

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1041

Introduced by

Legislative Council

(Judiciary Committee)

1 A BILL for an Act to create and enact a new section to chapter 53-06.1 of the North Dakota
2 Century Code, relating to posting games of chance rules; and to amend and reenact sections
3 53-06.1-03, 53-06.1-06, 53-06.1-07.2, 53-06.1-07.3, 53-06.1-07.4, 53-06.1-10, subsection 5 of
4 section 53-06.1-11, and subsection 5 of section 53-06.1-14 of the North Dakota Century Code,
5 relating to games of chance.

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

7 **SECTION 1. AMENDMENT.** Section 53-06.1-03 of the 1997 Supplement to the North
8 Dakota Century Code is amended and reenacted as follows:

9 **53-06.1-03. Local permits, site authorization, and licenses.**

- 10 1. An organization that has its license suspended or revoked, or has relinquished its
11 license and not disbursed its net proceeds is ineligible for a local permit. An
12 organization shall apply for a local permit as follows:
- 13 a. A nonprofit organization recognized as a public-spirited organization by the
14 governing body of a city or county may apply for a local permit to conduct only
15 raffles, bingo, or sports pools in which a primary prize does not exceed one
16 thousand dollars, and the total prizes of all games do not exceed six thousand
17 dollars per year. The determination of what is a "public-spirited organization"
18 is within the sole discretion of the governing body which should in its
19 determination consider the definition of a public-spirited organization under
20 section 53-06.1-01 and eligible uses of net proceeds under section
21 53-06.1-11.1. A governing body may issue a local permit for the games to be
22 held at designated times and places.
- 23 b. An eligible organization shall apply to the governing body of the city or county
24 in which the site where the gaming activity to be conducted is located.

1 ~~Application for a local permit must be made on a form prescribed by the~~
2 ~~attorney general. If the nonprofit organization is a North Dakota college or~~
3 ~~university fraternity, sorority, or club, the organization shall provide a signed~~
4 ~~acknowledgment by the administration of the college or university that the~~
5 ~~applicant is a recognized fraternity, sorority, or club.~~ Approval may be
6 granted at the discretion of the governing body. A governing body may
7 establish a fee not to exceed twenty-five dollars for each local permit. A local
8 permit must be on a fiscal year basis from July first to June thirtieth or on a
9 calendar-year basis.

- 10 2. An eligible organization shall apply for a license to conduct only bingo, raffles,
11 calcuttas, pull tabs, punchboards, twenty-one, paddlewheels, poker, or sports
12 pools by:
- 13 a. First securing approval for a site authorization from the governing body of the
14 city or county in which the proposed site is located. Approval, which may be
15 granted at the discretion of the governing body, must be recorded on a site
16 authorization form that is to accompany the license application to the attorney
17 general for final approval. A governing body may not require an eligible
18 organization to donate net proceeds to the city, county, or related political
19 subdivision or for community programs or services within the city or county as
20 a condition for receiving a site authorization from the city or county. A
21 governing body may limit the number of tables for twenty-one per site and the
22 number of sites upon which a licensed organization may conduct games
23 within the city or county. A governing body may charge a one hundred dollar
24 fee for a site authorization; and
- 25 b. Annually applying for a license from the attorney general before July first on a
26 form prescribed by the attorney general and including with the application a
27 one hundred fifty dollar license fee. An organization shall sufficiently
28 document that it qualifies as an eligible organization. If a licensed
29 organization amends its primary purpose as stated in its articles of
30 incorporation or changes its basic character in a material manner, the
31 organization shall reapply for licensure.

