



2023 South Dakota Legislature

Senate Bill 209

Introduced by: **Senator Maher**

1 **An Act to authorize sports wagering in certain licensed alcoholic beverage retailer**
 2 **establishments.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 42-7B-4 be AMENDED:**

5 **42-7B-4.** Terms used in this chapter mean:

- 6 (1) "Adjusted gross proceeds," except in the case of the games of poker, gross
 7 proceeds less cash prizes. In games of poker, the term means any sum wagered
 8 in a poker hand that may be retained by the licensee as compensation which must
 9 be consistent with the minimum and maximum amount established by the
 10 commission;
- 11 (2) "Advance deposit sports wagering," a method of wagering on sporting events in
 12 which an eligible individual may, in an account established with a licensed operator,
 13 ~~or~~ route operator, or licensed affiliate business, deposit money into an account and
 14 use the balance to pay for bets placed on the premises of a licensed gaming
 15 establishment as approved by the commission in the city of Deadwood or within
 16 the interior of a licensed affiliate business;
- 17 (3) "Associated equipment," any equipment or any mechanical, electromechanical, or
 18 electronic device, component, or machine, or any combination thereof, that is used
 19 remotely or directly in connection with gaming or any gaming device;
- 20 (4) "Associated equipment manufacturer or distributor," any person who designs,
 21 assembles, fabricates, produces, constructs, sells, leases, distributes, or otherwise
 22 prepares a product or component of any associated equipment;
- 23 (5) "Bet," an amount placed as a wager in a game of chance or on the results of a
 24 sporting event or a contingency during a sporting event or the performance or
 25 nonperformance of an athlete or competitor during a sporting event;

- 1 (6) "Blackjack," a card game played by a maximum of seven players in which each
2 player bets against the dealer. The object is to draw cards whose value will equal
3 or approach twenty-one without exceeding that amount and win bets, payable by
4 the dealer, if the player holds cards more valuable than the dealer's cards;
- 5 (7) "Cheating," any attempt to alter the elements of chance, method of selection, or
6 criteria that determines the:
- 7 (a) Result of a game;
- 8 (b) Amount or frequency of payment in a game;
- 9 (c) Value of a wagering instrument;
- 10 (d) Value of a wagering credit;
- 11 (e) Result of a sporting event or an event within a sporting event; or
- 12 (f) Performance or nonperformance of an athlete or competitor during a
13 sporting event;
- 14 (8) "Cheating device," any computerized, electronic, electrical, or mechanical device,
15 or any software or hardware, or any combination thereof, that is designed,
16 constructed, altered, or programmed to obtain an advantage at playing any game
17 or placing any bet that is offered by a licensee, including a device that:
- 18 (a) Projects the outcome of the game or bet;
- 19 (b) Keeps track of cards played or cards prepared for play in the game;
- 20 (c) Tracks play and analyzes the probability of the occurrence of an event
21 relating to the game or bet; or
- 22 (d) Tracks play and analyzes the strategy for playing or betting to be used in
23 the game except as may be made available as part of an approved game or
24 otherwise permitted by the commission;
- 25 (9) "City limits," the boundaries of the city of Deadwood as they existed on January 1,
26 1989;
- 27 (10) "Collegiate sporting event," an athletic competition or event between two or more
28 colleges or universities;
- 29 (11) "Commission," the South Dakota Commission on Gaming;
- 30 (12) "Craps," a game in which the players place bets on the outcome of the roll or series
31 of rolls of a pair of dice;
- 32 (13) "Fraudulent scheme," a dishonest or deceptive plan or arrangement used or
33 intended to be used to play a game or slot machine or place a bet, that gives any
34 person an advantage when playing a game or slot machine, or placing a bet;

