

discharged, disciplined, or threatened with discharge or discipline as retaliation for or solely by reason of the officer's exercise of the rights provided by this section.

Subd. 15. RIGHTS NOT REDUCED. The rights of officers provided by this section are in addition to and do not diminish the rights and privileges of officers that are provided under an applicable collective bargaining agreement or any other applicable law.

Subd. 16. ACTION FOR DAMAGES. Notwithstanding section 3.736 or 466.03, a political subdivision or state agency that violates this section is liable to the officer for actual damages resulting from the violation, plus costs and reasonable attorney fees. The political subdivision or the state is deemed to have waived any immunity to a cause of action brought under this subdivision, except that the monetary limits on liability under section 3.736, subdivision 4, or 466.04 apply.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective August 1, 1991, and applies to formal statements or actions taken on or after that date.

Presented to the governor May 31, 1991

Signed by the governor June 4, 1991, 8:33 p.m.

CHAPTER 335—H.F.No. 2

VETOED

CHAPTER 336—S.F.No. 506

An act relating to lawful gambling; lotteries; providing for teleracing and its operation and regulation; expanding requirements relating to compulsive gambling; exempting lawful gambling profits from the tax on unrelated business income; regulating manufacturers and distributors of gambling devices; changing certain requirements relating to record keeping, reports, audits, and expenditures of gambling profits by licensed gambling organizations; modifying certain licensing, training, and operating requirements for licensed gambling organizations; changing requirements relating to posting of pull-tab winners; authorizing the director of the lottery to enter into joint lotteries outside the United States; expanding certain provisions relating to lottery retailers; designating certain data on lottery prize winners as private; changing requirements relating to lottery advertising; clarifying the prohibitions on video games of chance and lotteries; authorizing dissemination of information about lotteries

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conducted by adjoining states; establishing a task force on compulsive gambling assessments; appropriating money; amending Minnesota Statutes 1990, sections 3.9221, by adding a subdivision; 240.01, subdivisions 1, 10, and by adding subdivisions; 240.02, subdivision 3; 240.03; 240.05, subdivision 1; 240.06, subdivision 1; 240.09, subdivision 2; 240.10; 240.11; 240.13, subdivisions 1, 2, 3, 4, 5, 6, and 8; 240.15, subdivision 6; 240.16, subdivision 1a; 240.18; 240.19; 240.23; 240.24, subdivision 2; 240.25, subdivision 2, 240.27; 240.28, subdivision 1; 240.29; 245.98, by adding a subdivision; 299L.01, subdivision 1; 349.12, subdivision 25, and by adding subdivisions; 349.15; 349.151, subdivision 4, and by adding a subdivision; 349.154, subdivision 2; 349.16, subdivision 3; 349.163, by adding a subdivision; 349.165, subdivisions 1 and 3; 349.167, subdivisions 1, 2, and 4; 349.17, subdivision 5; 349.172; 349.18, subdivisions 1 and 1a; 349.19, subdivisions 2, 5, 9, and by adding subdivisions; 349.211, by adding a subdivision; 349.213, subdivision 1; 349A.02, subdivision 3; 349A.06, subdivisions 3, 5, and 11; 349A.08, by adding a subdivision; 349A.09, subdivision 2; 349A.10, subdivision 3; 609.115, by adding a subdivision; 609.75, subdivisions 1, 4, and by adding subdivisions; 609.755; 609.76, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 240; and 299L; repealing Minnesota Statutes 1990, sections 240.01, subdivision 13; 240.13, subdivision 6a; 240.14; subdivision 1a; and 349.154, subdivision 3.

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

ARTICLE 1

TELERACING

Section 1. Minnesota Statutes 1990, section 240.01, subdivision 1, is amended to read:

Subdivision 1. **TERMS.** For the purposes of Laws 1993, this chapter 214, the terms defined in this section have the meanings given them.

Sec. 2. Minnesota Statutes 1990, section 240.01, subdivision 10, is amended to read:

Subd. 10. **RACING DAY.** "Racing day" is a day assigned by the commission on which live racing is conducted. Racing day includes televised racing day.

Sec. 3. Minnesota Statutes 1990, section 240.01, is amended by adding a subdivision to read:

Subd. 16. HORSEPERSON. "Horseperson" means a person who is currently licensed by the commission as an owner or lessee, or a trainer.

Sec. 4. Minnesota Statutes 1990, section 240.01, is amended by adding a subdivision to read:

Subd. 17. TELERACING FACILITY. "Teleracing facility" means a facility at which telerace simulcasting is conducted under authority of a class E license issued by the commission.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 5. Minnesota Statutes 1990, section 240.01, is amended by adding a subdivision to read:

Subd. 18. ON-TRACK PARI-MUTUEL BETTING. "On-track pari-mutuel betting" means wagering conducted at a licensed racetrack, or at a class E licensed facility whose wagering system is electronically linked to a licensed racetrack.

Sec. 6. Minnesota Statutes 1990, section 240.01, is amended by adding a subdivision to read:

Subd. 19. SIMULCASTING. "Simulcasting" means the televised display, for pari-mutuel wagering purposes, of one or more horse races conducted at another location wherein the televised display occurs simultaneously with the race being televised.

Sec. 7. Minnesota Statutes 1990, section 240.01, is amended by adding a subdivision to read:

Subd. 20. TELERACE SIMULCASTING. "Telerace simulcasting" means simulcasting at a teleracing facility.

Sec. 8. Minnesota Statutes 1990, section 240.01, is amended by adding a subdivision to read:

Subd. 21. TELERACING PROGRAM. "Teleracing program" means a telerace simulcasting event consisting of simulcasting that includes not more than two full racing cards, plus not more than two other races.

Sec. 9. Minnesota Statutes 1990, section 240.01, is amended by adding a subdivision to read:

Subd. 22. RACING SEASON. "Racing season" means that portion of the calendar year starting at the beginning of the day of the first live horse race conducted by the licensee and concluding at the end of the day of the last live horse race conducted by the licensee in any year.

For purposes of this chapter, the racing season begins before the first Saturday in May and continues for not less than 25 consecutive weeks.

Sec. 10. Minnesota Statutes 1990, section 240.01, is amended by adding a subdivision to read:

Subd. 23. FULL RACING CARD. "Full racing card" means three or more races that are: (1) part of a horse racing program being conducted at a racetrack; and (2) being simulcast or telerace simulcast at a licensed racetrack or teleracing facility.

Sec. 11. Minnesota Statutes 1990, section 240.03, is amended to read:

240.03 COMMISSION POWERS AND DUTIES.

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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 Laws 1983, this chapter 214;
- (3) to enforce all laws and rules governing horse racing;
- (4) to collect and distribute all taxes provided for in Laws 1983, this chapter 214;
- (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 Laws 1983, this chapter 214;
- (8) to determine the number of racing days to be held in the state and at each licensed racetrack; and
- (9) to take all necessary steps to ensure the integrity of racing in Minnesota.

Sec. 12. Minnesota Statutes 1990, section 240.05, subdivision 1, is amended to read:

Subdivision 1. CLASSES. The commission may issue ~~four~~ five classes of licenses:

- (a) class A licenses, for the ownership and operation of a racetrack with horse racing on which pari-mutuel betting is conducted;
- (b) class B licenses, for the sponsorship and management of horse racing on which pari-mutuel betting is conducted;
- (c) class C licenses, for the privilege of engaging in certain occupations related to horse racing; and
- (d) class D licenses, for the conduct of pari-mutuel horse racing by county agricultural societies or associations; and
- (e) class E licenses, for the management of a teleracing facility.

No person may engage in any of the above activities without first having obtained the appropriate license from the commission.

Sec. 13. Minnesota Statutes 1990, section 240.06, subdivision 1, is amended to read:

Subdivision 1. APPLICATION. The commission may issue one or more

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class A licenses, but not more than one to any one person. An application for a class A license must be on a form the commission prescribes and must be accompanied by detailed plans and specifications of the track, buildings, fences, and other improvements. The application must contain:

- (a) the name and address of the applicant and, if it is a corporation, the names of all officers, directors, and shareholders of the corporation and any of its holding corporations;
- (b) if required by the commission, the names of any person or persons holding directly, indirectly, or beneficially an interest of any kind in the applicant or any of its holding corporations, whether the interest is financial, administrative, policy making, or supervisory;
- (c) a statement of the assets and liabilities of the applicant;
- (d) an affidavit executed by the applicant setting forth that no officer, director, or other person with a present or future direct or indirect financial or management interest in the racetrack, to the best of the applicant's knowledge:
 - (1) is in default in the payment of an obligation or debt to the state under Laws 1983, this chapter 214;
 - (2) has ever been convicted of a felony in a state or federal court or has a state or federal felony charge pending;
 - (3) is or has been connected with or engaged in any illegal business;
 - (4) has ever been found guilty of fraud or misrepresentation in connection with racing or breeding;
 - (5) has ever been found guilty of a violation of a law or rule relating to horse racing, pari-mutuel betting or any other form of gambling which is a serious violation as defined by the commission's rules; or
 - (6) has ever knowingly violated a rule or order of the commission or a law of Minnesota relating to racing;
- (e) an irrevocable consent statement, to be signed by the applicant, which states that suits and actions relating to the subject matter of the application or acts or omissions arising from it may be commenced against the applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleadings authorized by the laws of this state. If any summons, process, or pleadings is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the commission; and
- (f) an affirmative action plan establishing goals and timetables consistent with the Minnesota human rights act, chapter 363.

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Sec. 14. [240.091] TELERACING FACILITY LICENSE.

Subdivision 1. APPLICATION. The commission may issue one or more class E licenses to a holder of a class B license who conducts live racing at a class A facility. The commission may issue a total of not more than four class E licenses, of which not more than two may be issued before January 1, 1992. If two licenses are issued before January 1, 1991, only one may be for a facility located within the seven-county metropolitan area. An application for a class E license must be on a form the commission prescribes and must be accompanied by detailed plans and specifications of the facility to be used, the location of the facility, and any other information relevant to the specifications of the facility and its operation, as designated by the commission. The application must also contain:

(1) the name and address of the applicant and, if it is a corporation or association, the names of all officers, directors, and shareholders of the corporation and any of its holding companies;

(2) if required by the commission, the names of any person or persons holding directly, indirectly, or beneficially, an interest of any kind in the applicant or any of its holding companies, whether the interest is financial, administrative, policy making, or supervisory;

(3) a statement of the assets and liabilities of the applicant;

(4) an affidavit of the type described in section 240.06, subdivision 1, paragraph (d);

(5) an irrevocable consent statement, to be signed by the applicant, that states that the applicant agrees to be bound by and subject to the authority of the commission, the rules adopted by the commission, and the laws of this state relating to the activity to be conducted; and

(6) an irrevocable consent statement, to be signed by the applicant, that states that suits and actions relating to the subject matter of the application or acts or omissions arising from it may be commenced against the applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleadings authorized by the laws of this state. If any summons, process, or pleading is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the commission.

Subd. 2. HEARINGS; INVESTIGATIONS. Before granting a class E license, the commission shall conduct at least one public hearing on the license application in the area where the teleracing facility is proposed to be located. The commission shall request comments on the application from: (1) the city council or town board of the city or town where the facility is proposed to be located, (2) the county board if the facility is proposed to be located outside a

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city, and (3) the appropriate regional development commission if one exists for the area or, if the facility is proposed to be located within the metropolitan area as defined in section 473.121, subdivision 2, the metropolitan council. The commission may conduct, or request the division of gambling enforcement to conduct, comprehensive background and financial investigations of the applicant, sources of financing, and other information appearing in the application. The costs of the investigations must be paid in the manner prescribed by section 240.06, subdivision 3. The commission has access to all criminal history data compiled by the division of gambling enforcement on class E licensees and applicants.

