and its agents, and representatives of the governing body of a city or county with respect to a fair board authorized by that governing body, shall have the power to examine or cause to be examined the books and records of any fair board licensed or authorized to conduct amusement games or devices, or bingo, under this chapter to the extent that such books and records relate to any transaction connected with holding, operating, or conducting of any amusement game or device, or bingo.

53-04.1-07. Rules. The licensing authority may adopt rules in accordance with chapter 28-32 relating to, but not limited to, methods of play, conduct, and promotion of amusement games or devices, or bingo; methods, procedures, and minimum standards for accounting and recordkeeping; requiring reports by licensees and authorized organizations; ensuring that the entire net proceeds of amusement games or devices, or bingo, are devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this chapter; protecting and promoting the public interest; ensuring fair and honest amusement games or devices, or bingo; ensuring that fees and taxes are paid; and seeking to prevent or detect unlawful gambling activity.

53-04.1-08. Violation of chapter - Misdemeanor - Forfeiture of licensure - Ineligibility

for two years. 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 amusement games or devices, or bingo, 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 amusement game or device, or bingo, or who violates any of the provisions of this chapter, any rule adopted hereunder, or of any term of a license is guilty of a class A misdemeanor. If convicted, such organization or person shall forfeit any license or authorizing resolution issued to it pursuant to this chapter and is ineligible to reapply for a license or authorization for two years thereafter.

CHAPTER 53-06.1. GAMES OF CHANCE

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

1. "Adjusted gross proceeds" means gross proceeds less cash prizes, cost of merchandise prizes, sales tax on bingo cards, pull tab excise tax, and federal excise tax and interest imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401].
2. "Charitable organization" means an organization incorporated as a nonprofit corporation whose primary purpose is for relief of poor, distressed, underprivileged, diseased, elderly, or abused persons, prevention of cruelty to children or animals, or similar condition of public concern, which has been actively fulfilling its primary purpose within this state for the two immediately preceding years.
3. "Civic and service organization" means an organization incorporated as a nonprofit corporation whose primary purpose is to promote the common good and social welfare of a community as a sertoma, lion, rotary, jaycee, kiwanis, or similar organization, and which has been actively fulfilling its primary purpose within this state for the two immediately preceding years.
4. "Compulsive gambler" means an individual who is chronically and progressively preoccupied with gambling and the urge to gamble and with gambling behavior that compromises, disrupts, or damages personal, family, or vocational pursuits.
5. "Distributor" means a person that sells, markets, or distributes equipment usable in the conduct of games.
6. "Educational organization" means any nonprofit public or private elementary or secondary school, two-year or four-year college, or university in this state which has been active for the two immediately preceding years.
7. "Eligible organization" means veterans, charitable, educational, religious, fraternal, civic and service, public safety, or public-spirited organization domiciled in North Dakota and which may be issued a license by the attorney general.
8. "Fraternal organization" means an organization, except a college or high school fraternity, which is incorporated as a nonprofit corporation and which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members. The organization must have been actively fulfilling its primary purpose within this state for the two immediately preceding years, and must have obtained an advance ruling or final determination from the internal revenue service as qualifying for exemption from federal income tax under section 501(c)(8) or 501(c)(10) of the Internal Revenue Code.

9. "Games" means games of chance.
10. "Gross proceeds" means all cash and checks received from conducting games, sales tax on bingo cards, and admissions.
11. "Licensed organization" means an eligible organization licensed by the attorney general.
12. "Local permit" means a permit issued to a nonprofit organization by a governing body of a city or county.

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

3. Commission members are entitled to forty dollars per day for compensation for each day spent on commission duties, and mileage and expense reimbursement as allowed to other state employees.

4. The attorney general shall represent the state in all hearings before the commission. The commission may employ private counsel.

5. The commission shall adopt rules in accordance with chapter 28-32, to administer and regulate the gaming industry, including methods of conduct, play, and promotion of games; minimum procedures and standards for recordkeeping and internal control; requiring tax returns and reports from organizations or distributors; methods of competition and doing business by distributors and manufacturers; acquisition and use of gaming equipment; quality standards for the manufacture of pull tabs, paper bingo cards, and pull tab and bingo card dispensing devices; to ensure that net proceeds are disbursed to educational, charitable, patriotic, fraternal, religious, or public-spirited uses; to protect and promote the public interest; to ensure fair and honest games; to ensure that fees and taxes are paid; and to prevent and detect unlawful gambling activity.

53-06.1-01.2. Duty of attorney general to participate in certain hearings - Employment

of private counsel by commission. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-02. Organizations eligible - Use of net proceeds. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-02.1. Waiver of two-year active requirement - Local permit. Repealed by S.L. 1995, ch. 484, § 35.

53-06.1-03. Local permits, site authorization, and licenses.

1. An organization that has its license suspended or revoked, or has relinquished its license and not disbursed its net proceeds is ineligible for a local permit. An organization shall apply for a local permit as follows:

a. A nonprofit organization recognized as a public-spirited organization by the governing body of a city or county may apply for a local permit to conduct only raffles, bingo, or sports pools in which a primary prize does not exceed one thousand dollars, and the total prizes of all games do not exceed six thousand dollars per year. The determination of what is a "public-spirited organization" is within the sole discretion of the governing body which should in its determination consider the definition of a public-spirited organization under section 53-06.1-01 and eligible uses of net proceeds under section

53-06.1-11.1. A governing body may issue a local permit for the games to be

held at designated times and places.

b. An eligible organization shall apply to the governing body of the city or county in which the site where the gaming activity to be conducted is located. Application for a local permit must be made on a form prescribed by the attorney general. If the nonprofit organization is a North Dakota college or university fraternity, sorority, or club, the organization shall provide a signed acknowledgment by the administration of the college or university that the applicant is a recognized fraternity, sorority, or club. Approval may be granted at the discretion of the governing body. A governing body may establish a fee not to exceed twenty-five dollars for each local permit. A local permit must be on a fiscal year basis from July first to June thirtieth or on a calendar-year basis.

2. An eligible organization shall apply for a license to conduct only bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one, paddlewheels, poker, or sports pools by:

a. First securing approval for a site authorization from the governing body of the city or county in which the proposed site is located. Approval, which may be granted at the discretion of the governing body, must be recorded on a site authorization form that is to accompany the license application to the attorney general for final approval. A governing body may not require an eligible organization to donate net proceeds to the city, county, or related political subdivision or for community programs or services within the city or county as a condition for receiving a site authorization from the city or county. A governing body may limit the number of tables for twenty-one per site and the number of sites upon which a licensed organization may conduct games within the city or county. A governing body may charge a one hundred dollar fee for a site authorization; and

b. Annually applying for a license from the attorney general before July first on a form prescribed by the attorney general and including with the application a one hundred fifty dollar license fee. An organization shall sufficiently document that it qualifies as an eligible organization. If a licensed organization amends its primary purpose as stated in its articles of incorporation or changes its basic character in a material manner, the organization shall reapply for licensure.

3. A licensed organization may conduct games only on an authorized site as follows:

a. Only one licensed organization or organization that has a local permit at a time may conduct games at an authorized site, except that a raffle may be conducted for a special occasion by a second licensed organization or organization that has a local permit when one of these conditions is met:

(1) When the area for the raffle is physically separated from the area where games are conducted by the regular licensee.

(2) Upon request of the regular licensee and with the approval of the alcoholic beverage establishment, the licensee's license is suspended for that specific time of day by the attorney general.

b. Except for a temporary site authorized for fourteen or fewer consecutive days for not more than two events per quarter, a licensed organization may not have more than twenty-five sites unless granted a waiver by the attorney general. If the attorney general finds that there is no other licensed organization interested in conducting gaming at a site for which a waiver is being sought, the attorney general may approve the waiver for no more than five sites. Only one of two or more closely connected organizations may have a license at one time. Closely connected organizations are two or more organizations which have an interdependent relationship, based on the presence and degree of unitary

attributes. These attributes may include common primary purposes, members on boards of directors, officers, management, administrative and operating services, membership, program services, integrations of gaming activities, and shared facilities.

c. Games of pull tabs, punchboards, twenty-one, paddlewheels, and sports pools may be conducted only during the hours when alcoholic beverages may be dispensed according to applicable regulations of the state, county, or city.

d. An organization may not permit a person under twenty-one years of age to directly or indirectly play pull tabs, punchboards, twenty-one, calcuttas, sports pools, paddlewheels, or poker. An organization may not permit a person under eighteen years of age to directly or indirectly play bingo unless the person is accompanied by an adult, bingo is conducted by an organization that has a local permit, or the game's prize structure does not exceed that allowed for a local permit.

4. A local permit, site authorization, and license must contain information prescribed by the attorney general or local governing body and must be displayed at a site.

5. The attorney general shall license an eligible organization that complies with this chapter and may issue a conditional license to an eligible organization whose regularly issued license has expired or been suspended, revoked, or relinquished. The attorney general shall designate the time period for which the conditional license is valid and may impose any conditions.

6. A governing body or local law enforcement official may inspect a site's gaming equipment, and examine or cause to be examined the books and records of a licensed organization or organization that has a local permit to the extent that the books and records relate to any transaction involving the direct or indirect conduct of games.

53-06.1-03.1. Bingo sites - Limit on rent. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-03.2. Twenty-one sites - Limit on rent. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-03.3. Pull tab sites - Limit on rent. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-03.4. Electronic video gaming devices - Limit on rent. Deleted by R.M. December 5, 1989.

53-06.1-04. College fraternities and sororities allowed to conduct raffles, sports pools, and bingo - Use of proceeds. Repealed by S.L. 1995, ch. 484, § 35.

53-06.1-05. Local permit for educational organizations, college fraternities, and sororities for raffles, sports pools, and bingo. Repealed by S.L. 1995, ch. 484, § 35.

