

Introduced by

Representative Toman

1 A BILL for an Act to amend and reenact section 53-06.1-01, subsection 2 of section 53-06.1-03,
2 and subsection 1 of section 53-06.1-06 of the North Dakota Century Code, relating to the
3 definitions of "off sale" and "on sale", gaming site authorization and licensure, and the
4 authorization of employees to provide limited assistance related to gaming; and to declare an
5 emergency.

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

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

9 **53-06.1-01. Definitions.**

10 As used in this chapter:

- 11 1. "Adjusted gross proceeds" means gross proceeds less cash prizes, cost of
12 merchandise prizes, gaming tax, and federal excise tax imposed under section 4401
13 of the Internal Revenue Code [26 U.S.C. 4401].
- 14 2. "Charitable organization" means an organization whose primary purpose is for relief of
15 poor, distressed, underprivileged, diseased, elderly, or abused persons, prevention of
16 cruelty to children or animals, or similar condition of public concern.
- 17 3. "Civic and service organization" means an organization whose primary purpose is to
18 promote the common good and social welfare of a community as a sertoma, lion,
19 rotary, jaycee, kiwanis, or similar organization.
- 20 4. "Closely related organization" means an organization that controls, is controlled by, or
21 is under common control with another organization. Control exists when an
22 organization has the authority or ability to elect, appoint, or remove a majority of the
23 officers or directors of another organization or, by policy, contract, or otherwise, has

1 the authority or ability to directly or indirectly direct or cause the direction of the
2 management or policies of another organization.

3 5. "Distributor" means a person that sells, markets, or distributes equipment designed for
4 use in the conduct of games.

5 6. "Educational organization" means a nonprofit public or private elementary or
6 secondary school, two-year or four-year college, or university.

7 7. "Electronic pull tab device" means a device, approved by the attorney general, which
8 electronically displays pull tabs.

9 8. "Eligible organization" means a veterans, charitable, educational, religious, fraternal,
10 civic and service, public safety, or public-spirited organization domiciled in North
11 Dakota or authorized by the secretary of state as a foreign corporation under chapter
12 10-33, incorporated as a nonprofit organization, and which has been regularly and
13 actively fulfilling its primary purpose within this state during the two immediately
14 preceding years. However, an educational organization does not need to be
15 incorporated or be in existence for two years. An organization's primary purpose may
16 not involve the conduct of games. The organization may be issued a license by the
17 attorney general. For purposes of this section, a foreign corporation authorized under
18 chapter 10-33 is not an eligible organization unless authorized to conduct a raffle
19 under chapter 20.1-04 or 20.1-08 and may not conduct a game other than a raffle
20 under chapter 20.1-04 or 20.1-08.

21 9. "Fraternal organization" means an organization, except a school fraternity, which is a
22 branch, lodge, or chapter of a national or state organization and exists for the common
23 business, brotherhood, or other interests of its members. The organization must have
24 qualified for exemption from federal income tax under section 501(c)(8) or 501(c)(10)
25 of the Internal Revenue Code.

26 10. "Games" means games of chance.

27 11. "Gross proceeds" means all cash and checks received from conducting games.

28 12. "Licensed organization" means an eligible organization licensed by the attorney
29 general.

30 13. "Manufacturer" means, for a pull tab or bingo card, a person who designs, prints,
31 assembles, or produces the product. For a pull tab dispensing device, bingo card

- 1 marking device, or a fifty-fifty raffle system, a manufacturer means the person who
2 directly controls and manages development of and owns the rights to the proprietary
3 software encoded on a processing chip that enables the device to operate.
- 4 14. "Net income" means gross proceeds less cash prizes, cost of merchandise prizes, and
5 expenses to conduct the gaming activity.
- 6 15. "Net proceeds" means adjusted gross proceeds less allowable expenses and gaming
7 tax.
- 8 16. "Off sale" means the sale of alcoholic beverages that are to be consumed off the
9 licensed premises.
- 10 17. "On sale" means the sale of alcoholic beverages that are meant to be consumed on
11 the licensed premises.
- 12 18. "Permit" means a local permit or restricted event permit issued by a governing body of
13 a city or county to a nonprofit organization or group of people domiciled in North
14 Dakota.
- 15 ~~17-19.~~ "Person" means any person, partnership, corporation, limited liability company,
16 association, or organization.
- 17 ~~18-20.~~ "Prize board" means a board used with pull tabs to award cash or merchandise prizes.
- 18 ~~19-21.~~ "Public safety organization" means an organization whose primary purpose is to
19 provide firefighting, ambulance service, crime prevention, or similar emergency
20 assistance.
- 21 ~~20-22.~~ "Public-spirited organization" means an organization whose primary purpose is for
22 scientific research, amateur sports competition, safety, literary, arts, preservation of
23 cultural heritage, educational activities, educational public service, youth, economic
24 development, tourism, community medical care, community recreation, or similar
25 organization, which does not meet the definition of any other type of eligible
26 organization. However, a nonprofit organization or a group of people recognized as a
27 public-spirited organization by a governing body of a city or county for obtaining a
28 permit does not need to meet this definition.
- 29 ~~21-23.~~ "Pull tab" means a folded or banded ticket or jar ticket, a pull tab card with break-open
30 tabs, or an electronic pull tab displaying concealed numbers or symbols or
31 combinations of concealed numbers and symbols which are exposed by a player to

