

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1525

Introduced by

Representatives Koppelman, Grueneich, Hauck, Louser, M. Ruby, Vetter, D. Ruby

Senators Magrum, Cory, Meyer, Castaneda

1 A BILL for an Act to amend and reenact sections 53-06.1-01.1 and 53-06.1-15.1 of the North
2 Dakota Century Code, relating to the structure of the state gaming commission and the
3 administration and regulation of games of chance; ~~and to provide an appropriation; and to~~
4 provide for application.

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

6 **SECTION 1. AMENDMENT.** Section 53-06.1-01.1 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **53-06.1-01.1. Gaming commission - Rules - Authority.**

- 9 1. The state gaming commission shall administer and control games of chance. The
10 commission ~~consists~~ must consist of the:
- 11 a. The ~~lieutenant~~ governor or the governor's designee, who shall serve as chairman
12 and four other;
- 13 b. ~~Six~~Four members appointed by the governor, with the consent of the senate;
14 including one member who:
- 15 (1) Is an owner of an alcoholic beverage establishment where gaming is
16 conducted;
- 17 (2) Represents a licensed organization ~~with adjusted gross proceeds not~~
18 ~~exceeding fifty thousand dollars;~~
- 19 (3) ~~Represents a licensed organization with adjusted gross proceeds of fifty~~
20 ~~thousand dollars or more;~~

- 1 ~~(4) Represents a licensed organization operating in a rural community with a~~
2 ~~population of fewer than ten thousand;~~
3 ~~(5) Represents the governing body of a city with a population of forty thousand~~
4 ~~or more; and~~
5 ~~(6) Represents the governing body of a city with a population of fewer than forty~~
6 ~~thousand or the county where the city is located that has authorized sites~~
7 ~~where gaming is conducted at the time the appointment is made; and~~
8 ~~(4) Is a member at large; and~~

9 c. Two members, one appointed by the speaker of the house of representatives and
10 one appointed by the president pro tempore of the senate.

11 2. The appointed members serve ~~three-year~~two-year terms and until a successor is
12 appointed and qualified. If the senate is not in session when the term of a member
13 expires, the governor may make an interim appointment, and the interim appointee
14 holds office until the senate confirms or rejects the appointment. A member appointed
15 to fill a vacancy arising from other than the natural expiration of a term serves only for
16 the unexpired portion of the term. The terms of the commissioners must be staggered
17 so no more than ~~two~~three terms expire each July first.

18 2.3. ~~A person is ineligible for appointment to member of the commission if that person has~~
19 ~~not been;~~

20 a. Must be a resident of this state for at least two years before the date of
21 appointment. ~~A person is also ineligible if that person is not~~

22 b. Must be of such character and reputation as to promote public confidence in the
23 administration of gaming in this state. ~~A person is also ineligible if that person has~~

24 c. May not have been convicted of a felony criminal offense or ~~has~~ pled guilty or
25 been found guilty of any violation of chapter 12.1-06, 12.1-08, 12.1-09, 12.1-10,
26 12.1-11, 12.1-12, 12.1-22, 12.1-23, 12.1-24, 12.1-28, 53-06.1, or 53-06.2, or ~~has~~
27 pled guilty or been found guilty of any violation of section 6-08-16 or 6-08-16.2, or
28 ~~has~~ pled guilty or been found guilty of any offense or violation that has a direct
29 bearing on the person's individual's fitness to be involved in gaming, or who has
30 committed an equivalent offense or violation of the laws of another state or of the
31 United States. ~~A person who has a financial interest in gaming or is an employee~~

1 ~~or a member of the gaming committee of a licensed organization or distributor~~
2 ~~cannot be a member of the commission. For the purpose of this subsection, a~~
3 ~~financial interest includes the receiving of any direct payment from an eligible~~
4 ~~organization for property, services, or facilities provided to that organization.~~

5 ~~3.4.~~ Commission members are entitled to ~~seventy-five dollars~~ the amount under
6 subsection 1 of section 54-03-20 per day for compensation for each day spent on
7 commission duties and mileage and expense reimbursement as allowed to other state
8 employees.