53-06.1-05.1. Regulation by city or county of number of twenty-one tables per site and number of sites per licensed organization. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-06. Persons permitted to conduct games - Equipment.

1. No person, except a member, an employee of a licensed organization or an organization that has a local permit, or an employee of a temporary employment agency who provides services to a licensed organization, may conduct any game. "Member" includes a member of an auxiliary organization. In conducting pull tabs or bingo through a dispensing device, the attorney general may allow an employee of an alcoholic beverage establishment to provide limited assistance to an organization.

2. Except when authorized by the attorney general or allowed by the gaming rules, an eligible organization shall procure gaming equipment only from a licensed distributor. No equipment or prizes may be purchased at an excessive price.

3. An organization shall maintain complete, accurate, and legible accounting records in North Dakota for all gaming activity and establish an adequate system of internal control. The governing board of an eligible organization is primarily responsible and

may be held accountable for the proper determination and distribution of net proceeds.

4. The value of a merchandise prize awarded in a game is its retail price.

5. A person is restricted from being involved in gaming and the attorney general shall conduct criminal history record check as follows:

a. A person who has pled guilty to or been found guilty of a felony offense as defined by the laws of this state, other states, or the federal government, or has pled guilty to or been found guilty of a violation of this chapter, a gaming rule, chapter 12.1-28 or 53-06.2, or offenses of other states or the federal government equivalent to offenses defined in these chapters may not be a licensed distributor, may not be employed by a licensed distributor to sell or distribute gaming equipment, and may not be employed by a licensed organization to conduct games on a site for five years from the date of conviction, release from incarceration, or expiration of parole or probation, whichever is the latest.

b. A person who has pled guilty to or been found guilty of a misdemeanor offense in violation of section 6-08-16.2 or chapter 12.1-06, 12.1-23, or 12.1-24 or offenses of other states, the federal government, or a municipality equivalent to these offenses may not be a licensed distributor, may not be employed by a licensed distributor to sell or distribute gaming equipment, and may not be employed by a licensed organization to conduct games on a site for two years from the date of conviction, release from incarceration, or expiration of parole or probation, whichever is the latest.

c. The attorney general shall conduct a criminal history record check of each potential employee of a licensed organization and charge a fee of twenty dollars per record check in accord with section 12-60-16.9. The fee may be waived in part or in whole by the attorney general if a federal agency or local law enforcement agency has done a record check. The attorney general may require payment of any additional fee necessary to defray the actual cost of a background check of a person for whom adequate background information sources are not readily available, including a person who has not resided in North Dakota for the previous five years. The attorney general may require payment of the estimated additional fee in advance as a condition precedent to beginning the background check. The attorney general shall notify the person when a determination is made that an additional fee is necessary and shall notify the person of the best estimate of the amount of the additional fee. In lieu of paying the additional cost, a person may cancel the background check. The estimated cost must be placed in the attorney general's refund fund for use to defray the actual expenses of the background check. The remainder of the funds must be returned to the person within thirty days of the conclusion of the background check. The attorney general shall notify the organization and the person of the result of the background check. The attorney general shall hold the information confidential except in the proper administration of this chapter or any gaming rule, or to an authorized law enforcement agency.

6. A licensed organization may not pay bingo prizes in which the total bingo prizes exceeds total bingo gross proceeds for a period prescribed by gaming rule. However, a bingo prize that equals or exceeds ten thousand dollars is excluded from the total of the bingo prizes.

7. A city or county may require a person conducting games to obtain a local work permit, charge a fee, and conduct a criminal history record check. A fee may not exceed the actual expense of processing an application.

53-06.1-06.1. Local work permits. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-07. Games allowed. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-07.1. Limitations on hours and participation. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-07.2. Poker. A licensed organization may conduct poker on not more than two occasions per year. An organization may supply the dealer. The maximum single bet is one

dollar. Not more than three raises, of not more than one dollar each, may be made among all

the players in each round of bets. Otherwise the normal rules of poker apply. An organization

shall assess each player a fee not to exceed two dollars per one-half hour of playing time,

collected in advance. A fee may be charged each player for entry into a tournament for prizes

and this fee may be in place of or in addition to the fee assessable at one-half hour intervals.

53-06.1-07.3. Calcuttas. A calcutta may only be conducted for a professional or amateur sporting event held in this state, but not for elementary, secondary, or postsecondary

education sports events. An organization shall post at the site all rules affecting the conduct and

play of calcuttas. An organization may not have an interest in the outcome of the calcutta. A

player must place a wager in the calcutta auction pool at the site. No more than one wager per

competitor may be allowed in any calcutta pool. The amount of prizes may not exceed ninety

percent of the gross proceeds. A player may not place a wager on a competitor in a calcutta

sporting event unless the competitor is eighteen years of age or older.

53-06.1-07.4. Paddlewheels. An organization shall post at the site rules relating to paddlewheels. A paddlewheel is a mechanical vertical wheel marked off into equally spaced

sections that contain numbers or symbols, and which after being spun, uses a pointer to indicate

the winning number or symbol. The maximum price per wager is two dollars. No money may be

used to bet on the table. A table must be used to register a player's wager when a prize is a

variable multiple of the wager. A paddlewheel ticket must be used to register a player's wager

when a prize is not a variable multiple of the wager. A player may not place wagers valued at

more than twenty dollars on each spin of the paddlewheel. Cash, chips, or merchandise prizes

may be awarded. No single cash prize, value of chips, or the retail value of the merchandise

prize to be awarded for a winning wager may exceed one hundred dollars.

53-06.1-08. Punchboards and pull tabs. Unless all top tier winning pull tabs or

punchboard punches of a game have been redeemed, or unless otherwise permitted by a gaming rule or the attorney general, a person or organization may not close the game after it has been placed in play. The maximum sales price per pull tab and punchboard punch is two dollars.

The maximum prize value of a top tier winning pull tab or punchboard punch is five hundred dollars. The game of pull tabs may only be conducted by commingling deals.

53-06.1-08.1. Limitation on pull tab prizes. Repealed by S.L. 1995, ch. 484, § 35.

53-06.1-09. Sports pools. A sports pool must be for a professional sport only. The maximum wager is five dollars. The amount of prizes may not exceed ninety percent of the gross proceeds.

53-06.1-10. Twenty-one. No money may be allowed on the table as a wager. The organization shall provide playing chips of various denominations to players. Chips must be

redeemed by the organization for their full value. The maximum limit per wager may be set by

the organization at not more than five dollars and wagers in increments of one dollar must be

accepted up to the maximum limit. A player may not play more than two hands at the same

time. Only the player actually playing a hand may place a wager on any hand. Each player

plays the player's hand against the dealer's hand. 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 a natural twenty-one and is an automatic payout except in

a tie count with the dealer. Players may double down on a natural twenty-one. For a tie count

between the player and the dealer, no winner is declared and the player keeps the player's

wager. An organization may allow pooling of tips received by dealers at a site. Any requirement

to pool tips is within the sole discretion of each organization. An organization shall post rules

relating to twenty-one. Except for a site that has twenty-one gross proceeds averaging less than

ten thousand dollars per quarter, an organization may not conduct twenty-one at the site with

wagers exceeding two dollars unless the organization has first installed video surveillance

equipment as required by rules and the equipment is approved by the attorney general.

53-06.1-10.1. Raffles. A prize for a raffle may be cash or merchandise, but may not be real estate. No single cash prize may exceed one thousand dollars and the total cash prizes in

one day may not exceed three thousand dollars.

53-06.1-11. Gross proceeds - Allowable expenses - Rent limits.

1. All money received from games must be accounted for according to the gaming

rules. Gaming activity for a quarter must be reported on a tax return form prescribed by the attorney general. The purchase price of a merchandise prize must be paid from a gaming bank account by check. No check drawn from a gaming or trust bank account may be payable to "cash" or a fictitious payee. A cash prize that exceeds an amount set by rule must be accounted for by a receipt prescribed by the gaming rules.

2. Allowable expenses may be deducted from adjusted gross proceeds. The allowable expense limit is fifty percent of the first two hundred thousand dollars of adjusted gross proceeds per quarter and forty-five percent of the adjusted gross proceeds in excess of two hundred thousand dollars per quarter. In addition, an organization may deduct as an allowable expense:

a. Two and one-half percent of the gross proceeds of pull tabs.

b. Capital expenditures for security or video surveillance equipment used for controlling games if the equipment is required by section 53-06.1-10 or authorized by rule, and it is approved by the attorney general.

3. Cash shorts incurred in games and interest and penalty are classified as expenses.

4. For a site where bingo is conducted:

a. Except under subdivision c, if bingo is the primary game, the monthly rent must be reasonable.

b. If bingo is not the primary game, but is conducted with twenty-one, paddlewheels, or pull tabs, no additional rent is allowed.

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

5. For a site where bingo is not the primary game:

a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed two hundred dollars multiplied by the necessary number of tables. If pull tabs is also conducted, the monthly rent for pull tabs may not exceed an additional one hundred twenty-five dollars.

b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted, the monthly rent may not exceed two hundred twenty-five dollars.

53-06.1-11.1. Restricted use of money in certain political activities - Eligible uses of net proceeds.

1. A licensed organization or an organization that has a local permit may not use money from any source for placing an initiated or referred measure on a ballot or for a political campaign to promote or oppose a person for public office. Except for a use related to an organization's primary purpose, a licensed organization or organization that has a local permit may not use net proceeds to influence legislation or promote or oppose referendums or initiatives. Any funds expended by an organization to promote or oppose an initiated or referred measure that is on the ballot or for any activities of a lobbyist under section 54-05.1-02, that are not compensation or expenses paid to a lobbyist, and that are not required to be reported under section 54-05.1-03 must be reported to the attorney general as prescribed by the attorney general. A violation of this section subjects an organization to a suspension of its license or local permit for up to one year.