1 determine the outcome. The terms "pull tab" and "jar ticket" are used interchangeably
2 unless otherwise stated. A winning pull tab contains certain symbols, numbers, or
3 combinations of symbols and numbers and may contain multiple winning symbols,
4 numbers, or combinations of symbols and numbers which have been previously
5 designated as winning symbols or numbers.

6 ~~22-24.~~ "Religious organization" means a church, body of communicants, or group gathered in
7 common membership whose primary purpose is for advancement of religion, mutual
8 support and edification in piety, worship, and religious observances.

9 ~~23-25.~~ "Veterans organization" means any congressionally chartered post organization, or
10 any branch or lodge or chapter of a nonprofit national or state organization whose
11 membership consists of individuals who are or were members of the armed services
12 or forces of the United States. The organization must have qualified for exemption
13 from federal income tax under section 501(c)(19) of the Internal Revenue Code.

14 **SECTION 2. AMENDMENT.** Subsection 2 of section 53-06.1-03 of the North Dakota
15 Century Code is amended and reenacted as follows:

16 2. An eligible organization shall apply for a license to conduct only bingo, electronic quick
17 shot bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one, paddlewheels,
18 poker, or sports pools by:

19 a. First securing approval for a site authorization from the governing body of the city
20 or county in which the proposed site is located. Approval, which may be granted
21 at the sole discretion of the governing body, must be recorded on a site
22 authorization form that is to accompany the license application to the attorney
23 general ~~for final approval~~ who shall issue the license. An authorized site includes
24 a location properly licensed by the governing body of the city or county for on
25 sale alcoholic beverage sales. A governing body may not require an eligible
26 organization to donate net proceeds to the city, county, or related political
27 subdivision or for community programs or services within the city or county as a
28 condition for receiving a site authorization from the city or county. A governing
29 body may limit the number of tables for the game of twenty-one per site and the
30 number of sites upon which a licensed organization may conduct games within

1 the city or county. A governing body may charge a one hundred dollar fee for a
2 site authorization; and
3 b. Annually applying for a license from the attorney general before July first on a
4 form prescribed by the attorney general and remitting a one hundred fifty dollar
5 license fee for each city or county that approves a site authorization. However,
6 the attorney general may allow an organization that only conducts a raffle or
7 calcutta in two or more cities or counties to annually apply for a consolidated
8 license and remit a one hundred fifty dollar license fee for each city or county in
9 which a site is located. An organization shall document that it qualifies as an
10 eligible organization. If an organization amends its primary purpose as stated in
11 its articles of incorporation or materially changes its basic character, the
12 organization shall reapply for licensure. The attorney general shall issue a license
13 to an eligible organization that has obtained approval of site authorization under
14 subdivision a, applied, paid the requisite fee, and demonstrated it qualifies as an
15 eligible organization.

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

- 18 1. No person, except a member, volunteer, an employee of a licensed organization or an
19 organization that has a permit, or an employee of a temporary employment agency
20 who provides services to a licensed organization, may manage, control, or conduct
21 any game. "Member" includes a member of an auxiliary organization. In conducting
22 pull tabs or prize boards through a dispensing device, selling pull tabs through a
23 pull-tab device, selling raffle tickets, or conducting sports pools, the ~~attorney-~~
24 ~~general~~local governing body of the city or county in which the site is located may allow
25 an employee of an ~~alcoholic beverage establishment~~authorized site under section
26 53-06.1-03, including a location properly licensed by the governing body of the city or
27 county for on sale alcoholic beverage sales, to provide limited assistance to an
28 organization.

29 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.