

SOUTH DAKOTA

TITLE 1. STATE AFFAIRS AND GOVERNMENT

CHAPTER 1-4. TRIBAL RELATIONS

§ 1-4-25. Governor to hold hearings before entering into gaming compact with Indians.

Before entering into a compact with an Indian tribe on any class III gaming under the Federal Indian Gaming Regulatory Act, the Governor or his designee shall hold one or more public hearings in the affected area to allow any interested persons to state their views.

CHAPTER 1-26. ADMINISTRATIVE PROCEDURE RULES

§ 1-26-1. Definition of terms.

Terms used in this chapter mean:

- (1) "Agency," each association, authority, board, commission, committee, council, department, division, office, officer, task force, or other agent of the state vested with the authority to exercise any portion of the state's sovereignty. The term does not include the Legislature, the Unified Judicial System, any unit of local government, or any agency under the jurisdiction of such exempt departments and units unless the department, unit, or agency is specifically made subject to this chapter by statute;
- (2) "Contested case," a proceeding, including rate-making and licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing but the term does not include the proceedings relating to rule making other than rate-making or student academic or disciplinary proceedings under the jurisdiction of the Board of Regents or complaints brought by students attending institutions controlled by the Board of Regents about their residency classification under §§ [13-53-23](#) to [13-53-41](#), inclusive;
- (3) "Emergency rule," a temporary rule that is adopted without a hearing or which becomes effective less than twenty days after filing with the secretary of state, or both;
- (4) "License," the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law;
- (5) "Licensing," the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license;
- (6) "Party," each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party;
- (7) "Person," all political subdivisions and agencies of the state;
- (8) "Rule," each agency statement of general applicability that implements, interprets, or prescribes law, policy, procedure, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include:
 - (a) Statements concerning only the internal management of an agency and not affecting private rights or procedure available to the public;
 - (b) Declaratory rules issued pursuant to § [1-26-15](#);
 - (c) Official opinions issued by the attorney general pursuant to § [1-11-1](#);
 - (d) Executive orders issued by the Governor;
 - (e) Student matters under the jurisdiction of the Board of Regents;
 - (f) Actions of the railroad board pursuant to § [1-44-28](#);
 - (g) Inmate disciplinary matters as defined in § [1-15-20](#);

- (h) Internal control procedures adopted by the Gaming Commission pursuant to § [42-7B-25.1](#);
- (i) Policies governing specific state fair premiums, awards, entry and exhibit requirements adopted by the State Fair Commission pursuant to § [1-21-10](#);
- (j) Lending procedures and programs of the South Dakota Housing Development Authority; and
- (9) "Substantial evidence," such relevant and competent evidence as a reasonable mind might accept as being sufficiently adequate to support a conclusion.

TITLE 2. LEGISLATURE AND STATUTES

CHAPTER 2-6. ADMINISTRATIVE PROCEDURE AND RULES

§ 2-6-23. Responsibilities of State-Tribal Relations Committee.

The State-Tribal Relations Committee shall continuously study the relationship between the state and its political subdivisions and the tribes and their tribal governments. The committee shall give particular study and consideration to matters concerning jurisdiction, taxation, gaming, economic development and community relations. The committee shall serve as a forum for the discussion of issues of mutual concern to the state and the tribes and shall attempt to foster state-tribal cooperation. The committee shall draw upon public input from all those who may be concerned and knowledgeable about state-tribal relations whether Indian or non-Indian, whether tribal members or nontribal members. The committee may present draft legislation and policy recommendations to the Legislative Research Council Executive Board to effectuate its mission.

TITLE 9. MUNICIPAL GOVERNMENT

CHAPTER 9-29. GENERAL POLICE POWERS AND VIOLATIONS

§ 9-29-5. Gambling and fraudulent practices - Seizure and destruction of instruments and devices - Exemption of state lottery.

Any municipality may suppress gambling, gaming and gambling houses, lotteries and all fraudulent devices and practices used for obtaining money or property. Any municipality may enter any place where any such activity is practiced or allowed to be practiced, and seize and destroy any instrument, device or thing used for such purpose found therein. The provisions of this section do not apply to any lottery owned and operated by this state.

TITLE 10. TAXATION

CHAPTER 10-1. STATE DEPARTMENT OF REVENUE

§ 10-1-28.4. Persons to whom return information may be disclosed - Purposes.

Returns and return information may be disclosed to the following:

- (1) The taxpayer who is required to submit the information to the department, or his designee appointed in writing;
- (2) Other states, in accordance with agreements executed pursuant to § [10-1-13.1](#);
- (3) Any agency, body, commission, or legal representative of the United States charged with the administration of the United States tax laws for the purpose of, and only to the extent necessary in, the administration of such laws;
- (4) Officers, employees or legal representatives of the Department of Revenue, but only to the extent necessary to carry out their official duties;
- (5) Officers, employees or legal representatives of any other state agency or department or political subdivision of the state for a civil or criminal law enforcement activity, if the head of the agency, department or political subdivision desiring such information has made a written request to the secretary specifying the particular information desired and the law enforcement activity for which the information is sought;
- (6) Officers, employees or legal representatives of the commission on gaming and the lottery commission for the purpose of, and only to the extent necessary for, the administration of [chapters 42-7A](#) and [42-7B](#).

CHAPTER 10-45. RETAIL SALES AND SERVICE TAX

§ 10-45-64. Exemption of gaming proceeds.

There are specifically exempted from the provisions of this chapter and from the computation of the tax imposed by it gross proceeds of gaming allowed by [/sdCGI-BIN/om_isapi.dll?clientID=1783&hitsperheading=on&infobase=sdcode.NFO&jump=t.%2042%2c%20ch.%207b&softpage=Document - JUMPDEST t. 42, ch. 7bchapter 42-7B](#).

CHAPTER 10-46. USE TAX

§ 10-46-52. Exemption of gaming proceeds.

There are specifically exempted from the provisions of this chapter and from the computation of the tax imposed by it gross proceeds of gaming allowed by [chapter 42-7B](#).

CHAPTER 10-58

AMUSEMENT DEVICE TAX

§ 10-58-12. Exemption of gaming proceeds.

There are specifically exempted from the provisions of this chapter and from the computation of the tax imposed by its gross proceeds of gaming allowed by [chapter 42-7B](#).

TITLE 22. CRIMES

CHAPTER 22-25. GAMBLING AND LOTTERIES

§ 22-25-1. Gambling defined - Keeping gambling establishment - Letting building for gambling - Misdemeanor.

Any person who engages in gambling in any form with cards, dice, or other implements or devices of any kind wherein anything valuable is wagered upon the outcome, or who keeps any establishment, place, equipment, or apparatus for such gambling or any agents or employees for such purpose, or any person who knowingly lets any establishment, structure, place, equipment, or apparatus for such gambling is guilty of a Class 2 misdemeanor.

Source: SDC 1939, § 24.9903; SL 1976, ch 158, § 25-1.

See Cal Pen Code, § 330.

§ 22-25-2. Travel for purpose of gambling - Frequenting gambling place - Engaging in gambling as livelihood - Misdemeanor.

Repealed by SL 1976, ch 158, § [25-10](#).

§ 22-25-3. Persuading another to visit gambling house as petty offense - Reimbursement of amounts lost.

Any person who persuades another to visit any place used or occupied for the purpose of gambling in consequence whereof such other person gambles therein commits a petty offense, and in addition to any amount awarded therefor is liable to such other person in an amount equal to any money or property lost by him at play at such place, to be recovered in a civil action.

Source: SDC 1939, § 24.9905; SL 1976, ch 158, § 25-2.

§§ 22-25-4, 22-25-5. Forfeiture by winner for benefit of public schools - Privilege against self incrimination abrogated - Immunity granted.

Repealed by SL 1976, ch 158, § [25-10](#).

§ 22-25-6. Unlawful betting on animal races as common nuisance - Petty offense.

All racing or trials of speed between horses or other animals for any bet, stake, or reward, except such as is specifically authorized by law is a common nuisance. A violation of this section is a petty offense.

Source: SDC 1939, §§ 24.0301, 24.9911; SL 1976, ch 158, § 25-3.

§§ 22-25-7 to 22-25-12. Additional penalty - Forfeiture of animal - Enforcement by state's attorney for public schools - Lottery defined - Nuisance - Operation of lottery - Punishment - Distribution of lottery tickets - Advertising lottery - Aiding operation of lottery - Letting premises for lottery - Misdemeanor - Forfeiture of prize - Time of forfeiture - Out-of-state lotteries.

Repealed by SL 1976, ch 158, § [25-10](#).

§ 22-25-13. Keeping slot machines - Free play machines excepted - Misdemeanor - Manufacture not prohibited.

No person may have in his possession, custody, or under his control or permit to be kept in any place under his possession or control, any slot machine or device. A slot machine or device is any machine upon the action of which anything of value is staked and which is operated by placing therein or thereon any coins, checks, slugs, balls, chips, tokens, or other articles, or in any other manner as a result of such operation anything of value is won or lost by the operation of such machine, when the result of such operation is dependent upon chance. This section does not extend to coin-operated nonpayout pin tables and arcade

amusements, with free play features. A violation of this section is a Class 1 misdemeanor.

This section does not prohibit the manufacture, or any act appurtenant to the manufacture, of slot machines or devices in this state for distribution and sale.

Source: SDC 1939, §§ 24.0204, 24.9909; SL 1974, ch 166; 1976, ch 158, § 25-4; 1989, ch 197, § 1.

§ 22-25-14. Slot machine and premises public nuisance - Manufacture not prohibited.

All slot machines capable of being used for gambling and places where they are kept or operated together with all property of any kind kept or used in connection with operation of the same, are hereby declared to be public nuisances.

This section does not prohibit the manufacture, or any act appurtenant to the manufacture, of slot machines, or devices in this state for distribution and sale.

Source: SDC 1939, § 24.0205; SL 1989, ch 197, § 2.

§ 22-25-14.1. Antique slot machine operated for nongambling purposes as defense - Preservation and return of antique machines.

It is a defense to any prosecution under §§ [22-25-13](#) and [22-25-14](#) if the defendant shows that the slot machine is an antique slot machine and was not operated for gambling purposes while in the defendant's possession. For the purposes of this section, a slot machine shall be conclusively presumed an antique slot machine if it is twenty-five or more years old. Whenever such defense is offered, no slot machine seized from any defendant may be destroyed or otherwise altered until after a final court determination including review upon appeal, if any, that such defense is not applicable. If the defense is applicable, any such slot machine shall be returned pursuant to provisions of law providing for the return of property. It is the purpose of this section to protect the collection and restoration of antique slot machines not presently utilized for gambling purposes because of their esthetic interest and importance in South Dakota history.

Source: SL 1977, ch 191; 1994, ch 168.

§§ 22-25-15 to 22-25-18. Injunction action by private citizen - Complaint on information and belief - Bond dispensed with - Violation of injunction as contempt - Punishment - Subsequent offenses - Duty of state's attorney to prosecute - Neglect of state's attorney to prosecute - Punishment - Forfeiture of office.

Repealed by SL 1973, ch 149, § 6.

§§ 22-25-19, 22-25-20. Unauthorized insurance company - Policy payable by lot - Punishment - Subsequent offenses - Building and loan associations excepted - Report by insurance commissioner to state's attorney - Complaint by private person.

§ 22-25-21. Selling commodities on margin without intent to deliver - Out-of-state contracts - Prohibition of bucketshops - Misdemeanor.

Repealed by SL 1973, ch 149, § 6.

§ 22-25-22. Legislative findings as to bingo and lotteries - Purpose of restricted authorization.

Repealed by SL 1976, ch 158, § [/sdCGI-BIN/om_isapi.dll?clientID=1783&hitsperheading=on&infobase=sdcode.NFO&jump=t.%2025%2c%20ch.%2010&softpage=Document - JUMPDEST t. 25, ch. 1025-10.](#)

§ 22-25-23. "Bingo" defined.

As used in this chapter, "bingo" is that game in which each player is supplied a card or board containing five adjoining horizontal and vertical rows with five spaces in each row each containing a number or figure therein, except for the central row with four spaces, each containing a number or figure therein and the word "free" marked in the center space thereof. Upon announcement by the person or persons conducting the game of any number or figure appearing on the player's card or board, the space containing said figures or number is covered by the player. When the player shall have covered all five spaces in any horizontal or vertical row, or shall have covered four spaces and the "free" space in a five space diagonal row, or shall have covered the required combination of spaces in some other preannounced pattern or arrangement, such combination of spaces covered shall constitute "bingo." The player or players to first announce "bingo" are awarded money, merchandise or some other consideration by the person or persons conducting the game.

Source: SL 1970, ch 247, § 2; 1973, ch 149, § 2; 1976, ch 158, § 25-6.

§ 22-25-24. "Lottery" defined.

As used in this chapter, "lottery" or "lotteries" means a plan whereby for a valuable consideration money is raised by selling chances to share in the distribution of prizes.

Source: SL 1970, ch 247, § 3; 1973, ch 149, § 3; 1976, ch 158, § 25-7.

§ 22-25-25. Bingo and lotteries permitted for restricted purposes - Conditions.

The game "bingo" as defined in § [22-25-23](#) or lottery as defined in § [22-25-24](#) may not be construed as gambling or as a lottery within the meaning of § [22-25-1](#), provided that:

- (1) The bingo game or lottery is conducted by a bona fide congressionally chartered veterans organization; a religious, charitable, educational, or fraternal organization; a local civic or service club; a political party; a volunteer fire department; or a political action committee or political committee on behalf of any candidate for a political office which exists under the laws of the State of South Dakota;
- (2) The proceeds therefrom do not inure to the benefit of any individual;
- (3) No separate organization or professional person is employed to conduct the bingo game or lottery or assist therein;
- (4) No compensation of any kind in excess of the state minimum wage per hour or sixty dollars, whichever is greater, in value is paid to any person for services rendered during any bingo session in connection with the conduct of the bingo game or in consideration of any lottery. However, the provisions of this subdivision do not apply to games or lotteries conducted in connection with any of the following events: a county fair conducted pursuant to § [7-27-3](#), the state fair conducted pursuant to [chapter 1-21](#), or a civic celebration recognized by resolution or other similar official action of the governing body of a county, municipality, or village;
- (5) No prize in excess of two thousand dollars is awarded at any one play of bingo and no lottery prize is in excess of eighteen thousand dollars in value. However, a lottery prize of eighteen thousand dollars or less in value may also be given to a person who sells a winning lottery ticket or share as long as the winning lottery ticket or share is selected at random;
- (6) The organizations authorized under subdivision (1) of this section, before conducting a bingo game or lottery give thirty days' written notice of the time and place thereof to the governing body of the county or municipality in which it intends to conduct the bingo game or lottery, and the governing body does not pass a resolution objecting thereto. However, any organization that conducts a lottery and tickets or shares for such lottery are sold state-wide shall provide written notice of such lottery pursuant to this subdivision only to the secretary of state and to the governing body where the drawing for such lottery is held. A municipality pursuant to § [9-29-5](#) may by ordinance prohibit within the municipality the sale of lottery tickets or shares for such lottery issued pursuant to this section; and
- (7) No organization authorized to conduct a bingo game or lottery under subdivision (1) of this section may enter into any lease or agreement with any other person or organization to provide equipment or services associated with the conduct of a bingo game or lottery. However, this subdivision does not apply to any lease or agreement with a distributor licensed pursuant to §§ [22-25-28](#) to [22-25-51](#), inclusive, to provide

bingo or lottery equipment and supplies.

Source: SL 1970, ch 247, § 4 (1); 1973, ch 149, § 4; 1976, ch 158, § 25-8; 1984, ch 168; 1985, ch 184; 1987, ch 167; 1989, ch 198, § 1; 1991, ch 191; 1991, ch 192; 1992, ch 60, § 2.

§ 22-25-25.1. Congressionally chartered veterans' organization defined.

Any veterans' organization which has applied for a congressional charter prior to July 1, 1989, shall be deemed a congressionally chartered veterans' organization pursuant to § [22-25-25](#) until such application is denied or until July 1, 1995, whichever occurs first.

Source: SL 1989, ch 198, § 2.

§ 22-25-26. Unauthorized bingo or lottery as misdemeanor.

Any person who conducts bingo or lottery in violation of § [22-25-25](#) is guilty of a Class 2 misdemeanor.

Source: SL 1970, ch 247, § 4 (2); 1973, ch 149, § 5; 1976, ch 158, § 25-9.

§ 22-25-27. Provision of chapter not applicable to state lottery.

The provisions of this chapter do not apply to a lottery owned and operated by this state.

Source: SL 1987, ch 313, § 40.

§ 22-25-28. Distributor license required for sale of bingo and lottery equipment and supplies - Purchase or lease permitted from licensed distributors only - Annual license fee - Renewal of license - Distributor defined - Exemption for rental of noncommercial use.

No person may sell, offer for sale, or otherwise furnish bingo or lottery equipment and supplies without being licensed as a distributor pursuant to §§ [22-25-28](#) to [22-25-51](#), inclusive. Any person, organization or other entity which conducts bingo games or lotteries may purchase or lease bingo or lottery equipment and supplies or pull-tabs only from persons licensed pursuant to this chapter. The annual distributor license fee is five thousand dollars. All distributor licenses shall be renewed on January first of each year. For the purpose of this section, a distributor is any person who purchases bingo or lottery equipment or supplies from a manufacturer and sells, offers for sale or otherwise furnishes bingo or lottery equipment or supplies in this state. Any person who rents bingo equipment to another for noncommercial recreational use is exempt from the licensing requirement imposed in this section and the tax imposed in § [22-25-48](#). For the purposes of this section, the term, noncommercial recreational use, means games played for amusement only, not for gain or profit, and not conducted by any person or organization which receives compensation for sponsoring or operating bingo games.

Source: SL 1988, ch 188, § 1; 1991, ch 193.

§ 22-25-29. Manufacturer license required of manufacturers selling bingo and lottery equipment and supplies - Annual license fee - Renewal of license - Sales from manufacturers to distributors - Manufacturer defined.

No manufacturer may sell, offer for sale or otherwise furnish bingo or lottery equipment and supplies without being licensed as a manufacturer pursuant to §§ [22-25-28](#) to [22-25-51](#), inclusive. The annual manufacturer license fee is two thousand five hundred dollars. All manufacturer licenses shall be renewed on January first of each year. No person licensed as a manufacturer may be licensed as a distributor. A manufacturer may sell bingo and lottery equipment and supplies only to a distributor licensed under §§ [22-25-28](#) to [22-25-51](#), inclusive, and a distributor may purchase bingo and lottery equipment and supplies only from a manufacturer licensed under §§ [22-25-28](#) to [22-25-51](#), inclusive. For the purpose of this section, a manufacturer is any person who assembles from raw materials or subparts completed pieces of bingo or lottery equipment or supplies.

Source: SL 1988, ch 188, § 1A.

§ 22-25-30. Application for license - Forms - Verification.

Application for a distributor's or manufacturer's license shall be made to the department of revenue. The application shall be on forms provided by the secretary of revenue. Such forms shall include at least the following information:

- (1) The name of the person responsible for completing the application;
- (2) The name of the business;
- (3) The mailing address of the business;
- (4) The office address if different than the mailing address;
- (5) The telephone number of the business;

- (6) The official position of the person completing the application;
 - (7) Whether the applicant is a corporation, partnership or sole proprietorship;
 - (8) A list of the owners, partners, officers, directors and people in supervisory and management positions. A distributor personnel form shall be completed for each of these individuals;
 - (9) The address of the facility in South Dakota into which all bingo or lottery equipment and supplies is unloaded prior to sale in this state;
 - (10) A statement that the applicant is not a wholesale distributor of alcoholic beverages;
 - (11) A statement that the owners, partners, officers, directors and people in supervisory and management positions are of good moral character and have never been convicted of a crime regarding moral turpitude; and
 - (12) A statement of consent authorizing law enforcement officers or the secretary of revenue or his agents to enter upon and inspect any site where bingo or lottery equipment or supplies are stored by the distributor and authorizing inspection at any location of any records of the distributor connected to the sale of bingo and lottery equipment in the state, without warrant or court process.
- The chief executive officer or owner shall verify under oath the statements made in the application.

Source: SL 1988, ch 188, § 2.

§ 22-25-31. Distributor personnel form - Verification.

The distributor personnel form shall include the following information:

- (1) The name of the person completing the form;
- (2) The name of the distributor;
- (3) The address, date of birth and name of the spouse of the person completing the form;
- (4) All other current occupations along with the employer's name, address, type of business and the position held within that business;
- (5) The names of any organizations conducting bingo or lotteries under the provisions of § [22-25-25](#) of which the person completing this form is a member;
- (6) All criminal convictions, or pending criminal charges, if any, the dates of those convictions and the location of the court imposing sentence; and
- (7) A list of all the places of residence in the last ten years.

Information on this form shall be verified under oath by the person completing it.

Source: SL 1988, ch 188, § 3.

§ 22-25-32. Certain organizations not to be distributors or manufacturers.

No organization that conducts bingo or lotteries under the provisions of § [22-25-25](#) may be a distributor or manufacturer.

Source: SL 1988, ch 188, § 4.

§ 22-25-33. Certain persons not to have interest in distributorship or manufacturer.

No person who is an officer, director, manager or gambling manager of any organization conducting bingo or lotteries under the provisions of § [22-25-25](#) may be an officer, director, shareholder, directly or indirectly, proprietor, or employee of a distributorship or manufacturer, nor may the person have any direct or indirect financial interest in such distributorship or in such manufacturer.

Source: SL 1988, ch 188, § 5.

§ 22-25-34. Additional persons who may not have interest in distributorship or manufacturer.

No person who is an officer, director, shareholder, directly or indirectly, partner, or proprietor of a wholesale alcoholic beverage distributorship may be an officer, director, shareholder, partner, proprietor, or employee of a distributorship or manufacturer, nor may the person have any direct or indirect financial interest in the distributorship or in such manufacturer.

