

HB 1296
House Industry Business and Labor Committee
Submitted by CGAND
February 7, 2023
Bill Kalanek, Lobbyist

Chairman Louser and members of the committee, my name is Bill Kalanek and I am here today on behalf of the Charitable Gaming Association of North Dakota. I stand in support of House Bill 1296.

CGAND as its referred to is a trade association for charities operating gaming throughout ND.

CGAND supports the proposed language in the bill to clarify the role of the local governing entities in relation to gaming site licensing. For over 40 years the practice for organizations has been to obtain a rental agreement with a bar owner first, and then submit all the proper documentation to the local governing body. This process has recently become problematic with a new interpretation of the law, essentially removing the private sector from the process. CGAND attempted to rectify this dilemma through the gaming regulations process but was advised by Deb McDaniel, director of the gaming division from the office of attorney general, that legislative action was needed first as the regulations were based on NDCC language.

Here is an example to understand the ramifications of this new interpretation. It allows a local municipality to force a bar owner to utilize the local CVB, college, or pet organization, regardless of the bar owners' preferences for otherwise eligible organizations.

Bar owners select gaming organizations based on reputation and reliability of the organization, their interest and support of the organizations mission, the quality and selection of game types offered, and hours of operation the charity can provide. The relationship is maintained between the owner and organization by the ability of the organization to adapt to customer and business needs of the site.

The gaming organization invests many thousands of dollars in gaming equipment, surveillance systems, security devices, and employee development. Gaming organizations consider these long-term investments and are allowed to sign up to 5-year rental agreements with their bar owners. Charities are required to get annual site authorizations, but those re-authorizations were intended to verify a charity is still in good standing, not give the governing body a chance to replace them with a pet organization.

This cleanup language prevents very concerning and unintended consequences like the following:

- Cities will remove charities from successful gaming sites in order to claim the site for their preferred organization no matter what the bar owner wishes or how long they have had a relationship with the existing eligible charity.
- Increased civil litigation due to unfulfilled contract requirements and defaults between the charity and bar owner.
- Fraternal and veterans' groups forced to give up their own bar as a gaming site to a different charity if the city so decides.
- Bar owners forced to accept a charity selected by the city or have no gaming at all.
- When the city approves a site authorization before a rental agreement is signed, the charity has no real reason to pay any rent at all. The bar owner has no ability to negotiate legal rent and must accept the charity or go without gaming.

CGAND does not support removing a city's ability to control gaming in their jurisdiction or determine what charities are eligible. Many cities have existing ordinances or regulations outlining eligibility for gaming organizations. This bill clarifies the eligible charity must have a lease (rental agreement) with the bar owner first. The original intent was to give the city **approval** authority, not **selection** authority. If a charity is eligible to operate in a jurisdiction, the city should not be able to select what organization must operate in a private sector establishment, without the consent of the private owner. This is government interference with the private business sector.

For over 40 years North Dakota has developed a responsible and highly regulated system for charitable gaming to benefit charitable missions that serve your local communities. This bill is designed to clarify the wording in statute to reflect what has historically been accepted in practice. That is why CGAND is asking you to consider a **Do Pass** recommendation on **HB 1296**.

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

Proposed Amendment

Strike language on Page 2 lines 3 through 4 and renumber accordingly.

~~(5) May not deny approval of a site authorization to a licensed eligible organization;~~