

CHAPTER 124—S.F.No. 1284

An act relating to lawful gambling; modifying lawful purpose and other definitions; establishing a rating system for annual lawful purpose expenditures and imposing civil penalties; modifying provisions relating to licensing and permits and providing for fees; regulating conduct of bingo and other games; modifying lease requirements; regulating who may participate in lawful gambling; providing for expenditures of gross profits; providing for local approval; changing annual audit requirements; making clarifying, technical, and conforming changes to lawful gambling provisions; amending Minnesota Statutes 2008, sections 297E.06, subdivision 4; 349.11; 349.12, subdivisions 3a, 7, 7a, 12a, 18, 19, 21, 25, 32a, 33; 349.15, subdivisions 1, 1a; 349.151, subdivision 4; 349.154, subdivision 1; 349.155, subdivisions 3, 4a; 349.16, subdivisions 2, 3, 6, 8, 11, by adding subdivisions; 349.162, subdivision 6; 349.1635, subdivision 3; 349.1641; 349.165, subdivisions 1, 2, 3, by adding a subdivision; 349.166, subdivision 2; 349.167, subdivision 2; 349.168, subdivision 8; 349.169, subdivisions 1, 3; 349.17, subdivisions 3, 5, 6, 7; 349.173; 349.18, subdivision 1; 349.19, subdivisions 2, 2a, 3, 9, 10; 349.191, subdivisions 1, 1a, 1b, 2, 3, 4; 349.2127, subdivision 7; 349.213, subdivisions 1, 2; proposing coding for new law in Minnesota Statutes, chapter 349; repealing Minnesota Statutes 2008, sections 349.15, subdivisions 4, 5; 349.154, subdivision 2; 349.155, subdivision 7; 349.16, subdivisions 9, 10; 349.166, subdivision 3; 349.168, subdivisions 4, 6, 7, 10; 349.18, subdivisions 2, 3; 349.2127, subdivision 8.

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

Section 1. Minnesota Statutes 2008, section 297E.06, subdivision 4, is amended to read:

Subd. 4. **Annual audit, certified inventory, and cash count.** (a) An organization licensed under chapter 349 with gross receipts from lawful gambling of more than ~~\$300,000~~ \$500,000 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 \$150,000 but not more than \$300,000 in any year must have an annual financial review of its lawful gambling activities and funds for that year.~~

(b) The commissioner may require a financial audit of the lawful gambling activities and funds of an organization licensed under chapter 349, with gross receipts less than \$500,000 annually, when an organization has:

- (1) failed to timely file required gambling tax returns;
- (2) failed to timely pay the gambling tax or regulatory fee;
- (3) filed fraudulent gambling tax returns;
- (4) failed to take corrective actions required by the commissioner; or

(5) failed to otherwise comply with chapter 297E.

(c) Audits and financial reviews under this subdivision must be performed by an independent accountant licensed by the state of Minnesota.

(d) An organization licensed under chapter 349 must perform an annual certified inventory and cash count at the end of its fiscal year and submit the report to the commissioner within 30 days after the end of its fiscal year. The report shall be on a form prescribed by the commissioner.

~~(b)~~ (e) The commissioner of revenue shall prescribe standards for the audits and financial review, certified inventory, and cash count reports 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~~ audits, certified inventory, and cash count report must be filed as prescribed by the commissioner.

Sec. 2. Minnesota Statutes 2008, section 349.11, is amended to read:

349.11 PURPOSE.

The purpose of sections 349.11 to 349.22 is to regulate lawful gambling ~~to prevent its commercialization~~, to insure integrity of operations, and to provide for the use of net profits only for lawful purposes.

Sec. 3. Minnesota Statutes 2008, section 349.12, subdivision 3a, is amended to read:

Subd. 3a. **Allowable expense.** "Allowable expense" means 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. 4. Minnesota Statutes 2008, section 349.12, subdivision 7, is amended to read:

Subd. 7. **Capital assets.** "Capital assets" means property, real or personal, except gambling equipment, with an expected useful life of at least ~~one year~~ two years and a minimum value of \$2,000.

Sec. 5. Minnesota Statutes 2008, section 349.12, subdivision 7a, is amended to read:

Subd. 7a. **Charitable contribution.** "Charitable contribution" means one or more of the lawful purposes expenditures under ~~section 349.12, subdivision 25, paragraph (a), clauses (1) to (7), (10), (11), (13) to (15), and (19).~~

Sec. 6. Minnesota Statutes 2008, section 349.12, subdivision 12a, is amended to read:

Subd. 12a. **Electronic bingo device.** "Electronic bingo device" means an electronic device used by a bingo player to monitor bingo paper sheets or a facsimile of a bingo paper sheet when purchased at the time and place of an organization's bingo occasion and which (1) provides a means for bingo players to ~~input~~ activate numbers announced by a

bingo caller; (2) compares the numbers entered by the player to the bingo faces previously stored in the memory of the device; and (3) identifies a winning bingo pattern.

Electronic bingo device does not mean any device into which coin, currency, or tokens are inserted to activate play.

Sec. 7. Minnesota Statutes 2008, section 349.12, subdivision 18, is amended to read:

Subd. 18. **Gambling equipment.** "Gambling equipment" means: bingo hard cards or paper sheets, linked bingo paper sheets, devices for selecting bingo numbers, electronic bingo devices, pull-tabs, jar tickets, paddle wheels, paddle wheel tables, paddle tickets, paddle ticket cards, tipboards, tipboard tickets, promotional tickets that mimic a pull-tab or tipboard, ~~and pull-tab dispensing devices, and programmable electronic devices that have no effect on the outcome of a game and are used to provide a visual or auditory enhancement of a game.~~

Sec. 8. Minnesota Statutes 2008, section 349.12, subdivision 19, is amended to read:

Subd. 19. **Gambling manager.** "Gambling manager" means a person who has been designated by the organization to supervise the lawful gambling conducted by it ~~and who:~~

~~(1) has been an active member of the organization for at least two years the most recent six months at the time of the organization's initial application for a gambling manager license; and~~

~~(2) has been an active member of the organization for at least the most recent six months prior to the effective date of the organization's renewal license; or~~

~~(3) meets other qualifications as prescribed by the board by rule.~~

Sec. 9. Minnesota Statutes 2008, 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, paper sheets, facsimiles of bingo paper sheets when used in conjunction with an electronic bingo device, and rental of electronic bingo devices 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 rental proceeds from rental under section 349.18, subdivision 3 premises owned by an organization and leased to one or more other organizations for the purposes of conducting lawful gambling.

