

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; to amend and reenact ~~section~~sections 53-06.1-01 and 53-06.1-03, subsection 3 of
 5 section 53-06.1-10.1, subsection 5 of section 53-06.1-11, and subsection 10 of section
 6 53-06.1-15.1 of the North Dakota Century Code, relating to the definitions of alcoholic beverage
 7 establishment and manufacturer, approval for a gaming site authorization and licensure, the
 8 maximum number of gaming sites allowed, the maximum number of pull tab devices allowed at
 9 a site, gaming licenses for alcoholic beverage establishments, electronic fifty-fifty raffles, rent
 10 limits for electronic pull tab devices, and the imposition of monetary fines for violations by third-
 11 party businesses; to provide for a legislative management study; to provide an effective date;
 12 and to declare an emergency.

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

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

16 **53-06.1-01. Definitions.**

17 As used in this chapter:

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

~~establishment must be licensed under chapter 5-02 and be devoted to the service of alcoholic beverages for consumption by guests on the premises. The term includes a bar located within a hotel, bowling center, golf course, or restaurant.~~

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

~~3.4.~~ "Civic and service organization" means an organization whose primary purpose is to promote the common good and social welfare of a community as a sertoma, lion, rotary, jaycee, kiwanis, or similar organization.

~~4.5.~~ "Closely related organization" means an organization that controls, is controlled by, or is under common control with another organization. Control exists when an organization has the authority or ability to elect, appoint, or remove a majority of the officers or directors of another organization or, by policy, contract, or otherwise, has the authority or ability to directly or indirectly direct or cause the direction of the management or policies of another organization.

~~5.6.~~ "Distributor" means a person that sells, markets, or distributes equipment designed for use in the conduct of games.

~~6.7.~~ "Educational organization" means a nonprofit public or private elementary or secondary school, two-year or four-year college, or university.

~~7.8.~~ "Electronic pull tab device" means a device, approved by the attorney general, which electronically displays pull tabs.

~~8.9.~~ "Eligible organization" means a veterans, charitable, educational, religious, fraternal, civic and service, public safety, or public-spirited organization domiciled in North Dakota or authorized by the secretary of state as a foreign corporation under chapter 10-33, incorporated as a nonprofit organization, and which has been regularly and actively fulfilling its primary purpose within this state during the two immediately preceding years. However, an educational organization does not need to be incorporated or be in existence for two years. An organization's primary purpose may not involve the conduct of games. The organization may be issued a license by the attorney general. For purposes of this section, a foreign corporation authorized under 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 ~~44-12.~~ "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.~~ "Off sale" means the sale of alcoholic beverages that are to be consumed off the
23 licensed premises.

24 18. "Permit" means a local permit or restricted event permit issued by a governing body of
25 a city or county to a nonprofit organization or group of people domiciled in North
26 Dakota.

27 ~~47-18-19.~~ "Person" means any person, partnership, corporation, limited liability company,
28 association, or organization.

29 ~~48-19-20.~~ "Prize board" means a board used with pull tabs to award cash or merchandise
30 prizes.

1 | ~~19-20-21.~~ "Public safety organization" means an organization whose primary purpose is
2 | to provide firefighting, ambulance service, crime prevention, or similar emergency
3 | assistance.

4 | ~~20-21-22.~~ "Public-spirited organization" means an organization whose primary purpose is
5 | for scientific research, amateur sports competition, safety, literary, arts, preservation of
6 | cultural heritage, educational activities, educational public service, youth, economic
7 | development, tourism, community medical care, community recreation, or similar
8 | organization, which does not meet the definition of any other type of eligible
9 | organization. However, a nonprofit organization or a group of people recognized as a
10 | public-spirited organization by a governing body of a city or county for obtaining a
11 | permit does not need to meet this definition.

12 | ~~21-22-23.~~ "Pull tab" means a folded or banded ticket or jar ticket, a pull tab card with
13 | break-open tabs, or an electronic pull tab displaying concealed numbers or symbols or
14 | combinations of concealed numbers and symbols which are exposed by a player to
15 | determine the outcome. The terms "pull tab" and "jar ticket" are used interchangeably
16 | unless otherwise stated. A winning pull tab contains certain symbols, numbers, or
17 | combinations of symbols and numbers and may contain multiple winning symbols,
18 | numbers, or combinations of symbols and numbers which have been previously
19 | designated as winning symbols or numbers.

20 | ~~22-23-24.~~ "Religious organization" means a church, body of communicants, or group
21 | gathered in common membership whose primary purpose is for advancement of
22 | religion, mutual support and edification in piety, worship, and religious observances.