9 ~~4.5.~~ The commission shall meet at least quarterly.

10 ~~6.~~ The commission shall adopt rules in accordance with chapter 28-32, to administer and
11 regulate the gaming industry, including methods of conduct, play, and promotion of
12 games; minimum procedures and standards for recordkeeping and internal control;
13 requiring tax returns and reports from organizations or distributors; methods of
14 competition and doing business by distributors and manufacturers; acquisition and use
15 of gaming equipment; quality standards or specifications for the manufacture of pull
16 tabs, paper bingo cards, electronic pull tab devices, pull tab dispensing devices, bingo
17 card marking devices, and fifty-fifty raffle systems; to ensure that net proceeds are
18 used for educational, charitable, patriotic, fraternal, religious, or public-spirited uses; to
19 protect and promote the public interest; to ensure fair and honest games; to ensure
20 that fees and taxes are paid; and to prevent and detect unlawful gambling activity.

21 ~~6.7.~~ Based on evidence obtained from the attorney general ~~or a complaint under chapter-~~
22 28-32, which demonstrates a person violated this chapter or a gaming rule, which
23 could result in the revocation or suspension of a site authorization or an organization's
24 gaming license or the imposition of a monetary fine of one thousand dollars or more,
25 the commission shall hold a hearing ~~according to the requirements under chapter-~~
26 28-32. A hearing ~~to determine whether a violation occurred. The commission shall~~
27 designate the time and place for the hearing and provide notice to the person accused
28 of the violation at least forty-five days before the hearing. The parties may present
29 evidence, examine, and cross-examine witnesses as provided under sections
30 28-32-24 and 28-32-35. The hearing must be recorded on video and broadcast live.
31 ~~Upon disposition of an adjudicative proceeding~~

- 7.8. The commission shall determine whether a violation has occurred and issue an order within thirty days of the date the hearing concluded. In the order, the commission may:
- a. Require a representative of a licensed organization or distributor to participate in training or for good cause prohibit the person from being involved in gaming as an employee or volunteer. The commission may for good cause prohibit a person from providing personal or business services to an organization or distributor.
 - b. Prohibit a person from playing games if the person violates this chapter, chapter 12.1-28 or 53-06.2, or a gaming rule.
 - c. Require or authorize an organization to pay or prohibit an organization from paying a bingo, electronic quick shot bingo, or raffle prize to a player on a dispute or based on a factual determination or a hearing by the commission.
 - d. ~~Based on reasonable ground or written complaint, suspend~~Suspend, deny, or revoke an organization's permit or an organization's, distributor's, or manufacturer's application or license for violation, by the organization, distributor, or manufacturer or any officer, director, agent, member, or employee of the organization, distributor, or manufacturer, of this chapter or any gaming rule.
 - e. Impose a monetary fine on a licensed organization, organization that has a permit, distributor, manufacturer, owner of an authorized site, or third-party business operating gaming and working as an agent of the charity for failure to comply with this chapter or any gaming rule. This fine may be in addition to or in lieu of a license suspension or revocation. The monetary fine for each violation by:
 - (1) An organization is a minimum of twenty-five dollars and may not exceed two percent of the organization's average quarterly gross proceeds, or five thousand dollars, whichever is greater.
 - (2) A distributor is a minimum of one hundred dollars and may not exceed five thousand dollars.
 - (3) A manufacturer is a minimum of five hundred dollars and may not exceed two hundred fifty thousand dollars.
 - (4) An owner of an authorized site is a minimum of two hundred fifty dollars and may not exceed two thousand five hundred dollars.

f. ~~At any time within three years after any amount of fees, monetary fine, interest, penalty, or tax required to be paid pursuant to this chapter becomes due, bring a civil action to collect the amount due. However, if for any reason there is a change in adjusted gross proceeds or tax liability by an amount which is in excess of twenty-five percent of the amount of adjusted gross proceeds or tax liability originally reported on the tax return, any additional tax determined to be due may be assessed within six years after the due date of the tax return, or six years after the tax return was filed, whichever period expires later. An action may be brought although the person owing the fees or tax is not presently licensed.~~

