

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1234

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and chapter 53-06.3 of the North Dakota Century Code, relating to criminal history background checks and the regulation of sports wagering; to provide for a legislative management study; to provide a penalty; and to provide a contingent effective date.

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

**SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The sports wagering commission for each applicant or licensee under chapter 53-06.3.

**SECTION 2.** Chapter 53-06.3 of the North Dakota Century Code is created and enacted as follows:

**53-06.3-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Commission" means the sports wagering commission established as a division of the attorney general's office.
2. "Gross wagering receipts" means an operator's total sports wagers less allowed free bets and allowed promotional credits.
3. "License" means a license applied for or issued by the commission under this chapter, including:
  - a. A retail sports wagering license under section 53-06.3-07 to permit a retail sports wagering operator to operate sports wagering through sports wagering terminals, including kiosk terminals, placed in various licensed physical locations throughout the state which are linked to a licensed retail sports wagering operator's central computerized system for the operation of retail sports wagering.
  - b. A mobile sports wagering license under section 53-06.3-07 to permit a mobile operator to operate sports wagering through an approved mobile application, web-based, or other digital platform that involves online wagering with the use of the internet. The term mobile means both a web-based online system and a mobile application.
  - c. A participating retail location license under section 53-06.3-08 for the retail outlets where sports wagering terminals are placed which are connected with a licensed retail sports wagering operator.

- d. A supplier license under section 53-06.3-08 to sell, lease, or otherwise contract for equipment, systems, goods, and services to be used in connection with a sports wagering, but not to directly accept wagers in place of the retail or mobile licensed operators.
- 4. "Net revenue" means the total gross wagering receipts less allowed free wagers, allowed promotional play, payments to players for winnings, and any applicable federal excise tax. Payments to players includes payments of cash, cash equivalents, merchandise, or other thing of value awarded as a prize or payment, less any applicable federal excise tax.
- 5. "Operator" means a retail sports wagering licensee or mobile sports wagering licensee under section 53-06.3-07.
- 6. "Professional sports or athletic event" means an event:
  - a. At which two or more participants participate in a sports or athletic event and one or more participants receive compensation and which is not a prohibited sports event; or
  - b. Any other event authorized by the commission by rule.
- 7. "Prohibited sports event" means a college or high school sports or athletic event, or any other event in which a majority of the participants are under eighteen years of age unless the activity qualifies as a professional sport or athletic event or is organized by an international body such as the international olympic committee.
- 8. "Qualified gaming entity" means an eligible entity that offers sports wagering through retail sports wagering platforms, mobile applications, digital platforms, or web-based platforms that is approved by the commission.
- 9. "Retail sports wagering location" means a participating physical location licensed by the commission to have sports wagering devices and terminals on the premises which are provided by and linked to a licensed retail sports wagering operator's central system.
- 10. "Retail sports wagering operator" means an eligible entity that is a licensed gaming distributor within the state at the time of application for a retail sports wagering operator's license and which previously has been a licensed gaming distributor in the state for a minimum of three years before submitting the application.
- 11. "Sports wagering" means the business of accepting wagers on wagering events or portions of wagering events, the individual performance statistics of individuals in wagering events, or a combination of any of the same by any system or method of wagering approved by the commission via a licensee's central computerized wagering system, mobile or online application, or digital platform that uses communications technology to accept wagers.
  - a. The term includes single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets.

b. The term does not include:

- (1) Fantasy contests in which participants assemble teams of athletes or individuals and the winning outcome reflects the relative knowledge and skill of the participants and is determined predominantly by the accumulated statistical results of the performance of athletes or individuals in an actual event.
  - (2) Horse racing if sports wagering on the race is pari-mutuel, roulette, poker, blackjack, a card game, dice games, or any other game or contest allowed by law and approved for conduct by licensed or permitted charitable gaming organizations.
12. "Sports wagering account" means a financial record established by a licensee for an individual patron in which the patron may deposit and withdraw funds for sports wagering and other authorized purchases, and to which the licensed operator may credit winnings or other amounts due to that patron or authorized by that patron. The term includes an account that can be established electronically through an approved mobile application or digital platform.
13. "Supplier" means a person that provides, manages, administers, or controls software, hardware, or services for a sports wagering operating system that directly impacts the operation of a sports betting system or platform, including geolocation services, know your customer services, payment processors, and data providers.
14. "Wager" means a sum of money or thing of value risked on an uncertain occurrence.
15. "Wagering event" means a sports or athletic event that is not a prohibited sports event, including a professional sports or athletic event, or amateur sports or athletic event, including an olympic or international sports or athletic event, a motor vehicle race, an electronic sports event, commonly referred to as "e-sports", and any other event as permitted by the commission.

**53-06.3-02. Authorization of sports wagering - License required.**

1. Notwithstanding any provision of law to the contrary, the operation of sports wagering and ancillary activities are lawful when conducted in accordance with the provisions of this chapter and the rules adopted under this chapter.
2. A person may not engage in any activities in this state which require a license under this chapter unless the necessary license has been obtained in accordance with this chapter and rules adopted under this chapter.

**53-06.3-03. Powers and duties of commission.**

1. In administering and enforcing this chapter, the commission:
  - a. Shall adopt rules and regulate the conduct of sports wagering.

- b. Shall determine the eligibility of a person to hold or continue to hold a license, issue all licenses, and maintain a record of all licenses issued under this chapter.
  - c. Shall collect all fees, civil penalties, and tax on the net revenue imposed by this chapter, except as otherwise provided under this chapter.
  - d. May sue to enforce any provision of this chapter or any rule adopted under this chapter by civil action or petition for injunctive relief.
  - e. May hold hearings and make provision to administer oaths and issue subpoenas or subpoenas duces tecum in the manner provided by applicable law.
  - f. May exercise any other powers necessary to effectuate the provisions of this chapter and the rules adopted under this chapter.
2. The commission shall examine the rules and regulations implemented in states where sports wagering is conducted and shall adopt, as far as practicable, a similar framework to ensure the sports wagering industry is best positioned to succeed. The rules, at a minimum, must include:
- a. Qualifications for obtaining a license;
  - b. Qualifications for obtaining a temporary license;
  - c. The acceptance of wagers on a wagering event or a series of wagering events; method of accounting to be used by operators; types of records that must be kept; type of system for wagering; protections for patrons placing wagers; and promotion of social responsibility, responsible gaming, and inclusion of the statement, "If you or someone you know has a gambling problem and wants help, call 1-800-GAMBLER." or similar message at any participating retail location or on any mobile application or digital platform used to place wagers;
  - d. Standards for the adoption of comprehensive house rules governing sports wagering and adoption of the internal controls by operators and the approval of house rules and minimum controls by the commission as required under section 53-06.3-09;
  - e. Minimum design and security requirements for participating retail locations and systems, mobile applications, and digital platforms for the acceptance of wagers by mobile operators, including required methods for verifying the age and identity of an individual who places a wager and for verifying the individual making the wager physically is located in the state and is not prohibited from making a wager under section 53-06.3-12;
  - f. The types of interested parties prohibited from accepting wagers under section 53-06.3-12;
  - g. Minimum design, security, testing, and approval requirements for sports wagering equipment, systems, or services sold by suppliers licensed under section 53-06.3-08;



