

Sixty-eighth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2304

Introduced by

Senators Klein, Hogue, Luick

Representatives Karls, Kempenich, Nathe

1 A BILL for an Act to create and enact a new section to chapter 53-06.1 and a new subsection to  
 2 section 53-06.1-15.1 of the North Dakota Century Code, relating to alcoholic beverage  
 3 establishment requirements and the authority of the attorney general to impose fines for gaming  
 4 violations; and to amend and reenact section 53-06.1-01, section 53-06.1-03, subsection 3 of  
 5 section 53-06.1-10.1, and subsections 2 and 5 of section 53-06.1-11 of the North Dakota  
 6 Century Code, relating to the definitions of alcoholic beverage establishment and manufacturer,  
 7 approval for a gaming site authorization and licensure, the maximum number of gaming sites  
 8 allowed, the maximum number of pull tab devices allowed at a site, gaming licenses for  
 9 alcoholic beverage establishments, electronic fifty-fifty raffles, modification of allowable expense  
 10 limits, and rent limits for electronic pull tab devices.

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

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

14 **53-06.1-01. Definitions.**

15 As used in this chapter:

- 16 1. "Adjusted gross proceeds" means gross proceeds less cash prizes, cost of  
 17 merchandise prizes, gaming tax, and federal excise tax imposed under section 4401  
 18 of the Internal Revenue Code [26 U.S.C. 4401].
- 19 2. "Alcoholic beverage establishment" means an establishment licensed under chapter  
 20 5-02 where alcoholic beverages are sold, dispensed, and consumed. ~~This does not~~  
 21 include an off-sale liquor store, gas station, grocery store, or convenience store. An  
 22 alcoholic beverage establishment must be licensed under chapter 5-02 and be  
 23 devoted to the service of alcoholic beverages for consumption by guests on the

1            ~~premises. The term includes a bar located within a hotel, bowling center, golf course,~~  
2            ~~or restaurant.~~

3            3. "Charitable organization" means an organization whose primary purpose is for relief of  
4            poor, distressed, underprivileged, diseased, elderly, or abused persons, prevention of  
5            cruelty to children or animals, or similar condition of public concern.

6            ~~3-4.~~ "Civic and service organization" means an organization whose primary purpose is to  
7            promote the common good and social welfare of a community as a sertoma, lion,  
8            rotary, jaycee, kiwanis, or similar organization.

9            ~~4-5.~~ "Closely related organization" means an organization that controls, is controlled by, or  
10           is under common control with another organization. Control exists when an  
11           organization has the authority or ability to elect, appoint, or remove a majority of the  
12           officers or directors of another organization or, by policy, contract, or otherwise, has  
13           the authority or ability to directly or indirectly direct or cause the direction of the  
14           management or policies of another organization.

15           ~~5-6.~~ "Distributor" means a person that sells, markets, or distributes equipment designed for  
16           use in the conduct of games.

17           ~~6-7.~~ "Educational organization" means a nonprofit public or private elementary or  
18           secondary school, two-year or four-year college, or university.

19           ~~7-8.~~ "Electronic pull tab device" means a device, approved by the attorney general, which  
20           electronically displays pull tabs.

21           ~~8-9.~~ "Eligible organization" means a veterans, charitable, educational, religious, fraternal,  
22           civic and service, public safety, or public-spirited organization domiciled in North  
23           Dakota or authorized by the secretary of state as a foreign corporation under chapter  
24           10-33, incorporated as a nonprofit organization, and which has been regularly and  
25           actively fulfilling its primary purpose within this state during the two immediately  
26           preceding years. However, an educational organization does not need to be  
27           incorporated or be in existence for two years. An organization's primary purpose may  
28           not involve the conduct of games. The organization may be issued a license by the  
29           attorney general. For purposes of this section, a foreign corporation authorized under  
30           chapter 10-33 is not an eligible organization unless authorized to conduct a raffle

