

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1089
(Judiciary Committee)
(At the request of the State Gaming Commission)

AN ACT to create and enact a new subsection to section 12.1-30-03 and a new section to chapter 50-06 of the North Dakota Century Code, relating to businesses allowed to operate on Sunday and compulsive gambling services; to amend and reenact section 53-06.1-01, subsections 3 and 4 of section 53-06.1-01.1, subsections 1 and 4 of section 53-06.1-03, subsections 1, 3, and 5 of section 53-06.1-06, sections 53-06.1-07.2, 53-06.1-07.4, and 53-06.1-10, subsection 2 of section 53-06.1-11.1, subsections 1 and 2 of section 53-06.1-14, subsections 3 and 8 of section 53-06.1-15.1, and subsection 2 of section 53-06.1-16 of the North Dakota Century Code, relating to games of chance; to repeal section 53-06.1-18 of the North Dakota Century Code, relating to compulsive gambling services; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 12.1-30-03 of the North Dakota Century Code is created and enacted as follows:

Bingo halls and onsite food concessions between the hours of twelve midnight and one a.m. and within the hours permitted under section 12.1-30-01.

SECTION 2. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Compulsive gambling prevention, awareness, crisis intervention, rehabilitation, and treatment services. The department of human services shall contract with qualified treatment service providers for the development and implementation of a program for gambling prevention, awareness, crisis intervention, rehabilitation, financial counseling, and mental health treatment services. The program may provide outpatient services, partial care services, aftercare services, intervention services, financial counseling services, consultation services, or other forms of preventive, rehabilitative, or treatment services for compulsive gamblers. An individual who provides treatment services must meet the minimum standards for certification as a gambling counselor as established by the national council on problem gambling and be a mental health professional as defined in section 25-03.1-02. An individual who provides financial counseling services must be a certified consumer credit counselor with an accredited financial counseling agency. The department of human services may establish a sliding payment scale for services under the program. The department of human services may establish a centrally located repository of educational materials on identifying and treating compulsive gambling. Any service fee collected by qualified treatment service providers for services provided under the contract must be applied toward the program's compulsive gambling services. The term "qualified treatment service provider" means an entity based in North Dakota which is experienced in and capable of delivering compulsive gambling education, prevention, awareness, crisis intervention, rehabilitation, financial counseling, and mental health treatment services as defined by the department of human services. The term "compulsive gambler" means an individual who is chronically and progressively preoccupied with gambling and the urge to gamble and with gambling behavior that compromises, disrupts, or damages personal, family, or vocational pursuits.

SECTION 3. AMENDMENT. Section 53-06.1-01 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-01. Definitions. As used in this chapter:

1. "Adjusted gross proceeds" means gross proceeds less cash prizes, cost of merchandise prizes, sales tax on bingo cards, pull tab excise tax, and federal excise tax imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401].

2. "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. "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. "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. ~~"Compulsive gambler" means an individual who is chronically and progressively preoccupied with gambling and the urge to gamble and with gambling behavior that compromises, disrupts, or damages personal, family, or vocational pursuits.~~
6. "Distributor" means a person that sells, markets, or distributes equipment usable in the conduct of games.
- ~~7.~~ 6. "Educational organization" means a nonprofit public or private elementary or secondary school, two-year or four-year college, or university.
- ~~8.~~ 7. "Eligible organization" means a veterans, charitable, educational, religious, fraternal, civic and service, public safety, or public-spirited organization domiciled in North Dakota, incorporated as a nonprofit organization, and which has been actively fulfilling its primary purpose within this state during the two immediately preceding years. However, an educational organization does not need to be incorporated. An organization's primary purpose may not involve the conduct of games. The organization may be issued a license by the attorney general.
- ~~9.~~ 8. "Fraternal organization" means an organization, except a school fraternity, which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members. The organization must have qualified for exemption from federal income tax under section 501(c)(8) or 501(c)(10) of the Internal Revenue Code.
- ~~10.~~ 9. "Games" means games of chance.
- ~~11.~~ 10. "Gross proceeds" means all cash and checks received from conducting games, sales tax on bingo cards, and admissions.
- ~~12.~~ 11. "Licensed organization" means an eligible organization licensed by the attorney general.
- ~~13.~~ 12. "Local permit" means a permit issued by a governing body of a city or county to a nonprofit organization or group of people domiciled in North Dakota ~~by a governing body of a city or county.~~
- ~~14.~~ 13. "Manufacturer" means, for a pull tab or bingo card, a person who designs, prints, assembles, or produces the product. For a pull tab or bingo card dispensing device or bingo card marking device, a manufacturer means the person who directly controls and manages development of and owns the rights to the proprietary software encoded on a processing chip that enables the device to operate.
- ~~15.~~ 14. "Net proceeds" means adjusted gross proceeds less allowable expenses and gaming tax.
- ~~16.~~ 15. "Person" means any person, partnership, corporation, limited liability company, association, or organization.