- a. The full name, address, and contact information of the applicant;
  - b. Disclosure of each person that has control of the applicant or the applicant's wagering activities as described in subsection 2;
  - c. Consent to permit the commission to conduct a criminal history record check, in accordance with subsection 3, of the applicant and each person disclosed under subdivision b;
  - d. For the applicant and each person disclosed under subdivision b, a record of all previous issuances and denials of a gambling-related license or application under this title or in any other jurisdiction;
  - e. Proof the applicant's wagering system has been tested for use in North Dakota by an independent testing laboratory approved by the commission; and
  - f. Any additional information, including operational standards, required by the commission by rule.
2. The following persons are considered to have control of an applicant or a licensee or the applicant's or licensee's associated sports wagering activities:
- a. Each corporate holding company, parent company, or subsidiary company of a corporate applicant or licensee and each person that owns ten percent or more of the corporate applicant or licensee or that has the ability to control the activities of the corporate applicant or licensee or elect a majority of the board of directors of that corporate applicant or licensee, except for a bank or other licensed lending institution that holds a mortgage or other lien acquired in the ordinary course of business;
  - b. Each person associated with a noncorporate applicant or licensee which directly or indirectly holds a beneficial or proprietary interest in the noncorporate applicant's or licensee's wagering business operation or which the commission otherwise determines has the ability to control the noncorporate applicant or licensee; and
  - c. Any executive, employee, or agent of an applicant or licensee that has ultimate decisionmaking authority over the conduct of the applicant or licensee's sports wagering operations in this state.
3. The commission shall require an applicant and each person disclosed under subdivision b of subsection 1 to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24.
4. A person licensed under this chapter shall give the commission written notice within thirty days of any material change to any information provided in the application for a license or renewal, including any change in the identity of persons considered to have control of the applicant or licensee as described in subsection 2.

### **53-06.3-06. Denial of license - Reprimand - Suspension - Revocation.**

The commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license:

1. If the applicant or licensee knowingly has made a false statement of material fact to the commission.
2. If the applicant or licensee intentionally has not disclosed the existence or identity of other persons that have control of the applicant or licensee as required by section 53-06.3-05.
3. If the applicant or licensee has had a license revoked by any government authority responsible for regulation of gaming activities.
4. If the applicant has been convicted of a crime of moral turpitude, a gambling-related offense, a theft or fraud offense, or has otherwise demonstrated, either by a police record or other satisfactory evidence, a lack of respect for law and order.
5. If the applicant or licensee has not demonstrated to the satisfaction of the commission financial responsibility sufficient to adequately meet the requirements of the licensed business or proposed business, including payment of winnings.
6. If an applicant has not met the requirements of this chapter or other criteria the commission may establish.

### **53-06.3-07. Retail sports wagering license - Mobile sports wagering license - Fees - Temporary license.**

1. The commission shall issue a maximum of two retail sports wagering licenses and a maximum of three mobile sports wagering licenses to applicants that meet all requirements of this chapter and rules adopted under this chapter and have not violated any portion of section 53-06.3-06 or rules adopted under this chapter, together with other criteria the commission may deem most beneficial to the state in determining the award of licenses.
2. A qualified gaming entity may apply for a retail or mobile sports wagering license.
3. A retail sports wagering license or mobile sports wagering license issued by the commission pursuant to this section grants a licensee lawful authority to conduct sports wagering through a retail computerized wagering system or any mobile application, web-based, or digital platform approved by the commission within the terms and conditions of the license and any rules adopted under this chapter.
4. A licensed retail sports wagering operator:
  - a. May hold a retail sports wagering license that authorizes the licensed distributor to:

- (1) Operate retail sports wagering through a central computer system using electronic, digital, and other systems that link wagering terminals, including kiosk terminals, located in physical locations across the state to the licensee's central wagering system;
  - (2) Distribute and service the sports wagering devices and terminals;
  - (3) Contract with licensed participating retail sports wagering locations to provide wagering terminals to the public for wagering purposes; and
  - (4) Contract with charitable, fraternal, veterans, and nonprofit organizations in the state for a participating economic sponsorship with the retail sports wagering licensee, by mutual agreement.
- b. May contract with a supplier to provide the equipment, wagering system operations, proposed rules, line and risk management, and other such services as may be required to comply with the rules under this chapter.
- c. Owns the data generated through the retail sports wagering operations relative to player and customer lists.
- d. May combine a mobile sports wagering application or web-based system in conjunction with the licensee's operation of retail sports wagering. Such mobile sports wagering, in conjunction with retail sports wagering may not reduce the maximum number of mobile wagering licenses that may be awarded.
- e. May contract with a third-party supplier for the mobile wagering system and services under this chapter. The supplier of retail and mobile wagering systems and services is subject to this chapter and rules adopted under this chapter.
5. The fee for an initial retail sports wagering license is twenty thousand dollars and a renewal license fee is ten thousand dollars. A retail sports wagering operator may apply for a mobile sports wagering license to be used in conjunction with the operator's retail sports wagering license for an additional fee of thirty thousand dollars and a renewal fee of ten thousand dollars. The initial and renewal fee for a separate mobile sports wagering license is fifty thousand dollars. In addition to the license fee, the commission may charge a processing fee for an initial or renewed license in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.
6. Except as provided in subsection 6, a license issued or renewed under this section is valid for three years unless revoked sooner by the commission under section 53-06.3-05.

7. An applicant for a license under this chapter may submit with the application a request for a temporary license to the commission for the immediate commencement of sports wagering operations or other licensed activities provided for under this chapter. The request must include the associated initial license fee payable to the commission. Upon receiving a request for a temporary license, the commission shall review the request. If the commission determines the entity requesting the temporary license is qualified, has demonstrated the entity's ability to operate under the applicable rules, has paid the associated initial license fee, and has submitted the appropriate license application, the commission may authorize the qualified applicant to conduct the licensed activities for one year under a temporary license or until a final determination on the license application is made. An extension may be granted by the commission if approval requires more than one year. Sports wagering activities or services conducted under authority of a temporary license must comply with the operator's house rules adopted pursuant to section 53-06.3-09.
8. The commission shall deposit all fees collected under this section in the sports wagering operating fund.

**53-06.3-08. Retail participating sports wagering location license - Supplier license.**

1. The commission shall issue a retail participating sports wagering location license or a supplier license upon finding the applicant meets all requirements of this chapter and rules adopted under this chapter.
2. An applicant for a retail participating sports wagering location license shall demonstrate the premises meets the criteria and rules adopted under this chapter. An applicant for a supplier license shall demonstrate the equipment, systems, or services the applicant plans to offer to an operator conform to standards established by rule under this chapter.
3. A retail sports wagering location license issued pursuant to this section grants a participating licensee lawful authority to have sports wagering terminals on the licensee's premises that are provided by and linked to the licensed retail sports wagering operator's central system on terms and conditions set forth by agreement between the two licenseholders and rules adopted under this chapter. A supplier license issued pursuant to this section grants a licensee lawful authority to sell or to lease sports wagering equipment, systems, or services to operators in the state within the terms and conditions of the license and any rules adopted under this chapter.
4. A limit may not be imposed on the number of participating locations in the state which may contract with a retail sports wagering licensee. A retail participating sports wagering location licensee is subject to this chapter and the rules adopted under this chapter and may not be restricted by or subject to chapter 53-06.1 or rules adopted under that chapter.
5. The fee for an initial retail participating sports wagering location license is two thousand dollars with a renewal fee of one thousand dollars. The fee for an initial supplier license is seven thousand dollars with a renewal fee of two thousand five hundred dollars. In addition to the license fee, the commission may charge a processing fee for an initial or renewed license.

in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.

6. Except as provided in subsection 6, a license issued or renewed under this section is valid for three years unless sooner revoked by the commission under section 53-06.3-06.
7. An applicant for a retail participating sports wagering location license or supplier license may submit with the application a request for a temporary license. A request for a temporary license must include the respective initial license fee. If the commission determines the applicant is qualified under subsection 2, meets the requirements established by rule for a temporary license, and has paid the initial license fee and the commission is not aware of any reason the applicant is ineligible for a license under this section, the commission may issue a temporary license. A temporary license issued under this subsection is valid for three years or until a final determination on the license application is made, whichever is sooner. If after investigation the commission determines the applicant is eligible for a license under this chapter, the commission shall issue the initial license, at which time the temporary license terminates.
8. The commission shall deposit all fees collected under this section in the sports wagering operating fund.

