

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1386

Introduced by

Representatives Becker, Fegley, Lefor, Rohr, Schauer

Senators Anderson, Kannianen, Klein

1 A BILL for an Act to create and enact a new section to chapters 40-01 and 54-06 of the North
2 Dakota Century Code, relating to prohibition of governmental limitations on hours of business
3 and capacity.

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

5 **SECTION 1.** A new section to chapter 40-01 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Prohibition on limiting hours of operation and capacity.**

8 1. A political subdivision, including a local health department or officer, may not limit or
9 otherwise regulate the hours of operation or capacity of a private business or other
10 nongovernmental entity, including a sole proprietorship or association, regardless of
11 whether the entity is declared to be essential or nonessential, except to the extent:

12 a. Either:

13 (1) The hours or capacity are expressly set by a state law, federal law, or
14 federal regulation;

15 (2) A state law, federal law, or federal regulation expressly specifies the number
16 of hours the entity must be available to provide services or the number of
17 patrons who physically may be present on the entity's premises; or

18 (3) A state law expressly authorizes a state agency to limit or otherwise
19 regulate the hours or capacity; and

20 b. If the relevant provision in subdivision a is a state law, state law expressly
21 authorizes the political subdivision to enforce the state law.

22 2. A rule, ordinance, or other policy that is inconsistent with this section is void.

23 **SECTION 2.** A new section to chapter 54-06 of the North Dakota Century Code is created
24 and enacted as follows:

1 **Prohibition on limiting hours of operation and capacity.**

- 2 1. A state agency may not limit or otherwise regulate the hours of operation or capacity of
3 a private business or other nongovernmental entity, including a sole proprietorship or
4 association, regardless of whether the entity is declared to be essential or
5 nonessential, except to the extent:
- 6 a. The hours or capacity limits are expressly set by a state law, federal law, or
7 federal regulation;
- 8 b. A state law, federal law, or federal regulation expressly specifies the number of
9 hours the entity must be available to provide services or the number of patrons
10 who physically may be present on the entity's premises; or
- 11 c. A state law expressly authorizes the state agency to limit or otherwise regulate
12 the hours or capacity.
- 13 2. An executive order issued under section 37-17.1-05 and any other executive order
14 issued by the governor, an administrative rule of the state department of health, and
15 an order of the state health officer are subject to this section.
- 16 3. An administrative rule or an executive order that is inconsistent with this section is
17 void.