

North Dakota Gaming Update



June 2009

Contents

State Gaming Commission Meeting	Front Page
Soliciting Members for the Advisory Board	Front Page
Changes to Games of Chance Law Book	Page 2 & 3
Summary of Legislative Changes	Page 4
Distributors and Manufacturers	Page 5
Top Twenty Organizations	Page 5
Quarter Analysis of Gaming Activity	Page 6
Calendar Year Analysis of Gaming Activity	Page 7
Additional Legislation	Back Page
Gaming Enforcement Grants to Cities and Counties Reduced	Back Page

A copy of GAMING UPDATE is provided free of charge to all gaming distributors and organizations, and to the Gaming Commission and Advisory Board members. Please share this newsletter.

State Gaming Commission Meeting

Thursday, 1:00 p.m. ~ June 18

A meeting of the State Gaming Commission will be held on *Thursday, June 18, 2009*, at 1:00 p.m. in the Roosevelt Park Room on the ground floor of the State Capitol in Bismarck. The purpose of this meeting will be to discuss recent legislative law changes and determine procedures for the process of changing the Administrative rules. Once the new Gaming Advisory Board members have been appointed the process of adopting the new Administrative rules will begin.

Soliciting Members for the Advisory Board

The Office of Attorney General is soliciting people to serve on the Advisory Board. The two-year terms of all current members expire on June 30, 2009.

Since 1985, the Advisory Board has provided guidance and invaluable assistance to the Gaming Commission and the Office of Attorney General on many regulatory policy issues, in revising the gaming rules and recommended law changes. The Advisory Board meets a few times each year as needed. The meetings usually are one-half to one day in length and are normally held in Bismarck. Members serve on a voluntary basis and are not reimbursed for expenses unless they are also members of the legislature.

If you are interested in volunteering to serve on the Advisory Board, please notify this office in writing no later than June 30, 2009.

Changes to Games of Chance Law Book

The Office of Attorney General will not be reprinting the law section of the Games of Chance Laws and Administrative Rules book because of the State Gaming Commission's anticipated process of drafting and promulgating new administrative rules. Therefore, gaming organizations should make the following law changes to the orange covered Games of Chance book dated August 1, 2007, or print out a copy of the new laws from our office's web page at www.ag.nd.gov/ and click on Gaming/ Rules and Regulations/ Games of Chance Laws 2009.

The following changes should be made to the current orange covered Games of Chance Laws and Administrative Rules book:

Cover Page

Strike out the current date of August 1, 2007 and change it to August 1, 2009 as follows:

NORTH DAKOTA
GAMES OF CHANCE
LAWS

CHAPTER 53-06.1 OF THE
NORTH DAKOTA CENTURY CODE
EFFECTIVE AUGUST 1, ~~2007~~ **2009**

Page 1 – Section 53-06.1-01. Definitions

At the bottom of page 1 definition No. 7 “Eligible organization” should be changed with the enclosed underlined language as follows:

7. “Eligible organization” means a veterans, charitable, educational, religious, fraternal, civic and service, public safety, or public spirited organization domiciled in North Dakota **or authorized by the secretary of state as a foreign corporation under chapter 10-33**, incorporated as a nonprofit organization, and which has been regularly and actively fulfilling its primary purpose within this state during the two immediately preceding years. However, an educational organization does not need to be incorporated or be in existence for two

years. An organization's primary purpose may not involve the conduct of games. The organization may be issued a license by the attorney general.

For purposes of this section, a foreign corporation authorized under chapter 10-33 is not an eligible organization unless authorized to conduct a raffle under chapter 20.1-08 and may not conduct a game other than a raffle under chapter 20.1-08.

Page 2 – Section 53-06.1-01. Definitions.

After definition No. 12 “Manufacturer” and before definition No. 13 “Net Proceeds” add the enclosed underlined definition:

13. “Net income” means gross proceeds less cash prizes, cost of merchandise prizes, and expenses to conduct the gaming activity.

Change the old definition No. 13 “Net Proceeds” to No. 14 and renumber the remaining numbers from 14 through 21 as follows:

- ~~13-~~ **14.** “Net proceeds” ...
- ~~14-~~ **15.** “Permit” ...
- ~~15-~~ **16.** “Person” ...
- ~~16-~~ **17.** “Prize board” ...
- ~~17-~~ **18.** “Public safety organization” ...
- ~~18-~~ **19.** “Public-spirited organization” ...
- ~~19-~~ **20.** “Religious organization” ...
- ~~20-~~ **21.** “Veterans organization” ...

Page 4 – Section 53-06.1-03. Permits, site authorization, and licenses.