- 1 3. A licensed organization may conduct games only on an authorized site as follows:
- 2 a. Only one licensed organization or organization that has a local permit ~~at a~~
- 3 ~~time~~ may conduct games at an authorized site at a time, except that a raffle
- 4 may be conducted for a special occasion by a second licensed organization
- 5 or organization that has a local permit when ~~one of these conditions is set by~~
- 6 the commission are met:
- 7 (1) ~~When the area for the raffle is physically separated from the area~~
- 8 ~~where games are conducted by the regular licensee.~~
- 9 (2) ~~Upon request of the regular licensee and with the approval of the~~
- 10 ~~alcoholic beverage establishment, the licensee's license is suspended~~
- 11 ~~for that specific time of day by the attorney general.~~
- 12 b. Except for a temporary site authorized for fourteen or fewer consecutive days
- 13 for not more than two events per quarter, a licensed organization may not
- 14 have more than twenty-five sites unless granted a waiver by the attorney
- 15 general. If the attorney general finds that there is no other licensed
- 16 organization interested in conducting gaming at a site for which a waiver is
- 17 being sought, the attorney general may approve the waiver for no more than
- 18 five sites. Only one of two or more closely connected organizations may have
- 19 a license at one time. Closely connected organizations are two or more
- 20 organizations which have an interdependent relationship, based on the
- 21 presence and degree of unitary attributes. These attributes may include
- 22 common primary purposes, members on boards of directors, officers,
- 23 management, administrative and operating services, membership, program
- 24 services, integrations of gaming activities, and shared facilities.
- 25 c. Games of pull tabs, punchboards, twenty-one, paddlewheels, and sports
- 26 pools may be conducted only during the hours when alcoholic beverages may
- 27 be dispensed according to applicable regulations of the state, county, or city.
- 28 d. An organization may not permit a person under twenty-one years of age to
- 29 directly or indirectly play pull tabs, punchboards, twenty-one, calcuttas, sports
- 30 pools, paddlewheels, or poker. An organization may not permit a person
- 31 under eighteen years of age to directly or indirectly play bingo unless the

1 person is accompanied by an adult, bingo is conducted by an organization
2 that has a local permit, or the game's prize structure does not exceed that
3 allowed for a local permit.

4 4. A local permit, site authorization, and license must contain information prescribed
5 by the attorney general or local governing body and must be displayed at a site.

6 5. The attorney general shall license an eligible organization that complies with this
7 chapter and may issue a conditional license to an eligible organization whose
8 regularly issued license has expired or been suspended, revoked, or relinquished.
9 The attorney general shall designate the time period for which the conditional
10 license is valid and may impose any conditions.

11 6. A governing body or local law enforcement official may inspect a site's gaming
12 equipment, and examine or cause to be examined the books and records of a
13 licensed organization or organization that has a local permit to the extent that the
14 books and records relate to any transaction involving the direct or indirect conduct
15 of games.

16 **SECTION 2. AMENDMENT.** Section 53-06.1-06 of the 1997 Supplement to the North
17 Dakota Century Code is amended and reenacted as follows:

18 **53-06.1-06. Persons permitted to conduct games - Equipment.**

19 1. No person, except a member, an employee of a licensed organization or an
20 organization that has a local permit, or an employee of a temporary employment
21 agency who provides services to a licensed organization, may conduct any game.
22 "Member" includes a member of an auxiliary organization. In conducting pull tabs
23 or bingo through a dispensing device, the attorney general may allow an employee
24 of an alcoholic beverage establishment to provide limited assistance to an
25 organization.

26 2. Except when authorized by the attorney general or allowed by the gaming rules, an
27 eligible organization shall procure gaming equipment only from a licensed
28 distributor. No equipment or prizes may be purchased at an excessive price.

29 3. An organization shall maintain complete, accurate, and legible accounting records
30 in North Dakota for all gaming activity and establish an adequate system of internal
31 control. The governing board of an eligible organization is primarily responsible

1 and may be held accountable for the proper determination and distribution of net
2 proceeds.

3 4. ~~The value of a merchandise prize awarded in a game is its retail price.~~

4 5. A person is restricted from being involved in gaming and the attorney general shall
5 conduct criminal history record check as follows:

6 a. A person who has pled guilty to or been found guilty of a felony offense as
7 defined by the laws of this state, other states, or the federal government, or
8 has pled guilty to or been found guilty of a violation of this chapter, a gaming
9 rule, chapter 12.1-28 or 53-06.2, or offenses of other states or the federal
10 government equivalent to offenses defined in these chapters may not be a
11 licensed distributor, may not be employed by a licensed distributor to sell or
12 distribute gaming equipment, and may not be employed by a licensed
13 organization to conduct games on a site for five years from the date of
14 conviction, release from incarceration, or expiration of parole or probation,
15 whichever is the latest.

