

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2224

Introduced by

Senators Myrdal, Luick

1 A BILL ~~for an Act to amend and reenact section 53-06.1-01.1 of the North Dakota Century~~
2 ~~Code, relating to the abolition of the gaming commission and the authorization of the attorney~~
3 ~~general to administer and regulate gaming for an Act to amend and reenact sections~~
4 53-06.1-01.1 and 53-06.1-15.1 of the North Dakota Century Code, relating to the gaming
5 commission and the attorney general's regulation of gaming.

6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

7 ~~SECTION 1. AMENDMENT. Section 53-06.1-01.1 of the North Dakota Century Code is~~
8 ~~amended and reenacted as follows:~~

9 ~~53-06.1-01.1. Gaming commissionAttorney general - Gaming - Rules.~~

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

19 ~~2. A person is ineligible for appointment to the commission if that person has not been a~~
20 ~~resident of this state for at least two years before the date of appointment. A person is~~

1 ~~also ineligible if that person is not of such character and reputation as to promote~~
2 ~~public confidence in the administration of gaming in this state. A person is also~~
3 ~~ineligible if that person has been convicted of a felony criminal offense or has pled~~
4 ~~guilty or been found guilty of any violation of chapter 12.1-06, 12.1-08, 12.1-09,~~
5 ~~12.1-10, 12.1-11, 12.1-12, 12.1-22, 12.1-23, 12.1-24, 12.1-28, 53-06.1, or 53-06.2, or~~
6 ~~has pled guilty or been found guilty of any violation of section 6-08-16 or 6-08-16.2, or~~
7 ~~has pled guilty or been found guilty of any offense or violation that has a direct bearing~~
8 ~~on the person's fitness to be involved in gaming, or who has committed an equivalent~~
9 ~~offense or violation of the laws of another state or of the United States. A person who~~
10 ~~has a financial interest in gaming or is an employee or a member of the gaming~~
11 ~~committee of a licensed organization or distributor cannot be a member of the~~
12 ~~commission. For the purpose of this subsection, a financial interest includes the~~
13 ~~receiving of any direct payment from an eligible organization for property, services, or~~
14 ~~facilities provided to that organization.~~

15 ~~3. Commission members are entitled to seventy-five dollars per day for compensation for~~
16 ~~each day spent on commission duties and mileage and expense reimbursement as~~
17 ~~allowed to other state employees.~~

18 ~~4. The commission attorney general shall adopt rules in accordance with chapter 28-32, to~~
19 ~~administer and regulate the gaming industry, including methods:~~

20 ~~1. Methods of conduct, play, and promotion of games; minimum~~

21 ~~2. Minimum procedures and standards for recordkeeping and internal control; requiring~~

22 ~~3. Requiring tax returns and reports from organizations or distributors; methods~~

23 ~~4. Methods of competition and doing business by distributors and manufacturers;~~
24 ~~acquisition~~

25 ~~5. Acquisition and use of gaming equipment; quality~~

26 ~~6. Quality standards or specifications for the manufacture of pull tabs, paper bingo cards,~~
27 ~~electronic pull tab devices, pull tab dispensing devices, bingo card marking devices,~~
28 ~~and fifty-fifty raffle systems; to~~

29 ~~7. To ensure that net proceeds are used for educational, charitable, patriotic, fraternal,~~
30 ~~religious, or public spirited uses; to~~

31 ~~8. To protect and promote the public interest; to~~

- 1 ~~9. To ensure fair and honest games; to~~
2 ~~10. To ensure that fees and taxes are paid; and to~~
3 ~~11. To prevent and detect unlawful gambling activity.~~

4 **SECTION 1. AMENDMENT.** Section 53-06.1-01.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **53-06.1-01.1. Gaming commission.**

- 7 1. The state gaming commission consists of the chairman and four other members
8 appointed by the governor, with the consent of the senate. The members serve
9 three-year terms and until a successor is appointed and qualified. If the senate is not
10 in session when the term of a member expires, the governor may make an interim
11 appointment, and the interim appointee holds office until the senate confirms or rejects
12 the appointment. A member appointed to fill a vacancy arising from other than the
13 natural expiration of a term serves only for the unexpired portion of the term. The
14 terms of the commissioners must be staggered so no more than two terms expire
15 each July first.
- 16 2. ~~A person~~An individual is ineligible for appointment to the commission if ~~that person~~the
17 individual has not been a resident of this state for at least two years before the date of
18 appointment. ~~A person~~An individual is also ineligible if ~~that person~~the individual is not
19 of such character and reputation as to promote public confidence in the administration
20 of gaming in this state. ~~A person~~An individual is also ineligible if ~~that person~~the
21 individual has been convicted of a felony criminal offense or has pled guilty or been
22 found guilty of any violation of chapter 12.1-06, 12.1-08, 12.1-09, 12.1-10, 12.1-11,
23 12.1-12, 12.1-22, 12.1-23, 12.1-24, 12.1-28, 53-06.1, or 53-06.2, or has pled guilty or
24 been found guilty of any violation of section 6-08-16 or 6-08-16.2, or has pled guilty or
25 been found guilty of any offense or violation that has a direct bearing on the
26 ~~person's~~individual's fitness to be involved in gaming, or who has committed an
27 equivalent offense or violation of the laws of another state or of the United States. ~~A-~~
28 ~~person~~An individual who has a financial interest in gaming or is an employee or a
29 member of the gaming committee of a licensed organization or distributor cannot be a
30 member of the commission. For the purpose of this subsection, a financial interest

includes the receiving of any direct payment from an eligible organization for property, services, or facilities provided to that organization.