2. A licensed organization shall disburse net proceeds within the period prescribed by rule and for only these educational, charitable, patriotic, fraternal, religious, or public-spirited uses:

a. Uses for stimulating and promoting state and community-based economic development programs within the state which improve the quality of life of community residents.

b. Uses for developing, promoting, and supporting tourism within a city, county, or the state.

c. Uses benefiting an indefinite number of persons by bringing them under the influence of education, cultural programs, or religion which include disbursements to provide:

- (1) Scholarships for students, if the disbursement is deposited in a scholarship fund for defraying the cost of education to students and the scholarships are awarded through an open and fair selection process.
- (2) Supplementary assistance to a public or private nonprofit educational institution registered with or accredited by any state.
- (3) Assistance to libraries and museums.
- (4) Assistance for the performing arts and humanities.
- (5) Preservation of cultural heritage.
- (6) Youth community and athletic activities.
- (7) Adult amateur athletic activities within the state, such as softball, including uniforms and equipment.
- (8) Maintenance of places of public worship or support of a body of communicants, gathered in common membership for mutual support and edification in piety, worship, or religious observances.
- (9) Scientific research.

d. Uses benefiting an indefinite number of persons by relieving them of disease, suffering, or constraint which include disbursements to provide:

- (1) Relief to an individual or family suffering from poverty or homelessness.
- (2) Encouragement and enhancement of the active participation of the elderly in our society.
- (3) Services to the abused.
- (4) Services to persons with an addicted behavior toward alcohol, gambling, or drugs.
- (5) Funds to combat juvenile delinquency and rehabilitate ex-offenders.
- (6) Relief for the sick, diseased, and terminally ill and their physical well-being.
- (7) Funds for emergency relief and volunteer services.
- (8) Funds to nonprofit nursing homes and nonprofit medical facilities.
- (9) Social services and education programs aimed at aiding emotionally and physically distressed, handicapped, elderly, and underprivileged persons.
- (10) Funds for crime prevention, fire protection and prevention, and public safety.
- (11) Funds to relieve, improve, and advance the physical and mental conditions, care and medical treatment, and health and welfare of injured or disabled veterans.

e. Uses that perpetuate the memory and history of the dead.

f. Uses increasing comprehension of and devotion to the principles upon which the nation was founded, not of direct benefit to the eligible organization or any member thereof which include disbursements to aid in teaching the principles of liberty, truth, justice, and equality. However, beauty pageants do not qualify.

g. The erection or maintenance of public buildings, utilities, or waterworks.

h. Uses lessening the burden of government which include disbursements to an entity that is normally funded by a city, county, state, or United States government and disbursements directly to a government entity or its agency.

i. Uses benefiting a definite number of persons who are the victims of loss of home or household possessions through explosion, fire, flood, or storm and the

loss is not covered by insurance.

j. Uses benefiting a definite number of persons suffering from a seriously disabling disease or injury causing severe loss of income or incurring extraordinary medical expense which is not covered by insurance.

k. Uses, for community service projects, by chambers of commerce exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code. A project qualifies if it develops or promotes public services, including education, housing, transportation, recreation, crime prevention, fire protection and prevention, safety, tourism, and health. Uses that directly benefit a chamber of commerce do not qualify.

l. Uses for or of benefit to efforts in support of the health, comfort, or well-being of the community which include disbursements to provide:

(1) Funds for adult bands, including drum and bugle corps.

(2) Funds for trade shows and conventions conducted in this state.

(3) Funds for nonprofit organizations that operate a humane society, zoo, or fish or wildlife propagation and habitat enhancement program.

(4) Funds for public transportation, community celebration, and recreation.

(5) Funds for preservation and cleanup of the environment.

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

3. The uses in subsection 2 do not include the erection, acquisition, improvement, maintenance, or repair of real or personal property owned or leased by an organization unless it is used exclusively for an eligible use. No part of net proceeds after they have been disbursed to an eligible use recipient may be used by the donee to pay any person for services rendered or materials purchased in connection with the conduct of games by the donor organization.

53-06.1-12. Gaming and excise taxes - Deposits.

1. A gaming tax is imposed on the total adjusted gross proceeds earned by a licensed organization in a quarter and it must be computed and paid to the attorney general on a quarterly basis on the tax return. This tax must be paid from adjusted gross proceeds and is not part of the allowable expenses. The tax rates are:

a. On adjusted gross proceeds not exceeding two hundred thousand dollars, a tax of five percent.

b. On adjusted gross proceeds exceeding two hundred thousand dollars but not exceeding four hundred thousand dollars, a tax of ten percent.

c. On adjusted gross proceeds exceeding four hundred thousand dollars but not exceeding six hundred thousand dollars, a tax of fifteen percent.

d. On adjusted gross proceeds exceeding six hundred thousand dollars, a tax of twenty percent.

2. In addition to any other tax provided by law and in place of sales or use taxes, there is imposed an excise tax of four and one-half percent on the gross proceeds from the sale at retail of pull tabs to a final user. This includes pull tabs provided to a player in exchange for redeemed winning pull tabs. The tax must be paid to the attorney general when tax returns are filed.

3. The state treasurer shall deposit gaming and excise taxes, monetary fines, and interest and penalties collected in the general fund in the state treasury.

53-06.1-12.1. Deposits. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-12.2. Pull tab excise tax. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-12.3. Interest and penalty. The attorney general shall assess a licensed organization interest and penalty as follows:

1. Assessment of interest. If an organization does not pay tax due by the original date of a tax return, or if additional tax is due based on an audit or math verification of the return and it is not paid by the original due date of the return, the organization shall pay interest on the tax at the rate of twelve percent per annum computed from the original due date of the return through the date the tax is paid.

2. Assessment of penalty. If an organization does not pay tax due on a tax return by the original or extended due date of the return, or if additional tax is due based on an audit or math verification of the return and it is not paid by the original or extended due date of the return, the organization shall pay a penalty of five percent of the tax, or twenty-five dollars, whichever is greater. If an organization does not file a tax return by the original or extended due date of the return, the organization shall pay a penalty of five percent of the tax, or twenty-five dollars, whichever is greater, for each month or fraction of a month during which the return is not filed, not exceeding a total of twenty-five percent.

3. If an organization fails to pay any tax, interest, or penalty, the attorney general may bring court action to collect it. The attorney general may for good cause waive all or part of any interest or penalty and may waive any minimal tax.

4. If an organization has failed to file a tax return, has been notified by the attorney general of the delinquency, and refuses or neglects within thirty days after the notice to file a proper return, the attorney general shall determine the adjusted gross proceeds and gaming and excise taxes due according to the best information available and assess the taxes at not more than double the amount. Interest and penalty also must be assessed.

53-06.1-13. Examination of books and records. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-13.1. Financial statements. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-14. Distributors and manufacturers.

1. A manufacturer of pull tabs, bingo cards, and or pull tab dispensing devices, and a distributor shall apply annually for a license upon a form prescribed by the attorney general before the first day of April in each year. The license fee for a distributor is one thousand five hundred dollars. The license fee for a manufacturer is four thousand dollars.

2. A distributor may not sell, market, or distribute gaming equipment except to a licensed distributor, licensed organization, organization that has a local permit, or other person authorized by the attorney general. A manufacturer of pull tab dispensing devices, pull tabs, or bingo cards may only sell, market, or distribute pull tab dispensing devices, pull tabs, or bingo cards to a licensed distributor. A distributor may purchase or acquire pull tabs or bingo cards only from a licensed manufacturer or licensed distributor. A licensed distributor may purchase or acquire a new pull tab dispensing device only from a licensed manufacturer or distributor. No gaming equipment or prizes may be sold at an excessive price.

3. A licensed distributor shall affix a North Dakota gaming stamp to each deal of pull tabs and bingo cards, punchboard, sports pool board, calcutta board, and series of paddlewheel ticket cards sold and shall purchase the stamps from the attorney general for twenty-five cents each.

4. A licensed organization, organization that has a local permit, licensed manufacturer, or North Dakota wholesaler of liquor or alcoholic beverages may not be a distributor. A licensed manufacturer may not have any financial interest in a distributor. A

distributor may not have any financial interest in a licensed manufacturer.

5. In addition to the license fee, the attorney general may require payment of any additional fee necessary to defray the actual cost of a background check of an applicant by following the procedures prescribed by subdivision c of subsection 5 of section 53-06.1-06.

53-06.1-15. Form and display of license and local permit. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-15.1. Authority of the attorney general. The attorney general may:

1. Inspect all sites in which gaming is conducted or inspect all premises where gaming equipment is manufactured or distributed. The attorney general may require a licensed manufacturer to reimburse the attorney general for the reasonable actual cost of transportation, lodging, meals, and incidental expenses incurred in inspecting the manufacturer's facility.

2. Inspect all gaming equipment and supplies on a site or premises.

3. Seize and remove from a site or premises and impound any gaming equipment, supplies, games, or books and records for the purpose of examination and inspection. When books or records are seized, the attorney general shall provide copies of those records or books within seventy-two hours of a specific request by the organization for a copy of the books or records seized.

4. Demand access to and inspect, examine, photocopy, and audit all books and records of applicants, organizations, lessors, manufacturers, and distributors, including any affiliated companies on their premises concerning any income or expense resulting from any gaming activity, determine compliance with this chapter or gaming rules, and require verification of income, expense, or use of net proceeds, and all other matters affecting this chapter.

5. The attorney general may permit the commissioner or proper representative of the internal revenue service of the United States to inspect a tax return or furnish a copy of the tax return, or information concerning any item contained in the return, or disclosed by any audit or investigation report of the gaming activity of any organization or player, or recordkeeping information. However, information cannot be disclosed to the extent that the attorney general determines that the disclosure would identify a confidential informant or seriously impair any civil or criminal investigation. Except when directed by judicial order, or for pursuing civil or criminal charges regarding a violation of this chapter or a gaming rule, or as is provided by law, the attorney general may not divulge nor make known, to any person, any income or expense item contained in any tax return or disclosed by an audit or investigative report of any taxpayer, provided to the attorney general by the internal revenue service.

