

SUMMARY BY FUND

General Fund	1995 \$ 10,000,000
	APPROPRIATIONS
	Available for the Year
	Ending June 30
	1994 1995

Sec. 2. TRANSPORTATION

Greater Minnesota Transit \$ 1,600,000

This appropriation is added to the appropriation in Laws 1993, chapter 266, section 2, subdivision 3, clause (a), and is for greater Minnesota transit assistance.

The unspent balance of the appropriation for fiscal year 1994 in Laws 1993, chapter 266, section 2, subdivision 3, paragraph (a), on June 30, 1994, is added to this appropriation.

Sec. 3. REGIONAL TRANSIT BOARD

(a) Regular Route Transit	5,000,000
(b) Metro Mobility	2,500,000
(c) Community-based, Rural, and Small-urban Transit Systems	900,000

Presented to the governor May 6, 1994

Signed by the governor May 10, 1994, 6:20 p.m.

CHAPTER 633—S.F.No. 103

An act relating to gambling; repealing references in law to off-track betting on horse racing; authorizing revocation of racetrack license for failure to conduct live racing; recodifying gambling tax laws and applying them to gambling other than lawful gambling; setting out licensing qualifications for the division of gambling enforcement; prohibiting unauthorized possession of a gambling device; redefining lawful purposes; allowing pull-tab dispensing devices under certain circumstances; setting out licensing procedures for the gambling control board; repealing requirements for gambling stamps and substituting requirements for bar coding of gambling equipment; specifying who may negotiate tribal-state compacts on behalf of the state; establishing revolving funds and appropriating money; prescribing penalties; pro-

viding for a report on state gambling policy; providing appointments; amending Minnesota Statutes 1992, sections 3.9221, subdivisions 2 and 5; 240.05, subdivision 1; 240.06, subdivision 7; 240.09, by adding a subdivision; 240.13, subdivisions 1, 2, 3, 5, 6, and 8; 240.15, subdivision 6; 240.16, subdivision 1a; 240.25, subdivision 2, and by adding a subdivision; 240.26, subdivision 3; 240.27, subdivision 1; 240.28, subdivision 1; 270.101, subdivision 1; 299L.01, subdivision 1, and by adding a subdivision; 299L.02, subdivisions 2, 5, and by adding subdivisions; 299L.03, subdivisions 1, 2, 6, and by adding a subdivision; 299L.07; 349.12, subdivisions 1, 3a, 4, 8, 11, 16, 18, 19, 21, 23, 30, 32, 34, and by adding subdivisions; 349.13; 349.15; 349.151, subdivision 4, and by adding subdivisions; 349.152, subdivisions 2 and 3; 349.153; 349.154; 349.16, subdivisions 2, 3, 6, 8, and by adding a subdivision; 349.161, subdivisions 1 and 5; 349.162, subdivisions 1, 2, 4, and 5; 349.163, subdivisions 1, 3, 5, 6, and by adding a subdivision; 349.164, subdivisions 1, 6, and by adding a subdivision; 349.1641; 349.166, subdivisions 1, 2, and 3; 349.167, subdivisions 1, 2, 4, and by adding a subdivision; 349.168, subdivisions 3, 6, and by adding a subdivision; 349.169, subdivision 1; 349.17, subdivisions 2, 4, 5, and by adding a subdivision; 349.174; 349.18, subdivisions 1, 1a, and 2; 349.19, subdivisions 2, 5, 8, 9, and 10; 349.191, subdivisions 1, 4, and by adding subdivisions; 349.211, subdivisions 1, 2, and 2a; 349.2123; 349.2125, subdivisions 1 and 3; 349.2127, subdivisions 2, 3, 4, and by adding subdivisions; 349.213, subdivision 1; 349.22, subdivision 1; 349A.06, by adding a subdivision; 349A.10, by adding a subdivision; 349A.12, subdivisions 1, 2, 5, and 6; 541.21; and 609.755; Minnesota Statutes 1993 Supplement, section 349.12, subdivision 25; proposing coding for new law in Minnesota Statutes, chapters 4; 325E; and 349; proposing coding for new law as Minnesota Statutes, chapter 297E; repealing Minnesota Statutes 1992, sections 240.091; 299L.04; 299L.07, subdivision 7; 349.16, subdivisions 4 and 5; 349.161, subdivisions 3, 6, and 7; 349.163, subdivisions 1a and 2a; 349.164, subdivisions 3, 5, and 8; 349.166, subdivision 4; 349.167, subdivisions 3 and 5; 349.212, subdivisions 1, 2, 5, 6, and 7; 349.2121; 349.2122; 349.215; 349.2151; 349.2152; 349.216; 349.217, subdivisions 3, 4, 5, 6, 7, 8, and 9; 349.2171; and 349.219; Minnesota Statutes 1993 Supplement, sections 349.2115; 349.212, subdivision 4; and 349.217, subdivisions 1, 2, and 5a.

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

ARTICLE 1

PARI-MUTUEL RACING

Section 1. Minnesota Statutes 1992, section 240.05, subdivision 1, is amended to read:

Subdivision 1. **CLASSES.** The commission may issue ~~five~~ four 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;

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(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 teleraing facility.~~

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

Sec. 2. Minnesota Statutes 1992, section 240.06, subdivision 7, is amended to read:

Subd. 7. **LICENSE SUSPENSION AND REVOCATION.** The commission:

(1) may revoke a class A license for (i) a violation of law, order, or rule which in the commission's opinion adversely affects the integrity of horse racing in Minnesota, or for an intentional false statement made in a license application, or ~~for~~ (ii) a willful failure to pay any money required to be paid by Laws 1983, chapter 214, and

(2) may revoke a class A license for failure to perform material covenants or representations made in a license application; and

(3) shall revoke a class A license if live racing has not been conducted on at least 50 racing days assigned by the commission during any period of 12 consecutive months, unless the commission authorizes a shorter period because of circumstances beyond the licensee's control.

The commission may suspend a class A license for up to one year for a violation of law, order, or rule which in the commission's opinion adversely affects the integrity of horse racing in Minnesota, and may suspend a class A license indefinitely if it determines that the licensee has as an officer, director, shareholder, or other person with a direct, indirect, or beneficial interest a person who is in the commission's opinion inimical to the integrity of horse racing in Minnesota or who cannot be certified under subdivision 1, clause (d).

A license revocation or suspension under this subdivision 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.

Sec. 3. Minnesota Statutes 1992, section 240.09, is amended by adding a subdivision to read:

Subd. 3a. INVESTIGATION. Before granting a class D license the director shall conduct, or request the division of gambling enforcement to conduct, a comprehensive background and financial investigation of the applicant and the sources of financing. The director may charge an applicant an investigation fee

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to cover the cost of the investigation, and shall from this fee reimburse the division of gambling enforcement for its share of the cost of the investigation. The director has access to all criminal history data compiled by the division of gambling enforcement on class A licensees and applicants.

Sec. 4. Minnesota Statutes 1992, section 240.13, subdivision 1, is amended to read:

Subdivision 1. **AUTHORIZED.** (a) 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 this section.

(b) A class B or class ~~E~~ D 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 other 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~~ D licensee may present racing programs separately or concurrently.

(c) Subject to the approval of the commission; ~~for simulcasts and telerece simulcasts~~ the types of betting, takeout, and distribution of winnings on pari-mutuel pools ~~of on simulcast races at a class B or class E D 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.

(d) The commission may not authorize a class B ~~or class E~~ licensee to conduct simulcasting or telerece 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.

(e) The commission may authorize no more than five class D licensees to conduct simulcasting in any year. Simulcasting may be conducted at each class D licensee's facility;

(1) only on races conducted at another class D facility during a county fair day at that facility; and

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(2) only on standardbred races.

A class D licensee may not conduct simulcasting for wagering purposes unless the licensee has a written contract, permitting the simulcasting, with a horseperson's organization representing the standardbred industry the breed being simulcast under authority of the class D license.

Sec. 5. Minnesota Statutes 1992, 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 ~~or at the telereacing facility:~~

(1) the necessary equipment for issuing pari-mutuel tickets; and

(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. 6. Minnesota Statutes 1992, 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 telereacing facilities~~, and no licensee may conduct any type of pari-mutuel pool which has not been so designated. ~~Pari-mutuel pools permitted at licensed racetracks and pari-mutuel pools designated by the commission are permitted at telereacing facilities.~~

Sec. 7. Minnesota Statutes 1992, 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 live races conducted at a class A facility, and for races that are part of full racing card simulcasting ~~or full racing card telereace simulcasting~~ that takes place within the time period of the live races, 8.4 percent;

(2) for simulcasts ~~and telereace simulcasts~~ conducted during the racing sea-

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son 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 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 organiza-

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tion 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 telecast 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 telecast 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 telecast simulcasts~~ must be used for purses for live races involving the same breed involved in the simulcast ~~or telecast 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 telecast 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 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 may be distributed proportionately to those breeds that have run during the preceding 12 months or paid to the commission and used for purses or to promote racing for the breed involved in the race generating the pari-mutuel pool, or both, in a manner prescribed by the commission.

(h) This subdivision does not apply to a class D licensee.

Sec. 8. Minnesota Statutes 1992, section 240.13, subdivision 6, is amended to read:

Subd. 6. **SIMULCASTING.** (a) The commission may permit an authorized licensee to conduct simulcasting ~~or telecast simulcasting~~ at the licensee's facility on any day authorized by the commission. All simulcasts ~~and telecast simulcasts~~ must comply with the Interstate Horse Racing Act of 1978, United States Code, title 15, sections 3001 to 3007. ~~In addition to telecasting programs featuring live racing conducted at the licensee's class A facility, the class E~~

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licensee may conduct not more than seven telecasting programs per week during the racing season, unless additional telecasting 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.

(b) 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.

(c) 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.

(e) 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.

(f) Except as otherwise provided in this section, simulcasting and telecasting 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 telecasting 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 subdivision 7 and section 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.

(g) If there is more than one class B licensee conducting racing within the seven-county metropolitan area, simulcasting and telecasting may be

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conducted only on races run by a breed that ran at the licensee's class A facility within the 12 months preceding the event.

~~Contractual agreements between licensees and horsepersons' organizations entered into before June 5, 1991, 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. 9. Minnesota Statutes 1992, section 240.13, subdivision 8, is amended to read:

Subd. 8. **PROHIBITED ACTS.** (a) A licensee may not accept a bet or a pari-mutuel ticket for payment from any person under the age of 18 years; and a licensee may not accept a bet of less than \$1. It is an affirmative defense to a charge under this paragraph for the licensee to prove by a preponderance of the evidence that the licensee, reasonably and in good faith, relied upon representation of proof of age described in section 340A.503, subdivision 6, in accepting the bet or pari-mutuel ticket for payment.

Sec. 10. Minnesota Statutes 1992, 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 telecast simulcasts of races not conducted in this state;~~ must be distributed as provided in section 240.18, subdivisions 2, paragraph (d), clauses (1), (2), and (3); and 3. 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. 11. Minnesota Statutes 1992, section 240.16, subdivision 1a, is amended to read:

Subd. 1a. **SIMULCAST.** All simulcasts ~~and telecast 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.

Sec. 12. Minnesota Statutes 1992, 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

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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 tele racing 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 tele racing facility.~~

Sec. 13. Minnesota Statutes 1992, section 240.25, is amended by adding a subdivision to read:

Subd. 8. AGE UNDER 18. A person under the age of 18 may not place a bet or present a pari-mutuel ticket for payment with an approved pari-mutuel system.

Sec. 14. Minnesota Statutes 1992, section 240.26, subdivision 3, is amended to read:

Subd. 3. **MISDEMEANORS.** A violation of any other provision of ~~Laws 1983, this chapter 214~~ or of a rule or order of the commission for which another penalty is not provided is a misdemeanor.

Sec. 15. Minnesota Statutes 1992, section 240.27, subdivision 1, is amended to read:

Subdivision 1. **PERSONS EXCLUDED.** The commission may exclude from any and all licensed racetracks ~~or licensed tele racing 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.

Sec. 16. Minnesota Statutes 1992, section 240.28, subdivision 1, is amended to read:

Subdivision 1. **FINANCIAL INTEREST.** No person may serve on or be employed by the commission who has an interest in any corporation, association, or partnership which holds a license from the commission or which holds

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a contract to supply goods or services to a licensee or at a licensed racetrack ~~or a licensed tele racing facility~~, including concessions contracts. No member or employee of the commission may own, wholly or in part, or have an interest in a horse which races at a licensed racetrack in Minnesota. No member or employee of the commission 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. 17. **REPEALER.**

Minnesota Statutes 1992, section 240.091, is repealed.

Sec. 18. **EFFECTIVE DATE.**

Sections 1, 3 to 8, 10 to 12, and 14 to 17 are effective the day following final enactment. Sections 9 and 13 are effective August 1, 1994. Section 2 is effective April 1, 1995.

ARTICLE 2

GAMBLING TAX RECODIFICATION

Section 1. **[297E.01] DEFINITIONS.**

Subdivision 1. SCOPE. Unless otherwise defined in this chapter, or unless the context clearly indicates otherwise, the terms used in this chapter have the meaning given them in chapter 349. The definitions in this section are for tax administration purposes and apply to this chapter.

Subd. 2. BINGO. For purposes of this chapter "bingo" means the game of bingo as defined in section 349.12, subdivision 4, and as conducted under chapter 349, and any other game that is substantially the same as or similar to that game, including but not limited to a game where:

(1) players pay compensation for a game sheet, card, or paper that has spaces arranged on it in columns and rows containing printed numbers or figures, or that has spaces in which players are allowed to place their own numbers or figures, or for an electronic, mechanical, or other facsimile of such sheets, cards or paper;

(2) numbers or figures are randomly selected for comparison with the numbers or figures on each game sheet, card, paper, or facsimile;

(3) game winners are those who have a game sheet, card, paper, or facsimile with some or all of the randomly selected numbers or figures displayed thereon, in the same pattern or arrangement that has been previously designated or understood to be a winning pattern or arrangement for the game; and

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(4) game winner receive or are eligible to receive a prize such as money, property, or other reward or benefit.

Subd. 3. COMMISSIONER. "Commissioner" means the commissioner of revenue or a person to whom the commissioner has delegated functions.

Subd. 4. CONTRABAND. For purposes of this chapter, "contraband" means all of the items listed in section 349.2125, and all pull-tab or tipboard deals or portions of deals on which the tax imposed under section 297E.02 has not been paid.

Subd. 5. DISTRIBUTOR. "Distributor" means a distributor as defined in section 349.12, subdivision 11, or a person who markets, sells, or provides gambling product to a person or entity for resale or use at the retail level.

Subd. 6. FISCAL YEAR. "Fiscal year" means the period from July 1 to June 30.

Subd. 7. GAMBLING PRODUCT. "Gambling product" means bingo cards, paper, or sheets; pull-tabs; tipboards; paddletickets and paddleticket cards; raffle tickets; or any other ticket, card, board, placard, device, or token that represents a chance, for which consideration is paid, to win a prize.

Subd. 8. GROSS RECEIPTS. "Gross receipts" means all receipts derived from lawful gambling activity including, but not limited to, the following items:

(1) gross sales of bingo hard cards and paper sheets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(2) the ideal gross of pull-tab and tipboard deals or games less the value of unsold and defective tickets and before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(3) gross sales of raffle tickets and paddle tickets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(4) admission, commission, cover, or other charges imposed on participants in lawful gambling activity as a condition for or cost of participation; and

(5) interest, dividends, annuities, profit from transactions, or other income derived from the accumulation or use of gambling proceeds.

Gross receipts does not include proceeds from rental under section 349.164 or 349.18, subdivision 3.

Subd. 9. IDEAL GROSS. "Ideal gross" means the total amount of receipts that would be received if every individual ticket in the pull-tab or tipboard deal was sold at its face value. In the calculation of ideal gross and prizes, a free play ticket shall be valued at face value.

Subd. 10. MANUFACTURER. "Manufacturer" means a manufacturer as

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defined in section 349.12, subdivision 26, or a person or entity who: (1) assembles from raw materials, or from subparts or other components, a completed item of gambling product for resale, use, or receipt in Minnesota; or (2) sells, furnishes, ships, or imports completed gambling product from outside Minnesota for resale, use, receipt, or storage in Minnesota; or (3) being within the state, assembles, produces, or otherwise creates gambling products.

Subd. 11. PRIZE. "Prize" means a thing of value, other than a free play, offered or awarded to the winner of a gambling game.

Subd. 12. PULL-TAB. "Pull-tab" is a pull-tab as defined in section 349.12, subdivision 32, or any other gambling ticket or device that is substantially the same as or similar to such a pull-tab, including but not limited to, a ticket or card that:

(1) has one or more concealed numbers, figures, or symbols, or combination thereof, printed on it;

(2) may be used in games where the player knows in advance, or can determine in advance, what the pre-designated winning numbers, figures, symbols, or combinations are; and

(3) may be played by revealing the concealed ticket information and comparing that information with the pre-designated winning numbers, figures, symbols, or combinations in order to determine a winner.

Subd. 13. RAFFLE. "Raffle" means a raffle as defined in section 349.12, subdivision 33, and any other game that is played in a manner substantially similar to the play of such a raffle, including but not limited to raffles in which compensation is paid for the chance to win a thing of value, the chance is evidenced by a ticket, card, token, or equivalent item, and the winner is selected by random drawing.

Subd. 14. RETAIL LEVEL. "Retail level" means an activity where gambling product is sold to players or participants in gambling games and where the players or participants give consideration for a chance to win a prize.

Subd. 15. TAXPAYER. "Taxpayer" means a person subject to or liable for a tax imposed by this chapter, a person required to file reports or returns with the commissioner under this chapter, a person required to keep or retain records under this chapter, or a person required by this chapter to obtain or hold a permit.

Subd. 16. TICKET. "Ticket" means a valid token, card, or other tangible voucher, other than bingo cards, sheets, or paper, that grants the holder a chance or chances to participate in a game of gambling.

Subd. 17. TIPBOARD. "Tipboard" means a tipboard as defined in section 349.12, subdivision 34, and any game that is substantially the same as or similar to the game of tipboards authorized under chapter 349, including but not limited to any of the following games:

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(1) a game that consists of one or more boards, placards, or other devices in which (i) the board, placard, or other device has been marked off into a grid or columns in which each section represents a chance to win a prize, (ii) participants pay a consideration to select a section or sections, (iii) all or some of the winning numbers, figures, symbols, or other winning criteria for the game are concealed or otherwise not known by the player at the time the player obtains a chance in the game, and (iv) the numbers, figures, symbols, or other criteria for winning the game are later revealed for comparison with the information on the board, placard, or other device in order to determine a winner;

(2) a game that consists of one or more boards, placards, or other devices that (i) have tickets attached to or otherwise associated with them, and that have one or more concealed numbers, figures, or combination thereof on the tickets; (ii) participants pay a consideration to obtain the tickets, (iii) all or some of the winning numbers, figures, symbols, or other winning criteria for the game are concealed or otherwise not known by the player at the time the player obtains a chance in the game, and (iv) the numbers, figures, symbols, or other criteria for winning the game are later revealed for comparison with the information on the game tickets in order to determine a winner; or

(3) a game that consists of a deal or set of tickets that (i) have one or more concealed numbers, figures, or symbols, or combination thereof, on the tickets, (ii) participants pay a consideration to obtain the tickets, (iii) all or some of the winning numbers, figures, symbols, or combination thereof, are concealed or otherwise not known to the player at the time the player obtains the ticket, and (iv) the tickets are used in games where the numbers, figures, symbols, or other winning criteria are later revealed for comparison with the information on the game tickets in order to determine a winner.

“Tipboards” includes any game otherwise described in this subdivision in which the winning chances are determined in whole or in part by the outcome of one or more sporting events. “Tipboard” does not include boards, placards, tickets, or other devices lawfully used in connection with the operation of the state lottery under chapter 349A or the lawful conduct of pari-mutuel betting on horse racing under chapter 240.

Subd. 18. OTHER WORDS. Unless specifically defined in this chapter, or unless the context clearly indicates otherwise, the words used in this chapter have the meanings given them in chapter 349.

Sec. 2. [297E.02] TAX IMPOSED.

Subdivision 1. IMPOSITION. A tax is imposed on all lawful gambling other than (1) pull-tabs purchased and placed into inventory after January 1, 1987, and (2) tipboards purchased and placed into inventory after June 30, 1988, at the rate of ten percent on the gross receipts as defined in section 349.12, subdivision 21, less prizes actually paid. The tax imposed by this subdivision is in lieu of the tax imposed by section 297A.02 and all local taxes and license fees except a fee authorized under section 349.16, subdivision 8, or a tax authorized under subdivision 5.

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The tax imposed under this subdivision is payable by the organization or party conducting, directly or indirectly, the gambling.

Subd. 2. TAX-EXEMPT GAMBLING. An organization's receipts from lawful gambling that are excluded or exempt from licensing under section 349.166, are not subject to the tax imposed by this section or section 297A.02. This exclusion from tax is only valid if at the time of the event giving rise to the tax the organization either has an exclusion under section 349.166, subdivision 1, or has applied for and received a valid exemption from the lawful gambling control board.

Subd. 3. COLLECTION; DISPOSITION. Taxes imposed by this section are due and payable to the commissioner when the gambling tax return is required to be filed. Returns covering the taxes imposed under this section must be filed with the commissioner on or before the 20th day of the month following the close of the previous calendar month. The commissioner may require that the returns be filed via magnetic media or electronic data transfer. The proceeds, along with the revenue received from all license fees and other fees under sections 349.11 to 349.191, 349.211, and 349.213, must be paid to the state treasurer for deposit in the general fund.

Subd. 4. PULL-TAB AND TIPBOARD TAX. (a) A tax is imposed on the sale of each deal of pull-tabs and tipboards sold by a distributor. The rate of the tax is two percent of the ideal gross of the pull-tab or tipboard deal. The sales tax imposed by chapter 297A on the sale of the pull-tabs and tipboards by the distributor is imposed on the retail sales price less the tax imposed by this subdivision. The retail sale of pull-tabs or tipboards by the organization is exempt from taxes imposed by chapter 297A and is exempt from all local taxes and license fees except a fee authorized under section 349.16, subdivision 8.

(b) The liability for the tax imposed by this section is incurred when the pull-tabs and tipboards are delivered by the distributor to the customer or to a common or contract carrier for delivery to the customer, or when received by the customer's authorized representative at the distributor's place of business, regardless of the distributor's method of accounting or the terms of the sale.