- 1 (14) "Fraudulent technique," a dishonest or deceptive procedure or method of playing
2 a game or slot machine, or placing a bet that gives any person an advantage when
3 playing a game or slot machine, or placing a bet;
- 4 (15) "Gaming," limited card games, slot machines, craps, roulette, keno, and wagering
5 on sporting events, as allowed and regulated by this chapter;
- 6 (16) "Gaming device," a poker table, a blackjack table, a slot machine, a craps table, a
7 roulette table, or a keno number selection device;
- 8 (17) "Gaming employee," any person twenty-one years of age or older employed by an
9 operator, retailer hosting gaming, or sports wagering services provider, who works
10 directly with the gaming portion of that business and who must hold a support
11 license;
- 12 (18) "Gaming equipment," any equipment used in gaming that is allowed by this chapter
13 and which requires licensing;
- 14 (19) "Gaming license," any license issued by the commission pursuant to this chapter
15 which authorizes any person to engage in gaming within the city of Deadwood, or
16 within the interior of a licensed affiliate business;
- 17 (20) "Gaming property owner," any person other than a licensed retailer who owns real
18 property where licensed gaming is conducted within the city of Deadwood. The
19 term, gaming property owner, does not include any person who owned real
20 property where licensed gaming was conducted within the city of Deadwood prior
21 to January 1, 2010;
- 22 (21) "Historic restoration and preservation," the restoration and preservation of the city
23 of Deadwood to maintain its historical background, cultural heritage, and necessary
24 supporting infrastructures;
- 25 (22) "International sporting event," an international team or individual sporting event
26 governed by an international sports federation or sport's governing body, including
27 sporting events governed by the International Olympic Committee and the
28 International Federation of Association Football;
- 29 (23) "Keno," a game in which players place bets by marking their selections on a blank
30 ticket form with eighty numbered selection boxes and the outcome is determined
31 by a number selection device;
- 32 (24) "Key employee," any executive, employee, or agent of a gaming licensee having
33 the power to exercise a significant influence over a decision concerning any part of
34 the operation of a gaming licensee;

1 ~~(25)~~ "Licensed affiliate business," any establishment licensed to sell alcoholic beverages
2 pursuant to subdivision 35-4-2(4), 35-4-2(6), 35-4-2(13) or § 35-4-111, which
3 forms a partnership with a licensed gaming establishment for the purpose of
4 offering customers within the interior of the alcoholic beverage-selling
5 establishment the opportunity to wager on sporting events through the system
6 located in the licensed gaming establishment;

7 ~~(25)~~~~(26)~~ "Licensed gaming establishment," any premises licensed pursuant to this
8 chapter where gaming is conducted;

9 ~~(26)~~~~(27)~~ "Licensee," any person licensed under this chapter;

10 ~~(27)~~~~(28)~~ "Licensing authority," the South Dakota Commission on Gaming;

11 ~~(28)~~~~(29)~~ "Limited card games," any card games, including poker, blackjack, and
12 variations of poker and blackjack, that are authorized by this chapter and regulated
13 by the commission;

14 ~~(29)~~~~(30)~~ "Minor league sporting event," a sporting event conducted by a sports league
15 that has not been classified by the commission as a premier league in the sport;

16 ~~(30)~~~~(31)~~ "Net municipal proceeds," the amount remitted to the city of Deadwood by the
17 South Dakota Commission on Gaming;

18 ~~(31)~~~~(32)~~ "Operator," any person who places poker tables, blackjack tables, slot
19 machines, craps tables, roulette tables, keno number selection devices, or accepts
20 or redeems bets, in the person's own business premises;

21 ~~(32)~~~~(33)~~ "Poker," a card game played by players who are dealt cards by a nonplayer
22 dealer. The object of the game is for each player to bet the superiority of the
23 player's own hand and win the other players' bets by either making a bet no other
24 player is willing to match or proving to hold the most valuable cards after all the
25 betting is over. Poker includes draw, stud, low ball, or any combination thereof;

26 ~~(33)~~~~(34)~~ "Professional sporting event," a sporting event, other than a minor league
27 sporting event, in which two or more persons participate and receive remuneration
28 in excess of their out-of-pocket expenses for participating in the event;

29 ~~(34)~~~~(35)~~ "Retailer," any licensee who maintains gaming at the licensee's place of
30 business within the city of Deadwood for use and operation by the public;

31 ~~(35)~~~~(36)~~ "Retail space," the area where the retailer's business is principally conducted;

32 ~~(36)~~~~(37)~~ "Roulette," a game in which players place bets on a single number or a range
33 of numbers or the colors red or black or whether the number is odd or even or a
34 combination thereof and the winning numbers and color are determined by a ball
35 which is spun on a wheel;