6. Require a representative of a licensed organization or distributor to participate in training or for good cause prohibit the person from being involved in gaming as an employee or volunteer. The attorney general may for good cause prohibit a person from providing personal or business services to an organization or distributor.

7. Prohibit a person from playing games if the person violates this chapter, chapter 12.1-28, or 53-06.2, or a gaming rule.

8. Require a licensed organization to pay a bingo or raffle prize to a player based on a factual determination or a hearing by the attorney general.

9. Based on reasonable ground or written complaint, suspend, deny, or revoke an organization's local permit or an organization's, distributor's, or manufacturer's license for violation, by the organization, distributor, or manufacturer or any officer, director, agent, member, or employee of the organization, distributor, or manufacturer, of this chapter or any gaming rule.

10. Impose a monetary fine on a licensed organization, distributor, or manufacturer for failure to comply with this chapter or any gaming rule. The monetary fine for each violation by an organization is a minimum of twenty-five dollars and may not exceed two percent of the organization's average quarterly gross proceeds, or five thousand dollars, whichever is greater. The monetary fine for each violation by a distributor is a minimum of one hundred dollars and may not exceed five thousand dollars. The monetary fine for each violation by a manufacturer is a minimum of five hundred dollars and may not exceed two hundred fifty thousand dollars. This fine may be in addition to or in place of a license suspension or revocation.

11. At any time within three years after any amount of fees or tax required to be paid pursuant to this chapter becomes due, bring a civil action to collect the amount due. However, if for any reason there is a change in adjusted gross income or tax liability by an amount which is in excess of twenty-five percent of the amount of adjusted gross income or tax liability originally reported on the tax return, any additional tax determined to be due may be assessed within six years after the due date of the tax return, or six years after the tax return was filed, whichever period expires later. An action may be brought although the person owing the fees or tax is not presently licensed.

12. Institute an action in any district court for declaratory or 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 or gaming rules.

53-06.1-15.2. Attorney general may bring civil action for collection of fees and tax and to force compliance. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-15.3. Exchange and secrecy of information regarding the internal revenue service. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-15.4. Conditional license - Issuance. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-16. Violation of law or rule - Fraudulent scheme or technique to cheat or skim unlawful - Penalty.

1. Except as otherwise provided by this chapter, a person who knowingly makes a false statement on a request for record check form or in any application for a local permit, or license, or in any accompanying statement, knowingly signs a false record or report, or who fails to maintain sufficient books and records or adequate internal control to substantiate gross proceeds, prizes, cash profits, expenses, or disbursement of net proceeds, or who falsifies any books or records relating to any transaction involving the direct or indirect conduct of games, or who violates this chapter, any gaming rule, or of any term of a local permit or license is guilty of a class A misdemeanor. If convicted, the person forfeits any gaming license or local permit issued to it and is ineligible to reapply for a gaming license or local permit for a period of time determined by the attorney general.

2. It is unlawful for a person playing or conducting a game:

a. To use bogus or counterfeit chips or pull tabs, or to substitute or use any game, cards, pull tabs, or game piece that have been marked or tampered with.

b. To employ or have on one's person any cheating device to facilitate cheating in any game, or to attempt to commit or commit a theft, or to assist in committing any other fraudulent scheme.

c. To willfully use any fraudulent scheme or technique, including when a person directly or indirectly solicits, provides, or receives inside information of the status of a game of pull tabs for the benefit of any person.

d. To alter or counterfeit a site authorization, license, or North Dakota gaming stamp.

e. To knowingly cause, aid, abet, or conspire with another person or to cause any

person to violate this chapter or a gaming rule.

A person violating this subsection is guilty of a class A misdemeanor unless the total amount gained through the use of these items, schemes, or techniques resulted in a person obtaining over five hundred dollars, then the offense is a class C felony. However, if a person uses a fraudulent scheme regarding soliciting, providing, or receiving inside information involving the game of pull tabs or uses a fraudulent scheme or technique to cheat or skim involving pull tabs, twenty-one, or bingo, regardless of the amount gained, the offense is a class C felony.

53-06.1-16.1. Bogus chips, marked cards, cheating devices, or fraudulent schemes unlawful - Penalty. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-16.2. License suspension or revocation - Ineligibility for local permit. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-17. Rules. Repealed by S.L. 1997, ch. 428, § 21.

53-06.1-18. Compulsive gambling prevention, awareness, crisis intervention, rehabilitation, and treatment services. The department of human services shall contract with qualified treatment service providers for the development and implementation of a program for gambling prevention, awareness, crisis intervention, rehabilitation, and financial counseling and mental health treatment services. The program may provide outpatient services; partial care services; aftercare services; intervention services; financial counseling services; consultation services; or other forms of preventive, rehabilitative, or treatment services for compulsive gamblers. An individual who provides treatment services must meet the minimum standards for certification as a gambling counselor as established by the national council on problem gambling and be a mental health professional as defined in section 25-03.1-02. An individual who provides financial counseling services must be a certified consumer credit counselor with an accredited financial counseling agency. The department of human services may establish a sliding payment scale for services under the program. The department of human services may establish a centrally located repository of educational materials on identifying and treating compulsive gambling. Any service fee collected by qualified treatment service providers for services provided under the contract must be applied toward the program's compulsive gambling services.

CHAPTER 53-06.2

PARIMUTUEL HORSE RACING

53-06.2-01. Definitions. As used in this chapter:

1. "Breeders' fund" means a fund, administered by the commission, established to financially reward breeders or owners of North Dakota bred horses to be paid in

accordance with rules as approved by the commission.

2. "Certificate system" means the system of betting described in section 53-06.2-10.

3. "Charitable organization" means a nonprofit organization operated for the relief of poverty, distress, or other conditions of public concern in this state, and has been so engaged in this state for at least two years.

4. "Civic and service club" means a branch, lodge, or chapter of a nonprofit national or state organization that is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose in this state, and has so existed in this state for at least two years. The term includes a similar local nonprofit organization, not affiliated with a state or national organization, which is so recognized by a resolution adopted by the governing body of the local jurisdiction in which the organization conducts its principal activities, and which has existed in this state for at least two years.

5. "Commission" means the North Dakota racing commission.

6. "Director" means the director of the commission.

7. "Fraternal organization" means a nonprofit organization in this state, which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members, and has so existed in this state for two years. The term does not include a college or high school fraternity.

8. "Local jurisdiction" means, with respect to a site inside the city limits of a city, that city, and with respect to a site not inside the city limits of a city, the county in which the site is located.

9. "Other public-spirited organization" means a nonprofit organization recognized by the governing body of the appropriate local jurisdiction by resolution as public-spirited and eligible under this chapter.

10. "Purse fund" means a fund, administered by the commission, established to supplement and improve purses offered at racetracks within the state.

11. "Racing" means live or simulcast horse racing under the certificate system or simulcast dog racing under the certificate system.

12. "Religious organization" means a nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances, and which has been so gathered or united in this state for at least two years.

13. "Veterans' organization" means a congressionally chartered organization in this state, or a branch, lodge, or chapter of a nonprofit national or state organization in this state, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has so been in existence in this state for at least two years.

53-06.2-02. Racing commission - Members - Appointment - Term - Qualifications - Compensation.

1. A North Dakota racing commission is established in the office of the attorney general. The commission consists of the chairman and four other members appointed by the governor. Of the members appointed by the governor, one must be appointed from a list of four nominees, one of whom is nominated by the state chapter or affiliate of the American quarter horse racing association, one of whom is nominated by the state chapter or affiliate of the United States trotting association, one of whom is nominated by the state chapter or affiliate of the international Arabian horse association, and one of whom is nominated by the state chapter or affiliate of the North Dakota thoroughbred association. The members serve five-year terms and until a successor is appointed and qualified. A member appointed to fill a

vacancy arising from other than the natural expiration of a term serves only for the unexpired portion of the term. The terms of the commissioners must be staggered so that one term expires each July first. At the expiration of the five-year term of each incumbent member of the commission, the governor shall appoint a new member to the commission.

2. A person is ineligible for appointment to the commission if that person has not been a resident of this state for at least two years before the date of appointment. A person is also ineligible if that person is not of such character and reputation as to promote public confidence in the administration of racing in this state. A person who has a financial interest in racing cannot be a member of the commission and cannot be employed by the commission. Failure to maintain compliance with this subsection is grounds for removal from the commission or from employment with the commission. For purposes of this section, a person has a financial interest in racing if that person has an ownership interest in horses running at live or simulcast meets conducted or shown in this state subject to this chapter or rules of the commission, is required to be licensed under this chapter or the rules of the commission, or who derives any direct financial benefit from racing, individually or by or through an entity or other person, as regulated by this chapter or the rules of the commission.

3. Commission members are entitled to forty dollars per day for compensation, and mileage and expense reimbursement as allowed to other state employees.

53-06.2-03. Director of racing - Appointment - Qualifications - Salary - Duties - Other personnel.

1. The commission shall appoint a director of racing. The commission shall establish the director's qualifications and salary.

2. The director shall devote such time to the duties of the office as the commission may prescribe. The director is the executive officer of the commission and shall enforce the rules and orders of the commission. The director shall perform other duties the commission prescribes.

3. The director may employ other persons as authorized by the commission.

53-06.2-04. Duties of commission. The commission shall:

1. Provide for racing under the certificate system.

2. Set racing dates.

3. Adopt rules for effectively preventing the use of any substance, compound items, or combinations of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a racehorse, unless specifically authorized by the commission.

4. Supervise and check the making of parimutuel pools, parimutuel machines, and equipment at all races held under the certificate system.