- ~~17.~~ 16. "Public safety organization" means an organization whose primary purpose is to provide firefighting, ambulance service, crime prevention, or similar emergency assistance.
- ~~18.~~ 17. "Public-spirited organization" means an organization whose primary purpose is for scientific research, amateur sports competition, safety, literary, arts, ~~agriculture~~, preservation of cultural heritage, educational activities, educational public service, youth, economic development, tourism, community medical care, community recreation, or similar organization, which does not meet the definition of any other type of eligible organization. However, a nonprofit organization or a group of people recognized as a public-spirited organization by a governing body of a city or county for obtaining a local permit does not need to meet this definition.
- ~~19.~~ 18. ~~"Qualified treatment service provider" means an entity based in North Dakota which is experienced in and capable of delivering compulsive gambling education, prevention, awareness, crisis intervention, rehabilitation, and financial counseling and mental health treatment services as defined by the department of human services.~~
- ~~20.~~ 19. "Religious organization" means a church, body of communicants, or group gathered in common membership whose primary purpose is for advancement of religion, mutual support and edification in piety, worship, and religious observances.
- ~~21.~~ 20. "Veterans organization" means any congressionally chartered post organization, or any branch or lodge or chapter of a nonprofit national or state organization whose membership consists of individuals who are or were members of the armed services or forces of the United States. The organization must have qualified for exemption from federal income tax under section 501(c)(19) of the Internal Revenue Code.

SECTION 4. AMENDMENT. Subsections 3 and 4 of section 53-06.1-01.1 of the North Dakota Century Code are amended and reenacted as follows:

3. Commission members are entitled to ~~forty~~ sixty-two dollars and fifty cents per day for compensation for each day spent on commission duties and mileage and expense reimbursement as allowed to other state employees.
4. The commission shall adopt rules in accordance with chapter 28-32, to administer and regulate the gaming industry, including methods of conduct, play, and promotion of games; minimum procedures and standards for recordkeeping and internal control; requiring tax returns and reports from organizations or distributors; methods of competition and doing business by distributors and manufacturers; acquisition and use of gaming equipment; quality standards for the manufacture of pull tabs, paper bingo cards, and pull tab and bingo card dispensing devices; to ensure that net proceeds are ~~disbursed to~~ used for educational, charitable, patriotic, fraternal, religious, or public-spirited uses; to protect and promote the public interest; to ensure fair and honest games; to ensure that fees and taxes are paid; and to prevent and detect unlawful gambling activity.