Subd. 3. LICENSE ISSUANCE. (a) If after considering the information received from the hearing and investigations, the commission determines that the applicant will manage the facility in accordance with all applicable laws and rules and will not adversely affect the public health, welfare, and safety; that the license will not create a competitive situation that will adversely affect racing and the public interest; and that the applicant is financially able to manage the licensed simulcast facility, the commission may issue a class E license to the applicant. The license is effective until revoked or suspended by the commission or relinquished by the licensee.

(b) As a condition of a class E license, the commission shall require that a person employed in the erection, construction, remodeling, or repairing of a teleracing facility may not be paid a lesser rate of wages than the prevailing wage rate, as defined in section 177.42, subdivision 6, in the same or most similar trade or occupation in the area.

Subd. 4. FACILITIES. The commission may not issue a class E license unless the design of the facility will accommodate and provide adequate seating. The operators of the facility must provide adequate parking, and make food and beverages available. The telerace simulcasts must be displayed so that spectators in attendance are afforded a clear presentation of the races.

Subd. 5. CHANGES IN OWNERSHIP OR MANAGEMENT. If a change in the officers, directors, or other persons with a direct or indirect financial or management interest in the class B licensee, or a change of ownership of more than five percent of the class B licensee's shares, is made after the application for or issuance of a class E license, the applicant or licensee must notify the commission of the changes within five days of their occurrence and provide the affidavit required in section 240.06, subdivision 1, paragraph (d).

Subd. 6. LICENSE SUSPENSION AND REVOCATION. A class E license may be suspended or revoked as provided in section 240.06, subdivision 7. A license suspension or revocation is a contested case under sections 14.57 to 14.69 of the administrative procedure act, and is in addition to criminal penalties imposed for a violation of law or rule.

Subd. 7. WORK AREAS. A class E licensee shall provide at no cost to the commission suitable work areas for commission members, officers, employees, and agents, including agents of the division of gambling enforcement, who are directed or requested by the commission to supervise and control wagering at the licensed simulcast facility.

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Sec. 15. Minnesota Statutes 1990, section 240.10, is amended to read:

240.10 LICENSE FEES.

The fee for a class A license is \$10,000 per year. The fee for a class B license is \$100 for each assigned racing day on which racing is actually conducted, and \$50 for each assigned ~~televised racing~~ day on which ~~televised racing simulcasting~~ is authorized and actually conducted ~~takes place~~. The fee for a class D license is \$50 for each assigned racing day on which racing is actually conducted. The fee for a class E license is \$1,000 per year. Fees imposed on class B and class D licenses must be paid to the commission at a time and in a manner as provided by rule of the commission.

The commission shall by rule establish an annual license fee for each occupation it licenses under section 240.08 but no annual fee for a class C license may exceed \$100.

License fee payments received must be paid by the commission to the state treasurer for deposit in the general fund.

Sec. 16. Minnesota Statutes 1990, section 240.11, is amended to read:

240.11 LICENSES NONTRANSFERABLE.

A license issued under ~~Laws 1983, this chapter 214~~ may not be transferred.

Sec. 17. Minnesota Statutes 1990, section 240.13, subdivision 1, is amended to read:

Subdivision 1. **AUTHORIZED.** Class B and class D licenses give the licensees authority to conduct pari-mutuel betting on the results of races run at the licensed racetrack, and on other races as authorized by the commission under ~~subdivision 6 or 6a~~ this section.

A class B or class E license gives the licensee the authority to transmit and receive telecasts and conduct pari-mutuel betting on the results of horse races run at its class A facility, and of other horse races run at locations outside of the state, as authorized by the commission. A class E licensee must present, for pari-mutuel wagering purposes, all live horse races conducted at its class A facility. The class B or class E licensee may present racing programs separately or concurrently.

Subject to the approval of the commission, for simulcasts and telerace simulcasts the types of betting, takeout, and distribution of winnings on pari-mutuel pools of a class B or class E facility are those in effect at the sending racetrack. Pari-mutuel pools accumulated at a class E facility must be commingled with the pools at the class A facility for comparable pools on those races that are being simultaneously presented at both facilities. Pari-mutuel pools may be commingled with pools at the sending racetrack, for the purposes of determining odds and payout prices, via the totalizator computer at the class A facility.

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The commission may not authorize a class B or class E licensee to conduct simulcasting or telerace simulcasting unless 125 days of live racing, consisting of not less than eight live races on each racing day, have been conducted at the class A facility within the preceding 12 months. The number of live racing days required may be adjusted by agreement between the licensee and the horsepersons' organization representing the majority of horsepersons racing the breed racing the majority of races at the licensee's class A facility during the preceding 12 months. The number of live racing days required must be reduced by one day for each assigned racing day that the licensee is unable to conduct live racing due to natural occurrences or catastrophes beyond its control.

Sec. 18. Minnesota Statutes 1990, section 240.13, subdivision 2, is amended to read:

Subd. 2. **REQUIREMENTS.** A licensee conducting pari-mutuel betting must provide at the licensed track or at the teleracing facility:

- (a) the necessary equipment for issuing pari-mutuel tickets; and
- (b) mechanical or electronic equipment for displaying information the commission requires. All mechanical or electronic devices must be approved by the commission before being used.

Sec. 19. Minnesota Statutes 1990, section 240.13, subdivision 3, is amended to read:

Subd. 3. **TYPES OF BETTING.** The commission shall by rule designate those types of pari-mutuel pools which are permitted at licensed racetracks and teleracing facilities, and no licensee may conduct any type of pari-mutuel pool which has not been so designated; except as provided for in subdivision 6a. Pari-mutuel pools permitted at licensed racetracks and pari-mutuel pools designated by the commission are permitted at teleracing facilities.

Sec. 20. Minnesota Statutes 1990, section 240.13, subdivision 4, is amended to read:

Subd. 4. **TAKEOUT; DISTRIBUTION OF Winnings.** A licensee conducting pari-mutuel betting must deduct from a straight pari-mutuel pool, before payments to holders of winning tickets, an amount equal to not more than 17 percent of the total money in that pool. The licensee must deduct from a multiple pari-mutuel pool, before payments to the holders of winning tickets, an amount equal to not more than 23 percent of the total money in that pool. The remaining money in each pool must be distributed among the holders of winning tickets in a manner the commission by rule prescribes for each type of pool. Breakage must be computed on the basis of payoffs rounded down to the next lowest increment of 20 10 cents, with a minimum payoff of \$2.20 \$1.10 on a \$2 \$1 ticket, except that the licensee may reduce the minimum payoff to \$2.10 \$1.05 on a \$2 \$1 ticket if there is not a sufficient amount in a pool to make a minimum payoff of \$2.20 \$1.10.

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Sec. 21. Minnesota Statutes 1990, section 240.13, subdivision 5, is amended to read:

Subd. 5. PURSES. (a) From the amounts deducted from all pari-mutuel pools by a licensee, an amount equal to not less than the following percentages of all money in all pools must be set aside by the licensee and used for purses for races conducted by the licensee, provided that a licensee may agree by contract with an organization representing a majority of the horsepersons racing the breed involved to set aside amounts in addition to the following percentages:

(1) For a licensee conducting a racing meeting with an average daily handle of \$500,000 or less, four percent of the average daily handle times the number of racing days in that meeting.

(2) For a licensee conducting a racing meeting with an average daily handle of more than \$500,000 but not more than \$750,000, six percent of the average daily handle times the number of racing days in that meeting.

(3) For a licensee conducting a racing meeting with an average daily handle of more than \$750,000, 8.4 percent of the first \$1 million in average daily handle times the number of racing days in that meeting.

(1) for live races conducted at a class A facility, and for races that are part of full racing card simulcasting or full racing card telerace simulcasting that takes place within the time period of the live races, 8.4 percent;

(2) for simulcasts and telerace simulcasts conducted during the racing season other than as provided for in clause (1), 50 percent of the takeout remaining after deduction for taxes on pari-mutuel pools, payment to the breeders fund, and payment to the sending out-of-state racetrack for receipt of the signal; and

(3) for simulcasts and telerace simulcasts conducted outside of the racing season, 25 percent of the takeout remaining after deduction for the state pari-mutuel tax, payment to the breeders fund, payment to the sending out-of-state racetrack for receipt of the signal and, before January 1, 2005, a further deduction of eight percent of all money in all pools; provided, however, that in the event that wagering on simulcasts and telerace simulcasts outside of the racing season exceeds \$125 million in any calendar year, the amount set aside for purses by this formula is increased to 30 percent on amounts between \$125,000,000 and \$150,000,000 wagered; 40 percent on amounts between \$150,000,000 and \$175,000,000 wagered; and 50 percent on amounts in excess of \$175,000,000 wagered. In lieu of the eight percent deduction, a deduction as agreed to between the licensee and the horsepersons' organization representing the majority of horsepersons racing at the licensee's class A facility during the preceding 12 months, is allowed after December 31, 2004.

The commission may by rule provide for the administration and enforcement of this subdivision. The deductions for payment to the sending out-of-state racetrack must be actual, except that when there exists any overlap of ownership, control, or interest between the sending out-of-state racetrack and the receiving licensee, the deduction must not be greater than three percent unless agreed to between the licensee and the horsepersons' organization representing

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the majority of horsepersons racing the breed racing the majority of races during the existing racing meeting or, if outside of the racing season, during the most recent racing meeting.

In lieu of the amount the licensee must pay to the commission for deposit in the Minnesota breeders fund under section 240.15, subdivision 1, the licensee shall pay 5 1/2 percent of the takeout from all pari-mutuel pools generated by wagering at the licensee's facility on full racing card simulcasts and full racing card telerace simulcasts of races not conducted in this state.

(b) From the money set aside for purses, the licensee shall pay to the horseperson's organization representing the majority of the horsepersons racing the breed involved and contracting with the licensee with respect to purses and the conduct of the racing meetings and providing representation, benevolent programs, benefits, and services for horsepersons and their on-track employees, an amount, sufficient to perform these services, as may be determined by agreement by the licensee and the horseperson's organization. The amount paid may be deducted only from the money set aside for purses to be paid in races for the breed represented by the horseperson's organization. With respect to racing meetings where more than one breed is racing, the licensee may contract independently with the horseperson's organization representing each breed racing.

(c) Notwithstanding sections 325D.49 to 325D.66, a horseperson's organization representing the majority of the horsepersons racing a breed at a meeting, and the members thereof, may agree to withhold horses during a meeting.

(d) Money set aside for purses from wagering, during the racing season, on simulcasts and telerace simulcasts must be used for purses for live races conducted at the licensee's class A facility during the same racing season, over and above the 8.4 percent purse requirement or any higher requirement to which the parties agree, for races conducted in this state. Money set aside for purses from wagering, outside of the racing season, on simulcasts and telerace simulcasts must be for purses for live races conducted at the licensee's class A facility during the next racing season, over and above the 8.4 percent purse requirement or any higher requirement to which the parties agree, for races conducted in this state.

(e) Money set aside for purses from wagering on simulcasts and telerace simulcasts must be used for purses for live races involving the same breed involved in the simulcast or telerace simulcast except that money set aside for purses and payments to the breeders fund from wagering on full racing card simulcasts and full racing card telerace simulcasts of races not conducted in this state, occurring during a live mixed meet, must be allotted to the purses and breeders fund for each breed participating in the mixed meet in the same proportion that the number of live races run by each breed bears to the total number of live races conducted during the period of the mixed meet.