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- 1 under chapter 20.1-04 or 20.1-08 and may not conduct a game other than a raffle  
2 under chapter 20.1-04 or 20.1-08.
- 3 ~~9-10.~~ "Fraternal organization" means an organization, except a school fraternity, which is a  
4 branch, lodge, or chapter of a national or state organization and exists for the common  
5 business, brotherhood, or other interests of its members. The organization must have  
6 qualified for exemption from federal income tax under section 501(c)(8) or 501(c)(10)  
7 of the Internal Revenue Code.
- 8 ~~40-11.~~ "Games" means games of chance.
- 9 ~~41-12.~~ "Gross proceeds" means all cash and checks received from conducting games.
- 10 ~~42-13.~~ "Licensed organization" means an eligible organization licensed by the attorney  
11 general.
- 12 ~~43-14.~~ "Manufacturer" means, for a pull tab or bingo card, a person who designs, prints,  
13 assembles, or produces the product. For a pull tab dispensing device, electronic pull  
14 tab device operating system, bingo card marking device, or a ~~fifty-fifty~~ electronic raffle  
15 system, a manufacturer means the person who directly controls and manages  
16 development of and owns the rights to the proprietary software encoded on a  
17 processing chip that enables the device or system to operate.
- 18 ~~44-15.~~ "Net income" means gross proceeds less cash prizes, cost of merchandise prizes, and  
19 expenses to conduct the gaming activity.
- 20 ~~45-16.~~ "Net proceeds" means adjusted gross proceeds less allowable expenses and gaming  
21 tax.
- 22 ~~46-17.~~ "Permit" means a local permit or restricted event permit issued by a governing body of  
23 a city or county to a nonprofit organization or group of people domiciled in North  
24 Dakota.
- 25 ~~47-18.~~ "Person" means any person, partnership, corporation, limited liability company,  
26 association, or organization.
- 27 ~~48-19.~~ "Prize board" means a board used with pull tabs to award cash or merchandise prizes.
- 28 ~~49-20.~~ "Public safety organization" means an organization whose primary purpose is to  
29 provide firefighting, ambulance service, crime prevention, or similar emergency  
30 assistance.

1 ~~20-21.~~ "Public-spirited organization" means an organization whose primary purpose is for  
2 scientific research, amateur sports competition, safety, literary, arts, preservation of  
3 cultural heritage, educational activities, educational public service, youth, economic  
4 development, tourism, community medical care, community recreation, or similar  
5 organization, which does not meet the definition of any other type of eligible  
6 organization. However, a nonprofit organization or a group of people recognized as a  
7 public-spirited organization by a governing body of a city or county for obtaining a  
8 permit does not need to meet this definition.

9 ~~24-22.~~ "Pull tab" means a folded or banded ticket or jar ticket, a pull tab card with break-open  
10 tabs, or an electronic pull tab displaying concealed numbers or symbols or  
11 combinations of concealed numbers and symbols which are exposed by a player to  
12 determine the outcome. The terms "pull tab" and "jar ticket" are used interchangeably  
13 unless otherwise stated. A winning pull tab contains certain symbols, numbers, or  
14 combinations of symbols and numbers and may contain multiple winning symbols,  
15 numbers, or combinations of symbols and numbers which have been previously  
16 designated as winning symbols or numbers.

17 ~~22-23.~~ "Religious organization" means a church, body of communicants, or group gathered in  
18 common membership whose primary purpose is for advancement of religion, mutual  
19 support and edification in piety, worship, and religious observances.

20 ~~23-24.~~ "Veterans organization" means any congressionally chartered post organization, or  
21 any branch or lodge or chapter of a nonprofit national or state organization whose  
22 membership consists of individuals who are or were members of the armed services  
23 or forces of the United States. The organization must have qualified for exemption  
24 from federal income tax under section 501(c)(19) of the Internal Revenue Code.

25 **SECTION 2. AMENDMENT.** Section 53-06.1-03 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **53-06.1-03. Permits, site authorization, and licenses - Organization requirements -**  
28 **Site inspection.**

29 1. Except as authorized by the attorney general, an organization that has its license  
30 suspended or revoked, or has relinquished or not renewed its license and not  
31 disbursed its net proceeds, is ineligible for a license or permit. Only one of two or more

1 closely related organizations may have a license or permit at one time. A college or  
2 university fraternity, sorority, or club is not closely related to an educational  
3 organization. An organization shall apply for a permit as follows:

4 a. An organization recognized as a public-spirited organization by the governing  
5 body of a city or county may apply for permits. A local permit may allow the  
6 organization to conduct only raffles, bingo, or sports pools. A restricted event  
7 permit may allow the organization to conduct only raffles, bingo, sports pools,  
8 paddlewheels, twenty-one, and poker. The organization or closely related  
9 organizations as a whole may only award a primary prize that does not exceed  
10 eight thousand dollars and total prizes of all games do not exceed forty thousand  
11 dollars per year. These maximum prize amounts do not apply to raffles conducted  
12 under chapter 20.1-08. The determination of what is a "public-spirited  
13 organization" is within the sole discretion of the governing body. An organization  
14 shall disclose on the application its intended use of the net income from the  
15 gaming activity. A governing body may issue a permit for games to be held at  
16 designated times and places.

