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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. **2994**

04/05/2012 Authored by Kriesel and Lanning

The bill was read for the first time and referred to the Committee on Government Operations and Elections

1.1 A bill for an act
1.2 relating to State Lottery; authorizing director of the State Lottery to adopt rules
1.3 for electronic scratch ticket devices; amending Minnesota Statutes 2010, section
1.4 297A.65; Minnesota Statutes 2011 Supplement, section 349.15, subdivision 1;
1.5 proposing coding for new law in Minnesota Statutes, chapter 349A.

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

1.7 Section 1. Minnesota Statutes 2010, section 297A.65, is amended to read:

1.8 **297A.65 LOTTERY TICKETS; IN LIEU TAX.**

1.9 Sales of state lottery tickets are exempt from the tax imposed under section
1.10 297A.62. The State Lottery must on or before the 20th day of each month transmit to
1.11 the commissioner of revenue an amount equal to the gross receipts from the sale of
1.12 lottery tickets for the previous month multiplied by the tax rate under section 297A.62,
1.13 subdivision 1, and for lottery tickets sold through electronic scratch ticket devices under
1.14 section 349A.065, an amount equal to the gross receipts from the sale of the tickets for the
1.15 previous month multiplied by two percent. The resulting payment is in lieu of the sales
1.16 tax that otherwise would be imposed by this chapter. The commissioner shall deposit the
1.17 money transmitted as provided by section 297A.94 and the money must be treated as other
1.18 proceeds of the sales tax. For purposes of this section, "gross receipts" means the proceeds
1.19 of the sale of tickets before deduction of a commission or other compensation paid to
1.20 the vendor or retailer for selling tickets.

1.21 Sec. 2. Minnesota Statutes 2011 Supplement, section 349.15, subdivision 1, is
1.22 amended to read:

Subdivision 1. **Expenditure restrictions, requirements, and civil penalties.**

(a) Gross profits from lawful gambling may be expended only for lawful purposes or allowable expenses as authorized by the membership of the conducting organization at a monthly meeting of the organization's membership.

(b) Provided that no more than 70 percent of the gross profit from bingo, and no more than 60 percent of the gross profit from other forms of lawful gambling, may be expended biennially during the term of the license for allowable expenses related to lawful gambling, except that for the period of July 1, 2008, to June 30, 2009, no more than 75 percent of the gross profit from bingo, and no more than 65 percent of the gross profit from other forms of lawful gambling, may be expended for allowable expenses related to lawful gambling. This provision expires June 30, 2009.

(c) For each 12-month period beginning July 1, 2009, a licensed organization will be evaluated by the board to determine a rating based on the percentage of annual lawful purpose expenditures when compared to available gross profits for the same period. The rating will be used to determine the organization's profitability percent and is not a rating of the organization's lawful gambling operation. An organization will be evaluated according to the following criteria:

(1) an organization that expends 50 percent or more of gross profits on lawful purposes will receive a five-star rating;

(2) an organization that expends 40 percent or more but less than 50 percent of gross profits on lawful purposes will receive a four-star rating;

(3) an organization that expends 30 percent or more but less than 40 percent of gross profits on lawful purposes will receive a three-star rating;

(4) an organization that expends 20 percent or more but less than 30 percent of gross profits on lawful purposes will receive a two-star rating; and

(5) an organization that expends less than 20 percent of gross profits on lawful purposes will receive a one-star rating.

(d) An organization that fails to expend a minimum of 30 percent annually of gross profits on lawful purposes, or 20 percent annually for organizations that conduct lawful gambling in a location where the primary business is bingo, is automatically on probation effective July 1 for a period of one year. The organization must increase its rating to the required minimum or be subject to sanctions by the board. If an organization fails to meet the minimum after a one-year probation, the board may suspend the organization's license or impose a civil penalty as follows:

(1) in determining any suspension or penalty for a violation of this paragraph, the board must consider any unique factors or extraordinary circumstances that caused the

organization to not meet the minimum rate of profitability. Unique factors or extraordinary circumstances include, but are not limited to, the purchase of capital assets necessary to conduct lawful gambling; road or other construction causing impaired access to the lawful gambling premises; and flood, tornado, or other catastrophe that had a direct impact on the continuing lawful gambling operation; and

(2) notwithstanding section 349.151, subdivision 4, paragraph (a), clause (10), the board may impose a civil penalty under this subdivision up to \$10,000.

(e) Money received by an organization from electronic scratch ticket devices under section 349A.065 may be expended only for lawful purposes or allowable expenses as authorized by the membership of the organization at a monthly meeting of the organization's membership.

Sec. 3. **[349A.065] ELECTRONIC SCRATCH TICKET DEVICES.**

Subdivision 1. Rules. The director of the State Lottery shall adopt rules under chapter 14 governing the sale of lottery tickets through electronic scratch ticket devices.

Subd. 2. Definition. For purposes of this section, an "electronic scratch ticket device" means a device authorized by the director that displays an electronic facsimile of a lottery scratch ticket and that may read the ticket, display the result of the ticket on a video monitor in an entertaining manner, and accumulate winning prize amounts to the player's account balance. The electronic scratch ticket device may be operated by cash or currency and must:

(1) have a finite number of tickets for sale; and

(2) have a predetermined number of winning and losing tickets.

Subd. 3. Retailers. (a) The director may only enter into a lottery retailer contract for electronic scratch ticket devices with a retailer that:

(1) has an on-sale intoxicating liquor license under chapter 340A. This does not include a retailer that has only a temporary on-sale license; and

(2) has an organization licensed under chapter 349 to conduct lawful gambling on the premises.

(b) A lottery retailer authorized to operate electronic scratch ticket devices may not cancel or refuse to renew a lease with an organization on its premises for three years following the effective date of this act, unless the organization has failed to comply with the terms of its lease with the retailer.

(c) A lottery retailer may have up to five electronic scratch ticket devices on the retailer's premises. A lottery retailer that is authorized to operate electronic scratch ticket

4.1 devices may not make reference to the establishment being a "casino" or use the word
4.2 "casino" in its name or in any of its advertisements or promotions.

4.3 (d) The director, or an employee of the director, may inspect an electronic scratch
4.4 ticket device at any time during the hours when alcoholic beverages may be sold at
4.5 on-sale, without notice, to ensure compliance with this chapter and any rules adopted
4.6 by the director.

4.7 Subd. 4. **Commission.** The rules adopted by the director under this section must set
4.8 the amount that a lottery retailer will receive as a commission for selling lottery tickets
4.9 through an electronic scratch ticket device. A lottery retailer shall transmit 29 percent of
4.10 the retailer's commission from the sale of lottery tickets through the electronic scratch
4.11 ticket device, to an organization conducting lawful gambling on the premises of the
4.12 retailer. If more than one organization conducts lawful gambling on the premises, the
4.13 payment must be reasonably allocated between the organizations, pro rata based on their
4.14 respective gross receipts.

4.15 Subd. 5. **Gambling device.** For purposes of this chapter and chapters 299L, 340A,
4.16 349, and 609, an electronic scratch ticket device is not a "gambling device."