

Sixtieth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2334

Introduced by

Senators Andrist, Lindaas, Nething, Tollefson

1 A BILL for an Act to amend and reenact subsection 1 of section 53-12.1-02, subsection 2 of
2 section 53-12.1-03, and sections 53-12.1-07, 53-12.1-10, and 53-12.1-13 of the North Dakota
3 Century Code, relating to the advertising and promotion of the lottery.

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

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 53-12.1-02 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 1. There is established a division of the attorney general's office called the North
8 Dakota lottery. Under the supervision of the attorney general, a director shall
9 administer the lottery as provided in this chapter. The director shall consider the
10 sensitive nature of the lottery, ~~promote games~~, and ensure the integrity, security,
11 and fairness of the lottery's operation. The lottery is solely responsible for the
12 management and control over the operation of its games.

13 **SECTION 2. AMENDMENT.** Subsection 2 of section 53-12.1-03 of the North Dakota
14 Century Code is amended and reenacted as follows:

15 2. Subject to policy of the attorney general, the director shall:
16 a. Employ those persons deemed necessary to operate the lottery and provide
17 secure facilities to house the lottery;
18 b. Enter a written agreement with one or more government-authorized lotteries,
19 or with an organization created and controlled by those lotteries, for
20 conducting ~~and marketing~~ a joint lottery game;
21 c. Provide for a secure computer data center and internal control system for the
22 reliable operation of the lottery;
23 d. Prepare and submit a budget for operating the lottery;
24 e. Operate the lottery so it is self-sustaining and self-funded;

- 1 f. Maintain books and records which accurately reflect each day's financial
- 2 transactions, including the sale of tickets, receipt of funds and fees, prize
- 3 payments, and expenses to ensure accountability;
- 4 g. License a retailer to sell or redeem a ticket;
- 5 h. Require a retailer to furnish proof of financial stability or post a bond in an
- 6 amount the director deems necessary to protect the financial interest of the
- 7 state;
- 8 i. Timely and efficiently transfer lottery funds due from a retailer;
- 9 j. ~~Conduct a retailer promotion to promote the sale of a ticket;~~
- 10 k. As necessary, enter a contract for a ~~promotional service~~, an annuity for the
- 11 payment of a prize, credit history report, security service, service from another
- 12 state agency, ~~marketing and related service~~, gaming system and related
- 13 service, and other necessary service;
- 14 ~~l.~~ k. Based on reasonable ground or written complaint, suspend or revoke a
- 15 retailer's license or impose a monetary fine, or both, for a violation, by the
- 16 retailer or employee of the retailer, of a lottery law or rule;
- 17 ~~m.~~ l. Examine, or cause to be examined by an agent designated by the director,
- 18 any book or record of a retailer to ensure compliance with the lottery law and
- 19 rules;
- 20 ~~n.~~ m. Upon request, report to the legislative council regarding the operation of the
- 21 lottery;
- 22 ~~o.~~ n. Make quarterly and annual financial reports to the governor and attorney
- 23 general and a biennial report to the legislative assembly;
- 24 ~~p.~~ o. Have an annual audit, conducted by the state auditor, of the lottery. The
- 25 director shall present the audit report to the governor, state treasurer, and
- 26 legislative assembly;
- 27 ~~q.~~ p. As necessary, have an independent firm conduct a study and evaluation of
- 28 security; and
- 29 ~~r.~~ q. As necessary, conduct a survey of retailers and players or a study of
- 30 reactions of citizens to present and potential features of the lottery.