Sec. 10. Minnesota Statutes 2008, 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 or expenditure for goods and services for an individual or family suffering from poverty, homelessness, or disability, which is used to relieve the effects of that suffering;

(3) a contribution to a program recognized by the Minnesota Department of Human Services for the education, prevention, or treatment of problem gambling;

(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 an individual, public or private nonprofit educational institution registered with or accredited by this state or any other state, or to a scholarship fund of a nonprofit organization whose primary mission is to award scholarships, 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 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 diem 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 color guard unit for activities conducted within the state;

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

(iii) members of military marching, color guard, or honor guard units may be reimbursed for participating in color guard, honor guard, or marching unit events within the state or states contiguous to Minnesota at a per participant rate of up to \$35 per diem; or

(iv) active military personnel and their immediate family members in need of support 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, subdivision 3a;

(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 owned by the licensed organization paying the taxes, or wholly leased by a licensed

veterans organization under a national charter recognized under section 501(c)(19) of the Internal Revenue Code;

(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 the reasonable costs of an audit required in section 297E.06, subdivision 4, provided the annual audit is filed in a timely manner with the Department of Revenue and paid prior to June 30, 2006;~~

(12) an expenditure for citizen monitoring of surface water quality by individuals or nongovernmental organizations that is consistent with section 115.06, subdivision 4, and Minnesota Pollution Control Agency guidance on monitoring procedures, quality assurance protocols, and data management, provided that the resulting data is submitted to the Minnesota Pollution Control Agency for review and inclusion in the state water quality database;

(13) a contribution to or expenditure on projects or activities approved by the commissioner of natural resources for:

(i) wildlife management projects that benefit the public at large;

(ii) grant-in-aid trail maintenance and grooming established under sections 84.83 and 84.927, and other trails open to public use, including purchase or lease of equipment for this purpose; and

(iii) supplies and materials for safety training and educational programs coordinated by the Department of Natural Resources, including the Enforcement Division;

(14) conducting nutritional programs, food shelves, and congregate dining programs primarily for persons who are age 62 or older or disabled;

(15) a contribution to a community arts organization, or an expenditure to sponsor arts programs in the community, including but not limited to visual, literary, performing, or musical arts;

(16) an expenditure by a licensed fraternal organization or a licensed veterans organization for payment of water, fuel for heating, electricity, and sewer costs for a building wholly owned or wholly leased by and used as the primary headquarters of the licensed veterans organization or fraternal organization;

(17) expenditure by a licensed veterans organization of up to \$5,000 in a calendar year in net costs to the organization for meals and other membership events, limited to members and spouses, held in recognition of military service. No more than \$5,000 can be expended in total per calendar year under this clause by all licensed veterans organizations sharing the same veterans post home;

(18) payment of fees authorized under this chapter imposed by the state of Minnesota to conduct lawful gambling in Minnesota; ~~or~~

(19) a contribution or expenditure to honor an individual's humanitarian service as demonstrated through philanthropy or volunteerism to the United States, this state, or local community;

(20) a contribution by a licensed organization to another licensed organization with prior board approval, with the contribution designated to be used for one or more of the following lawful purposes under this section: clauses (1) to (7), (11) to (15), (19), and (25);

(21) an expenditure that is a contribution to a parent organization, if the parent organization: (i) has not provided to the contributing organization within one year of the contribution any money, grants, property, or other thing of value, and (ii) has received prior board approval for the contribution that will be used for a program that meets one or more of the lawful purposes under subdivision 7a;

(22) an expenditure for the repair, maintenance, or improvement of real property and capital assets owned by an organization, or for the replacement of a capital asset that can no longer be repaired, with a fiscal year limit of five percent of gross profits from the previous fiscal year, with no carryforward of unused allowances. The fiscal year is July 1 through June 30. Total expenditures for the fiscal year may not exceed the limit unless the board has specifically approved the expenditures that exceed the limit due to extenuating circumstances beyond the organization's control. An expansion of a building or bar-related expenditures are not allowed under this provision.

(i) The expenditure must be related to the portion of the real property or capital asset that must be made available for use free of any charge to other nonprofit organizations, community groups, service groups, or is used for the organization's primary mission or headquarters.

(ii) An expenditure may be made to bring an existing building that the organization owns into compliance with the Americans with Disabilities Act.

(iii) An organization may apply the amount that is allowed under item (ii) to the erection or acquisition of a replacement building that is in compliance with the Americans with Disabilities Act if the board has specifically approved the amount. The cost of the erection or acquisition of a replacement building may not be made from gambling proceeds, except for the portion allowed under this item;

(23) an expenditure for the acquisition or improvement of a capital asset with a cost greater than \$2,000, excluding real property, that will be used exclusively for lawful purposes under this section if the board has specifically approved the amount;

(24) an expenditure for the acquisition, erection, improvement, or expansion of real property, if the board has first specifically authorized the expenditure after finding that the real property will be used exclusively for lawful purpose under this section; or

(25) an expenditure, including a mortgage payment or other debt service payment, for the erection or acquisition of a comparable building to replace an organization-owned building that was destroyed or made uninhabitable by fire or catastrophe or to replace an organization-owned building that was taken or sold under an eminent domain proceeding. The expenditure may be only for that part of the replacement cost not reimbursed by insurance for the fire or catastrophe or compensation not received from a governmental unit under the eminent domain proceeding, if the board has first specifically authorized the expenditure.

(b) Expenditures authorized by the board under clauses (24) and (25) must be 51 percent completed within two years of the date of board approval; otherwise the organization must reapply to the board for approval of the project. "Fifty-one percent completed" means that the work completed must represent at least 51 percent of the value of the project as documented by the contractor or vendor.

~~(b)~~ (c) 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 catastrophe, provided that the expenditure may be only for that part of the replacement cost not reimbursed by insurance, (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, or (v) with respect to an expenditure to bring an existing building into compliance with the Americans with Disabilities Act under item (ii), an organization has the option to apply the amount of the board-approved expenditure to the erection or acquisition of a replacement building that is in compliance with the Americans with Disabilities Act;~~

~~(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)~~ (3) 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; or

(4) a contribution to a 501(c)(3) organization or other entity with the intent or effect of not complying with lawful purpose restrictions or requirements.

Sec. 11. Minnesota Statutes 2008, section 349.12, subdivision 32a, is amended 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. A pull-tab dispensing device may have as a component an auditory or visual enhancement to promote or provide information about a game being dispensed, provided the component does not affect the outcome of a game or display the results of a game or an individual ticket.

