

**SENATE BILL NO. 2296**

Introduced by

Senators Marcellais, Heckaman, Kannianen

Representative Buffalo

1 A BILL for an Act to create and enact a new section to chapter 53-06.1, a new subsection to  
2 section 53-06.1-11, and two new subsections to section 53-06.1-15.1 of the North Dakota  
3 Century Code, relating to the regulation of electronic pull tab devices; and to amend and  
4 reenact section 53-06.1-01, subsection 1 of section 53-06.1-01.1, subsection 1 of section  
5 53-06.1-06, sections 53-06.1-08, 53-06.1-08.2, and 54-58-03 of the North Dakota Century  
6 Code, relating to charitable gaming and tribal-state gaming compacts.

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

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

10 **53-06.1-01. Definitions.**

11 As used in this chapter:

- 12 1. "Adjusted gross proceeds or net revenue" means gross proceeds less cash prizes,  
13 cost of merchandise prizes, gaming tax, and federal excise tax imposed under section  
14 4401 of the Internal Revenue Code [26 U.S.C. 4401].
- 15 2. "Bar" means a retail alcoholic beverage establishment licensed under chapter 5-02  
16 where alcoholic beverages are dispensed and consumed and which is devoted to the  
17 servicing of alcoholic beverages for consumption by guests on the premises. The term  
18 includes a bar located within a hotel, bowling center, or restaurant if the bar is in a  
19 separately enclosed area accessible only to individuals twenty-one years of age or  
20 older, not including an employee of the bar. The term does not include an off sale  
21 liquor store, gas station, or grocery or convenience store.
- 22 3. "Charitable organization" means an organization whose primary purpose is for relief of  
23 poor, distressed, underprivileged, diseased, elderly, or abused persons, prevention of  
24 cruelty to children or animals, or similar condition of public concern.

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1     ~~3-4.~~ "Civic and service organization" means an organization whose primary purpose is to  
2             promote the common good and social welfare of a community as a sertoma, lion,  
3             rotary, jaycee, kiwanis, or similar organization.

4     ~~4-5.~~ "Closely related organization" means an organization that controls, is controlled by, or  
5             is under common control with another organization. Control exists when an  
6             organization has the authority or ability to elect, appoint, or remove a majority of the  
7             officers or directors of another organization or, by policy, contract, or otherwise, has  
8             the authority or ability to directly or indirectly direct or cause the direction of the  
9             management or policies of another organization.

10    ~~5-6.~~ "Distributor" means a person that sells, markets, or distributes equipment designed for  
11            use in the conduct of games.

12    ~~6-7.~~ "Educational organization" means a nonprofit public or private elementary or  
13            secondary school, two-year or four-year college, or university.

14    ~~7-8.~~ "Electronic pull tab device" means a hand-held device, approved by the attorney  
15            general, which electronically displays pull tabs with similar appearance and  
16            functionality of physical paper pull tabs.

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

29    ~~9-10.~~ "Fraternal organization" means an organization, except a school fraternity, which is a  
30            branch, lodge, or chapter of a national or state organization and exists for the common  
31            business, brotherhood, or other interests of its members. The organization must have

- 1 qualified for exemption from federal income tax under section 501(c)(8) or 501(c)(10)  
2 of the Internal Revenue Code.
- 3 ~~40.11.~~ "Games" means games of chance.
- 4 ~~41.12.~~ "Gross proceeds" means all cash and checks received from conducting games.
- 5 ~~42.13.~~ "Licensed organization" means an eligible organization licensed by the attorney  
6 general.
- 7 ~~43.14.~~ "Manufacturer" means, for a pull tab or bingo card, a person who designs, prints,  
8 assembles, or produces the product. For a pull tab dispensing device, bingo card  
9 marking device, or a fifty-fifty raffle system, a manufacturer means the person who  
10 directly controls and manages development of and owns the rights to the proprietary  
11 software encoded on a processing chip that enables the device to operate.
- 12 ~~44.15.~~ "Net income" means gross proceeds less cash prizes, cost of merchandise prizes, and  
13 expenses to conduct the gaming activity.
- 14 ~~45.16.~~ "Net proceeds" means adjusted gross proceeds less allowable expenses and gaming  
15 tax.
- 16 ~~46.17.~~ "Permit" means a local permit or restricted event permit issued by a governing body of  
17 a city or county to a nonprofit organization or group of people domiciled in North  
18 Dakota.
- 19 ~~47.18.~~ "Person" means any person, partnership, corporation, limited liability company,  
20 association, or organization.
- 21 ~~48.19.~~ "Prize board" means a board used with pull tabs to award cash or merchandise prizes.
- 22 ~~49.20.~~ "Public safety organization" means an organization whose primary purpose is to  
23 provide firefighting, ambulance service, crime prevention, or similar emergency  
24 assistance.
- 25 ~~20.21.~~ "Public-spirited organization" means an organization whose primary purpose is for  
26 scientific research, amateur sports competition, safety, literary, arts, preservation of  
27 cultural heritage, educational activities, educational public service, youth, economic  
28 development, tourism, community medical care, community recreation, or similar  
29 organization, which does not meet the definition of any other type of eligible  
30 organization. However, a nonprofit organization or a group of people recognized as a