1 **SECTION 3. AMENDMENT.** Section 53-12.1-07 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **53-12.1-07. Selection and qualifications of a retailer.**

- 4 1. The director shall select a person that the director deems best able to serve the
5 public convenience ~~and promote the sale of a ticket~~. The director shall consider
6 relevant factors, including the applicant's credit history, physical security and public
7 accessibility of the applicant's site, integrity, sufficiency of existing retailers to serve
8 the public convenience, especially in a geographically remote area of the state,
9 and volume of expected sales of tickets. A person lawfully engaged in
10 nongovernmental business on state property or a person within the exterior
11 boundary of an Indian reservation or on tribal trust land may be selected as a
12 retailer.
- 13 2. A retailer may not be the lottery's gaming system ~~or advertising agency~~ vendor or
14 an employee or agent of the vendor.
- 15 3. To be eligible as a retailer, an individual acting as a sole proprietor must:
- 16 a. Have a satisfactory credit check;
- 17 b. Be current in payment of all taxes, interest, and penalties owed to the state
18 and be current under a payment plan, excluding an item under formal dispute
19 or appeal pursuant to law;
- 20 c. Be at least eighteen years of age;
- 21 d. Be of good character and reputation;
- 22 e. Not have been convicted of a felony in this or any other jurisdiction, unless at
23 least ten years have passed since satisfactory completion of the sentence or
24 probation imposed by the court in each felony;
- 25 f. Not have been found to have knowingly violated a lottery law or rule;
- 26 g. Not have been found to have a background, including a criminal record, or
27 prior activities that pose a threat to the public interests of this state or to the
28 security and integrity of the lottery, create or enhance the dangers of
29 unsuitable or illegal practices in the conduct of lottery activities, or present
30 questionable business practices and financial arrangements incidental to the
31 lottery activity;

h. Not be a parent, stepparent, child, stepchild, spouse, or sibling who is a regular member of the same household of an employee of the lottery or member of the lottery advisory commission; and

i. Not have knowingly made a false statement of material fact to the lottery.

4. To be eligible as a retailer, a partnership must meet the requirement of subdivision a of subsection 3 and each partner must meet the requirements of subdivisions b through i of subsection 3.

5. To be eligible as a retailer, an organization other than a partnership must meet the requirements of subdivisions a and b of subsection 3 and each officer and director who is primarily responsible for making financial decisions and each shareholder who owns ten percent or more of an ownership interest in the organization must meet the requirements of subdivisions c through i of subsection 3.

SECTION 4. AMENDMENT. Section 53-12.1-10 of the North Dakota Century Code is amended and reenacted as follows:

53-12.1-10. Administrative and other operating costs of the lottery - Lottery operating fund. Money in the lottery operating fund may be spent pursuant to legislative appropriation for costs of administering and operating the lottery, including costs relating to employees, supplies, surveys, ~~advertising and marketing~~, printing, ~~promotion, premium incentive items~~, a facility, and services provided by another state agency. Other than those funds necessary to provide information as to where lottery tickets may be purchased, state funds, including any funds in the lottery operating fund, may not be used to promote or advertise the lottery or to solicit or encourage the purchase of lottery tickets.

SECTION 5. AMENDMENT. Section 53-12.1-13 of the North Dakota Century Code is amended and reenacted as follows:

53-12.1-13. Rules. The attorney general shall adopt rules governing the operation of the lottery. The attorney general may adopt emergency rules as necessary without the grounds otherwise required under section 28-32-03. The attorney general shall adopt rules to address any matters necessary for the efficient operation of the lottery or convenience of the public, including:

1. Type of retailer where a ticket may be sold;
2. Qualification for selecting a retailer and amount of application and license fees;

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- 1 3. Licensing procedure;
- 2 4. Method used to sell a ticket, including a gift certificate and subscription;
- 3 5. Financial responsibility of a retailer;
- 4 6. ~~Retailer promotions;~~
- 5 7. Amount and method of commission to be paid to a retailer, ~~including a special~~
- 6 ~~bonus or incentive;~~
- 7 8. 7. Deadline for claiming a prize by the owner of a winning ticket, however, the
- 8 deadline may not exceed one year;
- 9 9. 8. Manner of paying a prize to the owner of a winning ticket; and
- 10 10. ~~9.~~ 9. Setoff of a prize.