

FIRST ENGROSSMENT
with Senate Amendments

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1509

Introduced by

Representatives Kasper, Dosch, Iverson, Thoreson, Weiler

Senator Schobinger

1 A BILL for an Act to create and enact a new chapter to title 53 of the North Dakota Century
2 Code, relating to the licensing and regulating of internet live poker; to amend and reenact
3 section 50-06-22 of the North Dakota Century Code, relating to the compulsive gambling
4 prevention and treatment fund; to provide a penalty; to provide a continuing appropriation; and
5 to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Section 50-06-22 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **50-06-22. Compulsive gambling prevention and treatment fund - Continuing**
10 **appropriation.** Funds deposited in the compulsive gambling prevention and treatment fund
11 under section 53-12-21 and section 2 of this Act are appropriated to the department on a
12 continuing basis for the purpose of providing the services under section 50-06-21.

13 **SECTION 2.** A new chapter to title 53 of the North Dakota Century Code is created and
14 enacted as follows:

15 **Definitions.** As used in this chapter, unless the context otherwise requires:

- 16 1. "Adjusted gross proceeds" means any sums wagered by an internet live poker
17 player which may be retained by the licensed internet live poker establishment as
18 compensation.
- 19 2. "Internet live poker" means a card game played by players who are dealt cards by
20 an online nonplayer dealer with the objective of each player betting the superiority
21 of the player's own hand and winning the other players' bets by either making a bet
22 no other player is willing to match or proving to hold the most valuable cards after
23 the betting is over. The internet live poker games include Texas hold'em, Omaha

1 high/low, Omaha high, draw, stud, low ball, any combination of these games, or
2 any other similar poker game.

3 3. "Licensed internet live poker establishment" means any premises licensed by the
4 attorney general pursuant to this chapter to conduct games of internet live poker.

5 **Internet live poker authorized.** Internet live poker games are authorized and may be
6 operated by a licensed internet live poker establishment in accordance with this chapter. The
7 attorney general shall license and regulate the playing of internet live poker at licensed internet
8 live poker establishments in the state. The attorney general shall adopt rules for the licensure,
9 regulation, and operation of internet live poker in the state. The rules must include provisions
10 concerning the financial responsibility of persons licensed under this chapter, the conduct of
11 internet live poker, recordkeeping, the establishment and maintenance of internal controls,
12 security of the internet poker site, and the deposit and payment of moneys received and
13 disbursed by the licensee.

14 **Internet live poker sites - License - User fee - Tax.**

15 1. The attorney general may contract with a private entity for the development and
16 implementation of a program for the licensing and regulation of internet live poker
17 sites in the state. The program must include a nonrefundable license application
18 fee of fifty thousand dollars and, upon meeting the requirements for licensure, an
19 annual license fee of twenty-five thousand dollars for each person that operates an
20 internet live poker site. The license may be renewed annually upon compliance
21 with this chapter and rules adopted by the attorney general and payment of a
22 twenty-five thousand dollar license renewal fee. The licensee shall pay to the
23 attorney general an annual user fee of ten dollars for each player who plays
24 internet live poker at a site. A single annual user fee entitles a player to play
25 internet live poker at any site licensed under this chapter.

26 2. The following tax is imposed on the adjusted gross proceeds of internet live poker
27 games for each establishment authorized under this chapter:

- 28 a. Eight percent on the first one million dollars;
29 b. Six percent on the second one million dollars;
30 c. Four percent on the third one million dollars;
31 d. Two percent on the next five million dollars;

- 1 e. One-half of one percent on the next fifty million dollars; and
2 f. One-fourth of one percent on any amount in excess of fifty-eight million
3 dollars.
- 4 3. The licensed internet live poker establishment shall remit the tax and player user
5 fees to the attorney general on a quarterly basis. The attorney general shall remit
6 the tax, licensing fees, player user fees, and any other moneys collected under this
7 chapter to the state treasurer for deposit in the internet live poker proceeds fund.

