

Sixty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO. 2310

Introduced by

Senators Heckaman, Marcellais

1 A BILL for an Act to create and enact a new section to chapter 53-06.1, a new subsection to
2 section 53-06.1-11, and two new subsections to section 53-06.1-15.1 of the North Dakota
3 Century Code, relating to the regulation of electronic pull tab devices; and to amend and
4 reenact section 53-06.1-01, subsection 1 of section 53-06.1-01.1, subsection 1 of section
5 53-06.1-06, sections 53-06.1-08, 53-06.1-08.2, and 54-58-03 of the North Dakota Century
6 Code, relating to charitable gaming and tribal-state gaming compacts.

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

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

10 **53-06.1-01. Definitions.**

11 As used in this chapter:

- 12 1. "Adjusted gross proceeds or net revenue" means gross proceeds less cash prizes,
13 cost of merchandise prizes, gaming tax, and federal excise tax imposed under section
14 4401 of the Internal Revenue Code [26 U.S.C. 4401].
- 15 2. "Bar" means a retail alcoholic beverage establishment licensed under chapter 5-02
16 where alcoholic beverages are dispensed and consumed and which is devoted to the
17 serving of alcoholic beverages for consumption by guests on the premises. The term
18 includes a bar located within a hotel, bowling center, or restaurant if the bar is in a
19 separately enclosed area accessible only to individuals twenty-one years of age or
20 older, not including an employee of the bar. The term does not include an off sale
21 liquor store, gas station, or grocery or convenience store.
- 22 3. "Charitable organization" means an organization whose primary purpose is for relief of
23 poor, distressed, underprivileged, diseased, elderly, or abused persons, prevention of
24 cruelty to children or animals, or similar condition of public concern.

1 ~~3.4.~~ "Civic and service organization" means an organization whose primary purpose is to
2 promote the common good and social welfare of a community as a sertoma, lion,
3 rotary, jaycee, kiwanis, or similar organization.

4 ~~4.5.~~ "Closely related organization" means an organization that controls, is controlled by, or
5 is under common control with another organization. Control exists when an
6 organization has the authority or ability to elect, appoint, or remove a majority of the
7 officers or directors of another organization or, by policy, contract, or otherwise, has
8 the authority or ability to directly or indirectly direct or cause the direction of the
9 management or policies of another organization.

10 ~~5.6.~~ "Distributor" means a person that sells, markets, or distributes equipment designed for
11 use in the conduct of games.

12 ~~6.7.~~ "Educational organization" means a nonprofit public or private elementary or
13 secondary school, two-year or four-year college, or university.

14 ~~7.8.~~ "Electronic pull tab device" means a hand-held device, approved by the attorney
15 general, which electronically displays pull tabs with similar appearance and
16 functionality of physical paper pull tabs.

17 ~~8.9.~~ "Eligible organization" means a veterans, charitable, educational, religious, fraternal,
18 civic and service, public safety, or public-spirited organization domiciled in North
19 Dakota or authorized by the secretary of state as a foreign corporation under chapter
20 10-33, incorporated as a nonprofit organization, and which has been regularly and
21 actively fulfilling its primary purpose within this state during the two immediately
22 preceding years. However, an educational organization does not need to be
23 incorporated or be in existence for two years. An organization's primary purpose may
24 not involve the conduct of games. The organization may be issued a license by the
25 attorney general. For purposes of this section, a foreign corporation authorized under
26 chapter 10-33 is not an eligible organization unless authorized to conduct a raffle
27 under chapter 20.1-04 or 20.1-08 and may not conduct a game other than a raffle
28 under chapter 20.1-04 or 20.1-08.

29 ~~9.10.~~ "Fraternal organization" means an organization, except a school fraternity, which is a
30 branch, lodge, or chapter of a national or state organization and exists for the common
31 business, brotherhood, or other interests of its members. The organization must have

1 qualified for exemption from federal income tax under section 501(c)(8) or 501(c)(10)
2 of the Internal Revenue Code.

3 ~~40.11.~~ "Games" means games of chance.