1 public-spirited organization by a governing body of a city or county for obtaining a  
2 permit does not need to meet this definition.

3 ~~21-22.~~ "Pull tab" means a folded or banded ticket or jar ticket, a pull tab card with break-open  
4 tabs, or an electronic pull tab displaying concealed numbers or symbols or  
5 combinations of concealed numbers and symbols which are exposed by a player to  
6 determine the outcome. The terms "pull tab" and "jar ticket" are used interchangeably  
7 unless otherwise stated. A winning pull tab contains certain symbols, numbers, or  
8 combinations of symbols and numbers and may contain multiple winning symbols,  
9 numbers, or combinations of symbols and numbers which have been previously  
10 designated as winning symbols or numbers.

11 ~~22-23.~~ "Religious organization" means a church, body of communicants, or group gathered in  
12 common membership whose primary purpose is for advancement of religion, mutual  
13 support and edification in piety, worship, and religious observances.

14 ~~23-24.~~ "Veterans organization" means any congressionally chartered post organization, or  
15 any branch or lodge or chapter of a nonprofit national or state organization whose  
16 membership consists of individuals who are or were members of the armed services  
17 or forces of the United States. The organization must have qualified for exemption  
18 from federal income tax under section 501(c)(19) of the Internal Revenue Code.

19 **SECTION 2. AMENDMENT.** Subsection 1 of section 53-06.1-01.1 of the North Dakota  
20 Century Code is amended and reenacted as follows:

21 1. The state gaming commission consists of the chairman and ~~four~~nine other members,  
22 including one member from each of the five federally recognized Indian tribes in the  
23 state, appointed by the governor, with the consent of the senate. The members serve  
24 three-year terms and until a successor is appointed and qualified. If the senate is not  
25 in session when the term of a member expires, the governor may make an interim  
26 appointment, and the interim appointee holds office until the senate confirms or rejects  
27 the appointment. A member appointed to fill a vacancy arising from other than the  
28 natural expiration of a term serves only for the unexpired portion of the term. The  
29 terms of the commissioners must be staggered so no more than two terms expire  
30 each July first.

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

3       1. No person, except a member, volunteer, an employee of a licensed organization or an  
4 organization that has a permit, or an employee of a temporary employment agency  
5 who provides services to a licensed organization, may manage, control, or conduct  
6 any game. A bar employee may not redeem an electronic pull tab credit ticket voucher.  
7 "Member" includes a member of an auxiliary organization. In conducting pull tabs or  
8 prize boards through a dispensing device, selling pull tabs through a pull-tab device,  
9 selling raffle tickets, or conducting sports pools, the attorney general may allow an  
10 employee of an alcoholic beverage establishment to provide limited assistance to an  
11 organization.

12       **SECTION 4. AMENDMENT.** Section 53-06.1-08 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14       **53-06.1-08. Punchboards and pull tabs.**

15       Unless all top tier winning pull tabs or punchboard punches of a game have been  
16 redeemed, or unless otherwise permitted by a gaming rule or the attorney general, a person or  
17 organization may not close the game after it has been placed in play. The maximum sales price  
18 per pull tab and punchboard punch is two dollars. The maximum winning prize value of a top tier  
19 winning per pull tab or punchboard punch is five hundred dollars. The game of pull tabs may  
20 only be conducted by commingling deals.

