

Sixtieth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2101

Introduced by

Judiciary Committee

(At the request of the Attorney General)

1 A BILL for an Act to amend and reenact subsections 3 and 5 of section 53-12.1-01,  
2 subsection 1 of section 53-12.1-04, sections 53-12.1-08 and 53-12.1-09, subsection 1 of  
3 section 53-12.1-11, subsection 1 of section 53-12.1-12, and subsection 2 of section 57-40.3-04  
4 of the North Dakota Century Code, relating to the North Dakota lottery and a motor vehicle  
5 excise tax exemption for a motor vehicle to be awarded as a prize by the lottery; to provide a  
6 penalty; and to declare an emergency.

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

8 **SECTION 1. AMENDMENT.** Subsections 3 and 5 of section 53-12.1-01 of the North  
9 Dakota Century Code are amended and reenacted as follows:

- 10 3. "Online lottery" means a game linked to a central computer via a  
11 telecommunications network in which the player selects or is assigned a specified  
12 number or symbol or group of numbers or symbols out of a predetermined range of  
13 numbers or symbols and a winning ticket is determined by chance.
- 14 5. "Ticket" means an original and acceptable tangible evidence of play prescribed by  
15 the lottery and produced by a lottery terminal or a properly and validly registered  
16 subscription play to prove participation in a draw of a game for a chance to win a  
17 prize.

18 **SECTION 2. AMENDMENT.** Subsection 1 of section 53-12.1-04 of the North Dakota  
19 Century Code is amended and reenacted as follows:

- 20 1. There is created the lottery advisory commission, which is composed of five  
21 members, three of whom are legislators selected by the chairman of the legislative  
22 council and two of whom are selected by the attorney general. The term of office  
23 is three years, expiring on June thirtieth with no more than two terms expiring in  
24 any one year. ~~Of the first members appointed, one must be appointed for a term~~

1           ~~of one year, two must be appointed for terms of two years, and two must be~~  
2           ~~appointed for terms of three years.~~ No member may be appointed to more than  
3           two consecutive terms. Each member must be a citizen of the United States and a  
4           resident of this state. A chairman of the commission must be chosen annually  
5           from the membership of the commission by a majority of its members at the first  
6           meeting of the commission each fiscal year. A member may serve as chairman for  
7           more than one year.

8           **SECTION 3. AMENDMENT.** Section 53-12.1-08 of the North Dakota Century Code is  
9           amended and reenacted as follows:

10           **53-12.1-08. Purchase of ticket or payment of prize to certain persons prohibited -**  
11           **Price of a ticket - Sale by retailer only - ~~Retailer second~~ Second chance drawing**  
12           **drawings - Prize paid to owner of a winning ticket - Prize subject to taxation - Discharge**  
13           **of liability - Penalty.**

14           1. A North Dakota lottery ticket may not be bought by or otherwise provided to, and a  
15           prize may not be paid to, the following individuals or to a parent, stepparent, child,  
16           stepchild, spouse, or sibling who is a regular member of the same household of  
17           the following individuals:

18           a. A member of the lottery advisory commission or employee of the lottery,  
19           unless authorized in writing by the director; or

20           b. An officer or employee of the lottery's gaming system vendor.

21           A person who knowingly violates this subsection is guilty of a class B  
22           misdemeanor on the first offense and a class A misdemeanor on a subsequent  
23           offense.

24           2. A retailer or employee of a retailer may buy a ticket and be paid a prize for a  
25           winning ticket.

26           3. Only a retailer may sell a ticket. A retailer may sell a ticket only at the site stated  
27           on the license or at a temporary site for a special event authorized by the lottery.

28           A retailer may not sell a ticket at a price greater than the price set by the lottery  
29           rules. A person convicted of violating this subsection is guilty of a class A  
30           misdemeanor on the first offense and a class C felony on a subsequent offense.

- 1           4. A retailer may conduct a second chance drawing of entry forms or ~~nonwinning~~  
2           tickets to promote the sale of a ticket at that site provided that a person is not  
3           required to purchase a ticket to participate.
- 4           5. No ticket may be sold or given to a minor. A retailer, employee of a retailer, or any  
5           other person who knowingly violates this subsection is guilty of a class B  
6           misdemeanor on the first offense and a class A misdemeanor on a subsequent  
7           offense.
- 8           6. The prize to be paid or awarded for a winning ticket must be paid to the person  
9           who the director determines is the owner of the ticket. However, the prize of a  
10          deceased winning player must be paid to the lawful representative of the estate.  
11          No prize may be paid on a winning ticket that has been purchased by use of a  
12          stolen lottery gift certificate or acquired illegally.
- 13          7. If an individual steals a ticket or lottery gift certificate from a retailer, the individual  
14          is guilty of a class A misdemeanor. However, if the total value of the tickets or gift  
15          certificates stolen exceeds five hundred dollars, the offense is a class C felony.
- 16          8. A prize awarded is subject to state and federal income tax laws and rules.
- 17          9. A person who, with intent to defraud, falsely makes, alters, forges, passes, or  
18          counterfeits a ticket or gift certificate issued by the lottery, regardless of the  
19          amount gained, is guilty of a class C felony.
- 20          10. The state, members of the lottery advisory commission, and employees of the  
21          lottery are discharged of all further liability upon payment of a prize.