At the top of page 4, make the enclosed changes to subdivision a of subsection 1 of section 53-06.1-03, by striking out and adding the underlined language as follows:

and poker. The organization or closely related organizations as a whole may only award a primary prize that does not exceed ~~two six thousand five hundred~~ **two thousand six hundred dollars, except that a raffle cash prize may not exceed the limits of section 53-06.1-10.1**, and total prizes of all games that do not exceed twelve thousand dollars per year.



Changes to Law Book, continued

These maximum prize amounts do not apply to raffles conducted under chapter 20.1-08. The determination of what is a “public spirited organization” is within the sole discretion of the governing body. An organization shall disclose on the application its intended use of the net income from the gaming activity. A governing body may issue a permit for games to be held at designated times and places.

Page 12 – Section 53-06.1-12. Gaming and excise taxes – Exception – Deposits and allocations.

At the top of page 12, make the enclosed changes to subsections 2, 4, and 5 of section 53-06.1-12, by adding the underlined language and striking out changed language as follows:

2. Except as provided in subsection 3, in addition to any other tax provided by law and in place of sales or use taxes, there is imposed **on a licensed organization** an excise tax of ~~four and one half~~ **three** percent on the gross proceeds from the sale at retail of pull tabs and three percent on the gross proceeds from the sale at retail of bingo cards to final users. This includes pull tabs or bingo cards provided to a player in exchange for redeemed winning pull tabs or bingo cards. The tax must be paid to the attorney general ~~when~~ **at the time** tax returns are filed.
4. Except as provided in subsection 5, the ~~state treasurer~~ **attorney general** shall deposit gaming and excise taxes, monetary fines, and interest and penalties collected in the general fund in the state treasury.
5. The ~~state treasurer~~ **attorney general** shall deposit three percent of the total taxes, less refunds, collected under this section into a gaming and excise tax allocation fund. Pursuant to legislative appropriation, moneys in the fund must be distributed quarterly to cities and counties in proportion to the taxes collected under this section from licensed organizations conducting games within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation under this subsection is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter and the undistributed amount must be included in the total amount to be distributed to other cities

and counties for the quarter.

Page 12 & 13 – Section 53-06.1-12.3 Interest, penalty, and estimated tax.

At the bottom of page 12, make the enclosed changes to subsections 1, 2, and 4 of section 53-06.1-12.3, and at the top of page 13 make the enclosed change to subsection 5 of section 53-06.1-12.3, as follows:

1. Assessment of interest. If ~~an~~ **a licensed** organization does not pay tax due by the original date of a tax return, or if additional tax is due based on an audit or math verification of the return and it is not paid by the original due date of the return, the organization shall pay interest on the tax at the rate of twelve percent per annum computed from the original due date of the return through the date the tax is paid.
2. Assessment of penalty. If ~~an~~ **a licensed** organization does not pay tax due on a tax return by the original or extended due date of the return, or if additional tax is due based on an audit or math verification of the return and it is not paid by the original or extended due date of the return, the organization shall pay a penalty of five percent of the tax, or twenty-five dollars, whichever is greater. If an organization does not file a tax return by the original or extended due date of the return, the organization shall pay a penalty of five percent of the tax, or twenty-five dollars, whichever is greater, for each month or fraction of a month during which the return is not filed, not exceeding a total of twenty-five percent.
4. If ~~an~~ **a licensed** organization has failed to file a tax return, has been notified by the attorney general of the delinquency, and refuses or neglects within thirty days after the notice to file a proper return, the attorney general shall determine the adjusted gross proceeds and gaming and excise taxes due according to the best information available and assess the taxes at not more than double the amount. Interest and penalty also must be assessed.
5. The attorney general may authorize ~~an~~ **a licensed** organization to pay any delinquent tax, interest, or penalty on an installment plan and may set any qualifying conditions.



Summary of Legislative Changes

Five gaming bills and one study resolution passed and one gaming bill was defeated in the 2009 legislative session. Two bills that passed are effective on July 1, 2009. The remaining three bills will become effective on August 1, 2009.

HOUSE BILL 1194

Allows a Foreign Corporation that Receives a Governor's Proclamation under Chapter 20.1-08, to be an Eligible Organization to Conduct Charitable Games of Chance (Effective August 1st)

The definition of an "Eligible organization" to conduct charitable games of chance was modified to include a couple of foreign corporations not domiciled in North Dakota provided that the organizations received a Governor's Proclamation under chapter 20.1-08 of the North Dakota Century Code. These wildlife groups typically receive Governor's Proclamations to raffle a specific hunting license but desire to conduct additional games of chance under a state gaming license.