The tax imposed by this subdivision is imposed on all sales of pull-tabs and tipboards, except the following:

(1) sales to the governing body of an Indian tribal organization for use on an Indian reservation;

(2) sales to distributors licensed under the laws of another state or of a province of Canada, as long as all statutory and regulatory requirements are met in the other state or province;

(3) sales of promotional tickets as defined in section 349.12; and

(4) pull-tabs and tipboards sold to an organization that sells pull-tabs and

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tipboards under the exemption from licensing in section 349.166, subdivision 2. A distributor shall require an organization conducting exempt gambling to show proof of its exempt status before making a tax-exempt sale of pull-tabs or tipboards to the organization. A distributor shall identify, on all reports submitted to the commissioner, all sales of pull-tabs and tipboards that are exempt from tax under this subdivision.

(c) A distributor having a liability of \$120,000 or more during a fiscal year ending June 30 must remit all liabilities in the subsequent calendar year by a funds transfer as defined in section 336.4A-104, paragraph (a). The funds transfer payment date, as defined in section 336.4A-401, must be on or before the date the tax is due. If the date the tax is due is not a funds transfer business day, as defined in section 336.4A-105, paragraph (a), clause (4), the payment date must be on or before the funds transfer business day next following the date the tax is due.

Subd. 5. LOCAL GAMBLING TAX. A statutory or home rule charter city that has one or more licensed organizations operating lawful gambling, and a county that has one or more licensed organizations outside incorporated areas operating lawful gambling, may impose a local gambling tax on each licensed organization within the city's or county's jurisdiction. The tax may be imposed only if the amount to be received by the city or county is necessary to cover the costs incurred by the city or county to regulate lawful gambling. The tax imposed by this subdivision may not exceed three percent of the gross receipts of a licensed organization from all lawful gambling less prizes actually paid out by the organization. A city or county may not use money collected under this subdivision for any purpose other than to regulate lawful gambling. A tax imposed under this subdivision is in lieu of all other local taxes and local investigation fees on lawful gambling. A city or county that imposes a tax under this subdivision shall annually, by March 15, file a report with the board in a form prescribed by the board showing (1) the amount of revenue produced by the tax during the preceding calendar year, and (2) the use of the proceeds of the tax.

Subd. 6. COMBINED RECEIPTS TAX. In addition to the taxes imposed under subdivisions 1 and 4, a tax is imposed on the combined receipts of the organization. As used in this section, "combined receipts" is the sum of the organization's gross receipts from lawful gambling less gross receipts directly derived from the conduct of bingo, raffles, and paddlewheels, as defined in section 349.12, subdivision 21, for the fiscal year. The combined receipts of an organization are subject to a tax computed according to the following schedule:

<u>If the combined receipts for the fiscal year are:</u>	<u>The tax is:</u>
<u>Not over \$500,000</u>	<u>zero</u>
<u>Over \$500,000, but not over \$700,000</u>	<u>two percent of the amount over \$500,000, but not over \$700,000</u>

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<u>Over \$700,000, but not over</u> <u>\$900,000</u>	<u>\$4,000 plus four percent</u> <u>of the amount over</u> <u>\$700,000, but not over</u> <u>\$900,000</u>
<u>Over \$900,000</u>	<u>\$12,000 plus six percent</u> <u>of the amount over</u> <u>\$900,000</u>

Subd. 7. UNTAXED GAMBLING PRODUCT. (a) In addition to penalties or criminal sanctions imposed by this chapter, a person, organization, or business entity possessing or selling a pull-tab or tipboard upon which the tax imposed by subdivision 4 has not been paid is liable for a tax of six percent of the ideal gross of each pull-tab or tipboard. The tax on a partial deal must be assessed as if it were a full deal.

(b) In addition to penalties and criminal sanctions imposed by this chapter, a person not licensed by the board who conducts bingo, raffles, or paddlewheel games is liable for a tax of six percent of the gross receipts from that activity.

(c) The tax must be assessed by the commissioner. An assessment must be considered a jeopardy assessment or jeopardy collection as provided in section 270.70. The commissioner shall assess the tax based on personal knowledge or information available to the commissioner. The commissioner shall mail to the taxpayer at the taxpayer's last known address, or serve in person, a written notice of the amount of tax, demand its immediate payment, and, if payment is not immediately made, collect the tax by any method described in chapter 270, except that the commissioner need not await the expiration of the times specified in chapter 270. The tax assessed by the commissioner is presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show its incorrectness or invalidity. The tax imposed under this subdivision does not apply to gambling that is exempt from taxation under subdivision 2.

Subd. 8. PERSONAL DEBT. The tax imposed by this section, and interest and penalties imposed with respect to it, are a personal debt of the person required to file a return from the time the liability for it arises, irrespective of when the time for payment of the liability occurs. The debt must, in the case of the executor or administrator of the estate of a decedent and in the case of a fiduciary, be that of the person in the person's official or fiduciary capacity only unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties, in which event the person is personally liable for any deficiency.

Subd. 9. PUBLIC INFORMATION. All records concerning the administration of the taxes under this chapter are classified as public information.

Subd. 10. REFUNDS; APPROPRIATION. A person who has, under this chapter, paid to the commissioner an amount of tax for a period in excess of the amount legally due for that period, may file with the commissioner a claim for a refund of the excess. The amount necessary to pay the refunds is appropriated from the general fund to the commissioner.

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Subd. 11. UNPLAYED OR DEFECTIVE PULL-TABS OR TIPBOARDS.

If a deal of pull-tabs or tipboards registered with the board or bar coded in accordance with chapter 349 and upon which the tax imposed by subdivision 4 has been paid is returned unplayed to the distributor, the commissioner shall allow a refund of the tax paid.

If a defective deal registered with the board or bar coded in accordance with chapter 349 and upon which the taxes have been paid is returned to the manufacturer, the distributor shall submit to the commissioner of revenue certification from the manufacturer that the deal was returned and in what respect it was defective. The certification must be on a form prescribed by the commissioner and must contain additional information the commissioner requires.

The commissioner may require that no refund under this subdivision be made unless the returned pull-tabs or tipboards have been set aside for inspection by the commissioner's employee.

Reductions in previously paid taxes authorized by this subdivision must be made when and in the manner prescribed by the commissioner.

Sec. 3. [297E.03] SPORTS BOOKMAKING TAX.

Subdivision 1. IMPOSITION OF TAX. An excise tax of six percent is imposed on the value of all bets received by, recorded by, accepted by, forwarded by, or placed with a person engaged in sports bookmaking.

Subd. 2. BET DEFINED. For purposes of this section, the term "bet" has the meaning given it in section 609.75, subdivision 2.

Subd. 3. SPORTS BOOKMAKING DEFINED. For purposes of this section, the term "sports bookmaking" has the meaning given it in section 609.75, subdivision 7.

Subd. 4. AMOUNT OF BET. In determining the value or amount of any bet for purposes of this section, all charges incident to the placing of the bet must be included.

Subd. 5. TAX RETURNS. A person engaged in sports bookmaking shall file monthly tax returns with the commissioner of revenue, in the form required by the commissioner, of all bookmaking activity, and shall include information on all bets recorded, accepted, forwarded, and placed. The returns must be filed on or before the 20th day of the month following the month in which the bets reported were recorded, accepted, forwarded, or placed. The tax imposed by this section is due and payable at the time when the returns are filed.

Subd. 6. PERSONS LIABLE FOR TAX. Each person who is engaged in receiving, recording, forwarding, or accepting sports bookmaking bets is liable for and shall pay the tax imposed under this section.

Subd. 7. JEOPARDY ASSESSMENT; JEOPARDY COLLECTION. The

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tax may be assessed by the commissioner of revenue. An assessment made pursuant to this section shall be considered a jeopardy assessment or jeopardy collection as provided in section 270.70. The commissioner shall assess the tax based on personal knowledge or information available to the commissioner. The commissioner shall mail to the taxpayer at the taxpayer's last known address, or serve in person, a written notice of the amount of tax, demand its immediate payment, and, if payment is not immediately made, collect the tax by any method described in chapter 270, except that the commissioner need not await the expiration of the times specified in chapter 270. The tax assessed by the commissioner is presumed to be valid and correctly determined and assessed.

Subd. 8. DISCLOSURE PROHIBITED. (a) Notwithstanding any law to the contrary, neither the commissioner nor a public employee may reveal facts contained in a sports bookmaking tax return filed with the commissioner of revenue as required by this section, nor can any information contained in the report or return be used against the tax obligor in any criminal proceeding, unless independently obtained, except in connection with a proceeding involving taxes due under this section, or as provided in section 270.064.

(b) Any person violating this section is guilty of a gross misdemeanor.

(c) This section does not prohibit the commissioner from publishing statistics that do not disclose the identity of tax obligors or the contents of particular returns or reports.

Sec. 4. [297E.031] GAMBLING TAX PERMIT.

Subdivision 1. APPLICATION AND ISSUANCE. A distributor who sells gambling products under this chapter must file with the commissioner an application, on a form prescribed by the commissioner, for a gambling tax permit and identification number. The commissioner, when satisfied that the applicant has a valid license from the board, shall issue the applicant a permit and number. A permit is not assignable and is valid only for the distributor in whose name it is issued.

Subd. 2. SUSPENSION; REVOCATION. (a) If a distributor fails to comply with this chapter or a rule of the commissioner, or if a license issued under chapter 349 is revoked or suspended, the commissioner, after giving notice, may for reasonable cause revoke or suspend a permit held by a distributor. A notice must be sent to the distributor at least 15 days before the proposed suspension or revocation is to take effect. The notice must give the reason for the proposed suspension or revocation and must require the distributor to show cause why the proposed action should not be taken. The notice may be served personally or by mail.

(b) The notice must inform the distributor of the right to a contested case hearing. If a request in writing is made to the commissioner within 14 days of the date of the notice, the commissioner shall defer action on the suspension or revocation and shall refer the case to the office of administrative hearings for the scheduling of a contested case hearing. The distributor must be served with 20

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days' notice in writing specifying the time and place of the hearing and the allegations against the distributor.

(c) The commissioner shall issue a final order following receipt of the recommendation of the administrative law judge.

(d) Under section 271.06, subdivision 1, an appeal to the tax court may be taken from the commissioner's order of revocation or suspension. The commissioner may not issue a new permit after revocation except upon application accompanied by reasonable evidence of the intention of the applicant to comply with all applicable laws and rules.

Sec. 5. [297E.04] MANUFACTURER'S REPORTS AND RECORDS.

Subdivision 1. REPORTS OF SALES. A manufacturer who sells gambling product for use or resale in this state, or for receipt by a person or entity in this state, shall file with the commissioner, on a form prescribed by the commissioner, a report of gambling product sold to any person in the state, including the established governing body of an Indian tribe recognized by the United States Department of the Interior. The report must be filed monthly on or before the 20th day of the month succeeding the month in which the sale was made. The commissioner may require that the report be submitted via magnetic media or electronic data transfer. The commissioner may inspect the premises, books, records, and inventory of a manufacturer without notice during the normal business hours of the manufacturer. A person violating this section is guilty of a misdemeanor.

Subd. 2. BAR CODES. The flare of each pull-tab and tipboard game must be imprinted by the manufacturer with a bar code that provides all information prescribed by the commissioner. The commissioner must require that the bar code include the serial number of the game. A manufacturer must also affix to the outside of the box containing these games a bar code providing all information prescribed by the commissioner. The commissioner may also prescribe additional bar coding requirements.

No person may alter the bar code that appears on the outside of a box containing a deal of pull-tabs and tipboards. Possession of a box containing a deal of pull-tabs and tipboards that has a bar code different from the bar code of the deal inside the box is prima facie evidence that the possessor has altered the bar code on the box.

Subd. 3. PADDLETICKET CARD MASTER FLARES. Each sealed grouping of 100 paddleticket cards must have its own individual master flare. The manufacturer of the paddleticket cards must affix to or imprint at the bottom of each master flare a bar code that provides:

- (1) the name of the manufacturer;
- (2) the first paddleticket card number in the group;

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(3) the number of paddletickets attached to each paddleticket card in the group; and

(4) all other information required by the commissioner. This subdivision applies to paddleticket cards (i) sold by a manufacturer after June 30, 1995, for use or resale in Minnesota or (ii) shipped into or caused to be shipped into Minnesota by a manufacturer after June 30, 1995. Paddleticket cards that are subject to this subdivision may not have a registration stamp affixed to the master flare.

Sec. 6. [297E.05] DISTRIBUTOR REPORTS AND RECORDS.

Subdivision 1. BUSINESS RECORDS. A distributor shall keep at each place of business complete and accurate records for that place of business, including itemized invoices of gambling product held, purchased, manufactured, or brought in or caused to be brought in from without this state, and of all sales of gambling product. The records must show the names and addresses of purchasers, the inventory at the close of each period for which a return is required of all gambling product on hand, and other pertinent papers and documents relating to the purchase, sale, or disposition of gambling product. Books, records, itemized invoices, and other papers and documents required by this section must be kept for a period of at least 3-1/2 years after the date of the documents, or the date of the entries appearing in the records, unless the commissioner of revenue authorizes in writing their destruction or disposal at an earlier date.

Subd. 2. SALES RECORDS. A distributor must maintain a record of all gambling product that it sells. The record must include:

(1) the identity of the person from whom the distributor purchased the product;

(2) the registration number of the product;

(3) the name, address, and license or exempt permit number of the organization or person to which the sale was made;

(4) the date of the sale;

(5) the name of the person who ordered the product;

(6) the name of the person who received the product;

(7) the type of product;

(8) the serial number of the product;

(9) the name, form number, or other identifying information for each game; and

(10) in the case of bingo hard cards or sheets sold on and after January 1, 1991, the individual number of each card or sheet.

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Subd. 3. INVOICES. A distributor shall give with each sale of gambling product an itemized invoice showing the distributor's name and address, the purchaser's name and address, the date of the sale, description of the deals, including the ideal gross from every deal of pull-tabs and every deal of tipboards.

Subd. 4. REPORTS. A distributor shall report monthly to the commissioner, on a form the commissioner prescribes, its sales of each type of gambling product. This report must be filed monthly on or before the 20th day of the month succeeding the month in which the sale was made. The commissioner may require that a distributor submit the monthly report and invoices required in this subdivision via magnetic media or electronic data transfer.

Subd. 5. CERTIFIED PHYSICAL INVENTORY. The commissioner may, upon request, require a distributor to furnish a certified physical inventory of all gambling product in stock. The inventory must contain the information required by the commissioner.

Sec. 7. [297E.06] ORGANIZATION REPORTS AND RECORDS.

Subdivision 1. REPORTS. An organization must file with the commissioner, on a form prescribed by the commissioner, a report showing all gambling activity conducted by that organization for each month. Gambling activity includes all gross receipts, prizes, all gambling taxes owed or paid to the commissioner, all gambling expenses, and all lawful purpose and board-approved expenditures. The report must be filed with the commissioner on or before the 20th day of the month following the month in which the gambling activity takes place. The commissioner may require that the reports be filed via magnetic media or electronic data transfer.

Subd. 2. BUSINESS RECORDS. An organization shall maintain records supporting the gambling activity reported to the commissioner. Records include, but are not limited to, the following items:

(1) all winning and unsold tickets, cards, or stubs for pull-tab, tipboard, paddlewheel, and raffle games;

(2) all reports and statements, including checker's records, for each bingo occasion;

(3) all cash journals and ledgers, deposit slips, register tapes, and bank statements supporting gambling activity receipts;

(4) all invoices that represent purchases of gambling product;

(5) all canceled checks, check recorders, journals and ledgers, vouchers, invoices, bank statements, and other documents supporting gambling activity expenditures; and

(6) all organizational meeting minutes.

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All records required to be kept by this section must be preserved by the organization for at least 3-1/2 years and may be inspected by the commissioner of revenue at any reasonable time without notice or a search warrant.

Subd. 3. ACCOUNTS. All gambling activity transactions must be segregated from all other revenues and expenditures made by the conducting organization.

Subd. 4. ANNUAL AUDIT. (a) An organization licensed under chapter 349 with gross receipts from lawful gambling of more than \$250,000 in any year must have an annual financial audit of its lawful gambling activities and funds for that year. An organization licensed under chapter 349 with gross receipts from lawful gambling of more than \$50,000 but not more than \$250,000 in any year must have an annual financial review of its lawful gambling activities and funds for that year. Audits and financial reviews under this subdivision must be performed by an independent accountant licensed by the state of Minnesota.

(b) The commissioner of revenue shall prescribe standards for audits and financial review required under this subdivision. The standards may vary based on the gross receipts of the organization. The standards must incorporate and be consistent with standards prescribed by the American institute of certified public accountants. A complete, true, and correct copy of the audit report must be filed as prescribed by the commissioner.

Sec. 8. [297E.07] INSPECTION RIGHTS.

At any reasonable time, without notice and without a search warrant, the commissioner may enter a place of business of a manufacturer, distributor, or organization; any site from which pull-tabs or tipboards or other gambling equipment or gambling product are being manufactured, stored, or sold; or any site at which lawful gambling is being conducted, and inspect the premises, books, records, and other documents required to be kept under this chapter to determine whether or not this chapter is being fully complied with. If the commissioner is denied free access to or is hindered or interfered with in making an inspection of the place of business, books, or records, the permit of the distributor may be revoked by the commissioner, and the license of the manufacturer, the distributor, or the organization may be revoked by the board.

Sec. 9. [297E.08] EXAMINATIONS.

Subdivision 1. EXAMINATION OF TAXPAYER. To determine the accuracy of a return or report, or in fixing liability under this chapter, the commissioner may make reasonable examinations or investigations of a taxpayer's place of business, tangible personal property, equipment, computer systems and facilities, pertinent books, records, papers, vouchers, computer printouts, accounts, and documents.

Subd. 2. ACCESS TO RECORDS OF OTHER PERSONS IN CONNECTION WITH EXAMINATION OF TAXPAYER. When conducting an investi-

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gation or an audit of a taxpayer, the commissioner may examine, except where privileged by law, the relevant records and files of a person, business, institution, financial institution, state agency, agency of the United States government, or agency of another state where permitted by statute, agreement, or reciprocity. The commissioner may compel production of these records by subpoena. A subpoena may be served directly by the commissioner.

Subd. 3. POWER TO COMPEL TESTIMONY. In the administration of this chapter, the commissioner may:

(1) administer oaths or affirmations and compel by subpoena the attendance of witnesses, testimony, and the production of a person's pertinent books, records, papers, or other data;

(2) examine under oath or affirmation any person regarding the business of a taxpayer concerning a matter relevant to the administration of this chapter. The fees of witnesses required by the commissioner to attend a hearing are equal to those allowed to witnesses appearing before courts of this state. The fees must be paid in the manner provided for the payment of other expenses incident to the administration of state tax law; and

(3) in addition to other remedies available, bring an action in equity by the state against a taxpayer for an injunction ordering the taxpayer to file a complete and proper return or amended return. The district courts of this state have jurisdiction over the action, and disobedience of an injunction issued under this clause must be punished as for contempt.

Subd. 4. THIRD-PARTY SUBPOENA WHERE TAXPAYER'S IDENTITY IS KNOWN. An investigation may extend to any person that the commissioner determines has access to information that may be relevant to the examination or investigation. If a subpoena requiring the production of records under subdivision 2 is served on a third-party record keeper, written notice of the subpoena must be mailed to the taxpayer and to any other person who is identified in the subpoena. The notices must be given within three days of the day on which the subpoena is served. Notice to the taxpayer required by this section is sufficient if it is mailed to the last address on record with the commissioner of revenue.

The provisions of this subdivision relating to notice to the taxpayer or other parties identified in the subpoena do not apply if there is reasonable cause to believe that the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

Subd. 5. THIRD-PARTY SUBPOENA WHERE TAXPAYER'S IDENTITY IS NOT KNOWN. A subpoena that does not identify the person or persons whose tax liability is being investigated may be served only if:

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(1) the subpoena relates to the investigation of a particular person or ascertainable group or class of persons;

(2) there is a reasonable basis for believing that the person or group or class of persons may fail or may have failed to comply with tax laws administered by the commissioner of revenue;

(3) the subpoena is clear and specific concerning information sought to be obtained; and

(4) the information sought to be obtained is limited solely to the scope of the investigation.

A party served with a subpoena that does not identify the person or persons with respect to whose tax liability the subpoena is issued may, within three days after service of the subpoena, petition the district court in the judicial district in which that party is located for a determination whether the commissioner of revenue has complied with all the requirements in clauses (1) to (4), and whether the subpoena is enforceable. If no petition is made by the party served within the time prescribed, the subpoena has the effect of a court order.

Subd. 6. REQUEST BY TAXPAYER FOR SUBPOENA. If the commissioner has the power to issue a subpoena for investigative or auditing purposes, the commissioner shall honor a reasonable request by the taxpayer to issue a subpoena on the taxpayer's behalf in connection with the investigation or audit.

Subd. 7. APPLICATION TO COURT FOR ENFORCEMENT OF SUBPOENA. The commissioner or the taxpayer may apply to the district court of the county of the taxpayer's residence, place of business, or county where the subpoena can be served as with any other case at law, for an order compelling the appearance of the subpoenaed witness or the production of the subpoenaed records. Failure to comply with the order of the court for the appearance of a witness or the production of records may be punished by the court as for contempt.

Subd. 8. COST OF PRODUCTION OF RECORDS. The cost of producing records of a third party required by a subpoena must be paid by the taxpayer if the taxpayer requests the subpoena to be issued or if the taxpayer has the records available but has refused to provide them to the commissioner. In other cases where the taxpayer cannot produce records and the commissioner then issues a subpoena for third-party records, the commissioner shall pay the reasonable cost of producing the records. The commissioner may later assess the reasonable costs against the taxpayer if the records contribute to the determination of an assessment of tax against the taxpayer.

Sec. 10. [297E.09] ASSESSMENTS.

Subdivision 1. GENERALLY. The commissioner shall make determinations, corrections, and assessments with respect to taxes, including interest, additions to taxes, and assessable penalties, imposed under this chapter.

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Subd. 2. COMMISSIONER FILED RETURNS. If a taxpayer fails to file a return required by this chapter, the commissioner may make a return for the taxpayer from information in the commissioner's possession or obtainable by the commissioner. The return is prima facie correct and valid.

Subd. 3. ORDER OF ASSESSMENT; NOTICE AND DEMAND TO TAXPAYER. (a) If a return has been filed and the commissioner determines that the tax disclosed by the return is different from the tax determined by the examination, the commissioner shall send an order of assessment to the taxpayer. The order must explain the basis for the assessment and must explain the taxpayer's appeal rights. An assessment by the commissioner must be made by recording the liability of the taxpayer in the office of the commissioner, which may be done by keeping a copy of the order of assessment sent to the taxpayer. An order of assessment is final when made but may be reconsidered by the commissioner under section 349.219.

