

CHAPTER 109
SB 120-FN - FINAL VERSION

02/09/2023 0145s
18May2023... 1577h
06/15/2023 2190EBA

2023 SESSION

23-0786
02/05

SENATE BILL ***120-FN***

AN ACT relative to charitable gaming license applications, wages, stakes, and bonds.

SPONSORS: Sen. Lang, Dist 2; Sen. Pearl, Dist 17; Sen. Gannon, Dist 23; Rep. Moffett, Merr. 4

COMMITTEE: Ways and Means

ANALYSIS

This bill makes numerous changes to definitions relating to games of chance, the license application process for operators and charities, the regulation of games of chance, wager amounts, reporting requirements, and what constitutes theft by deception.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struck through.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to charitable gaming license applications, wages, stakes, and bonds.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 109:1 Games of Chance; Definitions. Amend RSA 287-D:1, VII-XI to read as follows:

2 VII. "Game operator" means a ***game operator employer***, primary game operator or a secondary
3 game operator.

4 VIII. "Game operator employer" means ~~[a primary game operator or]~~ a business entity ***or***
5 ***individual*** who employs, supervises, and controls game operators and who is hired by a charitable
6 organization to operate games of chance on its behalf. The owner of 10 percent or more of the entity,
7 partner, managing member, or chief executive of a business entity who serves as a game operator
8 employer must be ~~[licensed as a primary game operator]~~ ***listed as a part of the game operator license***
9 ***application.***

10 IX. "Gaming equipment" means a collective reference to table game devices and their associated
11 equipment.

12 X. "Primary game operator" means any person other than a bona fide member of the charitable
13 organization, involved in conducting, managing, supervising, directing, or running games of chance[-];
14 ***including, but not limited to, gambling operation managers and assistant managers, managers and***
15 ***supervisors of security employees, pit bosses, shift bosses, credit executive, and cashier operations***
16 ***supervisors.***

17 XI. "Secondary game operator" means any person other than a bona fide member of the
18 charitable organization, involved in dealing, running a roulette wheel, handling chips, or providing
19 accounting services or security functions[-]; ***including any person with job functions or responsibilities that***
20 ***require the person to watch over, protect, handle, use, maintain, or otherwise hold responsibility over***
21 ***gaming cash, revenue, supplies or devices. This includes individuals in the back office and anyone that***
22 ***has access to gaming systems, chips, tokens, or playing cards, or who has the ability to access or make***
23 ***changes to the gaming operations accounting system, player tracking system, gaming system records, or***
24 ***cash and accounting records.***

25 109:2 License Applications; General Requirements and Process. Amend RSA 287-D:5 to read as
26 follows:

27 287-D:5 License Applications; General Requirements and Process.

28 I. All license applications shall be made on the forms supplied by the lottery commission and
29 shall be submitted to the lottery commission by the individual applicant or an officer, director, or duly
30 authorized official of the entity seeking a license.

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1 II. Proof of authority to submit the application on behalf of the entity may be required by the
2 lottery commission.

3 ~~[III. The applicant shall provide written notice of an application submission to the chief of police of~~
4 ~~each city or town where games of chance are held.~~

5 ~~IV.]~~ **III.** All applications shall include:

6 (a) The type of license for which applied.

7 (b) The name, address, and telephone number of the applicant.

8 (c) A criminal history record release form, as provided by the New Hampshire division of
9 state police, department of safety, which authorizes the release of his or her criminal history record, if any,
10 to the lottery commission. ***The requirements of this subparagraph shall not apply to charity applicants***
11 ***employing a game operator employer.***

12 (d) A complete set of fingerprints taken by a qualified law enforcement agency or an
13 authorized employee of the department of safety. In the event that the first set of fingerprints is invalid
14 due to insufficient pattern, a second set of fingerprints shall be necessary in order to complete the criminal
15 history records check. ***The requirements of this subparagraph shall not apply to charity applicants***
16 ***employing a game operator employer.***

17 (e) The requisite fee for each license.

18 (f) The requisite fee for the criminal records check and the fingerprint check as established by
19 the department of safety.