Sec. 12. Minnesota Statutes 2008, section 349.12, subdivision 33, is amended to read:

Subd. 33. **Raffle.** "Raffle" means a game in which a participant buys a ticket or other certificate of participation in an event where the prize determination is based on a method of random selection and all entries have an equal chance of selection. ~~The ticket or certificate of participation must include the location, date, and time of the selection of the winning entries.~~

Sec. 13. Minnesota Statutes 2008, section 349.15, subdivision 1, is amended to read:

Subdivision 1. **Expenditure restrictions, requirements, and civil penalties.** (a) Gross profits from lawful gambling may be expended only for lawful purposes or allowable expenses as authorized by the membership of the conducting organization at a monthly meeting of the organization's membership.

(b) Provided that no more than 70 percent of the gross profit from bingo, and no more than 60 percent of the gross profit from other forms of lawful gambling, may be expended biennially during the term of the license for allowable expenses related to lawful gambling, except that for the period of July 1, 2008, to June 30, 2009, no more than 75 percent of the gross profit from bingo, and no more than 65 percent of the gross profit from other forms of lawful gambling, may be expended for allowable expenses related to lawful gambling. For licenses issued after June 30, 2006, compliance with this subdivision will be measured on a biennial basis that is concurrent with the term of the license. Compliance with this subdivision is a condition for the renewal of any license beginning on July 1, 2008. For licenses renewed with an effective date between July 1, 2006, and June 30, 2008, an organization shall carry forward an amount equal to 15 percent of any positive allowable expense carryover amount. This balance must be used to offset any future negative expense balance at the time of license renewal. This provision expires June 30, 2009.

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

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

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

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

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

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

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

(1) in determining any suspension or penalty for a violation of this paragraph, the board must consider any unique factors or extraordinary circumstances that caused the organization to not meet the minimum rate of profitability. Unique factors or extraordinary circumstances include, but are not limited to, the purchase of capital assets necessary to conduct lawful gambling; road or other construction causing impaired access to the lawful gambling premises; and flood, tornado, or other catastrophe that had a direct impact on the continuing lawful gambling operation; and

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

Sec. 14. Minnesota Statutes 2008, section 349.15, subdivision 1a, is amended to read:

Subd. 1a. **Disaster relief.** An organization may expend net profits from lawful gambling to relieve the effects of a disaster as defined in section 12.03, subdivision 2, without the prior approval of its membership if:

(1) the contribution is a lawful purpose under section 349.12, subdivision 25, paragraph (a);

(2) the contribution is authorized by the organization's chief executive officer and gambling manager; and

(3) the contribution is approved by the membership of the organization at its next regularly scheduled monthly meeting.

If the contribution is not approved by the membership of the organization at its next regularly scheduled monthly meeting, the organization shall reimburse its gambling account in the amount of the contribution.

Sec. 15. Minnesota Statutes 2008, section 349.151, subdivision 4, is amended to read:

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

(1) to regulate lawful gambling to ensure it is conducted in the public interest;

(2) to issue licenses to organizations and gambling managers, and to issue licenses and renewals to distributors, distributor salespersons, manufacturers, and linked bingo game providers; 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 linked bingo game providers 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 report annually to the governor and legislature a financial summary for each licensed organization identifying the gross receipts, prizes paid, allowable expenses, lawful purpose expenditures including charitable contributions and all taxes and fees as per section 349.12, subdivision 25, paragraph (a), clauses (8) and (18), and the percentage of annual gross profit used for lawful purposes;

(10) to impose civil penalties of not more than ~~\$500~~ \$1,000 per violation on organizations, distributors, distributor salespersons, manufacturers, linked bingo game providers, and gambling managers for ~~failure~~ violating or failing to comply with any provision of this chapter, chapter 297E, or any rule or order of the board;

(11) to issue premises permits to organizations licensed to conduct lawful gambling;

(12) to delegate to the director the authority to issue or deny license and premises permit applications and renewals under criteria established by the board;

(13) to delegate to the director the authority to approve or deny fund loss requests, contribution of gambling funds to another licensed organization, and property expenditure requests under criteria established by the board;

(14) to suspend or revoke licenses and premises permits of organizations, distributors, distributor salespersons, manufacturers, linked bingo game providers, or gambling managers as provided in this chapter;

(15) to approve or deny requests from licensees for:

(i) waivers from fee requirements as provided in section 349.16, subdivision 6; and

(ii) variances from Gambling Control Board rules under section 14.055; and

(16) to register employees of organizations licensed to conduct lawful gambling;

(17) to require fingerprints from persons determined by board rule to be subject to fingerprinting;

(18) 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;

(19) to order organizations, distributors, distributor salespersons, manufacturers, linked bingo game providers, and gambling managers to take corrective actions; and

(20) 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, distributor salesperson, manufacturer, linked bingo game provider, or gambling manager a civil penalty of not more than ~~\$500~~ \$1,000 per violation for a failure to comply with any provision of this chapter, chapter 297E, or any rule adopted or order issued by the board. Any organization, distributor, distributor salesperson, gambling manager, linked bingo game provider, or manufacturer assessed a civil penalty under this paragraph may request a hearing before the board. Appeals of citations imposing a civil penalty are not subject to the provisions of the Administrative Procedure Act.

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

(d) All fees imposed by the board under sections 349.16 to 349.167 must be deposited in the state treasury and credited to a lawful gambling regulation account in the special revenue fund. Receipts in this account are available for the operations of the board up to the amount authorized in biennial appropriations from the legislature.

Sec. 16. Minnesota Statutes 2008, section 349.154, subdivision 1, is amended to read:

Subdivision 1. **Standards for certain organizations.** The board shall by rule prescribe standards that must be met annually by any licensed organization that is a 501(c)(3) or festival organization. The standards must provide:

(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.

Sec. 17. Minnesota Statutes 2008, section 349.155, subdivision 3, is amended to read:

Subd. 3. **Mandatory disqualifications.** (a) In the case of licenses for manufacturers, distributors, distributor salespersons, linked bingo game providers, 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, or person in a supervisory or management position 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 270C.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 are 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 involving theft or fraud;

(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.