8 **Internet live poker surcharge - Attorney general legal defense fund established -**
9 **Continuing appropriation.** A five percent surcharge is imposed on the adjusted gross
10 proceeds of each establishment authorized to conduct internet live poker under this chapter.
11 The licensed internet live poker establishment shall remit the surcharge to the attorney general
12 on a quarterly basis. The attorney general shall remit the surcharge to the state treasurer for
13 deposit in the attorney general legal defense fund. The moneys in the fund are appropriated on
14 a continuing basis to the attorney general for the purpose of funding legal services to defend
15 legal challenges to the internet live poker established under this chapter. The surcharge
16 imposed under this section must be suspended upon notification of the state treasurer to the
17 attorney general that the balance in the attorney general legal defense fund has exceeded two
18 million dollars. The attorney general may reinstate the surcharge if the balance in the fund is
19 less than two million dollars.

20 **Internet live poker proceeds fund - Continuing appropriation.** There is created in
21 the state treasury an internet live poker proceeds fund. The fund consists of the internet live
22 poker tax, licensing fees, and any other moneys collected under this chapter. The attorney
23 general shall transfer twenty-five thousand dollars per quarter from the internet live poker
24 proceeds fund to the state treasurer for deposit in the compulsive gambling prevention and
25 treatment fund under section 50-06-22. The total amount transferred under this section to the
26 compulsive gambling prevention and treatment fund may not exceed two million dollars. All
27 remaining moneys in the fund must be allocated by the state treasurer and are provided as a
28 standing and continuing appropriation for:

- 29 1. Annual transfer to the counties for direct property tax relief. The percentage of
30 each allocation under this subsection to each county must be equal to the
31 percentage that property taxes levied by that county is of all county property taxes

1 levied in the state. The amount allocated to a county must be subtracted from the
2 county's base year levy under section 57-15-01.1 for the purpose of determining
3 the county's maximum levy under section 57-15-01.1 and subtracted from the
4 maximum levy in dollars that would be produced by the maximum levy in mills
5 under section 57-15-06. Transfers under this subsection must equal sixty percent
6 of total annual transfers from the internet live poker proceeds fund.

7 2. Annual transfers to school districts for direct property tax relief. The percentage of
8 each allocation under this subsection to each school district must be equal to the
9 percentage that property taxes levied by that school district is of all school district
10 property taxes levied in this state. The amount allocated to a school district under
11 this subsection must be subtracted from the school district's base year tax levy
12 under section 57-15-01.1 for the purpose of determining the school district's
13 maximum levy under section 57-15-01.1 and subtracted from the maximum levy in
14 dollars that would be produced by the maximum levy in mills under section
15 57-15-14. Transfers under this subsection must equal twenty percent of total
16 annual transfers from the internet live poker proceeds fund.

17 3. Annual transfers to the general fund. Transfers under this subsection must equal
18 twenty percent of the total annual transfers from the internet live poker proceeds
19 fund.

20 **Authority of attorney general.** The attorney general may:

- 21 1. Inspect all sites or premises in which internet live poker is conducted.
- 22 2. Inspect all internet live poker equipment or other items on a site or premises used
23 to conduct or, to assist in the conducting of, internet live poker.
- 24 3. Seize and remove from a site or premises and impound any equipment, supplies,
25 or books and records for the purpose of examination and inspection.
- 26 4. Demand access to and inspect, examine, photocopy, and audit all books and
27 records, stored data, software, and other data compilation in any form of applicants
28 or licensees concerning compliance with this chapter or rules adopted by the
29 attorney general. The attorney general may require a licensee to reimburse the
30 attorney general for the reasonable actual cost of expenses incurred in conducting
31 the inspection or audit.

