

April 17, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2304

Page 1, line 1, after "to" insert "create and enact a new section to chapter 53-06.1 and a new subsection to section 53-06.1-15.1 of the North Dakota Century Code, relating to alcoholic beverage establishment requirements and the authority of the attorney general to impose fines for gaming violations; and to"

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "53-06.1-01" insert "and 53-06.1-03, and subsections 2 and 5 of section 53-06.1-11"

Page 1, line 2, after "establishments" insert ", the maximum number of gaming sites allowed, the maximum number of pull tab devices allowed at a site, approval for a gaming site authorization and licensure, modification of allowable expense limits, and rent limits for electronic pull tab devices"

Page 1, line 11, after "establishment" insert "licensed under chapter 5-02"

Page 1, line 12, after "consumed" insert "by guests on the premises"

Page 1, line 12, replace "This" with "The term"

Page 1, line 12, replace "an off-sale" with "a"

Page 1, line 13, after "store" insert "licensed for off sale only"

Page 1, line 13, remove "An alcoholic beverage"

Page 1, remove lines 14 through 16

Page 3, line 10, after "17." insert "\"Off sale\" means the sale of alcoholic beverages that are to be consumed off the licensed premises."

18. "\"On sale\" means the sale of alcoholic beverages that are meant to be consumed on the licensed premises."

19."

Page 3, line 13, replace "18." with "20."

Page 3, line 15, replace "19." with "21."

Page 3, line 16, replace "20." with "22."

Page 3, line 19, replace "21." with "23."

Page 3, line 27, replace "22." with "24."

Page 4, line 4, replace "23." with "25."

Page 4, line 7, replace "24." with "26."

Page 4, after line 11, insert:

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

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

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 permit. Only one of two or more closely related organizations may have a license or 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 permit as follows:
 - a. An organization recognized as a public-spirited organization by the governing body of a city or county may apply for permits. A local permit may allow the organization to conduct only raffles, bingo, or sports pools. A restricted event permit may allow the organization to conduct only raffles, bingo, sports pools, paddlewheels, twenty-one, and poker. The organization or closely related organizations as a whole may only award a primary prize that does not exceed eight thousand dollars and total prizes of all games do not exceed forty thousand dollars per year. These maximum prize amounts do not apply to raffles conducted under chapter 20.1-08. The determination of what is a "public-spirited organization" is within the sole discretion of the governing body. An organization shall disclose on the application its intended use of the net income from the gaming activity. A governing body may issue a 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 permit. A permit must be on a fiscal year basis from July first to June thirtieth or on a calendar-year basis.
 - c. An organization that has a local permit or a restricted event permit may use the net income from the gaming activity for any purpose that does not violate this chapter or gaming rules, unless the organization is a state political party or legislative district party committee, the organization may use the net income from a raffle for a political purpose. For purposes of this subdivision, a public-spirited use includes a political purpose.
 - d. An organization that has a restricted event permit is restricted to one event per year and:
 - (1) May not pay remuneration to employees for personal services;
 - (2) Shall use chips as wagers;
 - (3) Shall redeem a player's chips for merchandise prizes or cash;

- (4) Shall disburse net income to eligible uses referenced in subdivision c, if applicable, and in section 53-06.1-11.1; and
 - (5) Shall file a report prescribed by the attorney general with the governing body and attorney general.
2. An eligible organization shall apply for a license to conduct only bingo, electronic quick shot bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one, paddlewheels, poker, or sports pools by:
- a. First securing a lease for a gaming site location.
 - b. After securing a lease for a gaming site location, securing approval for a site authorization from the governing body of the city or county in which the proposed site is located. Approval, which may be granted at the discretion of the governing body, The approved authorization must be recorded on a site authorization form that is to accompany the license application to the attorney general for final approval. A governing body may:
 - (1) May not require an eligible organization to donate net proceeds to the city, county, or related political subdivision or for community programs or services within the city or county as a condition for receiving a site authorization from the city or county. A governing body may;
 - (2) May limit the number of tables for the game of twenty-one per site and the number of sites upon which a licensed organization may conduct games within the city or county. A governing body may;
 - (3) May charge a one hundred dollar fee for a site authorization; and
 - b. (4) May not require a site to enter a lease with a specific organization as a condition of receiving a site authorization;
 - (5) May not deny approval of a site authorization because an organization has not previously conducted gaming at that site;
 - (6) May deny approval of a site authorization if an application is incomplete or if granting approval would violate a local ordinance related to a limitation on the number of site authorizations for which an organization may be approved or whether the organization is public-spirited. An ordinance that places a condition on how charitable funds may be used may not have an effect on the approval of a site authorization; and
 - (7) May deny approval of a site authorization if the organization is not compliant with statute or rule.
- c. Annually applying for a license from the attorney general before July first on a form prescribed by the attorney general and remitting a one hundred fifty dollar license fee for each city or county that approves a site authorization. However, the attorney general may allow an organization that only conducts a raffle or calcutta in two or more cities or counties to annually apply for a consolidated license and