(f) The allocation of money set aside for purses to particular racing meets may be adjusted, relative to overpayments and underpayments, by contract

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between the licensee and the horsepersons' organization representing the majority of horsepersons racing the breed involved at the licensee's facility.

(g) Subject to the provisions of this chapter, money set aside from pari-mutuel pools for purses must be for the breed involved in the race that generated the pool, except that if the breed involved in the race generating the pari-mutuel pool is not racing in the current racing meeting, or has not raced within the preceding 12 months at the licensee's class A facility, money set aside for purses must be distributed proportionately to those breeds that have run during the preceding 12 months.

Sec. 22. Minnesota Statutes 1990, section 240.13, subdivision 6, is amended to read:

Subd. 6. **TELEvised RACES SIMULCASTING.** (a) The commission may by rule permit a class B or class D licensee to conduct on the premises of the licensed racetrack pari-mutuel betting on horse races run in other states and broadcast by television on the premises. All provisions of law governing pari-mutuel betting apply to pari-mutuel betting on televised races except as otherwise provided in this subdivision or in the commission's rules. Pari-mutuel pools conducted on such televised races may consist only of money bet on the premises and may not be commingled with any other pool off the premises, except that:

(1) the licensee may pay a fee to the person or entity conducting the race for the privileges of conducting pari-mutuel betting on the race; and

(2) the licensee may pay the costs of transmitting the broadcast of the race.

(b) Pari-mutuel betting on a televised race may be conducted only on a racing day assigned by the commission. The takeout and taxes on pari-mutuel pools on televised races are as provided for other pari-mutuel pools. All televised races under this subdivision must comply with the Interstate Horse Racing Act of 1978 as found in United States Code, title 15, section 3001 and the following relevant sections. In lieu of the purse requirement established by subdivision 5, the licensee shall set aside for purses one-half of the take-out from the amount bet on televised races after the payment of fees and taxes. For the purposes of purse distribution under subdivision 5, the average daily handle shall not include amounts bet in pari-mutuel pools on televised races.

(c) A licensee may, with the approval of the commission, transmit telecasts of races the licensee conducts, for wagering purposes, to a location outside the state. The commission may allow the licensee to commingle its wagering pools with the wagering pools at a facility located outside of this state that is regulated by a state racing commission, when it transmits telecasts under this paragraph. The commission may permit an authorized licensee to conduct simulcasting or telerace simulcasting at the licensee's facility on any day authorized by the commission. All simulcasts and telerace simulcasts must comply with the Interstate Horse Racing Act of 1978, United States Code, title 15, sections 3001 to 3007.

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In addition to teleracing programs featuring live racing conducted at the licensee's class A facility, the class E licensee may conduct not more than seven teleracing programs per week during the racing season, unless additional telerace simulcasting is authorized by the director and approved by the horsepersons' organization representing the majority of horsepersons racing the breed racing the majority of races at the licensee's class A facility during the preceding 12 months. The commission may not authorize any day for simulcasting at a class A facility during the racing season, and a licensee may not be allowed to transmit out-of-state telecasts of races the licensee conducts, unless the licensee has obtained the approval of the horsepersons' organization representing the majority of the horsepersons racing the breed involved at the licensed racetrack during the preceding 12 months. The licensee may pay fees and costs to an entity transmitting a telecast of a race to the licensee for purposes of conducting pari-mutuel wagering on the race. The licensee may deduct fees and costs related to the receipt of televised transmissions from a pari-mutuel pool on the televised race, provided that one-half of any amount recouped in this manner must be added to the amounts required to be set aside for purses.

With the approval of the commission and subject to the provisions of this subdivision, a licensee may transmit telecasts of races it conducts, for wagering purposes, to locations outside the state, and the commission may allow this to be done on a commingled pool basis.

Except as otherwise provided in this section, simulcasting and telerace simulcasting may be conducted on a separate pool basis or, with the approval of the commission, on a commingled pool basis. All provisions of law governing pari-mutuel betting apply to simulcasting and telerace simulcasting except as otherwise provided in this subdivision or in the commission's rules. If pools are commingled, wagering at the licensed facility must be on equipment electronically linked with the equipment at the licensee's class A facility or with the sending racetrack via the totalizator computer at the licensee's class A facility. Subject to the approval of the commission, the types of betting, takeout, and distribution of winnings on commingled pari-mutuel pools are those in effect at the sending racetrack. Breakage for pari-mutuel pools on a televised race must be calculated in accordance with the law or rules governing the sending racetrack for these pools, and must be distributed in a manner agreed to between the licensee and the sending racetrack. Notwithstanding sections 240.13, subdivision 7, and 240.15, subdivision 5, the commission may approve procedures governing the definition and disposition of unclaimed tickets that are consistent with the law and rules governing unclaimed tickets at the sending racetrack. For the purposes of this section, "sending racetrack" is either the racetrack outside of this state where the horse race is conducted or, with the consent of the racetrack, an alternative facility that serves as the racetrack for the purpose of commingling pools.

If there is more than one class B licensee conducting racing within the seven-county metropolitan area, simulcasting and telerace simulcasting may be conducted only on races run by a breed that ran at the licensee's class A facility

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within the 12 months preceding the event. That portion of the takeout allocated for purses from pari-mutuel pools generated by wagering on standardbreds must be set aside and must be paid to the racing commission and used for purses as otherwise provided by this section or to promote standardbred racing or both, in a manner prescribed by the commission. In the event that a licensee conducts live standardbred racing, pools generated by live, simulcast, or telerace simulcasting at the licensee's facilities on standardbred racing are subject to the purse set aside requirements otherwise provided by law.

Contractual agreements between licensees and horsepersons' organizations entered into before the effective date of this subdivision, regarding money to be set aside for purses from pools generated by simulcasts at a class A facility, are controlling regarding purse requirements through the end of the 1992 racing season.

Sec. 23. Minnesota Statutes 1990, section 240.13, subdivision 8, is amended to read:

Subd. 8. **PROHIBITED ACTS.** A licensee may not accept a bet from any person under the age of 18 years; and a licensee may not accept a bet of less than \$2 ~~\$1~~.

Sec. 24. Minnesota Statutes 1990, section 240.15, subdivision 6, is amended to read:

Subd. 6. **DISPOSITION OF PROCEEDS.** The commission shall distribute all money received under this section, and all money received from license fees and fines it collects, as follows: all money designated for deposit in the Minnesota breeders fund must be paid into that fund for distribution under section 240.18 except that all money generated by full racing card simulcasts, or full racing card telerace simulcasts of races not conducted in this state, must be distributed as provided in section 240.18, clause (2), paragraphs (a), (b), and (c). Revenue from an admissions tax imposed under subdivision 1 must be paid to the local unit of government at whose request it was imposed, at times and in a manner the commission determines. All other revenues received under this section by the commission, and all license fees, fines, and other revenue it receives, must be paid to the state treasurer for deposit in the general fund.

Sec. 25. Minnesota Statutes 1990, section 240.16, subdivision 1a, is amended to read:

Subd. 1a. **TELEvised RACING DAY SIMULCAST.** All races on which pari-mutuel betting is conducted on televised racing days must be presided over by an official of the commission. The official of the commission presiding over races conducted on televised racing days has the powers and duties as provided by rule. All simulcasts and telerace simulcasts are subject to the regulation of the commission. The commission may assign an official to preside over these activities and, if so assigned, the official has the powers and duties provided by rule.

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Sec. 26. Minnesota Statutes 1990, section 240.19, is amended to read:

240.19 CONTRACTS.

The commission shall by rule require that all contracts entered into by a class A, class B, or class D, or class E licensee for the provision of goods or services, including concessions contracts, be subject to commission approval. The rules must require that the contract include an affirmative action plan establishing goals and timetables consistent with the Minnesota Human Rights Act, chapter 363. The commission may require a contract holder to submit to it documents and records the commission deems necessary to evaluate the contract.

Sec. 27. Minnesota Statutes 1990, section 240.23, is amended to read:

240.23 RULEMAKING AUTHORITY.

The commission has the authority, in addition to all other rulemaking authority granted elsewhere in Laws 1983, this chapter 244, to promulgate rules governing:

- (a) the conduct of horse races held at licensed racetracks in Minnesota, including but not limited to the rules of racing, standards of entry, operation of claiming races, filing and handling of objections, carrying of weights, and declaration of official results;
- (b) wire communications between the premises of a licensed racetrack and any place outside the premises;
- (c) information on horse races which is sold on the premises of a licensed racetrack;
- (d) liability insurance which it may require of all class A, class B, and class D, and class E licensees;
- (e) the auditing of the books and records of a licensee by an auditor employed or appointed by the commission;
- (f) emergency action plans maintained by licensed racetracks and their periodic review;
- (g) safety, security, and sanitation of stabling facilities at licensed racetracks;
- (h) entry fees and other funds received by a licensee in the course of conducting racing which the commission determines must be placed in escrow accounts; and
- (i) the operation of teleracing facilities; and
- (j) any other aspect of horse racing or pari-mutuel betting which in its opinion affects the integrity of racing or the public health, welfare, or safety.

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Rules of the commission are subject to chapter 14, the Administrative Procedure Act.

Sec. 28. Minnesota Statutes 1990, section 240.25, subdivision 2, is amended to read:

Subd. 2. OFF-TRACK BETS. (a) No person shall:

(1) for a fee, directly or indirectly, accept anything of value from another to be transmitted or delivered for wager in any licensed pari-mutuel system of wagering on horse races, or for a fee deliver anything of value which has been received outside of the enclosure of a licensed racetrack holding a race meet licensed under this chapter or a teleracing facility, to be placed as wagers in the pari-mutuel system of wagering on horse racing within the enclosure or facility; or

(2) give anything of value to be transmitted or delivered for wager in any licensed pari-mutuel system of wagering on horse races to another who charges a fee, directly or indirectly, for the transmission or delivery.

(b) Nothing in this subdivision prohibits the conducting of pari-mutuel wagering at a licensed teleracing facility.

Sec. 29. Minnesota Statutes 1990, section 240.27, is amended to read:

240.27 EXCLUSION OF CERTAIN PERSONS.

Subdivision 1. **PERSONS EXCLUDED.** The commission may exclude from any and all licensed racetracks or licensed teleracing facilities in the state a person who:

(a) has been convicted of a felony under the laws of any state or the United States;

(b) has had a license suspended, revoked, or denied by the commission or by the racing authority of any other jurisdiction; or

(c) is determined by the commission, on the basis of evidence presented to it, to be a threat to the integrity of racing in Minnesota.

Subd. 2. **HEARING; APPEAL.** An order to exclude a person from any or all licensed racetracks or licensed teleracing facilities in the state must be made by the commission at a public hearing of which the person to be excluded must have at least five days' notice. If present at the hearing, the person must be permitted to show cause why the exclusion should not be ordered. An appeal of the order may be made in the same manner as other appeals under section 240.20.

Subd. 3. **NOTICE TO RACETRACKS.** Upon issuing an order excluding a person from any or all licensed racetracks or licensed teleracing facilities, the commission shall send a copy of the order to the excluded person and to all

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racetracks or teleracing facilities named in it, along with other information as it deems necessary to permit compliance with the order.

Subd. 4. PROHIBITIONS. It is a gross misdemeanor for a person named in an exclusion order to enter, attempt to enter, or be on the premises of a racetrack or a teleracing facility named in the order while it is in effect, and for a person licensed to conduct racing or operate a racetrack or a teleracing facility knowingly to permit an excluded person to enter or be on the premises.