(b) The amount of unpaid tax shown on the order must be paid to the commissioner:

(1) within 60 days after notice of the amount and demand for its payment have been mailed to the taxpayer by the commissioner; or

(2) if an administrative appeal is filed under section 349.219 within 60 days following the determination or compromise of the appeal.

Subd. 4. ERRONEOUS REFUNDS. An erroneous refund is considered an underpayment of tax on the date made. An assessment of a deficiency arising out of an erroneous refund may be made at any time within two years from the making of the refund. If part of the refund was induced by fraud or misrepresentation of a material fact, the assessment may be made at any time.

Subd. 5. ASSESSMENT PRESUMED VALID. A return or assessment made by the commissioner is prima facie correct and valid. The taxpayer has the burden of establishing the incorrectness or invalidity of the return or assessment in any action or proceeding in respect to it.

Subd. 6. AGGREGATE REFUND OR ASSESSMENT. On examining returns of a taxpayer for more than one year or period, the commissioner may issue one order covering the period under examination that reflects the aggregate refund or additional tax due.

Subd. 7. SUFFICIENCY OF NOTICE. An order of assessment sent by United States mail, postage prepaid to the taxpayer at the taxpayer's last known address, is sufficient even if the taxpayer is deceased or is under a legal disability, or, in the case of a corporation, has terminated its existence, unless the department has been provided with a new address by a party authorized to receive notices of assessment.

Sec. 11. [297E.10] EXTENSIONS FOR FILING RETURNS AND PAYING TAXES.

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If, in the commissioner's judgment, good cause exists, the commissioner may extend the time for filing tax returns, paying taxes, or both, for not more than six months.

Sec. 12. [297E.11] LIMITATIONS ON TIME FOR ASSESSMENT OF TAX.

Subdivision 1. GENERAL RULE. Except as otherwise provided in this chapter, the amount of taxes assessable must be assessed within 3-1/2 years after the return is filed, whether or not the return is filed on or after the date prescribed. A return must not be treated as filed until it is in processible form. A return is in processible form if it is filed on a permitted form and contains sufficient data to identify the taxpayer and permit the mathematical verification of the tax liability shown on the return.

Subd. 2. FALSE OR FRAUDULENT RETURN. Notwithstanding subdivision 1, the tax may be assessed at any time if a false or fraudulent return is filed or if a taxpayer fails to file a return.

Subd. 3. OMISSION IN EXCESS OF 25 PERCENT. Additional taxes may be assessed within 6-1/2 years after the due date of the return or the date the return was filed, whichever is later, if the taxpayer omits from a tax return taxes in excess of 25 percent of the taxes reported in the return.

Subd. 4. TIME LIMIT FOR REFUNDS. Unless otherwise provided in this chapter, a claim for a refund of an overpayment of tax must be filed within 3-1/2 years from the date prescribed for filing the return, plus any extension of time granted for filing the return, but only if filed within the extended time, or two years from the time the tax is paid, whichever period expires later. Interest on refunds must be computed at the rate specified in section 270.76 from the date of payment to the date the refund is paid or credited. For purposes of this subdivision, the date of payment is the later of the date the tax was finally due or was paid.

Subd. 5. BANKRUPTCY; SUSPENSION OF TIME. The time during which a tax must be assessed or collection proceedings begun is suspended during the period from the date of a filing of a petition in bankruptcy until 30 days after either:

- (1) notice to the commissioner that the bankruptcy proceedings have been closed or dismissed; or
- (2) the automatic stay has been ended or has expired, whichever occurs first.

The suspension of the statute of limitations under this subdivision applies to the person the petition in bankruptcy is filed against, and all other persons who may also be wholly or partially liable for the tax.

Subd. 6. EXTENSION AGREEMENT. If before the expiration of time prescribed in subdivisions 1 and 4 for the assessment of tax or the filing of a claim for refund, both the commissioner and the taxpayer have consented in writing to the assessment or filing of a claim for refund after that time, the tax

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may be assessed or the claim for refund filed at any time before the expiration of the agreed upon period. The period may be extended by later agreements in writing before the expiration of the period previously agreed upon.

Sec. 13. [297E.12] CIVIL PENALTIES.

Subdivision 1. PENALTY FOR FAILURE TO PAY TAX. If a tax is not paid within the time specified for payment, a penalty is added to the amount required to be shown as tax. The penalty is five percent of the unpaid tax if the failure is for not more than 30 days, with an additional penalty of five percent of the amount of tax remaining unpaid during each additional 30 days or fraction of 30 days during which the failure continues, not exceeding 15 percent in the aggregate.

If the taxpayer has not filed a return, for purposes of this subdivision the time specified for payment is the final date a return should have been filed.

Subd. 2. PENALTY FOR FAILURE TO MAKE AND FILE RETURN. If a taxpayer fails to make and file a return within the time prescribed or an extension, a penalty is added to the tax. The penalty is five percent of the amount of tax not paid on or before the date prescribed for payment of the tax.

If a taxpayer fails to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision must be at least the lesser of: (1) \$200; or (2) the greater of (i) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax, or (ii) \$50.

Subd. 3. COMBINED PENALTIES. When penalties are imposed under subdivisions 1 and 2, except for the minimum penalty under subdivision 2, the penalties imposed under both subdivisions combined must not exceed 38 percent.

Subd. 4. PENALTY FOR INTENTIONAL DISREGARD OF LAW OR RULES. If part of an additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there is added to the tax an amount equal to ten percent of the additional assessment.

Subd. 5. PENALTY FOR FALSE OR FRAUDULENT RETURN; EVASION. If a person files a false or fraudulent return, or attempts in any manner to evade or defeat a tax or payment of tax, there is imposed on the person a penalty equal to 50 percent of the tax found due for the period to which the return related, less amounts paid by the person on the basis of the false or fraudulent return.

Subd. 6. PENALTY FOR REPEATED FAILURES TO FILE RETURNS OR PAY TAXES. If there is a pattern by a person of repeated failures to timely

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file returns or timely pay taxes, and written notice is given that a penalty will be imposed if such failures continue, a penalty of 25 percent of the amount of tax not timely paid as a result of each such subsequent failure is added to the tax. The penalty can be abated under the abatement authority in section 270.07, subdivisions 1, paragraph (e), and 6.

Subd. 7. PENALTY FOR SALES AFTER REVOCATION, SUSPENSION, OR EXPIRATION. A distributor who engages in, or whose representative engages in, the offering for sale, sale, transport, delivery, or furnishing of gambling equipment to a person, firm, or organization, after the distributor's license or permit has been revoked or suspended, or has expired, and until such license or permit has been reinstated or renewed, is liable for a penalty of \$1,000 for each day the distributor continues to engage in the activity. This subdivision does not apply to the transport of gambling equipment for the purpose of returning the equipment to a licensed manufacturer.

Subd. 8. PAYMENT OF PENALTIES. The penalties imposed by this section must be collected and paid in the same manner as taxes.

Subd. 9. PENALTIES ARE ADDITIONAL. The civil penalties imposed by this section are in addition to the criminal penalties imposed by this chapter.

Subd. 10. ORDER PAYMENTS CREDITED. All payments received may be credited first to the oldest liability not secured by a judgment or lien in the discretion of the commissioner of revenue, but in all cases must be credited first to penalties, next to interest, and then to the tax due.

Sec. 14. [297E.13] TAX-RELATED CRIMINAL PENALTIES.

Subdivision 1. PENALTY FOR FAILURE TO FILE OR PAY. (a) A person required to file a return, report, or other document with the commissioner, who knowingly fails to file it when required, is guilty of a gross misdemeanor. A person required to file a return, report, or other document who willfully attempts to evade or defeat a tax by failing to file it when required is guilty of a felony.

(b) A person required to pay or to collect and remit a tax, who knowingly fails to do so when required, is guilty of a gross misdemeanor. A person required to pay or to collect and remit a tax, who willfully attempts to evade or defeat a tax law by failing to do so when required is guilty of a felony.

Subd. 2. FALSE OR FRAUDULENT RETURNS; PENALTIES. (a) A person required to file a return, report, or other document with the commissioner, who delivers to the commissioner a return, report, or other document known by the person to be fraudulent or false concerning a material matter is guilty of a felony.

(b) A person who knowingly aids or assists in, or advises in the preparation or presentation of a return, report, or other document that is fraudulent or false concerning a material matter, whether or not the falsity or fraud committed is with the knowledge or consent of the person authorized or required to present the return, report, or other document, is guilty of a felony.

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Subd. 3. FALSE INFORMATION. A person is guilty of a felony if the person:

(1) is required by section 297E.05 to keep records or to make returns, and falsifies or fails to keep the records or falsifies or fails to make the returns; or

(2) knowingly submits materially false information in any report, document, or other communication submitted to the commissioner in connection with lawful gambling or with this chapter.

Subd. 4. SALES WITHOUT PERMIT; VIOLATIONS. (a) A person who engages in the business of selling gambling product in Minnesota without the licenses or permits required under this chapter or chapter 349, or an officer of a corporation who so engages in the sales, is guilty of a gross misdemeanor.

(b) A person selling gambling product in Minnesota after revocation of a license or permit under this chapter or chapter 349, when the commissioner or the board has not issued a new license or permit, is guilty of a felony.

Subd. 5. UNTAXED GAMBLING EQUIPMENT. It is a gross misdemeanor for a person to possess gambling equipment for resale in this state that has not been stamped or bar-coded in accordance with chapter 349 and upon which the taxes imposed by chapter 297A or section 297E.02, subdivision 4, have not been paid. The director of gambling enforcement or the commissioner or the designated inspectors and employees of the director or commissioner may seize in the name of the state of Minnesota any unregistered or untaxed gambling equipment.

Subd. 6. CRIMINAL PENALTIES. (a) Criminal penalties imposed by this section are in addition to civil penalties imposed by this chapter.

(b) A person who violates a provision of this chapter for which another penalty is not provided is guilty of a misdemeanor.

(c) A person who violates a provision of this chapter for which another penalty is not provided is guilty of a gross misdemeanor if the violation occurs within five years after a previous conviction under a provision of this chapter.

(d) A person who in any manner violates a provision of this chapter to evade a tax imposed by this chapter, or who aids and abets the evasion of a tax, or hinders or interferes with a seizing authority when a seizure is made as provided by section 297E.16 is guilty of a gross misdemeanor.

(e) This section does not preclude civil or criminal action under other applicable law or preclude any agency of government from investigating or prosecuting violations of this chapter or chapter 349. County attorneys have primary responsibility for prosecuting violations of this chapter, but the attorney general may prosecute a violation of this chapter.

Subd. 7. STATUTE OF LIMITATIONS. Notwithstanding section 628.26,

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or other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a criminal offense named in this section, in the proper court within six years after the offense is committed.

Sec. 15. [297E.14] INTEREST.

Subdivision 1. INTEREST RATE. If an interest assessment is required under this section, interest is computed at the rate specified in section 270.75.

Subd. 2. LATE PAYMENT. If a tax is not paid within the time specified by law for payment, the unpaid tax bears interest from the date the tax should have been paid until the date the tax is paid.

Subd. 3. EXTENSIONS. If an extension of time for payment has been granted, interest must be paid from the date the payment should have been made if no extension had been granted, until the date the tax is paid.

Subd. 4. ADDITIONAL ASSESSMENTS. If a taxpayer is liable for additional taxes because of a redetermination by the commissioner, or for any other reason, the additional taxes bear interest from the time the tax should have been paid, without regard to any extension allowed, until the date the tax is paid.

Subd. 5. ERRONEOUS REFUNDS. In the case of an erroneous refund, interest accrues from the date the refund was paid unless the erroneous refund results from a mistake of the department, then no interest or penalty is imposed unless the deficiency assessment is not satisfied within 60 days of the order.

Subd. 6. INTEREST ON JUDGMENTS. Notwithstanding section 549.09, if judgment is entered in favor of the commissioner with regard to any tax, the judgment bears interest at the rate specified in section 270.75 from the date the judgment is entered until the date of payment.

Subd. 7. INTEREST ON PENALTIES. (a) A penalty imposed under section 297E.12, subdivision 1, 2, 3, 4, or 5, bears interest from the date the return or payment was required to be filed or paid, including any extensions, to the date of payment of the penalty.

(b) A penalty not included in paragraph (a) bears interest only if it is not paid within ten days from the date of notice. In that case interest is imposed from the date of notice to the date of payment.

Sec. 16. [297E.15] ADMINISTRATIVE REVIEW.

Subdivision 1. TAXPAYER RIGHT TO RECONSIDERATION. A taxpayer may obtain reconsideration by the commissioner of an order assessing tax, a denial of a request for abatement of penalty, or a denial of a claim for refund of money paid to the commissioner under provisions, assessments, or orders under this chapter by filing an administrative appeal as provided in subdivision 4. A taxpayer cannot obtain reconsideration if the action taken by the commissioner of revenue is the outcome of an administrative appeal.

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Subd. 2. APPEAL BY TAXPAYER. A taxpayer who wishes to seek administrative review shall follow the procedure in subdivision 4.

Subd. 3. NOTICE DATE. For purposes of this section, "notice date" means the date of the order adjusting the tax or order denying a request for abatement or, in the case of a denied refund, the date of the notice of denial.

Subd. 4. TIME AND CONTENT FOR ADMINISTRATIVE APPEAL. Within 60 days after the notice date, the taxpayer must file a written appeal with the commissioner of revenue. The appeal need not be in any particular form, but must contain the following information:

- (1) name and address of the taxpayer;
- (2) if a corporation, the state of incorporation of the taxpayer, and the principal place of business of the corporation;
- (3) the Minnesota identification number or social security number of the taxpayer;
- (4) the type of tax involved;
- (5) the date;
- (6) the tax years or periods involved and the amount of tax involved for each year or period;
- (7) the findings in the notice that the taxpayer disputes;
- (8) a summary statement that the taxpayer relies on for each exception; and
- (9) the taxpayer's signature or signature of the taxpayer's duly authorized agent.

Subd. 5. EXTENSIONS. If requested in writing and within the time allowed for filing an administrative appeal, the commissioner may extend the time for filing an appeal for a period of not more than 30 days from the expiration of the 60 days from the notice date.

Subd. 6. AUTOMATIC EXTENSION OF STATUTE OF LIMITATIONS. Notwithstanding any statute of limitations to the contrary, if the commissioner has made a determination and the taxpayer has authority to file an administrative appeal, the period during which the commissioner can make further assessments or other determinations does not expire before:

- (1) 90 days after the notice date if no protest is filed under subdivision 4; or
- (2) 90 days after the commissioner notifies the taxpayer of the determination on the appeal.

Subd. 7. DETERMINATION OF APPEAL. On the basis of applicable law

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and available information, the commissioner shall determine the validity, if any, in whole or part of the appeal and notify the taxpayer of the decision. This notice must be in writing and contain the basis for the determination.

Subd. 8. AGREEMENT DETERMINING TAX LIABILITY. If it appears to be in the best interests of the state, the commissioner may settle taxes, penalties, or interest that the commissioner has under consideration by virtue of an appeal filed under this section. An agreement must be in writing and signed by the commissioner and the taxpayer or the taxpayer's representative authorized by the taxpayer to enter into an agreement. An agreement must be filed in the office of the commissioner.

Subd. 9. APPEAL OF AN ADMINISTRATIVE APPEAL. Following the determination or settlement of an appeal, the commissioner must issue an order reflecting that disposition. Except in the case of an agreement determining tax under this section, the order is appealable to the Minnesota tax court under section 271.06.

Subd. 10. APPEAL WHERE NO DETERMINATION. If the commissioner does not make a determination within six months of the filing of an administrative appeal, the taxpayer may elect to appeal to tax court.

Subd. 11. EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT. This section is not subject to chapter 14.

Sec. 17. [297E.16] CONTRABAND.

Subdivision 1. SEIZURE. Contraband may be seized by the commissioner or by any sheriff or other police officer, hereinafter referred to as the "seizing authority," with or without process, and is subject to forfeiture as provided in subdivisions 2 and 3.

Subd. 2. INVENTORY; JUDICIAL DETERMINATION; APPEAL; DISPOSITION OF SEIZED PROPERTY. Within ten days after the seizure of alleged contraband, the person making the seizure shall make available an inventory of the property seized to the person from whom the property was seized, if known, and file a copy with the commissioner or the director of gambling enforcement. Within ten days after the date of service of the inventory, the person from whom the property was seized or any person claiming an interest in the property may file with the seizing authority a demand for judicial determination of whether the property was lawfully subject to seizure and forfeiture. Within 60 days after the date of filing of the demand, the seizing authority must bring an action in the district court of the county where seizure was made to determine the issue of forfeiture. The action must be brought in the name of the state and be prosecuted by the county attorney or by the attorney general. The court shall hear the action without a jury and determine the issues of fact and law involved. If a judgment of forfeiture is entered, the seizing authority may, unless the judgment is stayed pending an appeal, either (1) cause the forfeited property to be destroyed; or (2) cause it to be sold at a public auction as provided by law.

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If demand for judicial determination is made and no action is commenced by the seizing authority as provided in this subdivision, the property must be released by the seizing authority and delivered to the person entitled to it. If no demand is made, the property seized is considered forfeited to the seizing authority by operation of law and may be disposed of by the seizing authority as provided where there has been a judgment of forfeiture. When the seizing authority is satisfied that a person from whom property is seized was acting in good faith and without intent to evade the tax imposed by section 297E.02, the seizing authority shall release the property seized without further legal proceedings.

Subd. 3. DISPOSAL. (a) The property described in section 349.2125, subdivision 1, clauses (4) and (5), must be confiscated after conviction of the person from whom it was seized, upon compliance with the following procedure: the seizing authority shall file with the court a separate complaint against the property, describing it and charging its use in the specific violation, and specifying substantially the time and place of the unlawful use. A copy of the complaint must be served upon the defendant or person in charge of the property at the time of seizure, if any. If the person arrested is acquitted, the court shall dismiss the complaint against the property and order it returned to the persons legally entitled to it. Upon conviction of the person arrested, the court shall issue an order directed to any person known or believed to have any right, title or interest in, or lien upon, any of the property, and to persons unknown claiming any right, title, interest, or lien in it, describing the property and (1) stating that it was seized and that a complaint against it, charging the specified violation, has been filed with the court, (2) requiring the persons to file with the court administrator their answer to the complaint, setting forth any claim they may have to any right or title to, interest in, or lien upon the property, within 30 days after the service of the order, and (3) notifying them in substance that if they fail to file their answer within the time, the property will be ordered sold by the seizing authority. The court shall cause the order to be served upon any person known or believed to have any right, title, interest, or lien as in the case of a summons in a civil action, and upon unknown persons by publication, as provided for service of summons in a civil action. If no answer is filed within the time prescribed, the court shall, upon affidavit by the court administrator, setting forth the fact, order the property sold by the seizing authority. Seventy percent of the proceeds of the sale of forfeited property, after payment of seizure, storage, forfeiture, and sale expenses, must be forwarded to the seizing authority for deposit as a supplement to its operating fund or similar fund for official use, and 20 percent must be forwarded to the county attorney or other prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes. The remaining ten percent of the proceeds must be forwarded within 60 days after resolution of the forfeiture to the department of human services to fund programs for the treatment of compulsive gamblers. If an answer is filed within the time provided, the court shall fix a time for a hearing, which must not be less than ten nor more than 30 days after the time for filing an answer expires. At the time fixed for hearing, unless contin-

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ued for cause, the matter must be heard and determined by the court, without a jury, as in other civil actions.

(b) If the court finds that the property, or any part of it, was used in the violation specified in the complaint, it shall order the unlawfully used property sold as provided by law, unless the owner shows to the satisfaction of the court that the owner had no notice or knowledge or reason to believe that the property was used or intended to be used in the violation. The officer making a sale, after deducting the expense of keeping the property, the fee for seizure, and the costs of the sale, shall pay all liens according to their priority, which are established at the hearing as being bona fide and as existing without the lienor having any notice or knowledge that the property was being used or was intended to be used for or in connection with the violation specified in the order of the court, and shall pay the balance of the proceeds to the seizing authority for official use and sharing in the manner provided in paragraph (a). A sale under this section frees the property sold from all liens on it. Appeal from the order of the district court is available as in other civil cases. At any time after seizure of the articles specified in this subdivision, and before the hearing provided for, the property must be returned to the owner or person having a legal right to its possession, upon execution of a good and valid bond to the state, with corporate surety, in the sum of at least \$100 and not more than double the value of the property seized, to be approved by the court in which the case is triable, or a judge of it, conditioned to abide any order and the judgment of the court, and to pay the full value of the property at the time of the seizure. The seizing authority may dismiss the proceedings outlined in this subdivision when the seizing authority considers it to be in the public interest to do so.

Sec. 18. [297E.17] DISTRIBUTOR'S BOND.

On finding it necessary to ensure compliance with this chapter, the commissioner may require that a distributor deposit with the commissioner security in the form and amount determined by the commissioner, but not more than the lesser of (1) twice the estimated average monthly tax liability for the previous 12 months, or (2) \$10,000.

In lieu of security, the commissioner may require a distributor to file a bond issued by a surety company authorized to transact business in this state and approved by the commissioner of commerce as to solvency and responsibility.

The commissioner may make claim against this security or bond for all taxes, penalties, and interest owed by the distributor.

Sec. 19. INSTRUCTIONS TO REVISOR.

(a) If a provision of a section of Minnesota Statutes repealed or amended by this article is amended or referred to by an act enacted in 1994, the revisor shall codify the amendment or reference consistent with the recodification of the affected section by this act, notwithstanding any law to the contrary.

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

(b) In the next edition of Minnesota Statutes, in the sections referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C. The revisor may change the references in column C to the sections of Minnesota Statutes in which the bill sections are compiled.

