

March 29, 2017

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1216

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 53-06.1-01, subsection 4 of section 53-06.1-01.1, subsection 1 of section 53-06.1-06, subsection 5 of section 53-06.1-11, and section 53-06.1-14 of the North Dakota Century Code, relating to the use of electronic pull tabs and electronic pull tab devices.

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

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

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

As used in this chapter:

1. "Adjusted gross proceeds" means gross proceeds less cash prizes, cost of merchandise prizes, gaming tax, and federal excise tax imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401].
2. "Charitable organization" means an organization whose primary purpose is for relief of poor, distressed, underprivileged, diseased, elderly, or abused persons, prevention of cruelty to children or animals, or similar condition of public concern.
3. "Civic and service organization" means an organization whose primary purpose is to promote the common good and social welfare of a community as a sertoma, lion, rotary, jaycee, kiwanis, or similar organization.
4. "Closely related organization" means an organization that controls, is controlled by, or is under common control with another organization. Control exists when an organization has the authority or ability to elect, appoint, or remove a majority of the officers or directors of another organization or, by policy, contract, or otherwise, has the authority or ability to directly or indirectly direct or cause the direction of the management or policies of another organization.
5. "Distributor" means a person that sells, markets, or distributes equipment designed for use in the conduct of games.
6. "Educational organization" means a nonprofit public or private elementary or secondary school, two-year or four-year college, or university.
7. "Electronic pull tab device" means a device, approved by the attorney general, which electronically displays pull tabs.

8. "Eligible organization" means a veterans, charitable, educational, religious, fraternal, civic and service, public safety, or public-spirited organization domiciled in North Dakota or authorized by the secretary of state as a foreign corporation under chapter 10-33, incorporated as a nonprofit organization, and which has been regularly and actively fulfilling its primary purpose within this state during the two immediately preceding years. However, an educational organization does not need to be incorporated or be in existence for two years. An organization's primary purpose may not involve the conduct of games. The organization may be issued a license by the attorney general. For purposes of this section, a foreign corporation authorized under chapter 10-33 is not an eligible organization unless authorized to conduct a raffle under chapter 20.1-04 or 20.1-08 and may not conduct a game other than a raffle under chapter 20.1-04 or 20.1-08.
- 8.9. "Fraternal organization" means an organization, except a school fraternity, which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members. The organization must have qualified for exemption from federal income tax under section 501(c)(8) or 501(c)(10) of the Internal Revenue Code.
- 9-10. "Games" means games of chance.
- 10-11. "Gross proceeds" means all cash and checks received from conducting games.
- 11-12. "Licensed organization" means an eligible organization licensed by the attorney general.
- 12-13. "Manufacturer" means, for a pull tab or bingo card, a person who designs, prints, assembles, or produces the product. For a pull tab or bingo card dispensing device or bingo card marking device, a manufacturer means the person who directly controls and manages development of and owns the rights to the proprietary software encoded on a processing chip that enables the device to operate.
- 13-14. "Net income" means gross proceeds less cash prizes, cost of merchandise prizes, and expenses to conduct the gaming activity.
- 14-15. "Net proceeds" means adjusted gross proceeds less allowable expenses and gaming tax.
- 15-16. "Permit" means a local permit or charity local permit issued by a governing body of a city or county to a nonprofit organization or group of people domiciled in North Dakota.
- 16-17. "Person" means any person, partnership, corporation, limited liability company, association, or organization.
- 17-18. "Prize board" means a board used with pull tabs to award cash or merchandise prizes.
- 18-19. "Public safety organization" means an organization whose primary purpose is to provide firefighting, ambulance service, crime prevention, or similar emergency assistance.

- 19-20. "Public-spirited organization" means an organization whose primary purpose is for scientific research, amateur sports competition, safety, literary, arts, preservation of cultural heritage, educational activities, educational public service, youth, economic development, tourism, community medical care, community recreation, or similar organization, which does not meet the definition of any other type of eligible organization. However, a nonprofit organization or a group of people recognized as a public-spirited organization by a governing body of a city or county for obtaining a permit does not need to meet this definition.
- 20-21. "Pull tab" means a folded or banded ticket or jar ticket, a pull tab card with break-open tabs, or an electronic pull tab displaying concealed numbers or symbols or combinations of concealed numbers and symbols which are exposed by a player to determine the outcome. The terms "pull tab" and "jar ticket" are used interchangeably unless otherwise stated. A winning pull tab contains certain symbols, numbers, or combinations of symbols and numbers and may contain multiple winning symbols, numbers, or combinations of symbols and numbers which have been previously designated as winning symbols or numbers.
22. "Religious organization" means a church, body of communicants, or group gathered in common membership whose primary purpose is for advancement of religion, mutual support and edification in piety, worship, and religious observances.
- 21-23. "Veterans organization" means any congressionally chartered post organization, or any branch or lodge or chapter of a nonprofit national or state organization whose membership consists of individuals who are or were members of the armed services or forces of the United States. The organization must have qualified for exemption from federal income tax under section 501(c)(19) of the Internal Revenue Code.

