

A bill for an act

relating to gambling; authorizing the director of the State Lottery to establish gaming machines; imposing a fee on gaming machine revenue; providing powers and duties to the director; amending Minnesota Statutes 2010, sections 240.13, by adding a subdivision; 299L.07, subdivisions 2, 2a; 340A.410, subdivision 5; 349A.01, subdivision 10, by adding subdivisions; 349A.10, subdivision 3; 349A.13; 541.20; 541.21; 609.75, subdivision 3; 609.761, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 297A; 349A; repealing Minnesota Statutes 2010, section 240.30, subdivision 8.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

RACINO

Section 1. [297A.651] LOTTERY GAMING MACHINES; FEE.

(a) Adjusted gross revenue from the operation of gaming machines authorized under chapter 349A is exempt from the taxes imposed under section 297A.62, chapter 297E, or any other tax, permit, or assessment for conducting a gambling activity that is not imposed herein. The State Lottery must, on or before the 20th day of each month, transmit to the commissioner an amount equal to the adjusted gross revenue from the operation of gaming machines, as defined in section 349A.01, for the previous month multiplied by: (1) 25 percent of annual adjusted gross revenue generated by the licensee up to \$125,000,000; (2) 30 percent of annual adjusted gross revenue generated by the licensee between \$125,000,000 and \$200,000,000; and (3) 40 percent of annual adjusted gross revenue generated by the licensee in excess of \$200,000,000. The commissioner shall deposit the money transmitted under this section in the state treasury. From the amounts transmitted by the commissioner, \$1,000,000 is annually appropriated to the commissioner of human services for the compulsive gambling treatment program established in section

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245.98; provided, however, that this appropriation supplement and not replace existing funding for the program. The remainder of money transmitted under this section shall be deposited in the state treasury and allocated as provided in paragraph (b).

(b) Money deposited in the state treasury under paragraph (a) must be allocated by the commissioner to the following funds and purposes in priority order:

(1) to the general fund, the amount necessary to increase the aid payment schedule for school district aids and credits payments in section 127A.45, to not more than 90 percent rounded to the nearest tenth of a percent without exceeding the amount available and with any remaining funds deposited in the budget reserve;

(2) to the general fund, the amount necessary to restore all or a portion of the net aid reduction under section 127A.441, and to reduce the property tax revenue recognition shift under section 123B.75, subdivision 5, paragraph (a), and Laws 2003, First Special Session chapter 9, article 5, section 34, as amended by Laws 2003, First Special Session chapter 23, section 20, by the same amount; and

(3) to the bond proceeds fund, to pay, redeem, or defease bonds of the state sold and issued pursuant to sections 16A.631 to 16A.675, and the Minnesota Constitution, article XI, sections 4 to 7.

Sec. 2. Minnesota Statutes 2010, section 299L.07, subdivision 2, is amended to read:

Subd. 2. **Exclusions.** Notwithstanding subdivision 1, a gambling device:

(1) may be sold by a person who is not licensed under this section, if the person (i) is not engaged in the trade or business of selling gambling devices, and (ii) does not sell more than one gambling device in any calendar year;

(2) may be sold by the governing body of a federally recognized Indian tribe described in subdivision 2a, paragraph (b), clause (1), which is not licensed under this section, if (i) the gambling device was operated by the Indian tribe, (ii) the sale is to a distributor licensed under this section, and (iii) the licensed distributor notifies the commissioner of the purchase, in the same manner as is required when the licensed distributor ships a gambling device into Minnesota;

(3) may be possessed by a person not licensed under this section if the person holds a permit issued under section 299L.08; ~~and~~

(4) may be possessed by a state agency, with the written authorization of the director, for display or evaluation purposes only and not for the conduct of gambling; ~~and~~

(5) may be possessed by the State Lottery as authorized under chapter 349A.

Sec. 3. Minnesota Statutes 2010, section 299L.07, subdivision 2a, is amended to read:

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Subd. 2a. **Restrictions.** (a) A manufacturer licensed under this section may sell, offer to sell, lease, or rent, in whole or in part, a gambling device only to a distributor licensed under this section or to the State Lottery as authorized under chapter 349A.