<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
<u>270.101, subd. 1</u>	<u>349.212</u>	<u>297E.02</u>
<u>349.12, subd. 25</u>	<u>349.19, subd. 9</u>	<u>297E.06, subd. 4</u>
<u>349.12, subd. 25</u>	<u>349.212, subd. 1</u>	<u>297E.02, subd. 1</u>
	<u>and 4</u>	<u>and 4</u>
<u>349.15</u>	<u>349.212, subd. 1</u>	<u>297E.02, subd. 1</u>
<u>349.16, subd. 2</u>	<u>349.212, subd. 6</u>	<u>297E.02, subd. 6</u>
<u>349.166, subd. 2,</u>	<u>349.212</u>	<u>297E.02</u>
<u>paragraph (a)</u>		
<u>349.166, subd. 2,</u>	<u>349.212, subd. 4,</u>	<u>297E.02, subd. 4,</u>
<u>paragraph (e)</u>	<u>paragraph (c)</u>	<u>paragraph (b),</u>
		<u>clause (4)</u>
<u>349.2125, subd. 3</u>	<u>349.2121, subd. 4</u>	<u>297E.02</u>
<u>349.213, subd. 1</u>	<u>349.212</u>	<u>297E.02</u>
<u>349.22, subd. 2</u>	<u>349.219</u>	<u>349.213, and</u>
		<u>chapter 297E</u>

(c) In the next edition of Minnesota Statutes, the revisor shall change the reference to taxes under or by "this chapter" to taxes under or by "chapter 297E" in sections 349.16, subdivision 5; 349.1641; and 349.2127, subdivision 1.

Sec. 20. PURPOSE.

It is the intent of the legislature to simplify Minnesota's lawful gambling tax laws by consolidating and recodifying tax administration and compliance provisions now contained throughout Minnesota Statutes, chapter 349. Due to the complexity of the recodification, prior provisions are repealed on the effective date of the new provisions. The repealed provisions, however, continue to remain in effect until superseded by the analogous provision in the new law.

Sec. 21. REPEALER.

Minnesota Statutes 1992, sections 349.166, subdivision 4; 349.212, subdivisions 1, 2, 5, 6, and 7; 349.2121; 349.2122; 349.215; 349.2151; 349.2152; 349.216; 349.217, subdivisions 3, 4, 5, 6, 7, 8, and 9; 349.2171; and 349.219; and Minnesota Statutes 1993 Supplement, sections 349.2115; 349.212, subdivision 4; and 349.217, subdivisions 1, 2, and 5a, are repealed.

Sec. 22. EFFECTIVE DATE.

Sections 1, 8 to 16, and 18 to 20 are effective the day following final enactment.

Sections 2, 3, 4, 5, 6, 7, and 21 are effective for returns, reports, records, assessments, taxes, or other payments first becoming due on or after August 1, 1994.

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Section 4 is effective for sales or shipments of gambling product inventory made on or after August 1, 1994.

ARTICLE 3

GAMBLING TAX AMENDMENTS

Section 1. Minnesota Statutes 1992, section 270.101, subdivision 1, is amended to read:

Subdivision 1. **LIABILITY IMPOSED.** A person who, either singly or jointly with others, has the control of, supervision of, or responsibility for filing returns or reports, paying taxes, or collecting or withholding and remitting taxes and who fails to do so, or a person who is liable under any other law, is liable for the payment of taxes, penalties, and interest arising under chapters 296, 297, 297A, and 297C, or sections 290.92, ~~349.212,~~ and ~~349.2121~~ 297E.02.

Sec. 2. Minnesota Statutes 1992, section 349.2123, is amended to read:

349.2123 CERTIFIED PHYSICAL INVENTORY.

The board ~~or commissioner of revenue~~ may, upon request, require a distributor to furnish a certified physical inventory of all gambling equipment in stock. The inventory must contain the information required by the board ~~or the commissioner.~~

Sec. 3. Minnesota Statutes 1992, section 349.22, subdivision 1, is amended to read:

Subdivision 1. **PENALTY.** (a) A person who violates any provision of sections 349.11 to 349.23 for which another penalty is not provided is guilty of a misdemeanor.

(b) A person who violates any provision of sections 349.11 to 349.23 for which another penalty is not provided is guilty of a gross misdemeanor if the violation occurs within five years after a previous conviction under any provision of sections 349.11 to 349.23.

(c) A person who in any manner ~~violates sections 349.11 to 349.23 to evade a tax imposed by a provision of this chapter, or who aids and abets the evasion of a tax,~~ or hinders or interferes with a seizing authority when a seizure is made as provided by section 349.2125, is guilty of a gross misdemeanor.

Sec. 4. **EFFECTIVE DATE.**

Section 1 is effective for taxes, returns, or reports first becoming due on or after August 1, 1994.

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Sections 2 and 3 are effective August 1, 1994.

ARTICLE 4

GAMBLING ENFORCEMENT

Section 1. Minnesota Statutes 1992, 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.

(g) "Used gambling device" means a gambling device five or more years old from the date of manufacture.

Sec. 2. Minnesota Statutes 1992, section 299L.01, is amended by adding a subdivision to read:

Subd. 4. CONFLICT OF INTEREST. (a) The director and any person employed by the division may not have a direct or indirect financial interest in:

(1) a class A or B licensee of the racing commission;

(2) a lottery retailer under contract with the state lottery;

(3) a person who is under a lottery procurement contract with the state lottery;

(4) a bingo hall, manufacturer, or distributor licensed under chapter 349; or

(5) a manufacturer or distributor licensed under this chapter.

(b) The director or an employee of the division of gambling enforcement may not participate in the conducting of lawful gambling under chapter 349.

Sec. 3. Minnesota Statutes 1992, section 299L.02, subdivision 2, is amended to read:

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Subd. 2. **GAMBLING.** The director shall:

(1) conduct background investigations of applicants for licensing as a manufacturer or distributor of gambling equipment or as a bingo hall under chapter 349; and

(2) when requested by the director of gambling control, or when the director believes it to be reasonable and necessary, inspect the premises of a licensee under chapter 349 to determine compliance with law and with the rules of the board, or to conduct an audit of the accounts, books, records, or other documents required to be kept by the licensee.

The director may charge applicants under clause (1) a reasonable fee to cover the costs of the investigation.

Sec. 4. Minnesota Statutes 1992, section 299L.02, is amended by adding a subdivision to read:

Subd. 6. RESPONSE TO REQUESTS. An applicant, licensee, or the person subject to the jurisdiction of the commissioner or director under this chapter, must:

(1) comply with a request from the commissioner or director for information, documents, or other material within 30 days of the mailing of the request by the commissioner or director unless the notice specifies a different time; and

(2) appear before the commissioner or director when requested to do so, and must bring documents or materials that the commissioner or director has requested.

Sec. 5. Minnesota Statutes 1992, section 299L.03, subdivision 1, is amended to read:

Subdivision 1. **INSPECTIONS; ACCESS.** In conducting any inspection authorized under this chapter or chapter 240, 349, or 349A, the employees of the division of gambling enforcement have free and open access to all parts of the regulated business premises, and may conduct the inspection at any reasonable time without notice and without a search warrant. For purposes of this subdivision, "regulated business premises" means premises where:

(1) lawful gambling is conducted by an organization licensed under chapter 349 or by an organization exempt from licensing under section 349.166;

(2) gambling equipment is manufactured, sold, distributed, or serviced by a manufacturer or distributor licensed under chapter 349;

(3) records required to be maintained under chapter 240, 297E, 349, or 349A are prepared or retained;

(4) lottery tickets are sold by a lottery retailer under chapter 340A; ~~or~~

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(5) races are conducted by a person licensed under chapter 240; or

(6) gambling devices are manufactured or distributed, including places of storage under section 299L.07.

Sec. 6. Minnesota Statutes 1992, section 299L.03, subdivision 2, is amended to read:

Subd. 2. **ITEMS REQUIRED TO BE PRODUCED.** In conducting an audit or inspection authorized under this chapter or chapter 240, 349 or 349A the director may inspect any book, record, or other document the licensee, retailer, or vendor is required to keep.

Sec. 7. Minnesota Statutes 1992, section 299L.03, subdivision 6, is amended to read:

Subd. 6. **UNLICENSED SELLERS.** (a) If anyone not licensed under chapter 349 sells gambling equipment at a business establishment, the director may, in addition to any other provisions of chapter 349:

(1) assess a civil penalty of not more than \$300 for each violation against each person participating in the sales and assess a civil penalty of not more than \$1,000 for each violation against the owner or owners of the business establishment; or

(2) if the subject violation is the second or subsequent violation of this subdivision at the same business establishment within any 24-month period, assess a civil penalty of not more than \$300 for each violation against each person participating in such sales, and assess a civil penalty of not more than \$5,000 for each violation against the owner or owners of the business establishment.

(b) The assessment of a civil penalty under this section does not preclude a recommendation by the director at any time deemed appropriate to a licensing authority for revocation, suspension, or denial of a license controlled by the licensing authority.

(c) Within ten days of an assessment under this subdivision, the person assessed the penalty must pay the assessment or request that a hearing be held under chapter 14. If a hearing is requested, the hearing must be scheduled within 20 days of the request, and the recommendations of the administrative law judge must be issued within five working days of the close of the hearing. The director's final determination must be issued within five working days of the issuance of the recommendations of the administrative law judge.

Sec. 8. Minnesota Statutes 1992, section 299L.03, is amended by adding a subdivision to read:

Subd. 12. CEASE AND DESIST ORDERS. (a) When it appears to the director that any person has engaged in or is about to engage in any act or practice constituting a violation of this chapter, or any rule or order issued under this chapter, the director may issue and cause to be served on the person an

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order requiring the person to cease and desist from violations of this chapter, or any rule or order issued under this chapter. The order must give reasonable notice of the rights of the person to request a hearing and must state the reason for the entry of the order. Unless otherwise agreed between the parties, a hearing must be held not later than seven days after receiving the request for a hearing. Within 20 days of receiving the administrative law judge's report and subsequent exceptions and argument, the director shall issue an order vacating the cease and desist order, modifying the order, or making it permanent, as the facts require. If no hearing is requested within 30 days of service of the order, the order becomes final and remains in effect until modified or vacated by the commissioner. All hearings under this subdivision must be conducted in accordance with sections 14.57 to 14.69 of the administrative procedure act. If the person to whom a cease and desist order has been issued under this subdivision fails to appear at a hearing after being notified of the hearing, the person is deemed in default and the proceeding may be determined against the person on consideration of the cease and desist order, the allegations of which are deemed to be true.

(b) When it appears to the director that any person has engaged in or is about the engage in any act or practice constituting a violation of this chapter, or any rule adopted or subpoena or order issued under this chapter, the director may bring an action in the district court in the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter or any rule, subpoena, or order issued or adopted under this chapter, and may refer the matter to the attorney general. On a proper showing, the court shall grant a permanent or temporary injunction, restraining order, or writ of mandamus. The court may not require the director to post a bond.

Sec. 9. Minnesota Statutes 1992, section 299L.07, is amended to read:

299L.07 GAMBLING DEVICES.

Subdivision 1. **RESTRICTION LICENSE REQUIRED.** Except as provided in subdivision 2, a person may not manufacture, sell, offer to sell, ~~lease, rent,~~ 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

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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 without first obtaining a license under this section.

Subd. 2. **LICENSE REQUIRED EXCLUSIONS.** A person may not manufacture or distribute gambling devices without having obtained a license under this section. Notwithstanding subdivision 1, a gambling device:

(1) may be manufactured without a license as provided in section 349.40; and

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

Subd. 2a. **RESTRICTIONS.** (a) A manufacturer licensed under this section may sell, offer to sell, lease, or rent, in whole or in part, a gambling device only to a distributor licensed under this section.

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

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

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

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 corporation, 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

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~~(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.~~

(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.~~

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Subd. 8. **LICENSE SUSPENSION AND ; REVOCATION; DENIAL ACTIONS.** (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. (a) The commissioner may not issue or renew a license under this chapter, and shall revoke a license under this chapter, if the applicant or licensee, or a director, officer, partner, governor, person in a supervisory or management position of the applicant or licensee, an employee eligible to make sales on behalf of the applicant or licensee, or direct or indirect holder of more than a five percent financial interest in the applicant or licensee:

- (1) has ever been convicted of a felony, or of a crime involving gambling;
- (2) has ever been convicted of (i) assault, (ii) a criminal violation involving the use of a firearm, or (iii) making terroristic threats;
- (3) is or has ever connected with or engaged in an illegal business;
- (4) owes \$500 or more in delinquent taxes as defined in section 270.72;
- (5) had a sales and use tax permit revoked by the commissioner of revenue within the past two years;
- (6) after demand, has not filed tax returns required by the commissioner of revenue; or
- (7) had a license or permit revoked or denied by another jurisdiction for a violation of law or rule relating to gambling.

The commissioner may deny or refuse to renew a license under this chapter, and may revoke a license under this chapter, if any of the conditions in this subdivision is applicable to an affiliate of or a direct or indirect holder of more than a five percent financial interest in the applicant or licensee.

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(b) The commissioner may by order deny, suspend, revoke, refuse to renew a license or premises permit, or censure a licensee or applicant, if the commissioner finds that the order is in the public interest and that the applicant or licensee, or a director, officer, partner, person in a supervisory or management position of the applicant of licensee, or an employee eligible to make sales on behalf of the applicant or licensee:

(1) has violated or failed to comply with any provision of chapter 297E, 299L, or 349, or any rule adopted or order issued thereunder;

(2) has filed an application for a license that is incomplete in any material respect, or contains a statement that, in light of the circumstances under which it was made, is false, misleading, fraudulent, or a misrepresentation;

(3) has made a false statement in a document or report required to be submitted to the director, the commissioner, or the commissioner of revenue, or has made a false statement in a statement made to the director or commissioner;

(4) has been convicted of a crime in another jurisdiction that would be a felony if committed in Minnesota;

(5) is permanently or temporarily enjoined by any gambling regulatory agency from engaging in or continuing any conduct or practice involving any aspect of gambling;

(6) has had a gambling-related license revoked or suspended, or has paid or been required to pay a monetary penalty of \$2,500 or more, by a gambling regulator in another state or jurisdiction, or has violated or failed to comply with an order of such a regulator that imposed those actions;

(7) has been the subject of any of the following actions by the director or commissioner: (i) had a license under chapter 299L denied, suspended or revoked, (ii) been censured, reprimanded, has paid or been required to pay a monetary penalty or fine, or (iii) has been the subject of any other discipline by the director;

(8) has engaged in conduct that is contrary to the public health, welfare, or safety, or to the integrity of gambling; or

(9) based on the licensee's past activities or criminal record, poses a threat to the public interest or to the effective regulation and control of gambling, or creates or enhances the danger of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gambling or the carrying on of the business and financial arrangements incidental to the conduct of gambling.

Subd. 8a. CIVIL PENALTIES. The commissioner may impose a civil penalty not to exceed \$500 per violation on a person who has violated this chapter, or any rule adopted or order issued under this chapter, unless a different penalty is specified.

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Subd. 8b. SHOW CAUSE ORDERS. (a) If the commissioner determines that one of the conditions listed in subdivision 8 exists, or that a licensee is no longer conducting business in the manner required by subdivision 2a, the commissioner may issue an order requiring a person to show cause why any or all of the following should not occur: (1) the license be revoked or suspended, (2) the licensee be censured, (3) a civil penalty be imposed or (4) corrective action be taken.

(b) The order must give reasonable notice of the time and place for hearing on the matter, and must state the reasons for the entry of the order. The commissioner may by order summarily suspend a license pending final determination of any order to show cause. If a license is suspended pending final determination of an order to show cause, a hearing on the merits must be held within 30 days of the issuance of the order of suspension. All hearings must be conducted in accordance with sections 14.57 to 14.69 of the administrative procedure act.

(c) After the hearing the commissioner must enter an order disposing of the matter as the facts require. If the licensee fails to appear at a hearing after being notified of the hearing, the person is deemed in default and the proceeding may be determined against the person on consideration of the order to show cause, the allegations of which are deemed to be true.

Subd. 8c. APPLICATIONS; RENEWALS. (a) When it appears to the commissioner that a license application or renewal should be denied under subdivision 8, the commissioner must promptly give to the applicant a written notice of the denial. The notice must state the grounds for the denial and give reasonable notice of the rights of the applicant to request a hearing. A hearing must be held not later than 30 days after the request for the hearing is received by the commissioner, unless the applicant and the commissioner agree that the hearing may be held at a later date. If no hearing is requested within 30 days of the service of the notice, the denial becomes final. All hearings under this subdivision must be conducted in accordance with sections 14.57 to 14.69 of the administrative procedure act.

(b) After the hearing, the commissioner shall enter an order making such disposition as the facts require. If the applicant fails to appear at a hearing after being notified of the hearing, the applicant is deemed in default and the proceeding may be determined against the applicant on consideration of the notice denying application or renewal, the allegations of which are deemed to be true. All fees accompanying the initial or renewal application are considered earned and are not refundable.

Subd. 8d. ACTIONS AGAINST LAPSED LICENSE. If a license lapses, is surrendered, withdrawn, terminated, or otherwise becomes ineffective, the commissioner may institute a proceeding under this subdivision within two years after the license was last effective and enter a revocation or suspension order as of the last day on which the license was in effect, or impose a civil penalty as provided in subdivision 8a.

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Subd. 8e. NOTIFICATION OF ACTIONS TAKEN BY OTHER STATE. A licensee under this section must notify the commissioner within 30 days of the action whenever any of the actions listed in subdivision 8, paragraph (b), clause (6) have been taken against the licensee in another state or jurisdiction.

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.

Subd. 11. INSPECTION. The commissioner, director, and employees of the division may inspect the business premises of a licensee under this section.

Sec. 10. Minnesota Statutes 1992, 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;
- (2) sells or transfers a chance to participate in a lottery;
- (3) disseminates information about a lottery, except a lottery conducted by an adjoining state, with intent to encourage participation therein;
- (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~~ except where authorized by statute, possesses a gambling device.

Clause (5) does not prohibit ~~operation~~ possession 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. 11. REPEALER.

Minnesota Statutes 1992, sections 299L.04 and 299L.07, subdivision 7, are repealed.

Sec. 12. EFFECTIVE DATE.

Section 10 is effective August 1, 1994, and applies to crimes committed on and after that date.

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ARTICLE 5

LAWFUL GAMBLING REGULATION

Section 1. Minnesota Statutes 1992, section 349.12, subdivision 1, is amended to read:

Subdivision 1. As used in sections 349.11 to ~~349.22~~ 349.23 the following terms in this section have the meanings given them.

Sec. 2. Minnesota Statutes 1992, section 349.12, subdivision 3a, is amended to read:

Subd. 3a. **ALLOWABLE EXPENSE.** "Allowable expense" means ~~an expense directly related to the conduct of lawful gambling~~ the percentage of the total cost incurred by the organization in the purchase of any good, service, or other item which corresponds to the proportion of the total actual use of the good, service, or other item that is directly related to conduct of lawful gambling. Allowable expense includes the advertising of the conduct of lawful gambling, provided that the amount expended does not exceed five percent of the annual gross profits of the organization or \$5,000 per year per organization, whichever is less. The board may adopt rules to regulate the content of the advertising to ensure that the content is consistent with the public welfare.

Sec. 3. Minnesota Statutes 1992, section 349.12, subdivision 4, is amended to read:

Subd. 4. **BINGO.** "Bingo" means a game where each player has a bingo hard card or board bingo paper sheet, for which a consideration has been paid, and played in accordance with this chapter and with rules of the board for the conduct of bingo, containing five horizontal rows of spaces, with each row except the central one containing five figures. The central row has four figures with the word "free" marked in the center space thereof. Bingo also includes games which are as described in this subdivision except for the use of cards where the figures are not preprinted but are filled in by the players. A player wins a game of bingo by completing a preannounced combination of spaces or, in the absence of a preannouncement of a combination of spaces, any combination of five spaces in a row, either vertical, horizontal or diagonal.

Sec. 4. Minnesota Statutes 1992, section 349.12, subdivision 8, is amended to read:

Subd. 8. **CHECKER.** "Checker" means a person who records the number of bingo hard cards purchased and played during each game and records the prizes awarded to the recorded hard cards, but does not collect the payment for the hard cards.

Sec. 5. Minnesota Statutes 1992, section 349.12, subdivision 11, is amended to read:

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Subd. 11. **DISTRIBUTOR.** "Distributor" is a person who sells gambling equipment for use within the state to licensed organizations, or to organizations conducting ~~excluded or~~ exempt activities under section 349.166; ~~or to other distributors.~~

Sec. 6. Minnesota Statutes 1992, section 349.12, subdivision 16, is amended to read:

Subd. 16. **FLARE.** "Flare" is the posted display, with registration stamp affixed or bar code imprinted or affixed, that sets forth the rules of a particular game of pull-tabs or tipboards and that is associated with a specific deal of pull-tabs or grouping of tipboards.

Sec. 7. Minnesota Statutes 1992, section 349.12, subdivision 18, is amended to read:

Subd. 18. **GAMBLING EQUIPMENT.** "Gambling equipment" means: bingo hard cards or paper sheets, devices for selecting bingo numbers, pull-tabs, jar tickets, paddlewheels, ~~and paddlewheel tables,~~ paddletickets, paddleticket cards, tipboards, tipboard tickets, and pull-tab dispensing devices.

Sec. 8. Minnesota Statutes 1992, section 349.12, subdivision 19, is amended to read:

Subd. 19. **GAMBLING MANAGER.** "Gambling manager" means a person who ~~has paid all dues to an organization and~~ has been a an active member of the organization for at least two years and has been designated by the organization to supervise lawful gambling conducted by it.

Sec. 9. Minnesota Statutes 1992, section 349.12, subdivision 21, is amended to read:

Subd. 21. **GROSS RECEIPTS.** "Gross receipts" means all receipts derived from lawful gambling activity including, but not limited to, the following items:

(1) gross sales of bingo hard cards and paper sheets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(2) the ideal gross of pull-tab and tipboard deals or games less the value of unsold and defective tickets and before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(3) gross sales of raffle tickets and paddletickets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(4) admission, commission, cover, or other charges imposed on participants in lawful gambling activity as a condition for or cost of participation; and

(5) interest, dividends, annuities, profit from transactions, or other income derived from the accumulation or use of gambling proceeds.

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Gross receipts does not include proceeds from rental under section 349.164 or 349.18, subdivision 3; ~~for duly licensed bingo hall lessors.~~

Sec. 10. Minnesota Statutes 1992, section 349.12, subdivision 23, is amended to read:

Subd. 23. **IDEAL NET.** "Ideal net" means the pull-tab or tipboard deal's ideal gross, as defined under subdivision ~~19~~ 22, less the total predetermined prize amounts available to be paid out. When the prize is not entirely a monetary one, the ideal net is 50 percent of the ideal gross.