Source: SL 1988, ch 188, § 6.

§ 22-25-35. Distributors, manufacturers and persons with interest therein not to lease premises to organizations conducting bingo or lotteries.

No distributor, manufacturer or person having a direct or indirect financial interest in a distributorship or in such manufacturer may be a lessor of premises, directly or indirectly, to an organization conducting bingo or lotteries.

Source: SL 1988, ch 188, § 7.

§ 22-25-36. Filing of change in information.

If any information submitted in the application changes, the changes shall be filed with the secretary of revenue within ten days after the change.

Source: SL 1988, ch 188, § 8.

§ 22-25-37. Maintenance of records and sales invoices - Form and contents.

Each distributor and manufacturer shall maintain for five years records relative to the purchase and sale, lease, rental or loan of bingo or lottery equipment and supplies at the distributor's place of business within this state or in the case of a manufacturer at the manufacturer's place of business. Sales invoices shall be maintained by a distributor for all bingo or lottery equipment and supplies distributed, whether by sale, lease, rental or loan, to all qualified organizations. Sales invoices shall be maintained by manufacturers for all bingo or lottery equipment and supplies distributed, whether by sale, lease, rental or loan, to all qualified organizations or distributors. Bingo or lottery equipment and supplies provided to all qualifying organizations or distributors at no charge shall be recorded on a sales invoice. The sales invoices shall be on a standard form prescribed by the secretary of revenue and shall have the following information as a minimum:

- (1) The license number of the distributor or manufacturer;
- (2) The complete business name and address of the organization or distributor;
- (3) The sales tax license number of the organization or distributor;
- (4) The invoice number;
- (5) The invoice date;
- (6) The date shipped;
- (7) The quantity by the number of deals for pull-tabs;
- (8) A full description of each item of bingo or lottery equipment and supplies sold;
- (9) The ideal gross receipts for each different type of pull-tab; and
- (10) The ideal net receipts for each different type of pull-tab.

Source: SL 1988, ch 188, § 9.

§ 22-25-38. Examination of books and records.

The secretary of revenue may examine or cause to be examined the books and records of any distributor or manufacturer to the extent that such books and records relate to any transaction connected to the sale of bingo or lottery equipment and supplies in this state. No distributor or manufacturer may prohibit, interfere with, or otherwise impede such examination, but shall cooperate and assist with the examination and provide such information as may be required.

Source: SL 1988, ch 188, § 10.

§ 22-25-39. Sales to out-of-state customers.

Bingo or lottery equipment and supplies sold by distributors to out-of-state customers for use out of state shall either be shipped to the out-of-state site or the distributor shall verify that the purchaser is from out of state.

Source: SL 1988, ch 188, § 11.

§ 22-25-40. Delivery of equipment and supplies sold for in-state use.

Bingo or lottery equipment and supplies, sold for in-state use shall be delivered to the purchaser's address or his authorized representative.

Source: SL 1988, ch 188, § 12.

§ 22-25-41. Sale of coin-operated machines and mechanical pull-tab devices prohibited -
Exception.

No coin-operated machine or mechanical pull-tab dispensing device may be sold or otherwise furnished to any organization in this state by a distributor or manufacturer licensed pursuant to §§ [22-25-28](#) to [22-25-51](#), inclusive. However, a licensed distributor or manufacturer may sell or furnish a coin-operated mechanical pull-tab dispensing device if the device is only sold or furnished to and only used by a congressionally chartered veteran's organization that qualifies under § [22-25-25.1](#).

Source: SL 1988, ch 188, § 13; 1994, ch 169.

§ 22-25-42. Separate statement of rebates and discounts.

Rebates of purchase prices or discounts allowed by a distributor or manufacturer shall be separately stated on the original purchase invoice or separately invoiced on a credit memo referenced to the original sales

invoice.

Source: SL 1988, ch 188, § 14.

§ 22-25-43. Limit on gifts, premiums and prizes from distributors and manufacturers.

No distributor or manufacturer may directly or indirectly give gifts, trips, prizes, loans of money, excluding credit, premiums or other gratuities to qualified organizations or distributors, or their employees, other than nominal gifts, premiums or prizes not to exceed a value of twenty-five dollars per organization or distributor, including employees, in a calendar year.

Source: SL 1988, ch 188, § 15.

§ 22-25-44. Use of deal of pull-tabs as sales promotion.

No distributor or manufacturer may use as a sales promotion any statement, demonstration, or implication that any certain portion of a deal of pull-tabs contains more winners than other portions of the deal or that any deal of pull-tabs may be sold by the organization in a particular manner that would give the organization any advantage in selling more of the pull-tabs before having to pay out winners.

Source: SL 1988, ch 188, § 16.

§ 22-25-45. Return of equipment, supplies and pull-tabs - Recordation of transaction.

No distributor or manufacturer may sell, issue, or accept returned bingo or lottery equipment and supplies or pull-tabs to or from an organization without first recording the transaction on a sales invoice.

Source: SL 1988, ch 188, § 17.

§ 22-25-46. Requirements for deal of pull-tabs.

No distributor or manufacturer may knowingly possess, display, put out for play, sell or otherwise furnish to any person or organization any deal of pull-tabs:

- (1) In which the winning pull-tabs have not been completely and randomly distributed and mixed among all other pull-tabs in the deal;
- (2) In which the location, or approximate location, of any of the winning pull-tabs can be determined in advance of opening the pull-tabs in any manner or by any device, including but not limited to, any pattern in the manufacture, assembly or packaging of the pull-tabs by the manufacturer, by any marking on the pull-tabs or by the use of a light;
- (3) Which does not conform in any respect to the requirements of this section, as to assembly, or packaging of pull-tabs;
- (4) In which each individual pull-tab manufactured does not conspicuously set forth on it the name of the manufacturer or a label or trademark which identifies its manufacturer.

Source: SL 1988, ch 188, § 18.

§ 22-25-47. Numbering of disposable bingo cards.

Each set of disposable bingo cards shall be consecutively numbered from the first card to the last card, or from the first sheet of cards to the last sheet of cards, or be consecutively numbered through the set. Each card or sheet shall have printed on its face both its individual card or sheet number, and the series number assigned by the manufacturer to the set of disposable bingo cards.

Source: SL 1988, ch 188, § 19.

§ 22-25-48. Tax imposed on distributors - Payment.

All distributors shall pay a tax to the department of revenue of five percent of the distributor's gross sales of bingo or lottery equipment and supplies or pull-tabs for use in South Dakota. The tax shall be paid by the fifteenth day of the month following the month in which the sales invoice was prepared on a form provided by the department of revenue.

Source: SL 1988, ch 188, § 20.

§ 22-25-49. Promulgation of rules.

The secretary of revenue may promulgate rules pursuant to [chapter 1-26](#) to implement the provisions of §§ [22-25-28](#) to [22-25-51](#), inclusive.

Source: SL 1988, ch 188, § 21.

§ 22-25-50. Violation as misdemeanor - Second or subsequent violation as felony.

Any person who violates any provision of §§ [22-25-28](#) to [22-25-51](#), inclusive, is guilty of a Class 1 misdemeanor. Any person convicted of a second or subsequent violation of the provisions of §§ [22-25-28](#) to [22-25-51](#), inclusive, is guilty of a Class 6 felony.

Source: SL 1988, ch 188, § 22.

§ 22-25-51. Inapplicability of §§ 22-25-28 to 22-25-51, inclusive, to state lottery.

The provisions of §§ [22-25-28](#) to [22-25-51](#), inclusive, do not apply to a lottery owned and operated by the state of South Dakota.

Source: SL 1988, ch 188, § 23.

TITLE 23. LAW ENFORCEMENT

CHAPTER 23-3. LAW ENFORCEMENT AGENCIES

§ 23-3-15. Co-operation of division with federal government and agencies of other states.

It shall be the duty of the division of criminal investigation to co-operate with similar divisions, bureaus, or

departments of other states or of the bureau of investigation of the department of justice in Washington, D.C.

CHAPTER 23-13. PREVENTION AND INVESTIGATION OF CRIMES

§ 23-13-6. Neglect of gambling investigation and enforcement as petty offense.

Any public official referred to in §§ [23-13-4](#) and [23-13-5](#) who has knowledge sufficient to put an ordinary person on inquiry as to existence of any forms of gambling nuisance prohibited by this code and who fails thereafter diligently to secure and prepare the available evidence and to prosecute the violations found to exist, commits a petty offense.

TITLE 23A. CRIMINAL PROCEDURE

CHAPTER 23A-35A. INTERCEPTION OF WIRE OR ORAL COMMUNICATIONS

§ 23A-35A-2. Offenses for which order of interception of communications may be granted.

Orders authorizing or approving the interception of wire or oral communications may be granted, subject to the provisions of this chapter when the interception may provide or has provided evidence of the commission of, or of any conspiracy to commit, the following offenses as otherwise defined by the laws of this state: murder; kidnapping; gambling; robbery; bribery; theft; unlawful use of a computer; unauthorized manufacturing, distribution or counterfeiting of controlled substances or marijuana; and, rape.

CHAPTER 23A-37. DIPOSITION OF SEIZED PROPERTY

§ 23A-37-7. Money restored to owner - Gambling money paid into county treasury.

Money shall be restored to the owner unless it was used in unlawful gambling or lotteries in which case it shall be paid into the county treasury pursuant to § [16-2-28](#).

TITLE 25. DOMESTIC RELATIONS

CHAPTER 25-7A. COLLECTION OF CHILD SUPPORT

§ 25-7A-56. Prohibition against issuance or renewal of professional license, registration, certification or permit of applicant in child support arrearage - Adoption of rules by state agencies.

A state agency or board may not issue or renew the professional, sporting, or recreational license, registration, certification, or permit of any applicant after receiving notice from the Department of Social Services that the applicant has support arrearages in the sum of one thousand dollars or more, unless the applicant first makes satisfactory arrangements with the Department of Social Services for payment of any accumulated arrearages. An applicant who disputes a determination by the Department of Social Services that the applicant has support arrearages of one thousand dollars or more shall, upon request, be given a due process hearing by the department. Upon recommendation by the department, the licensing agency or board may issue a temporary license, registration, certification, or permit to the applicant pending final resolution of the due process hearing. The department may promulgate rules pursuant to [chapter 1-26](#) to implement the provisions of this section.

The term professional license, registration, certification, or permit as specified by this section includes appraisers as specified in [chapter 36-21B](#); abstractors as specified in [chapter 36-13](#); accountants as specified in [chapter 36-20A](#); barbers as specified in [chapter 36-14](#); chiropractors as specified in [chapter 36-5](#); cosmetologists as specified in [chapter 36-15](#); counselors as specified in [chapter 36-32](#); dentists and dental hygienists as specified in [chapter 36-6A](#); electricians as specified in [chapter 36-16](#); engineers, architects, and surveyors as specified in [chapter 36-18](#); embalmers and funeral directors as specified in [chapter 36-19](#); nurses as specified in [chapter 36-9](#); nurse practitioners and nurse mid-wives as specified in [chapter 36-9A](#); physical therapists as specified in [chapter 36-10](#); medical assistants as specified in [chapter 36-9B](#); hearing aid dispensers as specified in [chapter 36-24](#); physicians and surgeons as specified in [chapter 36-4](#); physician's assistants as specified in [chapter 36-4A](#); advanced life support personnel as specified in [chapter 36-4B](#); nursing facility administrators as specified in [chapter 36-28](#); optometrists as specified in [chapter 36-7](#); pharmacists as specified in [chapter 36-11](#); plumbers as specified in [chapter 36-25](#); podiatrists as specified in [chapter 36-8](#); psychologists as specified in [chapter 36-27A](#); real estate brokers and salesmen as specified in [chapter 36-21A](#); social workers as specified in [chapter 36-26](#); veterinarians as specified in [chapter 36-12](#); insurance brokers, agents, and solicitors as specified in [chapter 58-30](#); teachers and administrators as specified in [chapters 13-42](#) and [13-43](#); attorneys as specified in [chapter 16-16](#); securities agents, securities brokers, investment advisers, or investment adviser representatives as specified in [chapter 47-31A](#); pilots as specified in [chapter 50-11](#); day care providers as specified in [chapter 26-6](#); gaming employees as specified in [chapter 42-7B](#); and law enforcement officers as specified in [chapter 23-3](#). The state agencies or boards which govern the professions, recreational licenses, and occupations listed in this paragraph may adopt rules pursuant to [chapter 1-26](#) to implement the provisions of this section for their particular profession or occupation.

TITLE 42. RECREATION AND SPORTS

CHAPTER 42-7. HORSE AND DOG RACING

§§ 42-7-1 to 42-7-46. Repealed.

Repealed by SL 1977, ch 3, § 2 (4).

§ 42-7-47. State policy in exercise of police powers.

It is the policy of the state of South Dakota to utilize its police powers to provide forceful and honest state-wide regulation of racing in order to foster honest and fair racing practices, to ensure that all funds contributed are properly distributed and to provide for the health and safety of persons and animals lawfully on the premises of licensed racing facilities.

Source: SL 1978, ch 302, § 1.

§ 42-7-48. Definition of terms.

Terms as used in this chapter mean:

- (1) "Commission," the South Dakota commission on gaming;
- (2) "Dog racing day," a period of twenty-four hours, beginning at midnight, during which period of time a license has been granted by the commission to an association to conduct a contest between dogs for purse, stakes, premium, wager for money or entrance fees on a course;
- (3) "Executive Secretary," the executive secretary of the South Dakota commission on gaming;
- (4) "Horse racing day," a period of twenty-four hours, beginning at midnight, during which period of time a license has been granted by the commission to an association to conduct a contest between horses for purse, stakes, premium, wager for money or entrance fees on a course;
- (5) "Host facility," the racetrack at which the race is run, or the facility which is designated as the host facility if the race is run in a jurisdiction which is not participating in the interstate combined wagering pool;
- (6) "Host jurisdiction," the jurisdiction in which the host facility is located;
- (7) "Interstate combined wagering pool," a pari-mutuel pool established in one jurisdiction which is combined with comparable pari-mutuel pools from one or more racing jurisdictions if such pool is established for the purpose of establishing pay-off prices in the various jurisdictions;
- (8) "Racing," horse and dog racing under the certificate system; and
- (9) "Racing jurisdiction," a governmental jurisdiction responsible for the regulation of pari-mutuel racing in that jurisdiction and which is a member of the association of racing commissioners international.

Source: SL 1978, ch 302, § 2; 1985, ch 330, § 1; 1990, ch 339, § 1; 1991, ch 349, § 1; 1991, ch 350, § 1.

§ 42-7-49. Racing commission created - Appointment and terms of members - Political and geographic representation.

Repealed by SL 1991, ch 349, § 2.

§ 42-7-50. Residence and character required for appointment to commission - Financial interest in racing prohibited - Removal on disqualification.

Repealed by SL 1991, ch 349, § 3.

§ 42-7-51. Compensation of commission members - Quorum - Procedures - Election of officers.

Repealed by SL 1991, ch 349, § 4.

§ 42-7-52. Administrative functions performed by department - Reports by commission to department.

Repealed by SL 1991, ch 349, § 5.

§ 42-7-53. Appointment of director of racing - Qualifications.

Repealed by SL 1991, ch 349, § 6.

§ 42-7-54. Director full time - Salary - Duties of director.

Repealed by SL 1991, ch 349, § 7.

§ 42-7-55. Employment of other personnel.

Repealed by SL 1991, ch 349, § 8.

§ 42-7-56. Powers and responsibilities of commission on gaming.

The commission shall:

- (1) Provide for racing under the certificate system;
- (2) Perform quasi-legislative, quasi-judicial and advisory functions excluding special budgetary functions as defined in § [/sdCGI-BIN/om_isapi.dll?clientID=1871&hitsperheading=on&infobase=sdcode.NFO&jump=1-32-1&softpage=Document - JUMPDEST_1-32-11-32-1;](#)
- (3) Set racing dates;
- (4) Promulgate rules pursuant to [/sdCGI-BIN/om_isapi.dll?clientID=1871&hitsperheading=on&infobase=sdcode.NFO&jump=t.%201%2c%20ch.%2026&softpage=Document - JUMPDEST t. 1, ch. 26chapter 1-26](#) for effectively preventing the use of any substance, compound items or combination thereof of any medicine, narcotic, stimulant, depressant or anesthetic which could alter the normal performance of a racing animal unless specifically authorized by the commission;
- (5) Supervise and check the making of pari-mutuel pools, pari-mutuel machines and equipment used within the state;
- (6) Promulgate rules pursuant to [/sdCGI-BIN/om_isapi.dll?clientID=1871&hitsperheading=on&infobase=sdcode.NFO&jump=t.%201%2c%20ch.%2026&softpage=Document - JUMPDEST t. 1, ch. 26chapter 1-26](#) governing, restricting or regulating bids on licensees' concessions and leases on equipment;
- (7) Approve all proposed extensions, additions or improvements to the buildings, stables or tracts upon property owned or leased by a licensee;
- (8) Exclude from race courses or other pari-mutuel facilities any person who violates the racing laws or any rule, regulation or order of the commission or is not eligible for licensing in another racing jurisdiction;
- (9) Compel the production of all documents showing the receipts and disbursements of any licensee and determine the manner in which such financial records shall be kept;

(10) Investigate the operations of any licensee and cause the various places where the certificate system is operated to be visited and inspected at reasonable intervals for the purpose of satisfying itself that the rules and regulations are strictly complied with;

(11) Request appropriate state officials to perform inspections necessary for the health and safety of spectators, employees, participants and animals that are lawfully on the race track;

(12) License all participants in the racing industry and require and obtain such information as the commission deems necessary from licensed applicants;

(13) Promulgate and enforce additional rules pursuant to [/sdCGI-BIN/om_isapi.dll?clientID=1871&hitsperheading=on&infobase=sdcode.NFO&jump=t.%201%2c%20ch.%2026&softpage=Document - JUMPDEST t. 1, ch. 26chapter 1-26](#), and conditions under which all horse and dog races held shall be conducted and promulgate rules pursuant to [/sdCGI-BIN/om_isapi.dll?clientID=1871&hitsperheading=on&infobase=sdcode.NFO&jump=t.%201%2c%20ch.%2026&softpage=Document - JUMPDEST t. 1, ch. 26chapter 1-26](#) to preserve the integrity and security of racing; and

(14) License all facilities at which money is collected or disbursed under the certificate system.

Source: SDC 1939, § 53.0502; SL 1949, ch 213; SDCL, § 42-7-7; SL 1978, ch 302, § 9; 1985, ch 331, §§ 2, 5; 1986, ch 22, § 20; 1990, ch 339, § 2; 1991, ch 349, § 9.

§ 42-7-57. License required for racing under certificate system - Violation as misdemeanor.

No person shall hold any racing meeting under the certificate system without having first obtained and having in full force and effect a license issued by the commission. Any person who violates the provisions of this section shall be guilty of a Class 1 misdemeanor.

Source: SDC 1939, § 53.9902; SDCL, § 42-7-9; SL 1977, ch 190, § 622; 1978, ch 302, § 13; 1991, ch 349, § 10.

§ 42-7-58. Authority for racing under certificate system - Issuance of license.

The commission may permit and authorize the racing of horses and dogs under what is here designated the "certificate system." The commission may issue, on compliance of an applicant with the requirements of this chapter, a license to conduct races under the certificate system.

Source: SDC 1939, § 53.0503; SL 1949, ch 213; 1961, ch 265, § 1; 1963, ch 296, § 2; SDCL, § 42-7-8; SL 1969, ch 201; 1978, ch 302, § 12; 1991, ch 349, § 11.

§ 42-7-58.1. Satellite facilities of horse or dog track licensees.

The commission may allow licensees approved by the commission to collect and disburse money under the certificate system at locations other than where licensed races are conducted if the satellite locations are more than fifty miles away from any pari-mutuel horse track or dog track licensed by the commission which is conducting a race meet at that time or if the pari-mutuel horse or dog track agrees to the operation of such a location within the fifty mile radius. The licensees shall combine the amount contributed at the satellite location with the contribution contributed at the track and such amount shall be combined with the amount withheld by the licensees as provided in §§ [42-7-79](#) and [42-7-79.1](#). The state shall receive one and one-half percent of the total amount contributed from the satellite location, and the special racing revolving fund in the office of the state treasurer and the South Dakota bred racing fund shall each receive one and one-half percent of the total amount contributed, with the remaining amount of the contribution withheld at the satellite location to be retained by the licensees. No other deductions may be made from the amount withheld by the licensee at the satellite location. Satellite facilities may receive contributions between the hours of 9:00 a.m. and 1:00 a.m.

Source: SL 1985, ch 331, § 1; 1987, ch 309; 1989, ch 367, § 1; 1991, ch 349, § 12; 1994, ch 328, § 1; 1995, ch 240, § 1.

§ 42-7-58.2. Wagering on televised races - Request and reciprocal agreement.

Upon written request of a licensee, the commission may approve wagering on races televised to South Dakota from another licensed racing jurisdiction. The request shall be made not less than seven days prior to the race to be televised. The request shall be accompanied by a signed reciprocal agreement between the racetrack originating the broadcast and the South Dakota racetrack receiving the broadcast.

Source: SL 1987, ch 310, § 1.

§ 42-7-58.3. Approved simulcast races conducted on day assigned by commission.

All approved simulcast races shall be conducted at a licensed location on a day assigned by the commission.

Source: SL 1987, ch 310, § 2; 1988, ch 343, § 1.

§ 42-7-58.4. Distribution of contributions.

All contributions received pursuant to §§ [42-7-58.2](#) to [42-7-58.5](#), inclusive, shall be distributed pursuant to § [42-7-58.1](#).

Source: SL 1987, ch 310, § 3.

§ 42-7-58.5. Simulcast wagering in compliance with federal laws.