22           **SECTION 4. AMENDMENT.** Section 53-12.1-09 of the North Dakota Century Code is  
23   amended and reenacted as follows:

24           **53-12.1-09. Operating fund - Continuing appropriation - Authorization of**  
25   **disbursements - Report - Net proceeds.** There is established within the state treasury the  
26   lottery operating fund into which must be deposited all revenue from the sale of tickets, interest  
27   received on money in the fund, and all other fees and moneys collected, less a prize on a  
28   lottery promotion, prize on a winning ticket or lottery promotion paid by a retailer, and the a  
29   retailer's commission. Except for moneys in the lottery operating fund appropriated by the  
30   legislative assembly for administrative and operating costs of the lottery under section  
31   53-12.1-10, all other money in the fund is continuously appropriated for the purposes specified

1 in this section. During each regular session, the attorney general shall present a report to the  
2 appropriations committee of each house of the legislative assembly on the actual and  
3 estimated operating revenue and expenditures for the current biennium and projected  
4 operating revenue and expenditures for the subsequent biennium authorized by this section. A  
5 payment of a prize or expense or transfer of net proceeds by the lottery may be made only  
6 against the fund or money collected from a retailer on the sale of a ticket. A disbursement from  
7 the fund must be for the following purposes:

- 8 1. Payment of a prize as the director deems appropriate to the owner of a valid,  
9 winning ticket;
- 10 2. Notwithstanding section 53-12.1-10, payment of a marketing expense that is  
11 directly offset by cosponsorship funds collected;
- 12 3. Payment of a gaming system or related service expense, retailer record and credit  
13 check fees, game group dues, and retailer commissions; and
- 14 ~~3.~~ 4. Transfer of net proceeds:
  - 15 a. ~~Starting July 1, 2005, fifty~~ Fifty thousand dollars must be transferred to the  
16 state treasurer each quarter for deposit in the compulsive gambling  
17 prevention and treatment fund;
  - 18 b. An amount for the lottery's share of a game's prize reserve pool must be  
19 transferred to the multistate lottery association; and
  - 20 c. The balance of the net proceeds, less holdback of any reserve funds the  
21 director may need for continuing operations, must be transferred to the state  
22 treasurer on at least an annual basis for deposit in the state general fund.

23 **SECTION 5. AMENDMENT.** Subsection 1 of section 53-12.1-11 of the North Dakota  
24 Century Code is amended and reenacted as follows:

- 25 1. The following information and records of the lottery are confidential:
  - 26 a. Sales and income tax information, financial statements, and a credit report of  
27 a retailer applicant or person seeking or doing business with the lottery, and  
28 retailer application information other than the applicant's name and location;
  - 29 b. Information related to a person owing a debt to the state or having a debt  
30 collected through a state agency that is made confidential by another state  
31 law or rule;

- 1           c. Internal control and security procedures, security information on a winning  
2           ticket, and information on a bid or contractual data, the disclosure of which is  
3           harmful to the efforts of the lottery to contract for goods and services on  
4           favorable terms;
- 5           d. Personal information on a winning player who purchases a subscription or a  
6           player who wins a prize on a winning ticket unless the player authorizes, in  
7           writing, release of the information; and
- 8           e. Lottery sales data, the disclosure of which is harmful to the competitive  
9           position of the lottery, retailer, or person seeking or doing business with the  
10          lottery. However, a retailer may authorize the lottery to release the retailer's  
11          lottery sales data.

12           **SECTION 6. AMENDMENT.** Subsection 1 of section 53-12.1-12 of the North Dakota  
13 Century Code is amended and reenacted as follows:

- 14          1. A claimant agency and the director shall cooperate on the setoff of a winning  
15          lottery ticket or promotional cash prize against a delinquent debt. A claimant  
16          agency is an agency of the state of North Dakota that a person owes money to or  
17          that collects money on behalf of another party to satisfy a debt. The claimant  
18          agency and director shall share necessary information, including the person's full  
19          name, social security number, and amount and type of debt, through a mutually  
20          convenient method to timely achieve a setoff of a prize.

21           **SECTION 7. AMENDMENT.** Subsection 2 of section 57-40.3-04 of the North Dakota  
22 Century Code is amended and reenacted as follows:

- 23          2. Any motor vehicle owned by or in possession of the federal or state government or  
24          a political subdivision thereof or a motor vehicle procured by or on behalf of the  
25          North Dakota lottery that is to be awarded as a prize in a game or promotion.

26           **SECTION 8. EMERGENCY.** This Act is declared to be an emergency measure.