Sec. 11. Minnesota Statutes 1993 Supplement, section 349.12, subdivision 25, is amended to read:

Subd. 25. **LAWFUL PURPOSE.** (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, provided that the rules must not include mileage reimbursements in the computation of the per occasion reimbursement limit and must impose no aggregate annual limit on the amount of reasonable and necessary expenditures made to support:

(i) members of a military marching or colorguard unit for activities conducted within the state; or

(ii) members of an organization solely for services performed by the members at funeral services;

(7) recreational, community, and athletic facilities and activities intended

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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 and the organization complies with section 349.154;

(8) payment of local taxes authorized under this chapter, taxes imposed by the United States on receipts from lawful gambling, ~~and the tax taxes~~ imposed by section ~~349.212~~ 297E.02, subdivisions 1 ~~and~~, 4, 5, and 6, and the tax imposed on unrelated business income by section 290.05, subdivision 3;

(9) payment of real estate taxes and assessments on ~~licensed~~ permitted gambling premises wholly owned by the licensed organization paying the taxes, not to exceed:

(i) the amount which an organization may ~~expend~~ pay under board rule on rent for premises used for bingo; or

(ii) \$15,000 per year for premises used for other forms of lawful gambling;

(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;

(11) a contribution to or expenditure by a nonprofit organization; which is a 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;

(13) a contribution to or expenditure on a wildlife management project that benefits the public at-large, provided that the state agency with authority over that wildlife management project approves the project before the contribution or expenditure is made; or

(14) expenditures, approved by the commissioner of natural resources, by an organization for grooming and maintaining snowmobile trails that are (1) grant-in-aid trails established under section 116J.406, or (2) other trails open to public use, including purchase or lease of equipment for this purpose.

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

(1) any expenditure made or incurred for the purpose of influencing the

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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;

(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; or~~

~~(7) a contribution to a statutory or home rule charter city, county, or town by a licensed organization with the knowledge that the governmental unit intends to use the contribution for a pension or retirement fund.~~

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

Sec. 12. Minnesota Statutes 1992, section 349.12, is amended by adding a subdivision to read:

Subd. 26a. MASTER FLARE. "Master flare" is the posted display, with registration stamp affixed or bar code imprinted or affixed, that is used in conjunction with sealed groupings of 100 sequentially numbered paddleticket cards.

Sec. 13. Minnesota Statutes 1992, section 349.12, is amended by adding a subdivision to read:

Subd. 28a. PADDLETICKET. "Paddleticket" means a preprinted ticket that can be used to place wagers on the spin of a paddlewheel.

Sec. 14. Minnesota Statutes 1992, section 349.12, is amended by adding a subdivision to read:

Subd. 28b. PADDLETICKET CARD. "Paddleticket card" means a card to which detachable paddletickets are attached.

Sec. 15. Minnesota Statutes 1992, section 349.12, is amended by adding a subdivision to read:

Subd. 28c. PADDLETICKET CARD NUMBER. "Paddleticket card number" means the unique serial number preprinted by the manufacturer on the stub of a paddleticket card and the paddletickets attached to the card.

Sec. 16. Minnesota Statutes 1992, section 349.12, subdivision 30, is amended to read:

Subd. 30. **PERSON.** "Person" is an individual, organization, firm, association, partnership, limited liability company, corporation, trustee, or legal representative.

Sec. 17. Minnesota Statutes 1992, section 349.12, subdivision 32, is amended to read:

Subd. 32. **PULL-TAB.** "Pull-tab" means a single folded or banded ticket or a multi-ply card with a perforated break-open tabs, the face of which is initially covered to conceal one or more numbers or symbols, where one or more of each set of tickets or cards has been designated in advance as a winner. "Pull-tab" also includes a ticket sold in a gambling device known as a ticket jar.

Sec. 18. Minnesota Statutes 1992, section 349.12, is amended by adding a subdivision to read:

Subd. 32a. PULL-TAB DISPENSING DEVICE. "Pull-tab dispensing device" means a mechanical device that dispenses paper pull-tabs and has no additional function as an amusement or gambling device.

Sec. 19. Minnesota Statutes 1992, section 349.12, subdivision 34, is amended to read:

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Subd. 34. "Tipboard" means a board, placard or other device ~~marked off in a grid or columns, in which each section contains a hidden number or numbers, or other symbol, which determines the winning chances~~ containing a seal that conceals the winning number or symbol, and that serves as the game flare for a tipboard game.

Sec. 20. Minnesota Statutes 1992, section 349.12, is amended by adding a subdivision to read:

Subd. 35. **TIPBOARD TICKET.** "Tipboard ticket" is a single folded or banded ticket, or multi-ply card, the face of which is initially covered or otherwise hidden from view to conceal a number, symbol, or set of symbols, some of which have been designated in advance and at random as prize winners.

Sec. 21. Minnesota Statutes 1992, section 349.13, is amended to read:

349.13 LAWFUL GAMBLING.

Lawful gambling is not a lottery or gambling within the meaning of sections 609.75 to 609.76 if it is conducted under this chapter. A pull-tab dispensing device permitted by board rule is not a gambling device within the meaning of sections 609.75 to 609.76 and chapter 299L.

Sec. 22. Minnesota Statutes 1992, section 349.15, is amended to read:

349.15 USE OF GROSS PROFITS.

Subdivision 1. EXPENDITURE RESTRICTIONS. Gross profits from lawful gambling may be expended only for lawful purposes or allowable expenses as authorized by the membership of the conducting organization at a regular monthly meeting of the conducting organization organization's membership. 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 from other forms of lawful gambling, may be expended for allowable expenses related to lawful gambling.

Subd. 2. CASH SHORTAGES. In computing gross profit to determine maximum amounts which may be expended for allowable expenses under subdivision 1, an organization may not reduce its gross receipts by any cash shortages. An organization may report cash shortages to the board only as an allowable expense. An organization may not report cash shortages in any reporting period that in total exceed the following percentages of the organization's gross receipts from lawful gambling for that period: until August 1, 1995, four-tenths of one percent; and on and after August 1, 1995, three-tenths of one percent.

Sec. 23. Minnesota Statutes 1992, section 349.151, subdivision 4, is amended to read:

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

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- (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 or order 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 or deny ~~licenses~~ license and premises ~~permits~~ permit applications and renewals 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 employees of organizations licensed to conduct lawful gambling;
- (14) to require fingerprints from persons determined by board rule to be subject to fingerprinting; ~~and~~
- (15) to delegate to a compliance review group of the board the authority to investigate alleged violations, issue consent orders, and initiate contested cases on behalf of the board;
- (16) to order organizations, distributors, manufacturers, bingo halls, and gambling managers to take corrective actions; and

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(15) (17) to take all necessary steps to ensure the integrity of and public confidence in lawful gambling.

(b) The board, or director if authorized to act on behalf of the board, may by citation assess any organization, distributor, manufacturer, bingo hall licensee, or gambling manager a civil penalty of not more than \$500 per violation for a failure to comply with any provision of this chapter or any rule adopted or order issued by the board. Any organization, distributor, bingo hall operator licensee, gambling manager, or manufacturer assessed a civil penalty under this paragraph may request a hearing before the board. ~~Hearings conducted on appeals of imposition of penalties~~ Appeals of citations imposing a civil penalty 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. 24. Minnesota Statutes 1992, section 349.151, is amended by adding a subdivision to read:

Subd. 4b. PULL-TAB SALES FROM DISPENSING DEVICES. (a) The board may by rule authorize but not require the use of pull-tab dispensing devices.

(b) Rules adopted under paragraph (a):

(1) must limit the number of pull-tab dispensing devices on any permitted premises to three;

(2) must limit the use of pull-tab dispensing devices to a permitted premises which is (i) a licensed premises for on-sales of intoxicating liquor or 3.2 percent malt beverages or (ii) a licensed bingo hall that allows gambling only by persons 18 years or older; and

(3) must prohibit the use of pull-tab dispensing devices at any licensed premises where pull-tabs are sold other than through a pull-tab dispensing device by an employee of the organization who is also the lessor or an employee of the lessor.

Sec. 25. Minnesota Statutes 1992, section 349.151, is amended by adding a subdivision to read:

Subd. 7. ORDERS. The board may order any person subject to its jurisdiction who has violated this chapter or a board rule or order to take appropriate action to correct the violation.

Sec. 26. Minnesota Statutes 1992, section 349.151, is amended by adding a subdivision to read:

Subd. 8. CRIMINAL HISTORY. The board may request the director of gambling enforcement to assist in investigating the background of an applicant

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for a license under this chapter, and the director of gambling enforcement may bill the license applicant for the cost thereof. The board has access to all criminal history data compiled by the division of gambling enforcement on licensees and applicants.

Sec. 27. Minnesota Statutes 1992, section 349.151, is amended by adding a subdivision to read:

Subd. 9. RESPONSE TO REQUESTS. An applicant, licensee, or other person subject to the board's jurisdiction must:

(1) comply with requests for information or documents, or other requests, from the board or director within the time specified in the request or, if no time is specified, within 30 days of the date the board or director mails the request; and

(2) appear before the board or director when requested to do so, and must bring documents or materials requested by the board or director.

Sec. 28. Minnesota Statutes 1992, section 349.151, is amended by adding a subdivision to read:

Subd. 10. PRODUCTION OF EVIDENCE. For the purpose of any investigation, inspection, compliance review, audit, or proceeding under this chapter, the board or director may (1) administer oaths and affirmations, (2) subpoena witnesses and compel their attendance, (3) take evidence, and (4) require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the board or director determines are relevant or material to the inquiry.

Sec. 29. Minnesota Statutes 1992, section 349.151, is amended by adding a subdivision to read:

Subd. 11. COURT ORDERS. In the event of a refusal to appear by, or refusal to obey a subpoena issued to, any person under this chapter, the district court may on application of the board or director issue to the person an order directing the person to appear before the board or director, and to produce documentary evidence if so ordered or to give evidence relating to the matter under investigation or in question. Failure to obey such an order may be punished by the court as contempt of court.

Sec. 30. Minnesota Statutes 1992, section 349.151, is amended by adding a subdivision to read:

Subd. 12. ACCESS. The board or director has free access during normal business hours to the offices and places of business of licensees or organizations conducting excluded or exempt gambling, and to all books, accounts, papers, records, files, safes, and vaults maintained in the places of business or required to be maintained.

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Sec. 31. Minnesota Statutes 1992, section 349.151, is amended by adding a subdivision to read:

Subd. 13. RULEMAKING. In addition to any authority to adopt rules specifically authorized under this chapter, the board may adopt, amend, or repeal rules, including emergency rules, under chapter 14, when necessary or proper in discharging the board's powers and duties.

Sec. 32. Minnesota Statutes 1992, section 349.152, subdivision 2, is amended to read:

Subd. 2. **DUTIES OF THE DIRECTOR.** The director has the following duties:

- (1) to carry out gambling policy established by the board;
- (2) to employ and supervise personnel of the board;
- (3) to advise and make recommendations to the board on rules;
- (4) to issue licenses and premises permits as authorized by the board;
- (5) to issue cease and desist orders;
- (6) to make recommendations to the board on license issuance, denial, cen-sure, suspension and revocation, ~~and~~ civil penalties, and corrective action the board imposes; ~~and~~
- (7) to ensure that board rules, policy, and decisions are adequately and accurately conveyed to the board's licensees;
- (8) to conduct investigations, inspections, compliance reviews, and audits under this chapter; and
- (9) to issue subpoenas to compel the attendance of witnesses and the production of documents, books, records, and other evidence relating to an investigation, compliance review, or audit the director is authorized to conduct.

Sec. 33. Minnesota Statutes 1992, section 349.152, subdivision 3, is amended to read:

Subd. 3. **CEASE AND DESIST ORDERS.** (a) Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any board rule or order; ~~(#)~~ the director ~~has the power to~~ may issue and cause to be served upon the person an order requiring the person to cease and desist from violations of this chapter or board rule or order. The order must give reasonable notice of the rights of the person to request a hearing and must state the reason for the entry of the order. Unless otherwise agreed between the parties, a hearing shall be held not later than seven days after the request for the hearing is received by the board after which and within 20 days ~~of the date of the hearing~~ after the receipt of the administrative

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law judge's report and subsequent exceptions and argument the board shall issue an order vacating the cease and desist order, modifying it, or making it permanent as the facts require. If no hearing is requested within 30 days of the service of the order, the order becomes final and remains in effect until modified or vacated by the board or director. All hearings shall be conducted in accordance with the provisions of chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against the person upon consideration of the cease and desist order, the allegations of which may be deemed to be true.

(b) Whenever it appears to the board that any person has engaged or is about to engage in any act or practice that violates this chapter or any board rule or order, the board may bring an action in the district court in the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter or any board rule or order and may refer the matter to the attorney general. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted. The court may not require the board to post a bond.

Sec. 34. Minnesota Statutes 1992, section 349.153, is amended to read:

349.153 CONFLICT OF INTEREST.

(a) A person may not serve on the board, be the director, or be an employee of the board who has an interest in any corporation, association, limited liability company, or partnership that is licensed by the board as a distributor, manufacturer, or a bingo hall under section 349.164.

(b) A member of the board, the director, or an employee of the board may not ~~participate in the conducting of lawful gambling.~~ accept employment with, receive compensation directly or indirectly from, or enter into a contractual relationship with an organization that conducts lawful gambling, a distributor, a bingo hall or a manufacturer while employed with or a member of the board or within one year after terminating employment with or leaving the board.

(c) A distributor, bingo hall, manufacturer, or organization licensed to conduct lawful gambling may not hire a former employee, director, or member of the gambling control board for one year after the employee, director, or member has terminated employment with or left the gambling control board.

Sec. 35. Minnesota Statutes 1992, section 349.154, is amended to read:

349.154 EXPENDITURE OF NET PROFITS FROM LAWFUL GAMBLING.

Subdivision 1. **STANDARDS FOR CERTAIN ORGANIZATIONS.** The board shall by rule prescribe standards that must be met by any licensed organization that is a 501(c)(3) organization. The standards must provide:

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(1) operating standards for the organization, including a maximum percentage or percentages of the organization's total expenditures that may be expended for the organization's administration and operation; and

(2) standards for any expenditure by the organization of net profits from lawful gambling, including a requirement that the expenditure be related to the primary purpose of the organization.

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); and~~

(5) in the case of expenditures authorized under section 349.12, subdivision 25, paragraph (a), clause (7), whether the expenditure is for a facility or activity that primarily benefits male or female participants.

(b) The board shall ~~provide~~ make available to the commissioners of revenue and public safety copies of ~~each report~~ reports received under this subdivision and requested by them.

Subd. 3a. EXPENDITURES FOR RECREATIONAL, COMMUNITY, AND ATHLETIC PROGRAMS. An organization that makes a greater percentage of its lawful purpose expenditures under section 349.12, subdivision 25, paragraph (a), clause (7) on facilities' or activities for one gender rather than another may not deny a reasonable request for funding of a facility or activity for the underrepresented gender if the request is for funding for a facility or activity that is a lawful purpose under that clause. An applicant for funding for a facility or activity for an underrepresented gender who believes that an application for funding was denied in violation of this subdivision may file a complaint with the board. The board shall prescribe a form for the complaint and shall furnish a copy of the form to any requester. The board shall investigate each complaint filed and, if the board finds that the organization against which the complaint was filed has violated this subdivision, shall issue an order directing the organization to take such corrective action as the board deems necessary to bring the organization into compliance with this subdivision.

Sec. 36. [349.155] LICENSES; LICENSE ACTIONS.

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Subdivision 1. FORMS. All applications for a license must be on a form prescribed by the board. In the case of applications by an organization the board may require the organization to submit a copy of its articles of incorporation and other documents the board deems necessary.

Subd. 2. INVESTIGATION FEE. In addition to initial and renewal application fees, the board may charge license and renewal applicants a fee to cover the costs of background investigations conducted under this chapter.

Subd. 3. MANDATORY DISQUALIFICATIONS. (a) In the case of licenses for manufacturers, distributors, bingo halls, and gambling managers, the board may not issue or renew a license under this chapter, and shall revoke a license under this chapter, if the applicant or licensee, or a director, officer, partner, governor, person in a supervisory or management position of the applicant or licensee, or an employee eligible to make sales on behalf of the applicant or licensee:

(1) has ever been convicted of a felony or a crime involving gambling;

(2) has ever been convicted of (i) assault, (ii) a criminal violation involving the use of a firearm, or (iii) making terroristic threats;

(3) is or has ever been connected with or engaged in an illegal business;

(4) owes \$500 or more in delinquent taxes as defined in section 270.72;

(5) had a sales and use tax permit revoked by the commissioner of revenue within the past two years; or

(6) after demand, has not filed tax returns required by the commissioner of revenue. The board may deny or refuse to renew a license under this chapter, and may revoke a license under this chapter, if any of the conditions in this paragraph is applicable to an affiliate or direct or indirect holder of more than a five percent financial interest in the applicant or licensee.

(b) In the case of licenses for organizations, the board may not issue or renew a license under this chapter, and shall revoke a license under this chapter, if the organization, or an officer or member of the governing body of the organization:

(1) has been convicted of a felony or gross misdemeanor within the five years before the issuance or renewal of the license;

(2) has ever been convicted of a crime involving gambling; or

(3) has had a license issued by the board or director permanently revoked for violation of law or board rule.

Subd. 4. LICENSE REVOCATION, SUSPENSION, DENIAL; CENSURE. The board may by order (i) deny, suspend, revoke, or refuse to renew a

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license or premises permit, or (ii) censure a licensee or applicant, if it finds that the order is in the public interest and that the applicant or licensee, or a director, officer, partner, governor, person in a supervisory or management position of the applicant or licensee, an employee eligible to make sales on behalf of the applicant or licensee, or direct or indirect holder of more than a five percent financial interest in the applicant or licensee:

(1) has violated or failed to comply with any provision of chapter 297E, 299L, or 349, or any rule adopted or order issued thereunder;

(2) has filed an application for a license that is incomplete in any material respect, or contains a statement that, in light of the circumstances under which it was made, is false, misleading, fraudulent, or a misrepresentation;

(3) has made a false statement in a document or report required to be submitted to the board or the commissioner of revenue, or has made a false statement to the board, the compliance review group, or the director;

(4) has been convicted of a crime in another jurisdiction that would be a felony if committed in Minnesota;

(5) is permanently or temporarily enjoined by any gambling regulatory agency from engaging in or continuing any conduct or practice involving any aspect of gambling;

(6) has had a gambling-related license revoked or suspended, or has paid or been required to pay a monetary penalty of \$2,500 or more, by a gambling regulator in another state or jurisdiction;

(7) has been the subject of any of the following actions by the director of gambling enforcement or commissioner of public safety: (i) had a license under chapter 299L denied, suspended or revoked, (ii) been censured, reprimanded, has paid or been required to pay a monetary penalty or fine, or (iii) has been the subject of any other discipline by the director or commissioner; or

(8) has engaged in conduct that is contrary to the public health, welfare, or safety, or to the integrity of gambling; or

(9) based on past activities or criminal record poses a threat to the public interest or to the effective regulation and control of gambling, or creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gambling or the carrying on of the business and financial arrangements incidental to the conduct of gambling.

Subd. 5. CONTESTED CASE. When the board, or director if the director is authorized to act on behalf of the board, determines that a license should be revoked, suspended or a licensee be censured under subdivision 3 or 4, or a civil penalty be imposed or a person be required to take corrective action, the board or director shall issue an order initiating a contested case hearing. Hearings under this subdivision must be conducted in accordance with chapter 14.

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Subd. 6. NOTICE OF DENIAL. When the board, or director if authorized to act on behalf of the board, determines that a license or premises permit application or renewal should be denied under subdivision 3 or 4, the board or director shall promptly give a written notice to the licensee or applicant stating ground for the action and giving reasonable notice of the rights of the licensee or applicant to request a hearing. A hearing must be held not later than 30 days after the board receives the request for the hearing, unless the licensee or applicant and the board agree on a later date. If no hearing is requested within 30 days of the service of the notice, the denial becomes final. Hearings under this subdivision must be conducted in accordance with chapter 14. After the hearing the board may enter an order making such disposition as the facts require. If the applicant fails to appear at the hearing after having been notified of it under this subdivision, the applicant is considered in default and the proceeding may be determined against the person on consideration of the written notice of denial, the allegations of which may be considered to be true. All fees accompanying the license or renewal application are considered earned and are not refundable.

Subd. 7. LAPSED LICENSES. If a license lapses, or is surrendered, withdrawn, terminated, or otherwise becomes ineffective, the board may (1) institute a proceeding under this section within two years after the last date on which the license was effective, (2) enter a revocation or suspension order as of the date on which the license was effective, (3) impose a civil penalty as provided under section 349.151, subdivision 4, or (4) order corrective action as provided in section 349.151, subdivision 7.

Subd. 8. ACTIONS IN ANOTHER STATE. A licensee under this chapter must notify the board within 30 days of the action whenever any of the actions listed in subdivision 4, clause (6) have been taken against the licensee in another state or jurisdiction.

Sec. 37. Minnesota Statutes 1992, section 349.16, subdivision 2, is amended to read:

Subd. 2. ISSUANCE OF GAMBLING LICENSES. (a) Licenses authorizing organizations to conduct lawful gambling may be issued by the board to organizations meeting the qualifications in paragraphs (b) to (h) if the board determines that the license is consistent with the purpose of sections 349.11 to 349.22.

(b) The organization must have been in existence for the most recent three years preceding the license application as a registered Minnesota nonprofit corporation or as an organization designated as exempt from the payment of income taxes by the Internal Revenue Code.

(c) The organization at the time of licensing must have at least 15 active members.

(d) The organization must not be in existence solely for the purpose of conducting gambling.

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(e) The organization must not have as an officer or member of the governing body any person who, within the five years before the issuance of the license, has been convicted in a federal or state court of a felony or gross misdemeanor or who has ever been convicted of a crime involving gambling or who has had a license issued by the board or director revoked for a violation of law or board rule.

(f) The organization has identified in its license application the lawful purposes on which it proposes to expend net profits from lawful gambling.

(g) (f) The organization has identified on its license application a gambling manager and certifies that the manager is qualified under this chapter.

(h) (g) The organization must not, in the opinion of the board after consultation with the commissioner of revenue, be seeking licensing primarily for the purpose of evading or reducing the tax imposed by section 349.212, subdivision 6.

Sec. 38. Minnesota Statutes 1992, section 349.16, subdivision 3, is amended to read:

Subd. 3. **TERM OF LICENSE: SUSPENSION AND REVOCATION.** Licenses issued under this section are valid for 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. 39. Minnesota Statutes 1992, section 349.16, subdivision 6, is amended to read:

Subd. 6. **FEES LICENSE CLASSIFICATIONS.** The board may issue four classes of organization licenses: a class A license authorizing all forms of lawful gambling; a class B license authorizing all forms of lawful gambling except bingo; a class C license authorizing bingo only, or bingo and pull-tabs if the gross receipts for any combination of bingo and pull-tabs does not exceed \$50,000 per year; and a class D license authorizing raffles only. The board shall not charge a fee for an organization license.

