

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2304**

Introduced by

Senators Klein, Hogue, Luick

Representatives Karls, Kempenich, Nathe

1 A BILL for an Act to create and enact a new section to chapter 53-06.1 and a new subsection to
2 section 53-06.1-15.1 of the North Dakota Century Code, relating to alcoholic beverage
3 establishment requirements and the authority of the attorney general to impose fines for gaming
4 violations; and to amend and reenact sections 53-06.1-01 and 53-06.1-03, and subsections 2
5 and 5 of section 53-06.1-11 of the North Dakota Century Code, relating to gaming licenses for
6 alcoholic beverage establishments, the maximum number of gaming sites allowed, the
7 maximum number of pull tab devices allowed at a site, approval for a gaming site authorization
8 and licensure, modification of allowable expense limits, and rent limits for electronic pull tab
9 devices.

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

11 **SECTION 1. AMENDMENT.** Section 53-06.1-01 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **53-06.1-01. Definitions.**

14 As used in this chapter:

- 15 1. "Adjusted gross proceeds" means gross proceeds less cash prizes, cost of
16 merchandise prizes, gaming tax, and federal excise tax imposed under section 4401
17 of the Internal Revenue Code [26 U.S.C. 4401].
- 18 2. "Alcoholic beverage establishment" means an establishment licensed under
19 chapter 5-02 where alcoholic beverages are sold, dispensed, and consumed by
20 guests on the premises. The term does not include a liquor store, gas station, grocery
21 store, or convenience store licensed for off sale only.
- 22 3. "Charitable organization" means an organization whose primary purpose is for relief of
23 poor, distressed, underprivileged, diseased, elderly, or abused persons, prevention of
24 cruelty to children or animals, or similar condition of public concern.

- 1 ~~3.4.~~ "Civic and service organization" means an organization whose primary purpose is to
2 promote the common good and social welfare of a community as a sertoma, lion,
3 rotary, jaycee, kiwanis, or similar organization.
- 4 ~~4.5.~~ "Closely related organization" means an organization that controls, is controlled by, or
5 is under common control with another organization. Control exists when an
6 organization has the authority or ability to elect, appoint, or remove a majority of the
7 officers or directors of another organization or, by policy, contract, or otherwise, has
8 the authority or ability to directly or indirectly direct or cause the direction of the
9 management or policies of another organization.
- 10 ~~5.6.~~ "Distributor" means a person that sells, markets, or distributes equipment designed for
11 use in the conduct of games.
- 12 ~~6.7.~~ "Educational organization" means a nonprofit public or private elementary or
13 secondary school, two-year or four-year college, or university.
- 14 ~~7.8.~~ "Electronic pull tab device" means a device, approved by the attorney general, which
15 electronically displays pull tabs.
- 16 ~~8.9.~~ "Eligible organization" means a veterans, charitable, educational, religious, fraternal,
17 civic and service, public safety, or public-spirited organization domiciled in North
18 Dakota or authorized by the secretary of state as a foreign corporation under chapter
19 10-33, incorporated as a nonprofit organization, and which has been regularly and
20 actively fulfilling its primary purpose within this state during the two immediately
21 preceding years. However, an educational organization does not need to be
22 incorporated or be in existence for two years. An organization's primary purpose may
23 not involve the conduct of games. The organization may be issued a license by the
24 attorney general. For purposes of this section, a foreign corporation authorized under
25 chapter 10-33 is not an eligible organization unless authorized to conduct a raffle
26 under chapter 20.1-04 or 20.1-08 and may not conduct a game other than a raffle
27 under chapter 20.1-04 or 20.1-08.
- 28 ~~9.10.~~ "Fraternal organization" means an organization, except a school fraternity, which is a
29 branch, lodge, or chapter of a national or state organization and exists for the common
30 business, brotherhood, or other interests of its members. The organization must have