#### **53-06.3-09. Sports wagering house rules - Internal controls.**

1. An operator shall adopt comprehensive house rules for game play governing sports wagering transactions with the operator's patrons. The rules must specify the amounts to be paid on winning wagers, the circumstances under which the operator will void a bet, treatment of errors, late bets and related contingencies, and the effect of schedule changes. House rules must be approved by the commission before implementation.
2. The house rules, together with any other information the commission determines to be appropriate, must be available in the sports location and mobile wagering system.
3. An operator shall establish internal controls for the operation of retail and mobile sports wagering. The internal controls must be approved by the commission before implementation.

#### **53-06.3-10. Operator duties.**

An operator shall:

1. Employ a monitoring system using software to identify irregularities in volume or odds swings that could signal suspicious activity that requires further investigation. Such activity must be reported immediately to and investigated by the commission. System requirements and specifications must be in accordance with industry standards.

2. Promptly report to the commission any facts or circumstances related to the operation of a licensee which constitute a violation of state or federal law and immediately report any suspicious betting over a threshold set by the operator which has been approved by the commission to the appropriate state or federal authorities.
3. Conduct all sports wagering activities and functions in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of this state.
4. Keep current in all payments and obligations to the commission.
5. Prevent any person from tampering with or interfering with the operation of any sports wagering.
6. Ensure sports wagering occurs using only a retail sports betting system, mobile application, or digital platform approved by the commission which uses communications technology to accept wagers originating in this state or in a state or jurisdiction approved by the commission and consistent with federal law.
7. Maintain sufficient cash and other supplies to conduct sports wagering at all times.
8. Maintain daily records showing the gross sports wagering receipts and net revenue from the gross sports wagering receipts of the licensee and timely file with the commission any additional reports required by rule or this chapter.

**53-06.3-11. System assessment.**

Within ninety days of commencing operations and annually thereafter, an operator shall perform a system integrity and security assessment of the sports wagering system and online sports wagering system conducted by an independent professional authorized by the commission and subject to licensure and approval of the commission. The independent professional's assessment report must be submitted to the commission and must include:

1. Scope of review;
2. Name and company affiliation of the individual who conducted the assessment;
3. Date of assessment;
4. Findings;
5. Recommended corrective action, if applicable; and
6. The operator's response to the findings and recommended corrective action.

**53-06.3-12. Sports wagering agreements.**

1. On behalf of this state, the commission may:

- a. Enter a sports wagering agreement with another state, territory, nation, jurisdiction, government, or other entity to accept wagers from individuals located outside this state, if entering the sports wagering agreement does not violate state or federal law.
  - b. Take all necessary actions to ensure a sports wagering agreement entered pursuant to this section becomes effective.
2. The commission shall adopt rules to implement this section.

**53-06.3-13. Acceptance of wagers - Excluded persons.**

1. An operator may accept wagers on wagering events by means of computer systems, internet supported, and electronic devices using a computerized wagering system, mobile application, or digital platform approved by the commission. An individual placing a wager must be twenty-one years of age or older and physically be located in the state.
2. An operator shall allow patrons to fund a sports wagering account using:
  - a. A debit card;
  - b. A bonus or promotion;
  - c. An electronic bank transfer;
  - d. An online or mobile payment system that supports online money transfers; and
  - e. Any other means approved by the commission.
3. An operator may accept wagers from a patron physically located in this state through the patron's sports wagering account, using a computerized, mobile application, web-based, or digital platform approved by the commission. The branding for each mobile application or digital platform must be determined by the operator.
4. An operator may accept layoff wagers placed by other operators, and may place layoff wagers with other operators, as long as an operator that places a wager with another operator informs the operator accepting the wager that the wager is being placed by an operator and discloses the wagering operator's identity.
5. The commission or an operator may ban a person from participating in the play or operation of sports wagering. A log of all excluded persons must be kept by the commission and shared with each operator, and a person on the commission's exclusion list or an operator's exclusion list may not engage in sports wagering under this chapter.
6. An employee of an operator may not place a wager on any wagering event through a central retail wagering system, mobile application, or digital platform of that employee's employer.