23 | ~~23-24-25.~~ "Veterans organization" means any congressionally chartered post
24 | organization, or any branch or lodge or chapter of a nonprofit national or state
25 | organization whose membership consists of individuals who are or were members of
26 | the armed services or forces of the United States. The organization must have
27 | qualified for exemption from federal income tax under section 501(c)(19) of the
28 | Internal Revenue Code.

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

1 **53-06.1-03. Permits, site authorization, and licenses - Organization requirements -**

2 **Site inspection.**

3 1. Except as authorized by the attorney general, an organization that has its license
4 suspended or revoked, or has relinquished or not renewed its license and not
5 disbursed its net proceeds, is ineligible for a license or permit. Only one of two or more
6 closely related organizations may have a license or permit at one time. A college or
7 university fraternity, sorority, or club is not closely related to an educational
8 organization. An organization shall apply for a permit as follows:

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

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

28 c. An organization that has a local permit or a restricted event permit may use the
29 net income from the gaming activity for any purpose that does not violate this
30 chapter or gaming rules, unless the organization is a state political party or
31 legislative district party committee, the organization may use the net income from

1 a raffle for a political purpose. For purposes of this subdivision, a public-spirited
2 use includes a political purpose.

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

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

6 (2) Shall use chips as wagers;

7 (3) Shall redeem a player's chips for merchandise prizes or cash;

8 (4) Shall disburse net income to eligible uses referenced in subdivision c, if
9 applicable, and in section 53-06.1-11.1; and

10 (5) Shall file a report prescribed by the attorney general with the governing
11 body and attorney general.

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

15 a. First securing approval for a site authorization from the governing body of the city
16 or county in which the proposed site is located. Approval, ~~which~~ may be granted
17 at the discretion of the governing body; The approved authorization must be
18 recorded on a site authorization form that is to accompany the license application
19 to the attorney general for final approval. An eligible organization may request a

20 specific site location on the license application. A governing body ~~may~~:

21 ~~(1) May not require an eligible organization to donate net proceeds to the city,~~

22 ~~county, or related political subdivision or for community programs or~~

23 ~~services within the city or county~~ as a condition for receiving a site

24 authorization from the city or county. ~~A governing body may~~ that an eligible
25 organization:

26 (a) Donate net proceeds to the city, county, or related political subdivision

27 or for community programs or services within the city or county;

28 (b) Previously have conducted gaming at that site;

29 (c) Use charitable funds in accordance with a local ordinance; or

30 (d) Enter a lease with a specific site;

1 (2) May require as a condition for receiving a site authorization from the city or
2 county that:

3 (a) The application is complete; and

4 (b) The organization's primary purpose benefits the city, county, or related
5 political subdivisions;

6 (3) May limit the number of tables for the game of twenty-one per site and the
7 number of sites upon which a licensed organization may conduct games
8 within the city or county. ~~A governing body may;~~ and

9 (4) May charge a one hundred dollar fee for a site authorization; ~~and.~~

10 b. Annually applying for a license from the attorney general before July first on a
11 form prescribed by the attorney general and remitting a one hundred fifty dollar
12 license fee for each city or county that approves a site authorization. However,
13 the attorney general may allow an organization that only conducts a raffle or
14 calcutta in two or more cities or counties to annually apply for a consolidated
15 license and remit a one hundred fifty dollar license fee for each city or county in
16 which a site is located. An organization shall document that it qualifies as an
17 eligible organization. If an organization amends its primary purpose as stated in
18 its articles of incorporation or materially changes its basic character, the
19 organization shall reapply for licensure. The attorney general may deny issuance
20 of a license or deny renewal of a license to an eligible organization that has
21 obtained approval of site authorization under subdivision a, if the organization or
22 site are not in compliance with applicable laws and rules.

23 3. A licensed organization or organization that has a permit shall conduct games as
24 follows:

25 a. Only one licensed organization or organization that has a permit may conduct
26 games at an authorized site on a day, except that a raffle may be conducted for a
27 special occasion by another licensed organization or organization that has a
28 permit when one of these conditions is met:

29 (1) When the area for the raffle is physically separated from the area where
30 games are conducted by the regular organization.

1 (2) Upon request of the regular organization and with the approval of the
2 alcoholic beverage establishment, the regular organization's license or
3 permit is suspended for that specific time of day by the attorney general.