remit a one hundred fifty dollar license fee for each city or county in which a site is located. An organization shall document that it qualifies as an eligible organization. If an organization amends its primary purpose as stated in its articles of incorporation or materially changes its basic character, the organization shall reapply for licensure. The attorney general shall issue a license to an eligible organization that has obtained approval of site authorization under subdivision b, applied, paid the requisite fee, and demonstrated it qualifies as an eligible organization.

3. A licensed organization or organization that has a permit shall conduct games as follows:
 - a. Only one licensed organization or organization that has a permit may conduct games at an authorized site on a day, except that a raffle may be conducted for a special occasion by another licensed organization or organization that has a permit when one of these conditions is met:
 - (1) When the area for the raffle is physically separated from the area where games are conducted by the regular organization.
 - (2) Upon request of the regular organization and with the approval of the alcoholic beverage establishment, the regular organization's license or permit is suspended for that specific time of day by the attorney general.
 - b. Except for a temporary site authorized for fourteen or fewer consecutive days for not more than two events per quarter or a licensed organization authorized on or before January 1, 2023, to conduct gaming at more than fifteen sites, a licensed organization may not have more than ~~twenty-five~~fifteen sites ~~unless granted a waiver by the attorney general. If the attorney general finds that there is no other licensed organization interested in conducting gaming at a site for which a waiver is being sought, the attorney general may approve the waiver for no more than five sites.~~
 - c. Games of electronic quick shot bingo, pull tabs, punchboards, twenty-one, paddlewheels, poker, and sports pools may be conducted only during the hours when alcoholic beverages may be dispensed according to applicable regulations of the state, county, or city.
 - d. An organization may not permit a person under twenty-one years of age to directly or indirectly play pull tabs, punchboards, twenty-one, calcuttas, sports pools, paddlewheels, or poker. An organization may not permit an individual under eighteen years of age to directly or indirectly play electronic quick shot bingo. An organization may not permit an individual under eighteen years of age to directly or indirectly play bingo unless the individual is accompanied by an adult, bingo is conducted by an organization that has a permit, or the game's prize structure does not exceed that allowed for a permit.
 - e. An organization may not install more than ten electronic pull tab devices at a site.

- f. An organization with more than fifteen licensed sites under subdivision b may not increase its number of sites beyond the number of sites licensed as of January 1, 2023.
4. A permit, or site authorization and license, must be displayed at a site.
 5. The attorney general may issue a conditional license to an eligible organization whose regularly issued license has expired or been suspended, revoked, or relinquished. The attorney general shall designate the time period for which the conditional license is valid and may impose any conditions.
 6. A governing body or local law enforcement official may inspect a site's gaming equipment and examine or cause to be examined any gaming-related books and records of a licensed organization or organization that has a permit.

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

Alcoholic beverage establishment - Requirements.