**53-06.3-14. Sports wagering tax - Revenues - Limitation of other taxes.**

1. For the privilege of holding a license to operate sports wagering under this chapter, a sports wagering tax is imposed on the net revenue of the

operator. The accrual method of accounting must be used for purposes of calculating the amount of the tax owed by the licensee.

- a. The tax is six and seventy-five hundredths percent of the retail sports wagering licensee's net revenue.
  - b. The tax is ten percent of the mobile sports wagering licensee's net revenue.
2. The following provisions govern operator returns and payment of tax pursuant to subsection 1:
- a. The tax levied and collected pursuant to subsection 1 is due and payable to the commission in quarterly installments on or before the fifteenth calendar day following the calendar end of the quarter in which the net revenue was received.
  - b. On or before the fifteenth calendar day following the end of the quarter, an operator shall complete and submit the return for the preceding quarter by electronic communication to the commission in the form prescribed by the commission that provides:
    - (1) The total gross wagering receipts and net revenue from that quarter;
    - (2) The tax amount for which the operator is liable; and
    - (3) Any additional information necessary in the computation and collection of the tax on the net revenue required by the commission.
  - c. The tax due must be remitted to the commission by electronic funds transfer at the time the quarterly returns are filed.
  - d. If the net revenue from the total gross wagering receipts for a quarter is a negative number because the winnings paid to a licensee's sports wagering patrons exceed the licensee's gross sports wagering receipts, the commission shall allow the licensee to carry over the negative amount to returns filed for subsequent months. The negative amount of net revenue from total gross sports wagering receipts may not be carried back to an earlier month and money previously received by the commission may not be refunded, except due to a proven error, or if the licensee surrenders the licensee's license and the licensee's last return reported negative net revenue from gross sports wagering receipts.
3. The tax imposed by this section is in lieu of all other state and local taxes and fees imposed on the operation of or the proceeds from the operation of sports wagering.

#### **53-06.3-15. Sports wagering operating fund - Deposits and allocations.**

There is created in the state treasury the sports wagering operating fund. All moneys received from fees, taxes, interest, fines, and any other moneys collected under this chapter must be deposited in this fund. Pursuant to legislative appropriation, moneys in the fund must be distributed to the commission for the costs of administering

and regulating sports wagering in the state, including costs relating to employees, equipment, and supplies.

**53-06.3-16. Civil violation.**

Except as provided in section 53-06.3-17, a person that violates the provisions of this chapter commits a civil violation for which the commission may impose a fine of not more than ten thousand dollars for each violation. The commission shall deposit fines collected under this section in the sports wagering operating fund.

**53-06.3-17. Unauthorized sports wagering - Penalties.**

A person may not conduct sports wagering unless the person is licensed under this chapter. A person violating this section is guilty of a class B misdemeanor. A second violation is a class A misdemeanor. A third or subsequent violation is a class C felony.

**SECTION 3. CONTINGENT EFFECTIVE DATE.** This Act becomes effective on August 1, 2023, if the secretary of state certifies to the legislative council that House Concurrent Resolution No. 3032, as adopted by the sixty-seventh legislative assembly, has been approved by the voters.

**SECTION 4. LEGISLATIVE MANAGEMENT STUDY - SPORTS WAGERING.** During the 2021-23 interim, the legislative management shall consider studying sports wagering. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-eighth legislative assembly."

Renumber accordingly