In addition to all state laws and applicable rules of the commission, simulcast wagering and interstate combined wagering pools shall be in compliance with the United States Code, Title 15, Section 3001, et seq., as in effect on December 31, 1990.

Source: SL 1987, ch 310, § 4; 1991, ch 350, § 7.

§ 42-7-58.6. Eligibility for license to operate satellite races absent conducting live meet.

A licensee shall be eligible to receive a license under the certificate system to operate satellite races from either within or without the state without being obligated to conduct a live meet during the year.

Source: SL 1991, ch 349, § 41; 1995, ch 240, § 2.

§ 42-7-58.7. Consideration of applications for licenses for satellite facilities.

Notwithstanding any other provisions of this chapter, the commission may accept and consider applications at any time for operation of satellite facilities to be operated under the certificate system and issue a license at any time for the operation of satellite facilities.

Source: SL 1994, ch 328, § 2.

§ 42-7-59. Filing of application for racing license - Contents.

The application for a license to hold or conduct a racing meeting shall be signed under oath and filed with the commission on or before a day prescribed in this chapter. The application shall state:

- (1) The full name and address of the applicant. If the applicant for a license is a corporation, the names of all officers, directors, or stockholders of the corporation or any of its holding corporations shall be disclosed individually to the commission. The commission may require disclosure of any person or group of persons holding directly, indirectly or beneficially an interest of any nature whatsoever in the corporation or any of its holding corporations, whether financial, administrative, policy-making or supervising;
- (2) The location of its racetrack or other facility and whether it is owned or leased. If leased, state the names and addresses of the lessors;
- (3) A statement of the assets and liabilities of such applicant;
- (4) A description of the qualifications and experience of the applicant, if an individual, or of its officers and directors, if a corporation, in the conduct of racing establishments in the five years preceding the filing of such application;
- (5) The time, place and number of days such racing meet is proposed to be conducted;
- (6) The type of racing to be conducted;
- (7) Such other information as the commission may require.

Any expenses incurred by the commission in regard to the investigation of an applicant shall be paid by the applicant.

Source: SDC 1939, § 53.0506; SL 1949, ch 213; 1961, ch 265, § 2; 1963, ch 296, § 3; SDCL, § 42-7-10; SL 1969, ch 201; 1978, ch 302, § 14; 1985, ch 331, § 3; 1990, ch 339, § 3; 1991, ch 349, § 13.

§ 42-7-60. Bond required of applicant for racing license - Waiver - Revocation or suspension of license on nonpayment of fees or taxes.

Every person applying for a license under the certificate system shall give bond payable to the state of South Dakota with good security to be approved by the commission. The bond shall be the amount which the commission determines will adequately protect the amount normally due and owing to the state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues. The commission may waive the bond and in such event, the amount of taxes and fees due and owing the state shall be a lien on the license to operate. The lack of timely payment shall be cause for revocation or

suspension of the license to operate.

Source: SDC 1939, § 53.0504; SDCL, § 42-7-11; SL 1978, ch 302, § 16; 1991, ch 349, § 14.

§ 42-7-61. Application for new site submitted to county commissioners - Notice to county auditors - Provision for vote.

An application for a license to conduct the racing of horses or dogs on any new site which has not before July 1, 1967, been utilized for the conduct of racing horses or dogs, shall first be submitted, not less than ninety days prior to the next general election, to the board of county commissioners of the county where the site is to be located. The board of county commissioners shall notify the county auditor of each county which has any portion of its border within fifteen miles of the proposed site. Upon receipt of such notice, the county auditor of each county shall take the necessary action to provide that a vote shall be conducted at the next general election for the purpose of approving or disapproving such proposed site.

Source: SDC 1939, § 53.0506 as added by SL 1967, ch 244; SDCL, § 42-7-12; SL 1969, ch 201; 1978, ch 302, § 21.

§ 42-7-62. Certification of votes on new racing site - Application forwarded to commission if approved by voters.

The county auditor of each county voting on the question provided for in § [42-7-61](#) shall submit a certified statement of the total votes cast for approval and disapproval to the board of county commissioners of the proposed-site county within sixty days after the general election. The board of county commissioners of the proposed-site county shall add the total votes cast for approval and disapproval from all such counties voting. If a majority of all votes cast approves such proposed site, the application for a license shall be further submitted by the county auditor of the proposed-site county together with a certificate indicating such approval to the commission for their consideration and action.

Source: SDC 1939, § 53.0506 as added by SL 1967, ch 244; SDCL, § 42-7-13; SL 1969, ch 201; 1978, ch 302, § 22; 1991, ch 349, § 15.

§ 42-7-63. Daily license fee for racing meetings - Disposition.

The commission may charge a fee for licenses to conduct racing of horses or dogs under the certificate

system commensurate with the size and attendance of such race meet, but no charge less than ten dollars nor in excess of one hundred dollars per day shall be made. The license fees shall be remitted to the state treasurer and placed in the special racing fund.

Source: SDC 1939, § 53.0509; SDCL, § 42-7-16; SL 1978, ch 302, § 19; 1991, ch 349, § 16.

§ 42-7-64. Contents of license for racing under certificate system - Days and hours of racing specified - License issued on basis of calendar year.

Each license issued under the certificate system shall describe the place and track or race course at which the licensee may hold such meetings. The authority conferred in any one license shall be limited to the calendar year for which it is issued. Every license shall specify the number of days the licensed meet shall continue, the hours during which racing is to be conducted and the number of races to be held per day. Races authorized under this chapter may be held only between the hours of 9:00 a.m. and 12:00 midnight. For the purpose of simulcasting or satellite facilities, a race meeting is considered to be the period of time a licensee starts its simulcast racing until it ends its simulcast racing. The commission shall issue a license on the basis of a calendar year.

Source: SDC 1939, §§ 53.0503, 53.0506; SL 1949, ch 213; 1961, ch 265, §§ 1, 2; 1963, ch 296, §§ 2, 3; SDCL, § 42-7-17; SL 1969, ch 201; 1970, ch 246; 1978, ch 302, § 17; 1989, ch 367, § 2; 1995, ch 240, § 3.

§ 42-7-65. Transfer of license or stock ownership subject to approval - Standards applied.

All transfers of licenses to operate a meet under the certificate system or transfers of stock in a corporation holding a license shall be subject to prior review and approval by the commission, and the disclosure requirements as provided in § [42-7-59](#). The commission may approve minor transfers of stock without a hearing. The commission shall apply the standards provided in § [42-7-91](#) in determining whether it shall permit a transfer of stock.

Source: SL 1978, ch 302, § 18; 1991, ch 349, § 17.

§ 42-7-66. Investigation of stock ownership - Failure to disclose.

The commission may conduct investigations to ascertain if any capital stock of any corporate applicant is

held for an undisclosed principal. Failure to disclose a principal is a material false statement.

Source: SL 1978, ch 302, § 18; 1991, ch 349, § 18.

§ 42-7-67. Licensing of participants and track personnel - Maximum fee - Duration and privileges conferred - Fine, suspension or revocation.

The commission may grant, refuse, suspend or withdraw licenses to every participant and employee engaged in racing under the certificate system as authorized in this chapter. The commission shall promulgate rules pursuant to [chapter 1-26](#) to establish fees for licenses issued pursuant to this chapter. The maximum fee may not exceed fifty dollars. No license is valid for more than one calendar year, but a license issued pursuant to this chapter is valid at all race meetings in the state during the one year period. Licenses are the property of the state.

The commission, upon proof of violation of any provision of this chapter or any rule adopted by the commission, may fine, suspend or revoke any license granted pursuant to this section.

Source: SL 1978, ch 302, § 38; 1990, ch 339, § 4; 1991, ch 349, § 19.

§ 42-7-68. Allotment of racing days to applicants - Preference to past users - Annual scheduling - Procedure for simulcast or satellite facilities.

If an applicant is eligible to receive a license under the provisions of this chapter, the commission shall fix the racing days allotted to the applicant and issue a license for the holding of such meetings. Any racing association, agriculture, livestock or fair exposition which has adopted and used regular or approximate regular dates for their events for the past two years shall be allotted those dates if such association or organization requests them.

Written applications for live racing dates for the next calendar year shall be submitted to the commission prior to October thirty-first of the preceding year. Allotment of the live racing dates for the next calendar year shall be made by the commission by December thirty-first of the preceding year.

The commission may grant additional live racing days to any currently licensed racing association upon a written application for additional live racing dates for the current calendar year.

Simulcasting or satellite facilities licensed to operate in this state shall also submit their projected racing dates prior to October thirty-first of the preceding year. However, the dates are subject to revision by the commission or the executive secretary at any time. The commission shall establish, by rules promulgated pursuant to [chapter 1-26](#), the procedures for revising simulcast or satellite racing dates.

Source: SDC 1939, § 53.0506; SL 1949, ch 213; 1961, ch 265, § 2; 1963, ch 296, § 3; SDCL, § 42-2-17; SL 1969, ch 201; 1970, ch 246; 1978, ch 302, § 20; 1985, ch 330, § 2; 1989, ch 367, § 3; 1991, ch 349, §

20.

§ 42-7-69. Additional racing day for scholarship fund - Expenses deductible in computing profit.

The commission may grant one additional day of racing during the race meeting period granted to any track, upon application and agreement by any track in which one specific day of any meet shall be set aside, and all profit and all taxes payable to the state or any state agency for such day's operation, less actual operating costs, from such specific day's operations of such track, shall be paid into the state treasury for a scholarship trust fund. Actual operating costs of any track conducting such additional day of racing shall not include constant day to day expenses which would have been incurred had the day of racing not been held. Nondeductible expenses include, but are not limited to, such items as capital expenditures, interest on debts, real estate taxes, annual license fees, donations, bad debts, and such other items of daily or prorated expense as the commission may by rule prescribe.

Source: SL 1969, ch 204; SDCL Supp, § 42-7-17.1; SL 1978, ch 302, § 23; 1991, ch 349, § 21.

§ 42-7-70. Administration of scholarship fund by board of regents - Use.

The fund described in § [42-7-69](#) shall be administered by the state board of regents upon such terms and conditions as the board may from time to time prescribe. Moneys in the fund shall be used for scholarships for students who attend state institutions of higher learning supported by the state.

Source: SL 1969, ch 204; SDCL Supp, § 42-7-17.1; SL 1978, ch 302, § 23.

§ 42-7-71. South Dakota-bred racing fund - Use of fund.

One-fourth of all money received by the state treasurer under this chapter from licensees operating horse racing tracks shall be placed in a special revenue fund to be known as the "South Dakota-bred racing fund." The fund shall be used by the commission to encourage horse racing and the raising and breeding of horses in South Dakota and shall be used for the purpose of providing compensation to South Dakota-bred horses by providing funds to all horsetracks licensed in South Dakota. However, not more than one-fourth of the moneys deposited in the South Dakota-bred racing fund may be used by the commission to provide purse supplements to horsetracks for horses other than South Dakota-bred horses.

Source: SDC 1939, § 53.0508 as enacted by SL 1963, ch 296, § 5; SDCL, § 42-7-26; SL 1978, ch 302, § 31; 1983, ch 301, § 1; 1990, ch 340, § 1; 1991, ch 349, § 22.

§ 42-7-72. Daily South Dakota-bred race to be scheduled.

Repealed by SL 1983, ch 301, § 2.

§ 42-7-73. Bonus paid to breeder of winner of South Dakota-bred race - Registration of qualifying horses.

A sum equal to five percent of the first money of every purse won by a "South Dakota-bred" horse shall be paid by the licensee conducting the horse racing meeting to the breeder of such animal. The commission shall by rule provide for the definition and registration of all "South Dakota-bred" horses.

Source: SDC 1939, § 53.0508 as enacted by SL 1963, ch 296, § 5; SDCL, § 42-7-31; SL 1978, ch 302, § 34; 1991, ch 349, § 23.

§ 42-7-74. South Dakota horse races to be scheduled.

Repealed by SL 1983, ch 301, § 3.

§ 42-7-75. Cancellation of South Dakota race if entries insufficient - Purse not paid from special fund.

Repealed by SL 1983, ch 301, § 4.

§ 42-7-76. Contributions by win bettors - Minors prohibited from participating - Interest acquired - Certificates issued.

The certificate system shall expressly authorize the right of a licensee to collect and receive contributions of money from any person eighteen years or older toward the entry of any horse or dog in such race selected by such person to run first in the race, and the person contributing such money shall acquire an interest in the total money contributed on all horses and dogs in the race as first winner in proportion to the amount of money contributed by such person. The licensee shall receive such contributions of money and issue to the contributors thereof certificates on which shall be shown the number of the race, the amount contributed, and the number or name of the horse or dog selected by such person as first winner.

Source: SDC 1939, § 53.0503; SL 1949, ch 213; 1961, ch 265, § 1; 1963, ch 296, § 2; SDCL, § 42-7-19; SL 1969, ch 201; 1972, ch 230, § 1; 1974, ch 281, § 3; 1975, ch 266; 1978, ch 302, § 24; 1985, ch 331, § 4; 1987, ch 29, § 97.

§ 42-7-76.1. Accepting of large bets by persons other than licensee as felony.

Any person who accepts bets in excess of two hundred dollars by any other persons, other than the licensee, on the outcome of any horse or dog race conducted pursuant to this chapter is guilty of a Class 6 felony.

Source: SL 1987, ch 311, § 1.

§ 42-7-76.2. Accepting of medium bets as misdemeanor.

Any person who accepts bets of one hundred to two hundred dollars from any other persons on the outcome of any horse or dog race conducted pursuant to this chapter is guilty of a Class 1 misdemeanor.

Source: SL 1987, ch 311, § 2.

§ 42-7-76.3. Accepting of small bets as misdemeanor.

Any person who accepts bets of less than one hundred dollars from any other persons on the outcome of any horse or dog race conducted pursuant to this chapter is guilty of a Class 2 misdemeanor.

Source: SL 1987, ch 311, § 3.

§ 42-7-77. Place and show betting - Combinations of races for betting.

The licensee shall receive such contributions on horses or dogs selected to run second, third, or both, the method and procedure and the right of the licensee to be as specified in §§ [42-7-76](#), [42-7-78](#) and [42-7-79](#), with reference to selection of a horse or dog to run first. Any contributions collected or received under the provisions of this chapter may apply to one or more races or to any combination of races.

Source: SDC 1939, § 53.0503; SL 1949, ch 213; 1961, ch 265, § 1; 1963, ch 296, § 2; SDCL, § 42-7-19; SL 1969, ch 201; 1972, ch 230, § 1; 1974, ch 281, § 3; 1975, ch 266; 1978, ch 302, § 24.

§ 42-7-78. Deduction from pari-mutuel pool on horse race - Payments to winners.

As each horse race is run the licensee shall be authorized to deduct from the total sum contributed on all horses as first winners eighteen and one-quarter percent and the balance remaining on hand after deducting such percentage shall be paid out to the holders of certificates on the winning horse equally in proportion as the amount contributed by such person bears to the total amount contributed toward the entry of all horses in such race to run first.

Source: SDC 1939, § 53.0503; SL 1949, ch 213; 1961, ch 265, § 1; 1963, ch 296, § 2; SDCL, § 42-7-19; SL 1969, ch 201; 1972, ch 230, § 1; 1974, ch 281, § 3; 1975, ch 266; 1978, ch 302, § 24.

§ 42-7-78.1. Additional deduction from pools on horse races - Distribution.

In addition to the deductions authorized by § [42-7-78](#), a licensee of a horse track may deduct from the total sum contributed on horse races, except contributions on horse races in the win, place or show pool, an additional three percent, which shall be retained by the licensee as additional compensation, to be used only by the licensee for capital improvements, increases in purses, or for such other purpose which has been approved by the commission. Such deduction is not subject to the provisions of § [42-7-85](#).

Source: SL 1981, ch 305, § 1; 1991, ch 349, § 24.

§ 42-7-79. Deduction from pari-mutuel pool on dog race - Weekly remittances - Payments to winners.

As each dog race is run, the licensee shall deduct from the total sum contributed on all dogs as first winners eighteen and one-quarter percent of the amount thus contributed. This deduction shall be made from all sums contributed on dog races under the certificate system. Of this eighteen and one-quarter percent withheld, five percent of the total sum contributed shall be remitted on a weekly basis to the special racing fund, one-half of one percent of the total sum contributed shall be remitted on a weekly basis to the South Dakota-bred racing fund as provided in § [42-7-71](#), and one-half of one percent of the total sum contributed shall be remitted on a weekly basis to the special racing revolving fund as provided in § [42-7-79.1](#). The balance remaining on hand after deducting the eighteen and one-quarter percent shall be paid out to the holders of certificates on the winning dog equally in proportion as the amount contributed by such person bears to the total amount contributed toward the entry of all dogs in such race to run first. All funds not remitted to the state or paid to the South Dakota-bred racing fund or the special racing revolving fund provided for in § [42-7-79.1](#) or paid out to holders of certificates on winning dogs shall be retained by the track.

Source: SL 1949, ch 213; SDC Supp 1960, § 53.0503; SL 1961, ch 265, § 1; 1963, ch 296, § 2; SDCL, § 42-7-19; SL 1969, ch 201; 1972, ch 230, § 1; 1974, ch 281, §§ 3, 5; 1975, ch 266; 1976, ch 263; 1978, ch 302, § 24; 1989, ch 367, § 4; 1992, ch 303, § 1.

§ 42-7-79.1. Additional deduction from some pools on dog races - Distribution.

In addition to the deductions authorized by § [42-7-79](#), the dog racing licensees shall deduct from the total sum contributed on dog races, except contributions on dog races in the win, place and show pool, an additional three and three-quarters percent on the dollars contributed. The licensee will retain one-quarter of one percent for capital improvements on all amounts contributed and an additional three and one-half percent shall be retained by the licensee for discretionary use. The special racing revolving fund shall be in the office of the state treasurer to be disbursed by the commission to increase purses or for operations, or upon request, funds may be granted to a political subdivision of the state for unusual or unique law enforcement expenses incidental to having a race track or off-track site in that political subdivision. Funds in the South Dakota-bred racing fund and the special racing revolving fund shall be disbursed by the

commission on warrants drawn by the state auditor on vouchers approved by the commission and such funds shall be disbursed without authority of appropriation acts.

Source: SL 1981, ch 305, § 2; 1985, ch 332, § 1; 1987, ch 312, § 1; 1989, ch 367, § 5; 1990, ch 340, § 2; 1991, ch 349, § 25.

§ 42-7-80. Change in payment formula when dollar cutoff reached.

A licensee may make the necessary changes in the formulas for the distribution of the contributions, breakage and other payments following the race during which the prescribed dollar cutoff mark was reached, so that contributions relating to any subsequent race shall be the first to be subject to the changed distribution formula.

Source: SL 1974, ch 280; SDCL Supp, § 42-7-19.1; SL 1978, ch 302, § 25.

§ 42-7-81. Deduction of breakage from pari-mutuel payments - Payment to state treasurer.

Before any payment is made to a person who has contributed to a pari-mutuel pool, the licensee shall deduct the odd cents by which the amount payable to such person exceeds a multiple of ten cents, which shall be known as "breakage." Each licensee shall retain all breakage.

Source: SDC 1939, § 53.0503 as added by SL 1963, ch 296, § 2; SDCL, § 42-7-20; SL 1969, ch 201; 1970, ch 245, § 2; 1978, ch 302, § 26; 1992, ch 303, § 2.

§ 42-7-82. Time for claiming payments from pari-mutuel pool.

Claims for any part of a redistribution from a pari-mutuel pool shall be made within sixty days from the end of the meet or be forever barred. Any sums so barred shall become the property of the licensee conducting the meet.

Source: SDC 1939, § 53.0507 as added by SL 1963, ch 296, § 4; SDCL, § 42-7-22; SL 1978, ch 302, § 27.

§ 42-7-83. Portion of pari-mutuel pool retained as compensation by licensee.

Repealed by SL 1989, ch 367, § 6.

§ 42-7-84. Additional withholding by horse licensees.

The licensee of each horse racing track shall withhold and retain at the end of each week of racing, as additional compensation to the licensee, one and one-quarter percent of the total sum contributed.

Source: SL 1972, ch 230, § 2; SDCL Supp. § 42-7-23; SL 1974, ch 281, §§ 2, 5; 1976, ch 263; 1977, ch 338; 1978, ch 302, § 28; 1982, ch 295; 1983, ch 302, § 2; 1985, ch 332, § 2; 1989, ch 367, § 7.

§ 42-7-84.1. Total sums contributed on simulcast races after October 15 and prior to May 1 - How included.

Repealed by SL 1989, ch 367, § 8.

§ 42-7-85. Portion of horse-racing pari-mutuel pool paid to state.

A license to conduct racing under the certificate system shall further expressly provide that the licensee of any horse racing track shall remit to the state treasurer at the end of each week of racing, four-seventeenths of the total of all money retained as compensation by the licensee as authorized by this chapter which is in excess of the one and one-quarter percent retained by the licensee or remitted to the county treasurer wherein the site is located except breakage.

Source: SDC 1939, § 53.0506; SL 1949, ch 213; 1961, ch 265, § 2; 1963, ch 296, § 3; SDCL, § 42-7-23; SL 1969, ch 201; 1972, ch 230, § 2; 1974, ch 281, §§ 2, 5; 1976, ch 263; 1977, ch 338; 1978, ch 302, § 28.

§ 42-7-86. Portion of dog-racing pari-mutuel pool paid to state.

Repealed by SL 1989, ch 367, § 9.

§ 42-7-87. Portion of dog-racing pari-mutuel pools paid to state after eight million dollars.

Repealed by SL 1989, ch 367, § 10.

§ 42-7-88. Fixed percentage in lieu of other payments to state authorized for small tracks.

Repealed by SL 1992, ch 303, § 3.

§ 42-7-89. Payments to state in lieu of other taxes.