(b) A distributor licensed under this section may sell, offer to sell, market, rent, lease, or otherwise provide, in whole or in part, a gambling device only to:

(1) the governing body of a federally recognized Indian tribe that is authorized to operate the gambling device under a tribal state compact under the Indian Gaming Regulatory Act, Public Law 100-497, and future amendments to it;

(2) a person for use in the person's dwelling for display or amusement purposes in a manner that does not afford players an opportunity to obtain anything of value;

(3) another distributor licensed under this section; ~~or~~

(4) a person in another state who is authorized under the laws of that state to possess the gambling device; or

(5) the State Lottery as authorized under chapter 349A.

Sec. 4. Minnesota Statutes 2010, section 340A.410, subdivision 5, is amended to read:

Subd. 5. **Gambling prohibited.** (a) Except as otherwise provided in this subdivision, no retail establishment licensed to sell alcoholic beverages may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice or any gambling device as defined in section 349.30, or permit gambling therein.

(b) Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized by (1) chapter 349, (2) a tribal ordinance in conformity with the Indian Gaming Regulatory Act, Public Law 100-497, or (3) a tribal-state compact authorized under section 3.9221.

(c) Lottery tickets may be purchased and sold within the licensed premises as authorized by the director of the lottery under chapter 349A.

(d) Dice may be kept and used on licensed premises and adjoining rooms as authorized by section 609.761, subdivision 4.

(e) Gambling devices may be operated on the premises of a licensed racetrack as authorized by chapter 349A.

Sec. 5. Minnesota Statutes 2010, section 349A.01, is amended by adding a subdivision to read:

Subd. 1a. **Adjusted gross gaming machine revenue.** "Adjusted gross gaming machine revenue" means the sum of all money received by the lottery for gaming machine plays, less the amount paid out in prizes for gaming machine games.

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Sec. 6. Minnesota Statutes 2010, section 349A.01, is amended by adding a subdivision to read:

Subd. 6a. **Gaming machine.** "Gaming machine" means any machine in which a coin token or other currency is deposited to play a game that uses a video display and microprocessors.

Sec. 7. Minnesota Statutes 2010, section 349A.01, is amended by adding a subdivision to read:

Subd. 6b. **Gaming machine game.** "Gaming machine game" means a game operated by a gaming machine as authorized by the director.

Sec. 8. Minnesota Statutes 2010, section 349A.01, is amended by adding a subdivision to read:

Subd. 6c. **Gaming machine play.** "Gaming machine play" means an electronic record that proves participation in a gaming machine game.

Sec. 9. Minnesota Statutes 2010, section 349A.01, subdivision 10, is amended to read:

Subd. 10. **Lottery procurement contract.** "Lottery procurement contract" means a contract to provide lottery products, gaming machines, maintenance of gaming machines, computer hardware and software used to monitor sales of lottery tickets and gaming machine plays, and lottery tickets. "Lottery procurement contract" does not include a contract to provide an annuity or prize payment agreement or materials, supplies, equipment, or services common to the ordinary operation of a state agency.

Sec. 10. Minnesota Statutes 2010, section 349A.10, subdivision 3, is amended to read:

Subd. 3. **Lottery operations.** (a) The director shall establish a lottery operations account in the lottery fund. The director shall pay all costs of operating the lottery, including payroll costs or amounts transferred to the state treasury for payroll costs, but not including lottery prizes, from the lottery operating account. The director shall credit to the lottery operations account amounts sufficient to pay the operating costs of the lottery.

(b) Except as provided in paragraph (e), the director may not credit in any fiscal year thereafter amounts to the lottery operations account which when totaled exceed nine percent of gross revenue to the lottery fund in that fiscal year. In computing total amounts credited to the lottery operations account under this paragraph the director shall disregard amounts transferred to or retained by lottery retailers as sales commissions or

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other compensation and amounts transferred or retained by a racetrack under a location contract under section 349A.17.

(c) The director of the lottery may not expend after July 1, 1991, more than 2-3/4 percent of gross revenues in a fiscal year for contracts for the preparation, publication, and placement of advertising.

(d) Except as the director determines, the lottery is not subject to chapter 16A relating to budgeting, payroll, and the purchase of goods and services.