Sec. 18. Minnesota Statutes 2008, section 349.155, subdivision 4a, is amended to read:

Subd. 4a. **Illegal gambling.** (a) The board may not deny, suspend, or revoke, ~~or refuse to renew~~ an organization's premises permit because illegal gambling occurred at the site for which the premises permit was issued, unless the board determines that: (1) the organization knowingly participated in the illegal gambling; or (2) the organization or any of its agents knew of the illegal gambling and the organization did not notify the lessor of the premises, in writing and with specificity, that illegal gambling was being conducted on the premises and requesting that the lessor take appropriate action. For purposes of this paragraph, "agent" means any person, compensated or otherwise, who participates in the conduct of the organization's lawful gambling.

(b) The board may not deny, suspend, or revoke, ~~or refuse to renew~~ an organization's license because illegal gambling occurred at a site for which a premises permit was issued to the organization unless the board determines that the organization's chief executive officer, gambling manager, or one or more of its assistant gambling managers participated in or authorized the illegal gambling.

Sec. 19. Minnesota Statutes 2008, 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 ~~(f)~~ (e) 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 at the time of its initial license application, and thereafter the organization must have at least 13 members eligible to vote on gambling matters.

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

~~(e) The organization has identified in its license application the lawful purposes on which it proposes to expend net profits from lawful gambling and has identified an annual goal for charitable contributions, expressed as a percentage of gross profits.~~

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

~~(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 297E.02, subdivision 6.~~

~~(h) The organization has not exceeded the expenditure restrictions imposed under section 349.15, subdivision 1, or if the organization has exceeded the expenditure restrictions under section 349.15, subdivision 1, the organization has reimbursed any excess expenses from a source of nongambling funds. Reimbursement of excess expenses is a condition for license renewal. The board may by rule impose sanctions or penalties on organizations that exceed the expenditure restrictions under section 349.15, subdivision 1.~~

Sec. 20. Minnesota Statutes 2008, section 349.16, subdivision 3, is amended to read:

Subd. 3. **Term of license.** Licenses issued under this section are perpetual and valid for two years unless the board revokes or suspends the license, the organization terminates the license, or the license lapses.

Sec. 21. Minnesota Statutes 2008, section 349.16, is amended by adding a subdivision to read:

Subd. 3a. **Lapsed licenses.** (a) An organization license is considered to be lapsed if the organization:

(1) did not conduct and report any gambling sales activity within seven months from the date of the last gambling activity;

(2) failed to have a gambling manager as required by section 349.167;

(3) failed to pay annual license and permit fees; or

(4) surrenders, withdraws, or otherwise terminates the license and files a termination plan required under section 349.19.

(b) If the organization license is determined to be lapsed, the board may:

(1) institute a proceeding under section 349.155;

(2) require the organization to file a termination plan required under section 349.19;

(3) enter a revocation order as of the date on which the license was considered lapsed;

(4) impose a civil penalty as provided under section 349.151, subdivision 4;

(5) order corrective action as provided under section 349.151, subdivision 7; or

(6) summarily suspend the license as provided under section 349.1641.

Sec. 22. Minnesota Statutes 2008, section 349.16, subdivision 6, is amended to read:

Subd. 6. **License fees.** The board shall impose an annual fee of \$350 for an organization's license ~~application~~. Organizations that expect to receive less than \$100,000 in gross annual receipts may request from the board a waiver of organization license fees.

Sec. 23. Minnesota Statutes 2008, section 349.16, is amended by adding a subdivision to read:

Subd. 6a. **Monthly regulatory fee.** An organization must pay a monthly regulatory fee of 0.1 percent of the organization's gross receipts from lawful gambling conducted

each month. The fee must be reported and paid on a monthly basis in a format as determined by the commissioner of revenue, and remitted to the commissioner of revenue with the organization's monthly tax return. All monthly regulatory fees received by the commissioner of revenue under this subdivision must be deposited in the lawful gambling regulation account in the special revenue fund according to section 349.151. Failure to pay the monthly regulatory fees in a timely manner may result in disciplinary action by the board.

Sec. 24. Minnesota Statutes 2008, 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 annual investigation fee on organizations applying for ~~or renewing a an initial~~ premises permit or conducting lawful gambling at a site within their jurisdiction under section 349.213, subdivision 2. An investigation fee may not exceed the following limits:

- (1) for cities of the first class, \$500;
- (2) for cities of the second class, \$250;
- (3) for all other cities, \$100; and
- (4) for counties, \$375.

Sec. 25. Minnesota Statutes 2008, section 349.16, subdivision 11, is amended to read:

Subd. 11. **Agreement to pay taxes.** An organization which is recognized by federal law, regulation, or other ruling as a quasi-governmental organization that would otherwise be exempt from one or more taxes under chapter 297E must agree to pay all taxes under chapter 297E on lawful gambling conducted by the organization as a condition of receiving ~~or renewing~~ a license or premises permit.

Sec. 26. Minnesota Statutes 2008, section 349.16, is amended by adding a subdivision to read:

Subd. 12. **Organization license information.** The organization must notify the board within ten days when changes in the application information occur.

Sec. 27. Minnesota Statutes 2008, section 349.162, subdivision 6, is amended to read:

Subd. 6. **Removal of equipment from inventory.** Authorized employees of the board, the Division of Alcohol and Gambling Enforcement of the Department of Public Safety, and the commissioner of revenue may remove gambling equipment from the inventories of distributors and organizations and test that equipment to determine its compliance with all applicable laws and rules. A distributor or organization may return to the manufacturer thereof any gambling equipment which is determined to be in violation of law or rule. The cost to an organization of gambling equipment removed from inventory under this paragraph and found to be in compliance with all applicable law and rules is an allowable expense under section ~~349.15~~ 349.12, subdivision 3a.

Sec. 28. Minnesota Statutes 2008, section 349.1635, subdivision 3, is amended to read:

Subd. 3. **Attachments to application.** An applicant for a linked bingo game provider license must attach to its application:

(1) evidence of a bond in the principal amount of \$100,000 payable to the state of Minnesota conditioned on the payment of all linked bingo prizes and any other money due and payable under this chapter;

(2) detailed plans and specifications for the operation of the linked bingo game and the linked bingo system, along with a proposed fee schedule for the cost of providing services and equipment to licensed organizations; and

(3) any other information required by the board by rule.

Sec. 29. Minnesota Statutes 2008, section 349.1641, is amended to read:

349.1641 LICENSES; SUMMARY SUSPENSION.

(a) The board may (1) summarily suspend the license of an organization that is more than ~~three months~~ 45 days late in filing a tax return or in paying a tax required under chapter 297E and may keep the suspension in effect until all required returns are filed and required taxes are paid; (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; ~~and~~ (3) summarily suspend the license of a gambling manager who has failed to receive the training required under section 349.167, subdivision 4, clause (2), and may keep the suspension in effect until the gambling manager passes an examination prepared and administered by the board. The examination does not qualify as continuing education credit for the next calendar year; and (4) summarily suspend the license of an organization that fails to pay the fees required under section 349.16, 349.165, or 349.167, and may keep the suspension in effect until all required fees are paid.