16 b. A person who has pled guilty to or been found guilty of a misdemeanor
17 offense in violation of section 6-08-16.2 or chapter 12.1-06, 12.1-23, or
18 12.1-24 or offenses of other states, the federal government, or a municipality
19 equivalent to these offenses may not be a licensed distributor, may not be
20 employed by a licensed distributor to sell or distribute gaming equipment, and
21 may not be employed by a licensed organization to conduct games on a site
22 for two years from the date of conviction, release from incarceration, or
23 expiration of parole or probation, whichever is the latest.

24 c. The attorney general shall conduct a criminal history record check of each
25 potential employee of a licensed organization and charge a fee of twenty
26 dollars per record check in accord with section 12-60-16.9. The fee may be
27 waived in part or in whole by the attorney general if a federal agency or local
28 law enforcement agency has done a record check. The attorney general may
29 require payment of any additional fee necessary to defray the actual cost of a
30 background check of a person for whom adequate background information
31 sources are not readily available, including a person who has not resided in

1 North Dakota for the previous five years. The attorney general may require
2 payment of the estimated additional fee in advance as a condition precedent
3 to beginning the background check. The attorney general shall notify the
4 person when a determination is made that an additional fee is necessary and
5 shall notify the person of the best estimate of the amount of the additional fee.
6 In lieu of paying the additional cost, a person may cancel the background
7 check. The estimated cost must be placed in the attorney general's refund
8 fund for use to defray the actual expenses of the background check. The
9 remainder of the funds must be returned to the person within thirty days of the
10 conclusion of the background check. The attorney general shall notify the
11 organization and the person of the result of the background check. The
12 attorney general shall hold the information confidential except in the proper
13 administration of this chapter or any gaming rule, or to an authorized law
14 enforcement agency.

15 ~~6.~~ 5. A licensed organization may not pay bingo prizes in which the total bingo prizes
16 exceeds total bingo gross proceeds for a period prescribed by gaming rule.
17 However, a bingo prize that equals or exceeds ten thousand dollars is excluded
18 from the total of the bingo prizes.

19 ~~7.~~ 6. A city or county may require a person conducting games to obtain a local work
20 permit, charge a fee, and conduct a criminal history record check. A fee may not
21 exceed the actual expense of processing an application.

22 **SECTION 3. AMENDMENT.** Section 53-06.1-07.2 of the 1997 Supplement to the
23 North Dakota Century Code is amended and reenacted as follows:

24 **53-06.1-07.2. Poker.**

25 1. A licensed organization may conduct traditional straight poker on not more than
26 two occasions per year. "Traditional straight poker" is the game of poker which is
27 played against other players and in which the object is to win the pot. An
28 organization may supply the dealer. The maximum single bet is one dollar. Not
29 more than three raises, of not more than one dollar each, may be made among all
30 the players in each round of bets. Otherwise the normal rules of poker apply. An
31 organization shall assess each player a fee not to exceed two dollars per one-half

1 hour of playing time, collected in advance. A fee may be charged each player for
2 entry into a tournament for prizes and this fee may be in place of or in addition to
3 the fee assessable at one-half hour intervals.

4 2. A licensed organization may conduct certain poker variations. "Poker variations"
5 are poker games in which the players play against the house and the object is to
6 obtain a qualifying hand and in which the return is based on a predisclosed pay
7 schedule. An organization may set the maximum limit per wager at not more than
8 five dollars and wagers in increments of one dollar must be accepted up to the
9 maximum limit. Poker variations may be conducted according to the rules adopted
10 by the commission. Except for a site that has poker variations gross proceeds
11 averaging less than ten thousand dollars per quarter, an organization may not
12 conduct poker variations at the site unless the organization has first installed video
13 surveillance equipment as required by and equipment approved by the attorney
14 general. The rules of poker must be followed by all licensees and all persons
15 participating in any game of poker.

16 **SECTION 4. AMENDMENT.** Section 53-06.1-07.3 of the 1997 Supplement to the
17 North Dakota Century Code is amended and reenacted as follows:

18 **53-06.1-07.3. Calcuttas.** A calcutta may only be conducted for a professional or
19 amateur sporting event held in this state, but not for elementary, secondary, or postsecondary
20 education sports events. ~~An organization shall post at the site all rules affecting the conduct~~
21 ~~and play of calcuttas.~~ An organization may not have an interest in the outcome of the calcutta.
22 ~~A player must place a wager in the calcutta auction pool at the site. No more than one wager~~
23 ~~per competitor may be allowed in any calcutta pool.~~ The amount of prizes may not exceed
24 ninety percent of the gross proceeds. A player may not place a wager on a competitor in a
25 calcutta sporting event unless the competitor is eighteen years of age or older.

