

CHAPTER 53-04.1 AMUSEMENT CONCESSIONS

53-04.1-01. Definitions.

1. "Amusement concession" means any place where a single amusement game or device, or bingo, is conducted by a person for profit, and includes the area within which are confined the equipment, playing area, and other personal property necessary for the conduct of the game.
2. "Amusement games or devices" means such games and devices as electric ray guns, music boxes, picture boxes, bumper-ball, or pinball, and other similar miniature games or devices, whether or not they show a score, if a charge for playing or operating is collected, but do not include any machine which may constitute a lottery under the laws of this state. "Amusement games or devices" also means a game, contest, scheme, or device in which a person stakes or risks something of value for an opportunity to win something of value and in which the outcome depends in a material degree upon an element of chance, notwithstanding a person's skill may also be a factor.
3. "Bingo" means that game in which each participant receives one or more cards, each of which is marked off into twenty-five squares and five horizontal rows of five squares each and five vertical rows of five squares each. Each square is designated by number, letter, or combination of numbers and letters, no two cards being identical. The players cover squares as the operator of such game announces the number, letter, or combination of numbers and letters appearing on an object selected by chance, either manually or mechanically, from a receptacle in which have been placed objects bearing numbers, letters, or combination of numbers and letters corresponding to the system used for designating the squares. The winner of each game is the player or players first properly covering a predetermined and announced pattern of squares on a card being used by the player or players.
4. "Carnival" means an aggregation of attractions including any show, circus, act, game, vending device, or amusement device, whether conducted under one management or more, or independently, temporarily set up or conducted in a public place or upon any private premises accessible to the public with or without admission fee, which, from the nature of the aggregation, attracts attendance and causes promiscuous commingling of persons in the spirit of merrymaking and revelry.
5. "Conducts" means a specified activity which occurs when a person owns, promotes, sponsors, or operates a game or activity. A natural person does not conduct a game or activity if the person is a participant in a game or activity which complies with this chapter.
6. "Fair" means an annual fair or exposition held by the North Dakota state fair board or any county fair board.
7. "Fair board" means the officers of any state or county fair association, or the agents of any such board, duly authorized to make any contract or issue any permit as provided in this chapter.
8. "Gross proceeds" means the total revenue received as rent for the privilege of conducting amusement games or devices or bingo.
9. "Licensee" means an eligible organization licensed under the provisions of this chapter.
10. "Licensing authority" means the attorney general of the state of North Dakota.
11. "Net proceeds" means gross proceeds less cash prizes or the price of merchandise prizes.
12. "Person" means any natural person, firm, partnership, corporation, or limited liability company.
13. "Posted" means that the person conducting a game has caused to be placed near the front or playing area of the game a sign at least thirty inches by thirty inches [76.2 centimeters by 76.2 centimeters], with permanent material and lettering stating, at the top in letters at least three inches [7.62 centimeters] high, "Rules of the Game".

Thereunder, in large, easily readable print, the name of the game, the price to play the game, the complete rules for the game, and the name and permanent mailing address of the owner of the game must be stated.

14. "Raffle" means a lottery in which each participant buys a ticket for a chance at a prize with the winner determined by a random method. "Raffle" does not include a slot machine.
15. "Rent" means the amount paid by a person or organization for the use of space to conduct amusement games or devices or bingo.

53-04.1-02. Organizations eligible.

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

53-04.1-03. License - Fees - Application - Suspension - Revocation.

A fair board shall apply for a license to conduct amusement games or devices or bingo from the attorney general at least thirty days before the operation of such games. Application must be made upon forms prescribed by the attorney general along with the submission of a fifty dollar license fee.

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

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

The attorney general shall license applicant organizations which conform to the requirements of this chapter to conduct amusement games or devices or bingo. In addition, the attorney general may, on the attorney general's own motion based on reasonable grounds or on written complaint, suspend or revoke a license in accordance with chapter 28-32 for violation, by the licensee or other officer, director, agent, member, or employee of such licensee, of this chapter or any rule adopted pursuant to this chapter. Each amusement game or device must be licensed by the attorney general's office in accordance with chapter 53-04.

53-04.1-04. Amusement concessions.

An amusement game or device or bingo is lawful when conducted by a person at an amusement concession, but only if all of the following are complied with:

1. The location where the game is conducted by the person has been authorized as provided in section 53-04.1-05.
2. The person conducting the game has been issued a license pursuant to this chapter and prominently displays the license at the playing area of the game.
3. Games of chance other than the licensed game are not conducted or engaged in at the amusement concession.
4. The game is posted and the cost to play the game does not exceed five dollars.
5. A prize is not displayed which cannot be won.
6. Cash prizes in excess of five dollars are not awarded and merchandise prizes are not repurchased.

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

53-04.1-05. Permitted locations.

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

53-04.1-06. Examination of books and records.

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

53-04.1-07. Rules.

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

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

Any person who knowingly makes a false statement in any application for a license or authorizing resolution or in any statement annexed thereto, or who fails to keep sufficient books and records to substantiate the receipts, expenses, or uses resulting from amusement games or devices or bingo conducted under this chapter or who falsifies any books or records so far as they relate to any transaction connected with the holding, operating, and conducting of any amusement game or device or bingo or who violates any of the provisions of this chapter, any rule adopted hereunder, or of any term of a license is guilty of a class A misdemeanor. If convicted, such organization or person shall forfeit any license or authorizing resolution issued to it pursuant to this chapter and is ineligible to reapply for a license or authorization for two years thereafter.