Subd. 5. EXCLUSIONS BY RACETRACK. The holder of a license to conduct racing or operate a teleracing facility may eject and exclude from its premises any licensee or any other person who is in violation of any state law or commission rule or order or who is a threat to racing integrity or the public safety. A person so excluded from racetrack premises or teleracing facility may appeal the exclusion to the commission and must be given a public hearing on the appeal upon request. At the hearing the person must be given the opportunity to show cause why the exclusion should not have been ordered. If the commission after the hearing finds that the integrity of racing and the public safety do not justify the exclusion, it shall order the racetrack or teleracing facility making the exclusion to reinstate or readmit the person. An appeal of a commission order upholding the exclusion is governed by section 240.20.

Sec. 30. Minnesota Statutes 1990, section 240.28, subdivision 1, is amended to read:

Subdivision 1. FINANCIAL INTEREST. No person may serve on the commission or be employed by the division who has an interest in any corporation, association, or partnership which holds a license from the commission or which holds a contract to supply goods or services to a licensee or at a licensed racetrack or a licensed teleracing facility, including concessions contracts. No member of the commission or employee of the division may own, wholly or in part, or have an interest in a horse which races at a licensed racetrack in Minnesota. No member of the commission or employee of the division may have a financial interest in or be employed in a profession or business which conflicts with the performance of duties as a member or employee.

Sec. 31. Minnesota Statutes 1990, section 240.29, is amended to read:

240.29 REQUIRED RACES.

Each holder of a class B or D license must declare and schedule, on each racing day it conducts, ~~except for televised racing days~~, at least one race which:

(a) before January 1, 1988, is limited to horses which are Minnesota-bred, Minnesota-foaled, or Minnesota-owned, and

(b) on and after January 1, 1988, is limited to horses which are Minnesota-bred or Minnesota-foaled.

If there is not a sufficient number of such horses entered in the declared race

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to make up an adequate slate of entries, another similarly restricted race may be substituted.

The commission shall by rule define "Minnesota-bred," "Minnesota-foaled," and "Minnesota-owned."

Sec. 32. APPROPRIATION.

\$234,000 is appropriated from the general fund to the racing commission to license teleracing facilities. \$88,000 is for fiscal year 1992 and \$146,000 is for fiscal year 1993. The approved complement of the racing commission is increased by two positions in fiscal year 1992 and one additional position in fiscal year 1993.

Sec. 33. REPEALER.

Minnesota Statutes 1990, sections 240.01, subdivision 13; 240.13, subdivision 6a; and 240.14, subdivision 1a, are repealed.

Sec. 34. SEVERABILITY.

If article 1 is found unconstitutional, that finding does not affect the constitutionality of article 2.

Sec. 35. EFFECTIVE DATE.

Sections 1 to 31, 33, and 34 are effective the day following the final enactment.

ARTICLE 2

MISCELLANEOUS

Section 1. Minnesota Statutes 1990, section 3.9221, is amended by adding a subdivision to read:

Subd. 5. REPORT. The governor, the attorney general, and the governor's designated representatives shall report to the house and senate committees having jurisdiction over gambling regulation semiannually. This report shall contain information on compacts negotiated, and an outline of prospective negotiations.

Sec. 2. Minnesota Statutes 1990, section 240.02, subdivision 3, is amended to read:

Subd. 3. COMPENSATION. The compensation of commission members is \$35 per day for time spent on commission activities, when authorized by the commission, is the same as the compensation provided for members of other boards and commissions under section 15.0575, subdivision 3, plus expenses in

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the same manner and amount as provided in the commissioner's plan adopted according to section 43A.18, subdivision 2.

Sec. 3. Minnesota Statutes 1990, section 240.09, subdivision 2, is amended to read:

Subd. 2. OCCUPATIONAL LICENSES. A person who participates in the management or conduct of horse racing or pari-mutuel betting for a county fair holding a class D license who is in an occupation listed in section 240.08, subdivision 1, or the rules of the commission must have a class C license from the commission except for active members, as defined in section 349.12, of non-profit organizations who act without compensation as concession workers ~~or pari-mutuel clerks~~.

Sec. 4. Minnesota Statutes 1990, section 240.13, subdivision 2, is amended to read:

Subd. 2. REQUIREMENTS. (a) A licensee conducting pari-mutuel betting must provide at the licensed track:

- (a) (1) the necessary equipment for issuing pari-mutuel tickets; and
- (b) (2) mechanical or electronic equipment for displaying information the commission requires. All mechanical or electronic devices must be approved by the commission before being used.
- (b) A licensee conducting pari-mutuel betting must post prominently at each point of sale of pari-mutuel tickets, in a manner approved by the commissioner of human services, the toll-free telephone number established by the commissioner of human services in connection with the compulsive gambling program established under section 245.98.

Sec. 5. Minnesota Statutes 1990, section 240.18, is amended to read:

240.18 BREEDERS' FUND.

Subdivision 1. ESTABLISHMENT; APPORTIONMENT. The commission shall establish a Minnesota breeders' fund with the money paid to it under section 240.15, subdivision 1. The commission, after paying the current costs of administering the fund, shall apportion the remaining net proceeds into categories corresponding with the various breeds of horses which are racing at licensed Minnesota racetracks in proportion to each category's contribution to the fund and distribute the available net proceeds in each category as follows: provided in this section.

(+) Subd. 2. THOROUGHBRED AND QUARTERHORSE CATEGORIES. (a) With respect to available money apportioned in the thoroughbred and quarterhorse categories, 20 percent must be expended as grants for equine research and related education at public institutions of post-secondary learning within the state: follows:

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(1) at least one-half in the form of grants, contracts, or expenditures for equine research and related education at the University of Minnesota school of veterinary medicine; and

(2) the balance in the form of grants, contracts, or expenditures for one or more of the following:

(i) additional equine research and related education;

(ii) substance abuse programs for licensed personnel at racetracks in this state; and

(iii) promotion and public information regarding industry and commission activities; racehorse breeding, ownership, and management; and development and expansion of economic benefits from racing.

(b) As a condition of a grant, contract, or expenditure under paragraph (a), the commission shall require an annual report from the recipient on the use of the funds to the commission, the chair of the house of representatives committee on general legislation, veterans affairs, and gaming, and the chair of the senate committee on gaming regulation.

(c) The commission shall include in its annual report a summary of each grant, contract, or expenditure under paragraph (a), clause (2), and a description of how the commission has coordinated activities among recipients to ensure the most efficient and effective use of funds.

(d) After deducting the amount for paragraph (1) (a), the balance of the available proceeds in each category may be expended by the commission to:

(a) (1) supplement purses for races held exclusively for Minnesota-bred or Minnesota-foaled horses, and supplement purses for Minnesota-bred or Minnesota-foaled horses racing in nonrestricted races in that category;

(b) (2) pay breeders' or owners' awards to the breeders or owners of Minnesota-bred horses in that category which win money at licensed racetracks in the state; and

(c) (3) provide other financial incentives to encourage the horse breeding industry in Minnesota.

(3) Subd. 3. STANDBRED CATEGORY. (a) With respect to the available money apportioned in the standardbred category, 20 percent must be expended as follows:

(a) (1) one-half of that amount to supplement purses for standardbreds at non-pari-mutuel racetracks in the state;

(b) (2) one-fourth of that amount for the development of non-pari-mutuel standardbred tracks in the state; and

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(e) (3) one-fourth of that amount as grants for equine research and related education at public institutions of post-secondary learning in the state.

(4) (b) After deducting the amount for paragraph (3) (a), the balance of the available proceeds in the standardbred category must be expended by the commission to:

(a) (1) supplement purses for races held exclusively for Minnesota-bred and Minnesota-foaled standardbreds;

(b) (2) pay breeders or owners awards to the breeders or owners of Minnesota-bred standardbreds which win money at licensed racetracks in the state; and

(c) (3) provide other financial incentives to encourage the horse breeding industry in Minnesota.

Subd. 4. RULES; ADVISORY COMMITTEES. The commission shall adopt rules governing the distribution of the fund. The commission may establish advisory committees to advise it on the distribution of money under this section, provided that the members of an advisory committee shall serve without compensation.

Sec. 6. Minnesota Statutes 1990, section 240.24, subdivision 2, is amended to read:

Subd. 2. EXCEPTION. Notwithstanding subdivision 1, the commission by rule shall allow the use of: (1) topical external applications that do not contain anesthetics or steroids; (2) food additives; (3) Furosemide or other pulmonary hemostatic agents if the agents are administered under the visual supervision of the veterinarian or ~~assistant a designee of the~~ veterinarian employed by the commission; and (4) nonsteroidal anti-inflammatory drugs, provided that the test sample does not contain more than three micrograms of the substance or metabolites thereof per milliliter of blood plasma. For purposes of this clause, "test sample" means any bodily substance including blood, urine, saliva, or other substance as directed by the commission, taken from a horse under the supervision of the commission veterinarian and in such manner as prescribed by the commission for the purpose of analysis.

The commission shall adopt emergency rules to implement the provisions of this subdivision.

Sec. 7. Minnesota Statutes 1990, section 245.98, is amended by adding a subdivision to read:

Subd. 2a. ASSESSMENT OF CERTAIN OFFENDERS. ~~The commissioner shall adopt by rule criteria to be used in conducting compulsive gambling assessments of offenders under section 42. The commissioner shall also adopt by rule standards to qualify a person to: (1) assess offenders for compulsive gambling treatment; and (2) provide treatment indicated in a compulsive gambling assessment. The rules must specify the circumstances in which, in the absence of an independent assessor, the assessment may be performed by a person with a direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider.~~

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Sec. 8. Minnesota Statutes 1990, section 299L.01, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (a) For the purposes of this chapter, the terms defined in this subdivision have the meanings given them.

(b) "Division" means the division of gambling enforcement.

(c) "Commissioner" means the commissioner of public safety.

(d) "Director" means the director of gambling enforcement.

(e) "Manufacturer" means a person who assembles from raw materials or subparts a gambling device for sale or use in Minnesota.

(f) "Distributor" means a person who sells, offers to sell, or otherwise provides a gambling device to a person in Minnesota.

Sec. 9. [299L.07] GAMBLING DEVICES.

Subdivision 1. **RESTRICTION.** A person may not manufacture, sell, offer to sell, or otherwise provide, in whole or in part, a gambling device as defined in sections 349.30, subdivision 2, and 609.75, subdivision 4, except that a gambling device may be:

(1) manufactured as provided in section 349.40;

(2) sold, offered for sale, or otherwise provided to a distributor licensed under subdivision 3;

(3) sold, offered for sale, or otherwise provided to 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, United States Code, title 25, sections 2701 to 2721;

(4) sold, offered for sale, or otherwise provided to 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; or

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

Subd. 2. LICENSE REQUIRED. A person may not manufacture or distribute gambling devices without having obtained a license under this section.

Subd. 3. LICENSE ISSUANCE. The commissioner may issue a license under this section if the commissioner determines that the applicant will conduct the business in a manner that will not adversely affect the public health, welfare, and safety or be detrimental to the effective regulation and control of gambling. A license may not be issued under this section to a person, or a cor-

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poration, firm, or partnership that has an officer, director, or other person with a direct or indirect financial or management interest of five percent or more, who has ever:

- (1) been convicted of a felony;
- (2) been convicted of a crime involving gambling;
- (3) been connected with or engaged in an illegal business; or
- (4) had a license revoked or denied by another jurisdiction for a violation of law or rule related to gambling.

