

HOUSE BILL NO. 1279

Introduced by

Representatives Maragos, DeKrey, Martinson, J. Nelson

1 A BILL for an Act to amend and reenact section 53-06.1-01, subsection 4 of section
2 53-06.1-01.1, subsection 1 of section 53-06.1-06, and section 53-06.1-14 of the North Dakota
3 Century Code, relating to the use of paperless pull tabs and paperless pull tab devices.

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

5 **SECTION 1. AMENDMENT.** Section 53-06.1-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **53-06.1-01. Definitions.**

8 As used in this chapter:

- 9 1. "Adjusted gross proceeds" means gross proceeds less cash prizes, cost of
10 merchandise prizes, bingo cards excise tax, pull tab excise tax, and federal excise tax
11 imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401].
- 12 2. "Charitable organization" means an organization whose primary purpose is for relief of
13 poor, distressed, underprivileged, diseased, elderly, or abused persons, prevention of
14 cruelty to children or animals, or similar condition of public concern.
- 15 3. "Civic and service organization" means an organization whose primary purpose is to
16 promote the common good and social welfare of a community as a sertoma, lion,
17 rotary, jaycee, kiwanis, or similar organization.
- 18 4. "Closely related organization" means an organization that controls, is controlled by, or
19 is under common control with another organization. Control exists when an
20 organization has the authority or ability to elect, appoint, or remove a majority of the
21 officers or directors of another organization or, by policy, contract, or otherwise, has
22 the authority or ability to directly or indirectly direct or cause the direction of the
23 management or policies of another organization.

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- 1 5. "Distributor" means a person that sells, markets, or distributes equipment designed for
2 use in the conduct of games.
- 3 6. "Educational organization" means a nonprofit public or private elementary or
4 secondary school, two-year or four-year college, or university.
- 5 7. "Eligible organization" means a veterans, charitable, educational, religious, fraternal,
6 civic and service, public safety, or public-spirited organization domiciled in North
7 Dakota or authorized by the secretary of state as a foreign corporation under chapter
8 10-33, incorporated as a nonprofit organization, and which has been regularly and
9 actively fulfilling its primary purpose within this state during the two immediately
10 preceding years. However, an educational organization does not need to be
11 incorporated or be in existence for two years. An organization's primary purpose may
12 not involve the conduct of games. The organization may be issued a license by the
13 attorney general. For purposes of this section, a foreign corporation authorized under
14 chapter 10-33 is not an eligible organization unless authorized to conduct a raffle
15 under chapter 20.1-08 and may not conduct a game other than a raffle under chapter
16 20.1-08.
- 17 8. "Fraternal organization" means an organization, except a school fraternity, which is a
18 branch, lodge, or chapter of a national or state organization and exists for the common
19 business, brotherhood, or other interests of its members. The organization must have
20 qualified for exemption from federal income tax under section 501(c)(8) or 501(c)(10)
21 of the Internal Revenue Code.
- 22 9. "Games" means games of chance.
- 23 10. "Gross proceeds" means all cash and checks received from conducting games.
- 24 11. "Licensed organization" means an eligible organization licensed by the attorney
25 general.
- 26 12. "Manufacturer" means, for a pull tab or bingo card, a person who designs, prints,
27 assembles, or produces the product. For a pull tab or bingo card dispensing device, a
28 paperless pull tab device, or bingo card marking device, a manufacturer means the
29 person who directly controls and manages development of and owns the rights to the
30 proprietary software encoded on a processing chip that enables the device to operate.

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- 1 13. "Net income" means gross proceeds less cash prizes, cost of merchandise prizes, and
2 expenses to conduct the gaming activity.
- 3 14. "Net proceeds" means adjusted gross proceeds less allowable expenses and gaming
4 tax.
- 5 15. "Paperless pull tab device" means a fixed base, nonmobile device, approved by the
6 attorney general, which electronically dispenses and displays paperless pull tabs.
- 7 16. "Permit" means a local permit or charity local permit issued by a governing body of a
8 city or county to a nonprofit organization or group of people domiciled in North Dakota.
- 9 ~~16-17.~~ "Person" means any person, partnership, corporation, limited liability company,
10 association, or organization.
- 11 ~~17-18.~~ "Prize board" means a board used with pull tabs to award cash or merchandise prizes.
- 12 ~~18-19.~~ "Public safety organization" means an organization whose primary purpose is to
13 provide firefighting, ambulance service, crime prevention, or similar emergency
14 assistance.
- 15 ~~19-20.~~ "Public-spirited organization" means an organization whose primary purpose is for
16 scientific research, amateur sports competition, safety, literary, arts, preservation of
17 cultural heritage, educational activities, educational public service, youth, economic
18 development, tourism, community medical care, community recreation, or similar
19 organization, which does not meet the definition of any other type of eligible
20 organization. However, a nonprofit organization or a group of people recognized as a
21 public-spirited organization by a governing body of a city or county for obtaining a
22 permit does not need to meet this definition.
- 23 21. "Pull tab" means a folded or banded ticket or jar ticket, a pull tab card with break-open
24 tabs, or a paperless pull tab displaying concealed numbers or symbols or
25 combinations thereof which are exposed by a player to determine the outcome. The
26 term "pull tab" and "jar ticket" are used interchangeably unless otherwise stated. A
27 winning pull tab contains certain symbols, numbers, or combinations thereof and may
28 contain multiple winning symbols, numbers, or combinations thereof which have been
29 previously designated as winning symbols or numbers.