20 (g) Certification by the applicant under oath that the information provided on the application is
21 accurate.

22 (h) Certification under oath that the applicant has not, in any jurisdiction, been convicted of a
23 felony within the previous 10 years which has not been annulled by a court, or a misdemeanor involving
24 falsehood or dishonesty within the previous 5 years which has not been annulled by a court, nor violated
25 the statutes or rules governing charitable gambling.

26 ~~[V.]~~ **IV.** Incomplete applications shall be returned to the applicant for completion.

27 ~~[VI.]~~ **V.** Applicants for facilities and game operator employer licenses shall comply with the
28 provisions of RSA 287-D:12.

29 109:3 Charitable Organization License Application; Specific Requirements. Amend RSA 287-D:6,
30 I(b) to read as follows:

31 (b) A list of the names and addresses of the current ~~[bona fide members]~~ ***officers*** of the
32 charity.

33 109:4 Facilities License Application; Specific Requirements. Amend RSA 287-D:7 to read as follows:

34 287-D:7 Facilities License Application; Specific Requirements.

35 I. Any person or entity other than a charitable organization or governmental subdivision with
36 control of a facility, including by a written lease, at which games of chance are held for 5 or more game
37 dates per calendar year shall be licensed.

38 II. In addition to the general requirements under RSA 287-D:5, a facilities license application shall
39 include, at a minimum, ~~[the following information]~~ ***certification of compliance with all the requirements of***

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1 *RSA 287-D:5*, provided that the commission may, by rule, establish additional items to be submitted on
2 the application form or attached to it[:

3 ~~(a) Certification of compliance with all of the requirements of RSA 287-D:5.~~

4 ~~(b) Two passport quality photographs, if the applicant is an individual].~~

5 III. Licenses shall expire ~~[on December 31 of each year]~~ **3 years after being issued, provided that**
6 ***the licensee shall annually file with the commission a statement disclosing any changes to the information***
7 ***required in the license application no later than December 31 of each year. The licensee shall***
8 ***immediately notify the commission in the event the licensee is subject to arrest or conviction of any***
9 ***criminal offense.***

10 109:5 Game Operator Employer License Application; Specific Requirements. Amend RSA 287-D:8
11 to read as follows:

12 287-D:8 Game Operator Employer License Application; Specific Requirements. Any person or entity
13 other than a charitable organization that employs primary *or secondary* game operators shall be licensed
14 under this section. In addition to the general requirements under RSA 287-D:5, a game operator
15 employer license application shall include, at a minimum, the following information provided that the
16 lottery commission may, by rule, establish additional items to be submitted on the application form or
17 attached to it:

18 I. Certification of compliance with all of the requirements of RSA 287-D:5.

19 ~~[II. A certificate of good standing from the department of revenue administration.~~

20 ~~III.] II. Federal tax identification number.~~

21 ~~[IV.] III. [Two] One~~ passport quality ~~[photographs]~~ **photograph**, if the applicant is an individual.

22 ~~[V.] IV. A description of the licensed premises.~~

23 ~~[VI. A list of the known game dates on which the game operator employer will participate~~
24 ~~including the name of the game, the location of the game, and the charitable organization holding the~~
25 ~~game.~~

26 ~~VII.] V. A bond for each location where the game operator employer is conducting games of~~
27 ~~chance, conditioned upon the licensees running games of chance in conformity with this chapter and with~~
28 ~~the rules and regulations prescribed by the lottery commission, in the amount of up to [\$500,000]~~
29 **\$1,000,000** but not less than ~~[\$25,000]~~ **\$50,000**. The amount of the bond in excess of ~~[\$25,000]~~ **\$50,000**
30 established for each licensee shall be based on that licensee's normal outstanding obligations of charity
31 payments and state taxes ***including any amounts due from historic racing revenue.***

32 VI. Licenses shall expire 3 years after being issued, provided that the licensee shall annually file
33 with the commission a statement disclosing any changes to the information required in the license
34 application no later than December 31 of each year. The licensee shall immediately notify the
35 commission in the event the licensee is subject to arrest or conviction of any criminal offense.