The payments required in §§ [/sdCGI-BIN/om_isapi.dll?clientID=1871&hitsperheading=on&infobase=sdcode.NFO&jump=42-7-63&softpage=Document - JUMPDEST 42-7-6342-7-63](#), [/sdCGI-BIN/om_isapi.dll?clientID=1871&hitsperheading=on&infobase=sdcode.NFO&jump=42-7-79&softpage=Document - JUMPDEST 42-7-7942-7-79](#), [/sdCGI-BIN/om_isapi.dll?clientID=1871&hitsperheading=on&infobase=sdcode.NFO&jump=42-7-85&softpage=Document - JUMPDEST 42-7-8542-7-85](#) and 42-7-88, to be made by the licensee to the state treasurer are in lieu of all other or further excise or occupational taxes to the state or any county, municipality or other political subdivision.

Source: SDC 1939, § 53.0510; SDCL, § 42-7-24; SL 1978, ch 302, § 30; 1989, ch 367, § 11A.

§ 42-7-90. Audit of licensee by auditor-general - Reimbursement of expense.

The auditor-general shall, when requested by the commission, executive board of the legislative research council or the Governor, conduct audits and investigate the operations of any licensee. The commission shall reimburse the department of legislative audit for all services rendered.

Source: SDC 1939, § 53.0505; SL 1955, ch 229, § 2; 1957, ch 273, § 2; SDCL, § 42-7-25; SL 1978, ch 302, § 11; 1991, ch 349, § 26.

§ 42-7-91. Grounds for refusal, suspension or withdrawal of license.

The commission may refuse, suspend or withdraw licenses under the certificate system and privileges granted by it or terminate racing privileges for just cause. Those things constituting just cause are:

- (1) Any action or attempted action by a person contrary to the provisions of this chapter and law;
- (2) Corrupt practices, which include but are not limited to:
 - (a) Prearranging or attempting to prearrange the order of finish of a race;
 - (b) Failing to properly pay the winnings to a bettor or to properly return change to a bettor upon 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 commissioner;
- (7) Continued failure or inability to meet financial obligations connected with the licensee's business, occupation or profession performed or engaged on the track grounds;
- (8) Failure or inability to maintain properly a race track;
- (9) The refusal to license, or the suspension, or the revocation of a racing license by another racing jurisdiction.

Source: SL 1978, ch 302, § 15; 1990, ch 339, § 5; 1991, ch 349, § 27.

§ 42-7-92. Legal representation of commission - Prosecution of violations.

The attorney general shall represent the state in all hearings before the commission concerning racing and shall prosecute all criminal proceedings arising from violations of this chapter. The commission shall reimburse the attorney general for all services rendered. The commission may employ private counsel for rule promulgation and to ensure that all its hearings are conducted fairly.

Source: SL 1978, ch 302, § 10; 1991, ch 349, § 28.

§ 42-7-93. Fine, revocation or suspension of license after notice and hearing - Waiting period for new license after revocation.

The commission, upon proof of violation by a licensee, or his agents or employees, of any provision of this chapter or any rule promulgated by the commission, may, pursuant to [chapter 1-26](#), after reasonable notice to the licensee and after giving the licensee an opportunity to be heard, fine him or revoke or suspend his license. In the event of revocation, the licensee is not eligible to apply for another license within twelve months from the date of the revocation.

Source: SDC 1939, § 53.0511; SDCL, § 42-7-35; SL 1978, ch 302, § 40; 1985, ch 330, § 3; 1990, ch 339, § 6; 1991, ch 349, § 29.

§ 42-7-94. Decisions and orders in writing - Service on person affected.

Every decision or order of the commission shall be made in writing and filed with the executive secretary and preserved as a permanent record of the commission. Such decisions shall be signed by the chairman and attested by the executive secretary and dated. No decision or order of the commission shall be effective as to any person until a certified copy has been personally served or sent by certified or registered mail to such person.

Source: SDC 1939, § 53.0512; SDCL, § 42-7-36; SL 1978, ch 302, § 39; 1991, ch 24, § 16; 1991, ch 349, § 30.

§ 42-7-95. Judicial review of commission actions - Cost bond.

If any licensee is dissatisfied with the decision of the commission, he may have such decision reviewed by the circuit court in the manner provided by [chapter 1-26](#), by furnishing a bond to the commission to be approved by the clerk of the court to which the appeal is taken, in the penal sum of two hundred fifty dollars conditioned for the payment of the costs.

Source: SDC 1939, § 53.0513; SDCL, § 42-7-37; SL 1978, ch 302, § 43; 1991, ch 349, § 31.

§ 42-7-96. Suspensions and fines by racing judges or stewards - Notice and hearing - Appeals - Reference to commission.

The commission shall promulgate rules permitting a panel of three racing judges or stewards to impose suspensions not to exceed four horse racing days or twelve dog racing days and any intervening calendar days and a fine not to exceed five hundred dollars on persons violating this chapter or the rules of the commission after notice and hearing pursuant to [chapter 1-26](#).

An appeal from the order of the racing judges or stewards shall be made to the commission only and not to the circuit court and shall operate as a stay of all proceedings under such order until the commission renders its decision which shall be final agency action.

If the racing judges or stewards find that a penalty which exceeds their limits to impose should be rendered, they may not impose any penalty and shall forward their findings and conclusions and recommendations to the commission for final agency action.

If a matter is not appealed to the commission by the person upon whom a penalty was imposed by the stewards or judges within seven days of the date of service of the judges' or stewards' order, the decision and penalty of the judges or stewards shall be final in that the appeal time to the commission has lapsed.

Source: SL 1977, ch 337, § 1; SDCL Supp, § 42-7-35.1; SL 1978, ch 302, § 41; 1985, ch 330, § 4.

§ 42-7-97. Superseded.

§ 42-7-97.1. Suspensions or revocations exceeding racing season.

If a suspension or revocation of racing privileges is levied by the commission or by a panel of three racing judges or stewards the horse racing days or dog racing days that the license is suspended for or revoked for shall be served in the next racing season if there are not sufficient horse racing days or dog racing days in the season when the penalty is carried out.

Source: SL 1985, ch 330, § 6; 1991, ch 349, § 32.

§ 42-7-98. Receipts retained in special racing fund.

All moneys received by the state treasurer except for those moneys in the South Dakota-bred racing fund and the racing revolving fund shall be retained by the treasurer in a special racing fund.

Source: SDC 1939, § 53.0507; SL 1949, ch 213; 1955, ch 229, § 3; 1957, ch 273, § 3; 1959, ch 284; 1963, ch 296, § 4; SDCL, § 42-7-33; SL 1978, ch 302, § 36; 1991, ch 349, § 33.

§ 42-7-98.1. Transfer of revenue in special racing fund - Procedure.

The state treasurer shall transfer the first seventy-five thousand dollars received in a special racing fund to the special racing revolving fund and any amounts received during any year in excess of seventy-five thousand dollars shall be transferred as follows:

- (1) One-half of the remaining revenue shall be transferred to the South Dakota-bred racing fund;
- (2) The other one-half of the remaining revenue shall be transferred to the special racing revolving fund.

All transfers by the state treasurer except for the transfer on April 1, 1991 shall be made on a monthly basis on the first day of the month or as soon thereafter as is reasonably possible.

Source: SL 1991, ch 349, § 37.

§ 42-7-99. Budget and appropriations for expenditures - Vouchers and warrants.

Repealed by SL 1991, ch 349, § 34.

§ 42-7-100. Annual distribution of surplus from special racing fund.

Repealed by SL 1991, ch 349, § 35.

§ 42-7-101. Devices or expedients to increase horse's speed prohibited.

No person may have in his possession an electrical device, mechanical device, or other expedient designed to increase the speed of a horse other than an ordinary whip at anytime on the grounds of a race track licensed by the commission. A violation of this section is a Class 1 misdemeanor. A subsequent violation of this section is a Class 6 felony.

Source: SL 1985, ch 330, § 5; 1991, ch 349, § 36.

§ 42-7-102. Interstate combined wagering pool - Take-out of host jurisdiction or facility - Percentage to state.

Notwithstanding any other provision of this chapter, the commission may authorize any licensee to participate in an interstate combined wagering pool with one or more other racing jurisdictions. If a licensee participates in an interstate combined wagering pool, the licensee may adopt the take-out of the host jurisdiction or facility. The State of South Dakota shall receive one and one-half percent of the total contributed in this state, and the special racing revolving fund and the South Dakota bred racing fund shall each receive one and one-half percent of the total contributed in this state.

Source: SL 1991, ch 350, § 2; 1995, ch 241.

§ 42-7-103. Combining pari-mutuel pools to establish interstate combined wagering pool.

The commission may permit a licensee to use one or more of its races for an interstate combined wagering pool at locations outside its jurisdiction, and may allow pari-mutuel pools in other states to be combined with pari-mutuel pools in its jurisdiction for the purpose of establishing an interstate combined wagering pool.

Source: SL 1991, ch 350, § 3.

§ 42-7-104. Physical location as place of business.

No licensee may be considered to be doing business in any jurisdiction other than the jurisdiction in which

the licensee is physically located if the licensee participates in an interstate combined wagering pool.

Source: SL 1991, ch 350, § 4.

§ 42-7-105. Tax of wagers in interstate combined wagering pool.

Taxes or commissions imposed on pari-mutuel wagering may not be imposed on any amounts wagered in an interstate combined wagering pool other than amounts wagered within this state.

Source: SL 1991, ch 350, § 5.

§ 42-7-106. Breakage calculation for interstate combined wagering pool.

The commission may negotiate the breakage calculation for interstate combined wagering pools and the distribution of breakage among the participating jurisdictions.

Source: SL 1991, ch 350, § 6.

CHAPTER 42-7A. STATE LOTTERY

§ 42-7A-1. Definitions.

Terms used in this chapter mean:

- (1) "Associated equipment," any proprietary device, machine or part used in the manufacture or maintenance of a video lottery machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors and metering devices;
- (2) "Commission," the South Dakota Lottery Commission;
- (3) "Credit," five, ten or twenty-five cents;
- (4) "Executive director," the executive director of the South Dakota Lottery;
- (5) "Instant lottery," a game that offers preprinted tickets that indicate immediately or in a grand prize drawing whether the player has won a prize;
- (6) "Licensed establishment," a bar or lounge owned or managed by an individual, partnership, corporation or association licensed to sell alcoholic beverages for consumption upon the premises where sold;

- (7) "Lottery" or "state lottery," any lottery operated pursuant to this chapter;
- (8) "Lottery retailer," any person with whom the South Dakota Lottery has contracted to sell lottery tickets to the public;
- (9) "Lottery vendor" or "vendor," any person who has entered into a major procurement contract with the South Dakota Lottery;
- (10) "Major procurement," any contract with any vendor directly involved in providing facilities, equipment, tickets and services unique to the lottery, but not including materials, supplies, equipment and services common to the ordinary operations of state agencies;
- (11) "Net machine income," money put into a video lottery machine minus credits paid out in cash;
- (12) "On-line lottery," a game linked to a central computer via a telecommunications network in which the player selects a specified group of numbers or symbols out of a predetermined range of numbers or symbols as approved by the commission;
- (13) "South Dakota Lottery," the state agency created by this chapter to operate a lottery pursuant to this chapter;
- (14) "Ticket," any tangible evidence issued or authorized by the South Dakota Lottery to prove participation in an instant, on-line or video lottery game;
- (14A) "Video lottery," any video game of chance played on video lottery machines;
- (15) "Video lottery machine distributor," any individual, partnership, corporation or association that distributes or sells video lottery machines or associated equipment in this state;
- (16) "Video lottery machine manufacturer," any individual, partnership, corporation or association that assembles or produces video lottery machines or associated equipment for sale or use in this state;
- (17) "Video lottery machine operator," any individual, partnership, corporation or association that places video lottery machines or associated equipment for public use in this state; and
- (18) "Video lottery machines," or "machine," any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to video poker, keno and blackjack, authorized by the commission utilizing a video display and microprocessors in which, by chance, the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash or tokens.

Source: SL 1987, ch 313, § 1; 1989, ch 368, § 1; 1990, ch 341, § 1; 1991, ch 351, § 1; 1992, ch 304, § 1; 1995, ch 242.

§ 42-7A-2. South Dakota lottery established - Administration by executive director - Overall control and operation of games.

There is hereby established an independent state agency to be called the South Dakota Lottery under the direction of the South Dakota Lottery Commission. Under the supervision of the commission, an executive director shall administer the state lottery as provided in this chapter. In all decisions, the executive director and commission shall take into account the particularly sensitive nature of the lottery, and shall act to promote and ensure the integrity, security, honesty and fairness of its operation and administration. The overall management of the state lottery and control over the operation of its games shall rest solely with the South Dakota Lottery.

Source: SL 1987, ch 313, § 2; 1993, ch 317, § 2.

§ 42-7A-3. Executive director - Appointment - Salary - Employment of personnel.

The executive director shall be appointed by the Governor and confirmed by the senate. The executive director shall be exempt from the South Dakota career service act and shall receive an annual salary fixed by the Governor. The executive director may employ such persons as may be necessary to operate the South Dakota lottery.

Source: SL 1987, ch 313, § 3; 1989, ch 368, § 2.

§ 42-7A-4. Functions of executive director.

The executive director may, subject to policy established by the commission:

- (1) Supervise and administer the operation of the state lottery in accordance with the provisions of this chapter;
- (2) Employ all other employees of the South Dakota lottery;
- (3) Enter into contracts for promotional services; annuities or other methods deemed appropriate for the payment of prizes; data processing and other technical products, equipment and services; and facilities as needed to operate the South Dakota lottery including, without limitation, tickets and other services involved in major procurements;
- (4) Contract with and license persons for the sale of lottery tickets and the offering of video lottery games to the public, as provided by this chapter and rules adopted pursuant thereto;
- (5) Make demographic studies of lottery players and studies of reactions of citizens to existing and potential features of the lottery;
- (6) Require lottery retailers and persons licensed pursuant to this chapter to furnish proof of financial stability or furnish surety in an amount based upon the expected volume of sales of lottery tickets or net machine income;
- (7) Provide for secure facilities to house the South Dakota lottery;
- (8) Provide for separate, distinct and secure data processing facilities to be used for the reliable operation of the state lottery;
- (9) Examine, or cause to be examined by any agent or representative designated by the executive director, any books, papers, records or memoranda of any lottery retailer or person licensed pursuant to this chapter for the purpose of ascertaining compliance with any provision of this chapter or any rule adopted pursuant to this chapter;
- (10) Issue subpoenas to compel access to or for the production of such books, papers, records or memoranda in the custody or control of any lottery retailer or person licensed pursuant to this chapter, or to compel the appearance of any of their employees, for the purpose of ascertaining compliance with any provision of this chapter or any rule adopted pursuant to this chapter;
- (11) Administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition was in aid of a civil action in the circuit court;
- (11A) The lottery commission shall operate a video lottery undertaken pursuant to this chapter and may not contract or assign this responsibility to any other person;
- (12) Impose civil fines not to exceed ten thousand dollars per violation and fifteen thousand dollars for any subsequent violation of any provision of this chapter or any rule adopted pursuant to this chapter; and
- (13) Enter into written agreements or compacts with one or more other states for the operation, marketing

and promotion of a joint lottery or joint lottery games.

Source: SL 1987, ch 313, § 4; 1989, ch 368, § 3; 1990, ch 341, § 2.

§ 42-7A-5. Competitive bidding required before entering into contracts.

When entering into contracts pursuant to subdivision [42-7A-4](#) (3), the executive director shall utilize an open and competitive bid process which reflects the best interest of the state of South Dakota. Such contracts are exempt from the provisions of [chapter 5-23](#). The executive director shall consider all relevant factors including security, competence, experience, timely performance and maximization of net revenues to the state. Contracts entered into pursuant to subdivision [42-7A-4](#) (3) for major procurements are subject to the approval of the commission and are subject to the provisions of [chapter 5-18](#).

Source: SL 1987, ch 313, § 5; 1990, ch 341, § 3.

§ 42-7A-6. Investigation of vendors.

Before a contract for a major procurement is awarded, the executive director shall conduct a thorough background investigation of the vendor, any parent or subsidiary corporation of the vendor, all shareholders of five percent or more interest in the vendor or parent or subsidiary corporation of the vendor, and all officers and directors of the vendor or parent or subsidiary corporation of the vendor to whom the contract is to be awarded. The vendor shall submit appropriate investigation authorizations to facilitate this investigation. The executive director may require any additional information from the vendor that is considered appropriate to preserve the integrity and security of the lottery.

Source: SL 1987, ch 313, § 6.

§ 42-7A-7. Subpoenas - Order of compliance - Punishment by contempt.

Subpoenas issued under the provisions of subdivision [42-7A-4](#) (10) may be served upon individuals and corporations in the manner provided in [chapter 1-26](#) for the service of process by any officer authorized to serve subpoenas in civil actions or by the executive director or an agent or representative designated by the executive director. In the case of the refusal of any person to comply with any such subpoena, the executive director may make application to the circuit court of the county where such books, papers, records, memoranda or person is located for an order to comply. Failure to obey such order to comply issued by a

circuit court may be punished by the court as contempt.

Source: SL 1987, ch 313, § 7.

§ 42-7A-8. Additional functions of executive director.

The executive director shall:

- (1) Make and keep books and records which accurately and fairly reflect each day's transactions, including but not limited to, the distribution and sale of tickets, receipt of funds, prize claims, prize disbursements or prizes liable to be paid, expenses and other financial transactions of the South Dakota lottery necessary so as to insure accountability;
- (2) Make quarterly and annual financial reports to the commission, the Governor, the state treasurer, the attorney general and the Legislature. Such reports shall be based upon generally accepted accounting principles and include a full and complete statement of the lottery's financial position and operations;
- (3) Make available for inspection by the commission, upon request, all books, records, files and other information and documents of the South Dakota lottery;
- (4) Have an annual audit of all accounts and transactions of the South Dakota lottery pursuant to [chapter 4-11](#). The audit report shall be presented to the commission, the Governor, the state treasurer and the Legislature;
- (5) Contract with an agency of state government or an independent firm experienced in security procedures to periodically conduct a comprehensive study and evaluation of all aspects of security in the operation of the South Dakota lottery;
- (6) Prepare and submit budgets and proposals for the operation of the South Dakota lottery;
- (7) Operate the state lottery so that after the initial funding, it is self-sustaining and self-funded;
- (8) Include in printed promotional materials and information published for each lottery game, a list of the odds of winning such game, based upon the number of tickets projected to be sold; and
- (9) Make provision for the timely and efficient transfer of funds due from lottery retailers and persons licensed pursuant to this chapter to the state general fund.

Source: SL 1987, ch 313, § 8; 1989, ch 368, § 4.

§ 42-7A-9. Lottery expenses and prizes to be paid from lottery funds - General funds not to be used or obligated - Exception.

No claim for the payment of an expense of the lottery or the payment of a lottery prize may be made unless it is against the lottery operating fund or money collected from the sale of lottery tickets. Except for the initial start-up funding to the lottery, the general funds of the state may not be used or obligated to pay the expenses of the South Dakota lottery or prizes of the lottery.

Source: SL 1987, ch 313, § 9.

§ 42-7A-10. Selection of lottery retailers.

The executive director shall select as lottery retailers such persons as he deems best able to serve the public convenience and promote the sale of tickets. In the selection of lottery retailers, the executive director shall consider factors such as financial responsibility, security of the applicant's place of business or activity, accessibility of the applicant's place of business or activity, integrity, reputation, sufficiency of existing lottery retailers to serve the public convenience, volume of expected sales and such other factors as the executive director may deem appropriate. Any person lawfully engaged in nongovernmental business on state property may be selected as lottery retailers.

Source: SL 1987, ch 313, § 10.

§ 42-7A-11. Lottery retailers application fee - Annual renewal of contracts - Contracts not transferable or assignable.

The executive director may charge an application fee to persons applying to become lottery retailers. All lottery retailer contracts awarded by the South Dakota lottery under this chapter are renewable annually after issuance unless sooner canceled or terminated. No lottery retailer contract awarded under this chapter is transferable or assignable.

Source: SL 1987, ch 313, § 11.

§ 42-7A-12. Issuance of lottery retailer certificate - Display - Sales only at location on certificate.

Each lottery retailer shall be issued a lottery retailer certificate which shall be conspicuously displayed at the place where the lottery retailer is authorized to sell lottery tickets. Lottery tickets may only be sold by the lottery retailer at the location stated on the lottery retailer certificate.

Source: SL 1987, ch 313, § 12.

§ 42-7A-13. Qualifications of lottery retailer.

To be selected as a lottery retailer or video lottery machine operator, a natural person acting as a sole proprietor shall:

- (1) Be at least eighteen years of age;
- (2) Be of good character and reputation;
- (3) Have sufficient financial resources to support the activities required to sell lottery tickets or place and service video lottery machines; and
- (4) Be current in payment of all taxes, interest and penalties owed to the State of South Dakota, excluding items under formal dispute or appeal pursuant to applicable statutes.

A lottery retailer or video lottery machine operator may not be a lottery vendor or an employee or agent of any lottery vendor doing business with the South Dakota Lottery.

Source: SL 1987, ch 313, § 13; 1989, ch 368, § 5; 1993, ch 317, § 5.

§ 42-7A-14. Persons ineligible to be licensed by the lottery.

No natural person may be licensed by the lottery or involved in lottery activities under this chapter, who:

- (1) Has been convicted of a felony in this or any other jurisdiction, unless at least ten years have passed since satisfactory completion of the sentence or probation imposed by the court in each such felony;
- (2) Has been found to have violated the provisions of this chapter or any rule adopted pursuant to this chapter;
- (3) Has been found to have a background, including a criminal record, reputation, habits, social or business associations or prior activities that pose a threat to the public interests of the state or to the security and integrity of the lottery; create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming; or present questionable business practices and financial arrangements incidental to the conduct of lottery activities;
- (4) Is a member of the immediate family, as defined in [§ 42-7A-33](#), of an employee of the South Dakota Lottery or of a member of the South Dakota Lottery Commission; or
- (5) Has knowingly made a false statement of material fact to the South Dakota Lottery.