SECTION 5. AMENDMENT. Subsections 1 and 4 of section 53-06.1-03 of the North Dakota Century Code are amended and reenacted as follows:

1. Except as authorized by the attorney general, an organization that has its license suspended or revoked, or has relinquished or not renewed its license and not disbursed its net proceeds, is ineligible for a license or local permit. Only one of two or more closely related organizations may have a license or local permit at one time. A college or university fraternity, sorority, or club is not closely related to an educational organization. An organization shall apply for a local permit as follows:
 - a. An organization recognized as a public-spirited organization by the governing body of a city or county may apply for a local permit to conduct only raffles, bingo, or sports pools. The organization or closely related organizations as a whole may only award a primary prize that does not exceed one thousand dollars and total prizes of all games that do not exceed six thousand dollars per year. The determination of what is a

"public-spirited organization" is within the sole discretion of the governing body ~~which should in its determination consider the definition of a public spirited organization under subsection 18 of section 53-06.1-01 and eligible uses of net proceeds under subsection 2 of section 53-06.1-11.1.~~ A governing body may issue a local permit for games to be held at designated times and places.

- b. An organization shall apply to the governing body of the city or county in which the proposed site is located. Application must be made on a form prescribed by the attorney general. Approval may be granted at the discretion of the governing body. A governing body may establish a fee not to exceed twenty-five dollars for each local permit. A local permit must be on a fiscal year basis from July first to June thirtieth or on a calendar-year basis.
 - c. Except for the restriction of subsection 1 of section 53-06.1-11.1, an organization that has a local permit may use gaming proceeds for any purpose that does not violate this chapter or gaming rules.
4. A local permit or site authorization and license ~~and rules relating to the conduct and play of games~~ must be displayed at a site.

SECTION 6. AMENDMENT. Subsections 1, 3, and 5 of section 53-06.1-06 of the North Dakota Century Code are amended and reenacted as follows:

1. No person, except a member, volunteer, an employee of a licensed organization or an organization that has a local permit, or an employee of a temporary employment agency who provides services to a licensed organization, may manage, control, or conduct any game. "Member" includes a member of an auxiliary organization. In conducting pull tabs or bingo through a dispensing device or selling raffle tickets, the attorney general may allow an employee of an alcoholic beverage establishment to provide limited assistance to an organization.
3. An organization shall maintain complete, accurate, and legible bank and accounting records in North Dakota for all gaming activity and establish an adequate system of internal control. The governing board of an eligible organization is primarily responsible and may be held accountable for the proper determination and ~~distribution~~ use of net proceeds. If an organization does not renew its license or its license is denied, relinquished, or revoked and it has not disbursed all of its net proceeds, the organization shall file an action plan as prescribed by the gaming rules with the attorney general.
5. A person is restricted from being involved in gaming and the attorney general shall conduct a criminal history record check as follows:
 - a. (1) A person who has pled guilty to or been found guilty of a felony offense as defined by the laws of this state, other states, or the federal government, or has pled guilty to or been found guilty of a violation of this chapter, a gaming rule, chapter 12.1-28 or 53-06.2, or offenses of other states or the federal government equivalent to offenses defined in these chapters, regardless of whether the person has completed or received a deferred imposition of sentence, deferred prosecution, or suspended sentence, may not be a licensed distributor, ~~may not be an investor in or board member or consultant to a licensed distributor, or be employed by a licensed distributor to sell or distribute gaming equipment,~~ and may not be employed by a licensed organization to conduct games ~~on a site~~, for five years from the date of conviction, release from incarceration, or expiration of parole or probation, whichever is the latest.
 - (2) Paragraph 1 does not apply if the offense to which the person pled guilty or has been found guilty is a misdemeanor and the person has received a deferred imposition of sentence or deferred prosecution and has fully complied with the terms of the deferral.

