

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2304
(Senators Klein, Hogue, Luick)
(Representatives Karls, Kempenich, Nathe)

AN ACT to amend and reenact sections 53-06.1-01 and 53-06.1-03, subsection 3 of section 53-06.1-10.1, subsection 5 of section 53-06.1-11, and subsection 10 of section 53-06.1-15.1 of the North Dakota Century Code, relating to the definitions of alcoholic beverage establishment and manufacturer, approval for a gaming site authorization and licensure, the maximum number of gaming sites allowed, the maximum number of pull tab devices allowed at a site, gaming licenses for alcoholic beverage establishments, electronic fifty-fifty raffles, rent limits for electronic pull tab devices, and the imposition of monetary fines for violations by third-party businesses; to provide for a legislative management study; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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, gaming tax, and federal excise tax imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401].
2. "Alcoholic beverage establishment" means an establishment licensed under chapter 5-02 where alcoholic beverages are sold, dispensed, and consumed by guests on the premises. The term does not include a liquor store, gas station, grocery store, or convenience store.
3. "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.
- ~~3.4.~~ "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.
- ~~4.5.~~ "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.
- ~~5.6.~~ "Distributor" means a person that sells, markets, or distributes equipment designed for use in the conduct of games.
- ~~6.7.~~ "Educational organization" means a nonprofit public or private elementary or secondary school, two-year or four-year college, or university.
- ~~7.8.~~ "Electronic pull tab device" means a device, approved by the attorney general, which electronically displays pull tabs.

- ~~8-9.~~ "Eligible organization" means a veterans, charitable, educational, religious, fraternal, civic and service, public safety, or public-spirited organization domiciled in North Dakota or authorized by the secretary of state as a foreign corporation under chapter 10-33, incorporated as a nonprofit organization, and which has been regularly and actively fulfilling its primary purpose within this state during the two immediately preceding years. However, an educational organization does not need to be incorporated or be in existence for two years. An organization's primary purpose may not involve the conduct of games. The organization may be issued a license by the attorney general. For purposes of this section, a foreign corporation authorized under chapter 10-33 is not an eligible organization unless authorized to conduct a raffle under chapter 20.1-04 or 20.1-08 and may not conduct a game other than a raffle under chapter 20.1-04 or 20.1-08.
- ~~9-10.~~ "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.
- ~~10-11.~~ "Games" means games of chance.
- ~~11-12.~~ "Gross proceeds" means all cash and checks received from conducting games.
- ~~12-13.~~ "Licensed organization" means an eligible organization licensed by the attorney general.
- ~~13-14.~~ "Manufacturer" means, for a pull tab or bingo card, a person who designs, prints, assembles, or produces the product. For a pull tab dispensing device, electronic pull tab device operating system, bingo card marking device, or ~~a fifty-fifty~~ electronic raffle system, 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 or system to operate.
- ~~14-15.~~ "Net income" means gross proceeds less cash prizes, cost of merchandise prizes, and expenses to conduct the gaming activity.
- ~~15-16.~~ "Net proceeds" means adjusted gross proceeds less allowable expenses and gaming tax.
- ~~16-17.~~ "Permit" means a local permit or restricted event permit issued by a governing body of a city or county to a nonprofit organization or group of people domiciled in North Dakota.
- ~~17-18.~~ "Person" means any person, partnership, corporation, limited liability company, association, or organization.
- ~~18-19.~~ "Prize board" means a board used with pull tabs to award cash or merchandise prizes.
- ~~19-20.~~ "Public safety organization" means an organization whose primary purpose is to provide firefighting, ambulance service, crime prevention, or similar emergency assistance.
- ~~20-21.~~ "Public-spirited organization" means an organization whose primary purpose is for scientific research, amateur sports competition, safety, literary, arts, 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 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. 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 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, must be recorded on a site authorization form that is to accompany the license application to the attorney general for final approval. An eligible organization may request a specific site location on the site authorization form.
 - (1) A governing body may:
 - (a) 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;
 - (b) May not deny a site authorization solely because the eligible organization has not conducted gaming at the site;
 - (c) May not require that an eligible organization be located at a specific site as a condition of site authorization;
 - (d) May limit the type of games and the number of electronic pull tab devices or 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; and
 - (e) May charge a one hundred dollar fee for a site authorization; and.
 - (2) This subsection may not be construed to prohibit a governing body from:
 - (a) Creating and enforcing rules that are more stringent than state law regarding charitable gaming as otherwise permitted in code; or
 - (b) Denying a site authorization for just cause, including, after consultation with the attorney general, a violation of state law or local rules.
 - b. 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 may deny issuance of a license or deny renewal of a license to an eligible organization that has obtained approval of site authorization under subdivision a, if the organization or site is not in compliance with applicable laws and rules.