Source: SL 1987, ch 313, § 14; 1989, ch 368, § 6; 1993, ch 317, § 6.

§ 42-7A-15. Partnership as lottery retailer or video lottery machine operator.

For a partnership to be selected as a lottery retailer or video lottery machine operator, the partnership shall meet the requirements of subdivisions 42-7A-13 (3) and (4), and each partner thereof shall meet the requirements of subdivisions 42-7A-13 (1) and (2) and subdivisions 42-7A-14 (1) to (5), inclusive.

Source: SL 1987, ch 313, § 15; 1989, ch 368, § 7.

§ 42-7A-16. Association or corporation as lottery retailer or video lottery machine operator.

For an association or corporation to be selected as a lottery retailer or video lottery machine operator, the association or corporation shall meet the requirements of subdivisions 42-7A-13 (3) and (4), and each officer and director and each stockholder who owns five percent or more of the stock of such association or corporation shall meet the requirements of subdivisions 42-7A-13 (1) and (2) and subdivisions 42-7A-14 (1) to (5), inclusive.

Source: SL 1987, ch 313, § 16; 1989, ch 368, § 8; 1993, ch 317, § 7.

§ 42-7A-17. Lottery commission created - Appointment of members - Term of office - Qualifications - Chairman.

There is created the South Dakota lottery commission, which shall be composed of seven members who shall be appointed by the Governor and confirmed by the senate. The term of office shall be three years, expiring on January first with no more than three expiring in any one year. No member may be appointed to more than two consecutive terms. Each member of the commission shall be a citizen of the United States and a resident of this state, not all of whom may be of the same political party. A chairman of the commission shall be chosen annually from the membership of the commission by a majority of its members at the first meeting of the commission each fiscal year.

Source: SL 1987, ch 313, § 17; 1989, ch 370.

§ 42-7A-18. Meetings - Quorum.

The commission shall meet at least once a quarter and such additional meetings as the chair deems desirable. Special meetings may be called by the chair upon the written request of the executive director or

any three members of the commission. All meetings shall be held at a place and time fixed by the chair. A majority of the duly appointed members of the commission constitutes a quorum to transact business.

Source: SL 1987, ch 313, § 18; 1996, ch 256.

§ 42-7A-19. Commission to establish lottery operation policy - Approval of major procurements.

The commission shall establish policy for the operation of the state lottery and shall consult with and direct the executive director relating to the operation of the state lottery. Major procurements, as defined in subdivision [42-7A-4](#) (3), recommended by the executive director, are subject to the approval of the commission.

Source: SL 1987, ch 313, § 19.

§ 42-7A-19.1. Sale of lottery products within exterior boundaries of Indian reservations.

The commission may provide for the sale of lottery products within the exterior boundaries of any Indian reservation within this state. The commission may pay to the respective tribal government an amount not to exceed fifty percent of the state's net proceeds from lottery products sold within the exterior boundaries of any reservation. The commission shall consider any agreement or potential agreement made pursuant to the authority contained in the Federal Indian Gaming Act together with any other relevant factors, including tribal member and nonmember mix, in determining payment to be made to a tribe. The commission shall by rule, promulgated pursuant to [chapter 1-26](#), establish the specific criteria to determine the amount of net proceeds distributed to each tribal government. Each reservation may only receive revenue pursuant to this chapter from lottery products sold within the exterior boundaries of such reservation. Transfers of net proceeds from the sale of any lottery product to tribal governments under this section shall be made each year pursuant to § [42-7A-24](#).

Source: SL 1989, ch 372, § 1.

§ 42-7A-20. Mileage and per diem paid commission members - Exception.

The members of the lottery commission shall be paid mileage at the same rate as allowed for state employees. The commission shall receive per diem compensation and allowable expense reimbursement in an amount set pursuant to § [4-7-10.4](#) for all time actually spent while attending commission meetings.

However, no per diem may be paid to commission members who are state employees. The per diem shall be paid by vouchers duly verified and approved by the executive director of the lottery.

Source: SL 1987, ch 313, § 20.

§ 42-7A-21. Rules and regulations.

The commission shall promulgate rules pursuant to [chapter 1-26](#) governing the establishment and operation of a state lottery as necessary to carry out the purposes of this chapter. The commission shall promulgate rules concerning the following:

- (1) The types of ticket lottery games to be conducted as authorized pursuant to this chapter;
- (2) The manner of selecting the winning tickets. However, if a lottery game utilizes a drawing of winning numbers, a drawing among entries, or a drawing among finalists, such drawings shall always be open to the public and shall be recorded on both video and audio tape;
- (3) The manner of payment of prizes to the holders of winning tickets;
- (4) The frequency of the drawings or selections of winning tickets;
- (5) The types of locations at which tickets may be sold;
- (6) The methods to be used in selling tickets;
- (7) Additional qualifications for the selection of lottery retailers, video lottery machine manufacturers, distributors or operators and the amount of application fees to be paid by each;
- (8) The amount and method of compensation to be paid to lottery retailers, including special bonuses and incentives;
- (9) Deadlines for claims for prizes by winners of each lottery game. However, in no instance may such deadline be for more than one year;
- (10) The mechanical and electronic specifications for each video lottery machine. At a minimum, each video lottery machine shall meet the requirements of [§ 42-7A-37](#);
- (11) Machine security testing and inspection procedures;
- (12) Liability for machine malfunction;
- (13) Machine maintenance and repair;
- (14) Financial responsibility of persons licensed under this chapter;
- (15) Accounting procedures for net machine income;
- (16) Licensing procedures under this chapter; and
- (17) Such other matters necessary or desirable for the efficient or economical operation of the lottery or for the convenience of the public.

Source: SL 1987, ch 313, § 21; 1989, ch 368, § 9; 1991, ch 353, § 1; 1995, ch 243, § 1.

§ 42-7A-22. Lottery operating fund established - "Revenue" defined - Continuous appropriation - Informational budget - Authorization of disbursements - Purposes.

There is established within the state treasury the lottery operating fund, into which shall be deposited all

revenues from the sale of lottery tickets, interest received on moneys in the lottery operating fund, and all other fees and moneys collected. For the purposes of this section, the award of a free ticket or free play does not constitute revenue. All money in the funds created by this section are continuously appropriated for the purposes specified in this section. All funds received by the state lottery shall be set forth in an informational budget as described in § [4-7-7.2](#) and be annually reviewed by the Legislature. Any disbursement from the lottery operating fund shall be by authorization of the executive director for any of the following purposes:

(1) The payment of prizes to the holders of valid, winning lottery tickets. A revolving fund, designated as the "lottery prize payment fund," shall be set apart and maintained by the executive director and held by the state treasurer for the payment of prizes;

(2) Expenses of the lottery, which shall include all costs incurred in the operation and administration of the South Dakota lottery; all costs resulting from contracts entered into for the purchase or lease of goods and services needed for operation of the lottery, including but not limited to, supplies, materials, tickets, independent studies and surveys, data transmission, advertising, printing, promotion, incentives, public relations, communications, compensation paid to lottery retailers; distribution of tickets; and reimbursement of costs of facilities and services provided by other state agencies; and

(3) Transfers of net proceeds to the state general fund.

Source: SL 1987, ch 313, § 22; 1990, ch 341, § 4.

§ 42-7A-23. Amount from sale of tickets allocated for payment of prizes - Means of payment for prizes.

As nearly as practical, a minimum of fifty percent of the projected revenue from the sale of lottery tickets, computed on a year-round basis from the combined sale of instant and on-line lottery games, shall be allocated for payment of prizes. The executive director shall award the designated prize to the holder of the ticket upon validation of a winning claim ticket. The executive director may make payment for prizes by any means he deems appropriate upon the validation of winning tickets.

Source: SL 1987, ch 313, § 23; 1989, ch 372, § 2; 1990, ch 341, § 5.

§ 42-7A-24. Net proceeds transferred to state property tax reduction fund - "Net proceeds" defined.

Net proceeds from the sale of instant lottery tickets shall be transferred to the state general fund on an annual basis after July first each year. The commission shall maximize the net proceeds to the state from the sale of instant and on-line lottery tickets. In no event may yearly lottery expenses for the sale of lottery tickets, excluding expenditures from retained earnings, exceed the amount of combined net proceeds transferred to the state general fund, the state corrections facility construction fund and the state capital construction fund. Net machine income from video lottery games shall be directly deposited in the state property tax reduction fund upon receipt. Net proceeds are funds in the lottery operating fund which are not

needed for the payment of prizes, lottery expenses, and total retained earnings up to one and one-half million dollars cash deemed necessary by the executive director and commission for replacement, maintenance and upgrade of business systems, product development, legal and operating contingencies of the lottery.

Beginning in fiscal year 1997 and each year thereafter, the commission shall transfer the first one million four hundred thousand dollars from the net proceeds from the sale of on-line video lottery tickets collected pursuant to § [42-7A-24](#) to the general fund. The commission shall then transfer an amount equal to the remaining net proceeds from the sale of on-line lottery tickets collected pursuant to § [42-7A-24](#) to the state capital construction fund created in § [5-27-1](#).

Source: SL 1987, ch 313, § 24; 1988, ch 345; 1989, ch 372, § 3; 1990, ch 341, § 6; 1990, ch 46, § 4A; 1993, ch 48, § 4; 1993, ch 319, § 1; 1996, ch 47, § 2; 1997, ch 241, § 1.

§ 42-7A-24.1. Acceptance and expenditure of funds obtained from federal sources, gifts, contributions and other sources.

The lottery commission may accept and expend for the purpose of this chapter any funds obtained from federal sources, gifts, contributions or any other source if such acceptance and expenditure is approved in accordance with § [4-8B-10](#).

Source: SL 1987, ch 313, § 26.

§ 42-7A-24.2. Procedure for payment authorized by chapter.

Expenditures authorized by this chapter from the lottery operating fund and the lottery prize payment fund shall be paid on warrants drawn by the state auditor on vouchers approved by the executive director of the state lottery.

Source: SL 1987, ch 313, § 27.

§ 42-7A-25. Hiring and direction of investigative personnel - Salaries and benefits - State lottery investigation fund created.

The executive director may employ and direct investigative personnel to conduct administrative investigations pursuant to licensing and enforcement of rules. The executive director shall contract with the

attorney general for necessary security and law enforcement services in conducting background investigations. The executive director may not employ or direct investigative personnel except for those activities authorized pursuant to this section. The attorney general shall hire and direct investigative personnel to ensure the security and integrity of the state lottery. The state treasurer shall transfer funds sufficient to pay the salaries, benefits and expenses of investigative personnel hired by the attorney general pursuant to this section from the lottery operating fund to the state lottery investigation fund which is hereby created within the Office of the Attorney General.

Source: SL 1987, ch 313, § 29; 1993, ch 317, § 8.

§ 42-7A-26. Appointment of assistant attorney general to assist in enforcement.

The attorney general shall appoint an assistant attorney general to assist the South Dakota lottery in the enforcement of the criminal and civil provisions of this chapter.

Source: SL 1987, ch 313, § 30.

§ 42-7A-27. Commission members or lottery employees not to have interest in lottery contracts or to accept gifts or loans from persons or businesses contracting with lottery - Violation as misdemeanor.

No member of the commission, employee of the South Dakota lottery, or any person residing in the same household as either of the aforementioned may:

- (1) Directly or indirectly, individually, as a member of a partnership or other association, or as a stockholder, director or officer of a corporation, have an interest in a business which contracts for the operation or promotion of the lottery; or
- (2) Accept or agree to accept any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service having an aggregate value of one hundred dollars or more in any calendar year from a person or business contracting or seeking to contract with the state to supply materials, tickets or consulting services for use in the lottery or from a lottery retailer, person licensed or an applicant for a contract or license under this chapter.

A knowing violation of this section is a Class 1 misdemeanor.

Source: SL 1987, ch 313, § 31; 1989, ch 368, § 13; 1991, ch 186, § 34.

§ 42-7A-28. Persons contracting to supply materials, tickets or consulting services not to give gifts or loans to commission members or lottery employees - Violation as misdemeanor.

Any person contracting or seeking to contract with the state to supply materials, tickets or consulting services for use in the lottery or from a lottery retailer, person licensed or an applicant for a contract or license under this chapter may not offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service having an aggregate value of one hundred dollars or more in any calendar year to a member of the commission or employee of the South Dakota lottery, or to any person residing in the same household of either of the aforementioned. A knowing violation of this section is a Class 1 misdemeanor.

Source: SL 1987, ch 313, § 32; 1989, ch 368, § 14; 1991, ch 186, § 35.

§ 42-7A-29. Removal from office for violation of conflict of interest provisions - Application of other conflict of interest statutes.

If a member of the commission or employee of the South Dakota lottery, or any person residing in the same household of either of the aforementioned, violates any provision of §§ [42-7A-27](#) and [42-7A-28](#), such member of the commission or employee of the South Dakota lottery shall be removed from his office or position. In addition to the provisions of this section, or §§ [42-7A-27](#) and [42-7A-28](#), all other provisions of state law relating to conflicts of interest of state employees apply to the members of the commission and employees of the South Dakota lottery.

Source: SL 1987, ch 313, § 33; 1991, ch 186, § 36.

§ 42-7A-30. Counterfeiting lottery tickets Class 6 felony.

Any person who, with intent to defraud, falsely makes, alters, forges, passes or counterfeits a lottery ticket issued by the South Dakota lottery under this chapter is guilty of a Class 6 felony.

Source: SL 1987, ch 313, § 34.

§ 42-7A-31. Sale of tickets at price greater than that fixed by rules prohibited - Sale by authorized retailer only - Violation.

No person may sell a lottery ticket at a price greater than that fixed by the rules adopted pursuant to this chapter. No person other than a lottery retailer authorized by the South Dakota lottery may sell or resell lottery tickets. Any person convicted of violating this section is guilty of a Class 1 misdemeanor on the first offense and a Class 6 felony on the second or subsequent offense.

Source: SL 1987, ch 313, § 35.

§ 42-7A-32. Sale of ticket to person under eighteen prohibited - Violation - Gift of ticket to person under eighteen permitted - Prize paid to parent or guardian.

No lottery ticket may be sold to any person under the age of eighteen years. Any lottery retailer, employee of a lottery retailer, or any other person who knowingly sells or offers to sell a lottery ticket to any person who is under the age of eighteen years is guilty of a Class 1 misdemeanor on the first offense and a Class 6 felony on the second or subsequent offense. A lottery ticket may be given as a gift to a person under the age of eighteen years. Any prize won by a person under the age of eighteen years from a ticket given as a gift shall be paid to such person's parent or legal guardian.

Source: SL 1987, ch 313, § 36.

§ 42-7A-33. Purchase of ticket or payment of prize to certain persons prohibited - Exceptions.

No lottery ticket may be purchased by, and no prize may be paid to, any of the following persons or to any person related by blood or marriage and who is a member of the same household in the principal place of abode of any such person:

- (1) Any member of the commission or employee of the South Dakota lottery, unless authorized in writing by the executive director; or
- (2) Any officer or employee of a company or business which is currently engaged in supplying equipment, supplies or services being used directly in the operation of any lottery conducted pursuant to this chapter, unless authorized in writing by the executive director for research purposes. However, no prize may be paid on any ticket purchased for research purposes.

Nothing in this section prohibits any lottery retailer or his employee from purchasing lottery tickets or from being paid a prize of a winning ticket. Any person who knowingly violates this section is guilty of a Class 1

misdemeanor on the first offense and a Class 6 felony on the second or subsequent offense.

Source: SL 1987, ch 313, § 37.

§ 42-7A-34. Prize paid to holder of winning ticket - Deceased winner's prize paid to representative - Right to prize nonassignable - Prizes subject to taxation - Disposition of unclaimed prize - Liability of lottery after payment of prize.

The prize to be paid or awarded for each winning ticket shall be paid to the person who is adjudged by the executive director to be the holder of such winning ticket. However, the prize of a deceased winner shall be paid to the duly appointed representative of the estate of such winner or to any other person claiming the prize pursuant to the provisions of chapter 30-11A. The right of a person to a prize drawn or awarded is not assignable. All prizes awarded shall be taxed as South Dakota source income and are subject to federal income tax laws and regulations. Unclaimed prize money shall be retained for a period deemed appropriate by the executive director and if no claim is made within such period, then such unclaimed prize money shall be added to the prize pools of subsequent lottery games. The state of South Dakota, members of the commission and employees of the South Dakota lottery are discharged of all further liability upon payment of a prize pursuant to this section.

Source: SL 1987, ch 313, § 38; 1989, ch 371, § 1; 1990, ch 341, § 7.

§ 42-7A-35. Notification of identity of prize winner to department of revenue and department of social services - Procedure where winner owes state money.

Repealed by SL 1989, ch 371, § 2.

§ 42-7A-36. Certain mechanical or electronic devices prohibited - Violation as felony - Devices as nuisances.

No person may have in his possession, custody, or under his control or permit to be kept in any place under his possession or control, any device that awards credits and contains a circuit, meter or switch capable of removing and recording the removal of credits when the award of credits is dependent upon chance. A violation of this section is a Class 6 felony. All devices described in this section are hereby declared to be public nuisances. The provisions of this section do not apply to devices or electronic video game machines

licensed pursuant to this chapter.

Source: SL 1989, ch 368, § 15.

§ 42-7A-37. Requirements for licensed video lottery machines.

Each video lottery machine licensed under this chapter:

- (1) Shall offer only games licensed by the South Dakota lottery and authorized by the commission;
- (2) May not have any means of manipulation that affect the random probabilities of winning a video lottery game;
- (3) Shall have one or more mechanisms that accept coins or cash in the form of bills. The mechanisms shall be designed to prevent obtaining credits without paying by stringing, slamming, drilling or other means. If such attempts involve physical tampering, the machine shall suspend itself from operation until reset;
- (4) Shall have nonresettable meters housed in any readily accessible locked machine area that keep a permanent record of all cash inserted into the machine, all refunds of winnings made by the machine's printer, credits played for video lottery games and credits won by video lottery players;
- (5) Shall be capable of printing a ticket voucher stating the value of the prize for the player at the completion of each video lottery game; the time of day in a twenty-four hour format showing hours and minutes; the date; the machine serial number; the sequential number of the ticket vouchers; and an encrypted validation number from which the validity of the prize may be determined;
- (6) Shall have accounting software that keeps an electronic record which includes, but is not limited to the following: total cash inserted into the machine; the value of winning tickets claimed by players; the total video lottery credits played and the total video lottery credits awarded by a video lottery game; and the payback percentage credited players of each video lottery game;
- (7) Shall be linked under a central communications system to provide auditing program information as approved by the commission. The communications system shall be installed and all testing conducted no later than December 1, 1989. Until such time, all accounting of machine transactions shall be audited by electronic records maintained by each video lottery machine as required in subdivision (6) of this section. In no event may the communications system approved by the commission limit participation to only one manufacturer of video lottery machines by either the cost in implementing the necessary program modifications to communicate or the inability to communicate with the central communications system. Nothing in this section may be construed as requiring a machine which only offers video lottery games to be on-line or in constant communication with a central computer.

Source: SL 1989, ch 368, § 16.

§ 42-7A-37.1. Restrictions on licensed establishment.

A business licensed pursuant to subdivision [35-4-2](#) (12) and (16) may not be a licensed establishment for video lottery placement pursuant to subdivision [42-7A-1](#) (6) unless it is a bar or lounge. For the purposes of this section, a bar or lounge is an enterprise primarily maintained and operated for the selling, dispensing and consumption of alcoholic beverages on the premises and may also include the sale and service of food. A bar or lounge may be physically connected to another enterprise within the same building, which enterprise may be owned or operated by the same person. There may be interior access between a bar or

lounge and a connected enterprise. However, there shall be a floor to ceiling opaque wall separation between the two enterprises. A separation wall may be constructed to provide visual and physical access for employees from areas in the building not open to the public. The bar or lounge shall have a separate entrance and exit. A separate entrance and exit is not required if entrance to the bar may only be obtained from the other distinct enterprise and the public may not enter the other enterprise by first passing through the bar or lounge. All video lottery machines shall be adequately monitored during business hours. Adequate monitoring shall be accomplished by the personal presence of an employee or by an employee using video cameras or mirrors and periodic inspections of the bar or lounge. No new license may be issued to any establishment after July 1, 1992, unless such establishment complies with this section. No license may be renewed to any establishment after July 1, 1993, unless such establishment complies with this section.

Source: SL 1991, ch 351, §§ 2, 3; 1992, ch 304, § 2.

§ 42-7A-38. Limit on amount played and awards given.

A video lottery machine may not allow more than two dollars to be played on a game or award free games or credits in excess of the value of one hundred twenty-five dollars per credit value of twenty-five cents played. The payback value of one credit shall be at least eighty percent of the value of the credit.

Source: SL 1989, ch 368, § 17.

§ 42-7A-39. Display of license for video lottery machine - Confiscation - Violation as felony.

Each video lottery machine shall be licensed by the executive director before placement or operation on the premises of a licensed establishment. Each machine shall have the license prominently displayed thereon. Any machine which does not display the license required by this section is contraband and a public nuisance subject to confiscation by any law enforcement officer. A violation of this section is a Class 6 felony.

Source: SL 1989, ch 368, § 18.

§ 42-7A-40. Examination of video lottery machines - Costs paid by manufacturer - Contract for examination.

The South Dakota lottery shall examine prototypes of video lottery machines and associated equipment of manufacturers seeking a license as required in this chapter. The South Dakota lottery shall require the manufacturer seeking the examination and approval of a video lottery machine or associated equipment to pay the anticipated actual costs of the examination in advance and, after the completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the South Dakota lottery for underpayments of actual costs. The South Dakota lottery may contract for the examination of video lottery machines and associated equipment as required by this section.