Subd. 4. APPLICATION. An application for a manufacturer's or distributor's license must be on a form prescribed by the commissioner and must, at a minimum, contain:

- (1) the name and address of the applicant and, if it is a corporation, the names of all officers, directors, and shareholders with a financial interest of five percent or more;
- (2) the names and addresses of any holding corporation, subsidiary, or affiliate of the applicant, without regard to whether the holding corporation, subsidiary, or affiliate does business in Minnesota; and
- (3) if the applicant does not maintain a Minnesota office, an irrevocable consent statement signed by the applicant, stating that suits and actions relating to the subject matter of the application or acts of omissions arising from it may be commenced against the applicant in a court of competent jurisdiction in this state by service on the secretary of state of any summons, process, or pleadings authorized by the laws of this state. If any summons, process, or pleading is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown on the application.

Subd. 5. INVESTIGATION. Before a manufacturer's or distributor's license is granted, the director may conduct a background and financial investigation of the applicant, including the applicant's sources of financing. The director may, or shall when required by law, require that fingerprints be taken and the director may forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The director may charge an investigation fee to cover the cost of the investigation.

Subd. 6. LICENSE FEES. (a) A license issued under this section is valid for one year.

(b) For a person who distributes 100 or fewer used gambling devices per year, the fee is \$1,500. For a person who distributes more than 100 used gambling devices per year, the fee is \$2,000. For purposes of this subdivision, a used gambling device is a gambling device five or more years old.

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(c) For a person who manufactures or distributes 100 or fewer new, or new and used gambling devices in a year, the fee is \$5,000. For a person who manufactures or distributes more than 100 new, or new and used gambling devices in a year, the fee is \$7,500.

Subd. 7. RENEWAL. Upon making the same determination as in subdivision 3, the commissioner may renew a license issued under this section.

Subd. 8. LICENSE SUSPENSION AND REVOCATION. (a) The commissioner may suspend a license under this section for a violation of law or rule. The commissioner may revoke a license:

(1) for a violation of law or rule which, in the commissioner's opinion, adversely affects the integrity of gambling in Minnesota;

(2) for an intentional false statement in a license application; or

(3) if the licensee is the subject of a disciplinary proceeding in another jurisdiction which results in the revocation of a license.

A revocation or suspension is a contested case under sections 14.57 to 14.69.

(b) The commissioner may summarily suspend a license prior to a contested case hearing if the commissioner determines that a summary suspension is necessary to ensure the integrity of gambling. A contested case hearing must be held within 20 days of the summary suspension and the administrative law judge must issue a report within 20 days of the close of the hearing record. The commissioner shall issue a final decision within 30 days from receipt of the report of the administrative law judge and subsequent exceptions and argument under section 14.61.

Subd. 9. REQUIRED INFORMATION. A person to whom a license is issued under this section shall provide, in a manner prescribed by the commissioner, information required by the commissioner relating to the shipment and sale of gambling devices.

Subd. 10. TRANSPORTATION OF GAMBLING DEVICES. In addition to the requirements of this section, the transportation of gambling devices into Minnesota must be in compliance with United States Code, title 15, sections 1171 to 1177, as amended.

Sec. 10. Minnesota Statutes 1990, section 349.12, is amended by adding a subdivision to read:

Subd. 3a. ALLOWABLE EXPENSE. "Allowable expense" means an expense directly related to the conduct of lawful gambling.

Sec. 11. Minnesota Statutes 1990, section 349.12, subdivision 25, is amended to read:

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Subd. 25. (a) "Lawful purpose" means one or more of the following:

- (1) any expenditure by or contribution to a 501(c)(3) organization, provided that the organization and expenditure or contribution are in conformity with standards prescribed by the board under section 349.154;
- (2) a contribution to an individual or family suffering from poverty, homelessness, or physical or mental disability, which is used to relieve the effects of that poverty, homelessness, or disability;
- (3) a contribution to an individual for treatment for delayed posttraumatic stress syndrome or a contribution to a recognized program for the treatment of compulsive gambling on behalf of an individual who is a compulsive gambler;
- (4) a contribution to or expenditure on a public or private nonprofit educational institution registered with or accredited by this state or any other state;
- (5) a contribution to a scholarship fund for defraying the cost of education to individuals where the funds are awarded through an open and fair selection process;
- (6) activities by an organization or a government entity which recognize humanitarian or military service to the United States, the state of Minnesota, or a community, subject to rules of the board;
- (7) recreational, community, and athletic facilities and activities intended primarily for persons under age 21; provided that such facilities and activities do not discriminate on the basis of gender, as evidenced by (i) provision of equipment and supplies, (ii) scheduling of activities, including games and practice times, (iii) supply and assignment of coaches or other adult supervisors, (iv) provision and availability of support facilities, and (v) whether the opportunity to participate reflects each gender's demonstrated interest in the activity, provided that nothing in this clause prohibits a contribution to or expenditure on an educational institution or other entity that is excepted from the prohibition against discrimination based on sex contained in the Higher Education Act Amendments of 1976, United States Code, title 20, section 1681;
- (8) payment of local taxes authorized under this chapter, taxes imposed by the United States on receipts from lawful gambling, and the tax imposed by section 349.212, subdivisions 1 and 4, and the tax imposed on unrelated business income by section 290.05, subdivision 3;
- (9) payment of real estate taxes and assessments on licensed gambling premises wholly owned by the licensed organization paying the taxes, not to exceed:
 - (i) the amount which an organization may expend under board rule on rent for premises used for ~~lawful gambling~~ bingo; or
 - (ii) \$15,000 per year for premises used for other forms of lawful gambling.

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(10) a contribution to the United States, this state or any of its political subdivisions, or any agency or instrumentality thereof other than a direct contribution to a law enforcement or prosecutorial agency; ~~or~~

(11) a contribution to or expenditure by a nonprofit organization, church, or body of communicants gathered in common membership for mutual support and edification in piety, worship, or religious observances; or

(12) payment of one-half of the reasonable costs of an audit required in section 349.19, subdivision 9.

(b) Notwithstanding paragraph (a), "lawful purpose" does not include:

(1) any expenditure made or incurred for the purpose of influencing the nomination or election of a candidate for public office or for the purpose of promoting or defeating a ballot question;

(2) any activity intended to influence an election or a governmental decision-making process;

(3) the erection, acquisition, improvement, expansion, repair, or maintenance of real property or capital assets owned or leased by an organization, except as provided in clause (6), unless the board has first specifically authorized the expenditures after finding that (i) the real property or capital assets will be used exclusively for one or more of the purposes in paragraph (a); (ii) with respect to expenditures for repair or maintenance only, that the property is or will be used extensively as a meeting place or event location by other nonprofit organizations or community or service groups and that no rental fee is charged for the use; (iii) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building, a building owned by the organization and destroyed or made uninhabitable by fire or natural disaster, provided that the expenditure may be only for that part of the replacement cost not reimbursed by insurance; or (iv) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building a building owned by the organization that was acquired from the organization by eminent domain or sold by the organization to a purchaser that the organization reasonably believed would otherwise have acquired the building by eminent domain, provided that the expenditure may be only for that part of the replacement cost that exceeds the compensation received by the organization for the building being replaced;

(4) an expenditure by an organization which is a contribution to a parent organization, foundation, or affiliate of the contributing organization, if the parent organization, foundation, or affiliate has provided to the contributing organization within one year of the contribution any money, grants, property, or other thing of value;

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(5) a contribution by a licensed organization to another licensed organization unless the board has specifically authorized the contribution. The board must authorize such a contribution when requested to do so by the contributing organization unless it makes an affirmative finding that the contribution will not be used by the recipient organization for one or more of the purposes in paragraph (a); or

(6) the erection, acquisition, improvement, or expansion of real property or capital assets which will be used for one or more of the purposes in paragraph (a), clause (7), unless the organization making the expenditures notifies the board at least 15 days before making the expenditure.

Sec. 12. Minnesota Statutes 1990, section 349.12, is amended by adding a subdivision to read:

Subd. 30a. PROFIT CARRYOVER. "Profit carryover" means cumulative net profit less cumulative lawful purpose expenditures.

Sec. 13. Minnesota Statutes 1990, section 349.15, is amended to read:

349.15 USE OF GROSS PROFITS.

(a) Gross profits from lawful gambling may be expended only for lawful purposes or allowable expenses as authorized at a regular meeting of the conducting organization. Provided that no more than 60 percent of the gross profit less the tax imposed under section 349.212, subdivision 1, from bingo, and no more than 50 percent of the gross profit less the tax imposed by section 349.212, subdivision 6, from other forms of lawful gambling, may be expended for allowable expenses related to lawful gambling.

(b) The board shall provide by rule for the administration of this section, including specifying allowable expenses. The rules must specify that no more than one-third of the annual premium on a policy of liability insurance procured by the organization may be taken as an allowable expense. This expense shall be allowed by the board only to the extent that it relates directly to the conduct of lawful gambling and is verified in the manner the board prescribes by rule. The rules may provide a maximum percentage of gross profits which may be expended for certain expenses.

(c) Allowable expenses also include reasonable costs of bank account service charges, and the reasonable costs of an audit required by the board, except an audit required under section 349.19, subdivision 9.

(d) Allowable expenses include reasonable legal fees and damages that relate to the conducting of lawful gambling, except for legal fees or damages incurred in defending the organization against the board, attorney general, United States attorney, commissioner of revenue, or a county or city attorney.

Sec. 14. Minnesota Statutes 1990, section 349.151, subdivision 4, is amended to read:

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Subd. 4. POWERS AND DUTIES. (a) The board has the following powers and duties:

- (1) to regulate lawful gambling to ensure it is conducted in the public interest;
- (2) to issue licenses to organizations, distributors, bingo halls, manufacturers, and gambling managers;
- (3) to collect and deposit license, permit, and registration fees due under this chapter;
- (4) to receive reports required by this chapter and inspect all premises, records, books, and other documents of organizations, distributors, manufacturers, and bingo halls to insure compliance with all applicable laws and rules;
- (5) to make rules authorized by this chapter;
- (6) to register gambling equipment and issue registration stamps;
- (7) to provide by rule for the mandatory posting by organizations conducting lawful gambling of rules of play and the odds and/or house percentage on each form of lawful gambling;
- (8) to report annually to the governor and legislature on its activities and on recommended changes in the laws governing gambling;
- (9) to impose civil penalties of not more than \$500 per violation on organizations, distributors, manufacturers, bingo halls, and gambling managers for failure to comply with any provision of this chapter or any rule of the board;
- (10) to issue premises permits to organizations licensed to conduct lawful gambling;
- (11) to delegate to the director the authority to issue licenses and premises permits under criteria established by the board;
- (12) to suspend or revoke licenses and premises permits of organizations, distributors, manufacturers, bingo halls, or gambling managers as provided in this chapter;
- (13) to register recipients of net profits from lawful gambling and to revoke or suspend the registrations;
- (14) to register employees of organizations licensed to conduct lawful gambling;
- (15) (14) to require fingerprints from persons determined by board rule to be subject to fingerprinting; and
- (16) (15) to take all necessary steps to ensure the integrity of and public confidence in lawful gambling.

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(b) Any organization, distributor, bingo hall operator, or manufacturer assessed a civil penalty may request a hearing before the board. Hearings conducted on appeals of imposition of penalties are not subject to the provisions of the administrative procedure act.

(c) All fees and penalties received by the board must be deposited in the general fund.

Sec. 15. Minnesota Statutes 1990, section 349.151, is amended by adding a subdivision to read:

Subd. 4a. PADDLEWHEEL RULES. The board shall promulgate rules governing paddlewheels before July 1, 1992. The rules must provide for operation procedures, internal control standards, posted information, records, and reports.