- 1 5. Based on reasonable grounds or written complaint, suspend, deny, or revoke an
2 application or license of the applicant or licensee or any officer, director, agent,
3 member, or employee of the applicant or licensee for a violation of this chapter or
4 rule adopted by the attorney general.
- 5 6. Impose a monetary fine on a licensee for failure to comply with this chapter or any
6 rule adopted by the attorney general.
- 7 7. At any time within three years after any amount of fees, monetary fines, or tax
8 required to be paid under this chapter becomes due, bring a civil action to collect
9 the amount due. An action may be brought regardless of whether the person
10 owing the fees, fines, or tax presently is licensed.
- 11 8. Institute an action in any district court for declaratory or injunctive relief against a
12 person, regardless of whether the person is an internet live poker licensee, as the
13 attorney general considers necessary to prevent noncompliance with this chapter
14 or the rules adopted by the attorney general.
- 15 9. Require the applicant or licensee to provide information and records in the form
16 and manner determined by the attorney general to determine qualification for
17 issuance of a license or to determine compliance with this chapter and the rules
18 adopted by the attorney general.

19 **Location of licensee site, premises, records, and equipment.** The internet live
20 poker licensee shall establish and maintain a physical site premises within the state only and
21 may not conduct internet live poker at sites or premises outside this state. The licensee shall
22 maintain within this state, in accordance with this chapter and rules adopted by the attorney
23 general, all servers, records, books, stored data, software, hardware, compiled data, and any
24 other equipment or items used to conduct internet live poker.

25 **Qualifications of licensee.** In addition to the qualifications required by this chapter
26 and to any rules adopted by the attorney general, to be licensed under this chapter, a person
27 must:

- 28 1. If an individual, be at least eighteen years of age;
29 2. Be of good character and reputation;
30 3. Have sufficient financial resources to support the activities required to conduct
31 internet live poker under this chapter;

1 4. Be current in the payment of all taxes, interest, and penalties owed to the state,
2 excluding items under formal dispute or appeal pursuant to applicable statutes;
3 and

4 5. If an organization, be authorized to conduct business in this state.

5 **Persons not qualified to be a licensee.** A person may not be licensed by the attorney
6 general to conduct internet live poker under this chapter if the person:

7 1. Is an individual, an organization or any of the organization's officers or directors, or
8 the employees or agents of an individual or an organization involved in the conduct
9 of internet live poker in this state who had pled or been found guilty or pled nolo
10 contendere in this state or any other jurisdiction to a criminal offense classified as
11 a felony or an offense authorizing the imposition of more than one year
12 imprisonment, unless at least ten years have passed since satisfactory completion
13 of the sentence or probation imposed by the court for each offense;

14 2. Has been found to have violated any provision of this chapter or any rule adopted
15 by the attorney general;

16 3. Has been found to have a background, including a criminal record, or prior
17 activities that pose a threat to the public interest of the state or to the security and
18 integrity of the conduct of internet live poker; create or enhance the dangers of
19 unsuitable, unfair, or illegal practices, methods, and activities in the conduct of
20 internet live poker; or present questionable business practices and financial
21 arrangements incidental to conduct activities authorized by this chapter; or

22 4. Has knowingly made a false statement of material fact to the attorney general.

23 **Persons prohibited from playing internet live poker.**

24 1. An individual under the age of eighteen years may not play internet live poker at a
25 site licensed under this chapter. An internet live poker licensee may not permit an
26 individual under the age of eighteen years to play internet live poker and shall
27 adopt internal controls and procedures approved by the attorney general to block
28 access to the site or to prohibit play by those individuals.

29 2. A licensee or the licensee's officers, directors, partners, employees, or the
30 licensee's authorized agents may not play internet live poker at any site licensed
31 under this chapter.

