

A bill for an act

relating to gambling; authorizing the director of the State Lottery to establish gaming machines at a licensed racetrack; imposing a fee on gaming machine revenue; providing powers and duties to the director; prohibiting detached facilities at a racetrack licensed for gaming machines; restricting alcohol sales and consumption near gaming machines at licensed racetracks; dedicating funds to reduce the education payment shift and the property tax recognition shift; appropriating money; amending Minnesota Statutes 2010, sections 240.03; 240.13, by adding a subdivision; 240.14, by adding a subdivision; 299L.07, subdivisions 2, 2a; 349A.01, subdivision 10, by adding subdivisions; 349A.10, subdivision 3; 349A.13; proposing coding for new law in Minnesota Statutes, chapters 297A; 349A; repealing Minnesota Statutes 2010, section 240.30, subdivisions 3, 8.

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

ARTICLE 1

RACINO

Section 1. **[47.522] PROHIBITION NEAR RACINO.**

No detached facility may be located on the premises of a racetrack referenced in section 349A.17, subdivision 1, paragraph (a).

Sec. 2. Minnesota Statutes 2010, section 240.03, is amended to read:

240.03 COMMISSION POWERS AND DUTIES.

The commission has the following powers and duties:

(1) to regulate horse racing in Minnesota to ensure that it is conducted in the public interest;

(2) to issue licenses as provided in this chapter;

(3) to enforce all laws and rules governing horse racing;

(4) to collect and distribute all taxes provided for in this chapter;

(5) to conduct necessary investigations and inquiries and compel the submission of information, documents, and records it deems necessary to carry out its duties;

(6) to supervise the conduct of pari-mutuel betting on horse racing;

(7) to employ and supervise personnel under this chapter;

(8) to determine the number of racing days to be held in the state and at each licensed racetrack;

(9) to take all necessary steps to ensure the integrity of racing in Minnesota; ~~and~~

(10) to impose fees on the racing and card playing industries sufficient to recover the operating costs of the commission with the approval of the legislature according to section 16A.1283. Notwithstanding section 16A.1283, when the legislature is not in session, the commissioner of management and budget may grant interim approval for any new fees or adjustments to existing fees that are not statutorily specified, until such time as the legislature reconvenes and acts upon the new fees or adjustments. As part of its biennial budget request, the commission must propose changes to its fees that will be sufficient to recover the operating costs of the commission; and

(11) to take all necessary steps to ensure the security of all activities in a class A licensed racetrack. The duties and responsibilities of the commission include but are not limited to licensing employees of a class A licensee and vendors to the class A licensee involved in the conduct of gaming machines authorized by a location contract with the director of the State Lottery under section 349A.17 and overall surveillance and security of all conduct on all facilities of a licensed racetrack. The commission shall require that a class A licensed racetrack reimburse it for the commission's actual costs, including personnel costs, for conducting activities provided in this clause and amounts received must be deposited as provided in section 240.155, subdivision 1. The commission shall review procedures of the class A licensee to ensure compliance with section 240.13, subdivision 5a.

Sec. 3. Minnesota Statutes 2010, section 240.13, is amended by adding a subdivision to read:

Subd. 5a. **Equine industry improvement fund.** (a) To compensate the horse racing industry for the presence of lottery gaming machines at class A racing facilities, the commission shall establish and maintain an equine industry improvement fund. Each licensee holding a location contract with the lottery director shall, as directed by the commission, transmit an amount equal to 12 percent of the location contract compensation received from the lottery director to the commission for deposit into the

equine industry improvement fund. Seventy-five percent of the funds shall be allocated for purse supplements. The commission shall routinely transfer 80 percent of the fund allocated for purse supplements to a licensee conducting live racing for more than one breed of horse and 20 percent to a licensee conducting live racing for only one breed of horse and direct the licensee to use the funds to supplement purses offered for live races. Purse supplements 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 supplementation.

(b) The commission shall allocate 20 percent of the fund for breeder's fund purposes and shall transmit that amount to the breeder's fund for the benefit of each breed racing at a class A licensed facility hosting lottery gaming machines. Amounts transferred shall be in the same proportions established, under this subdivision, for purse supplements. 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) Five percent of the fund 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.