~~g. Institute an action in any district court for declaratory or injunctive relief against a person, whether or not the person has a gaming license, as the commission deems necessary to prevent noncompliance with this chapter or gaming rules.~~

~~h. For good cause, require a licensed organization to use the attorney general's recordkeeping system for all games.~~

7-9. A person may appeal an order of the commission under this section to the office of administrative hearings to be considered by an administrative law judge according to the procedures for a hearing under chapter 28-32. Notwithstanding any other law, the hearing must be held within thirty days of the date the appeal is filed. The office of administrative hearings shall create a form to file an appeal under this subsection and publish the form on its website. An order of the commission must be stayed pending the determination of the appeal.

10. The commission may refer to the attorney general for prosecution law enforcement any evidence the commission believes is evidence of a crime.

SECTION 2. AMENDMENT. Section 53-06.1-15.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-15.1. Authority of the attorney general - Duties.

1. The attorney general may:

~~4-a.~~ Inspect all sites in which gaming is conducted or inspect all premises where gaming equipment is manufactured or distributed. The attorney general may require a licensed manufacturer to reimburse the attorney general for the

reasonable actual cost of transportation, lodging, meals, and incidental expenses incurred in inspecting the manufacturer's facility.

~~2-b.~~ Inspect all gaming equipment and supplies.

~~3-c.~~ Seize, remove, or impound any gaming equipment, supplies, games, or books and records for the purpose of examination and inspection.

~~4-d.~~ Demand access to and inspect, examine, photocopy, and audit all books and records of applicants, organizations, lessors, manufacturers, distributors, and affiliated companies concerning any income, expense, or use of net proceeds, and determine compliance with this chapter or gaming rules.

~~5-e.~~ Permit the commissioner or proper representative of the internal revenue service of the United States to inspect a tax return or furnish a copy of the tax return, or information concerning any item contained in the return, or disclosed by any audit or investigation report of the gaming activity of any organization or player, or recordkeeping information. However, information cannot be disclosed to the extent that the attorney general determines that the disclosure would identify a confidential informant or seriously impair any civil or criminal investigation. Except when directed by judicial order, or for pursuing civil or criminal charges regarding a violation of this chapter or a gaming rule, or as is provided by law, the attorney general may not divulge nor make known, to any person, any income or expense item contained in any tax return or disclosed by an audit or investigative report of any taxpayer provided to the attorney general by the internal revenue service.

f. At any time within three years after any amount of fees, monetary fine, interest, penalty, or tax required to be paid under this chapter becomes due, bring a civil action to collect the amount due. However, if for any reason there is a change in adjusted gross proceeds or tax liability by an amount which is in excess of twenty-five percent of the amount of adjusted gross proceeds or tax liability originally reported on the tax return, any additional tax determined to be due may be assessed within six years after the due date of the tax return, or six years after the tax return was filed, whichever period expires later. An action may be brought although the person owing the fees or tax is not presently licensed.