- 1 qualified for exemption from federal income tax under section 501(c)(8) or 501(c)(10)
2 of the Internal Revenue Code.
- 3 ~~40.11.~~ "Games" means games of chance.
- 4 ~~41.12.~~ "Gross proceeds" means all cash and checks received from conducting games.
- 5 ~~42.13.~~ "Licensed organization" means an eligible organization licensed by the attorney
6 general.
- 7 ~~43.14.~~ "Manufacturer" means, for a pull tab or bingo card, a person who designs, prints,
8 assembles, or produces the product. For a pull tab dispensing device, bingo card
9 marking device, or a fifty-fifty raffle system, a manufacturer means the person who
10 directly controls and manages development of and owns the rights to the proprietary
11 software encoded on a processing chip that enables the device to operate.
- 12 ~~44.15.~~ "Net income" means gross proceeds less cash prizes, cost of merchandise prizes, and
13 expenses to conduct the gaming activity.
- 14 ~~45.16.~~ "Net proceeds" means adjusted gross proceeds less allowable expenses and gaming
15 tax.
- 16 ~~46.17.~~ "Off sale" means the sale of alcoholic beverages that are to be consumed off the
17 licensed premises.
- 18 18. "On sale" means the sale of alcoholic beverages that are meant to be consumed on
19 the licensed premises.
- 20 19. "Permit" means a local permit or restricted event permit issued by a governing body of
21 a city or county to a nonprofit organization or group of people domiciled in North
22 Dakota.
- 23 ~~47.20.~~ "Person" means any person, partnership, corporation, limited liability company,
24 association, or organization.
- 25 ~~48.21.~~ "Prize board" means a board used with pull tabs to award cash or merchandise prizes.
- 26 ~~49.22.~~ "Public safety organization" means an organization whose primary purpose is to
27 provide firefighting, ambulance service, crime prevention, or similar emergency
28 assistance.
- 29 ~~20.23.~~ "Public-spirited organization" means an organization whose primary purpose is for
30 scientific research, amateur sports competition, safety, literary, arts, preservation of
31 cultural heritage, educational activities, educational public service, youth, economic

1 development, tourism, community medical care, community recreation, or similar
2 organization, which does not meet the definition of any other type of eligible
3 organization. However, a nonprofit organization or a group of people recognized as a
4 public-spirited organization by a governing body of a city or county for obtaining a
5 permit does not need to meet this definition.

6 ~~21-24.~~ "Pull tab" means a folded or banded ticket or jar ticket, a pull tab card with break-open
7 tabs, or an electronic pull tab displaying concealed numbers or symbols or
8 combinations of concealed numbers and symbols which are exposed by a player to
9 determine the outcome. The terms "pull tab" and "jar ticket" are used interchangeably
10 unless otherwise stated. A winning pull tab contains certain symbols, numbers, or
11 combinations of symbols and numbers and may contain multiple winning symbols,
12 numbers, or combinations of symbols and numbers which have been previously
13 designated as winning symbols or numbers.

14 ~~22-25.~~ "Religious organization" means a church, body of communicants, or group gathered in
15 common membership whose primary purpose is for advancement of religion, mutual
16 support and edification in piety, worship, and religious observances.

17 ~~23-26.~~ "Veterans organization" means any congressionally chartered post organization, or
18 any branch or lodge or chapter of a nonprofit national or state organization whose
19 membership consists of individuals who are or were members of the armed services
20 or forces of the United States. The organization must have qualified for exemption
21 from federal income tax under section 501(c)(19) of the Internal Revenue Code.

22 **SECTION 2. AMENDMENT.** Section 53-06.1-03 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **53-06.1-03. Permits, site authorization, and licenses - Organization requirements -**
25 **Site inspection.**

26 1. Except as authorized by the attorney general, an organization that has its license
27 suspended or revoked, or has relinquished or not renewed its license and not
28 disbursed its net proceeds, is ineligible for a license or permit. Only one of two or more
29 closely related organizations may have a license or permit at one time. A college or
30 university fraternity, sorority, or club is not closely related to an educational
31 organization. An organization shall apply for a permit as follows:

- 1 a. An organization recognized as a public-spirited organization by the governing
2 body of a city or county may apply for permits. A local permit may allow the
3 organization to conduct only raffles, bingo, or sports pools. A restricted event
4 permit may allow the organization to conduct only raffles, bingo, sports pools,
5 paddlewheels, twenty-one, and poker. The organization or closely related
6 organizations as a whole may only award a primary prize that does not exceed
7 eight thousand dollars and total prizes of all games do not exceed forty thousand
8 dollars per year. These maximum prize amounts do not apply to raffles conducted
9 under chapter 20.1-08. The determination of what is a "public-spirited
10 organization" is within the sole discretion of the governing body. An organization
11 shall disclose on the application its intended use of the net income from the
12 gaming activity. A governing body may issue a permit for games to be held at
13 designated times and places.
- 14 b. An organization shall apply to the governing body of the city or county in which
15 the proposed site is located. Application must be made on a form prescribed by
16 the attorney general. Approval may be granted at the discretion of the governing
17 body. A governing body may establish a fee not to exceed twenty-five dollars for
18 each permit. A permit must be on a fiscal year basis from July first to June
19 thirtieth or on a calendar-year basis.
- 20 c. An organization that has a local permit or a restricted event permit may use the
21 net income from the gaming activity for any purpose that does not violate this
22 chapter or gaming rules, unless the organization is a state political party or
23 legislative district party committee, the organization may use the net income from
24 a raffle for a political purpose. For purposes of this subdivision, a public-spirited
25 use includes a political purpose.
- 26 d. An organization that has a restricted event permit is restricted to one event per
27 year and:
- 28 (1) May not pay remuneration to employees for personal services;
29 (2) Shall use chips as wagers;
30 (3) Shall redeem a player's chips for merchandise prizes or cash;

- 1 (4) Shall disburse net income to eligible uses referenced in subdivision c, if
2 applicable, and in section 53-06.1-11.1; and
- 3 (5) Shall file a report prescribed by the attorney general with the governing
4 body and attorney general.
- 5 2. An eligible organization shall apply for a license to conduct only bingo, electronic quick
6 shot bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one, paddlewheels,
7 poker, or sports pools by:
- 8 a. First securing a lease for a gaming site location.
- 9 b. After securing a lease for a gaming site location, securing approval for a site
10 authorization from the governing body of the city or county in which the proposed
11 site is located. ~~Approval, which may be granted at the discretion of the governing~~
12 ~~body,~~The approved authorization must be recorded on a site authorization form
13 that is to accompany the license application to the attorney general for final
14 approval. A governing body may:
- 15 (1) May not require an eligible organization to donate net proceeds to the city,
16 county, or related political subdivision or for community programs or
17 services within the city or county as a condition for receiving a site
18 authorization from the city or county. ~~A governing body may;~~
- 19 (2) May limit the number of tables for the game of twenty-one per site and the
20 number of sites upon which a licensed organization may conduct games
21 within the city or county. ~~A governing body may;~~
- 22 (3) May charge a one hundred dollar fee for a site authorization; ~~and~~
- 23 b. (4) May not require a site to enter a lease with a specific organization as a
24 condition of receiving a site authorization;
- 25 (5) May not deny approval of a site authorization because an organization has
26 not previously conducted gaming at that site;
- 27 (6) May deny approval of a site authorization if an application is incomplete or if
28 granting approval would violate a local ordinance related to a limitation on
29 the number of site authorizations for which an organization may be
30 approved or whether the organization is public-spirited. An ordinance that

1 places a condition on how charitable funds may be used may not have an
2 effect on the approval of a site authorization; and

3 (7) May deny approval of a site authorization if the organization is not compliant
4 with statute or rule.

5 c. Annually applying for a license from the attorney general before July first on a
6 form prescribed by the attorney general and remitting a one hundred fifty dollar
7 license fee for each city or county that approves a site authorization. However,
8 the attorney general may allow an organization that only conducts a raffle or
9 calcutta in two or more cities or counties to annually apply for a consolidated
10 license and remit a one hundred fifty dollar license fee for each city or county in
11 which a site is located. An organization shall document that it qualifies as an
12 eligible organization. If an organization amends its primary purpose as stated in
13 its articles of incorporation or materially changes its basic character, the
14 organization shall reapply for licensure. The attorney general shall issue a license
15 to an eligible organization that has obtained approval of site authorization under
16 subdivision b, applied, paid the requisite fee, and demonstrated it qualifies as an
17 eligible organization.