4 b. Except for a temporary site authorized for fourteen or fewer consecutive days for
5 not more than two events per quarter or a licensed organization authorized on or
6 before January 1, 2023, to conduct gaming at more than fifteen sites, a licensed
7 organization, including a closely related organization, may not have more than
8 ~~twenty-five~~fifteen sites ~~unless granted a waiver by the attorney general. If the~~
9 ~~attorney general finds that there is no other licensed organization interested in~~
10 ~~conducting gaming at a site for which a waiver is being sought, the attorney~~
11 ~~general may approve the waiver for no more than five sites.~~

12 c. Games of electronic quick shot bingo, electronic pull tabs, pull tabs,
13 punchboards, twenty-one, paddlewheels, poker, and sports pools may be
14 conducted only during the hours when alcoholic beverages may be dispensed
15 according to applicable regulations of the state, county, or city. Electronic pull
16 tabs must be conducted in a designated area where patrons must be twenty-one
17 years of age or older to enter.

18 d. An organization may not permit a person under twenty-one years of age to
19 directly or indirectly play pull tabs, punchboards, twenty-one, calcuttas, sports
20 pools, paddlewheels, or poker. An organization may not permit an individual
21 under eighteen years of age to directly or indirectly play electronic quick shot
22 bingo. An organization may not permit an individual under eighteen years of age
23 to directly or indirectly play bingo unless the individual is accompanied by an
24 adult, bingo is conducted by an organization that has a permit, or the game's
25 prize structure does not exceed that allowed for a permit.

26 e. An organization may not install more than ten electronic pull tab devices at a site.

27 f. An organization with more than fifteen licensed sites under subdivision b may not
28 increase its number of sites beyond the number of sites licensed as of January 1,
29 2023.

30 4. A permit, or site authorization and license, must be displayed at a site.

1 5. The attorney general may issue a conditional license to an eligible organization whose
2 regularly issued license has expired or been suspended, revoked, or relinquished. The
3 attorney general shall designate the time period for which the conditional license is
4 valid and may impose any conditions.

5 6. A governing body or local law enforcement official may inspect a site's gaming
6 equipment and examine or cause to be examined any gaming-related books and
7 records of a licensed organization or organization that has a permit.

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

10 **Alcoholic beverage establishment - Requirements.**

11 1. An alcoholic beverage establishment:

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

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

16 c. May not receive any compensation other than rent under this chapter.

17 Compensation includes any financial benefit, direct or indirect;

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

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

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

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

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

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

28 j. If advertising charitable gaming conducted on the premises, shall include the
29 gaming organization's name or an abbreviation of the organization's name; and

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

1 2. Upon the request of the organization, an alcoholic beverage establishment may assist
2 in redeeming winning pull tabs and credit ticket vouchers, paying prize board cash
3 prizes involving a dispensing device, and as provided under subsection 1 of section
4 53-06.1-06. If the organization provides the alcoholic beverage establishment
5 temporary loan funds for this purpose, a written agreement must:

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

7 b. Provide for the immediate repayment of the loan if the organization discontinues
8 using all devices at the site; and

9 c. Provide the alcoholic beverage establishment is liable for a loss or theft of the
10 loaned funds.

11 3. An owner of the alcoholic beverage establishment, a member of the owner's
12 household, or an individual who is an officer, board member, or involved in the
13 management of the establishment:

14 a. May not loan money or provide gaming equipment to the organization;

15 b. May not interfere or attempt to influence an organization's selection of games,
16 determination of prizes including a bingo jackpot prize, disbursement of net
17 proceeds, selection of a gaming equipment distributor, or the method for which
18 games are conducted;

19 c. May not require an organization's employee to assist, with or without
20 compensation, in an alcoholic beverage establishment's business at the site.
21 However, the organization's employee may voluntarily order beverages for
22 customers;

23 d. May not count drop box cash; and

24 e. May not play games other than pull tabs or prize boards, which involve a
25 dispensing device, or electronic pull tabs at the alcoholic beverage
26 establishment. If assisting the organization under subsection 2:

27 (1) May not play any game under this subdivision at the alcoholic beverage
28 establishment for at least three hours after assisting under subsection 2;
29 and

30 (2) May not redeem the individual's own winnings.

1 4. An employee of the alcoholic beverage establishment may only play pull tabs or prize
2 boards, which involve a dispensing device, or electronic pull tabs if the employee is off
3 duty and has been off duty for at least three hours.

4 5. An employee of a licensed organization:

5 a. May patronize the alcoholic beverage establishment; and

6 b. May not directly or indirectly conduct games as an employee of the organization
7 on the same day the employee has worked or will work in the area of the
8 alcoholic beverage establishment where beverages are dispensed and
9 consumed.

