

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 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 attorney general 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. "Adjusted gross sports wagering receipts" means an operator's gross receipts from sports wagering excluding free bets and promotional credits, less the total of all winnings paid to patrons, which includes the cash equivalent of any merchandise or thing of value awarded as a prize, and less excise tax payments remitted to the federal government.
2. "License" means a license applied for or issued by the attorney general under this chapter, including:
 - a. A mobile sports wagering license under section 53-06.3-06 to permit a mobile operator to operate sports wagering through an approved mobile application or other digital platform that involves, at least in part, the use of the internet; and
 - b. A supplier license under section 53-06.3-07 to sell goods and services to be used in connection with sports wagering, but not to directly accept wagers.
3. "Operator" means a mobile sports wagering licensee under section 53-06.3-06.
4. "Professional sports or athletic event" means an event 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.

5. "Prohibited sports event" means a high school sports or athletic event, or any other event in which a majority of the participants are under eighteen years of age unless such activity qualifies as a professional sport or athletic event or is organized by an international body such as the international olympic committee.
6. "Qualified gaming entity" means an entity that offers sports wagering through mobile applications or digital platforms in any jurisdiction in the United States pursuant to a state regulatory structure.
7. "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 attorney general via a mobile sports wagering licensee's mobile applications and digital platforms that use communications technology to accept wagers. 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. The term does not include 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.
8. "Sports wagering account" means a financial record established by an operator 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.
9. "Supplier" means a person that manages, administers, or controls software or hardware directly impacting the operation of a sports betting platform, including geolocation services, know your customer services, payment processors, and data providers.
10. "Wager" means a sum of money or thing of value risked on an uncertain occurrence.
11. "Wagering event" means a sports or athletic event that is not a prohibited sports event, including a professional sports or athletic event, collegiate 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 attorney general.

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 attorney general.

1. In administering and enforcing this chapter, the attorney general:
 - a. Shall 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 levy and collect all fees, civil penalties, and tax on adjusted gross sports wagering receipts imposed by this chapter, except as otherwise provided under this chapter.
 - d. May sue to enforce any provision of this chapter or any rule of the attorney general by civil action or petition for injunctive relief.
 - e. May hold hearings, 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 of the attorney general.
2. The attorney general 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 mobile sports wagering license or supplier license;
 - b. Qualifications for obtaining a temporary mobile sports wagering license and temporary supplier 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 on any mobile application or digital platform used to place wagers;
 - d. Standards for the adoption of comprehensive house rules governing sports wagering by operators and the approval of house rules by the attorney general as required under section 53-06.3-08;
 - e. Minimum design and security requirements for 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 with a mobile operator and for verifying the individual making the wager physically is located

in the state and is not prohibited from making a wager under section 53-06.3-11;

- f. The types of interested parties prohibited from accepting wagers under section 53-06.3-11;
- g. Minimum design, security, testing, and approval requirements for sports wagering equipment, systems, or services sold by suppliers licensed under section 53-06.3-07;
- h. Establishment of a list of individuals who are not authorized to place a wager on a sports event, including those individuals who voluntarily request their names be included on the list of unauthorized individuals. The rules adopted under this paragraph must define the standards for involuntary placement on the list and for removal from the list; and
- i. Minimum internal control standards for operators, including procedures for safeguarding assets and revenues; the recording of cash and evidence of indebtedness; the maintenance of reliable records, accounts, and reports of transactions, operations, and events; required audits; and the content of and frequency with which reports of sports wagering activities and revenues must be made to the attorney general.

3. The attorney general shall adopt rules to implement this chapter.

53-06.3-04. Application for license - Criminal history background check.

- 1. An application for a license or for renewal of a license required under this chapter must be submitted on a form provided by the attorney general. An application submitted to the attorney general must include the following:
 - a. The full name, current address, and contact information of the applicant;
 - b. Disclosure of each person that has control of the applicant as described in subsection 2;
 - c. Consent to permit the attorney general 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 previous issuances and denials of a gambling-related license or application under this title or in any other jurisdiction;
 - e. Proof the applicant's system has been tested and certified for use in another United States jurisdiction by an independent testing laboratory; and
 - f. Any additional information required by the attorney general by rule.
- 2. The following persons are considered to have control of an applicant or a licensee:
 - a. Each corporate holding company, parent company, or subsidiary company of a corporate applicant or licensee and each person that

owns fifteen percent or more of the corporate applicant or licensee and 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 business operation or that the attorney general 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 attorney general 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, except that an individual who has submitted to a criminal background check in this or any other state within the previous twelve months may not be required to submit to another criminal background check provided the individual submits the results of the previous criminal background check and affirms there has been no material change in the individual's criminal history since the time of the criminal background 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 attorney general written notice within thirty days of any material change to any information provided in the licensee's application for a license or renewal, including any change in the identity of persons considered to have control of the licensee as described in subsection 2.

53-06.3-05. Denial of license - Reprimand - Suspension - Revocation.

The attorney general 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 attorney general.
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 53-06.3-04.
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 attorney general financial responsibility sufficient to adequately meet the requirements of the licensed business or proposed business.
6. If an applicant has not met the requirements of this chapter.

53-06.3-06. Mobile sports wagering license.