5. Adopt rules governing, restricting, or regulating bids on licensees' concessions and leases on equipment.

6. Consider all proposed extensions, additions, or improvements to the buildings, stables, or tracks on property owned or leased by a licensee.

7. Exclude from racetracks or simulcast parimutuel wagering facilities any person who violates any rule of the commission or any law.

8. Determine the cost of inspections performed under subsection 3 of section 53-06.2-05 and require the licensee to pay that cost.

53-06.2-05. Powers of commission. The commission may:

1. Compel the production of all documents showing the receipts and disbursements of any licensee and determine the manner in which such financial records are to be

kept.

2. Investigate the operations of any licensee and enter any vehicle or place of business, residence, storage, or racing of any licensee on the grounds of a licensed association to determine whether there has been compliance with the provisions of this chapter and rules adopted under this chapter, and to discover and seize any evidence of noncompliance.
3. Request appropriate state officials to perform inspections necessary for the health and safety of spectators, employees, participants, and horses that are lawfully on a racetrack.
4. License all participants in the racing and simulcast parimutuel wagering industry and require and obtain information the commission deems necessary from license applicants. The commission may obtain from the bureau of criminal investigation, without charge, criminal history record information as required in the licensing process.
5. Receive moneys from the North Dakota horse racing foundation for deposit in the purse fund, breeders' fund, or racing promotion fund in accordance with subsection 6 of section 53-06.2-11.
6. Adopt additional rules for the administration, implementation, and regulation of activities conducted pursuant to this chapter.

53-06.2-06. Organizations eligible to conduct racing and simulcast parimutuel wagering. Civic and service clubs, charitable, fraternal, religious, and veterans' organizations,

and other public-spirited organizations may be licensed to conduct racing and simulcast parimutuel wagering as authorized by this chapter.

53-06.2-07. Issuance of licenses - Applications.

1. On compliance by an applicant with this chapter, the commission may issue a license to conduct races.
2. An application for a license to conduct a racing meet must be signed under oath and filed with the commission. The application must contain at least the following:
 - a. The name and post-office address of the applicant.
 - b. The location of the racetrack and whether it is owned or leased. If the racetrack is leased, a copy of the lease must be included.
 - c. A statement of the applicant's previous history and association sufficient to establish that the applicant is an eligible organization.
 - d. The time, place, and number of days the racing meet is proposed to be conducted.
 - e. The type of racing to be conducted.
 - f. Other information the commission requires.

3. At least thirty days before the commission issues or renews a license to conduct races, the applicant shall deliver a complete copy of the application to the local jurisdiction governing body. The application to the commission must include a certificate verified by a representative of the applicant, indicating delivery of the application copy to the governing body. If the governing body of the local jurisdiction adopts a resolution disapproving the application for license or renewal and so informs the director within thirty days of receiving a copy of the application, the license to conduct races may not be issued or renewed.

53-06.2-08. License authorization and fees.

1. Each license issued under the certificate system must describe the place, track, or racecourse at which the licensee may hold races. Every license must specify the number of days the licensed races may continue, the hours during which racing may be conducted, and the number of races that may be held each day. Races

authorized under this chapter may be held during the hours approved by the commission, and within the hours permitted by state law.

2. The commission may charge a license fee for racing commensurate with the size and attendance of the race meet. The commission shall remit license fees to the state treasurer for deposit in the general fund.

3. Each applicant for a license under this chapter shall give bond payable to this state with good security as approved by the commission. The bond must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.

4. The commission may grant licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen, exercise workers, veterinarians, valets, concessionaires, service providers, employees of racing associations, and such other persons as determined by the commission. License fees are as established by the commission.

5. The commission may establish the period of time for which licenses issued under this chapter are valid.

53-06.2-09. Allotment of racing days. If an applicant is eligible to receive a license under this chapter, the commission shall fix the racing days that are allotted to that applicant and issue a license for the holding of racing meets.

53-06.2-10. Certificate system - Rules. The certificate system allows a licensee to receive money from any person present at a live horse race, simulcast horse race, or simulcast dog race who desires to bet on any entry in that race. A person betting on an entry to win acquires an interest in the total money bet on all entries in the race, in proportion to the amount of money bet by that person, under rules adopted by the commission. The licensee shall receive the bets and for each bet shall issue a certificate to the bettor on which is at least shown the number of the race, the amount bet, and the number or name of the entry selected by the bettor. The commission may adopt rules for place, show, quinella, combination, or other types of betting usually connected with racing.

53-06.2-10.1. Simulcast wagering. In addition to racing under the certificate system, as authorized by this chapter, and conducted upon the premises of a racetrack, simulcast parimutuel wagering may be conducted in accordance with this chapter and interim standards that need not comply with chapter 28-32, or rules adopted by the commission under this chapter.

Any organization qualified under section 53-06.2-06 to conduct racing may make written application to the commission for the conduct of simulcast parimutuel wagering on races held at

licensed racetracks inside the state or racetracks outside the state, or both.

Notwithstanding any

other provision of this chapter, the commission may authorize any licensee to participate in

interstate or international combined wagering pools with one or more other racing jurisdictions.

Any time that a licensee participates in an interstate or international combined pool, the licensee, as prescribed by the commission, may adopt the take-out of the host jurisdiction or facility. The commission may permit a licensee to use one or more of its races or simulcast programs for an interstate or international combined wagering pool at locations outside its jurisdiction, and may allow parimutuel pools in other states to be combined with parimutuel pools in its jurisdiction for the purpose of establishing an interstate or international combined wagering pool. The participation by a licensee in a combined interstate or international wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located. Parimutuel taxes or commissions may not be imposed on any amounts wagered in an interstate or international combined wagering pool other than amounts wagered within this jurisdiction. Breakage for interstate or international combined wagering pools must be calculated in accordance with the statutes or rules of the host jurisdiction, and must be distributed among the participating jurisdictions in a manner agreed to among the jurisdictions.

53-06.2-11. Bet payoff formulas - Uses by licensee of funds in excess of expenses -Payment to general fund.

1. For each day of a live race meet or a simulcast day in this state on win, place, and show parimutuel pools, the licensee shall deduct up to twenty percent of the total win, place, and show pool. The licensee may retain seventeen percent for expenses. One-half of one percent must be paid to the North Dakota racing commission to be used for the North Dakota purse fund. One-half of one percent must be paid to the North Dakota racing commission to be used for the North Dakota breeders' fund for the respective breed of horses racing at that meet. The remaining two percent must be paid to the state treasurer to be deposited in the general fund.
2. For each day of a live race meet or a simulcast day in this state for each daily double, quinella, exacta, trifecta, or other wager combining two or more horses for winning payoffs, the licensee shall deduct up to twenty-five percent of each wagering pool. Of this amount, the licensee may retain twenty-one percent for expenses. One-half of one percent must be paid to the commission to be deposited in the purse fund. One-half of one percent must be paid to the commission to be deposited in the promotion fund. One-half of one percent must be paid to the commission to be deposited in the breeders' fund. The remaining two and one-half percent must be paid to the state treasurer to be deposited in the general fund.
3. Unclaimed tickets and breakage from each live race meet and simulcast program as defined by the commission and the percentage of the wagering pool to be paid to the racing promotion fund under subsections 1 and 2 must be retained by the commission in a special fund to assist in improving and upgrading racetracks in the

state, for the promotion of horse racing within the state, and in developing new racetracks in the state as necessary and approved by the commission. Notwithstanding this section, the commission may, upon approval of the emergency commission, receive no more than twenty-five percent of this fund for the purpose of payment of operating expenses of the commission.

4. The licensee conducting a live race meet or simulcast program shall retain all other money in the parimutuel pool and pay it to bettors holding winning tickets as provided by rules adopted by the commission.

5. A licensee may not use any of the portion deducted for expenses under subsections 1 and 2 for expenses not directly incurred by the licensee in conducting parimutuel racing under the certificate system. After paying qualifying expenses, the licensee shall use the remainder of the amount so withheld only for eligible uses allowed to charitable gambling organizations under subsection 6 of section 53-06.1-01.

6. The racing commission shall deposit the moneys received pursuant to subsections 1, 2, and 3 and from the North Dakota horse racing foundation pursuant to subsection 5 of section 53-06.2-05 in three special funds in the state treasury. These funds must be known as the breeders' fund, the purse fund, and the racing promotion fund. Moneys, and any earnings on the moneys, in the breeders' fund, purse fund, and racing promotion fund are appropriated to the commission on a continuing basis to carry out the purposes of those funds under this chapter and must be administered and disbursed in accordance with rules adopted by the commission.

53-06.2-12. Audits and investigations by state auditor. On request of the commission, the state auditor shall conduct audits and investigate the operations of any licensee.

The commission shall reimburse the state auditor for all services rendered.

53-06.2-13. Duty of attorney general to participate in certain hearings -Employment of private counsel by commission. The attorney general shall represent the state in all hearings before the commission and shall prosecute all criminal proceedings arising

from violations of this chapter. The commission may employ private counsel for adoption of rules

and to ensure that its hearings are conducted fairly.

53-06.2-14. Denial, suspension, and revocation of licenses - Reasons. The commission may deny, suspend, or revoke licenses under the certificate system and privileges

granted by it, and it may terminate racing privileges for just cause. Actions constituting just

cause include:

1. Any action or attempted action by a person contrary to any law.
2. Corrupt practices, which include:
 - a. Prearranging or attempting to prearrange the order of finish of a race.
 - b. Failing to properly pay winnings to a bettor or to properly return change to a bettor purchasing a ticket.
 - c. Falsifying or manipulating the odds on any entrant in a race.
3. Any violation of the rules of racing adopted by the commission.
4. Willful falsification or misstatement of fact in an application for racing privileges.
5. Material false statement to a racing official or to the commission.
6. Willful disobedience of a commission order or of a lawful order of a racing official other than a commission member.