Sec. 16. Minnesota Statutes 1990, section 349.154, subdivision 2, is amended to read:

Subd. 2. NET PROFIT REPORTS. (a) Each licensed organization must report monthly to the board on a form prescribed by the board each expenditure and contribution of net profits from lawful gambling. The reports must provide for each expenditure or contribution:

(1) the name, address, and telephone number of the recipient of the expenditure or contribution;

(2) the date the contribution was approved by the organization;

(3) the date, amount, and check number of the expenditure or contribution; and

(4) a brief description of how the expenditure or contribution meets one or more of the purposes in section 349.12, subdivision 25, paragraph (a).

(b) Each report required under paragraph (a) must be accompanied by an acknowledgment, on a form the board prescribes, of each contribution of net profits from lawful gambling included in the report. The acknowledgment must be signed by the recipient of the contribution, or, if the recipient is not an individual, or other authorized representative of the recipient, by an officer. The acknowledgment must include the name and address of the contributing organization and each item in paragraph (a), clauses (1) to (3).

(e) The board shall provide the commissioners of revenue and public safety copies of each report received under this subdivision.

Sec. 17. Minnesota Statutes 1990, section 349.16, subdivision 3, is amended to read:

Subd. 3. TERM OF LICENSE: SUSPENSION AND REVOCATION.

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Licenses issued under this section are valid for one year two years and may be suspended by the board for a violation of law or board rule or revoked for what the board determines to be a willful violation of law or board rule. A revocation or suspension is a contested case under sections 14.57 to 14.69 of the administrative procedure act.

Sec. 18. Minnesota Statutes 1990, section 349.163, is amended by adding a subdivision to read:

Subd. 6a. PADDLEWHEEL MORATORIUM. The board must not approve new types of paddlewheel equipment for sale in this state until July 1, 1993. This subdivision applies to new types of paddlewheel equipment, samples of which are submitted to the board after March 15, 1991.

Sec. 19. Minnesota Statutes 1990, section 349.165, subdivision 1, is amended to read:

Subdivision 1. PREMISES PERMIT REQUIRED; APPLICATION. A licensed organization may not conduct lawful gambling at any site unless it has first obtained from the board a premises permit for the site. The board shall prescribe a form for permit applications, and each application for a permit must be submitted on a separate form. A premises permit issued by the board is valid for two years. The board may by rule limit the number of premises permits that may be issued to an organization.

Sec. 20. Minnesota Statutes 1990, section 349.165, subdivision 3, is amended to read:

Subd. 3. FEES. The board may issue four classes of premises permits corresponding to the classes of licenses authorized under section 349.16, subdivision 6. The annual fee for each class of permit is:

- (1) \$200 \$400 for a class A permit;
- (2) \$125 \$250 for a class B permit;
- (3) \$100 \$200 for a class C permit; and
- (4) \$75 \$150 for a class D permit.

Sec. 21. Minnesota Statutes 1990, section 349.167, subdivision 1, is amended to read:

Subdivision 1. GAMBLING MANAGER REQUIRED. (a) All lawful gambling conducted by a licensed organization must be under the supervision of a gambling manager. A gambling manager designated by an organization to supervise lawful gambling is responsible for the gross receipts of the organization and for its conduct in compliance with all laws and rules. The organization must maintain, or require the A person designated as a gambling manager to shall maintain, a fidelity bond in the sum of \$25,000 \$10,000 in favor of the organi-

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zation and the state, conditioned on (1) the faithful performance of the manager's duties; and (2) the payment of all taxes due under this chapter on lawful expenditures of gross profits from lawful gambling. The terms of the bond must provide that notice be given to the board in writing not less than 30 days before its cancellation. In the case of conflicting claims against a bond, a claim by the state has preference over a claim by the organization.

(b) A person may not act as a gambling manager for more than one organization.

(c) An organization may not conduct lawful gambling without having a gambling manager. The board must be notified in writing of a change in gambling managers. Notification must be made within ten days of the date the gambling manager assumes the manager's duties.

(d) An organization may not have more than one gambling manager at any time.

Sec. 22. Minnesota Statutes 1990, section 349.167, subdivision 2, is amended to read:

Subd. 2. **GAMBLING MANAGERS; LICENSES.** A person may not serve as a gambling manager for an organization unless the person possesses a valid gambling manager's license issued by the board. The board may issue a gambling manager's license to a person applying for the license who:

(1) has received training as required in complied with subdivision 4, clause (1);

(2) has never been convicted of a felony;

(3) within the five years before the date of the license application, has not committed a violation of law or board rule that resulted in the revocation of a license issued by the board;

(4) has never been convicted of a criminal violation involving fraud, theft, tax evasion, misrepresentation, or gambling;

(5) has never been convicted of (i) assault, (ii) a criminal violation involving the use of a firearm, or (iii) making terroristic threats; and

(6) has not engaged in conduct the board determines is contrary to the public health, welfare, or safety or the integrity of lawful gambling.

A gambling manager's license is valid for one year unless suspended or revoked. The annual fee for a gambling manager's license is \$100.

Sec. 23. Minnesota Statutes 1990, section 349.167, subdivision 4, is amended to read:

Subd. 4. **TRAINING OF GAMBLING MANAGERS.** The board shall by

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rule require all persons licensed as gambling managers to receive periodic training in laws and rules governing lawful gambling. The rules must contain the following requirements:

(1) each gambling manager must have received such receive training before being issued a new license, except that in the case of the death, disability, or termination of a gambling manager, a replacement gambling manager must receive the training within 90 days of being issued a license;

(2) each gambling manager applying for a renewal of a license must have received training within the three years prior to the date of application for the renewal; and

(3) the training required by this subdivision may be provided by a person, firm, association, or organization authorized by the board to provide the training. Before authorizing a person, firm, association, or organization to provide training, the board must determine that:

(i) the provider and all of the provider's personnel conducting the training are qualified to do so;

(ii) the curriculum to be used fully and accurately covers all elements of lawful gambling law and rules that the board determines are necessary for a gambling manager to know and understand;

(iii) the fee to be charged for participants in the training sessions is fair and reasonable; and

(iv) the training provider has an adequate system for documenting completion of training.

The rules may provide for differing training requirements for gambling managers based on the class of license held by the gambling manager's organization.

The board or the director may provide the training required by this subdivision using employees of the division.

Sec. 24. Minnesota Statutes 1990, section 349.17, subdivision 5, is amended to read:

Subd. 5. BINGO CARD NUMBERING. (a) The board shall by rule require that all licensed organizations: (1) conduct bingo only using liquid daubers on cards that bear an individual number recorded by the distributor; (2) sell all bingo cards only in the order of the numbers appearing on the cards; and (3) use each bingo card for no more than one bingo occasion. In lieu of the requirements of clauses (2) and (3), a licensed organization may electronically record the sale of each bingo card at each bingo occasion using an electronic recording system approved by the board.

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(b) The requirements of paragraph (a) do not apply to a licensed organization that (1) has never received gross receipts from bingo in excess of \$150,000 in any year; and (2) does not pay compensation to any person for participating in the conduct of lawful gambling.

Sec. 25. Minnesota Statutes 1990, section 349.172, is amended to read:

349.172 PULL-TABS; INFORMATION REQUIRED TO BE POSTED.

An organization selling pull-tabs must post for each deal of pull-tabs all major prizes that have been awarded for pull-tabs purchased from that deal. The information must be posted prominently at the point of sale of the deal. An easily legible pull-tab flare that lists prizes in that deal, and on which prizes are marked or crossed off as they are awarded, satisfies the requirement of this section that major prizes be posted, provided that a separate flare is posted for each deal of pull-tabs. An organization must post or mark off each major prize immediately upon awarding the prize. A "major prize" in a deal of pull-tabs is any prize that is at least 50 times the face value of any pull-tab in the deal. Subdivision 1. BOARD MAY REQUIRE CERTAIN POSTING. The board may issue an order requiring an organization selling pull-tabs to post major pull-tab prizes and the names of major prize winners if the board has reasonable grounds to believe that the organization, or a person receiving compensation from the organization for participating in the sale of pull-tabs, has been or is providing information to a player or players that provides an unfair advantage related to the potential winnings from pull-tabs. The board must notify the organization at least 14 days before the order becomes effective. The notice to the organization must describe the organization's right to a hearing under subdivision 3.

Subd. 2. POSTING; REQUIREMENTS. The information required to be posted under subdivision 1 must be posted prominently at the point of sale of the pull-tabs. An easily legible pull-tab flare that lists prizes in the deal for that flare, and on which prizes are marked off as they are awarded, satisfies the requirements of this section that major prizes be posted, provided that a separate flare is posted for each deal of pull-tabs. An organization must post or mark off each major prize and post the name of the prize winner immediately on awarding the prize.

Subd. 3. APPEAL. An organization to which the board issues an order under subdivision 1 may request a contested case hearing on the order. The hearing must be held within 20 days of the effective date of the order, and the report by the administrative law judge must be issued within 20 days after the close of the hearing record. The board must issue its final decision within 30 days after receipt of the report of the administrative law judge and subsequent exceptions and arguments under section 14.61.

Subd. 4. MAJOR PRIZES. For purposes of this section, a "major prize" in a deal of pull-tabs is a prize of at least 50 times the face value of any pull-tab in the deal.

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Subd. 5. COMPULSIVE GAMBLING HOTLINE NUMBER. An organization conducting lawful gambling must post at each point of sale a sign containing 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 sign must be kept in easily legible form and repair by the owner, lessee, or person having control thereof, and must either:

- (1) be approved by the commissioner; or
- (2) have lettering at least three-quarters of an inch in height, of block letter design.

Subd. 6. VOLUNTARY POSTING. Nothing in this section limits the right of an organization voluntarily to post the names of winners of lawful gambling prizes.

Sec. 26. Minnesota Statutes 1990, section 349.18, subdivision 1, is amended to read:

Subdivision 1. **LEASE OR OWNERSHIP REQUIRED.** An organization may conduct lawful gambling only on premises it owns or leases. Leases must be for a period of at least one year and must be on a form prescribed by the board. Copies of all leases must be made available to employees of the division and the division of gambling enforcement on request. A lease may not provide for payments determined directly or indirectly by the receipts or profits from lawful gambling. The board may prescribe by rule limits on the amount of rent which an organization may pay to a lessor for premises leased for lawful gambling provided that no rule of the board may prescribe a limit of less than \$1,000 per month on rent paid for premises used for lawful gambling other than bingo. Any rule adopted by the board limiting the amount of rent to be paid may only be effective for leases entered into, or renewed, after the effective date of the rule.

No person, distributor, manufacturer, lessor, or organization other than the licensed organization leasing the space may conduct any activity on the leased premises during times when lawful gambling is being conducted on the premises.

Sec. 27. Minnesota Statutes 1990, section 349.18, subdivision 1a, is amended to read:

Subd. 1a. STORAGE OF GAMBLING EQUIPMENT. (a) Gambling equipment owned by or in the possession of an organization must be kept at a licensed gambling premises owned or operated by the organization, or at other storage sites within the state that the organization has notified the board are being used as gambling equipment storage sites. At each storage site or licensed premises, the organization must have the invoices or true and correct copies of the invoices for the purchase of all gambling equipment at the site or premises. Gambling equipment owned by an organization may not be kept at a distributor's office, warehouse, storage unit, or other place of the distributor's business.

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(b) Gambling equipment, other than devices for selecting bingo numbers, owned by an organization must be secured and kept separate from gambling equipment owned by other persons, organizations, distributors, or manufacturers.

(c) Paddlewheels must be covered or disabled when not in use by the organization in the conduct of lawful gambling.