4 ~~41.12.~~ "Gross proceeds" means all cash and checks received from conducting games.

5 ~~42.13.~~ "Licensed organization" means an eligible organization licensed by the attorney
6 general.

7 ~~43.14.~~ "Manufacturer" means, for a pull tab or bingo card, a person who designs, prints,
8 assembles, or produces the product. For a pull tab dispensing device, bingo card
9 marking device, or a fifty-fifty raffle system, a manufacturer means the person who
10 directly controls and manages development of and owns the rights to the proprietary
11 software encoded on a processing chip that enables the device to operate.

12 ~~44.15.~~ "Net income" means gross proceeds less cash prizes, cost of merchandise prizes, and
13 expenses to conduct the gaming activity.

14 ~~45.16.~~ "Net proceeds" means adjusted gross proceeds less allowable expenses and gaming
15 tax.

16 ~~46.17.~~ "Permit" means a local permit or restricted event permit issued by a governing body of
17 a city or county to a nonprofit organization or group of people domiciled in North
18 Dakota.

19 ~~47.18.~~ "Person" means any person, partnership, corporation, limited liability company,
20 association, or organization.

21 ~~48.19.~~ "Prize board" means a board used with pull tabs to award cash or merchandise prizes.

22 ~~49.20.~~ "Public safety organization" means an organization whose primary purpose is to
23 provide firefighting, ambulance service, crime prevention, or similar emergency
24 assistance.

25 ~~20.21.~~ "Public-spirited organization" means an organization whose primary purpose is for
26 scientific research, amateur sports competition, safety, literary, arts, preservation of
27 cultural heritage, educational activities, educational public service, youth, economic
28 development, tourism, community medical care, community recreation, or similar
29 organization, which does not meet the definition of any other type of eligible
30 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 permit does not need to meet this definition.

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

~~22-23.~~ "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.

~~23-24.~~ "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 2. AMENDMENT. Subsection 1 of section 53-06.1-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The state gaming commission consists of the chairman and ~~four~~nine other members, including one member from each of the five federally recognized Indian tribes in the state, appointed by the governor, with the consent of the senate. The members serve three-year terms and until a successor is appointed and qualified. If the senate is not in session when the term of a member expires, the governor may make an interim appointment, and the interim appointee holds office until the senate confirms or rejects the appointment. A member appointed to fill a vacancy arising from other than the natural expiration of a term serves only for the unexpired portion of the term. The terms of the commissioners must be staggered so no more than two terms expire each July first.

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

- 3 1. No person, except a member, volunteer, an employee of a licensed organization or an
4 organization that has a permit, or an employee of a temporary employment agency
5 who provides services to a licensed organization, may manage, control, or conduct
6 any game. A bar employee may not redeem an electronic pull tab credit ticket voucher.
7 "Member" includes a member of an auxiliary organization. In conducting pull tabs or
8 prize boards through a dispensing device, selling pull tabs through a pull-tab device,
9 selling raffle tickets, or conducting sports pools, the attorney general may allow an
10 employee of an alcoholic beverage establishment to provide limited assistance to an
11 organization.

12 **SECTION 4. AMENDMENT.** Section 53-06.1-08 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **53-06.1-08. Punchboards and pull tabs.**

15 Unless all top tier winning pull tabs or punchboard punches of a game have been
16 redeemed, or unless otherwise permitted by a gaming rule or the attorney general, a person or
17 organization may not close the game after it has been placed in play. The maximum sales price
18 per pull tab and punchboard punch is two dollars. The maximum winning prize ~~value of a top tier~~
19 ~~winning~~ per pull tab or punchboard punch is five hundred dollars. The game of pull tabs may
20 only be conducted by commingling deals.