7. Continued failure or inability to meet financial obligations connected with racing meets.

8. Failure or inability to properly maintain a racetrack.

53-06.2-15. Revocation, suspension, fine - Procedure. The commission, on proof of violation by a licensee, its agents or employees, of this chapter or any rule adopted by the commission may, on reasonable notice to the licensee and after giving the licensee an opportunity to be heard, fine the licensee or revoke or suspend the license. If the license is revoked, the licensee is not eligible to receive another license within twelve months from the date of revocation. Every decision or order of the commission must be made in writing and filed with the director for preservation as a permanent record of the commission. The decision must be signed by the chairman, attested by the director, and dated.

53-06.2-16. Prohibited acts - Penalties.

1. No person may conduct a parimutuel horse race unless that person is licensed by the commission. Violation of this subsection is a class A misdemeanor.
2. No person may prearrange or attempt to prearrange the order of finish of a race. Violation of this subsection is a class C felony.

TITLE 54. STATE GOVERNMENT

CHAPTER 54-12. ATTORNEY GENERAL

54-12-18. Special fund established - Continuing appropriation. A special fund is established in the state treasury and designated as the attorney general refund fund. The attorney general shall deposit all moneys recovered by the consumer protection division for refunds to consumers in cases where persons or parties are found to have violated the consumer fraud laws, all costs, expenses, attorney's fees, and civil penalties collected by the division regarding any consumer protection or antitrust matter, all cash deposit bonds paid by applicants for a transient merchant's license who do not provide a surety bond, and all funds and fees collected by the gaming section for licensing tribal gaming and for the investigation of gaming employees, applicants, organizations, manufacturers, distributors, or tribes involved in state or tribal gaming. The moneys in the fund are appropriated, as necessary, for the following purposes:

1. To provide refunds of moneys recovered by the consumer protection and antitrust division on behalf of consumers;
2. To pay valid claims against cash deposit bonds posted by transient merchant licensees;
3. To refund, upon expiration of the two-year period after the expiration of the transient merchant's license, the balance of any cash deposit bond remaining after the payment of valid claims;

4. To pay costs, expenses, and attorney's fees and salaries incurred in the operation of the consumer protection division; and
5. To pay the actual costs of background investigations, licensing, and enforcement of gaming in the state or pursuant to Indian gaming compacts.

At the end of each fiscal year any moneys in the fund in excess of the amounts required for

subsections 1, 2, 3, and 5 must be deposited in the general fund. The attorney general, with the

concurrence of the director of the office of management and budget, shall establish the necessary accounting procedures for use of the attorney general refund fund, particularly with

respect to expenditures under subsection 4.

CHAPTER 54-58. TRIBAL-STATE GAMING COMPACT

54-58-01. Tribal-state gaming compact - Definition. A tribal-state gaming compact is a duly executed agreement between the state and a federally recognized Indian tribe as approved by the secretary of the department of interior of the United States pursuant to the

Indian Gaming Regulatory Act of 1988 [Pub. L. 100-497; 102 Stat. 2467; 25 U.S.C. 2701 et seq.].

54-58-02. Tribal gaming records not subject to disclosure - Exceptions. Except as provided in each tribal-state gaming compact, all tribal gaming records, including trade secret

and proprietary information as defined in section 44-04-18.4, submitted to an agency of this state

are confidential and are not public records subject to section 44-04-18 and section 6 of article XI

of the Constitution of North Dakota.

54-58-03. Tribal-state gaming compact - Creation, renewals, and amendments. The governor or the governor's designee may represent the state in any gaming negotiation in which

the state is required to participate pursuant to 25 U.S.C. 2701 et seq. by any federally recognized

Indian tribe and, on behalf of the state, may execute a gaming compact between the state and a

federally recognized Indian tribe, subject to the following:

1. If the legislative assembly is not in session at the time gaming negotiations are being conducted, the chairman and vice chairman of the legislative council or the designee of the chairman or vice chairman may attend all negotiations and brief the legislative council on the status of the negotiations.
2. If the legislative assembly is in session at the time negotiations are being conducted, the majority and minority leaders of both houses, or their designees, may attend all negotiations and brief their respective houses on the status of the negotiations.
3. The compact may authorize an Indian tribe to conduct gaming that is permitted in the state for any purpose by any person, organization, or entity.
4. For the purposes of this chapter, the term "gaming that is permitted in the state for any purpose by any person, organization, or entity" includes any game of chance that any Indian tribe was permitted to conduct under a tribal-state gaming compact that was in effect on August 1, 1997.
5. The compact may not authorize gaming to be conducted by an Indian tribe at any off-reservation location not permitted under a tribal-state gaming compact in effect

on August 1, 1997, except that in the case of the tribal-state gaming compact between the Turtle Mountain Band of Chippewa and the state, gaming may be conducted on land within Rolette County held in trust for the Band by the United States government which was in trust as of the effective date of the Indian Gaming Regulatory Act of 1988 [Pub. L. 100-497, 102 Stat. 2467; 25 U.S.C. 2701 et seq.].

6. The compact may not obligate the state to appropriate state funds; provided, however, the state may perform services for reimbursement.
7. The negotiations between the tribe and the state must address the possibility of a mutual effort of the parties to address the issue of compulsive gambling.
8. If the legislative assembly is not in session when the negotiations are concluded, the governor shall forward a copy of the compact as finally negotiated to each member of the legislative council at least twenty-one days before the compact is signed.
9. If the legislative assembly is in session when the negotiations are concluded, the governor shall forward a copy of the compact as finally negotiated to each member of the legislative assembly at least twenty-one days before the compact is signed.
10. Before execution of any proposed tribal-state gaming compact or amendment thereto, the governor shall conduct one public hearing on the proposed compact or amendment.

TITLE 57. TAXATIONS

CHAPTER 57-38. INCOME TAX

57-38-03. Imposition of tax against nonresidents. The tax imposed by this chapter must be levied, collected, and paid annually upon and with respect to income derived from all

property owned, from all gaming activity carried on in this state, and from every business, trade,

profession, or occupation carried on in this state by natural persons not residents of the state at

the rates specified with respect to net income of resident of North Dakota.

57-38-04. Allocation and apportionment of gross income of individuals. The gross income of individuals must be allocated and apportioned as follows:

1. Income from personal or professional services performed in this state by individuals must be assigned to this state regardless of the residence of the recipients of such income, except that income from such services performed within this state by an individual who resides and has the individual's place of abode in another state to which place of abode the individual customarily returns at least once a month must be excluded from the individual's income for the purposes of this chapter if such income is subject to an income tax imposed by the state in which the individual resides, provided that the state in which the individual resides allows a similar exclusion for income received from similar services performed in that state by residents of North Dakota.

2. Except as provided in subsection 1:

- a. Income received from personal or professional services performed by residents of this state, regardless of where such services are performed, and income received by residents of this state from intangible personal property must be assigned to this state. If a tax is paid to another state or territory of the United States or to the District of Columbia on any income assigned to this state under this subsection, a credit for any tax so paid may be deducted from the tax assessed under this chapter if written proof of such payment is furnished to the tax commissioner; provided, that this credit for such tax may not exceed the

proportion of the tax otherwise due under this chapter that the amount of the taxpayer's adjusted gross income derived from sources in the other taxing jurisdiction bears to the taxpayer's adjusted gross income as computed pursuant to the Internal Revenue Code of 1954, as amended.

b. Notwithstanding any other provision of this chapter, the compensation received from services performed within this state by an individual who (1) performs services for a common carrier engaged in interstate transportation and (2) who resides and has the individual's place of abode to which the individual customarily returns at least once a month in another state shall be excluded from income to the extent that such income is subject to an income tax imposed by the state of the individual's residence; provided, that such state allows a similar exclusion of such compensation received by residents of North Dakota for similar services performed therein, or a credit against the tax imposed on the income of residents of this state that is substantially similar in **effect. For the purposes of this subdivision the words "an individual who performs services for a common carrier engaged in interstate transportation"** must be limited to an individual who performs such services for a common carrier only during the course of making regular "runs" into North Dakota or from within North Dakota to outside North Dakota, or both, on the transportation system of the common carrier.

3. Income and gains received from tangible property not employed in the business and from tangible property employed in the business of the taxpayer, if such business consists principally of the holding of such property and collection of income and gains therefrom, must be assigned to this state without regard to the residence of the recipient if such property has a situs within this state.

4. Income derived from carrying on a trade or business by an individual must be assigned to this state without regard to the residence of the individual if the trade or business is conducted wholly within this state. Income derived from gaming activity carried on in this state by an individual must be assigned to this state without regard to the residence of the individual.

5. Whenever a trade or business is carried on partly within and partly without this state by a nonresident of this state, the entire income therefrom must be allocated to this state and to other states, according to the provisions of chapter 57-38.1, providing for allocation and apportionment of income of corporations doing business within and without this state.

6. a. Income and gains received by a resident of this state from tangible property not employed in the business and from tangible property employed in the business of the taxpayer, if such business consists principally of the holding of such property and the collection of income and gains therefrom, must be assigned to this state without regard to the situs of such property.

b. Income derived from carrying on a trade or business by residents of this state must be assigned to this state without regard to where such trade or business is conducted, and the provisions of chapter 57-38.1 do not apply. If the taxpayer believes the operation of this subdivision with respect to the taxpayer's income is unjust, the taxpayer may petition the tax commissioner who may allow use of another method of reporting income, including separate accounting.

c. If a tax is paid to another state or territory of the United States or to the District of Columbia on any income assigned to this state under this subsection, a credit for any tax so paid may be deducted from the tax assessed under this chapter if written proof of such payment is furnished to the tax commissioner;

provided, that this credit for such tax may not exceed the proportion of the tax otherwise due under this chapter that the amount of the taxpayer's adjusted gross income derived from sources in the other taxing jurisdiction bears to the taxpayer's adjusted gross income as computed pursuant to the Internal Revenue Code of 1954, as amended.

