

HOUSE BILL NO. 1216

Introduced by

Representatives Maragos, Brabandt, Delmore, Dockter, D. Johnson, Kasper, Nathe, Schatz,
Schmidt

Senators Armstrong, Poolman, Schaible

1 | A BILL for an Act to create and enact a new section to chapter 53-06.1 of the North Dakota
2 | Century Code, relating to electronic pull tabs; and to amend and reenact section 53-06.1-01,
3 | subsection 4 of section 53-06.1-01.1, subsection 1 of section 53-06.1-06, subsection 5 of
4 | section 53-06.1-11, and section 53-06.1-14 of the North Dakota Century Code, relating to the
5 | use of electronic pull tabs and electronic pull tab devices.

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 upon the insertion of cash, dispenses and displays an
9 electronic pull tab in which the player may win credits that can be redeemed for cash
10 or used to purchase more pull tabs. The term does not include a device that directly
11 dispenses coins, cash, tokens, or anything else of value other than a credit ticket
12 voucher.

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

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

30 ~~9-10.~~ "Games" means games of chance.

31 ~~10-11.~~ "Gross proceeds" means all cash and checks received from conducting games.

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- 1 ~~41.12.~~ "Licensed organization" means an eligible organization licensed by the attorney
2 general.
- 3 ~~42.13.~~ "Manufacturer" means, for a pull tab or bingo card, a person who designs, prints,
4 assembles, or produces the product. For a pull tab or bingo card dispensing device ~~or,~~
5 bingo card marking device, or electronic pull tab device, a manufacturer means the
6 person who directly controls and manages development of and owns the rights to the
7 proprietary software encoded on a processing chip that enables the device to operate.
- 8 ~~43.14.~~ "Net income" means gross proceeds less cash prizes, cost of merchandise prizes, and
9 expenses to conduct the gaming activity.
- 10 ~~44.15.~~ "Net proceeds" means adjusted gross proceeds less allowable expenses and gaming
11 tax.
- 12 ~~45.16.~~ "Permit" means a local permit or charity local permit issued by a governing body of a
13 city or county to a nonprofit organization or group of people domiciled in North Dakota.
- 14 ~~46.17.~~ "Person" means any person, partnership, corporation, limited liability company,
15 association, or organization.
- 16 ~~47.18.~~ "Prize board" means a board used with pull tabs to award cash or merchandise prizes.
- 17 ~~48.19.~~ "Public safety organization" means an organization whose primary purpose is to
18 provide firefighting, ambulance service, crime prevention, or similar emergency
19 assistance.
- 20 ~~49.20.~~ "Public-spirited organization" means an organization whose primary purpose is for
21 scientific research, amateur sports competition, safety, literary, arts, preservation of
22 cultural heritage, educational activities, educational public service, youth, economic
23 development, tourism, community medical care, community recreation, or similar
24 organization, which does not meet the definition of any other type of eligible
25 organization. However, a nonprofit organization or a group of people recognized as a
26 public-spirited organization by a governing body of a city or county for obtaining a
27 permit does not need to meet this definition.
- 28 ~~20.21. "Pull tab" means a folded or banded ticket or jar ticket, a pull tab card with break-open~~
29 ~~tabs, or an electronic pull tab displaying concealed numbers or symbols or~~
30 ~~combinations of concealed numbers and symbols which are exposed by a player to~~
31 ~~determine the outcome. The term "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.~~

~~22.21.~~ "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.

~~21.23.22.~~ "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 4 of section 53-06.1-01.1 of the North Dakota Century Code is amended and reenacted as follows:

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 and bingo card dispensing devices, and bingo card marking devices; 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 3. AMENDMENT. Subsection 1 of section 53-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

1. No person, except a member, volunteer, an employee of a licensed organization or an organization that has a permit, or an employee of a temporary employment agency who provides services to a licensed organization, may manage, control, or conduct

1 any game. "Member" includes a member of an auxiliary organization. In conducting
2 pull tabs, prize boards, or bingo through a dispensing device, ~~selling pull tabs through~~
3 ~~aelectronic pull tabs through an electronic~~ pull tab device, selling raffle tickets, or
4 conducting sports pools, the attorney general may allow an employee of an alcoholic
5 beverage establishment to provide limited assistance to an organization.

6 **SECTION 4.** A new section to chapter 53-06.1 of the North Dakota Century Code is created
7 and enacted as follows:

8 **Electronic pull tab and electronic pull tab device requirements.**

9 1. An electronic pull tab deal also must be available in paper from a distributor.

10 2. An electronic pull tab device must be located at an organization's licensed site and
11 only may be used for the conduct of electronic pull tabs.