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, including a closely related 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, electronic pull tabs, 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. Electronic pull tabs must be conducted in a designated area where patrons must be twenty-one years of age or older to enter.
 - 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.
 - g. An organization conducting gaming at an authorized site on January 1, 2023, may continue to operate gaming, including as provided under subsection 1 of section 53-06.1-06, at the authorized site regardless of whether the authorized site is an alcoholic beverage establishment as defined under section 53-06.1-01.
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. AMENDMENT. Subsection 3 of section 53-06.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

3. An organization permitted to conduct raffles in this state may conduct ~~an~~ an electronic fifty-fifty raffle either by manual drawing or by using a random number generator. ~~Fifty-fifty~~Electronic ~~fifty-fifty~~ raffle tickets must be sold and drawings held onsite at the location of and on the date of the event. ~~Fifty-fifty~~Electronic ~~fifty-fifty~~ raffles may not be conducted online over the internet.

SECTION 4. 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 seventy-five 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~~seventy-five 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.

SECTION 5. AMENDMENT. Subsection 10 of section 53-06.1-15.1 of the North Dakota Century Code is amended and reenacted as follows:

10. Impose a monetary fine on a licensed organization, organization that has a permit, distributor, ~~or 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.

SECTION 6. LEGISLATIVE MANAGEMENT STUDY - CHARITABLE GAMING.

1. During the 2023-24 interim, the legislative management shall study statewide charitable gaming comprehensively. The study must include input from the attorney general, stakeholders from large and small charitable organizations, local political subdivisions that authorize sites, gaming equipment manufacturers and distributors, gambling addiction counselors, and other industry leaders. The study must also include:
 - a. An evaluation of the economic impact of charitable gaming on the state in urban and rural areas;

- b. An evaluation of gambling addiction and treatment services currently available;
 - c. An evaluation of the civic benefit of charitable gaming to the communities most closely related to the gaming sites;
 - d. An evaluation of how site authorization is approved and renewed, including whether charities have equitable access to sites;
 - e. An evaluation of the gaming tax structure;
 - f. An evaluation of public support for charitable gaming;
 - g. An evaluation of statewide local restrictions placed on charitable gaming;
 - h. An evaluation of gaming expansion;
 - i. An evaluation of site locations where gaming is taking place;
 - j. An evaluation of charitable gaming proceeds and the eligible uses of gaming proceeds, including the percentage of proceeds that may be used for administration;
 - k. An evaluation of the categories of organizations that are allowed to conduct charitable gaming, including the missions of such organizations;
 - l. An evaluation of the placement of gaming activity within a gaming site, including electronic pull tab device placement;
 - m. An evaluation of the rental rate paid by organizations to alcoholic beverage establishments; and
 - n. An evaluation of the authority of the attorney general to regulate alcoholic beverage establishments.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

SECTION 7. EFFECTIVE DATE. This Act becomes effective on June 30, 2023.

SECTION 8. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2304 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 38 Nays 9 Absent 0

President of the Senate

Secretary of the Senate

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

Vote: Yeas 81 Nays 11 Absent 2

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State