1 **Internet live poker advisory commission - Duties - Compensation - Restrictions -**

2 **Penalty.**

- 3 1. The North Dakota internet live poker advisory commission is composed of five
4 members, three of whom are selected by the chairman of the legislative council
5 and two of whom are selected by the attorney general. The term of office is three
6 years, expiring on December thirty-first with no more than two terms expiring in
7 any one year. Of the first members appointed, one must be appointed for a term
8 of one year, two must be appointed for terms of two years, and two must be
9 appointed for terms of three years. No member may be appointed to more than
10 two consecutive terms. Each member of the commission must be a citizen of the
11 United States and a resident of this state. A chairman of the commission must be
12 chosen annually from the membership of the commission by a majority of its
13 members at the first meeting of the commission each year.
- 14 2. The commission shall meet at least once a quarter and any additional meetings as
15 the chairman determines necessary. Special meetings may be called by the
16 chairman upon the written request of the director or any three members of the
17 commission.
- 18 3. The commission shall advise the attorney general in the establishment of policy for
19 the operation of internet live poker.
- 20 4. Members of the commission who are not state employees are entitled to be
21 compensated at a rate of seventy-five dollars per day and are entitled to mileage
22 and expenses as provided by law for state officers and employees. A state
23 employee who is a member of the commission must receive that employee's
24 regular salary and is entitled to mileage and expenses, to be paid by the employing
25 agency.
- 26 5. No member of the advisory commission or any individual residing in the same
27 household as the member may directly or indirectly, individually, as a member of a
28 partnership or other association, or as a stockholder, director, or officer of a
29 corporation, have an interest in a business that contracts for the operation or
30 promotion of internet live poker establishments regulated and licensed under this
31 chapter. A knowing violation of this section is a class B misdemeanor.

1 **Penalty.**

- 2 1. Any person who willfully operates an internet live poker establishment or site
3 without a license as required by this chapter or who willfully operates a licensed
4 internet poker establishment or site in violation of this chapter or of rules adopted
5 by the attorney general to implement this chapter is guilty of a class C felony.
6 2. Any individual playing internet live poker at any site licensed under this chapter
7 who willfully violates this chapter or rules adopted by the attorney general to
8 implement this chapter is guilty of a class B misdemeanor.

9 **Internet live poker records - Confidential.**

- 10 1. The following information and records are confidential:
11 a. Sales and income tax information, financial statements, and credit reports of
12 applicants and licensees; criminal and background check information of the
13 applicant, licensee, and other persons obtained by the attorney general in the
14 application process; and application information other than an applicant's
15 name and address;
16 b. Internal control and security procedures and information on bids or
17 contractual data, the disclosure of which is harmful to the efforts of the
18 attorney general to contract for goods and services on favorable terms; and
19 c. Personal information regarding and the identity of an internet live poker
20 player.
21 2. Information related to a person that owes a debt to the state or that has a debt
22 collected through a state agency which is made confidential by another state law
23 or rule remains confidential under this section.
24 3. The information made confidential under this section may be disclosed within the
25 attorney general's office or to authorized persons in the proper administration of
26 this chapter or rules adopted by the attorney general or in accordance with a
27 judicial order.

28 **SECTION 3. ATTORNEY GENERAL INTERNET LIVE POKER IMPLEMENTATION**

29 **AND OPERATING FUND - CONTINUING APPROPRIATION.** There is established an attorney
30 general internet live poker implementation and operating fund of one million dollars which
31 consists of gifts, grants, and other funds obtained from nongovernmental sources. The moneys

1 deposited in the fund are appropriated on a continuing basis to the attorney general for the
2 purpose of paying the costs and expenses associated with the implementation, administration,
3 and enforcement of this chapter incurred until June 30, 2007. Expenditures may not be made
4 from the fund until the effective date of this Act and until the sum of one million dollars has been
5 deposited in the fund.

6 **SECTION 4. EFFECTIVE DATE.** This Act becomes effective on the date the secretary
7 of state certifies to the legislative council that House Concurrent Resolution No. 3035, as
8 adopted by the fifty-ninth legislative assembly, has been approved by the voters.