

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED HOUSE BILL NO. 1216**

Introduced by

Representatives Maragos, Brabandt, Delmore, Dockter, D. Johnson, Kasper, Nathe, Schatz,
Schmidt

Senators Armstrong, Poolman, Schaible

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, subsection 5 of section 53-06.1-11, and
3 section 53-06.1-14 of the North Dakota Century Code, relating to the use of electronic pull tabs
4 and electronic pull tab devices.

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

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

8 **53-06.1-01. Definitions.**

9 As used in this chapter:

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

1 the authority or ability to directly or indirectly direct or cause the direction of the
2 management or policies of another organization.

3 5. "Distributor" means a person that sells, markets, or distributes equipment designed for
4 use in the conduct of games.

5 6. "Educational organization" means a nonprofit public or private elementary or
6 secondary school, two-year or four-year college, or university.

7 7. "Electronic pull tab device" means a device, approved by the attorney general, which
8 electronically displays pull tabs.

9 8. "Eligible organization" means a veterans, charitable, educational, religious, fraternal,
10 civic and service, public safety, or public-spirited organization domiciled in North
11 Dakota or authorized by the secretary of state as a foreign corporation under chapter
12 10-33, incorporated as a nonprofit organization, and which has been regularly and
13 actively fulfilling its primary purpose within this state during the two immediately
14 preceding years. However, an educational organization does not need to be
15 incorporated or be in existence for two years. An organization's primary purpose may
16 not involve the conduct of games. The organization may be issued a license by the
17 attorney general. For purposes of this section, a foreign corporation authorized under
18 chapter 10-33 is not an eligible organization unless authorized to conduct a raffle
19 under chapter 20.1-04 or 20.1-08 and may not conduct a game other than a raffle
20 under chapter 20.1-04 or 20.1-08.

21 ~~8-9.~~ "Fraternal organization" means an organization, except a school fraternity, which is a
22 branch, lodge, or chapter of a national or state organization and exists for the common
23 business, brotherhood, or other interests of its members. The organization must have
24 qualified for exemption from federal income tax under section 501(c)(8) or 501(c)(10)
25 of the Internal Revenue Code.

26 ~~9-10.~~ "Games" means games of chance.

27 ~~10-11.~~ "Gross proceeds" means all cash and checks received from conducting games.

28 ~~11-12.~~ "Licensed organization" means an eligible organization licensed by the attorney
29 general.

30 ~~12-13.~~ "Manufacturer" means, for a pull tab or bingo card, a person who designs, prints,
31 assembles, or produces the product. For a pull tab or bingo card dispensing device or

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

1 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, electronic 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 pull tab device, selling raffle tickets, or conducting sports pools, the attorney general
30 may allow an employee of an alcoholic beverage establishment to provide limited
31 assistance to an organization.

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

3 5. For a site where bingo is not the primary game:

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

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

19 **53-06.1-14. Distributors and manufacturers.**

- 20 1. A manufacturer of pull tabs, bingo cards, electronic pull tab devices, or bingo card
21 marking devices shall apply annually for a license and pay a license fee of four
22 thousand dollars. A manufacturer of pull tab dispensing devices shall apply annually
23 for a license and pay a license fee of one thousand dollars. A manufacturer of fifty-fifty
24 raffle systems shall apply annually for a license and pay a license fee of five hundred
25 dollars. A distributor shall apply annually for a license and pay a license fee of one
26 thousand five hundred dollars. Application must be made before the first day of April in
27 each year on a form prescribed by the attorney general.
- 28 2. A licensed distributor may not sell, market, or distribute gaming equipment except to a
29 licensed distributor, licensed organization, organization that has a permit, or other
30 person authorized by gaming rule or the attorney general. A manufacturer of a pull tab
31 dispensing device, pull tab, electronic pull tab device, bingo card marking device,

- 1 bingo card, or fifty-fifty raffle system may only sell, market, or distribute the
2 manufacturer's pull tab dispensing device and processing chip encoded with
3 proprietary software, pull tab, electronic pull tab device, bingo card marking device,
4 bingo card, or fifty-fifty raffle system to a licensed distributor. A licensed distributor may
5 purchase or acquire a pull tab dispensing device and processing chip encoded with
6 proprietary software, pull tab, electronic pull tab device, bingo card marking device,
7 bingo card, or fifty-fifty raffle system only from a licensed manufacturer or licensed
8 distributor. However, a distributor may purchase or acquire a used pull tab dispensing
9 device or electronic pull tab device from a licensed organization. A distributor may not
10 duplicate a manufacturer's processing chip encoded with proprietary software. No
11 gaming equipment or prize may be sold or leased at an excessive price.
- 12 3. A licensed distributor shall affix a North Dakota gaming stamp to each deal of pull tabs
13 and bingo cards, raffle board, punchboard, sports pool board, calcutta board, and
14 series of paddlewheel ticket cards sold or otherwise provided to a licensed
15 organization and shall purchase the stamps from the attorney general for thirty-five
16 cents each. Ten cents of each stamp sold by the attorney general, up to thirty-six
17 thousand dollars per biennium, must be credited to the attorney general's operating
18 fund to defray the costs of issuing and administering the gaming stamps.
- 19 4. A licensed organization, organization that has a permit, licensed manufacturer, or
20 North Dakota wholesaler of liquor or alcoholic beverages may not be a distributor or
21 stockholder of a distributor. A distributor may not be a stockholder of a manufacturer.
- 22 5. In addition to the license fee, the attorney general may require advance payment of
23 any fee necessary to pay the cost of a record check of an applicant according to
24 subdivision c of subsection 5 of section 53-06.1-06.
- 25 6. A licensed manufacturer may not refuse to sell deals of pull tabs, paper bingo cards, or
26 gaming equipment to a licensed distributor unless:
- 27 a. A specific deal of pull tabs is sold on an exclusive basis;
28 b. The manufacturer does not sell deals of pull tabs, paper bingo cards, or gaming
29 equipment to any distributor in the state;
30 c. A gaming law or rule prohibits the sale;

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- 1 d. The distributor has not provided the manufacturer with proof of satisfactory credit
- 2 or is delinquent on any payment owed to the manufacturer; or
- 3 e. The distributor has not met the manufacturer's standard minimum order quantity
- 4 and freight terms.