

SENATE BILL NO. 2215

Introduced by

Senators Nething, Nelson

Representatives DeKrey, Wrangham

1 A BILL for an Act to amend and reenact section 53-06.1-01, subsection 2 of section 53-06.1-12,
2 and section 53-06.1-12.3 of the North Dakota Century Code, relating to the definition of games
3 of chance, excise tax on licensed organizations, and interest penalty and estimated taxes on
4 licensed organizations.

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

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

8 **53-06.1-01. Definitions.** As used in this chapter:

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

- 1 5. "Distributor" means a person that sells, markets, or distributes equipment designed
2 for use in the conduct of games.
- 3 6. "Educational organization" means a nonprofit public or private elementary or
4 secondary school, two-year or four-year college, or university.
- 5 7. "Eligible organization" means a veterans, charitable, educational, religious,
6 fraternal, civic and service, public safety, or public-spirited organization domiciled
7 in North Dakota, incorporated as a nonprofit organization, and which has been
8 regularly and actively fulfilling its primary purpose within this state during the two
9 immediately preceding years. However, an educational organization does not
10 need to be incorporated or be in existence for two years. An organization's primary
11 purpose may not involve the conduct of games. The organization may be issued a
12 license by the attorney general.
- 13 8. "Fraternal organization" means an organization, except a school fraternity, which is
14 a branch, lodge, or chapter of a national or state organization and exists for the
15 common business, brotherhood, or other interests of its members. The
16 organization must have qualified for exemption from federal income tax under
17 section 501(c)(8) or 501(c)(10) of the Internal Revenue Code.
- 18 9. "Games" means games of chance.
- 19 10. "Gross proceeds" means all cash and checks received from conducting games.
- 20 11. "Licensed organization" means an eligible organization licensed by the attorney
21 general.
- 22 12. "Manufacturer" means, for a pull tab or bingo card, a person who designs, prints,
23 assembles, or produces the product. For a pull tab or bingo card dispensing
24 device or bingo card marking device, a manufacturer means the person who
25 directly controls and manages development of and owns the rights to the
26 proprietary software encoded on a processing chip that enables the device to
27 operate.
- 28 13. "Net income" means gross proceeds less cash prizes, cost of merchandise prizes,
29 and expenses to conduct the gaming activity.
- 30 14. "Net proceeds" means adjusted gross proceeds less allowable expenses and
31 gaming tax.

1 2. Except as provided in subsection 3, in addition to any other tax provided by law
2 and in place of sales or use taxes, there is imposed on a licensed organization an
3 excise tax of four and one-half percent on the gross proceeds from the sale at retail
4 of pull tabs and three percent on the gross proceeds from the sale at retail of bingo
5 cards to final users. This includes pull tabs or bingo cards provided to a player in
6 exchange for redeemed winning pull tabs or bingo cards. The tax must be paid to
7 the attorney general when tax returns are filed.

8 **SECTION 3. AMENDMENT.** Section 53-06.1-12.3 of the North Dakota Century Code
9 is amended and reenacted as follows:

10 **53-06.1-12.3. Interest, penalty, and estimated tax.**

- 11 1. Assessment of interest. If ~~an~~ a licensed organization does not pay tax due by the
12 original date of a tax return, or if additional tax is due based on an audit or math
13 verification of the return and it is not paid by the original due date of the return, the
14 organization shall pay interest on the tax at the rate of twelve percent per annum
15 computed from the original due date of the return through the date the tax is paid.
- 16 2. Assessment of penalty. If ~~an~~ a licensed organization does not pay tax due on a tax
17 return by the original or extended due date of the return, or if additional tax is due
18 based on an audit or math verification of the return and it is not paid by the original
19 or extended due date of the return, the organization shall pay a penalty of five
20 percent of the tax, or twenty-five dollars, whichever is greater. If an organization
21 does not file a tax return by the original or extended due date of the return, the
22 organization shall pay a penalty of five percent of the tax, or twenty-five dollars,
23 whichever is greater, for each month or fraction of a month during which the return
24 is not filed, not exceeding a total of twenty-five percent.
- 25 3. The attorney general may require a licensed organization to make monthly
26 estimated gaming and excise tax payments if the attorney general determines that
27 the organization is in poor financial condition. If an organization fails to pay any tax
28 or estimated tax, interest, or penalty by the original due date or date set by the
29 attorney general, the attorney general may bring court action to collect it and may
30 suspend the organization's license. The attorney general may for good cause
31 waive all or part of any interest or penalty and may waive any minimal tax.

- 1 4. If ~~an~~ a licensed organization has failed to file a tax return, has been notified by the
2 attorney general of the delinquency, and refuses or neglects within thirty days after
3 the notice to file a proper return, the attorney general shall determine the adjusted
4 gross proceeds and gaming and excise taxes due according to the best information
5 available and assess the taxes at not more than double the amount. Interest and
6 penalty also must be assessed.
- 7 5. The attorney general may authorize ~~an~~ a licensed organization to pay any
8 delinquent tax, interest, or penalty on an installment plan and may set any
9 qualifying conditions.