(d) Gambling equipment kept in violation of this subdivision is contraband under section 349.2125.

(e) An organization may transport gambling equipment it owns or possesses between approved gambling equipment storage sites and to and from licensed distributors.

Sec. 28. Minnesota Statutes 1990, section 349.19, subdivision 2, is amended to read:

Subd. 2. ACCOUNTS. Gross receipts from lawful gambling by each organization ~~at each permitted premises~~ must be segregated from all other revenues of the conducting organization and placed in a separate account. All expenditures for expenses, taxes, and lawful purposes must be made from the separate account except in the case of expenditures previously approved by the organization's membership for emergencies as defined by board rule. The name and address of the bank ~~and~~, the account number for ~~that~~ the separate account ~~for that licensed premises~~, and the names of organization members authorized as signatories on the separate account must be provided to the board when the application is submitted. Changes in the information must be submitted to the board at least ten days before the change is made. Gambling receipts must be deposited into the gambling bank account within three days of completion of the bingo occasion, deal, or game from which they are received; ~~and~~. Deposit records must be sufficient to allow determination of deposits made from each bingo occasion, deal, or game ~~at each permitted premises~~. The person who accounts for gambling gross receipts and profits may not be the same person who accounts for other revenues of the organization.

Sec. 29. Minnesota Statutes 1990, section 349.19, subdivision 5, is amended to read:

Subd. 5. REPORTS. A licensed organization must report to the board and to its membership monthly, or quarterly in the case of a licensed organization which does not report more than \$1,000 in gross receipts from lawful gambling in any calendar quarter, on its gross receipts, expenses, profits, and expenditure of profits from lawful gambling. The report must include a reconciliation of the organization's profit carryover with its cash balance on hand. If the organization conducts both bingo and other forms of lawful gambling, the figures for both must be reported separately. In addition, a licensed organization must report to the board monthly on its purchases of gambling equipment and must include the type, quantity, and dollar amount from each supplier separately. The reports

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must be on a form the board prescribes. Submission of the report required by section 349.154 satisfies the requirement for reporting monthly to the board on expenditure of net profits.

Sec. 30. Minnesota Statutes 1990, section 349.19, subdivision 9, is amended to read:

Subd. 9. ANNUAL AUDIT; FILING REQUIREMENT. An organization licensed under this chapter must have an annual financial audit of its lawful gambling activities and funds performed by an independent ~~auditor~~ accountant licensed by the state of Minnesota or performed by an independent ~~accountant~~ accountant who has had prior approval of the board. The board ~~commissioner of revenue~~ shall by rule prescribe standards for the audit, which must provide for the reconciliation of the organization's gambling account or accounts with the organization's reports filed under subdivision 5 and section 349.154. A complete, true, and correct copy of the audit report must be filed with ~~as prescribed by~~ the board upon completion of the audit ~~commissioner of revenue~~.

Sec. 31. Minnesota Statutes 1990, section 349.19, is amended by adding a subdivision to read:

Subd. 9a. RECORDS. An organization licensed under this chapter must maintain records that account for the assets, liabilities, and fund balance of the organization. The records must also account for the revenues, taxes, prize payouts, expenses, and lawful purpose expenditures of the organization. The records must include a perpetual inventory of games purchased but not yet played and games in play.

Sec. 32. Minnesota Statutes 1990, section 349.19, is amended by adding a subdivision to read:

Subd. 9b. ACCOUNTING MANUAL. The board must prepare and distribute to each organization licensed under this chapter a manual designed to facilitate compliance with section 31. The manual must include a clear description of the processes needed to maintain the records required in section 31. The board may contract for preparation of the manual.

Sec. 33. Minnesota Statutes 1990, section 349.211, is amended by adding a subdivision to read:

Subd. 2b. PADDLEWHEEL PRIZES. The maximum cash prize which may be awarded for a paddleticket is \$70. An organization may not sell any paddleticket for more than \$2.

Sec. 34. Minnesota Statutes 1990, section 349.213, subdivision 1, is amended to read:

Subdivision 1. LOCAL REGULATION. (a) A statutory or home rule city or county has the authority to adopt more stringent regulation of lawful gambling within its jurisdiction, including the prohibition of lawful gambling, and

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may require a permit for the conduct of gambling exempt from licensing under section 349.214. The fee for a permit issued under this subdivision may not exceed \$100. The authority granted by this subdivision does not include the authority to require a license or permit to conduct gambling by organizations or sales by distributors licensed by the board. The authority granted by this subdivision does not include the authority to require an organization to make specific expenditures of more than ten percent from its net profits derived from lawful gambling. For the purposes of this subdivision, net profits are profits less amounts expended for allowable expenses. A statutory or home rule charter city or a county may not require an organization conducting lawful gambling within its jurisdiction to make an expenditure to the city or county as a condition to operate within that city or county, except as authorized under section 349.16, subdivision 4, or 349.212; provided, however, that an ordinance requirement that such organizations must contribute ten percent of their net profits derived from lawful gambling to a fund administered and regulated by the responsible local unit of government without cost to such fund, for disbursement by the responsible local unit of government of the receipts for lawful purposes, is not considered an expenditure to the city or county nor a tax under section 349.212, and is valid and lawful.

(b) A statutory or home rule city or county may by ordinance require that a licensed organization conducting lawful gambling within its jurisdiction expend all or a portion of its expenditures for lawful purposes on lawful purposes conducted or located within the city's or county's trade area. Such an ordinance must define the city's or county's trade area and must specify the percentage of lawful purpose expenditures which must be expended within the trade area. A trade area defined by a city under this subdivision must include each city contiguous to the defining city.

(c) A more stringent regulation or prohibition of lawful gambling adopted by a political subdivision under this subdivision must apply equally to all forms of lawful gambling within the jurisdiction of the political subdivision, except a political subdivision may prohibit the use of paddlewheels.

Sec. 35. Minnesota Statutes 1990, section 349A.02, subdivision 3, is amended to read:

Subd. 3. **POWERS AND DUTIES.** In operating the lottery the director shall exercise the following powers and duties:

- (1) adopt rules and game procedures;
- (2) issue lottery retailer contracts and rule on appeals of decisions relating to those contracts;
- (3) enter into lottery procurement contracts for the provision of goods and services to the lottery;
- (4) employ personnel as are required to operate the lottery;

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(5) enter into written agreements with one or more ~~states government-authorized lotteries, or with an organization created and controlled by those lotteries,~~ for the operation, marketing, and promotion of a joint lottery;

(6) adopt and publish advertising and promotional materials consistent with section 349A.09; and

(7) take all necessary steps to ensure the integrity of, and public confidence in, the state lottery.

Sec. 36. Minnesota Statutes 1990, section 349A.06, subdivision 3, is amended to read:

Subd. 3. **BOND.** The director shall require that each lottery retailer post a bond, securities, or an irrevocable letter of credit, in an amount as the director deems necessary, to protect the financial interests of the state. If securities are deposited or an irrevocable letter of credit filed, the securities or letter of credit must be of a type or in the form provided under section 349A.07, subdivision 5, paragraphs (b) and (c).

Sec. 37. Minnesota Statutes 1990, section 349A.06, subdivision 5, is amended to read:

Subd. 5. **RESTRICTIONS ON LOTTERY RETAILERS.** (a) A lottery retailer may sell lottery tickets only on the premises described in the contract.

(b) A lottery retailer must prominently display a certificate issued by the director on the premises where lottery tickets will be sold.

(c) A lottery retailer must keep a complete set of books of account, correspondence, and all other records necessary to show fully the retailer's lottery transactions, and make them available for inspection by employees of the division at all times during business hours. The director may require a lottery retailer to furnish information as the director deems necessary to carry out the purposes of this chapter, and may require an audit to be made of the books of account and records. The director may select an auditor to perform the audit and may require the retailer to pay the cost of the audit. The auditor has the same right of access to the books of account, correspondence, and other records as is given to employees of the division.

(d) A contract issued under this section may not be transferred or assigned.

(e) The director shall require that lottery tickets may be sold by retailers only for cash.

(f) A lottery retailer must prominently post at the point of sale of lottery tickets, in a manner approved by the commissioner of human services, the toll-free telephone number established by the commissioner of human services in connection with the compulsive gambling program established under section 245.98.

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Sec. 38. Minnesota Statutes 1990, section 349A.06, subdivision 11, is amended to read:

Subd. 11. **REVOCATION CANCELLATION, SUSPENSION, AND REFUSAL TO RENEW LICENSES CONTRACTS.** (a) The director shall cancel the contract of any lottery retailer who:

- (1) has been convicted of a felony or gross misdemeanor;
- (2) has committed fraud, misrepresentation, or deceit;
- (3) has provided false or misleading information to the division; or
- (4) has acted in a manner prejudicial to public confidence in the integrity of the lottery.

(b) The director may cancel, suspend, or refuse to renew the contract of any lottery retailer who:

- (1) changes business location;
- (2) fails to account for lottery tickets received or the proceeds from tickets sold;
- (3) fails to remit funds to the director in accordance with the director's rules;
- (4) violates a law or a rule or order of the director;
- (5) fails to comply with any of the terms in the lottery retailer's contract;
- (6) fails to ~~comply with file a bond requirements, securities, or a letter of credit as required under this section subdivision 3;~~
- (7) in the opinion of the director fails to maintain a sufficient sales volume to justify continuation as a lottery retailer; or
- (8) has violated section 340A.503, subdivision 2, clause (1), two or more times within a two-year period.

(c) The director may also cancel, suspend, or refuse to renew a lottery retailer's contract if there is a material change in any of the factors considered by the director under subdivision 2.

(d) A contract cancellation, suspension, or refusal to renew under this subdivision is a contested case under sections 14.57 to 14.69 and is in addition to any criminal penalties provided for a violation of law or rule.

(e) The director may temporarily suspend a contract without notice for any of the reasons specified in this subdivision provided that a hearing is conducted within seven days after a request for a hearing is made by a lottery retailer.

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Within 20 days after receiving the administrative law judge's report, the director shall issue an order vacating the temporary suspension or making any other appropriate order. If no hearing is requested within 30 days of the temporary suspension taking effect, the ~~director may issue an order making the suspension permanent suspension becomes permanent unless the director vacates or modifies the order.~~

Sec. 39. Minnesota Statutes 1990, section 349A.08, is amended by adding a subdivision to read:

Subd. 9. PRIVACY. The phone number and street address of a winner of a lottery prize is private data on individuals under chapter 13.

Sec. 40. Minnesota Statutes 1990, section 349A.09, subdivision 2, is amended to read:

Subd. 2. CONTENT OF ADVERTISING. (a) Advertising and promotional materials for the lottery adopted or published by the director must be consistent with the dignity of the state and may only:

(1) present information on how lottery games are played, prizes offered, where and how tickets may be purchased, when drawings are held, and odds on the games advertised;

(2) identify state programs supported by lottery net revenues;

(3) present the lottery as a form of entertainment; or

(4) state the winning numbers or identity of winners of lottery prizes.

(b) The director may not adopt or publish any advertising for the lottery which:

(1) presents directly or indirectly any lottery game as a potential means of relieving any person's financial difficulties;

(2) is specifically targeted with the intent to exploit a person, a specific group or ~~an~~ economic class of people, or a religious holiday by use of a religious theme or symbol;

(3) presents the purchase of a lottery ticket as a financial investment or a way to achieve financial security;

(4) uses the name or picture of a current elected state official to promote a lottery game;

(5) exhorts the public to bet by directly or indirectly misrepresenting a person's chance of winning a prize; or

(6) denigrates a person who does not buy a lottery ticket or unduly praises a person who does buy a ticket.