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

14 5. For a site where bingo is not the primary game:

15 a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed
16 two hundred dollars multiplied by the necessary number of tables based on
17 criteria prescribed by gaming rule. For each twenty-one table with a wager
18 greater than five dollars, an additional amount up to one hundred dollars may be
19 added to the monthly rent. If pull tabs is also conducted involving only a jar bar,
20 the monthly rent for pull tabs may not exceed an additional one hundred
21 seventy-five dollars. If pull tabs is conducted involving only a dispensing device,
22 electronic pull tab device, or both a jar bar and dispensing device or electronic
23 pull tab device, the monthly rent for pull tabs may not exceed an additional three
24 hundred twenty-five dollars ~~plus an additional one hundred dollars per electronic~~
25 ~~pull tab device. The number of electronic pull tab devices may not exceed five at~~
26 any site.

27 b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted
28 involving either a jar bar ~~or~~ dispensing device, or ~~both~~ electronic pull tab device,
29 or any combination, the monthly rent may not exceed four hundred dollars.

30 **SECTION 6. AMENDMENT.** Section 53-06.1-14 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **53-06.1-14. Distributors and manufacturers.**

2 1. A manufacturer of pull tabs, bingo cards, electronic pull tab devices, or bingo card
3 marking devices shall apply annually for a license and pay a license fee of four
4 thousand dollars. A manufacturer of pull tab dispensing devices shall apply annually
5 for a license and pay a license fee of one thousand dollars. A manufacturer of fifty-fifty
6 raffle systems shall apply annually for a license and pay a license fee of five hundred
7 dollars. A distributor shall apply annually for a license and pay a license fee of one
8 thousand five hundred dollars. Application must be made before the first day of April in
9 each year on a form prescribed by the attorney general.

10 2. A licensed distributor may not sell, market, or distribute gaming equipment except to a
11 licensed distributor, licensed organization, organization that has a permit, or other
12 person authorized by gaming rule or the attorney general. A manufacturer of a pull tab
13 dispensing device, pull tab, electronic pull tab device, bingo card marking device,
14 bingo card, or fifty-fifty raffle system may only sell, market, or distribute the
15 manufacturer's pull tab dispensing device and processing chip encoded with
16 proprietary software, pull tab, electronic pull tab device, bingo card marking device,
17 bingo card, or fifty-fifty raffle system to a licensed distributor. A licensed distributor may
18 purchase or acquire a pull tab dispensing device and processing chip encoded with
19 proprietary software, pull tab, electronic pull tab device, bingo card marking device,
20 bingo card, or fifty-fifty raffle system only from a licensed manufacturer or licensed
21 distributor. However, a distributor may purchase or acquire a used pull tab dispensing
22 device or electronic pull tab device from a licensed organization. A distributor may not
23 duplicate a manufacturer's processing chip encoded with proprietary software. No
24 gaming equipment or prize may be sold or leased at an excessive price.

25 3. A licensed distributor shall affix a North Dakota gaming stamp to each deal of pull tabs
26 and bingo cards, raffle board, punchboard, sports pool board, calcutta board, and
27 series of paddlewheel ticket cards sold or otherwise provided to a licensed
28 organization and shall purchase the stamps from the attorney general for thirty-five
29 cents each. Ten cents of each stamp sold by the attorney general, up to thirty-six
30 thousand dollars per biennium, must be credited to the attorney general's operating
31 fund to defray the costs of issuing and administering the gaming stamps.

- 1 4. A licensed organization, organization that has a permit, licensed manufacturer, or
2 North Dakota wholesaler of liquor or alcoholic beverages may not be a distributor or
3 stockholder of a distributor. A distributor may not be a stockholder of a manufacturer.
- 4 5. In addition to the license fee, the attorney general may require advance payment of
5 any fee necessary to pay the cost of a record check of an applicant according to
6 subdivision c of subsection 5 of section 53-06.1-06.
- 7 6. A licensed manufacturer may not refuse to sell deals of pull tabs, paper bingo cards, or
8 gaming equipment to a licensed distributor unless:
 - 9 a. A specific deal of pull tabs is sold on an exclusive basis;
 - 10 b. The manufacturer does not sell deals of pull tabs, paper bingo cards, or gaming
11 equipment to any distributor in the state;
 - 12 c. A gaming law or rule prohibits the sale;
 - 13 d. The distributor has not provided the manufacturer with proof of satisfactory credit
14 or is delinquent on any payment owed to the manufacturer; or
 - 15 e. The distributor has not met the manufacturer's standard minimum order quantity
16 and freight terms.