7. All other items of gross income must be assigned to the taxpayer's domicile.

8. The privileges granted nonresidents apply only where other states grant to the residents of North Dakota the same privilege.

This section applies to every income year beginning after December 31, 1956.

57-38-05. Certain income of nonresidents not taxed. Unless the income, gains, or both, arise from transactions in the regular course of the taxpayer's trade or business carried on

in this state, or unless the acquisition, management, and disposition of intangible personal

property constitutes a trade or business carried on in this state, or unless the income, gains, or both, arise from gaming activity carried on in this state, income of nonresidents derived from land

contracts, mortgages, stocks, bonds, or other intangible personal property, or from the sale of

intangible personal property, may not be taxed.

CHAPTER 57-39.2. SALES TAX

57-39.2-04. Exemptions. There are specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:

1. Gross receipts from sales of tangible personal property which this state is prohibited from taxing under the constitution or laws of the United States or under the Constitution of North Dakota.

2. Gross receipts from the sales, furnishing, or service of passenger transportation service and gross receipts from the sales, furnishing, or service of freight transportation service when provided by a common carrier and title to the transported tangible personal property has passed from the seller to the purchaser.

3. Repealed by S.L. 1971, ch. 567, § 1.

4. Gross receipts from sales of tickets, or admissions to state, county, district, and local **fairs, and the gross receipts from educational, religious, or charitable activities**, unless the activities are held in a publicly owned facility, where the entire amount of net receipts is expended for educational, religious, or charitable purposes and the gross receipts derived by any public school district if such receipts are expended in accordance with section 15-29-13. This exemption does not apply to regular retail sales that are in direct competition with retailers. Gross receipts from educational, religious, or charitable activities held in a publicly owned facility are exempt if the sponsoring organization is a nonprofit music or dramatic arts organization that is exempt from federal income taxation and is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis.

5. Gross receipts from sales of textbooks to regularly enrolled students of a private or public school and from sales of textbooks, yearbooks, and school supplies purchased by a private nonprofit elementary school, secondary school, or any other nonprofit institution of higher learning conducting courses of study similar to those conducted by public schools in this state.

6. Gross receipts from all sales otherwise taxable under this chapter made to the

United States or to any state, including the state of North Dakota, or any of the subdivisions, departments, agencies, or institutions of any state. A political subdivision of another state is exempt under this subsection only if a sale to a North Dakota political subdivision is treated as an exempt sale in that state. The governmental units exempted by this subsection must be issued a certificate of exemption by the commissioner and the certificate must be presented to each retailer whenever this exemption is claimed.

7. Gross receipts from the sale, by any drugstore, of drugs sold under a doctor's prescription.

8. Gross receipts from sales of adjuvants required by the chemical label for application of a product warranty, commercial fertilizers, fungicides, seed treatments, inoculants and fumigants, herbicides and insecticides to agricultural or commercial vegetable producers and commercial applicators; chemicals used to preserve agricultural crops being stored; and seeds, roots, bulbs, and small plants to commercial users or consumers for planting or transplanting for commercial vegetable gardens or agricultural purposes.

9. Gross receipts from sales of oxygen sold to any person who purchases it upon the written order of a doctor for the person's own use for medical purposes.

10. Gross receipts from the sale of gasoline, insurance premiums, gaming tickets, or any other article or product, except as otherwise provided, upon which the state of North Dakota imposes a special tax.

11. Gross receipts from the sale of feed which is fed to poultry or livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, milk, meat, fibers, or other products for human consumption and the gross receipts from the sale of feed purchased for the purpose of being fed to draft or fur-bearing animals. The word "feed" as used herein shall be construed to mean and include only salt, grains, hays, tankage, oyster shells, mineral supplements, limestone, molasses, beet pulp, meat and bone scraps, meal, drugs to be used as part of a feed ration, and other generally recognized animal feeds. The term "feed" does not include drugs not used as part of a feed ration, medicants, disinfectants, wormers, tonics, and like items.

12. Gross receipts from a sale otherwise taxable under this chapter made to a person who is a resident of an adjoining state which does not impose or levy a retail sales tax under the following conditions:

a. The nonresident is in the state of North Dakota for the express purpose of making a purchase and not as a tourist.

b. The nonresident furnishes to the North Dakota retailer a certificate signed by the nonresident in a form as the commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless the certificate is furnished it must be presumed, until the contrary is shown, that the nonresident was not in the state of North Dakota for the express purpose of making a purchase.

c. The sale is fifty dollars or more.

13. Gross receipts from the sale of any motor vehicle taxable under the provisions of the motor vehicle excise tax laws of North Dakota.

14. Repealed by S.L. 1969, ch. 528, § 24.

15. Gross receipts from sales in which a contractor furnishes to the retailer a certificate which includes the contractor's license number assigned to the contractor under the provisions of chapter 43-07 and the use tax account number assigned to the contractor by the commissioner pursuant to section 43-07-04. Such certificate shall be in the form prescribed by the commissioner and shall be furnished by the

contractor to the retailer each calendar year prior to the making of any purchases during such calendar year from the retailer without liability for paying the tax to the retailer. Any contractor furnishing such certificate must report and remit the tax to the commissioner on purchases taxable under this chapter made by the contractor in the same manner as retailers remit such tax under this chapter.

16. Gross receipts from the sale of newsprint and ink used in the publication of a newspaper.

17. Gross receipts from the sale of all services furnished by any hospital, infirmary, sanatorium, nursing home, basic care facility, or similar institution to any patient or occupant.

18. Repealed by S.L. 1973, ch. 480, § 6.

19. Repealed by S.L. 1971, ch. 555, § 3.

20. Gross receipts from the sale of food supplies to any public school, to any parochial or private nonprofit school conducting courses of study similar to those conducted by public schools in this state, or to any nonprofit organization, for use by the public, parochial, or private school or nonprofit organization in sponsoring or conducting a lunch program or programs in and for any such public, parochial, or private nonprofit school.

21. Gross receipts from the leasing or renting of motion picture film to motion picture exhibitors for exhibition if the sale of tickets or admissions to the exhibition of the film is subject to the sales tax imposed by this chapter.

22. Gross receipts from the leasing or renting of factory manufactured homes, including mobile homes, modular living units, or sectional homes, whether or not placed on a permanent foundation, for residential housing for periods of thirty or more consecutive days and the gross receipts from the leasing or renting of a hotel or motel room or tourist court accommodations occupied by the same person or persons for residential housing for periods of thirty or more consecutive days.

23. Food purchased by a student under a boarding contract with a college, university, fraternity, or sorority.

24. Gross receipts from all sales when made to an eligible facility for the use or benefit of its patient or occupant. For the purposes of this subsection, "eligible facility" means any hospital, skilled nursing facility, intermediate care facility, or basic care facility licensed by the state department of health.

25. Gross receipts from the sale of Bibles, hymnals, textbooks, and prayerbooks sold to nonprofit religious organizations.

26. Gross receipts from sales of:

a. Artificial devices individually designed, constructed, or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual.

b. Artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body.

c. Artificial teeth sold by a dentist.

d. Eyeglasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.

e. Crutches and wheelchairs for the use of invalids and crippled persons.

f. Equipment, including manual control units, van lifts, van door opening units, and raised roofs, for attaching to or modifying a motor vehicle for use by a permanently physically disabled person.

g. Equipment, including elevators, dumbwaiters, chair lifts, and bedroom or

bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling.

h. Equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by a permanently physically disabled person.

i. Devices and supplies designed or intended for ostomy care and management to include collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.

j. Supplies, equipment, and devices to be used exclusively by a person with bladder dysfunction, including catheters, collection devices, incontinent pads and pants, and other items used for the care and management of bladder dysfunction.

27. Gross receipts from the sale of electricity.

28. Gross receipts from the leasing or renting of any tangible personal property upon which a North Dakota sales tax or use tax has been paid or is payable.

29. Gross receipts from all sales otherwise taxable under this chapter when made to any nonprofit organization for meals, including the containers, packages, and materials used for wrapping food items, for delivery to persons who are confined to their homes by illness or incapacity, including but not limited to senior citizens and disabled persons, for consumption by such shut-ins in their homes.

30. Gross receipts from all sales of recreational travel trailers not exceeding eight feet [2.44 meters] in width or thirty-two feet [9.75 meters] in length which are designed to be principally used as temporary vacation dwellings when made to persons who are residents of other states which impose excise taxes upon registration of such recreational travel trailers.

31. Gross receipts from the sale of money including all legal tender coins and currency.

32. Gross receipts from sales to nonprofit voluntary health associations which are exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)]. As used in this subsection, a voluntary health association is an organization recognized by the internal revenue service, the national health council, the state tax commissioner, and the North Dakota secretary of state as a nonprofit organization that is exempt under section 501(c)(3) of the United States Internal Revenue Code and meets the following requirements: It has been organized and operated exclusively in providing services for the purposes of preventing and alleviating human illness and injury. Methods used to obtain these goals would include education, research, community service, and direct patient services, income being derived solely from private donations with some exceptions of a minimal membership fee. Its members are not limited to only individuals, who themselves are licensed or otherwise legally authorized to render the same professional services as the organization. The disbursement of funds within a volunteer health association is to be controlled by a board of directors who work voluntarily and without pay.

33. Gross receipts from all sales of water, except water sold in containers of less than one gallon [3.79 liters] volume.

34. Gross receipts from the sale of byproducts, arising from the processing of agricultural products, for use in the manufacture or generation of steam or electricity.

35. Gross receipts from the sale of a mobile home which has been sold, bargained, exchanged, given away, or transferred by the person who first acquired it from a retailer in a sale at retail and upon which the North Dakota sales tax has previously been imposed.