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Sec. 41. Minnesota Statutes 1990, 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) The director may not credit in any fiscal year amounts to the lottery operations account which when totaled exceed 15 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.

(c) The director of the lottery may not expend after July 1, 1992 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 division is not subject to chapter 16A relating to budgeting, payroll, and the purchase of goods and services.

Sec. 42. Minnesota Statutes 1990, section 609.115, is amended by adding a subdivision to read:

Subd. 9. COMPULSIVE GAMBLING ASSESSMENT REQUIRED. (a) If a person is convicted of a felony for theft under section 609.52, embezzlement of public funds under section 609.54, or forgery under section 609.625, 609.63, or 609.631, the probation officer shall determine in the report prepared under subdivision 1 whether or not compulsive gambling contributed to the commission of the offense. If so, the report shall contain the results of a compulsive gambling assessment conducted in accordance with this subdivision. The probation officer shall make an appointment for the defendant to undergo the assessment if so indicated.

(b) The compulsive gambling assessment report must include a recommended level of care for the defendant if the assessor concludes that the defendant is in need of compulsive gambling treatment. The assessment must be conducted by an assessor qualified under section 7 to perform these assessments or to provide compulsive gambling treatment. An assessor providing a compulsive gambling assessment may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the probation officer may use the services of an assessor with a financial interest or referral relationship as authorized under rules adopted by the commissioner of human services under section 7.

(c) The commissioner of human services shall reimburse the county for the

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costs associated with a compulsive gambling assessment at a rate established by the commissioner up to a maximum of \$100 for each assessment.

Sec. 43. Minnesota Statutes 1990, section 609.75, subdivision 1, is amended to read:

Subdivision 1. **LOTTERY.** (a) A lottery is a plan which provides for the distribution of money, property or other reward or benefit to persons selected by chance from among participants some or all of whom have given a consideration for the chance of being selected. A participant's payment for use of a 900 telephone number or another means of communication that results in payment to the sponsor of the plan constitutes consideration under this paragraph.

(b) An in-package chance promotion is not a lottery if all of the following are met:

(1) participation is available, free and without purchase of the package, from the retailer or by mail or toll-free telephone request to the sponsor for entry or for a game piece;

(2) the label of the promotional package and any related advertising clearly states any method of participation and the scheduled termination date of the promotion;

(3) the sponsor on request provides a retailer with a supply of entry forms or game pieces adequate to permit free participation in the promotion by the retailer's customers;

(4) the sponsor does not misrepresent a participant's chances of winning any prize;

(5) the sponsor randomly distributes all game pieces and maintains records of random distribution for at least one year after the termination date of the promotion;

(6) all prizes are randomly awarded if game pieces are not used in the promotion; and

(7) the sponsor provides on request of a state agency a record of the names and addresses of all winners of prizes valued at \$100 or more, if the request is made within one year after the termination date of the promotion.

(c) Except as provided by section 349.40, acts in this state in furtherance of a lottery conducted outside of this state are included notwithstanding its validity where conducted.

(d) The distribution of property, or other reward or benefit by an employer to persons selected by chance from among participants who have made a contribution through a payroll or pension deduction campaign to a registered combined charitable organization, within the meaning of section 309.501, as a precondition to the chance of being selected, is not a lottery if:

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(1) all of the persons eligible to be selected are employed by or retirees of the employer;

(2) the cost of the property or other reward or benefit distributed and all costs associated with the distribution are borne by the employer; and

(3) the total amount actually expended by the employer to obtain the property or other rewards or benefits distributed by the employer during the calendar year does not exceed \$500.

Sec. 44. Minnesota Statutes 1990, section 609.75, subdivision 4, is amended to read:

Subd. 4. GAMBLING DEVICE. A gambling device is a contrivance which for a consideration affords the player an opportunity to obtain something of value, other than free plays, automatically from the machine or otherwise, the award of which is determined principally by chance. "Gambling device" also includes any a video game of chance, as defined in section 349.50, subdivision 8; that is not in compliance with sections 349.50 to 349.60.

Sec. 45. Minnesota Statutes 1990, section 609.75, is amended by adding a subdivision to read:

Subd. 8. VIDEO GAME OF CHANCE. A video game of chance is a game or device that simulates one or more games commonly referred to as poker, blackjack, craps, hi-lo, roulette, or other common gambling forms, though not offering any type of pecuniary award or gain to players. The term also includes any video game having one or more of the following characteristics:

(1) it is primarily a game of chance, and has no substantial elements of skill involved;

(2) it awards game credits or replays and contains a meter or device that records unplayed credits or replays.

Sec. 46. Minnesota Statutes 1990, section 609.75, is amended by adding a subdivision to read:

Subd. 9. 900 TELEPHONE NUMBER. A 900 telephone number is a ten-digit number, the first three numbers of which are from 900 to 999.

Sec. 47. Minnesota Statutes 1990, section 609.755, is amended to read:

609.755 ACTS OF OR RELATING TO GAMBLING.

Whoever does any of the following is guilty of a misdemeanor:

(1) makes a bet; or

(2) sells or transfers a chance to participate in a lottery; or

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(3) disseminates information about a lottery, except a lottery conducted by an adjoining state, with intent to encourage participation therein; or

(4) permits a structure or location owned or occupied by the actor or under the actor's control to be used as a gambling place; or

(5) operates a gambling device.

Clause (5) does not prohibit operation of a gambling device in a person's dwelling for amusement purposes in a manner that does not afford players an opportunity to obtain anything of value.

Sec. 48. Minnesota Statutes 1990, section 609.76, subdivision 1, is amended to read:

Subdivision 1. **GROSS MISDEMEANORS.** (a) Whoever does any of the following may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both:

(1) maintains or operates a gambling place or operates a bucket shop;

(2) intentionally participates in the income of a gambling place or bucket shop;

(3) conducts a lottery, or, with intent to conduct a lottery, possesses facilities for doing so;

(4) sets up for use for the purpose of gambling, or collects the proceeds of, any gambling device or bucket shop;

(5) with intent that it shall be so used except as provided in section 9, manufactures, sells or, offers for sale, or otherwise provides, in whole or any part thereof, any gambling device including those defined in section 349.30, subdivision 2; and any facility for conducting a lottery, except as provided by section 349.40;

(6) with intent that it be so used, manufactures, sells, or offers for sale any facility for conducting a lottery, except as provided by section 349.40; or

(7) receives, records, or forwards bets or offers to bet or, with intent to receive, record, or forward bets or offers to bet, possesses facilities to do so; or

(7) pays any compensation for game credits earned on or otherwise rewards, with anything of value other than free plays, players of video games of chance as defined in section 349.50, subdivision 8, or who directs an employee to pay any such compensation or reward.

(8) On conviction of a person for the crime established in paragraph (a), clause (7), the court shall impose a fine of not less than \$700.

Sec. 49. TRIBAL-STATE COMPACTS.

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Sections 8, 9, 44, 45, 47, and 48 do not affect the validity of, and must not be construed as prohibiting the state from entering into or participating in, a tribal-state compact with the governing body of an Indian tribe governing the conduct of video games of chance under the Indian Gaming Regulatory Act, United States Code, title 25, sections 2701 to 2721.

Sec. 50. REPORT.

The director of the gambling control board, the commissioner of public safety, and the attorney general or their designees shall jointly study the issue of requiring that all gambling equipment as defined in Minnesota Statutes, section 34.12, subdivision 24, be purchased from one or more suppliers who contract with the state for that purpose. The study shall include a recommendation as to the adoption of the requirement and a plan for implementing such a requirement. The study must include, among other things, the following options:

(1) requiring organizations to purchase gambling equipment directly from the state; and

(2) requiring organizations to purchase gambling equipment directly from suppliers who contract with the state.

The director, the commissioner, and the attorney general or their designees shall report to the legislature on the results of the study not later than February 1, 1992. The report must contain draft legislation that implements any legislative recommendation contained in the study.

Sec. 51. REPORT ON COMPULSIVE GAMBLING ASSESSMENTS.

By February 1, 1992, the commissioner of human services shall report to the chairs of the senate committees on judiciary, health and human services, and gaming regulation and the chairs of the house of representatives committees on judiciary, health and human services, and general legislation, veterans, and gaming, on a method to implement sections 245.98, subdivision 2a, and 609.115, subdivision 9.

Sec. 52. APPROPRIATION.

\$600,000 in fiscal year 1992 and \$600,000 in fiscal year 1993 is appropriated from the general fund to the commissioner of human services to implement the compulsive gambling treatment program established under Minnesota Statutes, section 245.98. Of the amounts appropriated in this section, not more than \$91,500 in each fiscal year may be spent for administrative expenses.

The director of the state lottery shall transfer \$200,000 in fiscal year 1992 and \$200,000 in fiscal year 1993 from the lottery operations account to the general fund for the costs incurred for the compulsive gambling treatment program under Minnesota Statutes, section 245.98. This transfer is in addition to any amount the director is required to transfer in those years by any other law.

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Sec. 53. REPEALER.

Minnesota Statutes 1990, section 349.154, subdivision 3, is repealed.

Sec. 54. EFFECTIVE DATE.

(a) Sections 1, 2, 3, 5, 6, 10, 11, 13 to 16, 21 to 24, 26, 28, 30, 35, 36, 38 to 40, 50, 51, the provisions of section 47 that amend Minnesota Statutes 1990, section 609.755, clause (3), 50, 51, and 53 are effective are effective the day following final enactment.

(b) Sections 4, 25, 37, and 41 are effective July 1, 1991.

(c) Sections 18 to 20 are effective August 1, 1991, and apply to licenses and permits issued on and after that date.

(d) Section 32 is effective September 1, 1991, and the manual required by that section must be distributed by that date.

(e) Sections 8, 9, 44, 45, 47 except as provided in paragraph (a), 48, and 49 are effective January 1, 1992.

(f) Sections 12, 29, and 31 are effective March 1, 1992.

(g) Sections 7 and 42 are effective July 1, 1993.

Presented to the governor May 31, 1991

Signed by the governor June 4, 1991, 8:38 p.m.

CHAPTER 337—H.F.No. 303

An act relating to waste management; making changes to state and local government responsibility and authority for waste management; placing emphasis on waste reduction and recycling; establishing specifications for recycled CFCs; adjusting waste facility siting processes; abolishing the inventory process for solid waste disposal facilities in the metropolitan area; providing for an air quality review; amending Minnesota Statutes 1990, sections 3.195, subdivision 1; 3.887, subdivision 5; 16B.122; 16B.61, subdivision 3a; 115A.02; 115A.03, subdivisions 17a and 21; 115A.06, subdivision 2; 115A.14, subdivision 4; 115A.15, subdivisions 7 and 9; 115A.151; 115A.411, subdivision 1; 115A.46, subdivision 1, and by adding a subdivision; 115A.49; 115A.53; 115A.551, subdivisions 1, 4, and by adding a subdivision; 115A.552, subdivisions 1, 2, and by adding a subdivision; 115A.554; 115A.557, subdivision 4; 115A.64, subdivision 2; 115A.67; 115A.83; 115A.84, subdivision 2, and by adding a subdivision; 115A.86, subdivision 5, and by adding a subdivision; 115A.882; 115A.9162, subdivision 2; 115A.919; 115A.921; 115A.923, subdivisions 1 and 1a; 115A.93, subdivision 3, and by adding a subdivision; 115A.931; 115A.94, subdivision 4; 115A.9561; 115A.96, subdivision 6; 115A.97, subdivision 4; 115B.04, subdivision 4; 115B.22, subdivision 8; 116.07, subdivision 4j;

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