- 1 ~~(37)~~(38) "Route operator," any person who, individually or jointly pursuant to an
2 agreement whereby consideration is paid to accept or redeem bets or for the right
3 to place poker tables, blackjack tables, slot machines, craps tables, roulette tables,
4 or a keno number selection device, engages in the business of accepting or
5 redeeming bets or placing and operating poker tables, blackjack tables, slot
6 machines, craps tables, roulette tables, or a keno number selection device within
7 the city of Deadwood;
- 8 ~~(38)~~(39) "Slot machines," any mechanical, electrical, or other device, contrivance, or
9 machine which, upon insertion of a coin, token or similar object, or upon payment
10 of any consideration whatsoever, is available to play or operate, the play or
11 operation of which, whether by reason of the skill of the operator or application of
12 the element of chance, or both, may deliver or entitle the person playing or
13 operating the machine to receive cash premiums, merchandise, tokens,
14 redeemable game credits or anything of value other than unredeemable free games
15 whether the payoff is made automatically from the machines or in any other
16 manner;
- 17 ~~(39)~~(40) "Slot machine manufacturer or distributor," any person who designs,
18 assembles, fabricates, produces, constructs, sells, leases, distributes, or otherwise
19 prepares a product or a component part of a slot machine, other than tables or
20 cabinetry;
- 21 ~~(40)~~(41) "Sporting event," a contest or competition between individuals or teams the
22 results of which are determined at least in part by the skill or ability of an individual
23 athlete or competitor or a team which is competing in the event;
- 24 ~~(41)~~(42) "Sporting event official," any official as recognized by the respective sport's
25 governing body;
- 26 ~~(42)~~(43) "Sports wagering area," the designated location in a gaming establishment
27 approved by the commission, in which sports wagering may be conducted or within
28 the interior of a licensed affiliate business;
- 29 ~~(43)~~(44) "Sports wagering services provider," a person who maintains or operates the
30 software or hardware of a sports wagering system or facilitates wagering on a
31 sporting event by providing a service, including data aggregation, risk
32 management, computer service, furnishing information, and setting of odds;
- 33 ~~(44)~~(45) "Suitability" or "suitable," in relation to a person is the ability to be licensed by
34 the commission and as to acts or practices, are lawful acts or practices;

1 ~~(45)~~(46) "Unsuitability" or "unsuitable," in relation to a person is the inability to be
 2 licensed by the commission because of prior acts, associations, or financial
 3 condition, and as to acts or practices, are those that would violate the statutes or
 4 rules or would be contrary to the declared legislative purpose of this chapter;

5 ~~(46)~~(47) "Wagering on sporting events" or "sports wagering," the acceptance of a wager
 6 on an authorized sporting event by any system of wagering authorized by the
 7 commission.

8 **Section 2. That § 42-7B-22 be AMENDED:**

9 **42-7B-22.** The commission may issue the following types of licenses that are
 10 required to conduct gaming under this chapter:

- 11 (1) Slot machine manufacturer or distributor license. The license fee is one thousand
 12 dollars and thereafter an annual fee renewable July first of each year in the sum of
 13 two hundred fifty dollars. A slot machine manufacturer or distributor may not be
 14 licensed as a route operator, operator, or retailer;
- 15 (2) Operator license. The license fee is one thousand dollars and thereafter an annual
 16 fee renewable July first of each year of two hundred dollars;
- 17 (3) Retail license. The license fee is two hundred fifty dollars and thereafter an annual
 18 fee renewable July first of each year of one hundred dollars;
- 19 (4) Support license. The license fee is fifty dollars and thereafter an annual fee
 20 renewable January first of each year of twenty-five dollars. This license is required
 21 by all persons seeking employment in the field of gaming;
- 22 (5) Key employee license. The license fee is one hundred fifty dollars and thereafter
 23 an annual fee renewable January first of each year of seventy-five dollars;
- 24 (6) Route operator license. The license fee is one thousand dollars and thereafter an
 25 annual fee renewable July first of each year of two hundred dollars. Each route
 26 operator shall also hold a valid operator license;
- 27 (7) Gaming property owner license. The license fee is two hundred fifty dollars and
 28 thereafter an annual fee renewable July first of each year of one hundred dollars;
- 29 (8) Associated equipment manufacturer or distributor license. The license fee is five
 30 hundred dollars and thereafter an annual fee renewable July first of each year of
 31 two hundred fifty dollars; ~~and~~
- 32 (9) Sports wagering services provider license. The license fee is two thousand dollars
 33 and thereafter an annual fee renewable July first of each year of two thousand
 34 dollars; and

- 1 (10) Licensed affiliate business license. The license fee is two hundred dollars and
2 thereafter an annual fee renewable July first of each year of two hundred dollars.
3 Conducting gaming without the appropriate license is a Class 6 felony.