21 **SECTION 5. AMENDMENT.** Section 53-06.1-08.2 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **53-06.1-08.2. Electronic pull tab device requirements.**

- 24 1. An electronic pull tab device must display an electronic pull tab in which the player
25 may win credits that can be redeemed for cash ~~or used to purchase more pull tabs.~~
26 The device may not directly dispense coins, cash, tokens, or anything else of value
27 other than a credit ticket voucher.
- 28 2. An electronic pull tab device must maintain a twelve percent hold.
- 29 3. An electronic pull tab only may be dispensed by a machine that tabulates machine
30 activity for purposes of compliance with required internal controls.

1 **SECTION 6.** A new section to chapter 53-06.1 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Organization operating electronic pull tab devices required to comply with applicable**
4 **federal reporting requirements.**

5 An organization authorized to operate electronic pull tab devices shall comply with all
6 applicable federal reporting requirements.

7 **SECTION 7.** A new subsection to section 53-06.1-11 of the North Dakota Century Code is
8 created and enacted as follows:

9 At least sixty percent of the net revenue from gaming activity of electronic pull tab
10 devices must be used for eligible uses outlined in subsection 2 of this section.

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

13 Impose a regulatory inspection fee on a distributor authorized to operate an electronic
14 pull tab device.

15 **SECTION 9.** A new subsection to section 53-06.1-15.1 of the North Dakota Century Code is
16 created and enacted as follows:

17 Not authorize more than two thousand three hundred electronic pull tab devices to be
18 operated in the state on an annual basis.

19 **SECTION 10. AMENDMENT.** Section 54-58-03 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **54-58-03. Tribal-state gaming compact - Creation, renewals, and amendments.**

22 The governor or the governor's designee may represent the state in any gaming negotiation
23 in which the state is required to participate pursuant to 25 U.S.C. 2701 et seq. by any federally
24 recognized Indian tribe and, on behalf of the state, may execute a gaming compact between the
25 state and a federally recognized Indian tribe, subject to the following:

26 1. If the legislative assembly is not in session at the time gaming negotiations are being
27 conducted, the chairman and vice chairman of the legislative management or the
28 designee of the chairman or vice chairman may attend all negotiations and brief the
29 legislative management on the status of the negotiations.

- 1 2. If the legislative assembly is in session at the time negotiations are being conducted,
2 the majority and minority leaders of both houses, or their designees, may attend all
3 negotiations and brief their respective houses on the status of the negotiations.
- 4 3. The compact may authorize an Indian tribe to conduct gaming that is permitted in the
5 state for any purpose by any person, organization, or entity.
- 6 4. For the purposes of this chapter, the term "gaming that is permitted in the state for any
7 purpose by any person, organization, or entity" includes any game of chance that any
8 Indian tribe was permitted to conduct under a tribal-state gaming compact that was in
9 effect on August 1, 1997.
- 10 5. The compact may not authorize gaming to be conducted by an Indian tribe at any
11 off-reservation location not permitted under a tribal-state gaming compact in effect on
12 August 1, 1997, except that in the case of the tribal-state gaming compact between
13 the Turtle Mountain Band of Chippewa and the state, gaming may be conducted on
14 land within Rolette County held in trust for the Band by the United States government
15 which was in trust as of the effective date of the Indian Gaming Regulatory Act of 1988
16 [Pub. L. 100-497; 102 Stat. 2467; 25 U.S.C. 2701 et seq.].
- 17 6. The compact may not obligate the state to appropriate state funds; provided, however,
18 the state may perform services for reimbursement. The state may waive any fees
19 associated with services performed.
- 20 7. The negotiations between the tribe and the state must address the possibility of a
21 mutual effort of the parties to address the issue of compulsive gambling.
- 22 8. If the legislative assembly is not in session when the negotiations are concluded, the
23 governor shall forward a copy of the compact as finally negotiated to each member of
24 the legislative management at least twenty-one days before the compact is signed.
- 25 9. If the legislative assembly is in session when the negotiations are concluded, the
26 governor shall forward a copy of the compact as finally negotiated to each member of
27 the legislative assembly at least twenty-one days before the compact is signed.
- 28 10. Before execution of any proposed tribal-state gaming compact or amendment thereto,
29 the governor shall conduct one public hearing on the proposed compact or
30 amendment.