

SB 2296
Senate Finance & Taxation Committee
Submitted by Don Santer for CGAND and NDAD
February 10th, 2021

Chairperson Bell and Committee members, thank you for the opportunity to provide information regarding the charitable gaming industry of North Dakota. I am here in opposition of Senate Bill 2296.

My name is Don Santer, I represent the Charitable Gaming Association of North Dakota (CGAND), a trade association for charities operating gaming throughout ND. I also represent the North Dakota Association for the Disabled (NDAD). NDAD is a North Dakota charity that for over 45 years has been dedicated to improving the quality of life for persons with disabilities. NDAD pays for most of its services with charitable gaming funds.

Senate Bill 2296 is designed by a competing gaming industry to restrict, damage, and eliminate competition.

SECTION 1. AMENDMENT. Section 53-06.1-01-Changes to Definitions:

- New definition of “Adjusted gross proceeds or net revenue”...
 - This change is inserted as an attempt to match tribal gaming compact wording.
- New definition of “Bar”
 - This would hinder current operations in rural bars and any Bar/Restaurant that allow underage patrons and is already addressed by each municipality.
 - Would potentially restrict gaming in bingo halls
- New definition of “Electronic pull tab device” means a hand-held device...
 - Hand-held devices are not authorized by regulation 99-01.3-06.1-02 #1a. *An electronic pull tab device must be a stand-alone cabinet style device. No device may be a hand-held portable device or affixed to a bar, counter, or table top.*
 - “with similar appearance and functionality of physical paper pull tabs.”
 - This wording is very vague and difficult to quantify. The AG’s office already has a list of rules pertaining to the appearance of the graphics and is required to issue approval for every new game.

SECTION 2. AMENDMENT. Subsection 1 of section 53-06.1-01.1. Changes to the state gaming commission: The state gaming commission consists of the chairman and ~~four~~ nine other members including one member from each of the five federally recognized Indian tribes in the state.

- The addition of 5 tribal gaming commissioners would essentially nullify the gaming commission or give tribal gaming interests control over the commission.
- Tribal gaming commissioners would have an extreme conflict of interest.

SECTION 3. AMENDMENT. Subsection 1 of section 53-06.1-06. Elimination of Bar assist: A bar employee may not redeem an electronic pull tab credit ticket voucher.

- This would add cost for charities and make it very difficult to operate in rural areas.
- There is no good reason to eliminate “Bar assist” except to hinder current operations and cause additional expense for charities.

SECTION 4. AMENDMENT. Section 53-06.1-08. Restrictions to top tier prize for pull tabs.

- This change only serves to reduce competition and tamper with charitable gaming success.

SECTION 5. AMENDMENT. Section 53-06.1-08.2. Electronic pull tab device requirements

- Removal of the phrase: “...or used to purchase more pull tabs.”
 - This is meant to eliminate the play of credits
 - This will create a dangerous situation on site by requiring 3-4 times more cash on-site, creating a much greater risk for robberies.
 - Would create a massive increase in paperwork and documentation
 - Is intended to destroy consumer interest in the game type
- Electronic pull tab device **must maintain** a twelve percent hold
 - This wording will create an impossible requirement. It is impossible to insure or **maintain** a twelve percent hold as the winning tickets are intended/regulated to come out randomly.
 - There is no need to mandate payout percentages because free market competition is already providing these choices for gaming organizations.
 - Restrictions on percent of hold are not in place for any other game type.
 - The intent of this wording is intended to erode consumer interest.

Section 6 - A new section to chapter 53-06.1 to century code:

- Organization operating electronic pull tab devices required to comply with applicable federal reporting requirements.
- An organization authorized to operate electronic pull tab devices shall comply with all applicable federal reporting requirements.
 - There is no rational reason for these additions
 - At best this is already addressed in Federal law and adding to ND Century code is unnecessary

Section 7 - A new section to chapter 53-06.1-11:

- At least sixty percent of the net revenue from gaming activity of electronic pull tab devices must be used for eligible uses outlined in subsection 2 of this section.
 - This is a change from current law 53-06.1-11 #2. *Allowable expenses may deducted from adjusted gross proceeds. The allowable expense limit is sixty percent of the adjusted gross proceeds per quarter.*

- The new wording is intended to create financial difficulties for charities while section 3 and section 8 amendments are intended to increase expense for a licensed organization.
- This will also lead to price fixing on etab machines

SECTION 8. A new subsection to section 53-06.1-15.1

- Impose a regulatory inspection fee on a distributor authorized to operate an electronic pull tab device.
 - This is meant to increase the cost for a distributor that will get passed on to the charities and again increase their expenses.

SECTION 9. A new subsection to section 53-06.1-15.1. Limits on etab machines: Not authorize more than two thousand electronic pull tab devices to be operated in the state on an annual basis.

- This would be a reduction of more than 37% of the machines currently licensed and operating in the state.
- There is no way to fairly or equitably distribute etab machines in the state.
- This would hurt charities, hospitality, distributors, manufacturers, and state tax revenue.
- This would produce an un-intended consequence of creating black market deals and negotiations.

For the past 40 years North Dakota has developed a responsible and highly regulated system for charitable gaming to benefit charitable missions that serve your local communities. At best this bill is an attempt to severely hinder charitable gaming fundraising efforts. That is why CGAND is asking you to consider a **Do Not Pass** recommendation on **SB 2296**.

Thank you, Madam Chairman and members of the committee, for your time and thoughtful consideration I am happy to answer any additional questions you may have.

Respectfully,
Don Santer, NDAD
CGAND Vice President