- b. A person who has pled guilty to or been found guilty of a misdemeanor offense in violation of section 6-08-16.1 or chapter 12.1-06, 12.1-23, or 12.1-24 or offenses of other states, the federal government, or a municipality equivalent to these offenses, regardless if the person has completed or received a suspended sentence, may not be a licensed distributor; ~~may not or~~ be employed by a licensed distributor ~~to sell or distribute gaming equipment,~~ and may not be employed by a licensed organization to conduct games ~~on a site,~~ for two years from the date of conviction, release from incarceration, or expiration of parole or probation, whichever is the latest, unless the person has received a deferred imposition of sentence or deferred prosecution and has fully complied with the terms of the deferral.
- c. Unless an employee is exempt by the gaming rules or attorney general, the attorney general shall conduct a criminal history record check of each employee of a licensed organization or distributor and charge a fee of twenty dollars. The fee may be waived by the attorney general if a federal agency or local law enforcement agency has done a record check. The attorney general may require advance payment of any additional fee necessary to pay the cost of a record check of a person for whom adequate background information sources are not readily available. Instead of paying the additional fee, a person may cancel the record check. The advance payment must be placed in the attorney general's refund fund. The unused funds must be returned to the person within thirty days of the conclusion of the record check. ~~The~~ Unless a federal or local law enforcement agency conducts the record check, the attorney general shall notify the organization or distributor and person of the result. The attorney general shall keep the information confidential except in the proper administration of this chapter or any gaming rule or to provide to an authorized law enforcement agency.

SECTION 7. AMENDMENT. Section 53-06.1-07.2 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-07.2. Poker. Poker may be conducted on not more than two occasions per year. An organization may supply the dealer. The maximum single bet is one dollar. Not more than three raises, of not more than one dollar each, may be made among all the players in each round of bets. ~~For nontournament activity, an organization shall assess~~ charge each player a fee not to exceed two dollars per one-half hour of playing time, collected in advance. ~~A fee may be charged~~ For a tournament, an organization shall charge each player for an entry into a tournament for prizes and this fee may be in place of or in addition to the fee assessable at one-half hour intervals and the amount of prizes may not exceed ninety percent of the gross proceeds.

SECTION 8. AMENDMENT. Section 53-06.1-07.4 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-07.4. Paddlewheels. A paddlewheel is a mechanical vertical wheel marked off into equally spaced sections that contain numbers or symbols, and which after being spun, uses a pointer to indicate the winning number or symbol. The maximum price per paddlewheel ticket or chip is two dollars. ~~No money may be used as a wager.~~ A table and chips must be used to register a player's wager when a prize is a variable multiple of the wager. Otherwise, a ~~paddlewheel~~ ticket must be used. A player may not place wagers ~~valued at~~ totaling more than twenty dollars on each spin of the paddlewheel. Cash, chips, or merchandise prizes may be awarded. No single cash prize, value of chips, or the retail value of the merchandise prize to be awarded for a winning ~~wager~~ ticket or chip may exceed one hundred dollars.

SECTION 9. AMENDMENT. Section 53-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-10. Twenty-one. ~~No money may be used as a wager.~~ The organization shall provide playing chips of various denominations to players. The maximum limit per wager may be set by the organization at not more than five dollars and original wagers in increments of one dollar must be accepted up to the maximum limit. A player may not play more than two hands at the same time. Only the player actually playing a hand may place a wager on any hand. Each player plays the player's

hand against the dealer's hand. Any requirement to pool tips is within the sole discretion of each organization. Except for a site that has twenty-one gross proceeds averaging less than ten thousand dollars per quarter, an organization may not conduct twenty-one at the site with wagers exceeding two dollars unless the organization has first installed video surveillance equipment as required by rules and the equipment is approved by the attorney general.