Sec. 40. Minnesota Statutes 1992, section 349.16, subdivision 8, is amended to read:

Subd. 8. **LOCAL INVESTIGATION FEE.** A statutory or home rule charter city or county notified under section 349.213, subdivision 2, may assess an investigation fee on organizations or bingo halls applying for or renewing a license to ~~conduct lawful gambling premises permit~~ operate a bingo hall license. An investigation fee may not exceed the following limits:

(1) for cities of the first class, \$500;

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- (2) for cities of the second class, \$250;
- (3) for all other cities, \$100; and
- (4) for counties, \$375.

Sec. 41. Minnesota Statutes 1992, section 349.16, is amended by adding a subdivision to read:

Subd. 9. LICENSE RENEWALS; NOTICE. The board may not deny or delay the renewal of a license under this section, a premises permit, or a gambling manager's license under section 349.167 because of the licensee's failure to submit a complete application by a specified date before the expiration of the license or permit, unless the board has first (1) sent the applicant by registered mail a written notice of the incomplete application, and (2) given the applicant at least five business days from the date of receipt of the notice to submit a complete application, or the information necessary to complete the application.

Sec. 42. Minnesota Statutes 1992, section 349.161, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED ACTS; LICENSES REQUIRED.** No person may:

(1) sell, offer for sale, or furnish gambling equipment for use within the state ~~for gambling purposes~~; other than for lawful gambling exempt or excluded from licensing, except to an organization licensed for lawful gambling;

(2) sell, offer for sale, or furnish gambling equipment for lawful gambling use within the state without having obtained a distributor license under this section;

(3) sell, offer for sale, or furnish gambling equipment for use within the state that is not purchased or obtained from a manufacturer or distributor licensed under this chapter; or

(4) sell, offer for sale, or furnish gambling equipment for use within the state that has the same serial number as another item of gambling equipment of the same type sold or offered for sale or furnished for use in the state by that distributor.

Sec. 43. Minnesota Statutes 1992, section 349.161, subdivision 5, is amended to read:

Subd. 5. **PROHIBITION.** (a) No distributor, or employee of a distributor, may also be a wholesale distributor of alcoholic beverages or an employee of a wholesale distributor of alcoholic beverages.

(b) No distributor, or any representative, agent, affiliate, or employee of a distributor, may ~~be~~: (1) be involved in the conduct of lawful gambling by an

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organization; (2) keep or assist in the keeping of an organization's financial records, accounts, and inventories; or (3) prepare or assist in the preparation of tax forms and other reporting forms required to be submitted to the state by an organization.

(c) No distributor or any representative, agent, affiliate, or employee of a distributor may provide a lessor of gambling premises any compensation, gift, gratuity, premium, or other thing of value.

(d) No distributor or any representative, agent, affiliate, or employee of a distributor may participate in any gambling activity at any gambling site or premises where gambling equipment purchased from that distributor is being used in the conduct of lawful gambling.

(e) No distributor or any representative, agent, affiliate, or employee of a distributor may alter or modify any gambling equipment, except to add a "last ticket sold" prize sticker.

(f) No distributor or any representative, agent, affiliate, or employee of a distributor may: (1) recruit a person to become a gambling manager of an organization or identify to an organization a person as a candidate to become a gambling manager for the organization; or (2) identify for an organization a potential gambling location.

(g) No distributor may purchase gambling equipment for resale to a person for use within the state from any person not licensed as a manufacturer under section 349.163.

(h) No distributor may sell gambling equipment to any person for use in Minnesota other than (i) a licensed organization or organization excluded or exempt from licensing, or (ii) the governing body of an Indian tribe.

(i) No distributor may sell or otherwise provide a pull-tab or tipboard deal with the symbol required by section 349.163, subdivision 5, paragraph (h), visible on the flare to any person other than in Minnesota to a licensed organization or organization exempt from licensing.

Sec. 44. Minnesota Statutes 1992, section 349.162, subdivision 1, is amended to read:

Subdivision 1. **STAMP REQUIRED.** ~~(a)~~ A distributor may not sell, transfer, furnish, or otherwise provide to a person, ~~organization, or distributor,~~ and no person; ~~organization, or distributor~~ may purchase, borrow, accept, or acquire from a distributor gambling equipment for use within the state unless the equipment has been registered with the board and has a registration stamp affixed, except for gambling equipment not stamped by the manufacturer pursuant to section 349.163, subdivision 5 or 8. The board shall charge a fee of five cents for each stamp. Each stamp must bear a registration number assigned by the board. A distributor or manufacturer is entitled to a refund for unused registration

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stamps and replacement for registration stamps which are defective or canceled by the distributor or manufacturer.

(b) ~~From January 1, 1991, to June 30, 1992, no distributor, organization, or other person may sell a pull-tab which is not clearly marked "For Sale in Minnesota Only."~~ A manufacturer must return all unused registration stamps in its possession to the board by February 1, 1995. No manufacturer may possess unaffixed registration stamps after February 1, 1995.

(c) ~~On and after July 1, 1992, no distributor, organization, or other person may sell a pull-tab which is not clearly marked "Manufactured in Minnesota For Sale in Minnesota Only."~~

(d) ~~Paragraphs (b) and (c) do not apply to pull-tabs sold by a distributor to the governing body of an Indian tribe. After February 1, 1996, no person may possess any unplayed pull-tab or tipboard deals with a registration stamp affixed to the flare or any unplayed paddleticket cards with a registration stamp affixed to the master flare. Gambling equipment kept in violation of this paragraph is contraband under section 349.2125.~~

Sec. 45. Minnesota Statutes 1992, section 349.162, subdivision 2, is amended to read:

Subd. 2. **RECORDS REQUIRED.** A distributor must maintain a record of all gambling equipment which it sells to organizations. The record must include:

(1) the identity of the person ~~or firm~~ from whom the distributor purchased the equipment;

(2) the registration number of the equipment;

(3) the name, address, and license or exempt permit number of the organization to which the sale was made;

(4) the date of the sale;

(5) the name of the person who ordered the equipment;

(6) the name of the person who received the equipment;

(7) the type of equipment;

(8) the serial number of the equipment;

(9) the name, form number, or other identifying information for each game; and

(10) in the case of bingo hard cards or paper sheets sold on and after January 1, 1991, the individual number of each card or sheet.

The invoice for each sale must be retained for at least 3-1/2 years after the

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sale is completed and a copy of each invoice is to be delivered to the board in the manner and time prescribed by the board. For purposes of this section, a sale is completed when the gambling equipment is physically delivered to the purchaser.

Each distributor must report monthly to the board, in a form the board prescribes, its sales of each type of gambling equipment. Employees of the board and the division of gambling enforcement may inspect the business premises, books, records, and other documents of a distributor at any reasonable time without notice and without a search warrant.

The board may require that a distributor submit the monthly report and invoices required in this subdivision via magnetic media or electronic data transfer.

Sec. 46. Minnesota Statutes 1992, section 349.162, subdivision 4, is amended to read:

Subd. 4. **PROHIBITION.** (a) No person other than a licensed distributor or licensed manufacturer may possess unaffixed registration stamps.

(b) Unless otherwise provided in this chapter, no person may possess gambling equipment that has not been stamped and registered.

(c) On and after January 1, 1991, no distributor may:

(1) sell a bingo hard card or paper sheet that does not bear an individual number; or

(2) sell a package of bingo ~~cards~~ paper sheets that does not contain bingo ~~cards~~ paper sheets in numerical order.

Sec. 47. Minnesota Statutes 1992, section 349.162, subdivision 5, is amended to read:

Subd. 5. **SALES FROM FACILITIES.** (a) All gambling equipment purchased or possessed by a licensed distributor for resale to any person for use in Minnesota must, prior to the equipment's resale, be unloaded into a ~~sales or~~ storage facility located in Minnesota which the distributor owns or leases; and which has been registered, in advance and in writing, with the division of gambling enforcement as a ~~sales or~~ storage facility of the ~~distributor's~~ distributor. All unregistered gambling equipment and all unaffixed registration stamps owned by, or in the possession of, a licensed distributor in the state of Minnesota shall be stored at a ~~sales or~~ storage facility which has been registered with the division of gambling enforcement. No gambling equipment may be moved from the facility unless the gambling equipment has been first registered with the board, except for gambling equipment not stamped by the manufacturer pursuant to section 349.163, subdivision 5 or 8.

(b) Notwithstanding section 349.163, subdivisions 5, 6, and 8, a licensed manufacturer may ship into Minnesota approved or unapproved gambling

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equipment if the licensed manufacturer ships the gambling equipment to a Minnesota storage facility that is: (1) owned or leased by the licensed manufacturer; and (2) registered, in advance and in writing, with the division of gambling enforcement as a manufacturer's storage facility. No gambling equipment may be shipped into Minnesota to the manufacturer's registered storage facility unless the shipment of the gambling equipment is reported to the department of revenue in a manner prescribed by the department. No gambling equipment may be moved from the storage facility unless the gambling equipment is sold to a licensed distributor and is otherwise in conformity with this chapter, is shipped to an out-of-state site and the shipment is reported to the department of revenue in a manner prescribed by the department, or is otherwise sold and shipped as permitted by board rule.

(c) All ~~sales and~~ storage facilities owned, leased, used, or operated by a licensed distributor ~~or manufacturer~~ may be entered upon and inspected by the employees of the division of gambling enforcement ~~or, the division of gambling enforcement~~ director's authorized representatives, employees of the gambling control board or its authorized representatives, employees of the department of revenue, or authorized representatives of the director of the division of special taxes of the department of revenue during reasonable and regular business hours. Obstruction of, or failure to permit, entry and inspection is cause for revocation or suspension of a manufacturer's or distributor's licenses and permits issued under this chapter.

(e) ~~(d)~~ Unregistered gambling equipment and unaffixed registration stamps found at any location in Minnesota other than the manufacturing plant of a licensed manufacturer or a registered sales or storage facility are contraband under section 349.2125. This paragraph does not apply:

(1) to unregistered gambling equipment being transported in interstate commerce between locations outside this state, if the interstate shipment is verified by a bill of lading or other valid shipping document; and

(2) to gambling equipment not stamped by the manufacturer pursuant to section 349.163, subdivision 5 or 8.

Sec. 48. Minnesota Statutes 1992, section 349.163, subdivision 1, is amended to read:

Subdivision 1. **LICENSE REQUIRED.** No manufacturer of gambling equipment may sell any gambling equipment to any person for use or resale within the state, unless the manufacturer has a current and valid license issued by the board under this section and has satisfied other criteria prescribed by the board by rule.

A manufacturer licensed under this section may not also be directly or indirectly licensed as a distributor under section 349.161 unless the manufacturer (1) does not manufacture any gambling equipment other than paddlewheels, and (2) was licensed as both a manufacturer and distributor on May 1, 1990.

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Sec. 49. Minnesota Statutes 1992, section 349.163, subdivision 3, is amended to read:

Subd. 3. **PROHIBITED SALES.** (a) A manufacturer may not:

(1) sell gambling equipment for use or resale within the state to any person not licensed as a distributor unless the manufacturer is also a licensed distributor; or

(2) sell gambling equipment to a distributor in this state that has the same serial number as another item of gambling equipment of the same type that is sold by that manufacturer for use or resale in this state;

~~(3) from January 1, 1991, to June 30, 1992, sell to any person in Minnesota, other than the governing body of an Indian tribe, a pull-tab on which the manufacturer has not clearly printed the words "For Sale in Minnesota Only";~~

~~(4) on and after July 1, 1992, sell to any person in Minnesota, other than the governing body of an Indian tribe, a pull-tab on which the manufacturer has not clearly printed the words "Manufactured in Minnesota For Sale in Minnesota Only"; or~~

~~(5) sell a pull-tab marked as required in clauses (3) and (4) to any person inside or outside the state, including the governing body of an Indian tribe, who is not a licensed distributor.~~

~~(b) On and after July 1, 1992, all pull-tabs sold by a licensed manufacturer to a person in Minnesota must be manufactured in Minnesota.~~

(e) A manufacturer, affiliate of a manufacturer, or person acting as a representative or agent of a manufacturer may not provide a lessor of gambling premises or an appointed official any compensation, gift, gratuity, premium, contribution, or other thing of value.

(c) A manufacturer may not sell or otherwise provide a pull-tab or tipboard deal with the symbol required by section 349.163, subdivision 5, paragraph (h), imprinted on the flare to any person other than a licensed distributor unless the manufacturer first renders the symbol permanently invisible.

Sec. 50. Minnesota Statutes 1992, section 349.163, subdivision 5, is amended to read:

Subd. 5. **PULL-TAB AND TIPBOARD FLARES.** (a) A manufacturer may not ship or cause to be shipped into this state or sell for use or resale in this state any deal of pull-tabs or tipboards that does not have its own individual flare as required for that deal by this subdivision and rule of the board. A person other than a manufacturer may not manufacture, alter, modify, or otherwise change a flare for a deal of pull-tabs or tipboards except as allowed by this chapter or board rules.

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(b) A manufacturer must comply with either paragraphs (c) to (g) or (f) to (j) with respect to pull-tabs and tipboards sold by the manufacturer before January 1, 1995, for use or resale in Minnesota or shipped into or caused to be shipped into Minnesota by the manufacturer before January 1, 1995. A manufacturer must comply with paragraphs (f) to (j) with respect to pull-tabs and tipboards sold by the manufacturer on and after January 1, 1995, for use or resale in Minnesota or shipped into or caused to be shipped into Minnesota by the manufacturer on and after January 1, 1995. Paragraphs (c) to (e) expire January 1, 1995.

(c) The flare of each deal of pull-tabs and tipboards sold by a manufacturer for use or resale in Minnesota must have the Minnesota gambling stamp affixed. The flare, with the stamp affixed, must be placed inside the wrapping of the deal which the flare describes.

(e) (d) Each pull-tab and tipboard flare must bear the following statement printed in letters large enough to be clearly legible:

“Pull-tab (or tipboard) purchasers — This pull-tab (or tipboard) game is not legal in Minnesota unless:

— a Minnesota gambling stamp is affixed to this sheet, and

— the serial number handwritten on the gambling stamp is the same as the serial number printed on this sheet and on the pull-tab (or tipboard) ticket you have purchased.”

(e) (e) The flare of each pull-tab and tipboard game must bear the serial number of the game, printed in numbers at least one-half inch high.

(e) (f) The flare of each pull-tab and tipboard game must ~~be~~ have affixed to or imprinted at the bottom with a bar code that provides: all information required by the commissioner of revenue under section 297E.04, subdivision 2.

(1) ~~the name of the game;~~

(2) ~~the serial number of the game;~~

(3) ~~the name of the manufacturer;~~

(4) ~~the number of tickets in the deal;~~

(5) ~~the odds of winning each prize in the deal; and~~

(6) ~~other information the board by rule requires.~~

The serial number included in the bar code must be the same as the serial number of the tickets included in the deal. A manufacturer who manufactures a deal of pull-tabs must affix to the outside of the box containing that game the same bar code that is affixed to or imprinted at the bottom of a flare for that deal.

(f) (g) No person may alter the bar code that appears on the outside of a box

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containing a deal of pull-tabs and tipboards. Possession of a box containing a deal of pull-tabs and tipboards that has a bar code different from the bar code of the deal inside the box is prima facie evidence that the possessor has altered the bar code on the box.

(h) The flare of each deal of pull-tabs and tipboards sold by a manufacturer for use or resale in Minnesota must have imprinted on it a symbol that is at least one inch high and one inch wide consisting of an outline of the geographic boundaries of Minnesota with the letters "MN" inside the outline. The flare must be placed inside the wrapping of the deal which the flare describes.

(i) Each pull-tab and tipboard flare must bear the following statement printed in letters large enough to be clearly legible:

"Pull-tab (or tipboard) purchasers — This pull-tab (or tipboard) game is not legal in Minnesota unless:

— an outline of Minnesota with letters "MN" inside it is imprinted on this sheet, and

— the serial number imprinted on the bar code at the bottom of this sheet is the same as the serial number on the pull-tab (or tipboard) ticket you have purchased."

(j) The flare of each pull-tab and tipboard game must have the serial number of the game imprinted on the bar code at the bottom of the flare in numerals at least one-half inch high.

Sec. 51. Minnesota Statutes 1992, section 349.163, subdivision 6, is amended to read:

Subd. 6. **SAMPLES OF GAMBLING EQUIPMENT.** The board shall require each licensed manufacturer to submit to the board one or more samples of each item of gambling equipment the manufacturer manufactures for ~~sale~~ use or resale in this state. The board shall inspect and test all the equipment it deems necessary to determine the equipment's compliance with law and board rules. Samples required under this subdivision must be approved by the board before the equipment being sampled is shipped into or sold for use or resale in this state. The board may request the assistance of the commissioner of public safety and the director of the state lottery board in performing the tests.

Sec. 52. Minnesota Statutes 1992, section 349.163, is amended by adding a subdivision to read:

Subd. 8. PADDLETICKET CARD MASTER FLARES. Each sealed grouping of 100 paddleticket cards must have its own individual master flare. The manufacturer must affix to or imprint at the bottom of the master flare a bar code that provides all information required by the commissioner of revenue under section 297E.04, subdivision 3.

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This subdivision applies to paddleticket cards sold by a manufacturer after June 30, 1995, for use or resale in Minnesota or shipped into or caused to be shipped into Minnesota by a manufacturer after June 30, 1995. Paddleticket cards which are subject to this subdivision shall not have a registration stamp affixed to the master flare.

Sec. 53. Minnesota Statutes 1992, section 349.164, subdivision 1, is amended to read:

Subdivision 1. **LICENSE REQUIRED.** No person may lease a facility to more than one ~~individual, corporation, partnership, or~~ organization to conduct bingo without a current and valid bingo hall license under this section.

Sec. 54. Minnesota Statutes 1992, section 349.164, subdivision 6, is amended to read:

Subd. 6. **PROHIBITED ACTS.** No bingo hall licensee, person holding a financial or managerial interest in a bingo hall, or affiliate thereof may:

(1) be a licensed distributor or licensed manufacturer or affiliate of the distributor or manufacturer under section 349.161 or 349.163 or a wholesale distributor of alcoholic beverages;

(2) provide any staff to conduct or assist in the conduct of bingo or any other form of lawful gambling on the premises;

(3) acquire, provide ~~storage or~~ inventory control ~~for~~, or report the use of any gambling equipment used by an organization that conducts lawful gambling on the premises;

(4) provide accounting services to an organization conducting lawful gambling on the premises;

(5) solicit, suggest, encourage, or make any expenditures of gross receipts of an organization from lawful gambling;

(6) charge any fee to a person without which the person could not play a bingo game or participate in another form of lawful gambling on the premises;

(7) provide assistance or participate in the conduct of lawful gambling on the premises; or

(8) permit more than 21 bingo occasions to be conducted on the premises in any week.

Sec. 55. Minnesota Statutes 1992, section 349.164, is amended by adding a subdivision to read:

Subd. 10. **RECORDS.** A bingo hall licensee must maintain and preserve for at least 3-1/2 years records of all remuneration it receives from organizations conducting lawful gambling.

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Sec. 56. Minnesota Statutes 1992, section 349.1641, is amended to read:

349.1641 LICENSES; SUMMARY SUSPENSION.

The board may (1) summarily suspend the license of an organization that is more than three months late in filing a tax return or in paying a tax required under ~~this~~ chapter 297E and may keep the suspension in effect until all required returns are filed and required taxes are paid; and (2) summarily suspend for not more than 90 days any license issued by the board or director for what the board determines are actions detrimental to the integrity of lawful gambling in Minnesota. The board must notify the licensee at least 14 days before suspending the license under ~~this paragraph section~~. ~~A contested case hearing must be held within 20 days of the summary suspension and~~ If a license is summarily suspended under this section, a contested case hearing on the merits must be held within 20 days of the issuance of the order of suspension, unless the parties agree to a later hearing date. The administrative law judge's report must be issued within 20 days after the close of the hearing record. In all cases involving summary suspension, the board must issue its final decision within 30 days after receipt of the report of the administrative law judge and subsequent exceptions and argument under section 14.61. When an organization's license is suspended ~~or revoked~~ under ~~this subdivision section~~, the board shall within three days notify all municipalities in which the organization's gambling premises are located and all licensed distributors in the state.

Sec. 57. Minnesota Statutes 1992, section 349.166, subdivision 1, is amended to read:

Subdivision 1. **EXCLUSIONS.** (a) Bingo may be conducted without a license and without complying with sections 349.168, subdivisions 1 and 2; 349.17, ~~subdivision~~ subdivisions 1, 4, and 5; 349.18, subdivision 1; and 349.19, if it is conducted:

(1) by an organization in connection with a county fair, the state fair, or a civic celebration ~~if it~~ and is not conducted for more than 12 consecutive days and is limited to no more than four separate applications for activities applied for and approved in a calendar year; or

(2) by an organization that conducts four or fewer bingo occasions in a calendar year.

An organization that holds a license to conduct lawful gambling under this chapter may not conduct bingo under this subdivision.

(b) Bingo may be conducted within a nursing home or a senior citizen housing project or by a senior citizen organization without compliance with sections 349.11 to 349.15 and 349.153 to 349.213 if the prizes for a single bingo game do not exceed \$10, total prizes awarded at a single bingo occasion do not exceed \$200, no more than two bingo occasions are held by the organization or at the facility each week, only members of the organization or residents of the nursing

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home or housing project are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, a manager is appointed to supervise the bingo, and the manager registers with the board. The gross receipts from bingo conducted under the limitations of this subdivision are exempt from taxation under chapter 297A.

(c) Raffles may be conducted by an organization without a license and without complying with sections ~~349.11 to 349.13 and 349.151~~ 349.154 to 349.165 and 349.167 to 349.213 if the value of all raffle prizes awarded by the organization in a calendar year does not exceed \$750.

(d) The organization must maintain all required records of excluded gambling activity for 3-1/2 years.