17 b. An organization shall apply to the governing body of the city or county in which  
18 the proposed site is located. Application must be made on a form prescribed by  
19 the attorney general. Approval may be granted at the discretion of the governing  
20 body. A governing body may establish a fee not to exceed twenty-five dollars for  
21 each permit. A permit must be on a fiscal year basis from July first to June  
22 thirtieth or on a calendar-year basis.

23 c. An organization that has a local permit or a restricted event permit may use the  
24 net income from the gaming activity for any purpose that does not violate this  
25 chapter or gaming rules, unless the organization is a state political party or  
26 legislative district party committee, the organization may use the net income from  
27 a raffle for a political purpose. For purposes of this subdivision, a public-spirited  
28 use includes a political purpose.

29 d. An organization that has a restricted event permit is restricted to one event per  
30 year and:

31 (1) May not pay remuneration to employees for personal services;

- 1 (2) Shall use chips as wagers;
- 2 (3) Shall redeem a player's chips for merchandise prizes or cash;
- 3 (4) Shall disburse net income to eligible uses referenced in subdivision c, if
- 4 applicable, and in section 53-06.1-11.1; and
- 5 (5) Shall file a report prescribed by the attorney general with the governing
- 6 body and attorney general.
- 7 2. An eligible organization shall apply for a license to conduct only bingo, electronic quick
- 8 shot bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one, paddlewheels,
- 9 poker, or sports pools by:
- 10 a. First securing approval for a site authorization from the governing body of the city
- 11 or county in which the proposed site is located. Approval, ~~which~~ may be granted
- 12 at the discretion of the governing body, The approved authorization must be
- 13 recorded on a site authorization form that is to accompany the license application
- 14 to the attorney general for final approval. An eligible organization may request a
- 15 specific site location on the license application. A governing body ~~may;~~
- 16 ~~(1) May not require an eligible organization to donate net proceeds to the city,~~
- 17 ~~county, or related political subdivision or for community programs or~~
- 18 ~~services within the city or county as a condition for receiving a site~~
- 19 ~~authorization from the city or county. A governing body may that an eligible~~
- 20 organization:
- 21 (a) Donate net proceeds to the city, county, or related political subdivision
- 22 or for community programs or services within the city or county;
- 23 (b) Previously have conducted gaming at that site;
- 24 (c) Use charitable funds in accordance with a local ordinance; or
- 25 (d) Enter a lease with a specific site;
- 26 (2) May require as a condition for receiving a site authorization from the city or
- 27 county that:
- 28 (a) The application is complete; and
- 29 (b) The organization's primary purpose benefits the city, county, or related
- 30 political subdivisions;

- 1 | ~~(3) May~~ limit the number of tables for the game of twenty-one per site and the  
2 | number of sites upon which a licensed organization may conduct games  
3 | within the city or county. ~~A governing body may; and~~  
4 | ~~(4) May~~ charge a one hundred dollar fee for a site authorization; ~~and,~~  
5 | b. Annually applying for a license from the attorney general before July first on a  
6 | form prescribed by the attorney general and remitting a one hundred fifty dollar  
7 | license fee for each city or county that approves a site authorization. However,  
8 | the attorney general may allow an organization that only conducts a raffle or  
9 | calcutta in two or more cities or counties to annually apply for a consolidated  
10 | license and remit a one hundred fifty dollar license fee for each city or county in  
11 | which a site is located. An organization shall document that it qualifies as an  
12 | eligible organization. If an organization amends its primary purpose as stated in  
13 | its articles of incorporation or materially changes its basic character, the  
14 | organization shall reapply for licensure. The attorney general shall issue a license  
15 | to an eligible organization that has obtained approval of site authorization under  
16 | subdivision a. if the organization and site are in compliance with applicable laws  
17 | and rules.  
18 | 3. A licensed organization or organization that has a permit shall conduct games as  
19 | follows:  
20 | a. Only one licensed organization or organization that has a permit may conduct  
21 | games at an authorized site on a day, except that a raffle may be conducted for a  
22 | special occasion by another licensed organization or organization that has a  
23 | permit when one of these conditions is met:  
24 | (1) When the area for the raffle is physically separated from the area where  
25 | games are conducted by the regular organization.  
26 | (2) Upon request of the regular organization and with the approval of the  
27 | alcoholic beverage establishment, the regular organization's license or  
28 | permit is suspended for that specific time of day by the attorney general.  
29 | b. Except for a temporary site authorized for fourteen or fewer consecutive days for  
30 | not more than two events per quarter or a licensed organization authorized on or  
31 | before January 1, 2023, to conduct gaming at more than fifteen sites, a licensed