SECTION 10. AMENDMENT. Subsection 2 of section 53-06.1-11.1 of the North Dakota Century Code is amended and reenacted as follows:

2. A licensed organization shall disburse net proceeds within the period prescribed by rule and for only these educational, charitable, patriotic, fraternal, religious, or public-spirited uses:
 - a. Uses for stimulating and promoting state and community-based economic development programs within the state which improve the quality of life of community residents.
 - b. Uses for developing, promoting, and supporting tourism within a city, county, or the state.
 - c. Uses benefiting an indefinite number of persons by bringing them under the influence of education, cultural programs, or religion which include disbursements to provide:
 - (1) Scholarships for students, if the disbursement is deposited in a scholarship fund for defraying the cost of education to students and the scholarships are awarded through an open and fair selection process.
 - (2) Supplementary assistance to a public or private nonprofit educational institution registered with or accredited by any state.
 - (3) Assistance to libraries and museums.
 - (4) Assistance for the performing arts and humanities.
 - (5) Preservation of cultural heritage.
 - (6) Youth community, social welfare, and athletic activities.
 - (7) Adult amateur athletic activities within the state, including uniforms and equipment.
 - (8) Maintenance of places of public worship or support of a body of communicants, gathered in common membership for mutual support and edification in piety, worship, or religious observances.
 - (9) Scientific research.
 - d. Uses benefiting an indefinite number of persons by relieving them of disease, suffering, or constraint which include disbursements to provide:
 - (1) Assistance to an individual or family suffering from poverty or homelessness.
 - (2) Encouragement and enhancement of the active participation of the elderly in our society.
 - (3) Services to the abused.
 - (4) Services to persons with an addicted behavior toward alcohol, gambling, or drugs.
 - (5) Funds to combat juvenile delinquency and rehabilitate ex-offenders.

- (6) Relief for the sick, diseased, and terminally ill and their physical well-being.
 - (7) Funds for emergency relief and volunteer services.
 - (8) Funds to nonprofit nursing homes, nonprofit day care centers, and nonprofit medical facilities.
 - (9) Social services and education programs aimed at aiding emotionally and physically distressed, handicapped, elderly, and underprivileged persons.
 - (10) Funds for crime prevention, fire protection and prevention, and public safety.
 - (11) Funds to relieve, improve, and advance the physical and mental conditions, care and medical treatment, and health and welfare of injured or disabled veterans.
- e. Uses that perpetuate the memory and history of the dead.
 - f. Uses increasing comprehension of and devotion to the principles upon which the nation was founded, not of direct benefit to the eligible organization or any member thereof which include disbursements to aid in teaching the principles of liberty, truth, justice, and equality. However, beauty pageants do not qualify.
 - g. The erection or maintenance of public buildings, facilities, utilities, or waterworks.
 - h. Uses lessening the burden of government which include disbursements to an entity that is normally funded by a city, county, state, or United States government and disbursements directly to a government entity or its agency.
 - i. Uses benefiting a definite number of persons who are the victims of loss of home or household possessions through explosion, fire, flood, or storm and the loss is not covered by insurance.
 - j. Uses benefiting a definite number of persons suffering from a seriously disabling disease or injury causing severe loss of income or incurring extraordinary medical expense which is not covered by insurance.
 - k. Uses, for community service projects, by chambers of commerce exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code. A project qualifies if it develops or promotes public services, including education, housing, transportation, recreation, crime prevention, fire protection and prevention, safety, tourism, and health. Uses that directly benefit a chamber of commerce do not qualify.
 - l. Uses for or of benefit to efforts in support of the health, comfort, or well-being of the community which include disbursements to provide:
 - (1) Funds for adult bands, including drum and bugle corps.
 - (2) Funds for trade shows and conventions conducted in this state.
 - (3) Funds for nonprofit organizations that operate a humane society, zoo, or fish or wildlife reproduction and habitat enhancement program.
 - (4) Funds for public transportation, community celebration, and recreation.
 - (5) Funds for preservation and cleanup of the environment.
 - m. To the extent net proceeds are used toward the primary purpose of a charitable, educational, religious, public safety, or public-spirited organization, or are used for a veterans or public cemetery by a veterans organization, that has obtained a final determination from the internal revenue service as qualifying for exemption from federal income tax under section 501(c)(3) or 501(c)(19) of the Internal Revenue

Code, the organization may establish a special trust fund or foundation as a contingency for funding or maintaining the organization's future program services should the organization discontinue conducting games or dissolve.