1. An alcoholic beverage establishment:
 - a. May not interfere with the organization's operation of gaming;
 - b. May not limit the gaming hours of operation, except to limit gaming to the alcoholic beverage establishment's hours of operation;
 - c. May not receive any compensation from gaming proceeds other than rent under this chapter. Compensation includes any financial benefit, direct or indirect, from gaming proceeds;
 - d. May not require an organization to donate net proceeds to any organization or for any purpose as a condition of conducting gaming on the premises;
 - e. May not directly conduct gaming as part of the alcoholic beverage establishment's business;
 - f. May donate a gift certificate, cash, or merchandise intended to be used as a prize to an organization;
 - g. May not give a free or discounted game piece, chip, or play of a game, except for discounts allowed for bingo and raffle activity;
 - h. May offer free or discounted food or beverages in the normal course of business;
 - i. At its own expense, may advertise gaming on promotional drink tickets; and
 - j. If advertising charitable gaming conducted on the premises, shall include the gaming organization's name. An abbreviation of the organization's name may be used.
2. Upon the request of the organization, an alcoholic beverage establishment:

- a. May sell a gift certificate or merchandise to be used as a gaming prize for no more than fair market value; and
 - b. May assist in redeeming winning pull tabs, credit ticket vouchers, or paying prize board cash prizes involving a dispensing device. If the organization provides the alcoholic beverage establishment temporary loan funds for this purpose, a written agreement must:
 - (1) Be signed by the organization and the alcoholic beverage establishment;
 - (2) Provide for the immediate repayment of the loan if the organization discontinues using a device at the site; and
 - (3) Provide the alcoholic beverage establishment is liable for a loss or theft of the loaned funds.
3. An owner of the alcoholic beverage establishment or a member of the owner's household or an individual who is an officer or board member or involved in the management of the establishment may not:
- a. Loan money or provide gaming equipment to the organization;
 - b. Interfere or attempt to influence an organization's selection of games, determination of prizes, disbursement of net proceeds, selection of a gaming equipment distributor, or the method for which games are conducted;
 - c. Require an organization's employee to assist, with or without compensation, in an alcoholic beverage establishment's business at the site. However, the organization's employee may voluntarily order beverages for customers; or
 - d. Count drop box cash.
4. An owner or employee of the alcoholic beverage establishment may not play pull tabs or prize boards, which involve a dispensing device, or electronic pull tabs while on duty or for three hours after ending duty.
5. An employee of a licensed organization may patronize the alcoholic beverage establishment.

SECTION 4. AMENDMENT. Subsection 2 of section 53-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

2. Allowable expenses may be deducted from adjusted gross proceeds. The allowable expense limit is ~~sixty~~:
- a. Sixty percent of the adjusted gross proceeds per quarter if the total adjusted gross proceeds for the quarter are more than one hundred thousand dollars; and
 - b. Sixty-three percent of the adjusted gross proceeds per quarter if the total adjusted gross proceeds for the quarter are equal to or less than one hundred thousand dollars.

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

5. For a site where bingo is not the primary game:
 - a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed two hundred dollars multiplied by the necessary number of tables based on criteria prescribed by gaming rule. For each twenty-one table with a wager greater than five dollars, an additional amount up to one hundred dollars may be added to the monthly rent. If pull tabs is also conducted involving only a jar bar, the monthly rent for pull tabs may not exceed an additional one hundred seventy-five dollars. If pull tabs is conducted involving only a dispensing device or a jar bar and dispensing device, the monthly rent for pull tabs may not exceed an additional three hundred twenty-five dollars.
 - b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted involving either a jar bar or dispensing device, the monthly rent may not exceed four hundred dollars.
 - c. If pull tabs is conducted using one or more electronic pull tab devices, the monthly rent may not exceed ~~an additional one hundred~~ fifty dollars per machine for the first five machines in the same venue. For each additional machine in the same venue beyond five, the monthly rent may not exceed ~~an additional fifty~~ one hundred dollars per machine up to a maximum of one thousand ~~one~~ two hundred ~~twenty-five~~ fifty dollars per month for all electronic pull tab devices in a single venue. Notwithstanding the foregoing maximum rent amount, if a gaming employee is not onsite to administer the proceeds, the rent may include an additional fifty dollars per machine for alcoholic beverage establishment employee assistance for up to five machines, resulting in a maximum of one thousand five hundred dollars per month.

SECTION 6. A new subsection to section 53-06.1-15.1 of the North Dakota Century Code is created and enacted as follows:

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

Renumber accordingly