(b) The board must notify the licensee at least 14 days before suspending the license under this section. 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 under this 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. 30. Minnesota Statutes 2008, section 349.165, subdivision 1, is amended to read:

Subdivision 1. **Premises permit required; application.** A licensed organization may not conduct lawful gambling at any site unless it has first obtained from the board a premises permit for the site. The board shall prescribe a form for permit applications, and each application for a permit must be submitted on a separate form. The premises permit issued by the board runs concurrently on a perpetual basis with the license of the organization unless the premises permit is suspended, or revoked by the board, or voluntarily terminated by the organization. The board may by rule limit the number of premises permits that may be issued to an organization.

Sec. 31. Minnesota Statutes 2008, section 349.165, subdivision 2, is amended to read:

Subd. 2. **Contents of application.** An application for a premises permit must contain:

- (1) the name and address of the applying organization;
- (2) a description of the site for which the permit is sought, including its address and, where applicable, its placement within another premises or establishment;
- (3) if the site is leased, the name and address of the lessor and information about the lease the board requires, including all rents and other charges for the use of the site. The lease term is concurrent with the term of the premises permit. The lease must contain a 30-day termination clause. No lease is required for the conduct of a raffle; and
- (4) other information the board deems necessary to carry out its purposes.

An organization holding a premises permit must notify the board in writing within ten days whenever any material change is made in the above information.

Sec. 32. Minnesota Statutes 2008, section 349.165, subdivision 3, is amended to read:

Subd. 3. **Fees.** ~~(a)~~ The board may issue premises permits to organizations licensed under section 349.16, subdivision 6. The annual fee for each premises permit is \$150.

~~(b) In addition to the annual fee for a premises permit, an organization must pay a monthly regulatory fee of 0.1 percent of the organization's gross receipts from lawful gambling conducted at that site. The fee must be reported and paid on a monthly basis in a format as determined by the commissioner of revenue, and remitted to the commissioner of revenue along with the organization's monthly tax return for that premises. All premises permit fees received by the commissioner of revenue under this subdivision must be deposited in the lawful gambling regulation account in the special revenue fund according to section 349.151. Failure to pay the monthly premises permit fees in a timely manner may result in disciplinary action by the board.~~

Sec. 33. Minnesota Statutes 2008, section 349.165, is amended by adding a subdivision to read:

Subd. 5. **Off-site permits.** (a) A licensed organization may conduct lawful gambling on a premises other than the organization's permitted premises if it has first submitted to the board an application and lease on forms provided by the board, obtained authorization required under section 349.213, and received a permit from the board for up to four events in a calendar year in connection with a county fair, the state fair, a church festival, or a civic celebration, not to exceed three days per event.

(b) No lease is required for the conduct of a raffle.

(c) No fee may be assessed for an off-site permit by the board or by local authority under section 349.213.

Sec. 34. Minnesota Statutes 2008, section 349.166, subdivision 2, is amended to read:

Subd. 2. **Exemptions.** (a) Lawful gambling, with the exception of linked bingo games, may be conducted by an organization without a license and without complying with sections 349.168, subdivisions 1 and 2; 349.17, ~~subdivisions~~ subdivision 4 ~~and 5~~; 349.18, subdivision 1; and 349.19 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 submits a board-prescribed application and pays a fee of \$50 to the board, notifies the board in writing not less than 30 days before for each lawful gambling occasion of, and receives an exempt permit number from the board. If the application is postmarked or received less than 30 days before the gambling occasion the fee is \$100 for that application. The application must include 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, and 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), the board shall not issue any authorization, license, or permit to the organization to conduct lawful gambling on an exempt, excluded, or licensed basis until the report has been filed and the organization may be subject to penalty as determined by the board. The board may refuse to issue any authorization, license, or permit if a report or application is determined to be incomplete or knowingly contains false or inaccurate information.

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

(d) Organizations that qualify to conduct exempt raffles under paragraph (a), are exempt from section 349.173, paragraph (b), clause (2), if the raffle tickets are sold only in combination with an organization's membership or a ticket for an organization's membership dinner and are not included with any other raffle conducted under the exempt permit.

(e) 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.

~~(f) An organization that is exempt from taxation on purchases of pull-tabs and tipboards under section 297E.02, subdivision 4, paragraph (b), clause (4), 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.~~

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

Sec. 35. Minnesota Statutes 2008, section 349.167, subdivision 2, is amended to read:

Subd. 2. **Gambling managers; licenses.** (a) 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 or otherwise meets the temporary requirements allowed under

paragraph (d). 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, clauses (1) and (2);

(2) within the five years before the date of the license application, has committed a violation of law or board rule that resulted in the revocation of a license issued by the board;

(3) has ever been convicted of a criminal violation involving fraud, theft, tax evasion, misrepresentation, or gambling; or

(4) has engaged in conduct the board determines is contrary to the public health, welfare, or safety or the integrity of lawful gambling.

(b) A gambling manager's license runs concurrent with the organization's license unless the gambling manager's license is suspended or revoked by the board or otherwise terminated by the organization or gambling manager.

(c) The annual fee for a gambling manager's license is \$100.

(d) At the time of the death, disability, or termination of a gambling manager, the organization must:

(1) contact the board within one business day to establish a plan to replace the gambling manager; and

(2) submit a complete application and fee within four business days.

(e) An organization that fails to meet the requirements of paragraph (d) must discontinue its gambling operation until a gambling manager application and fee is received by the board and a license has been issued by the board and received by the gambling manager.

Sec. 36. Minnesota Statutes 2008, section 349.168, subdivision 8, is amended to read:

Subd. 8. ~~**Percentage of gross profit Compensation paid.**~~ (a) A licensed organization may pay a percentage of the gross profit from raffle ticket sales to a nonprofit organization that sells raffle tickets for the licensed organization.

(b) A licensed organization may compensate an employee of the organization for the sale of gambling equipment at a bar operation if the frequency of the activity is one day or less per week and the games are limited to 32 chances or less per game. For purposes of this paragraph, an employee must not be a lessor, employee of the lessor, or an immediate family member of the lessor.