HOUSE BILL 1317

Excise Tax Reduced from 4½% to 3% on the Gross Proceeds from the Sale of Pull Tabs (Effective July 1st)

Organizations that conduct pull tabs will notice a substantial decrease in their pull tab excise tax (33%) which will be re-allocated between a slightly higher gaming tax, a significant increase in allowable expenses, and the remainder to net proceeds for eligible uses.

Effective July 1, 2009, organizations that sell pull tabs will be required to pay a 3% excise tax on the gross proceeds on the sale of pull tabs which is the same excise tax currently required on the sale of bingo cards. The gross wagers on pull tabs (which includes the 3% excise tax) will be multiplied by .0291 to calculate the new pull tab excise tax amount.

The Office of Attorney General will update the gaming tax returns for the four quarters beginning July 1, 2009, through June 30, 2010, to assist organizations with calculating the new pull tab excise tax amount.

HOUSE BILL 1367

Primary Prize Limit under Local Permits and Charity Local Permits Increased from \$2,500 to \$6,000 (Effective August 1st)

Organizations that conduct games of chance under local permits or charity local permits may award a primary prize up to \$6,000 or one-half of the total prizes of \$12,000 allowed under local permits and charity local permits. However, raffle cash prizes will still be restricted to the \$4,000 restriction as outlined in North

Dakota Century Code 53-06.1-10.1(Raffles). Prior to this law change, organizations conducting under local permits and charity local permits were restricted to a primary prize amount that did not exceed \$2,500.

SENATE BILL 2091

Deposits of Gaming and Excise Taxes and the Allocation of Gaming Taxes to Cities and Counties are the Responsibility of the Office of Attorney General rather than the State Treasurer's Office (Effective August 1st)

This represents a general housekeeping bill indicating that the Office of Attorney General rather than the State Treasurer's Office is responsible for depositing gaming and excise taxes and the allocation of gaming and excise taxes to local cities and counties for gaming enforcement. In recent years, the Office of Attorney General has been making the gaming and excise tax deposits and determining the allocation amounts to the cities and counties on behalf of the State Treasurer although the Century Code did not reflect these as duties of our office.

SENATE BILL 2215

Local Permit and Charity Local Permit Holders are Now Exempt from Bingo Excise Taxes (Effective July 1st)

The North Dakota Century Code was clarified to require that only licensed gaming organizations are subject to the payment of excise taxes and related interest, penalties, or estimated taxes. A similar exemption previously applied to the 5-20% gaming tax which has now been expanded to include the elimination of bingo excise taxes from organizations that operate under local permits and charity local permits.

SENATE CONCURRENT RESOLUTION 4028

Study of the Charitable Gaming Laws

This resolution directs Legislative Council to study the gaming laws to determine whether the laws regarding taxation, limitations, enforcement, conduct, and play of charitable games are fair, adequate, and appropriate. A comprehensive review of the laws governing charitable gaming has not been conducted since the 1993-94 interim although a number of industry factors have changed including increased competition and the significant generation of tax revenue to the State of North Dakota. Findings from the study and any proposed law changes will be made to the 2011 Legislative Assembly. **Note: On May 20, 2009, Legislative Council revised the directive of this study to include pari-mutuel racing laws as well as the charitable gaming laws.**



Distributors and Manufacturers

The Office of Attorney General recently completed the re-licensing process of Gaming Distributors and Manufacturers for the fiscal year April 1, 2009, through March 31, 2010. Below is a compiled list of all Licensed Gaming Distributors and Manufacturers for the current licensing year.

List of Licensed Distributors

<u>NAME</u>	<u>MAILING ADDRESS</u>	<u>TELEPHONE</u>
Dakota Gaming Supply Inc.	1308 E Ave F, Bismarck, ND 58501	(701) 224-0514
Western Distributing Co.	PO Box 832, Bismarck, ND 58504	(701) 223-0154
Borchert Distributing LLC	811 8th Ave N, Fargo, ND 58102	(701) 799-8401
Charitable Equipment Inc.	PO Box 1877, Fargo, ND 58104	(701) 280-9292
Lien Games Inc.	PO Box 564, Fargo, ND 58103	(701) 232-7755
Mr. Ed's Bingo & Casino Supply	PO Box 848, Fargo, ND 58102	(701) 492-8928
Northland Gaming	6233 Martens Way, Fargo, ND 58104	(701) 232-9318
Statewide Inc.	1015 N 51st St # D, Grand Forks, ND 58203	(800) 732-1090
Central Gaming	2204 HWY 1806 S, Mandan, ND 58554	(701) 667-4550
Chuck's Inc.	214 Main Street, Williston, ND 58801	(701) 572-6254