1 ~~20-22.~~ "Religious organization" means a church, body of communicants, or group gathered in
2 common membership whose primary purpose is for advancement of religion, mutual
3 support and edification in piety, worship, and religious observances.

4 ~~21-23.~~ "Veterans organization" means any congressionally chartered post organization, or
5 any branch or lodge or chapter of a nonprofit national or state organization whose
6 membership consists of individuals who are or were members of the armed services
7 or forces of the United States. The organization must have qualified for exemption
8 from federal income tax under section 501(c)(19) of the Internal Revenue Code.

9 **SECTION 2. AMENDMENT.** Subsection 4 of section 53-06.1-01.1 of the North Dakota
10 Century Code is amended and reenacted as follows:

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

22 **SECTION 3. AMENDMENT.** Subsection 1 of section 53-06.1-06 of the North Dakota
23 Century Code is amended and reenacted as follows:

- 24 1. No person, except a member, volunteer, an employee of a licensed organization or an
25 organization that has a permit, or an employee of a temporary employment agency
26 who provides services to a licensed organization, may manage, control, or conduct
27 any game. "Member" includes a member of an auxiliary organization. In conducting
28 pull tabs, prize boards, or bingo through a dispensing device, selling pull tabs through
29 a paperless pull tab device, selling raffle tickets, or conducting sports pools, the
30 attorney general may allow an employee of an alcoholic beverage establishment to
31 provide limited assistance to an organization.

1 **SECTION 4. AMENDMENT.** Section 53-06.1-14 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **53-06.1-14. Distributors and manufacturers.**

- 4 1. A manufacturer of pull tabs, bingo cards, paperless pull tab devices, or bingo card
5 marking devices shall apply annually for a license and pay a license fee of four
6 thousand dollars. A manufacturer of pull tab dispensing devices shall apply annually
7 for a license and pay a license fee of one thousand dollars. A distributor shall apply
8 annually for a license and pay a license fee of one thousand five hundred dollars.
9 Application must be made before the first day of April in each year on a form
10 prescribed by the attorney general.
- 11 2. A licensed distributor may not sell, market, or distribute gaming equipment except to a
12 licensed distributor, licensed organization, organization that has a permit, or other
13 person authorized by gaming rule or the attorney general. A manufacturer of a pull tab
14 dispensing device, pull tab, paperless pull tab device, bingo card marking device, or
15 bingo card may only sell, market, or distribute the manufacturer's pull tab dispensing
16 device and processing chip encoded with proprietary software, pull tab, paperless pull
17 tab device, bingo card marking device, or bingo card to a licensed distributor. A
18 licensed distributor may purchase or acquire a pull tab dispensing device and
19 processing chip encoded with proprietary software, pull tab, paperless pull tab device,
20 bingo card marking device, or bingo card only from a licensed manufacturer or
21 licensed distributor. However, a distributor may purchase or acquire a used pull tab
22 dispensing device or paperless pull tab device from a licensed organization. A
23 distributor may not duplicate a manufacturer's processing chip encoded with
24 proprietary software. No gaming equipment or prize may be sold or leased at an
25 excessive price.
- 26 3. A licensed distributor shall affix a North Dakota gaming stamp to each deal of pull tabs
27 and bingo cards, punchboard, sports pool board, calcutta board, and series of
28 paddlewheel ticket cards sold or otherwise provided to a licensed organization and
29 shall purchase the stamps from the attorney general for thirty-five cents each. Ten
30 cents of each stamp sold by the attorney general, up to thirty-six thousand dollars per

1 biennium, must be credited to the attorney general's operating fund to defray the costs
2 of issuing and administering the gaming stamps.

3 4. A licensed organization, organization that has a permit, licensed manufacturer, or
4 North Dakota wholesaler of liquor or alcoholic beverages may not be a distributor or
5 stockholder of a distributor. A distributor may not be a stockholder of a manufacturer.

6 5. In addition to the license fee, the attorney general may require advance payment of
7 any fee necessary to pay the cost of a record check of an applicant according to
8 subdivision c of subsection 5 of section 53-06.1-06.

9 6. A licensed manufacturer may not refuse to sell deals of pull tabs or paper bingo cards
10 to a licensed distributor unless:

11 a. A specific deal of pull tabs is sold on an exclusive basis;

12 b. The manufacturer does not sell deals of pull tabs or paper bingo cards to any
13 distributor in the state;

14 c. A gaming law or rule prohibits the sale;

15 d. The distributor has not provided the manufacturer with proof of satisfactory credit
16 or is delinquent on any payment owed to the manufacturer; or

17 e. The distributor has not met the manufacturer's standard minimum order quantity
18 and freight terms.