(e) In addition to the amounts credited to the lottery operations account under paragraph (b), the director is authorized, if necessary, to meet the current obligations of the lottery and to credit up to 25 percent of an amount equal to the average annual amount which was authorized to be credited to the lottery operations account for the previous three fiscal years but was not needed to meet the obligations of the lottery.

Sec. 11. Minnesota Statutes 2010, section 349A.13, is amended to read:

349A.13 RESTRICTIONS.

Nothing in this chapter:

(1) authorizes the director to conduct a lottery game or contest the winner or winners of which are determined by the result of a sporting event other than a horse race conducted under chapter 240;

(2) authorizes the director to install or operate a lottery device operated by coin or currency which when operated determines the winner of a game, except as authorized under section 349A.17; and

(3) authorizes the director to sell pull-tabs as defined under section 349.12, subdivision 32.

Sec. 12. [349A.17] GAMING MACHINES.

Subdivision 1. **Location contract.** (a) The director may enter into a contract with a person to provide locations for gaming machines. Contracts entered into under this section are not subject to chapter 16C. The director may only enter a contract under this subdivision with a person who holds a class A license under chapter 240. The gaming machines may only be placed at the racetrack for which the class A license under chapter 240 was issued. Contracts entered into under this section are void if the racetrack: (1) has not hosted at least 75 days of live racing, authorized by the Minnesota Racing Commission, during the previous year, or (2) has not been approved, unless approval is pending, for at least 75 days of live racing during the present year.

6.1 (b) Contracts entered into must provide for compensation to the racetrack in an
6.2 amount equal to at least the following percentages of adjusted gross gaming machine
6.3 revenue generated at the track: (1) 60 percent of the first \$125,000,000 of annual revenue;
6.4 (2) 55 percent of annual revenue between \$125,000,000 and \$200,000,000; and (3) 45
6.5 percent of annual revenue in excess of \$200,000,000.

6.6 (c) From the compensation received by the racetrack under this section, the racetrack
6.7 shall annually remit an amount equal to one percent of the adjusted gross gaming machine
6.8 revenue to both the city and the county where the racetrack is located.

6.9 Subd. 2. **Initial fee.** For each location at which gaming machines are provided, the
6.10 location contract holder, as a condition of the contract, must agree to pay an initial fee in
6.11 the amount of \$25,000,000. This fee shall be paid once for each location. For contracts
6.12 entered into prior to July 1, 2013, the fee must be paid prior to July 1, 2013. For each
6.13 location the initial location contract shall be for a period consisting of the biennium in
6.14 which the initial fee is paid plus the succeeding five fiscal years. As part of the location
6.15 contract the state shall agree to repay to the location contract holder, \$5,000,000, plus
6.16 an amount equal to any state authorized fees, taxes, or other charges upon the location
6.17 contract holder, related to providing locations for gaming machines, not in existence
6.18 when the location contract was executed, in each of the five fiscal years succeeding the
6.19 biennium in which the initial fee was paid.

6.20 Subd. 3. **Operation.** (a) All gaming machines that are placed at a racetrack under
6.21 subdivision 1 must be operated and controlled by the director.

6.22 (b) Gaming machines must be owned or leased by the director, however, the financial
6.23 responsibility for all other activities related to the gaming facility including, but not
6.24 limited to, advertising, marketing, facility expenses, staffing, security, and surveillance,
6.25 shall be borne by the holder of the location contract.

6.26 (c) Gaming machines must be maintained by the lottery, or by a vendor that is under
6.27 the control and direction of the director.

6.28 (d) The director must have a central communications system that monitors activities
6.29 on each gaming machine. The central communications system must be located at a
6.30 lottery office.

6.31 (e) The director must supervise the general security arrangements associated
6.32 with and relating to the operation of the gaming machines and implement procedures
6.33 as deemed appropriate.

6.34 (f) Advertising and promotional material produced by the racetrack relating to
6.35 gaming machines located at the facility must be approved by the director.

7.1 (g) The director may implement such other controls as are deemed necessary for the
7.2 operation of gaming machines under this section.

7.3 Subd. 4. **Specifications.** Gaming machines must:

7.4 (1) maintain on nonresettable meters a permanent record, capable of being printed
7.5 out, of all transactions by the machine and all entries into the machine; and

7.6 (2) be capable of being linked electronically to a central communications system to
7.7 provide auditing program information as required by the director.