36 109:6 Primary Game Operator License Application; Specific Requirements. Amend RSA 287-D:9 to
37 read as follows:

38 287-D:9 Primary Game Operator License Application; Specific Requirements.

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I. Other than members of a charitable organization, any person who ~~[supervises, manages, advises, or provides consulting to secondary game operators or other primary game operators]~~ ***is involved in conducting, managing, supervising, directing, or running games of chance*** shall be licensed under this section; ***including but not limited to gambling operation managers and assistant managers, managers or supervisors of security employees, pit bosses, shift bosses, credit executives, and cashier operations supervisors***. In addition to the general requirements under RSA 287-D:5, a primary game operator license application shall include, at a minimum, the following information provided that the lottery commission may, by rule, establish additional items to be submitted on the application form or attached to it:

(a) The identity of the game operator employer for whom the applicant works.

(b) A list of any other states in which the game operator has been registered or licensed as a professional fundraiser, professional game operator, or other similar position.

(c) Whether a registration or license listed in subparagraph (b) has been denied, suspended, revoked, or enjoined by a court or state agency, or if such proceedings are pending.

(d) The names and addresses of any individuals with whom the applicant is affiliated in the fundraising or game operating business.

~~[(e) The name of the financial institution with at least one branch in New Hampshire and the corresponding bank account number for the account in which money from the game of chance will be deposited and withdrawn.~~

~~(f)~~ ***(e) [Two] One*** passport quality ~~[photographs]~~ ***photograph***.

~~[H. The bank account identified in subparagraph I(e) shall be the only account in which the primary game operator shall deposit and withdraw moneys from games of chance.~~

~~III.]~~ ***II.*** Concurrent with the charitable organization, ~~[primary game operators]~~ ***games of chance employers*** who operate games of chance on behalf of a charitable organization shall be responsible for all requirements for which the charitable organization is responsible when a charitable organization operates games of chance itself.

~~[IV.]~~ ***III.*** Unless a provision to the contrary is part of a written agreement in place prior to the commencement of a game date between the charitable organization and ~~[the game operator or]~~ game operator employer, all moneys due to the charitable organization shall be paid over to the organization no later than ~~[5 business days]~~ ***the 15th day of the month*** following the ~~[date on]~~ ***month in*** which a game was conducted. ~~[Notwithstanding the provisions of any agreement with the charitable organization, the game operator or game operator employer shall pay over all moneys due to the charitable organization no later than 15 business days following a game date.~~

~~V.]~~ ***IV.*** The provisions of RSA 7:28-c shall not apply to primary game operator licensees.

~~[VI.]~~ ***V.*** Nothing in this section shall prevent a licensee from working for another game operator employer. A licensee who works for more than one game operator employer during the licensed period shall ~~[submit a supplemental application with a separate licensing fee,]~~ have a separate badge for each game operator employer, and pay a separate fee for each badge.

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[VII.] VI. The primary game operator license shall expire on the last day of the month of the licensee's birthday *3 years after it is issued, provided that the licensee shall annually file with the commission a statement disclosing any changes to the information required in paragraph I with the commission no later than the last day of the month of licensee's birthday. The licensee shall immediately notify the commission in the event the licensee is subject to arrest or conviction of any criminal offense.*

109:7 Secondary Game Operator License Application; Specific Requirements. Amend RSA 287-D:10 to read as follows:

287-D:10 Secondary Game Operator License Application; Specific Requirements.

I. Other than members of a charitable organization, any person who is employed by a game operator employer ~~[or a primary game operator]~~ shall be licensed under this section.

II. In addition to the general requirements under RSA 287-D:5, a secondary game operator license application shall include, at a minimum, the following information provided that the lottery commission may, by rule, establish additional items to be submitted on the application form or attached to it:

(a) A list of any other states in which the game operator has been registered or licensed as a professional fundraiser, professional game operator, or other similar position.

(b) A statement of whether a registration or license listed in subparagraph (a) has been denied, suspended, revoked, or enjoined by a court or state agency, or if such proceedings are pending.

(c) The identity of the primary game operators for whom the applicant works.

(d) Two passport quality photographs.