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

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

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

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

20 a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed
21 two hundred dollars multiplied by the necessary number of tables based on
22 criteria prescribed by gaming rule. For each twenty-one table with a wager
23 greater than five dollars, an additional amount up to one hundred dollars may be
24 added to the monthly rent. If pull tabs is also conducted involving only a jar bar,
25 the monthly rent for pull tabs may not exceed an additional one hundred
26 seventy-five dollars. If pull tabs is conducted involving only a dispensing device
27 or a jar bar and dispensing device, the monthly rent for pull tabs may not exceed
28 an additional three hundred twenty-five dollars.

29 b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted
30 involving either a jar bar or dispensing device, the monthly rent may not exceed
31 four hundred dollars.

1 c. If pull tabs is conducted using one or more electronic pull tab devices, the
2 monthly rent, which includes any compensation for assistance provided under
3 subsection 2 of section 3 of this Act, may not exceed ~~an additional~~ one hundred
4 seventy-five dollars per machine for the first five machines in the same venue.
5 For each additional machine in the same venue beyond five, the monthly rent
6 may not exceed ~~an additional fifty~~ seventy-five dollars per machine up to a
7 maximum of one thousand ~~one~~ two hundred ~~twenty-five~~ fifty dollars per month for
8 all electronic pull tab devices in a single venue.

9 **SECTION 6. AMENDMENT.** Subsection 10 of section 53-06.1-15.1 of the North Dakota
10 Century Code is amended and reenacted as follows:

11 10. Impose a monetary fine on a licensed organization, organization that has a permit,
12 distributor, ~~or~~ manufacturer, or third-party business operating gaming and working as
13 an agent of the charity for failure to comply with this chapter or any gaming rule. The
14 monetary fine for each violation by an organization is a minimum of twenty-five dollars
15 and may not exceed two percent of the organization's average quarterly gross
16 proceeds, or five thousand dollars, whichever is greater. The monetary fine for each
17 violation by a distributor is a minimum of one hundred dollars and may not exceed five
18 thousand dollars. The monetary fine for each violation by a manufacturer is a minimum
19 of five hundred dollars and may not exceed two hundred fifty thousand dollars. This
20 fine may be in addition to or in place of a license suspension or revocation.

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

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

30 **SECTION 8. LEGISLATIVE MANAGEMENT STUDY - CHARITABLE GAMING.**

- 1 1. During the 2023-24 interim, the legislative management shall study statewide
2 charitable gaming comprehensively. The study must include input from the attorney
3 general, stakeholders from large and small charitable organizations, local political
4 subdivisions that authorize sites, gaming equipment manufacturers and distributors,
5 gambling addiction counselors, and other industry leaders. The study must also
6 include:
 - 7 a. An evaluation of the positive economic impact of charitable gaming on the state
8 in urban and rural areas;
 - 9 b. An evaluation of gambling addiction and treatment services currently available;
 - 10 c. An evaluation of the civic benefit of charitable gaming to the communities most
11 closely related to the gaming sites;
 - 12 d. An evaluation of how site authorization is approved and renewed, including
13 whether charities have equitable access to sites;
 - 14 e. An evaluation of the gaming tax structure to determine whether tax reductions
15 might maximize the charitable benefit;
 - 16 f. An evaluation of public support for charitable gaming;
 - 17 g. An evaluation of statewide local restrictions placed on charitable gaming;
 - 18 h. An evaluation of gaming expansion and how to ensure it expands properly;
 - 19 i. An evaluation of site locations where gaming is taking place, and whether further
20 limitations are necessary;
 - 21 j. An evaluation of potential impacts of statewide sports betting;
 - 22 k. An evaluation of charitable gaming proceeds and the eligible uses of gaming
23 proceeds, including the percentage of proceeds that may be used for
24 administration;
 - 25 l. An evaluation of the categories of organizations that are allowed to conduct
26 charitable gaming, including the missions of such organizations;
 - 27 m. An evaluation of the placement of gaming activity within a gaming site, including
28 electronic pull tab device placement.
- 29 2. The legislative management shall report its findings and recommendations, together
30 with any legislation required to implement the recommendations, to the sixty-ninth
31 legislative assembly.

- 1 **SECTION 9. EFFECTIVE DATE.** This Act becomes effective on June 30, 2023.
- 2 **SECTION 10. EMERGENCY.** This Act is declared to be an emergency measure.