- n. Uses for a fundraising activity unrelated to an organization's program services provided that the gross revenue from the activity is disbursed to uses prescribed by this subsection.

SECTION 11. AMENDMENT. Subsections 1 and 2 of section 53-06.1-14 of the North Dakota Century Code are amended and reenacted as follows:

1. A manufacturer of pull tabs, bingo cards, bingo card marking devices, or pull tab dispensing devices ~~and a distributor~~ shall apply annually for a license ~~upon a form prescribed by the attorney general before the first day of April in each year and pay a license fee of four thousand dollars.~~ A distributor is shall apply annually for a license and pay a license fee of one thousand five hundred dollars. The license fee for a manufacturer is four thousand dollars. Application must be made on a form prescribed by the attorney general before the first day of April in each year.
2. A licensed distributor may not sell, market, or distribute gaming equipment except to a licensed distributor, licensed organization, organization that has a local permit, or other person authorized by gaming rule or the attorney general. A manufacturer of a pull tab dispensing device, pull tab, bingo card marking device, or bingo card may only sell, market, or distribute the manufacturer's pull tab dispensing device and processing chip encoded with proprietary software, pull tab, bingo card marking device, or bingo card to a licensed distributor. A licensed distributor may purchase or acquire a pull tab dispensing device and processing chip encoded with proprietary software, pull tab, bingo card marking device, or bingo card only from a licensed manufacturer or licensed distributor. However, a distributor may purchase or acquire a used pull tab dispensing device from a licensed organization. A distributor may not duplicate a manufacturer's processing chip encoded with proprietary software. No gaming equipment or prizes may be sold at an excessive price.

SECTION 12. AMENDMENT. Subsections 3 and 8 of section 53-06.1-15.1 of the North Dakota Century Code are amended and reenacted as follows:

3. Seize and remove from a site or premises and impound any gaming equipment, supplies, games, or books and records for the purpose of examination and inspection. ~~When books or records are seized, the attorney general shall provide copies of those records or books within seventy-two hours of a specific request by the organization for a copy of the books or records seized.~~
8. Require ~~a licensed~~ or authorize an organization to pay a bingo or raffle prize to a player on a dispute or based on a factual determination or a hearing by the attorney general.

SECTION 13. AMENDMENT. Subsection 2 of section 53-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

2. It is unlawful for a person ~~playing or conducting a game, or otherwise:~~
 - a. To use bogus or counterfeit chips or pull tabs or to substitute or use any game, cards, pull tabs, or game piece that have been marked or tampered with.
 - b. To employ or have on one's person any cheating device to facilitate cheating in any game, or to attempt to commit or commit a theft, or to assist in committing any other fraudulent scheme.
 - c. To willfully use any fraudulent scheme or technique, including when a person directly or indirectly solicits, provides, or receives inside information of the status of a game of pull tabs for the benefit of any person.

- d. To alter or counterfeit a site authorization, license, or North Dakota gaming stamp.
- e. To knowingly cause, aid, abet, or conspire with another person or to cause any person to violate this chapter or a gaming rule.

A person violating this subsection is guilty of a class A misdemeanor unless the total amount gained through the use of these items, schemes, or techniques resulted in a person obtaining over five hundred dollars, then the offense is a class C felony. However, if a person knowingly uses a fraudulent scheme regarding soliciting, providing, using, or receiving inside information involving the game of pull tabs or uses a fraudulent scheme or technique to cheat or skim involving pull tabs, twenty-one, paddlewheels, or bingo, regardless of the amount gained, the offense is a class C felony.

SECTION 14. REPEAL. Section 53-06.1-18 of the North Dakota Century Code is repealed.

SECTION 15. EMERGENCY. This Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1089 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 88 Nays 6 Absent 4

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 44 Nays 3 Absent 2

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,
at _____ o'clock _____ M.

Secretary of State