7.8 Subd. 5. **Games.** The director shall specify the games that may be placed on
7.9 a gaming machine as provided in section 349A.04. Gaming machines may conduct
7.10 pari-mutuel wagering and display horse races under specifications provided by the director.

7.11 Subd. 6. **Examination of machines.** The director shall examine prototypes of
7.12 gaming machines and require that the manufacturer of the machine pay the cost of the
7.13 examination. The director may contract for the examination of gaming machines.

7.14 Subd. 7. **Testing of machines.** The director may require working models of a
7.15 gaming machine to be transported to the locations the director designates for testing,
7.16 examination, and analysis. The manufacturer shall pay all costs for testing, examination,
7.17 analysis, and transportation of the machine model.

7.18 Subd. 8. **Prizes.** A person who plays a gaming machine agrees to be bound by the
7.19 rules and game procedures applicable to that particular gaming machine game. The player
7.20 acknowledges that the determination of whether the player has won a prize is subject to
7.21 the rules and game procedures adopted by the director, claim procedures established by
7.22 the director for the game, and any confidential or public validation tests established by
7.23 the director for the game. A person under 18 years of age may not claim a prize from the
7.24 operation of a gaming machine. A prize claimed from the play of a gaming machine game
7.25 is not subject to section 349A.08, subdivision 8.

7.26 Subd. 9. **Prohibitions.** (a) A person under the age of 18 years may not play a
7.27 game on a gaming machine.

7.28 (b) The director or any employee of the lottery, or a member of the immediate family
7.29 residing in the same household, may not play a game on a gaming machine or receive a
7.30 prize from the operation of a gaming machine.

7.31 Subd. 10. **Compulsive gambling notice.** The director shall prominently post, in the
7.32 area where the gaming machines are located, the toll-free telephone number established
7.33 by the commissioner of human services in connection with the compulsive gambling
7.34 program established under section 245.98. The director and the location provider shall
7.35 establish a responsible gambling plan in consultation with the National Council on
7.36 Problem Gambling or the Minnesota affiliate. By January 15 of each year, the director

shall submit a report to the legislature, of not more than five pages in length, setting forth the status of the responsible gambling plan.

Subd. 11. Local licenses. Except as provided in subdivision 1, no political subdivision may require a license to operate a gaming machine, restrict or regulate the placement of gaming machines, or impose a tax or fee on the business of operating gaming machines.

Sec. 13. Minnesota Statutes 2010, section 541.20, is amended to read:

541.20 RECOVERY OF MONEY LOST.

Every person who, by playing at cards, dice, or other game, or by betting on the hands or sides of such as are gambling, shall lose to any person so playing or betting any sum of money or any goods, and pays or delivers the same, or any part thereof, to the winner, may sue for and recover such money by a civil action, before any court of competent jurisdiction. For purposes of this section, gambling shall not include pari-mutuel wagering conducted under a license issued pursuant to chapter 240, purchase or sale of tickets in the state lottery, purchase of gaming machine plays as authorized under chapter 349A, or gambling authorized under chapters 349 and 349A.

Sec. 14. Minnesota Statutes 2010, section 541.21, is amended to read:

541.21 COMMITMENTS FOR GAMBLING DEBT VOID.

Every note, bill, bond, mortgage, or other security or conveyance in which the whole or any part of the consideration shall be for any money or goods won by gambling or playing at cards, dice, or any other game whatever, or by betting on the sides or hands of any person gambling, or for reimbursing or repaying any money knowingly lent or advanced at the time and place of such gambling or betting, or lent and advanced for any gambling or betting to any persons so gambling or betting, shall be void and of no effect as between the parties to the same, and as to all persons except such as hold or claim under them in good faith, without notice of the illegality of the consideration of such contract or conveyance. The provisions of this section shall not apply to: (1) pari-mutuel wagering conducted under a license issued pursuant to chapter 240; (2) purchase of tickets in the state lottery or other wagering authorized under chapter 349A; (3) gaming activities conducted pursuant to the Indian Gaming Regulatory Act, United States Code, title 25, section 2701 et seq.; or (4) lawful gambling activities permitted under chapter 349.