26 **SECTION 5. AMENDMENT.** Section 53-06.1-07.4 of the 1997 Supplement to the
27 North Dakota Century Code is amended and reenacted as follows:

28 **53-06.1-07.4. Paddlewheels.** ~~An organization shall post at the site rules relating to~~
29 ~~paddlewheels.~~ A paddlewheel is a mechanical vertical wheel marked off into equally spaced
30 sections that contain numbers or symbols, and which after being spun, uses a pointer to
31 indicate the winning number or symbol. The maximum price per wager is two dollars. No

1 money may be used to bet on the table. A table must be used to register a player's wager
2 when a prize is a variable multiple of the wager. A paddlewheel ticket must be used to register
3 a player's wager when a prize is not a variable multiple of the wager. A player may not place
4 wagers valued at more than twenty dollars on each spin of the paddlewheel. Cash, chips, or
5 merchandise prizes may be awarded. No single cash prize, value of chips, or the retail value of
6 the merchandise prize to be awarded for a winning wager may exceed one hundred dollars.

7 **SECTION 6. AMENDMENT.** Section 53-06.1-10 of the 1997 Supplement to the North
8 Dakota Century Code is amended and reenacted as follows:

9 **53-06.1-10. Twenty-one.** No money may be allowed on the table as a wager. The
10 organization shall provide playing chips of various denominations to players. Chips must be
11 redeemed by the organization for their full value. The maximum limit per wager may be set by
12 the organization at not more than five dollars and wagers in increments of one dollar must be
13 accepted up to the maximum limit. ~~A player may not play more than two hands at the same~~
14 ~~time. Only the player actually playing a hand may place a wager on any hand. Each player~~
15 ~~plays the player's hand against the dealer's hand. To remain in the hand being dealt, neither~~
16 ~~the player nor the dealer may play a hand with a count greater than twenty one. A count of~~
17 ~~twenty one obtained with two cards is a natural twenty one and is an automatic payout except~~
18 ~~in a tie count with the dealer. Players may double down on a natural twenty one. For a tie~~
19 ~~count between the player and the dealer, no winner is declared and the player keeps the~~
20 ~~player's wager. An organization may allow pooling of tips received by dealers at a site. Any~~
21 ~~requirement to pool tips is within the sole discretion of each the organization. An organization~~
22 ~~shall post rules relating to twenty one.~~ Except for a site that has twenty-one gross proceeds
23 averaging less than ten thousand dollars per quarter, an organization may not conduct
24 twenty-one at the site with wagers exceeding two dollars unless the organization has first
25 installed video surveillance equipment as required by rules of, and the equipment is approved
26 by₁ the attorney general.

27 **SECTION 7. AMENDMENT.** Subsection 5 of section 53-06.1-11 of the 1997
28 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 29 5. For a site where bingo is not the primary game:
- 30 a. If twenty-one, poker, or paddlewheels is conducted, the monthly rent may not
31 exceed two hundred dollars multiplied by the necessary number of tables. If

1 pull tabs is also conducted, the monthly rent for pull tabs may not exceed an
2 additional one hundred twenty-five dollars.

3 b. If twenty-one, poker, and paddlewheels are not conducted but pull tabs is
4 conducted, the monthly rent may not exceed two hundred twenty-five dollars.

5 **SECTION 8. AMENDMENT.** Subsection 5 of section 53-06.1-14 of the 1997
6 Supplement to the North Dakota Century Code is amended and reenacted as follows:

7 5. In addition to the license fee, the attorney general may require payment of any
8 additional fee necessary to defray the actual cost of a background check of an
9 applicant by following the procedures prescribed by subdivision c of subsection ~~5~~ 4
10 of section 53-06.1-06.

11 **SECTION 9.** A new section to chapter 53-06.1 of the 1997 Supplement to the North
12 Dakota Century Code is created and enacted as follows:

13 **Posting rules.** An organization shall post at the site all rules relating to the conduct
14 and play of any games conducted at the site.