21       **SECTION 5. AMENDMENT.** Section 53-06.1-08.2 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23       **53-06.1-08.2. Electronic pull tab device requirements.**

- 24       1. An electronic pull tab device must display an electronic pull tab in which the player  
25 may win credits that can be redeemed for cash ~~or used to purchase more pull tabs.~~  
26 The device may not directly dispense coins, cash, tokens, or anything else of value  
27 other than a credit ticket voucher.
- 28       2. An electronic pull tab device must maintain a twelve percent hold.
- 29       3. An electronic pull tab only may be dispensed by a machine that tabulates machine  
30 activity for purposes of compliance with required internal controls.

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

3       **Organization operating electronic pull tab devices required to comply with applicable**  
4 **federal reporting requirements.**

5       An organization authorized to operate electronic pull tab devices shall comply with all  
6 applicable federal reporting requirements.

7       **SECTION 7.** A new subsection to section 53-06.1-11 of the North Dakota Century Code is  
8 created and enacted as follows:

9       At least sixty percent of the net revenue from gaming activity of electronic pull tab  
10 devices must be used for eligible uses outlined in subsection 2 of this section.

11       **SECTION 8.** A new subsection to section 53-06.1-15.1 of the North Dakota Century Code is  
12 created and enacted as follows:

13       Impose a regulatory inspection fee on a distributor authorized to operate an electronic  
14 pull tab device.

15       **SECTION 9.** A new subsection to section 53-06.1-15.1 of the North Dakota Century Code is  
16 created and enacted as follows:

17       Not authorize more than two thousand electronic pull tab devices to be operated in the  
18 state on an annual basis.

19       **SECTION 10. AMENDMENT.** Section 54-58-03 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21       **54-58-03. Tribal-state gaming compact - Creation, renewals, and amendments.**

22       The governor or the governor's designee may represent the state in any gaming negotiation  
23 in which the state is required to participate pursuant to 25 U.S.C. 2701 et seq. by any federally  
24 recognized Indian tribe and, on behalf of the state, may execute a gaming compact between the  
25 state and a federally recognized Indian tribe, subject to the following:

26       1. If the legislative assembly is not in session at the time gaming negotiations are being  
27 conducted, the chairman and vice chairman of the legislative management or the  
28 designee of the chairman or vice chairman may attend all negotiations and brief the  
29 legislative management on the status of the negotiations.

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- 1        2.    If the legislative assembly is in session at the time negotiations are being conducted,  
2            the majority and minority leaders of both houses, or their designees, may attend all  
3            negotiations and brief their respective houses on the status of the negotiations.
- 4        3.    The compact may authorize an Indian tribe to conduct gaming that is permitted in the  
5            state for any purpose by any person, organization, or entity.
- 6        4.    For the purposes of this chapter, the term "gaming that is permitted in the state for any  
7            purpose by any person, organization, or entity" includes any game of chance that any  
8            Indian tribe was permitted to conduct under a tribal-state gaming compact that was in  
9            effect on August 1, 1997.
- 10      5.    The compact may not authorize gaming to be conducted by an Indian tribe at any  
11           off-reservation location not permitted under a tribal-state gaming compact in effect on  
12           August 1, 1997, except that in the case of the tribal-state gaming compact between  
13           the Turtle Mountain Band of Chippewa and the state, gaming may be conducted on  
14           land within Rolette County held in trust for the Band by the United States government  
15           which was in trust as of the effective date of the Indian Gaming Regulatory Act of 1988  
16           [Pub. L. 100-497; 102 Stat. 2467; 25 U.S.C. 2701 et seq.].
- 17      6.    The compact may not obligate the state to appropriate state funds; provided, however,  
18           the state may perform services for reimbursement. The state may waive any fees  
19           associated with services performed.
- 20      7.    The negotiations between the tribe and the state must address the possibility of a  
21           mutual effort of the parties to address the issue of compulsive gambling.
- 22      8.    If the legislative assembly is not in session when the negotiations are concluded, the  
23           governor shall forward a copy of the compact as finally negotiated to each member of  
24           the legislative management at least twenty-one days before the compact is signed.
- 25      9.    If the legislative assembly is in session when the negotiations are concluded, the  
26           governor shall forward a copy of the compact as finally negotiated to each member of  
27           the legislative assembly at least twenty-one days before the compact is signed.
- 28      10.   Before execution of any proposed tribal-state gaming compact or amendment thereto,  
29           the governor shall conduct one public hearing on the proposed compact or  
30           amendment.