List of Licensed Manufacturers

<u>NAME</u>	<u>MAILING ADDRESS</u>	<u>TELEPHONE</u>
Douglas Press	2810 Madison St, Bellwood, IL 60104	(708) 547-8400
International Gamco Inc.	9335 N 48th St, Omaha, NE 68152	(402) 571-2449
Universal Manufacturing Co.	5450 Deramus, Kansas City, MO 64120	(816) 231-2771
Arrow International Inc.	9900 Clinton Road, Brooklyn, OH 44144	(216) 961-3500
Paramount Games Inc.	30 Mills Street, Wheatland, PA 16161	(972) 713-2821
Gametech International Inc.	8850 Double Diamond Pkwy, Reno, NV 89521	(775) 850-6000
Planet Bingo LLC	41-750 Rancho Las Palmas # A, Rancho Mirage, CA 92270	(760) 773-0197
Video King & Power Bingo	2717 N 118th Circle # 210, Omaha, NE 68164	(402) 951-2970
Pollard Games Inc.	504 34th Avenue, Council Bluffs, IA 51501	(712) 366-9553

(Pull Tab Dispensing Device Manufacturers Only)

<u>NAME</u>	<u>MAILING ADDRESS</u>	<u>TELEPHONE</u>
Technik Manufacturing Inc.	1005 17th St, Columbus, NE 68601	(402) 564-3191

Top Twenty Organizations

<u>NAME</u>	<u>Active Sites</u>	<u>Gross Proceeds</u>	<u>Prizes</u>	<u>Adjusted Gross Proceeds</u>
ND Association for the Disabled, Grand Forks	9	\$5,284,992	\$4,274,845	\$1,010,147
Prairie Public Broadcasting, Inc., Fargo	14	3,353,747	2,653,089	700,658
Plains Art Museum, Fargo	4	3,365,453	2,733,333	632,120
Grand Forks Blue Line Club, Inc., Grand Forks	3	2,050,140	1,627,097	423,043
Minot Junior Golf Association, Inc., Minot	8	1,998,947	1,642,498	356,449
Minot Hockey Boosters, Inc., Minot	17	1,736,462	1,388,693	347,769
American Foundation for Wildlife, Bismarck	25	1,337,289	1,048,153	289,136
Bismarck-Mandan CVB, Bismarck	6	1,485,491	1,210,064	275,427
Fort Abraham Lincoln Foundation, Mandan	16	1,428,397	1,164,094	264,303
Knights of Columbus Council, Jamestown	14	1,239,356	980,157	259,199
Development Homes, Inc., Grand Forks	9	1,802,994	1,545,907	257,087
Dickinson Youth Activities, Dickinson	5	1,257,043	1,009,430	247,613
Listen Inc., Grand Forks	10	1,395,396	1,157,423	237,973
Williston CVB, Williston	6	1,084,082	859,916	224,166
Williston State College FND, Williston	10	1,148,599	945,778	202,821
Progress Enterprises, Inc., Jamestown	5	1,032,324	837,497	194,827
West Fargo Hockey Assn., Inc., West Fargo	7	1,328,872	1,134,086	194,786
Cystic Fibrosis Assn. of ND, Bismarck	9	935,156	741,268	193,888
Northern Prairie Performing Arts, Fargo	7	1,093,958	916,621	177,337
Red River Human Services FND, Fargo	5	1,149,916	972,830	177,086
	189	35,508,614	28,842,779	6,665,835

Note: The organizations are listed in descending order by Adjusted Gross Proceeds prior to adjustments for Cash Long (+), Interest (+), Gaming Excise Tax (-), and Bingo Sales Tax (-).



Quarter Analysis of Gaming Activity

The amount of money wagered on charitable games of chance for the quarter ended December 31, 2008, was \$64,529,928. This represents an overall decrease of 2.5% or \$1,657,206 from wagers made during the same quarter in 2007 when \$66,187,134 was wagered. Several major game types had modest decreases in activity including bingo which decreased 3.3% or \$268,235 and twenty-one which decreased 3.8% or \$753,196, while pull tabs decreased 6.2% or \$1,349,991, prize boards decreased 28.9% or \$117,154, and poker decreased 40.3% or \$161,840. The largest dollar increase was in pull tab dispensing device sales which increased 7% or \$1,010,970 during the quarter.