4 **Section 3. That § 42-7B-32 be AMENDED:**

5 **42-7B-32.** Any license granted pursuant to this chapter may be suspended or
6 revoked for any cause that may have prevented its issuance, or for violation by the
7 licensee, or any officer, director, agent, member, or employee of the licensee, of this
8 chapter or any rule adopted by the commission or for conviction of a crime of moral
9 turpitude or a felony, after notice to the licensee and a hearing, upon grounds determined
10 adequate by the commission. In addition to revocation or suspension or in lieu of
11 revocation or suspension, the commission may impose a reprimand or a monetary penalty
12 for each offense not to exceed the following amounts:

- 13 (1) If the licensee is a slot machine manufacturer or distributor, two hundred fifty
14 thousand dollars;
15 (2) If the licensee is an operator, associated equipment manufacturer or distributor,
16 or a sports wagering services provider, one hundred thousand dollars;
17 (3) If the licensee is a retailer or gaming property owner or licensed affiliate business,
18 twenty-five thousand dollars;
19 (4) If the licensee is a key employee, five thousand dollars; and
20 (5) If the licensee has a support license, two thousand five hundred dollars.

21 Any monetary penalty received by the commission under this section shall be
22 deposited in the gaming commission fund established by § 42-7B-48 and is to be used
23 solely for the purposes prescribed by subdivision 42-7B-48(2) and is not subject to the
24 provisions of subdivision 42-7B-48(3).

25 **Section 4. That § 42-7B-33 be AMENDED:**

26 **42-7B-33.** Any person, any stockholder owning five percent or more of any
27 corporation or limited liability company, and any officer or director, or any partner in any
28 partnership involved as a manufacturer, distributor, operator, retailer, gaming property
29 owner, or sports wagering services provider, or licensed affiliate business, or key
30 employee or support licensee involved with the conduct of gaming shall be:

- 31 (1) A person of good character, honesty, and integrity;
32 (2) A person whose prior activities, criminal record, reputation, habits, and
33 associations do not pose a threat to the public interests of this state or to the

1 control of the gaming, or create or enhance the dangers of unsuitable, unfair, or
 2 illegal practices, methods, and activities in the conduct of gaming or the carrying
 3 on of the business and financial arrangements incidental to the conduct of gaming;
 4 and

5 (3) A person who has not entered a plea of guilty or nolo contendere to a felony charge
 6 or has not been convicted of a felony in this or any other jurisdiction, has not been
 7 found to have violated the provisions of this chapter or any rule adopted pursuant
 8 to this chapter, and has not knowingly made a false statement of material facts to
 9 the commission or its legal counsel.

10 **Section 5. That § 42-7B-78 be AMENDED:**

11 **42-7B-78.** A person who opens an account for advance deposit sports wagering
 12 with an operator or route operator shall establish the account in person at the operator's
 13 or route operator's licensed gaming establishment within the city of Deadwood using an
 14 application approved by the commission, or in person at the licensed affiliate business
 15 establishment.

16 The operator, ~~or~~ route operator, or license affiliate business shall retain the
 17 application that is used to open an account for advance deposit sports wagering, including
 18 any documents that are submitted with or reviewed with the application. The application
 19 and documents shall be considered records of the operator, ~~or~~ route operator, or licensed
 20 affiliate business for purposes of this chapter.

21 **Section 6. That § 42-7B-79 be AMENDED:**

22 **42-7B-79.** Any sports wagering may only be conducted on the premises of a
 23 licensed gaming establishment as approved by the commission within the city of
 24 Deadwood or within the interior of a licensed affiliate business. Each operator or route
 25 operator that is authorized by the commission to conduct sports wagering shall install and
 26 maintain equipment that is approved by the commission to ensure that all bets are placed
 27 on the premises of a licensed gaming establishment as approved by the commission within
 28 the city of Deadwood or within the interior of a licensed affiliate business.