Sec. 15. Minnesota Statutes 2010, section 609.75, subdivision 3, is amended to read:

Subd. 3. What are not bets. The following are not bets:

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(1) a contract to insure, indemnify, guarantee or otherwise compensate another for a harm or loss sustained, even though the loss depends upon chance;

(2) a contract for the purchase or sale at a future date of securities or other commodities;

(3) offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength, endurance, or quality or to the bona fide owners of animals or other property entered in such a contest;

(4) the game of bingo when conducted in compliance with sections 349.11 to 349.23;

(5) a private social bet not part of or incidental to organized, commercialized, or systematic gambling;

(6) the operation of equipment or the conduct of a raffle under sections 349.11 to 349.22, by an organization licensed by the Gambling Control Board or an organization exempt from licensing under section 349.166;

(7) pari-mutuel betting on horse racing when the betting is conducted under chapter 240; and

(8) the purchase and sale of state lottery tickets and plays on a gaming machine under chapter 349A.

Sec. 16. Minnesota Statutes 2010, section 609.761, subdivision 2, is amended to read:

Subd. 2. **State lottery.** Sections 609.755 and 609.76 do not prohibit the operation of the state lottery or the sale, possession, or purchase of tickets for the state lottery under chapter 349A, or the manufacture, possession, sale, or operation of a gaming machine under chapter 349A.

Sec. 17. **SEVERABILITY; SAVINGS.**

If any provision of this act is found to be invalid because it is in conflict with a provision of the Minnesota Constitution or the Constitution of the United States, or for any other reason, all other provisions of this act shall remain valid and any rights, remedies, and privileges that have been otherwise accrued by this act, shall remain in effect and may be proceeded with and concluded under this act.

Sec. 18. **EFFECTIVE DATE.**

This article is effective the day following final enactment.

ARTICLE 2

INDUSTRY IMPROVEMENT FUND

Section 1. Minnesota Statutes 2010, section 240.13, is amended by adding a subdivision to read:

Subd. 5a. **Purse payments.** To mitigate the cost to the horse racing industry resulting from the dilution of pari-mutuel consumption at a racetrack having a location contract with the director of the lottery, any person, licensed under this chapter, who enters into a location contract with the director of the lottery, must transfer, on a quarterly basis, an amount of money equal to 14 percent of the amount the licensee receives or retains pursuant to the location contract. This transfer is required of the licensee regardless of any financial consequences resulting from the location contract. The money transferred pursuant to this subdivision shall be used as follows:

(a) Eighty percent shall be used to augment purses for live races conducted at the class A licensed facilities. The commission shall routinely transfer the money in the purse fund accounts to the licensees conducting racing for each breed and direct the licensee to augment the purses for that breed with the funds received from the commission. Purse augmentations required under this subdivision are in addition to purse payments otherwise established by law or contract. The location contract holder and the organization representing the majority of horsepersons racing at the location contract holder's racetrack may, by written contract, agree to use a portion of the transferred funds for racing-related purposes other than purse augmentation. The commission shall determine the percentages of the purse fund account to be designated for the augmentation of the purses of each breed racing at a class A facility. The determination shall be based on consumer preference, the percentage of the pari-mutuel handle generated in Minnesota by each breed, and a goal of maximizing the economic impact of horse racing in Minnesota.

(b) Sixteen percent shall be transmitted to the breeder's fund to be used for each breed racing at a class A licensed facility in amounts determined by the commission. Amounts transferred to a breeder's fund shall be used for the purposes of section 240.18, subdivisions 2, paragraph (d), and 3, paragraph (b), subject to the proportionality requirement in section 240.18, subdivision 1.

(c) Four percent of the contributions received from the licensee shall be placed in an equine industry enhancement fund established by the commission. The commission shall award grants from this account designed to support and improve the nonracing equine industry including, but not limited to, construction of facilities and trails, production of shows, and issues related to retired horses.

- 11.1 Sec. 2. **REPEALER.**
- 11.2 Minnesota Statutes 2010, section 240.30, subdivision 8, is repealed.

- 11.3 Sec. 3. **EFFECTIVE DATE.**
- 11.4 This article is effective the day following final enactment.

APPENDIX
Article locations in 11-3658

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ARTICLE 2 INDUSTRY IMPROVEMENT FUND Page.Ln 10.1