Sec. 4. Minnesota Statutes 2010, section 240.14, is amended by adding a subdivision to read:

Subd. 5. Lottery contract holder; minimum racing days. Licensees holding location contracts with the director of the lottery, who are authorized to conduct live racing for more than one breed of horse, shall conduct thoroughbred and quarter horse racing. In any year the licensee shall offer the equivalent of at least two quarter horse races for each racing day granted to the licensee by the commission, however, the licensee and the organization representing the majority of quarter horses owners licensed to race in the state may agree to a different number of live races to be offered. Scheduling of quarter horse races shall be as approved by the commission pursuant to section 240.03, clause (8). Willful failure to offer the races required by this subdivision shall subject the licensee to disciplinary action as deemed appropriate by the commission.

4.1 Sec. 5. [297A.651] LOTTERY GAMING MACHINES; IN-LIEU FEE.

4.2 Adjusted gross revenue from the operation of gaming machines authorized under
4.3 chapter 349A is exempt from the tax imposed under section 297A.62 and chapter 297E
4.4 and any other tax, license, permit, or assessment for conducting a gambling activity that is
4.5 not imposed by this section. The State Lottery must, on or before the 20th day of each
4.6 month, transmit to the commissioner an amount equal to the adjusted gross gaming
4.7 machine revenue from the operation of gaming machines, as defined in section 349A.01,
4.8 for the previous month multiplied by: (1) 25 percent of annual adjusted gross gaming
4.9 machine revenue generated by each person that has a location contract under section
4.10 349A.17, subdivision 1, up to \$150,000,000; (2) 30 percent of annual adjusted gross
4.11 gaming machine revenue generated by each person that has a location contract under
4.12 section 349A.17, subdivision 1, between \$150,000,000 and \$200,000,000; and (3) 40
4.13 percent of annual adjusted gross gaming machine revenue generated by each person that
4.14 has a location contract under section 349A.17, subdivision 1, in excess of \$200,000,000.
4.15 The commissioner shall deposit the money transmitted under this section in the state
4.16 treasury as provided in article 2.

4.17 Sec. 6. Minnesota Statutes 2010, section 299L.07, subdivision 2, is amended to read:

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

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

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

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

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

4.32 (5) may be possessed by the State Lottery or a person who has entered into a location
4.33 contract with the State Lottery as authorized under chapter 349A.

4.34 Sec. 7. Minnesota Statutes 2010, section 299L.07, subdivision 2a, is amended to read:

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. 8. 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, other than promotional plays, less the amount paid out in prizes for gaming machine games.

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

Subd. 6a. **Gaming machine.** "Gaming machine" means any electronic device which, upon insertion of money, coin, token, voucher, electronic card, or other consideration, allows the play of a game, authorized by the director, the outcome of which is determined entirely or partly by chance. A gaming machine may award a player a prize in the form of money, tokens, prize slips, or other authorized consideration.

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

Subd. 6b. **Gaming machine area.** "Gaming machine area" means an area within ten feet of a gaming machine.

Sec. 11. Minnesota Statutes 2010, section 349A.01, is amended by adding a subdivision to read:

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

Sec. 12. Minnesota Statutes 2010, section 349A.01, is amended by adding a subdivision to read:

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

Sec. 13. 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. 14. 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 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. 15. 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. 16. **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. In the case of licensees authorized to conduct racing for only one breed of horse, the live racing requirement is 50 days.

(b) The director may cancel, suspend, or refuse to renew the location contract if the person:

(1) fails to account for proceeds from the gaming machines;

(2) fails to remit funds to the director in accordance with the location contract;

(3) violates a law, rule, or order of the director;

(4) fails to comply with a material term of the location contract; or

(5) has acted in a manner prejudicial to the public confidence in the integrity of the operation of the gaming machines.

The cancellation, suspension, or refusal to renew the location contract is a contested case under sections 14.57 to 14.69.

(c) Contracts entered into under this section must provide for compensation to the licensee in recognition of goods, services, and facilities provided expenses, risk factors, and losses. Compensation shall be in an amount equal to at least the following percentages of adjusted gross gaming machine revenue generated at the licensee's facility:

(1) of the first \$150,000,000 of annual adjusted gross gaming machine revenue, 60 percent;

(2) of annual adjusted gross gaming machine revenue between \$150,000,000 and \$200,000,000, 55 percent; and

(3) of annual adjusted gross gaming machine revenue in excess of \$200,000,000, 45 percent.

(d) A licensee must annually remit one percent of the compensation it receives pursuant to this section to the city, and one percent to the county in which the licensee conducts racing.

Subd. 2. **Operation.** (a) All gaming machines that are placed at a racetrack under subdivision 1 must be operated and controlled by the director.