Source: SL 1989, ch 368, § 19.

§ 42-7A-41. Video lottery machine manufacturer, distributor, operator and establishment licenses required - Fees.

Each video lottery machine manufacturer, distributor, operator and licensed establishment shall be licensed by the executive director before any video lottery machine or associated equipment is manufactured, distributed, sold or placed for public use in this state. The commission shall, by rule promulgated pursuant to [chapter 1-26](#), establish an annual fee for each license not to exceed the following:

- (1) Video lottery machine manufacturer - \$5,000;
- (2) Video lottery machine distributor - \$5,000;
- (3) Video lottery machine operator - the greater of \$1,000 or \$100 per machine licensed; and
- (4) Video lottery establishment - \$100.

In addition to the annual license fees, the executive director may charge a one-time license application fee not to exceed fifty dollars. All fees collected pursuant to this section shall be deposited in the video lottery operating fund created by § [42-7A-41.1](#). All licenses issued by the South Dakota lottery under this section are renewable annually unless sooner cancelled or terminated. No license issued under this section is transferable or assignable.

Source: SL 1989, ch 368, § 20; 1990, ch 341, § 8; 1990, ch 342, § 1.

§ 42-7A-41.1. Video lottery operating fund established.

There is created in the state treasury the video lottery operating fund, into which shall be deposited the fees imposed pursuant to § [42-7A-41](#) and one-half of one percent of net machine income.

Source: SL 1990, ch 342, § 2; 1991, ch 353, § 2.

§ 42-7A-41.2. Posting video lottery odds required.

The odds of winning each video lottery game shall be posted on or near each video lottery machine. The manner in which the odds are calculated and how they are posted shall be established by the commission by rule promulgated pursuant to [chapter 1-26](#).

Source: SL 1991, ch 354.

§ 42-7A-42. Multiple types of licenses prohibited.

A video lottery machine manufacturer may not be licensed as a video lottery machine operator or own, manage or control a licensed establishment. A video lottery machine distributor may not be licensed as a video lottery machine operator or own, manage or control a licensed establishment. A video lottery machine operator may not be licensed as a video lottery machine manufacturer or distributor. An owner or manager of a licensed establishment may not be licensed as a video lottery machine manufacturer or distributor. Nothing in this section restricts an owner or manager of a licensed establishment from owning video lottery machines licensed under § [42-7A-41](#) and placing such machines on the premises, provided they meet the same requirements of video machine operators. However, nothing in this section prohibits the commission, after prior notice to all licensed video lottery machine operators, from authorizing the placement of video lottery machines by a manufacturer in an establishment that satisfactorily demonstrates that it is otherwise unable to obtain appropriate machine placement or service.

Source: SL 1989, ch 368, § 21.

§ 42-7A-43. Background investigation of video lottery licensees - Eligibility requirements.

Any person licensed as a video lottery machine manufacturer, distributor, operator, or lottery retailer shall submit to a background investigation. This includes each partner of a partnership and each director and officer and all stockholders of five percent or more in a parent or subsidiary corporation of a video lottery machine manufacturer, distributor, operator, or lottery retailer. A video lottery machine manufacturer or distributor shall meet the same requirements of subdivisions 42-7A-13 (1) to (4), inclusive, and § [42-7A-14](#). A video lottery machine operator shall meet the same requirements of §§ [42-7A-13](#) and [42-7A-14](#), in addition to being a resident of the State of South Dakota and, if a partnership or corporation, the majority of ownership interest shall be held by residents of the state or by a public company or its subsidiary licensed as a video lottery machine operator pursuant to [chapter 42-7A](#) prior to January 1, 1997, and traded on any market regulated or recognized by the United States Securities and Exchange Commission. A copy of any disclosure statement involving ownership of the public company required to be filed with the United States Securities and Exchange Commission shall be filed with the lottery commission. A lottery retailer shall meet the same requirements of §§ [42-7A-13](#) and [42-7A-14](#). Any applicant for any license under this chapter

has the burden of proving his or her qualifications to the satisfaction of the commission and executive director. The commission may adopt rules pursuant to [chapter 1-26](#) to establish additional requirements to preserve the integrity and security of the lottery.

Source: SL 1989, ch 368, § 22; 1993, ch 317, § 10; 1997, ch 242, § 1.

§ 42-7A-44. Rules for placement of video lottery machines - Number limited - Placement in bar or lounge with on-sale license.

The placement of video lottery machines in licensed establishments shall be subject to the rules of the commission promulgated pursuant to [chapter 1-26](#). No more than ten video lottery machines may be placed in any licensed establishment. The bar or lounge with an on-sale license issued pursuant to subdivision [35-4-2](#) (12) or (16) shall be restricted to persons twenty-one years of age or older. The entrance to the area where video lottery machines are located shall display a sign that the premises are restricted to persons twenty-one years or older. Notwithstanding the restrictions in §§ [35-4-79](#) to [35-4-79.2](#), inclusive, persons under the age of twenty-one may only enter the premises where video lottery machines are located provided they are accompanied by a parent, guardian or spouse of twenty-one years or older.

Source: SL 1989, ch 368, § 23; 1991, ch 355, § 1; 1992, ch 304, § 3.

§ 42-7A-44.1. License revoked for noncompliance.

The commission shall deny or revoke an establishment license for video lottery machine placement that does not meet the requirements of § [42-7A-44](#). Any video lottery establishment licensed by the commission has until September 1, 1991 to comply with the provisions of § [42-7A-44](#).

Source: SL 1991, ch 355, § 2.

§ 42-7A-45. Video lottery machine income - Remittance to state - False report as felony - Records - Penalty.

The state's percentage of net machine income shall be reported and remitted to the South Dakota lottery within fifteen days after the fifteenth day of each month and within fifteen days after the end of each month by the machine owner. A machine owner who falsely reports or fails to report the amount due required by

this section is guilty of a Class 6 felony and is subject to termination of his license by the South Dakota lottery. Each machine owner shall keep a record of net machine income in such form as the executive director may require. All payments not remitted when due shall be paid together with a penalty assessment on the unpaid balance at a rate of one and one-half percent per month.

Source: SL 1989, ch 368, § 24.

§ 42-7A-46. Tampering with video lottery machine as misdemeanor.

Any person who tampers with a video lottery machine with intent to interfere with the proper operation of such machine is guilty of a Class 1 misdemeanor.

Source: SL 1989, ch 368, § 25.

§ 42-7A-47. Manipulating outcome, payoff or operation of video lottery machine as felony.

Any person who with intent to manipulate the outcome, payoff or operation of a video lottery machine, manipulates the outcome, payoff or operation of a video lottery machine by physical tampering or any other means is guilty of a Class 5 felony.

Source: SL 1989, ch 368, § 26.

§ 42-7A-48. Age limit and legal hours of operation for video lottery machines.

No person under twenty-one years of age may play a video lottery machine licensed pursuant to § [42-7A-41](#). No video lottery machine licensed pursuant to § [42-7A-41](#) may be played except during the legal hours of operation allowed for the on-sale consumption of alcoholic beverages. A violation of this section is a Class 2 misdemeanor.

Source: SL 1989, ch 368, § 27; 1990, ch 342, § 3.

§ 42-7A-49. Lottery products on Indian reservations authorized.

The lottery may negotiate with Indian tribes for the placement and distribution of lottery products within the exterior boundaries of Indian reservations within the state.

Source: SL 1989, ch 368, § 29.

§ 42-7A-50. Confidentiality of lottery records.

Information and records of the South Dakota Lottery are confidential, except for official purposes, and may not be disclosed except to officers, employees or legal representatives of the Department of Revenue for the purpose of and only to the extent necessary in the investigation and audit procedures authorized by [Title 10](#) or in accordance with a judicial order. No person may use a subpoena, discovery or other applicable statutes to obtain such information or records. Information and records considered confidential include:

- (1) Applications, credit and security checks of lottery retailers, licensees and persons seeking or doing business with the lottery;
- (2) Marketing, financial or sales data, the disclosure of which may be harmful to the competitive position of the South Dakota Lottery, its retailers, licensees or persons seeking or doing business with the lottery;
- (3) Audit work papers, worksheets and auditing procedures used by the lottery, its agent or employees; and
- (4) Tax returns of individual licensees.

Source: SL 1989, ch 368, § 30; 1992, ch 70, § 2.

§ 42-7A-51. Lottery setoff program established - Computerized file of persons owing state.

The commission shall establish a liability setoff program by which lottery prize payments may be used to satisfy debts owed or collected through state agencies. Any participating state agency shall, on a monthly basis, provide the executive director a computerized file of persons owing a debt to or collected through that state agency which contains the following information: the first name, last name, middle initial, social security number and the amount of the debt.

Source: SL 1989, ch 371, § 3.

§ 42-7A-52. Debt setoff from prize due - Notice of right to appeal - Time limitation - Transfer of setoff amount to agency.

The executive director shall match the information submitted by the agency with persons who are entitled to a lottery prize payment in an amount in excess of one hundred dollars. If there is a match, the executive director shall set off the amount of the debt from the prize due and notify the person of the person's right to appeal to the appropriate court or to request a review by the agency pursuant to agency rule. The person shall make a request or appeal within thirty days after the setoff. If the setoff accounts for only a portion of the prize due, the remainder of the prize shall be paid to the person. The executive director shall promptly transfer the setoff amount to the agency.

Source: SL 1989, ch 371, § 4.

§ 42-7A-53. Commission, employees and lottery discharged from liability.

The members of the commission, executive director, employees and the lottery are discharged of all further liability for the amount of any setoff paid to a state agency or proceeding brought pursuant to §§ [42-7A-34](#) and [42-7A-51](#) to [42-7A-55](#), inclusive.

Source: SL 1989, ch 371, § 5.

§ 42-7A-54. Apportionment of prize among agencies - Priority of child support payments.

If two or more agencies have delinquent accounts for the same person, the executive director shall apportion the prize equally among them. However, a setoff to the department of social services for child support payments has priority over all other setoffs.

Source: SL 1989, ch 371, § 6.

§ 42-7A-55. Collection of remainder of debt.

If the prize is insufficient to satisfy the entire debt, the remainder of the debt may be collected by the agency as provided by law and resubmitted for setoff against any other prize awarded.

Source: SL 1989, ch 371, § 7.

§ 42-7A-56. Public policy declared.

The Legislature hereby finds, and declares to be the public policy of this state that:

- (1) The success of the South Dakota Lottery is dependent upon public confidence and trust that it is conducted honestly and free from criminal and corruptive elements;
- (2) Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the sale of lottery products and the operation, manufacturing and distribution of video lottery games and equipment; and
- (3) No applicant for a license or other affirmative commission action has any right to a license or to the granting of the approval sought. Any license issued or other commission approval granted pursuant to the provisions of this chapter is a revocable privilege, and no holder acquires any vested interest or property right therein or thereunder.

Source: SL 1993, ch 317, § 1.

§ 42-7A-57. Approval or disapproval of license applications.

The executive director may approve or disapprove any application for license, as provided in § [42-7A-41](#), depending upon whether the executive director deems the applicant a suitable person to hold the license and whether the executive director considers the proposed location suitable. Failure of the applicant to provide information necessary to allow investigation into his background, is also grounds for denial of the license.

Source: SL 1993, ch 317, § 3.

§ 42-7A-58. Reapplication for license after denial or revocation.

Any applicant for a license who has had his application denied or revoked by the executive director pursuant to § [42-7A-57](#) may not reapply until at least one year has elapsed from the date of the denial or revocation. Any person who has been denied a license or had a license revoked for a second time may not reapply until at least three years have passed since the date of the second denial or revocation.

Source: SL 1993, ch 317, § 4.

§ 42-7A-59. False statements in license applications - Perjury.

No person may knowingly make a false statement in any application for a license or in any statement attached to the application. Any person who signs an application for a license issued pursuant to this chapter knowing that any information on such application or in any statement attached to the application is false or untrue, in whole or in part, is guilty of perjury.

Source: SL 1993, ch 317, § 9.

§ 42-7A-60. Executive or closed meetings permitted.

In addition to the provisions of § [1-25-2](#), the commission may hold executive or closed meetings for any of the following purposes:

- (1) Considering applications for licensing when discussing the background investigations or personnel information;
- (2) Consulting with the executive director and employees of the lottery concerning possible lottery rule or law violations;
- (3) Meeting with lottery officials of other jurisdictions, the attorney general or law enforcement officials relating to possible criminal violations; or
- (4) Deliberations after hearing evidence on a contested case necessary to reach a decision.

Source: SL 1993, ch 317, § 11.

§ 42-7A-61. Nickel video lottery machines.

The commission shall provide for the placement of video lottery machines which allow for the play of a

video lottery game for a credit of five cents.

Source: SL 1993, ch 318, § 1.

§ 42-7A-62. Collection of fee - Deposit in general fund.

In addition to the fee collected pursuant to § [42-7A-41](#) and deposited in the video lottery operating fund, the following fee shall be collected each year and deposited into the general fund:
Video lottery machine manufacturers -- \$15,000.

Source: SL 1993, ch 318, § 2; 1995, ch 243, § 3.

§ 42-7A-63. State's percentage of net machine income - Deposit into property tax reduction fund and in video lottery operating fund.

The commission shall maximize revenues to the state from video lottery. The state's percentage of net machine income shall be fifty percent. The state's percentage of net machine income shall be directly deposited to the property tax reduction fund, except for one-half of one percent of net machine income authorized for deposit into the video lottery operating fund. The effective date of this section is July 1, 1996.

Source: SL 1993, ch 318, § 3; 1994, ch 330; 1995, ch 243, § 2; 1996, ch 72, § 2B.

§ 42-7A-64. Additional criteria for on-sale alcoholic beverage licensees in video lottery licensed establishments.

A municipality or county may consider, in addition to the criteria for the issuance of an on-sale alcoholic beverage license, the following criteria for authorizing video lottery machine placement in establishments issued an on-sale alcoholic beverage license pursuant to subdivisions 35-4-2 (12) and (16):

- (1) The number of establishments currently licensed for video lottery;
- (2) The proximity of the business to other establishments licensed for video lottery;
- (3) The type of business and manner in which the applicant proposes to operate it;
- (4) The location of the business in relation to other businesses, residential areas, or activities within the same general area;

- (5) The extent to which minors frequent a business connected to the one proposed; and
- (6) The effect the proposed business has on economic development.

The governing board shall certify on each application filed with the department of revenue for a license granted under subdivisions 35-4-2 (12) and (16) whether the business premises is authorized for video lottery machine placement. An existing video lottery license may not be denied renewal or transfer based upon the criteria set forth in this section. The lottery may issue a video lottery license to those establishments certified pursuant to this section. Notwithstanding the above provisions, a county or municipality may not restrict the number of alcoholic beverage licenses issued under subdivisions 35-4-2 (12) and (16) and certified for video lottery to a number less than those licensed as video lottery establishments on March 1, 1994.

Source: SL 1994, ch 329, § 1.

§ 42-7A-65. Portion of video lottery machine income deposited into property tax reduction fund.

Notwithstanding the provisions of § [42-7A-63](#), after making all statutorily required transfers into the video lottery operating fund, forty-five million nine hundred and ten thousand dollars in fiscal year 1996 shall be taken from the state's share of total video lottery net machine income and deposited directly into the property tax reduction fund.

CHAPTER 42-7B. LIMITED CARD GAMES AND SLOT MACHINES – GAMING COMMISSION

§ 42-7B-1. Limited card games and slot machines authorized within city of Deadwood - Voter approval required - Form of ballot.

Limited card games and slot machines are hereby authorized, and may be operated and maintained, within the city limits of Deadwood, South Dakota, subject to the provisions of this chapter. The city of Deadwood must first approve the limited card games and slot machines by sixty percent of the votes cast at an election called for this purpose. The form of the question to be submitted to the voters is "Shall the city of Deadwood allow limited card games and slot machines?"

Source: SL 1989, ch 374, § 1.

§ 42-7B-2. Authority conditioned - Repeal.

No gaming is allowed under the authority of this chapter until the question to be submitted pursuant to § [42-7B-1](#) is approved by the voters of Deadwood, and until this chapter is implemented through the grant of applicable licenses by the South Dakota commission on gaming. If the voters of the city of Deadwood fail to approve the question to be submitted pursuant to § [42-7B-1](#) by July 1, 1989, the provisions of this chapter are repealed as of that date.

Source: SL 1989, ch 374, § 1A.

§ 42-7B-2.1. Public policy.

The Legislature hereby finds, and declares to be the public policy of this state, that:

(1) The success of gaming is dependent upon public confidence and trust that licensed gaming is conducted honestly and competitively, that the rights of the creditors of licensees are protected and that gaming is free from criminal and corruptive elements;

(2) Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of licensed gaming establishments and the manufacture or distribution of gaming devices and equipment;

(3) All establishments where gaming is conducted and where gambling devices are operated, and manufacturers, sellers and distributors of certain gambling devices and equipment must therefore be licensed, controlled and assisted to protect the public health, safety, morals, good order and the general welfare of the inhabitants of the state, to foster the stability and success of gaming and to preserve the economy and policies of free competition of the State of South Dakota;

(4) No applicant for a license or other affirmative commission approval has any right to a license or to the granting of the approval sought. Any license issued or other commission approval granted pursuant to the provisions of this chapter is a revocable privilege, and no holder acquires any vested right therein or thereunder.

Source: SL 1990, ch 343, § 23; 1993, ch 320, § 1 rejected by referendum held September 14, 1993.

§ 42-7B-3. Regulation by commission.

If the city of Deadwood permits limited card games and slot machines within its city limits, such activity shall be regulated by the South Dakota commission on gaming.

Source: SL 1989, ch 374, § 2; 1993, ch 320, § 2 rejected by referendum held September 14, 1993.

§ 42-7B-4. Definition of terms.

Terms used in this chapter mean:

- (1) "Adjusted gross proceeds," except in the case of the games of poker, gross proceeds less cash prizes. In games of poker, the term, "adjusted gross proceeds," means any sums wagered in a poker hand which may be retained by the licensee as compensation which must be consistent with the minimum and maximum amount established by the South Dakota Commission on Gaming;
- (2) "Bet," an amount placed as a wager in a game of chance;
- (3) "Blackjack," a card game played by a maximum of seven players in which each player bets against the dealer. The object is to draw cards whose value will equal or approach twenty-one without exceeding that amount and win amounts bet, payable by the dealer, if the player holds cards more valuable than the dealer's cards. The commission may promulgate rules pursuant to [chapter 1-26](#) authorizing variations of the game;
- (4) "City limits," the boundaries of the City of Deadwood as they existed on January 1, 1989;
- (5) "Commission," the South Dakota Commission on Gaming;
- (6) "Gaming," limited card games and slot machines as allowed and regulated by this chapter;
- (6A) "Gaming device," a slot machine, a poker table, or a blackjack table;
- (7) "Gaming employee," any person twenty-one years of age or older employed by an operator or retailer hosting gaming to work directly with the gaming portion of that business and who must hold a support license;
- (8) "Gaming equipment," any equipment used in gaming that is allowed by this chapter and which requires licensing;
- (9) "Gaming license," any license issued by the commission pursuant to this chapter which authorizes any person to engage in gaming within the City of Deadwood;
- (10) "Historic restoration and preservation," the restoration and preservation of the City of Deadwood to maintain its historical background, cultural heritage, and necessary supporting infrastructures;
- (10A) "Key employee," any executive, employee, or agent of a gaming licensee having the power to exercise a significant influence over decisions concerning any part of the operation of a gaming licensee;
- (11) "Licensed gaming establishment," any premises licensed pursuant to this chapter where gaming is conducted;
- (12) "Licensee," any person licensed under this chapter;
- (13) "Licensing authority," the South Dakota Gaming Commission;
- (14) "Limited card games and slot machines," any card games including poker and blackjack and slot machines authorized by this chapter and regulated by the commission;
- (15) "Net municipal proceeds," the amount remitted to the City of Deadwood by the South Dakota Commission on Gaming;
- (16) "Operator," any person who places slot machines in the person's own business premises;
- (17) "Person," includes individuals, partnerships, limited liability companies, associations, and corporations;
- (18) "Poker," a card game played by players who are dealt cards by a nonplayer dealer. The object of the game is for each player to bet the superiority of the player's own hand and win the other players' bets by either making a bet no other player is willing to match or proving to hold the most valuable cards after all the betting is over. Poker includes draw, stud, low ball, or any combination thereof. The commission may promulgate rules pursuant to [chapter 1-26](#) authorizing variations of the game;
- (19) "Retailer," any licensee who maintains gaming at the licensee's place of business within the City of Deadwood for use and operation by the public;
- (20) "Retail space," the area where the retailer's business is principally conducted;
- (20A) "Route operator," any person who, individually or jointly pursuant to an agreement whereby consideration is paid for the right to place slot machines or gaming tables, engages in the business of placing and operating slot machines or gaming tables within the City of Deadwood;

(21) "Slot machines," any mechanical, electrical, or other device, contrivance, or machine which, upon insertion of a coin, token or similar object, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash premiums, merchandise, tokens, redeemable game credits or anything of value other than unredeemable free games whether the payoff is made automatically from the machines or in any other manner;

(22) "Slot machine manufacturer," any person or distributor who designs, assembles, fabricates, produces, constructs, sells, leases, or who otherwise prepares a product or a component part of a slot machine, other than tables or cabinetry;

(23) "Suitability" or "suitable," in relation to a person is the ability to be licensed by the commission and as to acts or practices, are lawful acts or practices;

(24) "Unsuitability" or "unsuitable," in relation to a person is the inability to be licensed by the commission because of prior acts, associations, or financial condition, and as to acts or practices, are those that would violate the statutes or rules or would be contrary to the declared legislative purpose of this chapter.