36. Gross receipts from all sales of insulin in all its forms dispensed pursuant to the direction of a licensed physician, all sales of glucose usable for treatment of insulin reactions, all sales of urine and blood testing kits and materials, and all sales of insulin measuring and injecting devices, including insulin syringes and hypodermic needles.
37. Gross receipts from the sale of any aircraft taxable under the provisions of chapter 57-40.5.
38. Gross receipts from all sales of air carrier transportation property subject to ad valorem property taxation pursuant to the provisions of chapters 57-06, 57-07, 57-08, 57-13, and 57-32.
39. Gross receipts from sales of tangible personal property consisting of flight simulators or mechanical or electronic equipment for use in association with a flight simulator.
40. Gross receipts from sales of tickets or admissions to, or sales made at, an annual church supper or bazaar held in a publicly owned facility. For purposes of this subsection, "annual" means occurring not more than once in any calendar year.
41. Gross receipts from the initial sale of beneficiated coal taxed under chapter 57-60.
42. Gross receipts from electronic gaming devices licensed by the attorney general under chapter 53-06.1.
43. Gross receipts from all sales made to a nonprofit medical research institute. For purposes of this subsection, "nonprofit medical research institute" means an institute that is a member of the association of independent research institutes, which is not a private foundation, and which is recognized by the internal revenue service as having exempt status under 26 U.S.C. 501(c)(3).
44. Gross receipts from all sales of coal used in agricultural processing or sugar beet refining plants located within this state or adjacent states which are exempted from the tax imposed by chapter 57-61.

TITLE 62.1. WEAPONS

CHAPTER 62.1-01

62.1-01-01. General definitions. As used in this title, unless the context otherwise requires:

1. "Dangerous weapon" includes any switchblade or gravity knife, machete, scimitar, stiletto, sword, dagger, or knife with a blade of five inches [12.7 centimeters] or more; any throwing star, nunchaku, or other martial arts weapon; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any stun gun; any weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO₂ gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance.
2. "Direct supervision of an adult" means that an adult is present in such close proximity so as to be capable of observing and directing the actions of the individual supervised.
3. "Firearm" or "weapon" means any device which will expel, or is readily capable of expelling, a projectile by the action of an explosive and includes any such device, loaded or unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine gun, shotgun, bazooka, or cannon.
4. "Gaming site" means any room or premises licensed by the attorney general or by a city or county governing body to conduct legal gaming operations.
5. "Government building" means a building which is owned, possessed, or used by or

leased to the state of North Dakota, or any of its political subdivisions.

6. "Handgun" means any firearm that is not designed to be fired from the shoulder, which has a barrel less than sixteen inches [40.64 centimeters] long, and which is capable of firing, by the energy of an explosive in a fixed metallic cartridge, an exposed projectile through a rifled bore. The term includes the Thompson contender forty-five caliber single-shot center-fire with a pistol grip or similar firearm, if in compliance with the National Firearms Act [26 U.S.C. 5801-5872].

7. "Law enforcement officer" means a public servant authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations or prosecutions for violations of law.

8. "Machine gun, submachine gun, or fully automatic rifle" means a firearm, mechanism, or instrument not requiring that the trigger be pressed for each shot, and having a reservoir, belt, or other means of storing and carrying ammunition which can be loaded into the firearm, mechanism, or instrument and fired therefrom at a rate of five or more shots to the second.

9. "Plain view" means the handgun is placed in such a location or carried in such a position as to be easily discernible by the ordinary observation of a passerby. In a motor vehicle, this includes being placed on the seat, dashboard, or in a gunrack as long as the handgun is not covered or is in any other way concealed from view.

10. "Rifle" means any firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and using the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each pull of the trigger.

11. "Secured" means the firearm is closed into the trunk or nonpassenger part of the vehicle; placed into a closed and secure carrying device; rendered inoperative by the use of a trigger, hammer, cylinder, slide, or barrel-locking device that renders the firearm incapable of firing until the device is unlocked and removed; or so disassembled or disabled as to be rendered incapable of firing.

12. "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches [40.64 centimeters] in length and any firearm made from a rifle, whether by alteration, modification, or otherwise, if the firearm, as modified, has an overall length of less than twenty-six inches [66.04 centimeters].

13. "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches [45.72 centimeters] in length and any firearm made from a shotgun, whether by alteration, modification, or otherwise, if the firearm, as modified, has an overall length of less than twenty-six inches [66.04 centimeters].

14. "Shotgun" means a firearm designed or redesigned, made or remade, and intended to be fired with one hand below or behind and one hand in front of the breach, which uses the energy of the explosive in a fixed shotgun shell to fire through a smooth or a rifled bore either a number of ball shot or a single projectile for each single pull of the trigger.

15. "Silencer" means any device for or attached to any firearm which will silence or deaden the sound or natural report of the firearm when it is discharged.

16. "Unloaded" means the chamber of the firearm does not contain a loaded shell. If the firearm is a revolver, then none of the chambers in the cylinder may contain a loaded shell. Handguns with a removable magazine or clip must have the magazine or clip removed from the firearm if the magazine or clip contains any loaded shells.

CHAPTER 62.1-02. POSSESSION OF WEAPONS

62.1-02-04. Possession of firearm or dangerous weapon in liquor establishment or

gaming site prohibited - Penalty - Exceptions. Any person who enters or remains in that part of the establishment that is set aside for the retail sale in an establishment engaged in the retail sale of alcoholic beverages or used as a gaming site while in the possession of a firearm or dangerous weapon is guilty of a class A misdemeanor. This section does not apply to:

1. A law enforcement officer.
2. The proprietor.
3. The proprietor's employee.
4. A designee of the proprietor when the designee is displaying an unloaded firearm or

TITLE 65. WORKERS' COMPENSATION

CHAPTER 65-05. CLAIMS AND COMPENSATION

65-05-08. Disability benefits - Not paid unless period of disability is of five days' duration or more - Application required - Suspended during confinement - Duty to report

wages. No benefits may be paid for disability, the duration of which is less than five consecutive calendar days. If the period of disability is five consecutive calendar days' duration or longer,

benefits must be paid for the period of disability provided that:

1. When disability benefits are discontinued, the bureau may not begin payment again unless the injured employee files a reapplication for disability benefits on a form supplied by the bureau. In case of reapplication, the award may commence no more than thirty days before the date of reapplication. Disability benefits must be reinstated upon proof by the injured employee that:

- a. The employee has sustained a significant change in the compensable medical condition;
- b. The employee has sustained an actual wage loss caused by the significant change in the compensable medical condition; and
- c. The employee has not retired or voluntarily withdrawn from the job market as defined in section 65-05-09.3.

2. All payments of disability and rehabilitation benefits must be suspended during the period of confinement in excess of seventy-two consecutive hours of any employee who is eligible for, or receiving, benefits under this title who is confined in a penitentiary, jail, youth correctional facility, or any other penal institution. After discharge from the institution, the bureau shall pay subsequent disability or rehabilitation benefits as the employee otherwise would be entitled under this title.

3. Any employee who is eligible for, or receiving disability or rehabilitation benefits under this title shall report any wages earned, from part-time or full-time work from any source. If an employee fails to report wages earned, the employee shall refund to the bureau any disability or vocational rehabilitation benefits overpaid by the bureau for that time period. To facilitate recovery of those benefits, the bureau may offset future benefits payable, under section 65-05-29. If the employee willfully failed to report wages earned, the employee is subject to the penalties in section 65-05-33. An employee shall report whether the employee has performed work or received wages. The bureau shall periodically provide a form to all injured employees receiving disability or rehabilitation benefits that the injured employee must complete to retain eligibility for further disability or rehabilitation benefits. The form will advise

the injured employee of the possible penalties for failure to report any work or activities as required by this section. An injured employee who is receiving disability or vocational rehabilitation benefits must report any work activities to the bureau whether or not the injured employee receives any wages. An injured employee who is receiving disability or vocational rehabilitation benefits also must report any other activity if the injured employee receives any money, including prize winnings, from undertaking that activity, regardless of expenses or whether there is a net profit. For purposes of this subsection, "work" does not include routine daily activities of self-care or family care, or routine maintenance of the home and yard, and "activities" does not include recreational gaming or passive investment endeavors.

4. An employee shall request disability benefits on a claim form furnished by the bureau. Disability benefits may not commence more than one year prior to the date of filing of the initial claim for disability benefits.

5. The provisions of this section apply to any disability claim asserted against the fund on or after July 1, 1991, irrespective of injury date.

6. It is the burden of the employee to show that the inability to obtain employment or to earn as much as the employee earned at the time of injury is due to physical limitation related to the injury, and that any wage loss claimed is the result of the compensable injury.

7. If the employee voluntarily limits income or refuses to accept employment suitable to the employee's capacity, offered to or procured for the employee, the employee is not entitled to any disability or vocational rehabilitation benefits during the limitation of income or refusal to accept employment unless the bureau determines the limitation or refusal is justified.

8. The bureau may not pay disability benefits unless the loss of earning capacity exceeds ten percent. The injured employee may earn up to ten percent of the employee's preinjury average gross weekly earnings with no reduction in total disability benefits. The employee must report any earnings to the bureau for a determination of whether the employee is within the limit set in this subsection.

9. Upon securing suitable employment, the injured employee shall notify the bureau of the name and address of the employer, the date the employment began, and the amount of wages being received. If the injured employee is receiving disability benefits, the injured employee shall notify the bureau whenever there is a change in work status or wages received.

10. The bureau shall pay to an employee receiving disability benefits a dependency allowance for each child of the employee at the rate of ten dollars per week per child. Effective July 1, 1989, this rate must be paid to each eligible employee regardless of the date of injury.

11. Dependency allowance for the children may be made directly to either parent or guardian at the discretion of the bureau.