III. A secondary game operator license shall expire on the last day of the month of the licensee's birthday *3 years after it is issued, provided that the licensee shall annually file with the commission a statement disclosing any changes to the information required in paragraph II with the commission no later than the last day of the month of the licensee's birthday. The licensee shall immediately notify the commission in the event the licensee is subject to arrest or conviction for any criminal offense.*

IV. The provisions of RSA 7:28-c shall not apply to secondary game operator licensees.

V. Nothing in this section shall prevent a licensee from working for different licensed entities. ~~[A licensee who works for more than one game operator employer during the licensed period shall submit a supplemental application with a separate licensing fee;]~~ *The licensee shall* have a separate badge for each game operator employer, and pay a separate fee for each badge.

VI. Upon receipt of a completed application under this section, and at the request of the applicant, the lottery commission may issue a provisional license, valid for up to 60 days, under rules adopted by the lottery commission under RSA 541-A. If the lottery commission denies the license, the provisional license shall expire upon the applicant's receipt of such denial. If the applicant requests a provisional license under this paragraph, he or she shall submit a fee of \$10 to the lottery commission, in addition to the application fee for the license, at the time of such request.

109:8 Licensee Fees. Amend RSA 287-D:13 to read as follows:

287-D:13 License Fees. The application fee for:

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I. A charitable gaming license shall be ~~[\$25 per game date]~~ ***\$50, which shall entitle the charity up to 10 game dates per calendar year.***

II. A facility license shall be \$250 per year.

III. A game operator employer license shall be \$750 per year.

IV. A primary game operator license shall be ~~[\$500]~~ ***\$100 per year, to be paid with the application the first year and paid in the subsequent 2 years with the filing of the annual notice of changes form required under RSA 287-D:9, VI.***

V. A secondary game operator license shall be \$30 per year, ***to be paid with the application the first year and paid in the subsequent 2 years with the filing of the annual notice of changes form required under RSA 287-D:10, III.***

VI. Each original or replacement identification badge shall be \$10.

109:9 Operation of Games of Chance. Amend RSA 287-D:14, XII-XXII to read as follows:

XII.(a) On game dates where the charitable organization operates the games, the charitable organization shall deposit cash and proceeds from a game of chance into the account required under this chapter. All expenses, including ~~[prizes of \$500 or more and]~~ equipment and hall rental fees shall be paid by check from said account. The treasurer of the charitable organization shall document all prizes awarded as prescribed in rules adopted by the lottery commission.

(b) On game dates when the licensed game operator operates the games, the licensed game operator shall deposit cash and proceeds from a game of chance into the account required under this chapter. All expenses, including equipment and hall rental fees shall be paid by check or electronic fund transfers ~~[from the account described in RSA 287-D:9, I(e)].~~ The licensed game operator shall document all prizes awarded as prescribed in rules adopted by the lottery commission. ~~[Prizes of \$500 or more shall be paid by check from the account described in RSA 287-D:9, I(e).]~~

XIII. All game of chance paraphernalia or related equipment used in conducting games of chance shall be subject to inspection and approval by the lottery commission.

XIV. The charitable organization shall keep a record of all persons participating in the operation of a game of chance, including but not limited to, the date and location of the game and the person's name, address, telephone number, and type of participation in the game.

XV. For games of chance where chips have no monetary face value, the charitable organization may offer any number of games per licensed event in which each player may spend up to ~~[\$150]~~ ***\$2,500*** per game including buy-ins and re-buys.

~~[XVI. Notwithstanding paragraph XV, the charitable organization may offer one game per licensed event in which each player may spend up to \$250 for the game including buy-ins and re-buys.]~~

~~XVII.]~~ ***XVI.*** For games of chance where chips have no monetary face value, the payback in prizes shall not exceed 80 percent of the total amount collected from players.

~~[XVIII.]~~ ***XVII.*** A games of chance licensee shall not play any games of chance on a licensed game date unless all games of chance to be played have been approved by the lottery commission ~~[and have been identified on an approved game schedule.]~~

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1 ~~XIX.] XVIII.~~ The charitable organization may amend or supplement the list of members who will
2 participate in the operation of a game of chance up to 10 working days prior to any particular game.