- 1 organization, including a closely related organization, may not have more than  
2 ~~twenty five~~fifteen sites ~~unless granted a waiver by the attorney general. If the~~  
3 ~~attorney general finds that there is no other licensed organization interested in~~  
4 ~~conducting gaming at a site for which a waiver is being sought, the attorney~~  
5 ~~general may approve the waiver for no more than five sites.~~
- 6 c. Games of electronic quick shot bingo, pull tabs, punchboards, twenty-one,  
7 paddlewheels, poker, and sports pools may be conducted only in a designated  
8 area where patrons must be twenty-one years of age or older to enter during the  
9 hours when alcoholic beverages may be dispensed according to applicable  
10 regulations of the state, county, or city.
- 11 d. An organization may not permit a person under twenty-one years of age to  
12 directly or indirectly play pull tabs, punchboards, twenty-one, calcuttas, sports  
13 pools, paddlewheels, or poker. An organization may not permit an individual  
14 under eighteen years of age to directly or indirectly play electronic quick shot  
15 bingo. An organization may not permit an individual under eighteen years of age  
16 to directly or indirectly play bingo unless the individual is accompanied by an  
17 adult, bingo is conducted by an organization that has a permit, or the game's  
18 prize structure does not exceed that allowed for a permit.
- 19 e. An organization may not install more than ten electronic pull tab devices at a site.
- 20 f. An organization with more than fifteen licensed sites under subdivision b may not  
21 increase its number of sites beyond the number of sites licensed as of January 1,  
22 2023.
- 23 4. A permit, or site authorization and license, must be displayed at a site.
- 24 5. The attorney general may issue a conditional license to an eligible organization whose  
25 regularly issued license has expired or been suspended, revoked, or relinquished. The  
26 attorney general shall designate the time period for which the conditional license is  
27 valid and may impose any conditions.
- 28 6. A governing body or local law enforcement official may inspect a site's gaming  
29 equipment and examine or cause to be examined any gaming-related books and  
30 records of a licensed organization or organization that has a permit.

1       **SECTION 3.** A new section to chapter 53-06.1 of the North Dakota Century Code is created  
2 and enacted as follows:

3       **Alcoholic beverage establishment - Requirements.**

4       1. An alcoholic beverage establishment:

5           a. May not interfere with the organization's operation of gaming;

6           b. May not limit the gaming hours of operation, except to limit gaming to the  
7 alcoholic beverage establishment's hours of operation, and shall comply with  
8 subdivision c of subsection 3 of section 53-06.1-03;

9           c. May not receive any compensation from gaming proceeds other than rent under  
10 this chapter. Compensation includes any financial benefit, direct or indirect, from  
11 gaming proceeds;

12           d. May not require an organization to donate net proceeds to any organization or for  
13 any purpose as a condition of conducting gaming on the premises;

14           e. May not directly operate any game as part of the alcoholic beverage  
15 establishment's business;

16           f. May donate a gift certificate, cash, or merchandise intended to be used as a prize  
17 to an organization;

18           g. May not give a free or discounted game piece, chip, or play of a game, except for  
19 discounts allowed for bingo and raffle activity;

20           h. May offer free or discounted food or beverages in the normal course of business;

21           i. At its own expense, may advertise gaming on promotional drink tickets;

22           j. If advertising charitable gaming conducted on the premises, shall include the  
23 gaming organization's name and may not reference the term "casino". An  
24 abbreviation of the organization's name may be used; and

25           k. May not sell a gift certificate or merchandise to be used as a gaming prize.

26       2. Upon the request of the organization, an alcoholic beverage establishment may assist  
27 in redeeming winning pull tabs, credit ticket vouchers, or paying prize board cash  
28 prizes involving a dispensing device. If the organization provides the alcoholic  
29 beverage establishment temporary loan funds for this purpose, a written agreement  
30 must:

31           a. Be signed by the organization and the alcoholic beverage establishment;