1. The attorney general shall issue a mobile sports wagering license to an applicant that meets all requirements of this chapter and rules adopted under this chapter and that has not violated any portion of section 53-06.3-05 or rules adopted under this chapter. The attorney general may issue a maximum of three mobile sports wagering licenses to qualified applicants that are able to meet the duties of a license holder under this chapter and that the attorney general determines will be able to best maximize taxable revenue for the state.
2. A qualified gaming entity is eligible to apply for a mobile sports wagering license.
3. A mobile sports wagering license issued by the attorney general pursuant to this section grants a licensee lawful authority to conduct sports wagering through any mobile application or digital platform approved by the attorney general within the terms and conditions of the license and any rules adopted under this chapter.
4. The fee for an initial or renewed mobile sports wagering license is fifty thousand dollars. In addition to the license fee, the attorney general 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.
5. Except as provided in subsection 6, a license issued or renewed under this section is valid for five years unless revoked sooner by the attorney general under section 53-06.3-05.
6. An applicant for a mobile sports wagering license may submit with the application a request to the attorney general for the immediate commencement of sports wagering operations. The request must include the initial license fee of fifty thousand dollars payable to the attorney general. Upon receiving a request for a temporary license, the attorney general shall review the request. If the attorney general determines the entity requesting the temporary license is a qualified gaming entity, has paid the initial license fee, and has submitted an application for a sports wagering license, the attorney general shall authorize the qualified gaming entity to conduct sports wagering for three years under a temporary license or until a final determination on the operator's license application is made. Sports wagering conducted under authority of a temporary license must comply with the operator's house rules adopted pursuant to section 53-06.3-08.

7. The attorney general shall deposit all fees collected under this section in the sports wagering operating fund.

53-06.3-07. Supplier license.

1. The attorney general shall issue a supplier license upon finding the applicant meets all requirements of this chapter and rules adopted under this chapter.
2. 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 by the attorney general. The attorney general may accept approval by another jurisdiction that is specifically determined by the attorney general to have similar equipment standards as evidence the applicant meets the standards established by the attorney general by rule.
3. A supplier license issued by the attorney general 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. The fee for an initial or renewed supplier license is five thousand dollars. In addition to the license fee, the attorney general 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.
5. Except as provided in subsection 6, a license issued or renewed under this section is valid for five years unless sooner revoked by the attorney general under section 53-06.3-05.
6. An applicant for a supplier license may submit with the application a request for a temporary license. A request for a temporary license must include the initial license fee of five thousand dollars. If the attorney general 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 attorney general is not aware of any reason the applicant is ineligible for a license under this section, the attorney general shall issue a temporary supplier license. A temporary license issued under this subsection is valid for three years or until a final determination on the supplier license application is made, whichever is sooner. If after investigation the attorney general determines the applicant is eligible for a supplier license under this chapter, the attorney general shall issue the initial supplier license, at which time the temporary license terminates.
7. The attorney general shall deposit all fees collected under this section in the sports wagering operating fund.

53-06.3-08. Sports wagering house rules.

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 attorney general before implementation.
2. The house rules, together with any other information the attorney general determines to be appropriate, must be available in the sports wagering system.

53-06.3-09. 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 immediately must be reported to and investigated by the attorney general. System requirements and specifications must be in accordance with industry standards.
2. Promptly report to the attorney general any facts or circumstances related to the operation of a licensee that 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 attorney general 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 attorney general.
5. Prevent any person from tampering with or interfering with the operation of any sports wagering.
6. Ensure sports wagering occurs using only a mobile application or digital platform approved by the attorney general which uses communications technology to accept wagers originating in this state or in a state or jurisdiction approved by the attorney general 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 adjusted gross sports wagering receipts of the licensee and timely file with the attorney general any additional reports required by rule or this chapter.

53-06.3-10. Sports wagering agreements.

1. On behalf of this state, the attorney general 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, so long as 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 attorney general may adopt rules to implement this section.

53-06.3-11. Acceptance of wagers - Excluded persons.

1. An operator may accept wagers on wagering events by means of electronic devices using a mobile application or digital platform approved by the attorney general. 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 credit or 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 attorney general.
3. An operator may accept wagers from a patron physically located in this state through the patron's sports wagering account, using a mobile application or digital platform approved by the attorney general. 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 attorney general 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 attorney general and shared with each operator, and a person on the attorney general'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 mobile application or digital platform of that employee's employer.

53-06.3-12. 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 adjusted gross sports wagering receipts of the licensee. The tax is ten percent of the licensee's

adjusted gross sports wagering receipts. The accrual method of accounting must be used for purposes of calculating the amount of the tax owed by the licensee.

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 attorney general in monthly installments on or before the fifteenth calendar day following the calendar month in which the adjusted gross sports wagering receipts were received.
 - b. On or before the fifteenth calendar day, an operator shall complete and submit the return for the preceding month by electronic communication to the attorney general in the form prescribed by the attorney general that provides:
 - (1) The gross sports wagering receipts and adjusted gross sports wagering receipts during that month;
 - (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 adjusted gross sports wagering receipts required by the attorney general.
 - c. The tax due must be remitted to the attorney general by electronic funds transfer at the time the returns are filed.
 - d. If adjusted gross sports wagering receipts for a month is a negative number because the winnings paid to a licensee's sports wagering patrons exceed the licensee's gross sports wagering receipts, the attorney general shall allow the licensee to carry over the negative amount to returns filed for subsequent months. The negative amount of adjusted gross sports wagering receipts may not be carried back to an earlier month and money previously received by the attorney general may not be refunded, except if the licensee surrenders the licensee's license and the licensee's last return reported negative adjusted 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.

53-06.3-13. 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 attorney general for the costs of administering and regulating sports wagering in the state, including costs relating to employees, equipment, and supplies.

53-06.3-14. Civil violation.

Except as provided in section 53-06.3-15, a person that violates the provisions of this chapter commits a civil violation for which the attorney general may impose a fine of not more than ten thousand dollars for each violation. The attorney general shall deposit fines collected under this section in the sports wagering operating fund.

53-06.3-15. 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 thirty days after 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."

Renumber accordingly