Sec. 58. Minnesota Statutes 1992, section 349.166, subdivision 2, is amended to read:

Subd. 2. **EXEMPTIONS.** (a) Lawful gambling may be conducted by an organization ~~as defined in section 349.12, subdivision 28;~~ without a license and without complying with sections ~~349.151 to 349.16; 349.167; 349.168, subdivisions 1 and 2; 349.17, subdivisions 4 and 5; 349.18, subdivision 1; and 349.19; and 349.212~~ if:

(1) the organization conducts lawful gambling on five or fewer days in a calendar year;

(2) the organization does not award more than \$50,000 in prizes for lawful gambling in a calendar year;

(3) the organization pays a fee of \$25 to the board, notifies the board in writing not less than 30 days before each lawful gambling occasion of the date and location of the occasion, or 60 days for an occasion held in the case of a city of the first class, the types of lawful gambling to be conducted, the prizes to be awarded, and receives an exemption identification number;

(4) the organization notifies the local government unit 30 days before the lawful gambling occasion, or 60 days for an occasion held in a city of the first class;

(5) the organization purchases all gambling equipment and supplies from a licensed distributor; and

(6) the organization reports to the board, on a single-page form prescribed by the board, within 30 days of each gambling occasion, the gross receipts, prizes, expenses, expenditures of net profits from the occasion, and the identification of the licensed distributor from whom all gambling equipment was purchased.

(b) If the organization fails to file a timely report as required by paragraph (a), clause (3) or (6), a \$250 penalty is imposed on the organization. Failure to

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file a timely report does not disqualify the organization as exempt under this ~~paragraph~~ subdivision if a report is later filed and the penalty paid.

(c) Merchandise prizes must be valued at their fair market value.

(d) Unused pull-tab and tipboard deals must be returned to the distributor within seven working days after the end of the lawful gambling occasion. The distributor must accept and pay a refund for all returns of unopened and undamaged deals returned under this paragraph.

(e) An organization that is exempt from taxation on purchases of pull-tabs and tipboards under section 349.212, subdivision 4, paragraph (c), must return to the distributor any tipboard or pull-tab deal no part of which is used at the lawful gambling occasion for which it was purchased by the organization.

(f) The organization must maintain all required records of exempt gambling activity for 3-1/2 years.

Sec. 59. Minnesota Statutes 1992, section 349.166, subdivision 3, is amended to read:

Subd. 3. **RAFFLES; CERTAIN ORGANIZATIONS.** Sections ~~349.21~~ 349.168, subdivisions 3 and 4; and 349.211, subdivision 3, and the membership requirements of sections ~~349.14 and 349.20~~ section 349.16, subdivision 2, paragraph (c), do not apply to raffles conducted by an organization that directly or under contract to the state or a political subdivision delivers health or social services and that is a 501(c)(3) organization if the prizes awarded in the raffles are real or personal property donated by an individual, firm, or other organization. The person who accounts for the gross receipts, expenses, and profits of the raffles may be the same person who accounts for other funds of the organization.

Sec. 60. Minnesota Statutes 1992, 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. A person designated as a gambling manager shall maintain a fidelity bond in the sum of \$10,000 in favor of the organization conditioned on the faithful performance of the manager's duties. The terms of the bond must provide that notice be given to the board in writing not less than 30 days before its cancellation.

(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.~~

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

Sec. 61. Minnesota Statutes 1992, 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. In addition to the disqualifications in section 349.155, subdivision 3, the board may not issue a gambling manager's license to a person applying for the license who:

(1) has not complied with subdivision 4, clause (1);

(2) ~~has never been convicted of a felony;~~

(~~2~~) 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~~) (~~3~~) has ~~never~~ ever been convicted of a criminal violation involving fraud, theft, tax evasion, misrepresentation, or gambling; or

(~~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~~) (~~4~~) 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~~ runs concurrent with the organization's license unless the gambling manager's license is suspended or revoked. The ~~annual~~ fee for a gambling manager's license is ~~\$100~~ \$200. During the second year of an organization's license the license fee for a new gambling manager is \$100.

Sec. 62. Minnesota Statutes 1992, section 349.167, subdivision 4, is amended to read:

Subd. 4. **TRAINING OF GAMBLING MANAGERS.** The board shall by 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 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 continuing education training ~~within the three years prior to the date of~~

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application for the renewal, as required by board rule, each year of the two-year license period; 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 board.

Sec. 63. Minnesota Statutes 1992, section 349.167, is amended by adding a subdivision to read:

Subd. 7. GAMBLING MANAGER EXAMINATION. (a) By January 1, 1996, each gambling manager must pass an examination prepared and administered by the board that tests the gambling manager's knowledge of the responsibilities of gambling managers and of gambling procedures, laws, and rules. The board shall revoke the license of any gambling manager who has not passed the examination by January 1, 1996.

(b) On and after January 1, 1996, each applicant for a new gambling manager's license must pass the examination provided for in paragraph (a) before being issued the license. In the case of the death, disability, or termination of a gambling manager, a replacement gambling manager must pass the examination within 90 days of being issued a gambling manager's license. The board shall revoke the replacement gambling manager's license if the replacement gambling manager fails to pass the examination as required in this paragraph.

Sec. 64. Minnesota Statutes 1992, section 349.168, subdivision 3, is amended to read:

Subd. 3. **COMPENSATION.** Compensation to persons who participate in

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the conduct of lawful gambling may be paid only to active members of the conducting organization or its auxiliary, or the spouse or surviving spouse of an active member, except that the following persons may receive compensation without being active members: (1) sellers of pull-tabs, tipboards, raffle tickets, ~~paddlewheel tickets~~ paddletickets, and bingo hard cards or paper sheets; (2) accountants performing auditing or bookkeeping services for the organization; and (3) attorneys providing legal services to the organization. The board may by rule allow other persons not active members of the organization to receive compensation.

Sec. 65. Minnesota Statutes 1992, section 349.168, subdivision 6, is amended to read:

Subd. 6. **COMPENSATION PAID BY CHECK.** Compensation paid by an organization in connection with lawful gambling must be in the form of a check drawn on the organization's gambling account, as specified in section 349.19, and paid directly to the employee person being compensated.

Sec. 66. Minnesota Statutes 1992, section 349.168, is amended by adding a subdivision to read:

Subd. 9. **COMPENSATION REPORT.** A licensed organization must submit to the board once each year, on a form the board prescribes, a compensation report that specifies for the year being reported: (1) each job category for which the organization pays compensation, (2) each compensation rate paid in each job category, and (3) the number of employees being paid each compensation rate during the year.

Sec. 67. Minnesota Statutes 1992, section 349.169, subdivision 1, is amended to read:

Subdivision 1. **FILING REQUIRED.** All manufacturers and distributors must file with the director, not later than the first day of each month, the prices at which the manufacturer or distributor will sell all gambling equipment in that month. The filing must be on a form the director prescribes. Prices filed must include all charges the manufacturer or distributor makes for each item of gambling equipment sold, including all volume discounts, exclusive of transportation costs. All filings are effective on the first day of the month for which they are filed, except that a manufacturer or distributor may amend a filed price within five days of filing it and may file a price any time during a month for gambling equipment not previously included on that month's filed pricing report, but may not later amend the price during the month.

Sec. 68. Minnesota Statutes 1992, section 349.17, subdivision 2, is amended to read:

Subd. 2. **BINGO ON LEASED PREMISES.** During any bingo occasion conducted by an organization, the organization is directly responsible for the:

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- (1) staffing of the bingo occasion;
- (2) conducting of lawful gambling during the bingo occasion;
- (3) acquiring, storage, inventory control, and reporting of all gambling equipment used by the organization;
- (4) receipt, accounting, and all expenditures of gross receipts from lawful gambling; and
- (5) preparation of the bingo packets.

Sec. 69. Minnesota Statutes 1992, section 349.17, subdivision 4, is amended to read:

Subd. 4. **CHECKERS.** One or more checkers must be engaged for each bingo occasion when bingo is conducted using bingo hard cards. The checker or checkers must record, on a form the board provides, the number of hard cards played in each game and the prizes awarded to recorded hard cards. The form must provide for the inclusion of the ~~registration~~ face number of each winning hard card and must include a checker's certification that the figures recorded are correct to the best of the checker's knowledge.

Sec. 70. Minnesota Statutes 1992, section 349.17, subdivision 5, is amended to read:

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

(b) The requirements of paragraph (a) ~~do not~~ shall only apply to a licensed organization that ~~has never~~ received gross receipts from bingo in excess of \$150,000 in ~~any~~ the organization's last fiscal year.

Sec. 71. Minnesota Statutes 1992, section 349.17, is amended by adding a subdivision to read:

Subd. 6. **CONDUCT OF BINGO.** (a) Each bingo hard card and paper sheets must have five horizontal rows of spaces with each row except one having five numbers. The center row must have four numbers and the center space marked "free." Each column must have one of the letters B-I-N-G-O in order at the top. Bingo paper sheets may also have numbers that are not preprinted but are filled in by players.

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(b) A game of bingo begins with the first letter and number called. Each player must cover or mark with a liquid dauber the numbers when bingo balls, similarly numbered, are randomly drawn, announced, and displayed to the players, either manually or with a flashboard or monitor. The game is won when a player has covered or marked a previously designated arrangement of numbers on the card or sheet and declared bingo. The game is completed when a winning card or sheet is verified and a prize awarded.

Sec. 72. [349.1711] CONDUCT OF TIPBOARDS.

Subdivision 1. SALE OF TICKETS. Tipboard games must be played using only tipboard tickets that are either (1) attached to a placard and arranged in columns or rows, or (2) separate from the placard and contained in a receptacle while the game is in play. The placard serves as the game flare. The placard must contain a seal that conceals the winning number or symbol. When a tipboard ticket is purchased and opened, each player having a tipboard ticket with one or more predesignated numbers or symbols must sign the placard at the line indicated by the number or symbol on the tipboard ticket.

Subd. 2. DETERMINATION OF WINNERS. When the predesignated numbers or symbols have all been purchased, or all of the tipboard tickets for that game have been sold, the seal must be removed to reveal a number or symbol that determines which of the predesignated numbers or symbols is the winning number or symbol. A tipboard may also contain consolation winners that need not be determined by the use of the seal.

Subd. 3. PRIZES. Cash or merchandise prizes may be awarded in a tipboard game. All prizes available in each game must be stated on the game flare.

Sec. 73. Minnesota Statutes 1992, section 349.174, is amended to read:

349.174 PULL-TABS; DEADLINE FOR USE.

A deal of pull-tabs ~~and~~ or tipboards received by an organization before September 1, 1989, must be put into play by that organization before September 1, 1990, unless the deal bears a serial number that allows it to be traced back to its manufacturer and to the distributor who sold it to the organization. An organization in possession on and after September 1, 1990, of a deal of pull-tabs ~~and~~ or tipboards the organization received before September 1, 1989, may not put such a deal in play but must remove it from the organization's inventory and return it to the manufacturer.

Sec. 74. Minnesota Statutes 1992, section 349.18, subdivision 1, is amended to read:

Subdivision 1. **LEASE OR OWNERSHIP REQUIRED.** (a) 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. Except for leases entered into before the effective date of this section,

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the term of the lease may not begin before the effective date of the premises permit and must expire on the same day that the premises permit expires. Copies of all leases must be made available to employees of the board 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.

(b) 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.

(c) At a site where the leased premises consists of an area on or behind a bar at which alcoholic beverages are sold and employees of the lessor are employed by the organization as pull-tab sellers at the site, pull-tabs and tipboard tickets may be sold and redeemed by those employees at any place on or behind the bar, but the tipboards and receptacles for pull-tabs and cash drawers for lawful gambling receipts must be maintained only within the leased premises.

(d) Employees of a lessor may participate in lawful gambling on the premises provided (1) if pull-tabs or tipboards are sold, the organization voluntarily posts, or is required to post, the major prizes as specified in section 349.172; and (2) any employee of the lessor participating in lawful gambling is not a gambling employee for the organization conducting lawful gambling on the premises.

Sec. 75. Minnesota Statutes 1992, 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 permitted~~ premises owned or ~~operated~~ leased 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 permitted~~ 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.

(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.

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(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, if the invoices or true and correct copies of the invoices for the organization's acquisition of the gambling equipment accompany the gambling equipment at all times and are available for inspection.

Sec. 76. Minnesota Statutes 1992, section 349.18, subdivision 2, is amended to read:

Subd. 2. **EXCEPTIONS.** (a) An organization may conduct raffles on a premise it does not own or lease.

(b) An organization may, with the permission of the board, conduct bingo on premises it does not own or lease for up to 12 consecutive days in a calendar year, in connection with a county fair, the state fair, or a civic celebration.

(c) A licensed organization may, after compliance with section 349.213, conduct lawful gambling on premises other than the organization's ~~licensed premise permitted premises~~ for one day per year for not more than 12 hours that day. A lease for that time period for the exempted premises must accompany the request to the board.

Sec. 77. Minnesota Statutes 1992, section 349.19, subdivision 2, is amended to read:

Subd. 2. **ACCOUNTS.** Gross receipts from lawful gambling by each organization 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, the account number for the separate account, 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~~ four business days of completion of the bingo occasion, deal, or game from which they are received. A deal of pull-tabs is considered complete when either the last pull-tab of the deal is sold or the organization does not continue the play of the deal during the next scheduled period of time in which the organization will conduct pull-tabs. A tip-board game is considered complete when the seal on the game flare is uncovered. Deposit records must be sufficient to allow determination of deposits made from each bingo occasion, deal, or game at each permitted premises. The person

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who accounts for gambling gross receipts and profits may not be the same person who accounts for other revenues of the organization.

Sec. 78. Minnesota Statutes 1992, 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 class C licensee or 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 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. 79. Minnesota Statutes 1992, section 349.19, subdivision 8, is amended to read:

Subd. 8. **TERMINATION PLAN.** Upon termination of a license for any reason, a licensed organization must notify the board in writing within ~~15~~ 30 calendar days of the license termination date of its plan for disposal of ~~registered~~ gambling equipment and distribution of remaining gambling proceeds. Before implementation, a plan must be approved by the board as provided in board rule. The board may accept or reject a plan and order submission of a new plan or amend a proposed plan. The board may specify a time for submission of new or amended plans or for completion of an accepted plan.

Sec. 80. Minnesota Statutes 1992, 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 accountant licensed by the state of Minnesota.~~ The commissioner of revenue shall prescribe standards for the audit. ~~A complete, true, and correct copy of the audit report must be filed as prescribed by the commissioner of revenue or financial review when required by section 297E.06, subdivision 4.~~

Sec. 81. Minnesota Statutes 1992, section 349.19, subdivision 10, is amended to read:

Subd. 10. **PULL-TAB RECORDS.** (a) The board shall by rule require a licensed organization to require each winner of a pull-tab prize of \$50 or more to present identification in the form of a drivers license, Minnesota identifica-

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tion card, or other identification the board deems sufficient to allow the identification and tracing of the winner. The rule must require the organization to retain winning pull-tabs of \$50 or more, and the identification of the winner of the pull-tab, for 3-1/2 years.

(b) An organization must maintain separate cash banks for each deal of pull-tabs unless (1) two or more deals are commingled in a single receptacle, or (2) the organization uses a cash register, of a type approved by the board, which records all sales of pull-tabs by separate deals. The board shall (1) by rule adopt minimum technical standards for cash registers that may be used by organizations, and shall approve for use by organizations any cash register that meets the standards, and (2) before allowing an organization to use a cash register that commingles receipts from several different pull-tab games in play, adopt rules that define how cash registers may be used and that establish a procedure for organizations to reconcile all pull-tab games in play at the end of each month.

Sec. 82. Minnesota Statutes 1992, section 349.191, subdivision 1, is amended to read:

Subdivision 1. **CREDIT RESTRICTION.** A manufacturer may not offer or extend to a distributor, and a distributor may not offer or extend to an organization, credit for a period of more than 30 days for the sale of any gambling equipment. No right of action exists for the collection of any claim based on credit prohibited by this subdivision. The 30-day period allowed by this subdivision begins with the day immediately following the day of invoice and includes all successive days, including Sundays and holidays, to and including the 30th successive day.

Sec. 83. Minnesota Statutes 1992, section 349.191, is amended by adding a subdivision to read:

Subd. 1a. CREDIT AND SALES TO DELINQUENT ORGANIZATIONS. (a) If a distributor does not receive payment in full from an organization within 30 days of the delivery of gambling equipment, the distributor must notify the board in writing of the delinquency.

(b) If a distributor who has notified the board under paragraph (a) has not received payment in full from the organization within 60 days of the notification under paragraph (a), the distributor must notify the board of the continuing delinquency.

(c) On receipt of a notice under paragraph (a), the board shall order all distributors that until further notice from the board, they may sell gambling equipment to the delinquent organizations only on a cash basis with no credit extended. On receipt of a notice under paragraph (b), the board shall order all distributors not to sell any gambling equipment to the delinquent organization.

(d) No distributor may extend credit or sell gambling equipment to an organization in violation of an order under paragraph (c) until the board has authorized such credit or sale.

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Sec. 84. Minnesota Statutes 1992, section 349.191, is amended by adding a subdivision to read:

Subd. 1b. CREDIT AND SALES TO DELINQUENT DISTRIBUTORS.

(a) If a manufacturer does not receive payment in full from a distributor within 30 days of the delivery of gambling equipment, the manufacturer must notify the board in writing of the delinquency.

(b) If a manufacturer who has notified the board under paragraph (a) has not received payment in full from the distributor within 60 days of the notification under paragraph (a), the manufacturer must notify the board of the continuing delinquency.

(c) On receipt of a notice under paragraph (a), the board shall order all manufacturers that until further notice from the board, they may sell gambling equipment to the delinquent distributor only on a cash basis with no credit extended. On receipt of a notice under paragraph (b), the board shall order all manufacturers not to sell any gambling equipment to the delinquent distributor.

(d) No manufacturer may extend credit or sell gambling equipment to a distributor in violation of an order under paragraph (c) until the board has authorized such credit or sale.

Sec. 85. Minnesota Statutes 1992, section 349.191, subdivision 4, is amended to read:

Subd. 4. CREDIT; POSTDATED CHECKS. For purposes of this ~~subdivision~~ section, "credit" includes acceptance by a manufacturer or distributor of a postdated check in payment for gambling equipment.

Sec. 86. Minnesota Statutes 1992, section 349.211, subdivision 1, is amended to read:

Subdivision 1. **BINGO.** Except as provided in subdivision 2, prizes for a single bingo game may not exceed \$100 except prizes for a cover-all game, which may exceed \$100 if the aggregate value of all cover-all prizes in a bingo occasion does not exceed ~~\$500~~ \$1,000. Total prizes awarded at a bingo occasion may not exceed \$2,500, unless a cover-all game is played in which case the limit is ~~\$3,000~~ \$3,500. For purposes of this subdivision, a cover-all game is one in which a player must cover all spaces except a single free space to win.

Sec. 87. Minnesota Statutes 1992, section 349.211, subdivision 2, is amended to read:

Subd. 2. BINGO CUMULATIVE PRICES PROGRESSIVE BINGO GAMES. A prize of up to \$1,000 may be awarded for a single progressive bingo game if the prize is an accumulation of prizes not won in games in previous bingo occasions, including a cover-all game. The prize for a progressive bingo game may start at \$300 and be increased by up to \$100 for each occasion during which the progressive bingo game is played. A consolation prize of up to \$100

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for a progressive bingo game may be awarded in each occasion during which the progressive bingo game is played and the accumulated prize is not won. The total amount awarded in cumulative progressive bingo game prizes in any calendar year may not exceed ~~\$12,000~~ \$36,000. ~~For bingo occasions in which a cumulative prize is awarded the aggregate value of prizes which may be awarded for the occasion is increased by the amount of the cumulative prize so awarded less \$100.~~

Sec. 88. Minnesota Statutes 1992, section 349.211, subdivision 2a, is amended to read:

Subd. 2a. **PULL-TAB PRIZES.** The maximum prize which may be awarded for any single pull-tab is ~~\$250~~ \$500. An organization may not sell any pull-tab for more than \$2.

Sec. 89. Minnesota Statutes 1992, section 349.2125, subdivision 1, is amended to read:

Subdivision 1. **CONTRABAND DEFINED.** The following are contraband:

(1) all pull-tab or tipboard deals ~~that do not have stamps affixed to them as provided in section 349.162 or paddleticket cards not stamped or bar coded in accordance with this chapter or chapter 297E;~~

(2) all pull-tab or tipboard deals in the possession of any unlicensed person, firm, or organization, whether stamped or unstamped;

(3) any container used for the storage and display of any contraband pull-tab or tipboard deals as defined in clauses (1) and (2);

(4) all currency, checks, and other things of value used for pull-tab or tipboard transactions not expressly permitted under this chapter, and any cash drawer, cash register, or any other container used for illegal pull-tab or tipboard transactions including its contents;

(5) any device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes, and boats used, with the knowledge of the owner or of a person operating with the consent of the owner, for the storage or transportation of more than five pull-tab or tipboard deals that are contraband under this subdivision. When pull-tabs and tipboards are being transported in the course of interstate commerce, ~~or from one distributor to another~~ between locations outside this state, the pull-tab and tipboard deals are not contraband, notwithstanding the provisions of ~~clause~~ clauses (1) and (12);

(6) any unaffixed registration stamps except as provided in section 349.162, subdivision 4;

(7) any prize used or offered in a game utilizing contraband as defined in this subdivision;

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(8) any altered, modified, or counterfeit pull-tab or tipboard ticket;

(9) any unregistered gambling equipment except as permitted by this chapter;

(10) any gambling equipment kept in violation of section 349.18; ~~and~~

(11) any gambling equipment not in conformity with law or board rule;

(12) any pull-tab or tipboard deal in the possession of a person other than a licensed distributor or licensed manufacturer for which the person, upon demand of a licensed peace officer or authorized agent of the commissioner of revenue or director of gambling enforcement, does not immediately produce for inspection the invoice or a true and correct copy of the invoice for the acquisition of the deal from a licensed distributor; and

(13) any pull-tab or tipboard deals or portions of deals on which the tax imposed under chapter 297E has not been paid.

Sec. 90. Minnesota Statutes 1992, section 349.2125, subdivision 3, is amended to read:

Subd. 3. INVENTORY; JUDICIAL DETERMINATION; APPEAL; DISPOSITION OF SEIZED PROPERTY. Within ten days after the seizure of any alleged contraband, the person making the seizure shall make available an inventory of the property seized to the person from whom the property was seized, if known, and file a copy with the commissioner of revenue or the director of gambling enforcement. Within ten days after the date of service of the inventory, the person from whom the property was seized or any person claiming an interest in the property may file with the seizing authority a demand for judicial determination of whether the property was lawfully subject to seizure and forfeiture. Within 60 days after the date of filing of the demand, the seizing authority must bring an action in the district court of the county where seizure was made to determine the issue of forfeiture. The action must be brought in the name of the state and be prosecuted by the county attorney or by the attorney general. The court shall hear the action without a jury and determine the issues of fact and laws involved. When a judgment of forfeiture is entered, the seizing authority may, unless the judgment is stayed pending an appeal, either (1) cause the forfeited property to be destroyed; or (2) cause it to be sold at a public auction as provided by law.