(c) An organization that leases a premises may not pay compensation to the lessor, a member of the lessor's immediate family, or the lessor's employees, other than as a seller of pull-tabs and tipboards within a booth operation on the premises. A member of the lessor's immediate family may be compensated by an organization for the conduct of gambling at other sites not owned by the lessor.

Sec. 37. Minnesota Statutes 2008, section 349.169, subdivision 1, is amended to read:

Subdivision 1. **Filing required.** When required by the board, manufacturers ~~and~~₂ distributors, and linked bingo game providers must file with the director the prices at which the manufacturer ~~or~~₂ distributor, or linked bingo game provider will sell all

gambling equipment currently offered for sale by that manufacturer ~~or~~ distributor, or linked bingo game provider. The filing must be in a format the director prescribes.

Sec. 38. Minnesota Statutes 2008, section 349.169, subdivision 3, is amended to read:

Subd. 3. **Sales at filed prices.** When required to report under subdivision 1, no manufacturer may sell to a distributor or linked bingo game provider, and no distributor or linked bingo game provider may sell to an organization, any gambling equipment for any price other than a price the manufacturer ~~or~~ distributor, or linked bingo game provider has filed with the director under subdivision 1, including volume discounts, and exclusive of transportation costs.

Sec. 39. Minnesota Statutes 2008, section 349.17, subdivision 3, is amended to read:

Subd. 3. **Winners.** Each bingo winner must be determined and every prize shall be awarded and delivered the same day on which the bingo occasion is conducted, except that ~~prizes won in payment for a progressive prize or a linked bingo game prize~~ must be delivered within three business days of the day on which the occasion was conducted.

Sec. 40. Minnesota Statutes 2008, section 349.17, subdivision 5, is amended to read:

Subd. 5. **Bingo cards and sheets.** (a) The board shall by rule require that all licensed organizations: (1) conduct bingo only using a bingo paper sheet or facsimile of a bingo face that bears an individual number recorded by the distributor or linked bingo game provider; and (2) use each bingo paper sheet for no more than one bingo occasion. In lieu of the requirements of clause (2), 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) shall only apply to a licensed organization that received gross receipts from bingo in excess of \$150,000 in the organization's last fiscal year.

(c) Each bingo hard card, bingo paper sheet, or a facsimile of a bingo paper sheet 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.

Sec. 41. Minnesota Statutes 2008, section 349.17, subdivision 6, is amended 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.~~

~~(b)~~ A game of bingo begins with the first letter and number called. Each player must cover ~~or~~ mark, or activate the numbers when bingo numbers are randomly selected, announced, and displayed to the players, either manually or with a flashboard and monitor. The game is won when a player, using bingo paper, bingo hard card, or a facsimile of a bingo paper sheet, has ~~covered or marked~~ completed, as described in the bingo program, a previously designated ~~arrangement of numbers on the card or sheet pattern or previously determined requirements of the game~~ and declared bingo. The game is completed when a

winning card ~~or~~ sheet, or facsimile is verified and a prize awarded, ~~except that prizes won in linked bingo games may be awarded pursuant to subdivision 3.~~

Sec. 42. Minnesota Statutes 2008, section 349.17, subdivision 7, is amended to read:

Subd. 7. **Bar bingo.** An organization may conduct bar bingo subject to the following restrictions:

(1) the bingo is conducted at a site the organization owns or leases and which has a license for the sale of intoxicating beverages on the premises under chapter 340A;

(2) the bingo is conducted using only bingo paper sheets or facsimiles of bingo paper sheets purchased from a licensed distributor or licensed linked bingo game provider; and

(3) no rent may be paid for a bar bingo occasion; ~~and~~

~~(4) the lessor's immediate family and employees may participate if they are not involved with the sale or operation of bar bingo.~~

Sec. 43. Minnesota Statutes 2008, section 349.173, is amended to read:

349.173 CONDUCT OF RAFFLES.

(a) Raffle tickets or certificates of participation at a minimum must list the three most expensive prizes to be awarded and include the location, date, and time of the selection of the winning entries. If additional prizes will be awarded, a complete list of additional prizes must be publicly posted at the event and copies of the complete prize list made available upon request. ~~Notwithstanding section 349.12, subdivision 33,~~ Raffles conducted under the exemptions in section 349.166 may use tickets that contain only the sequential number of the raffle ticket and no other information if the organization makes a list of prizes and a statement of other relevant information required by rule available to persons purchasing tickets and if tickets are only sold at the event and on the date when the tickets are drawn.

(b) Raffles must be conducted in a manner that ensures:

(1) all entries in the raffle have an equal chance of selection;

(2) entry in the raffle is not conditioned upon any other purchase, except that a certificate of participation may be a button with a nominal value of less than \$5;

(3) the method of selection is conducted in a public forum;

(4) the method of selection cannot be manipulated or based on the outcome of an event not under the control of the organization;

(5) physical presence at the raffle is not a requirement to win; and

(6) all sold and unsold tickets or certificates of participation are accounted for.

(c) Methods of selecting winning entries from a raffle other than prescribed in rule may be used with the prior written approval of the board.

Sec. 44. Minnesota Statutes 2008, section 349.18, subdivision 1, is amended to read:

Subdivision 1. **Lease or ownership required; rent limitations.** (a) An organization may conduct lawful gambling only on premises it owns or leases. Leases must be on a form prescribed by the board. ~~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 is concurrent with the premises permit.~~ Leases approved by the board must specify that the board may authorize an organization to withhold rent from a lessor for a period of up to 90 days if the board determines that illegal gambling occurred on the premises ~~and~~ or that the lessor or its employees participated in the illegal gambling or knew of the gambling and did not take prompt action to stop the gambling. The lease must authorize the continued tenancy of the organization without the payment of rent during the time period determined by the board under this paragraph. Copies of all leases must be made available to employees of the board and the Division of Alcohol and Gambling Enforcement on request. ~~The board may prescribe by rule limits on the amount of rent which an organization may pay to a lessor for premises leased for 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) Rent paid by an organization for leased premises for the conduct of pull-tabs, tipboards, and paddle wheels is subject to the following limits:

(1) for booth operations, including booth operations where a pull-tab dispensing device is located, booth operations where a bar operation is also conducted, and booth operations where both a pull-tab dispensing device is located and a bar operation is also conducted, the maximum rent is:

(i) in any month where the organization's gross profit at those premises does not exceed \$4,000, up to \$400; and

(ii) in any month where the organization's gross profit at those premises exceeds \$4,000, up to \$400 plus not more than ten percent of the gross profit for that month in excess of \$4,000;