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

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

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

1. No person, except a member, volunteer, an employee of a licensed organization or an organization that has a permit, or an employee of a

temporary employment agency who provides services to a licensed organization, may manage, control, or conduct any game. "Member" includes a member of an auxiliary organization. In conducting pull tabs, prize boards, or bingo through a dispensing device, selling pull tabs through a pull tab device, selling raffle tickets, or conducting sports pools, the attorney general may allow an employee of an alcoholic beverage establishment to provide limited assistance to an organization.

**SECTION 4. AMENDMENT.** Subsection 5 of section 53-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

5. For a site where bingo is not the primary game:
  - a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed two hundred dollars multiplied by the necessary number of tables based on criteria prescribed by gaming rule. For each twenty-one table with a wager greater than five dollars, an additional amount up to one hundred dollars may be added to the monthly rent. If pull tabs is also conducted involving only a jar bar, the monthly rent for pull tabs may not exceed an additional one hundred seventy-five dollars. If pull tabs is conducted involving only a dispensing device, electronic pull tab device, or ~~both~~ a jar bar and dispensing device or electronic pull tab device, the monthly rent for pull tabs may not exceed an additional three hundred twenty-five dollars.
  - b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted involving either a jar bar or dispensing device, or ~~both~~ electronic pull tab device, or any combination, the monthly rent may not exceed four hundred dollars.

**SECTION 5. AMENDMENT.** Section 53-06.1-14 of the North Dakota Century Code is amended and reenacted as follows:

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

1. A manufacturer of pull tabs, bingo cards, electronic pull tab devices, or bingo card marking devices shall apply annually for a license and pay a license fee of four thousand dollars. A manufacturer of pull tab dispensing devices shall apply annually for a license and pay a license fee of one thousand dollars. A manufacturer of fifty-fifty raffle systems shall apply annually for a license and pay a license fee of five hundred dollars. A distributor shall apply annually for a license and pay a license fee of one thousand five hundred dollars. Application must be made before the first day of April in each year on a form prescribed by the attorney general.
2. A licensed distributor may not sell, market, or distribute gaming equipment except to a licensed distributor, licensed organization, organization that has a permit, or other person authorized by gaming rule or the attorney general. A manufacturer of a pull tab dispensing device, pull tab, electronic pull tab device, bingo card marking device, bingo card, or fifty-fifty raffle system may only sell, market, or distribute the manufacturer's pull tab dispensing device and processing chip encoded with proprietary software, pull tab, electronic pull tab device, bingo card marking device, bingo card, or fifty-fifty raffle system to a licensed distributor. A licensed distributor may purchase or acquire a pull tab dispensing device and processing chip

encoded with proprietary software, pull tab, electronic pull tab device, bingo card marking device, bingo card, or fifty-fifty raffle system only from a licensed manufacturer or licensed distributor. However, a distributor may purchase or acquire a used pull tab dispensing device or electronic pull tab device from a licensed organization. A distributor may not duplicate a manufacturer's processing chip encoded with proprietary software. No gaming equipment or prize may be sold or leased at an excessive price.

3. A licensed distributor shall affix a North Dakota gaming stamp to each deal of pull tabs and bingo cards, raffle board, punchboard, sports pool board, calcutta board, and series of paddlewheel ticket cards sold or otherwise provided to a licensed organization and shall purchase the stamps from the attorney general for thirty-five cents each. Ten cents of each stamp sold by the attorney general, up to thirty-six thousand dollars per biennium, must be credited to the attorney general's operating fund to defray the costs of issuing and administering the gaming stamps.
4. A licensed organization, organization that has a permit, licensed manufacturer, or North Dakota wholesaler of liquor or alcoholic beverages may not be a distributor or stockholder of a distributor. A distributor may not be a stockholder of a manufacturer.
5. In addition to the license fee, the attorney general may require advance payment of any fee necessary to pay the cost of a record check of an applicant according to subdivision c of subsection 5 of section 53-06.1-06.
6. A licensed manufacturer may not refuse to sell deals of pull tabs, paper bingo cards, or gaming equipment to a licensed distributor unless:
  - a. A specific deal of pull tabs is sold on an exclusive basis;
  - b. The manufacturer does not sell deals of pull tabs, paper bingo cards, or gaming equipment to any distributor in the state;
  - c. A gaming law or rule prohibits the sale;
  - d. The distributor has not provided the manufacturer with proof of satisfactory credit or is delinquent on any payment owed to the manufacturer; or
  - e. The distributor has not met the manufacturer's standard minimum order quantity and freight terms."

Renumber accordingly