

Sec. 11. APPLICATION.

Sections 7 and 8 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 12. EFFECTIVE DATE.

Sections 1 to 6, and 9 are effective the day following final enactment.

Presented to the governor May 30, 1995

Signed by the governor June 1, 1995, 2:00 p.m.

CHAPTER 261—H.F.No. 265

An act relating to gambling; making technical amendments to eliminate references to teleracing facilities; regulating testing facilities for the testing of gambling devices; regulating bingo and lawful purpose expenditures, and credit and sales to delinquent organizations; providing for contributions to certain compulsive gambling programs; amending Minnesota Statutes 1994, sections 240.01, subdivisions 18 and 23; 240.10; 240.19; 240.23; 240.27, subdivisions 2, 3, 4, and 5; 299L.01, subdivision 1; 299L.03, subdivision 1; 299L.05; 299L.07, subdivisions 1, 2, 4, 5, 6, and by adding a subdivision; 349.12, subdivision 25, and by adding a subdivision; 349.162, subdivision 1; 349.17, subdivision 1; 349.191, subdivision 1a; and 349.211, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 299L; repealing Minnesota Statutes 1994, section 240.01, subdivisions 17 and 21.

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

Section 1. Minnesota Statutes 1994, section 240.01, subdivision 18, is amended to read:

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

Sec. 2. Minnesota Statutes 1994, section 240.01, subdivision 23, is amended to read:

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

Sec. 3. Minnesota Statutes 1994, section 240.10, is amended to read:

240.10 **LICENSE FEES.**

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

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

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

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

Sec. 4. Minnesota Statutes 1994, section 240.19, is amended to read:

240.19 CONTRACTS.

The commission shall by rule require that all contracts entered into by a class A, class B, or class D; ~~or class E~~ licensee for the provision of goods or services, including concessions contracts, be subject to commission approval. The rules must require that the contract include an affirmative action plan establishing goals and timetables consistent with the Minnesota Human Rights Act, chapter 363. The rules may also establish goals to provide economic opportunity for disadvantaged and emerging small businesses, racial minorities, women, and disabled individuals. The commission may require a contract holder to submit to it documents and records the commission deems necessary to evaluate the contract.

Sec. 5. Minnesota Statutes 1994, section 240.23, is amended to read:

240.23 RULEMAKING AUTHORITY.

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

(a) the conduct of horse races held at licensed racetracks in Minnesota, including but not limited to the rules of racing, standards of entry, operation of claiming races, filing and handling of objections, carrying of weights, and declaration of official results;

(b) wire communications between the premises of a licensed racetrack and any place outside the premises;

(c) information on horse races which is sold on the premises of a licensed racetrack;

(d) liability insurance which it may require of all class A, class B, and class D; ~~and class E~~ licensees;

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(e) the auditing of the books and records of a licensee by an auditor employed or appointed by the commission;

(f) emergency action plans maintained by licensed racetracks and their periodic review;

(g) safety, security, and sanitation of stabling facilities at licensed racetracks;

(h) entry fees and other funds received by a licensee in the course of conducting racing which the commission determines must be placed in escrow accounts;

(i) affirmative action in employment and contracting by class A, class B, and class D licensees; and

(j) ~~the operation of telereacing facilities; and~~

~~(k)~~ any other aspect of horse racing or pari-mutuel betting which in its opinion affects the integrity of racing or the public health, welfare, or safety.

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

Sec. 6. Minnesota Statutes 1994, section 240.27, subdivision 2, is amended to read:

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

Sec. 7. Minnesota Statutes 1994, section 240.27, subdivision 3, is amended to read:

Subd. 3. **NOTICE TO RACETRACKS.** Upon issuing an order excluding a person from any or all licensed racetracks ~~or licensed telereacing facilities~~, the commission shall send a copy of the order to the excluded person and to all racetracks or telereacing facilities named in it, along with other information as it deems necessary to permit compliance with the order.

Sec. 8. Minnesota Statutes 1994, section 240.27, subdivision 4, is amended to read:

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

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Sec. 9. Minnesota Statutes 1994, section 240.27, subdivision 5, is amended to read:

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

Sec. 10. Minnesota Statutes 1994, 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.

(h) "Test" means the process of examining a gambling device to determine its characteristics or compliance with the established requirements of any jurisdiction.

(i) "Testing facility" means a person in Minnesota who is engaged in the testing of gambling devices for use in any jurisdiction.

Sec. 11. Minnesota Statutes 1994, 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

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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;

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

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

Sec. 12. Minnesota Statutes 1994, section 299L.05, is amended to read:

299L.05 GAMBLING VIOLATIONS; RESTRICTIONS ON FURTHER ACTIVITY.

An owner of an establishment is prohibited from having lawful gambling under chapter 349 conducted on the premises, or selling any lottery tickets under chapter 349A, or having a video game of chance as defined under section 349.50 located on the premises, if a person was convicted of violating section 609.76, subdivision 1, clause (7), or 609.76, subdivision (2), for an activity occurring on the owner's premises.

Sec. 13. Minnesota Statutes 1994, section 299L.07, subdivision 1, is amended to read:

Subdivision 1. **LICENSE REQUIRED.** Except as provided in subdivision 2, a person may not (1) 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, or (2) operate a testing facility, without first obtaining a license under this section.