Source: SL 1989, ch 374, § 3; 1990, ch 343, § 11; 1993, ch 320, § 4 rejected by referendum held September 14, 1993; 1993, ch 321, § 1; 1994, ch 351, § 100; 1995, ch 245, § 1; 1997, ch 243, §§ 1, 2.

§ 42-7B-5. Disposition of proceeds.

The entire net municipal proceeds of limited card games and slot machines shall be devoted to the historic restoration and preservation of the city of Deadwood as provided in this chapter. The term, historic restoration and preservation, shall be interpreted liberally in scope and effect.

Source: SL 1989, ch 374, § 4.

§ 42-7B-6. South Dakota commission on gaming created.

There is hereby created the South Dakota commission on gaming. The commission is attached to the department of commerce and regulation for reporting purposes only. The commission shall consist of five citizens of South Dakota, all of whom shall be appointed by the Governor of the state of South Dakota. The commission members may not all be members of the same political party. No member may be a license holder under this chapter nor a resident of Lawrence county. The initial members to be appointed shall draw lots to determine who will hold the two three-year terms, the two two-year terms and the one one-year term. Thereafter, each member shall serve terms of three years. No person may serve more than two consecutive full terms.

Source: SL 1989, ch 374, § 5.

§ 42-7B-7. Promulgation of rules - Scope - Enforcement of chapter.

The commission may promulgate rules for the orderly transaction and conduct of its business and the substantive rules that it may determine proper concerning the issuance, revocation and suspension of gaming licenses, the division of machines or card games that may be placed in any building or retail business, the conduct and operation of limited card games and slot machines, and any other things necessary to carry out the purposes of this chapter. The commission may also promulgate rules necessary to administer complaints which may be received from the public and conduct such other investigations and inspections into the conduct of the games and the licensees and the maintenance of the equipment as the commission may deem necessary and proper. Rules of the commission shall be promulgated pursuant to [chapter 1-26](#). License issuance, suspension, and revocation are contested cases within the meaning of [chapter 1-26](#). The commission's rules may provide procedures for summary suspension of any license issued under this chapter and shall provide for subsequent contested case hearings before suspensions become final or a license is revoked. The commission may apply for injunctive or declaratory relief to enforce the provisions of this chapter and any rules promulgated thereunder. Action by the commission may not limit the authority of the state's attorney or attorney general from enforcing criminal actions.

Source: SL 1989, ch 374, § 6.

§ 42-7B-7.1. Commission may suspend gaming at its discretion.

The commission may suspend gaming after a disaster such as flood, fire, earthquake or in the event of war or national emergency, for such period of time, as in its discretion, it deems appropriate.

Source: SL 1990, ch 343, § 30.

§ 42-7B-8. Regular and special meetings - Quorum.

The commission may hold regular and special meetings at such times and places as it may deem convenient, but at least one regular meeting shall be held quarterly. A majority of the appointed members constitutes a quorum of the commission, and a special meeting may be called by the chair, by any two members, or the Governor.

Source: SL 1989, ch 374, § 7.

§ 42-7B-8.1. Purposes for executive or closed meetings.

In addition to the provisions of § [1-25-2](#), the commission may hold executive or closed meetings for any of the following purposes:

- (1) Considering applications for licensing when discussing the background investigations or personal information;
- (2) Meeting with gaming officials of other jurisdictions, the attorney general, the state's attorney of Lawrence county or law enforcement officials relating to possible criminal violations;
- (3) Consulting with the executive secretary, employees and agents of the commission concerning possible criminal violations;
- (4) Deliberations after hearing evidence on an informal consultation or a contested case necessary to reach a decision; and
- (5) Discussing business strategies, marketing or pricing strategies of a licensee or an applicant for a license if public discussion may be harmful to the competitive position of the licensee or applicant for license or discussions with a licensee or an applicant for a license for the purposes of overseeing and defining gaming contracts pursuant to subdivision [42-7B-11](#) (1).

Source: SL 1990, ch 343, § 6.

§ 42-7B-9. Appointment and removal of executive secretary - Duties - Salary.

The commission shall appoint, and may remove, an executive secretary who shall serve at the pleasure of the commission and who shall be responsible for the conduct of the commission's administrative matters and who shall devote full time and attention to the business of his office and may not pursue any other business or occupation. The commission shall set the annual salary of the executive secretary. The executive secretary may employ the persons that are necessary to operate the South Dakota commission on gaming.

Source: SL 1989, ch 374, § 8.

§ 42-7B-9.1. Executive secretary's access to files and records.

The executive secretary may have access both physically and electronically to all files and records required

to be maintained under [chapters 23-5](#) and [23-6](#) and may contribute to those records.

Source: SL 1990, ch 343, § 2.

§ 42-7B-10. Compensation for commission members - Expenses paid.

The members of the South Dakota gaming commission shall be paid mileage at the same rate as allowed for state employees. The commission shall receive per diem compensation and allowable expense reimbursement in an amount set pursuant to § [4-7-10.4](#) for all time actually spent while attending commission meetings. However, no per diem may be paid to commission members who are state employees. The per diem shall be paid by vouchers duly verified and approved by the executive secretary of the commission.

Source: SL 1989, ch 374, § 8A.

§ 42-7B-11. Powers of commission.

The commission may promulgate rules pursuant to [chapter 1-26](#) to enable the commission to:

- (1) Issue licenses, oversee and define the gaming contracts of the licensees. Any license issued pursuant to this chapter is conditioned upon a specific waiver of all state and federal constitutional or statutory rights of privacy regarding gaming equipment, the licensed premises, all books, papers, computers, and information storage devices of any kind wherever located;
- (2) Inspect and examine without notice all premises where gaming is conducted or gaming devices or equipment are located, sold, distributed, or stored;
- (3) Seize and remove without notice or hearing from the premises and impound any gaming equipment or supplies for the purpose of examination and inspection;
- (4) At any time day or night, inspect, examine, and photocopy or remove and impound all papers, books and records of applicants and licensees and require verification of income, and all matters affecting the enforcement of the provisions of this chapter;
- (5) Contract for such legal counsel to advise it as it may choose;
- (6) Suspend for cause any gaming license;
- (7) Require any applicant for a license as an operator or a retailer to disclose any pecuniary interest in the applicant by any person;
- (8) Carry out such duties as may be imposed upon the state as a result of a compact entered into under the authority of the federal Indian Gaming Regulatory Act, provided the cost of performance of such duties is adequately funded by payments made available to the commission under the compact;
- (9) Permit the executive secretary to issue or deny support licenses;
- (10) Grant a license with special conditions or a license for a limited period, or both;
- (11) Establish a procedure for establishing the suitability or unsuitability of persons and acts or practices;
- (12) Regulate the manufacture of gaming devices and equipment for exportation outside this state;
- (13) Establish procedures and regulations relating to corporations, partnerships, limited liability companies,

affiliated companies and affiliates including the issuance, revocation, and suspension of licenses, and procedures generally to regulate gaming activities;

(14) Permit the executive secretary to enter into contracts and memorandums of understanding with regulatory agencies of other states and countries for the purpose of conducting background investigations of applicants;

(15) Permit the executive secretary to approve the transfer of a license stamp between licensed operators.

Source: SL 1989, ch 374, § 9; 1990, ch 343, § 12; 1993, ch 321, § 16; 1995, ch 245, § 2; 1997, ch 244, § 1.

§ 42-7B-12. Appeal of final action of commission - Notice - Denial of license not appealable.

Any person aggrieved by a final action of the commission may appeal the final action to the circuit court pursuant to [chapter 1-26](#). Notice of appeal shall, however, be filed in writing with the commission and clerk of courts, within ten days from any final action of the commission. However, denial of an application for a license under § [42-7B-19](#) is not appealable.

Source: SL 1989, ch 374, § 10; 1990, ch 343, § 13.

§ 42-7B-13. Powers of attorney general pursuant to chapter.

The attorney general may exercise any authority of inspection and examination allowed in this chapter and may apply to the circuit court for enforcement of any provision of this chapter or rule promulgated pursuant to this chapter.

Source: SL 1989, ch 374, § 11.

§ 42-7B-14. Maximum amount of bets.

The amount of a bet may not be more than five dollars on the initial bet or subsequent bet subject to rules promulgated by the commission.

Source: SL 1989, ch 374, § 12; 1993, ch 320, §§ 5A, 5B, 5C rejected by referendum held September 14, 1993.

§ 42-7B-15. Approval of rules for certain games.

Specific rules for blackjack and poker shall be approved by the commission and clearly posted within plain view of any applicable card table.

Source: SL 1989, ch 374, § 13.

§ 42-7B-16. Maximum number of games and machines per license.

A full compliment of limited card games and slot machines may not exceed thirty per retail license.

Source: SL 1989, ch 374, § 14; 1990, ch 343, § 14; 1993, ch 321, §§ 10C, 10F.

§ 42-7B-16.1. Maximum number of gaming devices per convention facilities liquor license - Lodging establishment and retail premises.

Repealed by special referendum election held September 14, 1993.

§§ 42-7B-16.2 to 42-7B-16.4. Not implemented.

§ 42-7B-17. Responsibilities of operator.

Any operator is responsible to provide audit and security measures relating to slot machines, as prescribed

by this chapter and the commission. The operator shall insure slot machine specifications comply with those set forth in this chapter and the rules of the commission.

Source: SL 1989, ch 374, § 15.

§ 42-7B-18. Identification of retail floor plan - Approval - License granted only to retailer - Location of devices.

The retail space of a licensee shall be identified by a physical layout within a building, called the retail floor plan. The retail floor plan showing the location of each gaming device shall be submitted to the commission at the time of application, and is subject to prior approval by the Deadwood city commission. Approval is subject to gaming rules and those rules pertaining to public health, safety, good order and general welfare of the City of Deadwood. The retail gaming license may only be granted to the retailer. All gaming devices shall be located within the retail space of the business. The number of gaming devices may not exceed thirty per building.

Source: SL 1989, ch 374, § 16; 1990, ch 343, § 15; 1993, ch 320, § 7 rejected by referendum held September 14, 1993.

§ 42-7B-19. Approval or disapproval of license.

The commission may approve or disapprove any application for license, depending upon whether it deems the applicant a suitable person to hold the license and whether it considers the proposed location suitable. An applicant for any license under this chapter has the burden of proving the applicant's qualifications, by clear and convincing evidence, to the satisfaction of the commission, and is required to submit to such investigation regarding the applicant's past conduct as may be required by the commission.

Source: SL 1989, ch 374, § 17; 1993, ch 321, § 3.

§ 42-7B-19.1. Denial of application - Reapplication.

Any applicant for a license who has had his application denied by the commission may not reapply until at least one year has elapsed from the date of the denial. Any person who has been denied a license for a

second time may not reapply until at least three years have passed since the date of the second denial.

Source: SL 1990, ch 343, § 7.

§ 42-7B-19.2. Investigation of license applicant - Failure to allow.

In order to assist in determining the applicant's suitability pursuant to § [42-7B-19](#), the applicant shall be fingerprinted and such fingerprints shall be forwarded to the Federal Bureau of Investigation identification division for a national criminal records check. By signing and filing an application for a license, which is hereby made subject to the perjury laws of this state, the applicant authorizes the commission to obtain information from any source, public or private, in this or any other country regarding the background or conduct of the applicant or any of its stockholders, lenders, holders of evidence of indebtedness, underwriters, executives, officers, directors, partners, agents or employees. The applicant's failure to allow investigation into his background or to disclose all information as requested by the commission is grounds for denial of the license.

Source: SL 1993, ch 321, § 4.

§ 42-7B-20. Holding license by certain persons prohibited.

No officer, agent or employee of the commission may hold a license under this chapter. No officer, agent or employee of the law enforcement departments of Lawrence county, the city of Deadwood or the state of South Dakota may hold a license under this chapter. This prohibition applies to the commission and all of its employees and all law enforcement officials and officers. No licensee may employ any person in any capacity directly related to the licensee's gaming activities while that person is in the employment of a law enforcement agency or the commission.

Source: SL 1989, ch 374, § 18.

§ 42-7B-21. Application fee.

The commission may establish an application fee which shall include the cost of investigation and administration and is nonrefundable. The amount of the application fee may vary with the type of license for which application is made and with the type of applicant. The application form promulgated by the

commission shall include a waiver of any right of confidentiality and allow access to law enforcement records of this or any other state, the government of any foreign country or any Indian tribe. The waiver of confidentiality shall extend to any financial or personnel record wherever maintained.

Source: SL 1989, ch 374, § 19.

§ 42-7B-22. Licenses - Types.

The commission may issue the following types of licenses which are required to conduct gaming under this chapter:

- (1) Slot machine manufacturer or distributor. The license fee is one thousand dollars and thereafter an annual fee renewable July first of each year in the sum of two hundred fifty dollars. A slot machine manufacturer or distributor may not be licensed as a route operator, operator, or retailer;
- (2) Operator license. The license fee is one thousand dollars and thereafter an annual fee renewable July first of each year of two hundred dollars;
- (3) Retail license. The license fee is two hundred fifty dollars and thereafter an annual fee renewable July first of each year of one hundred dollars;
- (4) Support license. The license fee is fifty dollars and thereafter an annual fee renewable January first of each year of twenty-five dollars. This license is required by all persons seeking employment in the field of gaming;
- (5) Key employee license. The license fee is one hundred fifty dollars and thereafter an annual fee renewable January first of each year of seventy-five dollars;
- (6) Route operator license. The license fee is one thousand dollars and thereafter an annual fee renewable July first of each year of two hundred dollars. Each route operator shall also hold a valid operator license. Conducting gaming without the appropriate license is a Class 6 felony.

Source: SL 1989, ch 374, § 20; 1990, ch 343, § 16; 1993, ch 320, § 8 rejected by referendum held September 14, 1993; 1995, ch 245, § 6; 1996, ch 257, § 1.

§ 42-7B-22.1. Licensing of key employee may be required - Grounds - Time limit for response from employee - Written request to review status as key employee.

If it is the judgment of the commission that the public interest will be served by requiring a key employee to be licensed, the commission shall serve notice of the determination upon the licensee who employs the key employee. The commission is not restricted by the title of the job performed by the key employee but may consider the functions and responsibility of the key employee in making its decision. Grounds for requiring licensing of a key employee include:

- (1) Whether the key employee is new to the gaming industry, to the particular gaming establishment, the position, or the level of influence or responsibility which he has, and whether the commission has insufficient or outdated information concerning his character, background, reputation or association; or
- (2) Whether information has been received by the commission or the executive secretary which, if true,

would constitute grounds for a finding of unsuitability.

The licensee shall, within thirty days following receipt of the notice of the commission's determination, present the application for licensing of the key employee to the commission or provide documentary evidence that the key employee is no longer employed by the licensee. Failure of the licensee to respond as required by this section is grounds for disciplinary action.

A person subject to application for licensing as a key employee as required by this section may request the commission, in writing, to review its determination of that individual's status within the gaming organization. If the commission determines that the person is not a key employee or that the public interest does not require his licensing as a key employee, he shall be allowed to withdraw his application and continue in his employment. The request of the key employee applicant for review of his status does not stay the obligation of the licensee to present the key employee's application within the thirty-day period prescribed by this section. The provisions of [chapter 1-26](#) do not apply to this section.

Source: SL 1990, ch 343, § 29.

§ 42-7B-23. Annual license stamp fee - Transfer of license stamp.

There is imposed a nonrefundable license stamp fee upon each gaming device located on a licensed premises. The annual fee for this stamp is two thousand dollars. The license stamp expires July first of each year. All license stamp fees shall be paid directly to the commission on forms adopted by the commission. The commission may approve the transfer of a license stamp to another gaming device or to another operator without requiring the payment of an additional fee.

Source: SL 1989, ch 374, § 21; 1993, ch 321, § 5.

§ 42-7B-24. License revocable - Not transferable.

Any license that is issued under this chapter is revocable, is not transferable, and no person holding a license acquires any vested interest or property right in the license.

Source: SL 1989, ch 374, § 22.

§ 42-7B-25. Qualifications for license as operator or retailer.

Before any person is licensed as an operator or retailer, the person shall show that the person is of good moral character, and if an individual, that the individual is at least twenty-one years of age.

Source: SL 1989, ch 374, § 23; 1993, ch 321, § 6; 1995, ch 245, § 7.

§ 42-7B-25.1. Internal control procedure for particular licensee may be established.

The commission may establish an internal control procedure limited to a particular licensee including accounting procedures, reporting procedures and personnel policies.

Source: SL 1990, ch 343, § 9.

§ 42-7B-26. Restriction upon persons having financial interest in retail licenses.

No person may have a financial interest in more than three retail licenses.

Source: SL 1989, ch 374, § 24; 1990, ch 343, § 17; 1993, ch 321, §§ 10D, 10F.

§ 42-7B-27. Employees support license - Qualifications.

Any individual employed by a retail licensee as a card dealer, floor supervisor, or other gaming employee as determined by the commission, shall have a current valid support license. Any individual seeking a support license shall be a person of at least twenty-one years of age, and of good moral character. The commission may deny a support license to any person discharged for cause by any licensed gaming establishment in this or any other country.

Source: SL 1989, ch 374, § 25; 1995, ch 245, § 8.

§ 42-7B-28. Gaming tax.

There is hereby imposed an eight percent gaming tax on the adjusted gross proceeds of gaming allowed by this chapter.

Source: SL 1989, ch 374, § 26; 1990, ch 344, § 1; 1991, ch 100, § 3; 1994, ch 331, § 1; 1995, ch 246, § 3.

§ 42-7B-29. Return and remittance - Forms furnished by secretary.

Not later than fifteen days following the end of each month, each gaming licensee shall make a return and remittance to the executive secretary on forms prescribed and furnished by the executive secretary. The executive secretary may grant an extension of not more than five days for filing a return and remittance. Unless an extension is granted, penalty or interest under § [42-7B-31](#) shall be paid if a return or remittance is not made on time.

Source: SL 1989, ch 374, § 26A; 1990, ch 343, § 18.

§ 42-7B-30. Violations of taxation provisions punishable as felony or misdemeanor.

Any person who:

- (1) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed by this chapter guilty of a Class 6 felony;
- (2) Fails to pay tax due under this chapter within thirty days from the date the tax becomes due is guilty of a Class 1 misdemeanor;
- (3) Fails to file a return required by this chapter within thirty days from the date the return is due is guilty of a Class 1 misdemeanor;
- (4) Violates either subdivision (2) or subdivision (3) two or more times in any twelve-month period is guilty of a Class 6 felony.

For purposes of this section "person" includes corporate officers having control, supervision of or charged with the responsibility for making tax returns or payments pursuant to this chapter.

Source: SL 1989, ch 374, § 26B.

§ 42-7B-31. Failure to file - Penalties.

Any person required to file returns or reports under this chapter, who fails to file a return or report which includes all taxable transactions within fifteen days following the date the return or report is due is subject to an additional amount, assessed as a penalty, equal to fifteen percent of the tax or ten dollars whichever is greater. However, for reasonable cause shown, the executive secretary may reduce or eliminate such penalty. Any person subject to tax under this chapter who fails to pay the tax within the time prescribed is subject to an interest charge of two percent per month or part thereof for which the payment is late or five dollars whichever is greater. Penalty and interest are considered the same as tax for the purposes of collection and enforcement including liens, distress warrants and criminal violations. Any payment received for taxes, penalty, or interest is applied first to tax, beginning with the oldest delinquency, then to interest and then to penalty. The executive secretary may, upon application of the taxpayer, establish a maximum interest rate of thirty-six percent upon delinquent taxes if the executive secretary determines that the delinquent payment was caused by a mistake of law and was not caused by an intent to evade the tax.

Source: SL 1989, ch 374, § 26C; 1990, ch 343, § 18A.

§ 42-7B-32. Suspension or revocation of license - Grounds - Reprimand or monetary penalty possible.

Any license granted pursuant to this chapter may be suspended or revoked for any cause which may have prevented its issuance, or for violation by the licensee, or any officer, director, agent, member or employee of the licensee, of this chapter or any rule adopted by the commission or for conviction of a crime of moral turpitude or a felony, after notice to the licensee and a hearing, upon grounds determined adequate by the commission. In addition to revocation or suspension or in lieu of revocation or suspension, the commission may impose a reprimand or a monetary penalty not to exceed the following amounts:

- (1) If the licensee is a slot machine manufacturer distributor, the amount of one hundred thousand dollars;
- (2) If the licensee is an operator, the amount of twenty-five thousand dollars;
- (3) If the licensee is a retailer, the amount of twelve thousand five hundred dollars;
- (4) If the licensee is a key employee, the amount of five thousand dollars; and
- (5) If the licensee has a support license, the sum of two thousand five hundred dollars.

Any monetary penalty received by the commission under this section shall go into the gaming commission fund established by § [42-7B-48](#) and is to be used solely for the purposes prescribed by subdivision [42-7B-48](#) (2) and is not subject to the provisions of subdivision [42-7B-48](#) (4).

Source: SL 1989, ch 374, § 27; 1990, ch 343, § 27.

§ 42-7B-33. Persons involved as manufacturer, operator, retailer or with conduct of gaming - Qualifications.

Any person, any stockholder owning five percent or more of any corporation and any officer or director, or any partner in any partnership involved as a manufacturer, operator or retailer, or key employee or support licensee involved with the conduct of gaming shall be:

- (1) A person of good character, honesty, and integrity;
- (2) A person whose prior activities, criminal record, reputation, habits, and associations do not pose a threat to the public interests of this state or to the control of the gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental to the conduct of gaming;
- (3) A person who has not entered a plea of guilty or nolo contendere to a felony charge or has not been convicted of a felony in this or any other jurisdiction, has not been found to have violated the provisions of this chapter or any rule adopted pursuant to this chapter, and has not knowingly made a false statement of material facts to the commission or its legal counsel.

Source: SL 1989, ch 374, § 28; 1990, ch 343, § 19; 1995, ch 245, § 9.