If demand for judicial determination is made and no action is commenced by the seizing authority as provided in this subdivision, the property must be released by the seizing authority and delivered to the person entitled to it. If no demand is made, the property seized is considered forfeited to the seizing authority by operation of law and may be disposed of by the seizing authority as provided where there has been a judgment of forfeiture. When the seizing authority is satisfied that a person from whom property is seized was acting in good faith and without intent to evade ~~the a~~ tax imposed by ~~section 349.2121~~,

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~~subdivision 4~~ chapter 297E, the seizing authority shall release the property seized without further legal proceedings.

Sec. 91. Minnesota Statutes 1992, section 349.2127, subdivision 2, is amended to read:

Subd. 2. **PROHIBITION AGAINST POSSESSION.** (a) A person, ~~other than a licensed distributor,~~ is guilty of a crime who sells, offers for sale, or possesses a pull-tab or tipboard deal or paddleticket cards not stamped or bar coded in accordance with the provisions of this chapter or chapter 297E. A violation of this paragraph is a gross misdemeanor if it involves ten or fewer pull-tab or tipboard deals. A violation of this paragraph is a felony if it involves more than ten pull-tab or tipboard deals, or a combination of more than ten deals of pull-tabs and tipboards.

(b) A person, other than a licensed manufacturer, a licensed distributor, or an organization licensed or exempt or excluded from licensing under this chapter, is guilty of a crime who sells, offers to sell, or possesses gambling equipment. A violation of this paragraph is a gross misdemeanor if it involves ten or fewer pull-tab or tipboard deals. A violation of this paragraph is a felony if it involves more than ten pull-tab or tipboard deals, or a combination of more than ten deals of pull-tabs and tipboards.

(c) A person, ~~firm, or organization~~ is guilty of a crime who alters, modifies, or counterfeits pull-tabs, tipboards, or tipboard tickets, or possesses altered, modified, or counterfeit pull-tabs, tipboards, or tipboard tickets. A violation of this paragraph is a gross misdemeanor if the total face value for all such pull-tabs, tipboards, or tipboard tickets does not exceed \$200. A violation of this paragraph is a felony if the total face value exceeds \$200. For purposes of this paragraph, the face value of all pull-tabs, tipboards, and tipboard tickets altered, modified, or counterfeited within a six-month period may be aggregated and the defendant charged accordingly.

(d) A person, other than a licensed distributor or licensed manufacturer, is guilty of a crime who possesses a pull-tab or tipboard deal for which the person, upon demand of a licensed peace officer or authorized agent of the commissioner of revenue or director of gambling enforcement, does not immediately produce for inspection the invoice or a true and correct copy of the invoice for the acquisition of the deal from a licensed distributor. A violation of this paragraph is a gross misdemeanor if it involves ten or fewer pull-tab or tipboard deals. A violation of this paragraph is a felony if it involves more than ten pull-tab or tipboard deals, or a combination of more than ten deals of pull-tabs and tipboards. This paragraph does not apply to pull-tab and tipboard deals being transported in interstate commerce between locations outside this state.

Sec. 92. Minnesota Statutes 1992, section 349.2127, subdivision 3, is amended to read:

Subd. 3. **FALSE INFORMATION.** (a) ~~A person is guilty of a felony if the person is required by section 349.2121, subdivision 2, to keep records or to~~

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~~make returns and falsifies or fails to keep the records or falsifies or fails to make the returns.~~

(b) A person is guilty of a felony who:

(1) knowingly submits materially false information in any license application or other document or communication submitted to the board; ~~or~~

(2) ~~knowingly submits materially false information in any report, document, or other communication submitted to the commissioner of revenue in connection with lawful gambling or with any provision of this chapter~~ knowingly places materially false information on a pull-tab or tipboard deal invoice or a copy of the invoice; or

(3) knowingly presents to a licensed peace officer or authorized agent of the commissioner of revenue or director of gambling enforcement a pull-tab or tipboard deal invoice, or a copy of the invoice, that contains materially false information.

Sec. 93. Minnesota Statutes 1992, section 349.2127, subdivision 4, is amended to read:

Subd. 4. **TRANSPORTING UNSTAMPED DEALS.** A person is guilty of a gross misdemeanor who transports into, ~~or causes to be transported into,~~ receives, carries, ~~or moves from place to place,~~ or causes to be moved from place to place in this state, any paddleticket cards or deals of pull-tabs or tipboards not stamped or bar coded in accordance with this chapter or chapter 297E except in the course of interstate commerce between locations outside this state. A person is guilty of a felony who violates this subdivision with respect to more than ten pull-tab or tipboard deals, or a combination of more than ten deals of pull-tabs and tipboards.

Sec. 94. Minnesota Statutes 1992, section 349.2127, is amended by adding a subdivision to read:

Subd. 8. MINIMUM AGE. (a) A person under the age of 18 years may not buy a pull-tab, tipboard ticket, paddlewheel ticket, or raffle ticket, or a chance to participate in a bingo game other than a bingo game exempt or excluded from licensing. Violation of this paragraph is a misdemeanor.

(b) A licensed organization or employee may not allow a person under age 18 to participate in lawful gambling in violation of paragraph (a). Violation of this paragraph is a misdemeanor.

(c) In a prosecution under paragraph (b), it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in section 340A.503, subdivision 6, paragraph (a).

Sec. 95. Minnesota Statutes 1992, section 349.2127, is amended by adding a subdivision to read:

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

Subd. 9. TIPBOARD DEFINED. For purposes of this section "tipboard" includes tipboards as defined in section 349.12, subdivision 34, and any board, placard or other device marked off in a grid or columns, in which each section contains a hidden number or numbers, or other symbol, which determines the winning chances.

Sec. 96. Minnesota Statutes 1992, 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 may require a permit for the conduct of gambling exempt from licensing under section 349.166. 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 gross profits less amounts expended for allowable expenses and paid in taxes assessed on lawful gambling. 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 8, or ~~349.212~~ 297E.02; provided, however, that an ordinance requirement that such organizations must contribute ten percent of their net profits derived from lawful gambling conducted at premises within the city's or county's jurisdiction 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 be limited to lawful purpose expenditures of gross profits derived from lawful gambling conducted at premises within the city's or county's jurisdiction, 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.

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

Sec. 97. Minnesota Statutes 1992, section 541.21, is amended to read:

541.21 COMMITMENTS FOR GAMBLING DEBT VOID.

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

Sec. 98. REPORT ON RULES.

The board shall develop and submit to the legislature by January 15, 1995, a detailed implementation plan, including proposed rules and legislation to provide for sale of pull-tabs from dispensing devices. The rules must not be effective before June 1, 1995.

Sec. 99. REPEALER.

Minnesota Statutes 1992, sections 349.16, subdivisions 4 and 5; 349.161, subdivisions 3, 6, and 7; 349.163, subdivisions 1a and 2a; 349.164, subdivisions 3, 5, and 8; and 349.167, subdivisions 3 and 5; are repealed.

Sec. 100. EFFECTIVE DATE.

The requirement that a paddleticket must have a bar code is effective July 1, 1995. The rulemaking authority granted in this act is effective the day following final enactment. Section 41 is effective the day following final enactment and applies to all applications submitted to the board on or after December 1, 1993.

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ARTICLE 6
STATE LOTTERY

Section 1. Minnesota Statutes 1992, section 349A.06, is amended by adding a subdivision to read:

Subd. 1a. SALES AT AIRPORT. The metropolitan airports commission shall permit the sale of lottery tickets at the Minneapolis-St. Paul International Airport in at least each concourse of the Lindbergh terminal, or at other locations mutually agreed to by the director and the commission. The director shall issue a contract to a nonprofit organization to operate an independent kiosk to sell lottery tickets at the airport.

Sec. 2. Minnesota Statutes 1992, section 349A.10, is amended by adding a subdivision to read:

Subd. 6. BUDGET APPEARANCE. The director shall appear at least once each fiscal year before the senate and house of representatives committees having jurisdiction over gambling policy to present and explain the lottery's budget and spending plans for the next fiscal year.

Sec. 3. Minnesota Statutes 1992, section 349A.12, subdivision 1, is amended to read:

Subdivision 1. **PURCHASE BY MINORS.** A person under the age of 18 years may not buy or redeem for a prize a ticket in the state lottery.

Sec. 4. Minnesota Statutes 1992, section 349A.12, subdivision 2, is amended to read:

Subd. 2. **SALE TO MINORS.** A lottery retailer may not sell and a lottery retailer or other person may not furnish or redeem for a prize a ticket in the state lottery to any person under the age of 18 years. It is an affirmative defense to a charge under this subdivision for the lottery retailer or other person to prove by a preponderance of the evidence that the lottery retailer or other person reasonably and in good faith relied upon representation of proof of age described in section 340A.503, subdivision 6, in making the sale or furnishing or redeeming the ticket.

Sec. 5. Minnesota Statutes 1992, section 349A.12, subdivision 5, is amended to read:

Subd. 5. **EXCEPTIONS.** Nothing in this chapter prohibits giving a state lottery ticket as a gift, or buying provided that a state lottery ticket as a gift for may not be given to a person under the age of 18.

Sec. 6. Minnesota Statutes 1992, section 349A.12, subdivision 6, is amended to read:

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Subd. 6. **VIOLATIONS.** ~~A violation of subdivision 1 is a petty misdemeanor.~~ A violation of subdivision 1 or 2 or a rule adopted by the director is a misdemeanor. A violation of subdivision 3 or 4 is a gross misdemeanor.

Sec. 7. **TRANSITION.**

Sections 2 to 4 shall not prohibit a person under the age of 18 from redeeming a prize for a lottery ticket furnished to that person if the ticket was purchased prior to the effective date of these sections or if the lottery ticket was for an instant game that was introduced by the Minnesota state lottery prior to the effective date of this act. A person under the age of 18 may only claim a prize for the lottery under this section by presenting the lottery ticket at a Minnesota state lottery office or by mailing the ticket to the Minnesota state lottery. Any prize for the lottery redeemed under this section will be subject to Minnesota Statutes, section 349A.08, subdivision 3, and the applicable game procedures adopted by the director of the lottery.

Sec. 8. **EFFECTIVE DATE.**

Section 1 is effective January 1, 1995. Sections 2 to 7 are effective August 1, 1994.

ARTICLE 7

INDIAN GAMING

Section 1. Minnesota Statutes 1992, section 3.9221, subdivision 2, is amended to read:

Subd. 2. **NEGOTIATIONS AUTHORIZED.** The governor or the governor's designated representatives shall, pursuant to section 11 of the act, negotiate in good faith a tribal-state compact regulating the conduct of class III gambling, as defined in section 4 of the act, on Indian lands of a tribe requesting negotiations. The agreement may include any provision authorized under section 11(d)(3)(C) of the act. The attorney general is the legal counsel for the governor or the governor's representatives in regard to negotiating a compact under this section. If the governor appoints designees to negotiate under this subdivision, the designees must include at least two members of the senate and two members of the house of representatives, two of whom must be the chairs of the senate and house of representatives standing committees with jurisdiction over gambling policy.

Sec. 2. Minnesota Statutes 1992, section 3.9221, subdivision 5, is amended to read:

Subd. 5. **REPORT.** The governor, the attorney general, and the governor's designated representatives shall report to the house and senate committees hav-

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ing jurisdiction over gambling regulation ~~semiannually~~ annually. This report shall contain information on compacts negotiated, and an outline of prospective negotiations.

Sec. 3. INDIAN GAMING REVOLVING ACCOUNT.

The attorney general shall deposit in a separate account in the state treasury all money received from Indian tribal governments for the purpose of defraying the attorney general's costs in providing legal services with respect to Indian gaming. Money in the account is appropriated to the attorney general for that purpose.

Sec. 4. Minnesota Statutes 1992, section 299L.02, subdivision 5, is amended to read:

Subd. 5. **BACKGROUND CHECKS.** In any background check required to be conducted by the division of gambling enforcement under this chapter, chapter 240, 349, ~~or 349A~~, or section 3.9221, 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 the conducting of a national criminal history check. The director may charge a fee for fingerprint recording and investigation under section 3.9221.

Sec. 5. Minnesota Statutes 1992, section 299L.02, is amended by adding a subdivision to read:

Subd. 7. **REVOLVING ACCOUNT.** The director shall deposit in a separate account in the state treasury all money received from Indian tribal governments for charges for investigations and background checks under compacts negotiated under section 3.9221. Money in the account is appropriated to the director for the purpose of carrying out the director's powers and duties under those compacts.

Sec. 6. MINIMUM AGE.

Subdivision 1. RENEGOTIATION OF COMPACTS. The governor, pursuant to Minnesota Statutes, section 3.9221, shall take all feasible steps to renegotiate all compacts negotiated under that section for the purpose of establishing a minimum age of 21 years for participating in gambling authorized under the Indian gaming regulatory act, Public Law Number 100-497, and future amendments to it.

Subd. 2. LEGISLATIVE INTENT. It is the intent of the legislature that, in the event a minimum age of 21 is negotiated with more than one-half of the tribes that conduct gaming in Minnesota, legislation will be enacted adopting the same minimum age for gambling conducted under Minnesota Statutes, chapters 240, 349, and 349A.

Sec. 7. EFFECTIVE DATE.

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

Sections 1 and 2 are effective June 1, 1994. Sections 3 to 5 are effective July 1, 1994. Section 6 is effective the day following final enactment.

ARTICLE 8

MISCELLANEOUS

Section 1. [4.47] REPORT ON COMPULSIVE GAMBLING.

The governor shall report to the legislature by February 1 of each odd-numbered year on the state's progress in addressing the problem of compulsive gambling. The report must include:

(1) a summary of available data describing the extent of the problem in Minnesota;

(2) a summary of programs, both governmental and private, that

(i) provide diagnosis and treatment for compulsive gambling,

(ii) enhance public awareness of the problem and the availability of compulsive gambling services,

(iii) are designed to prevent compulsive gambling and other problem gambling by elementary and secondary school students and vulnerable adults;

(iv) offer professional training in the identification, referral, and treatment of compulsive gamblers;

(3) the likely impact on compulsive gambling of each form of gambling; and

(4) budget recommendations for state-level compulsive gambling programs and activities.

Sec. 2. [325E.42] DECEPTIVE TRADE PRACTICES; GAMBLING ADVERTISING AND MARKETING CLAIMS.

Subdivision 1. REGULATION. All advertising or marketing materials relating to the conduct of any form of legal gambling in Minnesota, including informational or promotional materials, must:

(1) be sufficiently clear to prevent deception; and

(2) not overstate expressly, or by implication, the attributes or benefits of participating in legal gambling.

Subd. 2. ATTORNEY GENERAL'S ACTIONS. The attorney general may bring an action against any person violating this section in accordance with section 8.31, except that no private action is permitted to redress or correct a violation of this section.

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Subd. 3. ADVERTISING MEDIA EXCLUDED. This section applies to actions of the owner, publisher, agent, or employee of newspapers, magazines, other printed matter, or radio or television stations or other advertising media used for the publication or dissemination of an advertisement or marketing materials, only if the owner, publisher, agent, or employee has been personally served with a certified copy of a court order or consent judgment or agreement prohibiting the publication of particular gambling advertising or marketing materials and thereafter publishes such materials.

Sec. 3. LEGISLATIVE FINDINGS.

The legislature finds that:

(a) The professional and amateur sports protection act of 1992 has been signed into law as Public Law Number 102-559.

(b) Public Law Number 102-559 prohibits any state from operating or permitting any organized wagering on sports events, but excludes those states which had as of October 2, 1992, enacted legislation or had a referendum pending that would legalize organized wagering on sports events, either by the state or by private entities.

(c) By passage of Public Law Number 102-559 Congress has infringed on the traditional rights of states to make their own determinations as to appropriate methods of controlling or combatting illegal gambling or raising state revenue, and raises serious questions as to possible violations of the tenth amendment to the United States Constitution.

(d) The exemptions granted in Public Law Number 102-559 to a handful of states are unreasonable, arbitrary, and discriminatory.

Sec. 4. ATTORNEY GENERAL TO CONSIDER ACTION.

The attorney general shall examine and analyze the legal issues involved and the propriety of bringing an action in the appropriate federal court to determine the constitutionality of Public Law Number 102-559 to the extent that it infringes on the authority of the legislature to enact legislation relating to organized wagering on sports events. After this examination and analysis the attorney general may, at the attorney general's discretion, bring such an action to determine the constitutionality of Public Law Number 102-559. No such action may be brought before May 1, 1995. By March 1, 1995, the attorney general shall report to the legislature on the attorney general's activities under this section.

Sec. 5. ADVISORY COUNCIL.

Subdivision 1. COUNCIL ESTABLISHED. An advisory council on gambling is created to study the conduct of all forms of gambling in Minnesota and advise the governor and legislature on all aspects of state policy on gambling.

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Subd. 2. MEMBERSHIP. The council consists of 14 members, as follows:

(1) one member, appointed by the governor, who shall be the person on the governor's staff who is the primary responsible person on the governor's staff for gambling policy, who shall act as chair of the council;

(2) eight members appointed by the governor, each of whom must reside in a different congressional district;

(3) one member appointed by the attorney general who must be an attorney in the attorney generals' office; and

(4) the chairs of the committees having jurisdiction over gambling in the senate and the house of representatives, a member of the minority party in the house of representatives appointed by the speaker of the house and a member of the minority party of the senate appointed by the subcommittee on committees of the senate committee on rules and administration.

Subd. 3. DUTIES. The council has the following duties:

(1) to consult with state agencies responsible for gambling operation, policy, regulation, or enforcement, either on its own initiative or on the initiative of the agency;

(2) to assist the governor in making recommendations contained in the compulsive gambling report required by section 1;

(3) to advise the governor on the development of a socio-economic model to support decision making on gambling issues; and

(4) conduct the study required under subdivision 4.

Subd. 4. STUDY. The advisory council shall study all forms of gambling conducted in Minnesota. The study shall include but not be limited to the following areas and issues:

(1) the extent of all forms of gambling in this state;

(2) the purpose, intent, application, integration, and relationship of the provisions of Minnesota laws relating to all forms of gambling in the state;

(3) the relationship among the state government boards and agencies that regulate gambling, including consideration of abolishing the current boards that regulate gambling and replacing them with a single permanent advisory board;

(4) the nature and extent of gambling in the state that is not subject to state regulation;

(5) the financial and social impact of the growth of gambling in the last decade;

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(6) the likely results of authorization of use of video lottery machines in the state;

(7) the appropriate level of regulation for the lawful gambling industry in Minnesota;

(8) proposals for changes in taxes on pull-tabs and tipboards to reflect unsold tickets; and

(9) expenditures of net profits from lawful gambling for real estate taxes on premises used for lawful gambling.

Subd. 5. CONTENTS OF REPORT. The advisory council's report to the legislature and governor must include recommendations regarding:

(1) development of a comprehensive public policy on gambling;

(2) establishment of an efficient state government structure for regulation of gambling; and

(3) implementation and funding of compulsive gambling programs.

Subd. 6. STAFF. The staff of the state lottery and legislative staff shall provide administrative and staff assistance when requested by the advisory council. Administrative costs of the advisory council will be paid by the state lottery.

Subd. 7. COOPERATION BY OTHER AGENCIES. State agencies shall, upon request of the advisory council, provide data or other information that the agencies collect or possess and that is necessary or useful in conducting the study and preparing the report required by this section.

Subd. 8. REPORTS. The advisory council shall, on February 1, 1995, and February 1, 1996, report to the governor and legislature on the results of its studies under subdivisions 4 and 5.

Sec. 6. SOCIO-ECONOMIC MODEL.

The governor shall include in the governor's budget proposals for the 1996-1997 biennium a proposal to create and maintain a socio-economic model that will allow executive agencies and the legislature to estimate the social, economic, and public revenue effects of different forms of gambling and changes in Minnesota gambling laws.

Sec. 7. INTENT.

It is the intent of the legislature to establish a permanent source of funding for compulsive gambling programs using state revenues generated from legal forms of gambling in the state and contributions from Indian tribes conducting gaming under tribal-state compacts.

Sec. 8. APPROPRIATIONS.

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Subdivision 1. COMPULSIVE GAMBLING. For the fiscal year beginning July 1, 1994, the state lottery board shall deposit \$1,000,000 in the general fund for use by the commissioner of human services to pay for compulsive gambling services. The amount deposited by the board shall be deducted from the lottery prize fund established under Minnesota Statutes, section 349A.10, subdivision 2. The amount deposited is appropriated to the commissioner of human services for this purpose. No more than 12 percent of the amount appropriated for compulsive gambling services under this section may be used to pay administrative costs of the department of human services. The deposit in this section is in addition to the reimbursement required by Laws 1993, chapter 146, article 3, section 4.

Subd. 2. GAMBLING CONTROL BOARD. \$45,000 is appropriated from the general fund to the gambling control board for fiscal year 1995. Of this amount:

(1) \$5,000 is for rulemaking to provide for implementation of pull-tab dispensing devices; and

(2) \$40,000 is for increased duties under article 5, section 41.

Sec. 9. EFFECTIVE DATE.

Sections 3 and 4 are effective the day following final enactment. Section 5 is effective the day following final enactment and is repealed February 1, 1996. Section 8 is effective July 1, 1994.

Presented to the governor May 6, 1994

Signed by the governor May 10, 1994, 4:00 p.m.

CHAPTER 634—H.F.No. 984

An act relating to state government; modifying provisions relating to the department of administration; including state licensed facilities in coverage by the state building code; clarifying certain language and changing certain duties of the state building inspector and fee provisions; appropriating money; amending Minnesota Statutes 1992, sections 13B.04; 16B.24, subdivision 6; 16B.32, subdivision 2; 16B.42, subdivisions 2, 3, and 4; 16B.465, subdivisions 3 and 6; 16B.48, subdivisions 2 and 3; 16B.49; 16B.51, subdivisions 2 and 3; 16B.60, subdivision 3, and by adding a subdivision; 16B.61, subdivisions 1a and 4; 16B.62, subdivision 1; 16B.66; 16B.70, subdivision 2; 16B.72; 16B.73; 16B.85, subdivision 1; 343.01, subdivisions 2, 3, and by adding subdivisions; and 403.11, subdivision 1; Minnesota Statutes 1993 Supplement, sections 16B.42, subdivision 1; Laws 1979, chapter 333, section 18, as amended; Laws 1991, chapter 345, article 1, section 17, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapter 16B; repealing Minnesota Statutes 1992, sections 3.3026; 16B.56, subdivision 4; and Laws 1987, chapter 394, section 13.

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