

Introduced by

Representative Toman

1 A BILL for an Act to amend and reenact section 53-06.1-01, subsection 2 of section 53-06.1-03,  
2 and subsection 1 of section 53-06.1-06 of the North Dakota Century Code, relating to the  
3 definitions of "off sale" and "on sale", gaming site authorization and licensure, and the  
4 authorization of employees to provide limited assistance related to gaming; and to declare an  
5 emergency.

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

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

9 **53-06.1-01. Definitions.**

10 As used in this chapter:

- 11 1. "Adjusted gross proceeds" means gross proceeds less cash prizes, cost of  
12 merchandise prizes, gaming tax, and federal excise tax imposed under section 4401  
13 of the Internal Revenue Code [26 U.S.C. 4401].
- 14 2. "Charitable organization" means an organization whose primary purpose is for relief of  
15 poor, distressed, underprivileged, diseased, elderly, or abused persons, prevention of  
16 cruelty to children or animals, or similar condition of public concern.
- 17 3. "Civic and service organization" means an organization whose primary purpose is to  
18 promote the common good and social welfare of a community as a sertoma, lion,  
19 rotary, jaycee, kiwanis, or similar organization.
- 20 4. "Closely related organization" means an organization that controls, is controlled by, or  
21 is under common control with another organization. Control exists when an  
22 organization has the authority or ability to elect, appoint, or remove a majority of the  
23 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 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 10. "Games" means games of chance.
- 27 11. "Gross proceeds" means all cash and checks received from conducting games.
- 28 12. "Licensed organization" means an eligible organization licensed by the attorney  
29 general.
- 30 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 dispensing device, bingo card

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

1 determine the outcome. The terms "pull tab" and "jar ticket" are used interchangeably  
2 unless otherwise stated. A winning pull tab contains certain symbols, numbers, or  
3 combinations of symbols and numbers and may contain multiple winning symbols,  
4 numbers, or combinations of symbols and numbers which have been previously  
5 designated as winning symbols or numbers.

6 ~~22-24.~~ "Religious organization" means a church, body of communicants, or group gathered in  
7 common membership whose primary purpose is for advancement of religion, mutual  
8 support and edification in piety, worship, and religious observances.

9 ~~23-25.~~ "Veterans organization" means any congressionally chartered post organization, or  
10 any branch or lodge or chapter of a nonprofit national or state organization whose  
11 membership consists of individuals who are or were members of the armed services  
12 or forces of the United States. The organization must have qualified for exemption  
13 from federal income tax under section 501(c)(19) of the Internal Revenue Code.

14 **SECTION 2. AMENDMENT.** Subsection 2 of section 53-06.1-03 of the North Dakota  
15 Century Code is amended and reenacted as follows:

16 2. An eligible organization shall apply for a license to conduct only bingo, electronic quick  
17 shot bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one, paddlewheels,  
18 poker, or sports pools by:

19 a. First securing approval for a site authorization from the governing body of the city  
20 or county in which the proposed site is located. Approval, which may be granted  
21 at the sole discretion of the governing body, must be recorded on a site  
22 authorization form that is to accompany the license application to the attorney  
23 general ~~for final approval~~who shall issue the license. An authorized site includes  
24 a location that dispenses alcoholic beverages properly licensed by the governing  
25 body of the city or county for on sale alcoholic beverage sales. A governing body  
26 may not require an eligible organization to donate net proceeds to the city,  
27 county, or related political subdivision or for community programs or services  
28 within the city or county as a condition for receiving a site authorization from the  
29 city or county. A governing body may limit the number of tables for the game of  
30 twenty-one per site and the number of sites upon which a licensed organization

1           may conduct games within the city or county. A governing body may charge a  
2           one hundred dollar fee for a site authorization; and  
3           b.   Annually applying for a license from the attorney general before July first on a  
4           form prescribed by the attorney general and remitting a one hundred fifty dollar  
5           license fee for each city or county that approves a site authorization. However,  
6           the attorney general may allow an organization that only conducts a raffle or  
7           calcutta in two or more cities or counties to annually apply for a consolidated  
8           license and remit a one hundred fifty dollar license fee for each city or county in  
9           which a site is located. An organization shall document that it qualifies as an  
10          eligible organization. If an organization amends its primary purpose as stated in  
11          its articles of incorporation or materially changes its basic character, the  
12          organization shall reapply for licensure. The attorney general shall issue a license  
13          to an eligible organization that has obtained approval of site authorization under  
14          subdivision a, applied, paid the requisite fee, and demonstrated it qualifies as an  
15          eligible organization.

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

- 18           1.   No person, except a member, volunteer, an employee of a licensed organization or an  
19           organization that has a permit, or an employee of a temporary employment agency  
20           who provides services to a licensed organization, may manage, control, or conduct  
21           any game. "Member" includes a member of an auxiliary organization. In conducting  
22           pull tabs or prize boards through a dispensing device, selling pull tabs through a  
23           pull-tab device, selling raffle tickets, or conducting sports pools, the ~~attorney~~  
24           ~~general~~ local governing body of the city or county in which the site is located may allow  
25           an employee of an alcoholic-beverage establishment authorized site under section  
26           53-06.1-03, including a location ~~that dispenses alcoholic beverages~~ properly licensed  
27           by the governing body of the city or county for on sale alcoholic beverage sales, to  
28           provide limited assistance to an organization.

29          **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.