

Sixty-seventh  
Legislative Assembly  
of North Dakota

# HOUSE BILL NO. 1386

Introduced by

Representatives Becker, Fegley, Lefor, Rohr, Schauer

Senators Anderson, Kannianen, Klein

1 A BILL ~~for an Act to create and enact a new subsection to section 37-17.1-05 of the North-~~  
2 ~~Dakota Century Code, relating to executive orders issued during a declared state of disaster or~~  
3 ~~emergency.~~ for an Act to create and enact a new section to chapters 40-01 and 54-06 of the  
4 North Dakota Century Code, relating to prohibition of governmental limitations on hours of  
5 business and capacity.

6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

7 ~~SECTION 1. A new subsection to section 37-17.1-05 of the North Dakota Century Code is~~  
8 ~~created and enacted as follows:~~

9 ~~An executive order issued under this section which limits the operation of a business~~  
10 ~~or industry must be applied equally to all businesses and industries, except if there is a~~  
11 ~~specific threat to a particular business or industry, the executive order must indicate~~  
12 ~~why disparate treatment is justified by including specific findings as to why the~~  
13 ~~business or industry is being treated differently.~~

14 **SECTION 1.** A new section to chapter 40-01 of the North Dakota Century Code is created  
15 and enacted as follows:

16 **Prohibition on limiting hours of operation and capacity.**

17 1. A political subdivision, including a local health department or officer, may not limit or  
18 otherwise regulate the hours of operation or capacity of a private business or other  
19 nongovernmental entity, including a sole proprietorship or association, regardless of  
20 whether the entity is declared to be essential or nonessential, except to the extent:

21 a. Either:

22 (1) The hours or capacity are expressly set by a state law, federal law, or  
23 federal regulation;



- 1                   (2) A state law, federal law, or federal regulation expressly specifies the number  
2                   of hours the entity must be available to provide services or the number of  
3                   patrons who physically may be present on the entity's premises; or  
4                   (3) A state law expressly authorizes a state agency to limit or otherwise  
5                   regulate the hours or capacity; and  
6                   b. State law expressly authorizes the political subdivision to enforce the state law.  
7                   2. A rule, ordinance, or other policy that is inconsistent with this section is void.

8                   **SECTION 2.** A new section to chapter 54-06 of the North Dakota Century Code is created  
9 and enacted as follows:

10                   **Prohibition on limiting hours of operation and capacity.**

- 11                   1. A state agency may not limit or otherwise regulate the hours of operation or capacity of  
12                   a private business or other nongovernmental entity, including a sole proprietorship or  
13                   association, regardless of whether the entity is declared to be essential or  
14                   nonessential, except to the extent:  
15                   a. The hours or capacity limits are expressly set by a state law, federal law, or  
16                   federal regulation;  
17                   b. A state law, federal law, or federal regulation expressly specifies the number of  
18                   hours the entity must be available to provide services or the number of patrons  
19                   who physically may be present on the entity's premises; or  
20                   c. A state law expressly authorizes the state agency to limit or otherwise regulate  
21                   the hours or capacity.  
22                   2. An executive order issued under section 37-17.1-05 and any other executive order  
23                   issued by the governor, an administrative rule of the state department of health, and  
24                   an order of the state health officer are subject to this section.  
25                   3. An administrative rule or an executive order that is inconsistent with this section is  
26                   void.