(2) for bar operations, including bar operations where a pull-tab dispensing device is located but not including bar operations subject to clause (1), and for locations where only a pull-tab dispensing device is located:

(i) in any month where the organization's gross profit at those premises does not exceed \$1,000, up to \$200; and

(ii) in any month where the organization's gross profit at those premises exceeds \$1,000, up to \$200 plus not more than 20 percent of the gross profit for that month in excess of \$1,000;

(3) a lease not governed by clauses (1) and (2) must be approved by the board before becoming effective;

(4) total rent paid to a lessor from all organizations from leases governed by clause (1) may not exceed \$1,750 per month. ~~Total rent paid to a lessor from all organizations from leases governed by clause (2) may not exceed \$2,500 per month.~~

(c) Rent paid by an organization for leased premises for the conduct of bingo is subject to either of the following limits at the option of the parties to the lease:

(1) not more than ten percent of the monthly gross profit from all lawful gambling activities held during bingo occasions excluding bar bingo or at a rate based on a cost per square foot not to exceed 110 percent of a comparable cost per square foot for leased space as approved by the director; and

(2) no rent may be paid for bar bingo.

(d) Amounts paid as rent under leases are all-inclusive. No other services or expenses provided or contracted by the lessor may be paid by the organization, including, but not limited to, trash removal, janitorial and cleaning services, snow removal, lawn services, electricity, heat, security, security monitoring, storage, other utilities or services, and, in the case of bar operations, cash shortages, unless approved by the director. Any other expenditure made by an organization that is related to a leased premises must be approved by the director. An organization may not provide any compensation or thing of value to a lessor or the lessor's employees from any fund source other than its gambling account. Rent payments may not be made to an individual.

(e) Notwithstanding paragraph (b), an organization may pay a lessor for food or beverages or meeting room rental if the charge made is comparable to similar charges made to other individuals or groups.

(f) No entity other than the licensed organization may conduct any activity within a booth operation on a leased premises.

~~(g) Employees of a lessor not involved in the conduct of lawful gambling on the premises or nongambling employees of an organization conducting lawful gambling on the premises may participate in lawful gambling on the premises provided if pull-tabs or tipboards are sold, the organization posts the major prizes awarded.~~

~~(h) A gambling employee may purchase pull-tabs or tipboards at the site of the employee's place of employment provided:~~

~~(1) the organization posts the major prizes for pull-tab or tipboard games; and~~

~~(2) the employee is not involved in the sale of pull-tabs or tipboards at that site.~~

~~(i) At a leased site where an organization uses a paddle wheel consisting of 32 numbers or less or a tipboard consisting of 32 tickets or less, tickets may be sold throughout the permitted premises, but winning tickets must be redeemed, the paddle wheel must be located, and the tipboard seal must be opened within the leased premises.~~

Sec. 45. **[349.181] RESTRICTIONS ON WHO MAY PARTICIPATE IN LAWFUL GAMBLING.**

Subdivision 1. **Minimum age.** (a) A person under age 18 may not participate:

(1) as a player in games of pull-tabs, tipboards, paddlewheel, or raffles;

(2) as a player in a bingo game other than:

(i) a bingo game exempt or excluded from licensing; or

(ii) a bingo game conducted by an organization as part of an annual community event if the person under age 18 is accompanied by a parent or guardian; and

(3) in the conduct of pull-tabs, tipboards, paddlewheels, bingo, or raffles, except that a person under age 18 may sell raffle tickets.

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).

Subd. 2. **Gambling manager.** A gambling manager may not participate directly or indirectly as a player in any lawful gambling conducted by the organization for which the gambling manager is licensed.

Subd. 3. **Organization and lessor employees and volunteers.** (a) For purposes of this section, "volunteer" means a person who is not compensated by an organization but who performs activities in the conduct of lawful gambling for that organization.

(b) For purposes of this section, "conduct of pull-tabs, tipboards, and paddlewheels" includes selling tickets, redeeming tickets, auditing games, making deposits, spinning the paddlewheel, and conducting inventory.

(c) For purposes of this section, "conduct of bingo" includes selling bingo hard cards, bingo paper sheets, or facsimiles of bingo paper sheets, completing bingo occasion records, selecting or announcing bingo numbers, making deposits, and conducting inventory.

(d) An employee or volunteer who is involved in the conduct of pull-tabs, tipboards, or paddlewheels at a permitted premises may not participate directly or indirectly as a player in a pull-tab, tipboard, or paddlewheel game at that same premises. This restriction is in effect until six weeks after the employee or volunteer is no longer involved in the conduct of pull-tab, tipboard, or paddlewheel games at that same premises.

(e) An employee or volunteer who is involved in the conduct of any lawful gambling during a bingo occasion may not participate directly or indirectly as a player in any lawful gambling during that bingo occasion.

Subd. 4. **Lessor.** The lessor of a permitted premises may not participate directly or indirectly as a player in any lawful gambling conducted at that premises.

Subd. 5. **Lessor's immediate family.** The lessor's immediate family may not participate directly or indirectly as a player in a pull-tab, tipboard, or paddlewheel game conducted at that premises.

Sec. 46. Minnesota Statutes 2008, section 349.19, subdivision 2, is amended to read:

Subd. 2. **Accounts.** (a) Gross receipts from lawful gambling by each organization must be segregated from all other revenues of the conducting organization and placed in a separate gambling bank account.

(b) All expenditures for allowable expenses, taxes, and lawful purposes must be made from the separate account except (1) in the case of expenditures previously approved by the organization's membership for emergencies as defined by board rule, (2) as provided in subdivision 2a, or (3) when restricted to one electronic fund transaction for the payment of taxes for the organization as a whole, the organization may transfer the amount of taxes related to the conduct of gambling to the general account at the time when due and payable.

(c) 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.

(d) Gambling receipts must be deposited into the gambling bank account within 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 tipboard game is considered complete when the seal on the game flare is uncovered or the organization does not continue the play of the deal during the next scheduled period of time in which the organization will conduct tipboards.

(e) Deposit records must be sufficient to allow determination of deposits made from each bingo occasion, deal, or game at each permitted premises.

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

Sec. 47. Minnesota Statutes 2008, section 349.19, subdivision 2a, is amended to read:

Subd. 2a. **Tax refund or credit.** (a) Each organization that receives a refund or credit under section 297E.02, subdivision 4, paragraph (d), must within four business days of receiving a refund under that paragraph deposit the refund in the organization's gambling account.