18 3. A licensed organization or organization that has a permit shall conduct games as
19 follows:

20 a. Only one licensed organization or organization that has a permit may conduct
21 games at an authorized site on a day, except that a raffle may be conducted for a
22 special occasion by another licensed organization or organization that has a
23 permit when one of these conditions is met:

24 (1) When the area for the raffle is physically separated from the area where
25 games are conducted by the regular organization.

26 (2) Upon request of the regular organization and with the approval of the
27 alcoholic beverage establishment, the regular organization's license or
28 permit is suspended for that specific time of day by the attorney general.

29 b. Except for a temporary site authorized for fourteen or fewer consecutive days for
30 not more than two events per quarter or a licensed organization authorized on or
31 before January 1, 2023, to conduct gaming at more than fifteen sites, a licensed

1 organization may not have more than ~~twenty-five~~fifteen sites unless granted a
2 waiver by the attorney general. If the attorney general finds that there is no other
3 licensed organization interested in conducting gaming at a site for which a waiver
4 is being sought, the attorney general may approve the waiver for no more than
5 five sites.

6 c. Games of electronic quick shot bingo, pull tabs, punchboards, twenty-one,
7 paddlewheels, poker, and sports pools may be conducted only during the hours
8 when alcoholic beverages may be dispensed according to applicable regulations
9 of the state, county, or city.

10 d. An organization may not permit a person under twenty-one years of age to
11 directly or indirectly play pull tabs, punchboards, twenty-one, calcuttas, sports
12 pools, paddlewheels, or poker. An organization may not permit an individual
13 under eighteen years of age to directly or indirectly play electronic quick shot
14 bingo. An organization may not permit an individual under eighteen years of age
15 to directly or indirectly play bingo unless the individual is accompanied by an
16 adult, bingo is conducted by an organization that has a permit, or the game's
17 prize structure does not exceed that allowed for a permit.

18 e. An organization may not install more than ten electronic pull tab devices at a site.

19 f. An organization with more than fifteen licensed sites under subdivision b may not
20 increase its number of sites beyond the number of sites licensed as of January 1,
21 2023.

22 4. A permit, or site authorization and license, must be displayed at a site.

23 5. The attorney general may issue a conditional license to an eligible organization whose
24 regularly issued license has expired or been suspended, revoked, or relinquished. The
25 attorney general shall designate the time period for which the conditional license is
26 valid and may impose any conditions.

27 6. A governing body or local law enforcement official may inspect a site's gaming
28 equipment and examine or cause to be examined any gaming-related books and
29 records of a licensed organization or organization that has a permit.

30 **SECTION 3.** A new section to chapter 53-06.1 of the North Dakota Century Code is created
31 and enacted as follows:

1 **Alcoholic beverage establishment - Requirements.**

2 1. An alcoholic beverage establishment:

3 a. May not interfere with the organization's operation of gaming;

4 b. May not limit the gaming hours of operation, except to limit gaming to the
5 alcoholic beverage establishment's hours of operation;

6 c. May not receive any compensation from gaming proceeds other than rent under
7 this chapter. Compensation includes any financial benefit, direct or indirect, from
8 gaming proceeds;

9 d. May not require an organization to donate net proceeds to any organization or for
10 any purpose as a condition of conducting gaming on the premises;

11 e. May not directly conduct gaming as part of the alcoholic beverage
12 establishment's business;

13 f. May donate a gift certificate, cash, or merchandise intended to be used as a prize
14 to an organization;

15 g. May not give a free or discounted game piece, chip, or play of a game, except for
16 discounts allowed for bingo and raffle activity;

17 h. May offer free or discounted food or beverages in the normal course of business;

18 i. At its own expense, may advertise gaming on promotional drink tickets; and

19 j. If advertising charitable gaming conducted on the premises, shall include the
20 gaming organization's name. An abbreviation of the organization's name may be
21 used.