3 ~~[XX.] XIX.~~ At least 45 days prior to each game date, the charitable organization shall submit the
4 date and location of the game of chance, if this information has not already been submitted to the lottery
5 commission under RSA 287-D:6, I(d).

6 ~~[XXI.] XX.~~ Every game operator employer shall develop house rules and submit such rules to the
7 lottery commission for approval.

8 ~~[XXII.] XXI.~~ Every game operator employer shall maintain list of manufacturers and distributors
9 detailing the type of gaming equipment purchased from each. The information shall be detailed enough to
10 permit the lottery commission to research the origin and any piece of gaming equipment.

11 109:10 Wagers. Amend RSA 287-D:16 to read as follows:

12 287-D:16 Wagers. No single wager by a player, on any game of chance, shall exceed the amount of
13 ~~[\$10]~~ **\$50**. Provided, however, that in games of poker where the chips have monetary value, play may be
14 conducted under "table stakes" rules where the amount of blinds, antes, and any other type of forced bet
15 shall not exceed ~~[\$10]~~ **\$50** per player but the amount wagered by a player during the play of a hand shall
16 not be limited except by the amount of chips the player has in his or her possession on the table. In any
17 such "table stakes" game, the amount of chips a player may purchase during the course of play in said
18 game shall be no greater in value than ~~[\$150]~~ **\$2,500**.

19 109:11 Equipment; Inspection. Amend RSA 287-D:17, II to read as follows:

20 II. No mechanism or device, which can be used to regulate odds, shall be permitted to operate
21 games of chance ~~[and no progression in any form shall be permitted in the operation of any such game]~~.

22 109:12 Financial Reports, Inspections, and Other Records. Amend RSA 287-D:22, I-II to read as
23 follows:

24 I.(a) A charitable organization shall submit a complete financial report for all game dates licensed
25 under RSA 287-D:4 to the lottery commission on forms approved by the lottery commission within 15 days
26 of the end of each month during which a game of chance was held. Such report shall be completed by the
27 treasurer of the charitable organization or a duly authorized officer, director, or official of the charitable
28 organization who shall certify such accounting under oath; or

29 (b) A licensed ~~[primary]~~ game operator **employer** under contract to conduct games of chance
30 on behalf of a charitable organization shall prepare and submit the financial reports required under
31 subparagraph (a). In such case the charitable organization shall not be required to submit such report.
32 Such report shall be completed by the ~~[primary]~~ game operator **employer** who shall certify such
33 accounting under oath.

34 II. The financial report shall include:

35 (a) A complete statement of all revenues and expenses.

36 (b) A record of the amount of prizes awarded.

37 (c) The names and addresses of the members who participated in the games of chance.

38 (d) The name and address of any ~~[fundraising counsel or]~~ game operator **employer** involved
39 in conducting the games of chance.

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109:13 Penalties. Amend RSA 287-D:23, III to read as follows:

III. The lottery commission may suspend or revoke the license of any licensee who violates any provision of this chapter or for just cause shown. Any licensee whose license is revoked shall not be eligible for licensure for a period ~~[of up to one year]~~ from the date of revocation ***as determined by the commission.***

109:14 New Subparagraph; Theft by Deception. Amend RSA 637:4, II(e) to read as follows:

(e) Misrepresents to or misleads any person, in any manner, so as to make that person believe that the person on whose behalf a solicitation or sales promotion is being conducted is a charitable trust or that the proceeds of such solicitation or sales promotion shall be used for charitable purposes, if such is not the fact[-] ; ***or***

(f) Uses misrepresentation or cheats at any game conducted under RSA 287-D to obtain anything of value including money.

109:15 New Subparagraph; Penalties. Amend RSA 637:11, II(g) to read as follows:

(g) The actor has twice before been convicted of offenses under RSA 637:3-a, II and the present and prior convictions were based on offenses committed within a 36-month period[-] ; ***or***

(h) The theft occurs as defined in RSA 637:4, II(f).

109:16 Effective Date. This act shall take effect July 1, 2023.

Approved: June 26, 2023
Effective Date: July 01, 2023