Quarter Ended December 31, 2008

	Gross Proceeds	Prizes	Adjusted Gross Proceeds
Bingo	\$7,789,699	\$6,290,601	\$1,499,098
Raffles	749,902	250,738	499,164
Pull Tabs	20,448,422	16,118,822	4,329,600
Pull Tabs - Dispensing	14,545,574	11,248,267	3,297,307
Club Specials, Tip, Seal & Prize Boards	288,051	202,844	85,207
Punch Boards	7,400	5,888	1,512
Sports Pools	51,127	40,743	10,384
Twenty-One	19,107,029	16,187,080	2,919,949
Calcuttas	41,120	35,836	5,284
Paddlewheels	49,590	28,491	21,099
Paddlewheels – with Table	1,204,767	918,788	285,979
Poker	239,921	188,461	51,460
Other (Cash Long/Interest)	<u>7,326</u>	<u>0</u>	<u>7,326</u>
Totals:	\$64,529,928	\$51,516,559	\$13,013,369
Less:			
ND Pull Tab Excise Tax			\$1,520,002
Federal Excise Tax			24,057
ND Bingo Excise Tax			<u>226,677</u>
Total Adjusted Gross Proceeds			\$11,242,633
Less:			
Gaming Tax			\$721,600
Total Allowed Expenses			<u>6,533,789</u>
Total Deductible Expenses			\$7,255,389
Net Proceeds Earned			\$3,987,244
Eligible Use Contributions			\$4,727,112



Calendar Year Analysis of Gaming Activity

The amount of money wagered on charitable games of chance for calendar year ended December 31, 2008 was \$265,805,193. This represents a 2.9% increase or \$7,539,813 from calendar year 2007 when \$258,265,380 was wagered. All major game types had increases in the amount wagered in 2008 including pull tab dispensing devices which increased 5.9% or \$3,125,850, twenty-one which increased 2.6% or \$1,955,784, pull tab jars which increased 2.5% or \$2,158,677, and bingo which increased .9% or \$300,600. Poker had the largest percentage decrease of 37.5% or \$445,576 during calendar year ended 2008.

Calendar Year Ended December 31, 2008

	Gross Proceeds	Prizes	Adjusted Gross Proceeds
Bingo	\$33,020,265	\$25,646,842	\$7,373,423
Raffles	4,122,775	1,669,565	2,453,210
Pull Tabs	88,046,907	69,338,456	18,708,451
Pull Tabs - Dispensing	55,758,834	43,146,999	12,611,835
Club Specials, Tip, Seal & Prize Boards	1,149,879	847,195	302,684
Punch Boards	13,237	10,433	2,804
Sports Pools	120,466	96,466	24,000
Twenty-One	77,402,499	65,339,227	12,063,272
Calcuttas	195,023	167,442	27,581
Paddlewheels	156,200	83,791	72,409
Paddlewheels – with Table	5,026,653	3,716,776	1,309,877
Poker	742,660	589,241	153,419
Other (Cash Long/Interest)	<u>49,795</u>	0	<u>49,795</u>
Totals:	\$265,805,193	\$210,652,433	\$55,152,760

Less:	ND Pull Tab Excise Tax	\$6,245,432
	Federal Excise Tax	97,408
	ND Bingo Excise Tax	<u>960,879</u>
	Total Adjusted Gross Proceeds	\$47,849,041

Less:	Gaming Tax	\$3,268,892
	Total Allowed Expenses	<u>27,608,858</u>
	Total Deductible Expenses	\$30,877,750

Net Proceeds Earned \$16,971,291

Eligible Use Contributions \$18,967,240



Office of Attorney General
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Bismarck, ND 58505-0040

www.ag.nd.gov

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Additional Legislation

An additional bill was passed during the 2009 Legislative session which may impact some gaming operators after July 1, 2010. The bill introduced at the request of the Department of Human Services - Child Support Enforcement Unit will require all gaming operators that are required to file an IRS form W-2G or substantially equivalent form to submit information through a secure interactive website for possible withholding of winnings.

If the gaming operator is notified that the win-

ner owes past-due child support the appropriate amount must be withheld from the winner, along with information to allow the winner to protest the withholding, and the withheld funds must be remitted to the child enforcement unit within seven business days. The gaming operator may withhold an additional sum of \$3 from the winner to cover expenses involved in remitting the payment and according to the law is immune from suit or liability for complying with the law.

Gaming Enforcement Grants to Cities and Counties Reduced

Based on the reduced pull tab excise tax from 4½% to 3% starting July 1, 2009, the Local Gaming Enforcement Grants payable to cities and counties has been reduced from a total of \$617,000 per biennium to \$510,000 for the 2009-2011 biennium. Grants are distributed to local cities and counties on a quarterly basis based on their respective adjusted gross proceeds.