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

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

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

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

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

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

9.1 (h) The holder of a location contract must make reasonable efforts to prevent
9.2 drinking or possession of intoxicating beverages in gaming machine areas, and must
9.3 not serve or allow consumption of intoxicating beverages in gaming machine areas. A
9.4 violation of this section by location provider is subject to section 340.415. The holder
9.5 of a location contract is, however, exempt from this provision, and may allow serving
9.6 and possession of intoxicating beverages in the gaming machine area, if the premises is
9.7 located within ten miles of a facility conducting class III gambling under section 3.9221
9.8 that allows alcohol consumption in its gaming machine area.

9.9 Subd. 3. **Specifications.** Gaming machines must be capable of being linked
9.10 electronically to a central communications system to provide auditing program information
9.11 as required by the director.

9.12 Subd. 4. **Games.** The director shall specify the games that may be placed on
9.13 a gaming machine as provided in section 349A.04. Gaming machines may conduct
9.14 pari-mutuel wagering and display horse races under specifications provided by the director.

9.15 Subd. 5. **Examination of machines.** The director shall examine prototypes of
9.16 gaming machines and require that the manufacturer of the machine pay the cost of the
9.17 examination. The director may contract for the examination of gaming machines.

9.18 Subd. 6. **Testing of machines.** The director may require working models of a
9.19 gaming machine to be transported to the locations the director designates for testing,
9.20 examination, and analysis. The manufacturer shall pay all costs for testing, examination,
9.21 analysis, and transportation of the machine model.

9.22 Subd. 7. **Prizes.** A person who plays a gaming machine agrees to be bound by the
9.23 rules and game procedures applicable to that particular gaming machine game. The player
9.24 acknowledges that the determination of whether the player has won a prize is subject to
9.25 the rules and game procedures adopted by the director, claim procedures established by
9.26 the director for the game, and any confidential or public validation tests established by
9.27 the director for the game. A person under 18 years of age may not claim a prize from the
9.28 operation of a gaming machine. A prize claimed from the play of a gaming machine game
9.29 is not subject to section 349A.08, subdivision 8.

9.30 Subd. 8. **Prohibitions.** (a) A person under the age of 18 years may not play a
9.31 game on a gaming machine.

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

9.35 (c) No person shall consume or possess intoxicating beverages within a gaming
9.36 machine area.

Subd. 9. **Compulsive gambling notice.** The director shall prominently post, in the area where the gaming machines are located, the toll-free telephone number established by the commissioner of human services in connection with the compulsive gambling program established under section 245.98. The director and the location provider shall establish a responsible gambling plan in consultation with the National Council on 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. 10. **Local licenses.** Except as provided in subdivision 1, paragraph (d), 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. 17. LOTTERY BUDGET.

The director of the State Lottery shall submit a budget for the operation and control of gaming machines to the commissioner of management and budget. Notwithstanding Minnesota Statutes, section 349A.10, subdivision 6, the director of the State Lottery may expend amounts necessary to operate and control the gaming machines. Amounts expended by the director of the State Lottery for the operation and control of the gaming machines in fiscal years 2013 and 2014 are not subject to the maximum amount set in law for the operation of the lottery.

Sec. 18. REPEALER.

Minnesota Statutes 2010, section 240.30, subdivisions 3 and 8, are repealed.

ARTICLE 2

EDUCATION

Section 1. **RACINO REVENUE.**

Subdivision 1. **Allocation.** Revenue transmitted to the commissioner under Minnesota Statutes, section 297A.651, must be deposited in a special account in the state treasury as provided in subdivision 2.

Subd. 2. **Education.** A special account is established in the state treasury, consisting of money deposited under Minnesota Statutes, section 297A.651, and any interest earned thereon. Money in this account is appropriated for the following purposes in priority order:

(1) 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

11.1 without exceeding the amount available and with any remaining funds deposited in the
11.2 budget reserve; and
11.3 (2) to restore all or a portion of the net aid reduction under section 127A.441, and to
11.4 reduce the property tax revenue recognition shift under section 123B.75, subdivision 5,
11.5 paragraph (a).
11.6 Subd. 3. **Bonding.** When the purposes of subdivision 2 have been satisfied, money
11.7 in the account is appropriated to pay, redeem, or defease bonds of the state sold and
11.8 issued pursuant to Minnesota Statutes, sections 16A.631 to 16A.675, and the Minnesota
11.9 Constitution, article XI, sections 4 to 7.

11.10 **ARTICLE 3**

11.11 **MISCELLANEOUS**

11.12 Section 1. **SEVERABILITY; SAVINGS.**

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

11.18 Sec. 2. **EFFECTIVE DATE.**

11.19 This act is effective the day following final enactment.