- 1 g. Institute an action in any district court for declaratory or injunctive relief against a
2 person, whether or not the person is a gaming licensee, as the attorney general
3 deems necessary to prevent noncompliance with this chapter or gaming rules.
- 4 2. The attorney general shall refer any evidence of a violation of law or rule to the gaming
5 commission for review any evidence that a person violated this chapter or a gaming
6 rule, which could result in the revocation or suspension of a site authorization or an
7 organization's gaming license or the imposition of a monetary fine of one thousand
8 dollars or more, unless this chapter provides the attorney general authority regarding
9 the violation, including a violation related to tax-related delinquency, permits, licensure,
10 and site authorization. A decision made by the attorney general under this chapter may
11 be appealed to the gaming commission.
- 12 6. ~~Require a representative of a licensed organization or distributor to participate in~~
13 ~~training or for good cause prohibit the person from being involved in gaming as an~~
14 ~~employee or volunteer. The attorney general may for good cause prohibit a person~~
15 ~~from providing personal or business services to an organization or distributor.~~
- 16 7. ~~Prohibit a person from playing games if the person violates this chapter, chapter~~
17 ~~12.1-28 or 53-06.2, or a gaming rule.~~
- 18 8. ~~Require or authorize an organization to pay or prohibit an organization from paying a~~
19 ~~bingo, electronic quick shot bingo, or raffle prize to a player on a dispute or based on a~~
20 ~~factual determination or a hearing by the attorney general.~~
- 21 9. ~~Based on reasonable ground or written complaint, suspend, deny, or revoke an~~
22 ~~organization's permit or an organization's, distributor's, or manufacturer's application~~
23 ~~or license for violation, by the organization, distributor, or manufacturer or any officer,~~
24 ~~director, agent, member, or employee of the organization, distributor, or manufacturer,~~
25 ~~of this chapter or any gaming rule.~~
- 26 10. ~~Impose a monetary fine on a licensed organization, organization that has a permit,~~
27 ~~distributor, manufacturer, or third-party business operating gaming and working as an~~
28 ~~agent of the charity for failure to comply with this chapter or any gaming rule. The~~
29 ~~monetary fine for each violation by an organization is a minimum of twenty-five dollars~~
30 ~~and may not exceed two percent of the organization's average quarterly gross~~
31 ~~proceeds, or five thousand dollars, whichever is greater. The monetary fine for each~~

violation by a distributor is a minimum of one hundred dollars and may not exceed five thousand dollars. The monetary fine for each violation by a manufacturer is a minimum of five hundred dollars and may not exceed two hundred fifty thousand dollars. This fine may be in addition to or in place of a license suspension or revocation.

41. At any time within three years after any amount of fees, monetary fine, interest, penalty, or tax required to be paid pursuant to this chapter becomes due, bring a civil action to collect the amount due. However, if for any reason there is a change in adjusted gross proceeds or tax liability by an amount which is in excess of twenty five percent of the amount of adjusted gross proceeds or tax liability originally reported on the tax return, any additional tax determined to be due may be assessed within six years after the due date of the tax return, or six years after the tax return was filed, whichever period expires later. An action may be brought although the person owing the fees or tax is not presently licensed.

42. Institute an action in any district court for declaratory or injunctive relief against a person, whether or not the person is a gaming licensee, as the attorney general deems necessary to prevent noncompliance with this chapter or gaming rules.

43. For good cause, require a licensed organization to use the attorney general's recordkeeping system for any or all games.

3. A person may appeal an order or action taken by the attorney general under this chapter to the office of administrative hearings to be considered by an administrative law judge according to the procedures for a hearing under chapter 28-32. Notwithstanding any other law, the hearing must be held within thirty days of the date the appeal is filed. The office of administrative hearings shall create a form to file an appeal under this subsection and publish the form on its website. An order of the attorney general must be stayed pending the determination of the appeal.

SECTION 3. APPROPRIATION - OFFICE OF THE ATTORNEY GENERAL - GAMING COMMISSION - ONE-TIME FUNDING. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$25,000, or so much of the sum as may be necessary, to the office of the attorney general for the purpose of defraying the costs of operations of the gaming commission, for the biennium beginning July 1, 2025, and

1 ending June 30, 2027. The appropriation provided in this section is considered a one-time
2 funding item.

3 **SECTION 4. APPLICATION.** For purposes of the membership of the gaming commission
4 under section 1 of this Act, the term of a member serving on the gaming commission before the
5 effective date of this Act terminates on June 30, 2025. The initial term of three of the four
6 members appointed by the governor on July 1, 2025, under subsection 1 of section
7 53-06.1-01.1, must be limited to a term of one year to effectuate the staggering of terms
8 required under subsection 2 of section 53-06.1-01.1.