22 2. Upon the request of the organization, an alcoholic beverage establishment:

23 a. May sell a gift certificate or merchandise to be used as a gaming prize for no
24 more than fair market value; and

25 b. May assist in redeeming winning pull tabs, credit ticket vouchers, or paying prize
26 board cash prizes involving a dispensing device. If the organization provides the
27 alcoholic beverage establishment temporary loan funds for this purpose, a written
28 agreement must:

29 (1) Be signed by the organization and the alcoholic beverage establishment;

30 (2) Provide for the immediate repayment of the loan if the organization
31 discontinues using a device at the site; and

- 1 (3) Provide the alcoholic beverage establishment is liable for a loss or theft of
2 the loaned funds.
- 3 3. An owner of the alcoholic beverage establishment or a member of the owner's
4 household or an individual who is an officer or board member or involved in the
5 management of the establishment may not:
- 6 a. Loan money or provide gaming equipment to the organization;
7 b. Interfere or attempt to influence an organization's selection of games,
8 determination of prizes, disbursement of net proceeds, selection of a gaming
9 equipment distributor, or the method for which games are conducted;
- 10 c. Require an organization's employee to assist, with or without compensation, in an
11 alcoholic beverage establishment's business at the site. However, the
12 organization's employee may voluntarily order beverages for customers; or
- 13 d. Count drop box cash.
- 14 4. An owner or employee of the alcoholic beverage establishment may not play pull tabs
15 or prize boards, which involve a dispensing device, or electronic pull tabs while on
16 duty or for three hours after ending duty.
- 17 5. An employee of a licensed organization may patronize the alcoholic beverage
18 establishment.

19 **SECTION 4. AMENDMENT.** Subsection 2 of section 53-06.1-11 of the North Dakota
20 Century Code is amended and reenacted as follows:

- 21 2. Allowable expenses may be deducted from adjusted gross proceeds. The allowable
22 expense limit is ~~sixty~~:
- 23 a. Sixty percent of the adjusted gross proceeds per quarter if the total adjusted
24 gross proceeds for the quarter are more than one hundred thousand dollars; and
- 25 b. Sixty-three percent of the adjusted gross proceeds per quarter if the total
26 adjusted gross proceeds for the quarter are equal to or less than one hundred
27 thousand dollars.

28 **SECTION 5. AMENDMENT.** Subsection 5 of section 53-06.1-11 of the North Dakota
29 Century Code is amended and reenacted as follows:

- 30 5. For a site where bingo is not the primary game:

- 1 a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed
2 two hundred dollars multiplied by the necessary number of tables based on
3 criteria prescribed by gaming rule. For each twenty-one table with a wager
4 greater than five dollars, an additional amount up to one hundred dollars may be
5 added to the monthly rent. If pull tabs is also conducted involving only a jar bar,
6 the monthly rent for pull tabs may not exceed an additional one hundred
7 seventy-five dollars. If pull tabs is conducted involving only a dispensing device
8 or a jar bar and dispensing device, the monthly rent for pull tabs may not exceed
9 an additional three hundred twenty-five dollars.
- 10 b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted
11 involving either a jar bar or dispensing device, the monthly rent may not exceed
12 four hundred dollars.
- 13 c. If pull tabs is conducted using one or more electronic pull tab devices, the
14 monthly rent may not exceed ~~an additional one hundred fifty~~ fifty dollars per machine
15 for the first five machines in the same venue. For each additional machine in the
16 same venue beyond five, the monthly rent may not exceed ~~an additional fiftyone~~
17 hundred dollars per machine up to a maximum of one thousand ~~one~~ two hundred
18 ~~twenty-five~~ fifty dollars per month for all electronic pull tab devices in a single
19 venue. Notwithstanding the foregoing maximum rent amount, if a gaming
20 employee is not onsite to administer the proceeds, the rent may include an
21 additional fifty dollars per machine for alcoholic beverage establishment
22 employee assistance for up to five machines, resulting in a maximum of one
23 thousand five hundred dollars per month.

24 **SECTION 6.** A new subsection to section 53-06.1-15.1 of the North Dakota Century Code is
25 created and enacted as follows:

26 Impose a monetary fine on an owner of an authorized alcoholic beverage
27 establishment where a licensed gaming activity is conducted or has been conducted
28 for failure to comply with section 3 of this Act or administrative rules that relate to
29 subdivision b of subsection 2 of section 3 of this Act. The monetary fine for each
30 violation by an authorized site owner may not exceed five thousand dollars. An

- 1 authorized alcoholic beverage establishment subject to a monetary fine under this
- 2 section may appeal under chapter 28-32.