3. Commission members are entitled to ~~seventy-five dollars~~ the amount under subsection 1 of section 54-03-20 per day for compensation for each day spent on commission duties and mileage and expense reimbursement as allowed to other state employees. The commission shall meet at least quarterly.
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 or specifications for the manufacture of pull tabs, paper bingo cards, electronic pull tab devices, pull tab dispensing devices, bingo card marking devices, and fifty-fifty raffle systems; to ensure that net proceeds are 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 2. AMENDMENT. Section 53-06.1-15.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-15.1. Authority of the attorney general - Penalty - Hearing - Appeal.

1. The attorney general may:

- ~~1.~~ a. Inspect all sites in which gaming is conducted or inspect all premises where gaming equipment is manufactured or distributed. The attorney general may require a licensed manufacturer to reimburse the attorney general for the reasonable actual cost of transportation, lodging, meals, and incidental expenses incurred in inspecting the manufacturer's facility.
- ~~2.~~ b. Inspect all gaming equipment and supplies.
- ~~3.~~ c. Seize, remove, or impound any gaming equipment, supplies, games, or books and records for the purpose of examination and inspection.
- ~~4.~~ d. Demand access to and inspect, examine, photocopy, and audit all books and records of applicants, organizations, lessors, manufacturers, distributors, and

1 affiliated companies concerning any income, expense, or use of net proceeds,
2 and determine compliance with this chapter or gaming rules.

3 ~~5.~~ e. Permit the commissioner or proper representative of the internal revenue service
4 of the United States to inspect a tax return or furnish a copy of the tax return, or
5 information concerning any item contained in the return, or disclosed by any audit
6 or investigation report of the gaming activity of any organization or player, or
7 recordkeeping information. However, information cannot be disclosed to the
8 extent that the attorney general determines that the disclosure would identify a
9 confidential informant or seriously impair any civil or criminal investigation.
10 Except when directed by judicial order, or for pursuing civil or criminal charges
11 regarding a violation of this chapter or a gaming rule, or as is provided by law, the
12 attorney general may not divulge nor make known, to any person, any income or
13 expense item contained in any tax return or disclosed by an audit or investigative
14 report of any taxpayer provided to the attorney general by the internal revenue
15 service.

16 ~~6.~~ f. Require a representative of a licensed organization or distributor to participate in
17 training or for good cause prohibit the person from being involved in gaming as
18 an employee or volunteer. The attorney general may for good cause prohibit a
19 person from providing personal or business services to an organization or
20 distributor.

21 ~~7.~~ g. Prohibit a person from playing games if the person violates this chapter, chapter
22 12.1-28 or 53-06.2, or a gaming rule.

23 ~~8.~~ h. Require or authorize an organization to pay or prohibit an organization from
24 paying a bingo, electronic quick shot bingo, or raffle prize to a player on a dispute
25 or based on a factual determination or a hearing by the attorney general.

26 ~~9.~~ i. Based on reasonable ground or written complaint, suspend, deny, or revoke an
27 organization's permit or an organization's, distributor's, or manufacturer's
28 application or license for violation, by the organization, distributor, or
29 manufacturer or any officer, director, agent, member, or employee of the
30 organization, distributor, or manufacturer, of this chapter or any gaming rule.

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

11. k. At any time within three years after any amount of fees, monetary fine, interest, penalty, or tax required to be paid pursuant to this chapter becomes due, bring a civil action to collect the amount due. However, if for any reason there is a change in adjusted gross proceeds or tax liability by an amount which is in excess of twenty-five percent of the amount of adjusted gross proceeds or tax liability originally reported on the tax return, any additional tax determined to be due may be assessed within six years after the due date of the tax return, or six years after the tax return was filed, whichever period expires later. An action may be brought although the person owing the fees or tax is not presently licensed.

12. l. Institute an action in any district court for declaratory or injunctive relief against a person, whether or not the person is a gaming licensee, as the attorney general deems necessary to prevent noncompliance with this chapter or gaming rules.

13. m. For good cause, require a licensed organization to use the attorney general's recordkeeping system for any or all games.

2. Based on evidence obtained by the attorney general demonstrating a person violated this chapter or a gaming rule, which could result in the revocation or suspension of a site authorization or an organization's gaming license or the imposition of a monetary fine of one thousand dollars or more, the attorney general shall hold a hearing to determine whether a violation occurred. The attorney general shall designate the time and place for the hearing and provide notice to the person accused of the violation at

1 least forty-five days before the hearing. The parties may present evidence, and
2 examine and cross-examine witnesses, as provided under sections 28-32-24 and
3 28-32-35. The hearing must be recorded on video and broadcast live.

4 3. A person may appeal an order of the attorney general under this section to the office
5 of administrative hearings to be considered by an administrative law judge according
6 to the procedures for a hearing under chapter 28-32. Notwithstanding any other law,
7 the hearing must be held within thirty days of the date the appeal is filed. The office of
8 administrative hearings shall create a form for filing an appeal under this subsection
9 and publish the form on its website. An order of the attorney general must be stayed
10 pending the determination of the appeal.