- 1            b. Provide for the immediate repayment of the loan if the organization discontinues  
2            using all devices at the site; and
- 3            c. Provide the alcoholic beverage establishment is liable for a loss or theft of the  
4            loaned funds.
- 5            3. An owner of the alcoholic beverage establishment or a member of the owner's  
6            household or an individual who is an officer or board member or involved in the  
7            management of the establishment may not:
- 8            a. Loan money or provide gaming equipment to the organization;  
9            b. Interfere or attempt to influence an organization's selection of games.  
10            determination of prizes including a bingo jackpot prize, disbursement of net  
11            proceeds, selection of a gaming equipment distributor, or the method for which  
12            games are conducted;
- 13            c. Require an organization's employee to assist, with or without compensation, in an  
14            alcoholic beverage establishment's business at the site. However, the  
15            organization's employee may voluntarily order beverages for customers;
- 16            d. Count drop box cash;
- 17            e. Assist under subsection 2 if redeeming the individual's own winnings; or
- 18            f. Play games at the alcoholic beverage establishment unless the individual:
- 19            (1) Did not approve the lease with the organization; or
- 20            (2) Assisted under subsection 2, if ever, more than three hours before playing  
21            games.
- 22            4. An owner or employee of the alcoholic beverage establishment may not play pull tabs  
23            or prize boards, which involve a dispensing device, or electronic pull tabs while on  
24            duty or for three hours after ending duty.
- 25            5. An employee of a licensed organization:
- 26            a. May patronize the alcoholic beverage establishment;
- 27            b. May not directly or indirectly conduct games as an employee of the organization  
28            if the employee is working in the area of the alcoholic beverage establishment  
29            where beverages are dispensed and consumed.

30            **SECTION 4. AMENDMENT.** Subsection 3 of section 53-06.1-10.1 of the North Dakota  
31 Century Code is amended and reenacted as follows:

- 1 | 3. An organization permitted to conduct raffles in this state may conduct ~~a~~ an electronic  
2 | fifty-fifty raffle either by manual drawing or by using a random number generator.  
3 | ~~Fifty-fifty~~ Electronic fifty-fifty raffle tickets must be sold and drawings held onsite at the  
4 | location of and on the date of the event. ~~Fifty-fifty~~ Electronic fifty-fifty raffles may not be  
5 | conducted online over the internet.

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

- 8 | 2. Allowable expenses may be deducted from adjusted gross proceeds. The allowable  
9 | expense limit is ~~sixty~~:

- 10 | a. Sixty percent of the adjusted gross proceeds per quarter if the total adjusted  
11 | gross proceeds for the quarter are more than one hundred thousand dollars; and  
12 | b. Sixty-three percent of the adjusted gross proceeds per quarter if the total  
13 | adjusted gross proceeds for the quarter are equal to or less than one hundred  
14 | thousand dollars.

15 | **SECTION 6. AMENDMENT.** Subsection 5 of section 53-06.1-11 of the North Dakota  
16 | Century Code is amended and reenacted as follows:

- 17 | 5. For a site where bingo is not the primary game:  
18 | a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed  
19 | two hundred dollars multiplied by the necessary number of tables based on  
20 | criteria prescribed by gaming rule. For each twenty-one table with a wager  
21 | greater than five dollars, an additional amount up to one hundred dollars may be  
22 | added to the monthly rent. If pull tabs is also conducted involving only a jar bar,  
23 | the monthly rent for pull tabs may not exceed an additional one hundred  
24 | seventy-five dollars. If pull tabs is conducted involving only a dispensing device  
25 | or a jar bar and dispensing device, the monthly rent for pull tabs may not exceed  
26 | an additional three hundred twenty-five dollars.  
27 | b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted  
28 | involving either a jar bar or dispensing device, the monthly rent may not exceed  
29 | four hundred dollars.  
30 | c. If pull tabs is conducted using one or more electronic pull tab devices, the  
31 | monthly rent, which includes any compensation for assistance provided under

1            subsection 2 of section 3 of this Act, may not exceed ~~an additional~~ one hundred  
2            seventy-five dollars per machine for the first five machines in the same venue.  
3            For each additional machine in the same venue beyond five, the monthly rent  
4            may not exceed ~~an additional fifty~~ seventy-five dollars per machine up to a  
5            maximum of one thousand ~~one~~ two hundred ~~twenty-five~~ fifty dollars per month for  
6            all electronic pull tab devices in a single venue.

7            **SECTION 7.** A new subsection to section 53-06.1-15.1 of the North Dakota Century Code is  
8            created and enacted as follows:

9            Impose a monetary fine on an owner of an authorized alcoholic beverage  
10           establishment where a licensed gaming activity is conducted or has been conducted  
11           for failure to comply with section 3 of this Act or administrative rules that relate to  
12           subsection 2 of section 3 of this Act. The monetary fine for each violation by an  
13           authorized site owner may not exceed five thousand dollars. An authorized alcoholic  
14           beverage establishment subject to a monetary fine under this section may appeal  
15           under chapter 28-32.