§ 42-7B-34. Application authorizes background investigation by commission.

Repealed by SL 1993, ch 321, § 8.

§ 42-7B-35. Age of participants - Violation as misdemeanor.

Any participant in a limited card game or slot machine shall be twenty-one years or older at the time of his participation. No licensee may permit any person who is less than twenty-one years of age to participate in a limited card game or play a slot machine. A violation of this section by a participant is a Class 1 misdemeanor and a violation by a licensee is a Class 1 misdemeanor and may form the basis for revocation of a retail license.

Source: SL 1989, ch 374, § 30; 1990, ch 343, § 31.

§ 42-7B-36. Minimum payback value of credit.

The minimum payback value of one credit played on a slot machine shall be at least eighty percent of the value of the credit.

Source: SL 1989, ch 374, § 31; 1995, ch 245, § 10.

§ 42-7B-37. Exemption from federal law.

Pursuant to section 2 of an act of Congress of the United States entitled "An Act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January 2, 1951, designated 15 U.S.C. §§ 1171 to 1177, inclusive, and in effect January 1, 1989, the State of South Dakota acting by and through its elected and qualified members of its Legislature, does hereby, and in accordance with and in compliance with the provisions of section 2 of the act of Congress, declare and proclaim that it is exempt from the provisions of section 2 of that act of Congress of the United States as above mentioned, as regards gaming devices legally operated, used, repaired, stored, or transported within the state.

Source: SL 1989, ch 374, § 32; 1996, ch 258, § 1.

§ 42-7B-38. Shipments of devices and machines deemed legal.

All shipments of gaming devices, including slot machines, into and within this state, the registering, recording, and labeling of which has been duly had by the manufacturer or dealer thereof in accordance with sections 3 and 4 of an act of Congress of the United States entitled "An Act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January 2, 1951, designated as 15 U.S.C. §§ 1171 to 1177, inclusive, and in effect on January 1, 1989, shall be deemed legal shipments thereof, when transported into or within the state to any manufacturer, distributor, operator, retailer, or route operator legally licensed pursuant to this chapter or by compact.

Source: SL 1989, ch 374, § 33; 1995, ch 245, § 11; 1996, ch 258, § 2.

§ 42-7B-39. Shipping records required to be maintained - Report by recipient - Transport out of state - Violation as felony.

Any slot machine manufacturer or distributor shipping a slot machine into the State of South Dakota shall maintain for a period of at least five years from the time of shipment, the following records: a copy of the shipping invoice including at least the destination and the serial number of each machine and a description of each machine. Any person within the State of South Dakota receiving a slot machine shall maintain for a period of at least five years from the time of receipt the following records: information showing at least the location of each machine, its serial number, and description. This report shall be completed and maintained regardless of whether the machine is received from a manufacturer or any other person. Any machine licensed pursuant to this chapter shall be licensed for a specific location and movement of the machine from that location shall be reported to the commission within twenty-four hours. If the machine is to be transported out of the State of South Dakota, the movement of the machine shall be recorded and maintained by the licensee for not less than five years from the time of movement. Possession of an unapproved device is a Class 6 felony. Any slot machine not in compliance with this chapter is declared contraband and may be summarily seized and destroyed after notice and hearing.

Source: SL 1989, ch 374, § 34; 1993, ch 321, § 9; 1997, ch 245, § 1.

§ 42-7B-39.1. Shipping records delivered to commission.

Any person or custodian in possession of any records required to be maintained by § [42-7B-39](#) shall deliver the records to the commission or its executive secretary upon request.

Source: SL 1997, ch 245, § 2.

§ 42-7B-40. Licensed employee twenty-one years or older required on premises.

Any retail licensee under this chapter shall have at least one licensed employee that is at least twenty-one years of age on the premises or within a contiguous premises in full view and control of any limited card games or slot machines operated on the premises. The commission shall adopt rules, pursuant to [chapter 1-26](#), to establish the number of employees required to monitor the premises. The rules may also authorize the use of electronic devices or other types of monitoring equipment.

Source: SL 1989, ch 374, § 35; 1995, ch 245, § 12; 1998, ch 263, § 1.

§ 42-7B-41. False statement or failure to keep books and records - Violations as felony.

Any person who knowingly makes a false statement in any application for a license or in any statement attached to the application, fails to keep books and records to substantiate the receipts, expenses, or uses resulting from limited card games and slot machines conducted under this chapter as prescribed in rules promulgated by the commission, or who falsifies any books or records so as the books or records relate to any transaction connected with the holding, operating, and conducting of any limited card games or slot machines is guilty of a Class 6 felony.

Source: SL 1989, ch 374, § 36; 1993, ch 321, § 10; 1995, ch 245, § 13.

§ 42-7B-42. Certain acts by participants punishable as theft.

It is unlawful for any person playing or conducting any authorized game of chance, conducted by a licensee to:

- (1) Use bogus or counterfeit chips, tokens, devices or coins;
- (2) Employ or have on one's person any cheating device to facilitate cheating in any game of chance;
- (3) Use any fraudulent scheme or technique;
- (4) Have located on the premises equipment for gaming that is not licensed by the commission under this chapter except equipment exempted by the commission, this chapter or other statutes.

A violation of this section is a Class 5 felony.

Source: SL 1989, ch 374, § 37; 1990, ch 343, § 20; 1995, ch 245, § 14.

§ 42-7B-42.1. Use of counterfeit chip or token and cheating as misdemeanor.

Repealed by SL 1995, ch 245, § 15.

§ 42-7B-43. Slot machines - Security and audit specifications.

All slot machines allowed under this chapter shall have the security and audit specifications established in rules adopted by the commission.

Source: SL 1989, ch 374, § 38; 1990, ch 343, § 21.

§ 42-7B-44. Expenditure of public funds for purchase of certain machines - Proceeds - Placement.

The city of Deadwood may expend public funds for the purchase of five-cent slot machines and may own or lease no more than fifty five-cent slot machines to be placed within the city. The machines shall be licensed and stamped by the commission; however, no license stamp fee applies to these machines, but the net proceeds generated by their operation minus lease or purchase payments shall be deposited in the South Dakota commission fund. The city of Deadwood may contract for these machines and these machines shall be placed only in a retail licensed business.

Source: SL 1989, ch 374, § 39; 1990, ch 343, § 22.

§ 42-7B-45. Extension of credit prohibited - Violation as felony.

No licensed gaming establishment, licensee acting within the scope of employment as a licensee, or employee of a licensed gaming establishment acting within the scope of the employee's employment may extend credit to another person for participation in limited card games and slot machines. A violation of this section is a Class 6 felony.

Source: SL 1989, ch 374, § 40; 1995, ch 245, § 16.

§ 42-7B-46. Historic restoration and preservation fund created.

There is hereby created within the city of Deadwood a special fund to be known as the historic restoration and preservation fund. The Deadwood city commission shall appropriate amounts from this fund, remaining in any fiscal year after provision for the requirements of any revenue bonds issued under § [42-7B-54](#), to the historic preservation commission established pursuant to [chapter 1-19B](#) which may expend

those funds for loans, grants and purchases in the manner and for the purposes set out in [chapter 1-19B](#) and according to standards established by the state historical society board of trustees.

Source: SL 1989, ch 374, § 41; 1990, ch 344, § 2.

§ 42-7B-47. Limited card games and slot machines exempt from certain other statutes.

Limited card games and slot machines are exempt from §§ [53-9-2](#), [22-25-13](#) and [22-25-14](#) and all other acts in conflict with this chapter.

Source: SL 1989, ch 374, § 42.

§ 42-7B-48. South Dakota gaming commission fund established - Disbursements.

There is established within the state treasury the South Dakota Gaming Commission fund, into which shall be deposited the proceeds from the gaming tax, license stamp fees, license fees, application fees, the net proceeds generated by the operation of the five-cent slot machines and the initial fund is continuously appropriated for the purposes specified in this section. All funds received by the commission shall be set forth in an informational budget as described in § [4-7-7.2](#) and be annually reviewed by the Legislature. Any disbursement from the Gaming Commission fund shall be by authorization of the executive secretary for any of the following purposes:

- (1) Forty percent of the gaming tax collected shall be transferred to the tourism promotion fund created in § [1-42-31](#), and ten percent of the gaming tax collected shall be paid to Lawrence county;
- (2) The expenses of the commission for administration and operation including litigation and enforcement of this chapter and [chapter 42-7](#);
- (3) Repayment of funds and interest advanced for the start up of the commission; and
- (4) All funds remaining after the payments provided in subdivision (1), (2), and (3), less one hundred thousand dollars which shall be transferred to the historical preservation loan and grant fund created in § [1-19A-13.1](#) constitute the net municipal proceeds and shall be disbursed at least quarterly to the City of Deadwood for deposit in the historic restoration and preservation fund.

Source: SL 1989, ch 374, § 43; 1991, ch 349, § 38; 1993, ch 320, § 12 rejected by referendum held September 14, 1993; 1994, ch 332, § 1.

§ 42-7B-48.1. Distribution of funds following payment of net municipal proceeds to City of Deadwood.

Disbursements from the Gaming Commission fund shall be as set forth in § [42-7B-48](#) until such time as the net municipal proceeds paid to the City of Deadwood equals six million eight hundred thousand dollars for each year, and after payment of commission expenses pursuant to subdivision [42-7B-48](#) (2), and after payment of one hundred thousand dollars to the State Historical Preservation Grant and Loan fund pursuant to subdivision [42-7B-48](#) (4). Thereafter, all remaining funds shall be distributed as follows:

- (1) Seventy percent to the state general fund;
- (2) Ten percent to be distributed to municipalities in Lawrence County, except the City of Deadwood, pro rata according to their population;
- (3) Ten percent to be distributed to school districts, pro rata based upon the previous year's average daily membership, located in whole or in part, in Lawrence County. For any school district located only partly in Lawrence County, only that portion of the district's average daily attendance which represents students residing in Lawrence County shall be considered in calculating the proration required by this subdivision; and
- (4) Ten percent to the City of Deadwood for deposit in the historic restoration and preservation fund.

Source: SL 1995, ch 246, § 1.

§ 42-7B-48.2. General state aid to school districts reduced by payments from Gaming Commission fund.

Notwithstanding any other provision of state law, payments received by a school district in accordance with subdivision [42-7B-48.1](#) (3), shall reduce on a dollar for dollar basis any general state aid otherwise payable to the school district.

Source: SL 1995, ch 246, § 2.

§ 42-7B-49. Acceptance and expenditure of funds by commission.

The South Dakota gaming commission may accept and expend for the purpose of this chapter and [chapter 42-7](#), in addition to the amount in SL 1989, ch 374, § 43A, any funds obtained from federal sources, gifts, contributions or any other source if such acceptance and expenditure is approved in accordance with § [4-8B-10](#).

Source: SL 1989, ch 374, § 43B; 1991, ch 349, § 39.

§ 42-7B-50. Payment of expenditures.

Expenditures authorized by this chapter and [chapter 42-7](#) shall be paid on warrants drawn by the state auditor on vouchers approved by the executive secretary of the South Dakota gaming commission.

Source: SL 1989, ch 374, § 43C; 1991, ch 349, § 40.

§ 42-7B-51. Disposition and nature of money appropriated.

Repealed by SL 1990, ch 343, § 28.

§ 42-7B-52. Taxes and fees to support identified entities.

Notwithstanding any other provision of law to the contrary, the taxes and fees provided in this chapter shall go into effect to support the entities identified in this chapter.

Source: SL 1989, ch 374, § 43E.

§ 42-7B-53. Statement of public policy - Equipment not subject to certain exclusive agreements.

It is the public policy of this state that gaming equipment authorized and approved by the commission may not be subject to any exclusive agreements entered prior to March 15, 1989.

Source: SL 1989, ch 374, § 43F.

§ 42-7B-54. Anticipatory revenue bonds.

The city of Deadwood may issue revenue bonds in anticipation of the receipt of net municipal proceeds as provided in subdivision [42-7B-48](#) (4). The proceeds of the sale of such revenue bonds shall be deposited in the Deadwood historic restoration and preservation fund and used for the purposes thereof. The revenue bonds shall be payable solely from the net municipal proceeds, and the city shall, in the ordinance or resolution authorizing the revenue bonds, irrevocably pledge and appropriate so much of the net municipal proceeds received by the city as may be necessary for the payment of the revenue bonds and the restoration of any reserves established in connection with the bonds. The principal amount of any issue of revenue bonds may not exceed the sum of the estimated capital needs of the historic restoration and preservation fund for the current and next three succeeding fiscal years of the city, a debt service reserve fund not exceeding the maximum annual debt service on the issue, the premium for bond insurance or other credit enhancement for the issue and the estimated cost of issuance of the revenue bonds. The revenue bonds shall be authorized, issued and sold as provided in [chapter 6-8B](#), except that no election is required to authorize the issuance of the bonds.

Source: SL 1990, ch 344, § 3.

§ 42-7B-55. Certain gambling statutes not applicable.

[Sections 21-6-1](#), [21-6-2](#), [22-25-3](#) and [53-9-2](#) do not apply to authorized gaming and lotteries.

Source: SL 1990, ch 343, § 1.

§ 42-7B-56. Appointment of commission employee as law enforcement officer.

The commission may appoint an employee to be a law enforcement officer pursuant to § [23-3-27](#). Any person appointed as a law enforcement officer under this section shall qualify, become certified and remain certified pursuant to law. The commission may revoke the appointment at any time.

Source: SL 1990, ch 343, § 3.

§ 42-7B-57. Commission use of unmarked vehicles.

The commission may exempt certain of its motor vehicles from the provisions of §§ [32-5-43](#) and [32-5-44](#) in order to provide unmarked vehicles to its employees and agents.

Source: SL 1990, ch 343, § 4.

§ 42-7B-58. Records - Confidentiality - Exception for official purposes and tax purposes.

Information and records of the commission on gaming enumerated by this section are confidential and may not be disclosed except pursuant to a court order. No person may use a subpoena, discovery or other applicable statutes to obtain such information or records. Information and records considered confidential include:

- (1) Tax returns of individual licensees;
- (2) Applications, credit, medical and security reports of applicants for licensees and other persons seeking or doing business with the commission;
- (3) Marketing, financial or sales data the disclosure of which may be harmful to the competitive position of Deadwood gaming, its retailers, licensees or persons seeking or doing business with the commission;
- (4) Audit work papers, worksheets and auditing procedures used by the commission, its agents or employees; and
- (5) Information gathered pursuant to § [42-7B-9.1](#).

This section does not apply to requests for such information or records from the Governor; attorney general; the state's attorney of Lawrence county; officers, employees or legal representatives of the department of revenue for the purpose of and only to the extent necessary in the investigation and audit procedures authorized by [Title 10](#); law enforcement officers of any other municipality or state or federal agency or department for a law enforcement activity if the head of that agency or department requesting such information makes a written request to the executive secretary specifying the particular information requested and specifying the law enforcement activity for which the information is sought; or the use of such information or records by the executive secretary or commission for official purposes.

This section may not be construed to make confidential the aggregate tax collections during any reporting period, the names and businesses of licensees, or figures showing the aggregate amount of money bet during any reporting period.

Source: SL 1990, ch 343, § 5; 1992, ch 70, § 3.

§ 42-7B-59. Certain communications between commission and secretary privileged and confidential.

Communications between the commission and the executive secretary relating to licensing, disciplining of licensees, or violations by licensees are privileged and confidential if made lawfully and in the course of and in furtherance of the business of the commission on gaming, except pursuant to court order after an in-camera review. The executive secretary, the commission or any member of the commission may claim this

privilege.

Source: SL 1990, ch 343, § 8.

§ 42-7B-60. Exclusion or ejection of certain persons from gaming establishments necessary.

The Legislature hereby declares that the exclusion or ejection of certain persons from licensed gaming establishments is necessary to carry out the policies of this chapter and to maintain effectively the strict regulation of licensed gaming.

Source: SL 1990, ch 343, § 24.

§ 42-7B-61. List of persons to be excluded - Factors considered.

The commission may by rules promulgated pursuant to [chapter 1-26](#) provide for the establishment of a list of persons who are to be excluded or ejected from any licensed gaming establishment, including any person whose presence in the establishment is determined to pose a threat to the interest of the state of South Dakota or to licensed gaming, or both. In making the determination for exclusion, the commission may consider any of the following:

- (1) Prior conviction of a felony, a misdemeanor involving moral turpitude or a violation of the gaming laws of any state, the United States, any of its possessions or territories including Indian tribes;
- (2) A violation, attempt to violate or conspiracy to violate the provisions of this chapter relating to the failure to disclose an interest in a gaming establishment for which the person must obtain a license or make disclosures to the commission; or intentional evasion of fees or taxes;
- (3) Notorious or unsavory reputation that would adversely affect public confidence and trust that the gaming industry is free from criminal or corruptive influences.

Source: SL 1990, ch 343, § 25.

§ 42-7B-62. Notice to excluded person.

If the name and description of any person is placed on the exclusion list, the commission shall serve notice of that action upon the person by at least one of the following means:

- (1) By personal service;

(2) By certified or registered mail to the last known address of the person; or
(3) By publication in an official newspaper in Lawrence county, South Dakota.
A person placed upon the exclusion list may contest that action by filing a written protest with the commission and the protest shall be heard by the commission as a contested case pursuant to [chapter 1-26](#).

Source: SL 1990, ch 343, § 26; 1991, ch 24, § 17.

§ 42-7B-63. Management of future growth and development.

Repealed by special referendum election held September 14, 1993.

§ 42-7B-64. Gaming contract defined.

For the purposes of this chapter, a gaming contract is any contract between licensees, and also a contract between a licensee and a nonlicensee which directly or indirectly relates to the employment of licensed personnel, which relates to the acquisition or use of capital assets used by the licensee in the business of gaming, or which relates to the earnings or profits of the licensee from the business of gaming, or any other contract which affects the proprietary or financial interest of the licensee's gaming business or gaming license.

Source: SL 1993, ch 321, § 2.

§ 42-7B-65. Copy of any process or pleading to the commission.

A licensee shall deliver a copy of any process or pleading from any jurisdiction in which the licensee is a party to the commission within thirty days of being served by or upon them. This requirement includes any agency or regulatory proceeding in which the licensee is a party.

Source: SL 1993, ch 321, § 11.

§ 42-7B-66. Copies of all proposed gaming contracts to the executive secretary.

A person shall submit copies of all proposed gaming contracts to the executive secretary. The executive secretary or the commission may approve or deny gaming contracts and require changes in the contracts before participation by the licensee is allowed. The executive secretary or the commission may require a licensee to terminate participation in a gaming contract.

Source: SL 1993, ch 321, § 12.

§ 42-7B-67. Notification by licensee of involvement in gaming operations out of state or on any Indian reservation.

Any licensee who intends to become involved in gaming operations outside of the State of South Dakota or on any Indian reservation located in whole or in part in the State of South Dakota shall notify the commission in writing of that licensee's intention to engage in such additional gaming operations and gaming business. Notification shall be mailed or delivered to the commission simultaneously with that licensee's application to the foreign state or applicable Indian authority. The executive secretary and the commission may impose all sanctions otherwise authorized by this chapter on any licensee who fails to comply with the provisions of this section.

Source: SL 1993, ch 321, § 13.

§ 42-7B-68. Fees for publication and reports.

The commission may charge a fee for copies of publications and reports provided to the public and for the costs of mailing and distribution at a rate set by the commission.

Source: SL 1993, ch 321, § 14.

§ 42-7B-69. Manufacture of gaming devices or equipment for exportation.

Any slot machine manufacturer who is licensed pursuant to this chapter may manufacture gaming devices or equipment for exportation outside this state subject to rules promulgated by the commission pursuant to [chapter 1-26](#).

Source: SL 1993, ch 321, § 15.

§ 42-7B-70. Provision applicable to manufacture of gaming devices and equipment for exportation.

The provisions of §§ [42-7B-37](#), [42-7B-38](#) and [42-7B-39](#) apply to the manufacture of gaming devices and equipment for exportation outside this state as authorized by the commission.

Source: SL 1993, ch 321, § 17.

§ 42-7B-71. Provision of interlink communications service to slot machines - Not applicable in Deadwood.

A licensed manufacturer or distributor may supply a licensed operator with a communications service to interlink progressive slot machines and related equipment where such gaming is authorized by law, and may provide accounting, collection and disbursement services relating to the prizes. This section does not apply to gaming in the City of Deadwood and the provisions of this section are not intended to diminish or expand the authority of the commission to permit or regulate gaming in the City of Deadwood.

Source: SL 1994, ch 333.

The commission may charge a fee for copies of publications and reports provided to the public and for the costs of mailing and distribution at a rate set by the commission.

Source: SL 1993, ch 321, § 14.

§ 42-7B-69. Manufacture of gaming devices or equipment for exportation.

Any slot machine manufacturer who is licensed pursuant to this chapter may manufacture gaming devices or equipment for exportation outside this state subject to rules promulgated by the commission pursuant to [chapter 1-26](#).

Source: SL 1993, ch 321, § 15.

§ 42-7B-70. Provision applicable to manufacture of gaming devices and equipment for exportation.

The provisions of §§ [42-7B-37](#), [42-7B-38](#) and [42-7B-39](#) apply to the manufacture of gaming devices and equipment for exportation outside this state as authorized by the commission.

Source: SL 1993, ch 321, § 17.

§ 42-7B-71. Provision of interlink communications service to slot machines - Not applicable in Deadwood.

A licensed manufacturer or distributor may supply a licensed operator with a communications service to interlink progressive slot machines and related equipment where such gaming is authorized by law, and may provide accounting, collection and disbursement services relating to the prizes. This section does not apply to gaming in the City of Deadwood and the provisions of this section are not intended to diminish or expand the authority of the commission to permit or regulate gaming in the City of Deadwood.

Source: SL 1994, ch 333.