Sec. 14. Minnesota Statutes 1994, section 299L.07, subdivision 2, is amended to read:

Subd. 2. **EXCLUSIONS.** 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

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person (i) is not engaged in the trade or business of selling gambling devices, and (ii) does not sell more than one gambling device in any calendar year;

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

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

Sec. 15. Minnesota Statutes 1994, section 299L.07, is amended by adding a subdivision to read:

Subd. 2b. TESTING FACILITIES. (a) A person holding a license to operate a testing facility may possess a gambling device only for the purpose of performing tests on the gambling device.

(b) No person may hold a license to operate a testing facility under this section who is licensed as a manufacturer or distributor of gambling devices under this section or as a manufacturer or distributor of gambling equipment under chapter 349.

Sec. 16. Minnesota Statutes 1994, section 299L.07, subdivision 4, is amended to read:

Subd. 4. **APPLICATION.** An application for a ~~manufacturer's or distributor's~~ license under this section 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.

Sec. 17. Minnesota Statutes 1994, section 299L.07, subdivision 5, is amended to read:

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Subd. 5. **INVESTIGATION.** Before a ~~manufacturer's or distributor's~~ license under this section 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.

Sec. 18. Minnesota Statutes 1994, section 299L.07, subdivision 6, is amended to read:

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.

(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.

(d) For a testing facility the fee is \$5,000.

Sec. 19. **[299L.08] TEMPORARY POSSESSION; PERMIT.**

Subdivision 1. PERMIT AUTHORIZED. The director may issue a temporary permit for a person to possess a gambling device for the purpose of displaying the gambling device at a trade show, convention, or other event where gambling devices are displayed.

Subd. 2. APPLICATION; FEE. An application for a temporary permit under this section must contain:

(1) the applicant's name, address, and telephone number;

(2) the name, date, and location of the event where the gambling device will be displayed;

(3) the method or methods by which the gambling device will be transported to the event, including the name of all carriers performing the transportation and the date of expected shipment;

(4) the individual or individuals who will be responsible for the gambling device while it is in Minnesota;

(5) the type, make, model, and serial number of the device;

(6) the location where the device will be stored in Minnesota while not at the event location;

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(7) the date on which the device will be transported outside Minnesota;

(8) evidence satisfactory to the director that the applicant is registered and in compliance with United States Code, title 15, sections 1171 to 1178; and

(9) other information the director deems necessary.

The fee for a permit under this section is \$100.

Subd. 3. TERMS. A permit under this section authorizes possession of a gambling device only during the period and for the event named in the permit. The permit authorizes the possession of a gambling device for display, educational, and information purposes only, and does not authorize the conduct of any gambling. The permit may not extend for more than 72 hours beyond the end of the event named in the permit.

Subd. 4. INSPECTION. The director may conduct inspections of events where gambling devices are displayed to ensure compliance with this section and other laws relating to gambling.

Sec. 20. Minnesota Statutes 1994, section 349.12, is amended by adding a subdivision to read:

Subd. 15a. FESTIVAL ORGANIZATION. "Festival organization" is an organization conducting a community festival that is exempt from the payment of federal income taxes under section 501(c)(4) of the Internal Revenue Code.

Sec. 21. Minnesota Statutes 1994, 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) or festival organization, as defined in subdivision 15a, provided that the organization and expenditure or contribution are in conformity with standards prescribed by the board under section 349.154, which standards must apply to both types of organizations in the same manner and to the same extent;

(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 recognized by the Minnesota department of human services for the education, prevention, or 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;

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(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 primarily for persons under age 21, provided that such facilities and activities do not discriminate on the basis of gender 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, the taxes imposed by section 297E.02, subdivisions 1, 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 permitted gambling premises wholly owned by the licensed organization paying the taxes, not to exceed:

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

(ii) ~~\$15,000~~ \$35,000 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;

(12) payment of one-half of the reasonable costs of an audit required in section 297E.06, subdivision 4;

(13) a contribution to or expenditure on a wildlife management project that

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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 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, 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

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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) 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.

Sec. 22. Minnesota Statutes 1994, 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, and no person 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 stamps and replacement for registration stamps which are defective or canceled by the distributor or manufacturer.

(b) 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) 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. This paragraph does not apply to unplayed pull-tab or tipboard deals with a registration stamp affixed to the flare, or to unplayed paddleticket cards with a registration stamp affixed to the master flare, if the deals or cards are identified on a list of existing inventory submitted by a licensed organization or a licensed distributor, in a format prescribed by the commissioner of revenue, to the commissioner of revenue on or before February 1, 1996. Gambling equipment kept in violation of this paragraph is contraband under section 349.2125.

Sec. 23. Minnesota Statutes 1994, section 349.17, subdivision 1, is amended to read:

Subdivision 1. **BINGO OCCASIONS.** Not more than ~~seven~~ ten bingo occasions each week may be conducted by an organization. At least 15 bingo games must be held at each occasion and a bingo occasion must continue for at least 1-1/2 hours but not more than four consecutive hours.

Sec. 24. Minnesota Statutes 1994, section 349.191, subdivision 1a, is amended to read:

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Subd. 1a. **CREDIT AND SALES TO DELINQUENT ORGANIZATIONS.** (a) If a distributor does not receive payment in full from an organization within ~~30~~ 35 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.

Sec. 25. Minnesota Statutes 1994, 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 \$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 \$3,500. A prize may be determined based on the value of the bingo packet sold to the player. 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. 26. **REPEALER.**

Minnesota Statutes 1994, section 240.01, subdivisions 17, 20, and 21, are repealed.

Sec. 27. **EFFECTIVE DATE.**

Sections 1 to 26 are effective the day following final enactment.

Presented to the governor May 30, 1995

Signed by the governor June 1, 1995, 11:16 a.m.

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