(b) The organization may expend the tax refund or credit issued under section 297E.02, subdivision 4, paragraph (d), only for lawful purposes, other than lawful purposes described in section 349.12, subdivision 25, paragraph (a), clauses (8); and (9); and (12). Amounts subject to this paragraph must be spent for qualifying lawful purposes no later than one year after the refund or credit is received.

Sec. 48. Minnesota Statutes 2008, section 349.19, subdivision 3, is amended to read:

Subd. 3. **Expenditures.** (a) All expenditures of gross profits from lawful gambling must be itemized as to payee, purpose, amount, and date of payment, ~~and must be in compliance with section 349.154.~~

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

(1) the name of the recipient of the expenditure or contribution;

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

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

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

(c) Authorization of the expenditures must be recorded in the monthly meeting minutes of the licensed organization.

(d) Checks or authorizations for electronic fund transfers for expenditures of gross profits must be signed by at least two persons authorized by board rules to sign the checks or authorizations.

(e) Expenditures of gross profits from lawful gambling for local, state, and federal taxes as identified in section 349.12, subdivision 25, paragraph (a), clause (8), may be: ~~(1) transferred electronically from the organization's gambling account directly to bank accounts identified by local, state, or federal agencies if the organization's gambling account monthly bank statement specifically identifies the payee by name, the amount transferred, and the date of the transaction; or (2) transferred electronically to and from the account of a payroll processing firm that meets the criteria for such a firm established under section 349.168, subdivision 6.~~

(f) Expenditures of gross profits from lawful gambling as identified in section 349.12, subdivision 3a, and as authorized by section 349.15, subdivision 1, for payments for ~~taxes~~ lawful purpose expenditures and allowable expenses may be transferred electronically from the organization's gambling account directly to bank accounts identified by the vendor if the organization's gambling account monthly bank statement specifically identifies the payee by name, the amount transferred, the account number of the account into which the funds were transferred, and the date of the transaction.

(g) Expenditures of gross profits from lawful gambling for payroll compensation to an employee's account and for the payment of local, state, and federal withholding taxes may be transferred electronically to and from the account of a payroll processing firm provided that the firm:

(1) is currently registered with and meets the criteria of the Department of Revenue as a third-party bulk filer under section 290.92, subdivision 30;

(2) is able to provide proof of a third-party audit and an annual report and statement of financial condition;

(3) is able to provide evidence of a fidelity bond; and

(4) can provide proof of having been in business as a third-party bulk filer for the most recent three years.

(h) Electronic payments of taxes, lawful purpose expenditures, and allowable expenses are permitted only if they have been authorized by the membership, the organization maintains supporting documentation, and the expenditures can be verified.

~~(b) Expenditures authorized by the board according to section 349.12, subdivision 25, paragraph (b), clause (3), must be 51 percent completed within two years of the date of board approval. "Fifty-one percent completed" means that the work completed must represent at least 51 percent of the value of the project as documented by the contractor or vendor. An organization that fails to comply with this paragraph shall reapply to the board for approval of the project.~~

Sec. 49. Minnesota Statutes 2008, section 349.19, subdivision 9, is amended to read:

Subd. 9. **Annual financial audit; filing requirement.** An organization licensed under this chapter must have an annual financial audit ~~or financial review~~ when required by section 297E.06, subdivision 4.

Sec. 50. Minnesota Statutes 2008, 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 driver's license, Minnesota identification card, or other identification the board deems sufficient to allow the identification and ~~tracing~~ tracking 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) the licensed organization uses a pull-tab dispensing device, 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.

(c) 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. 51. Minnesota Statutes 2008, section 349.191, subdivision 1, is amended to read:

Subdivision 1. **Credit restriction.** A manufacturer may not offer or extend to a distributor or linked bingo game provider, a linked bingo game provider ~~may not offer or extend to an organization, and~~ or a distributor may not offer or extend to an organization, credit for a period of more than 30 days for the sale or lease 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. 52. Minnesota Statutes 2008, section 349.191, subdivision 1a, is amended to read:

Subd. 1a. **Credit and sales to delinquent organizations.** (a) If a distributor or linked bingo game provider does not receive payment in full from an organization within 30 days of the day immediately following the date of the invoice, the distributor or linked bingo game provider must notify the board in writing of the delinquency on the next business day.

(b) If a distributor or linked bingo game provider 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 or linked bingo game provider must notify the board of the continuing delinquency.

(c) On receipt of a notice under paragraph (a), the board shall order all distributors and linked bingo game providers that until further notice from the board, they may sell or lease 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 and linked bingo game providers not to sell or lease any gambling equipment to the delinquent organization.

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

Sec. 53. Minnesota Statutes 2008, section 349.191, subdivision 1b, is amended to read:

Subd. 1b. **Credit and sales to delinquent distributors or linked bingo game providers.** (a) If a manufacturer does not receive payment in full from a distributor or linked bingo game provider within 30 days of the day immediately following the date of invoice, the manufacturer must notify the board in writing of the delinquency on the next business day.

(b) If a manufacturer who has notified the board under paragraph (a) has not received payment in full from the distributor or linked bingo game provider 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 or lease gambling equipment to the delinquent distributor or linked bingo game provider 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 or lease any gambling equipment to the delinquent distributor or linked bingo game provider.

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

Sec. 54. Minnesota Statutes 2008, section 349.191, subdivision 2, is amended to read:

Subd. 2. **Invoices.** All invoices prepared by a manufacturer or distributor or linked bingo game provider and presented as part of a credit transaction for the purchase of gambling equipment must clearly bear the words "Notice: State Law Prohibits the Extension of Credit For This Sale or Lease For More Than 30 Days."

Sec. 55. Minnesota Statutes 2008, section 349.191, subdivision 3, is amended to read:

Subd. 3. **Rules.** Any rule of the board which requires a manufacturer to report to the board any distributor or linked bingo game provider who is delinquent in payment for gambling equipment must provide that a distributor or linked bingo game provider is subject to the rule if the distributor or linked bingo game provider is more than 30 days delinquent in payment to a manufacturer.

Sec. 56. Minnesota Statutes 2008, section 349.191, subdivision 4, is amended to read:

Subd. 4. **Credit; postdated checks.** For purposes of this section, "credit" includes acceptance by a manufacturer or distributor or linked bingo game provider of a postdated check in payment for gambling equipment.

Sec. 57. Minnesota Statutes 2008, section 349.2127, subdivision 7, is amended to read:

Subd. 7. **Checks for gambling purchases.** An organization may not accept checks or debit cards in payment for the purchase of any gambling equipment or for the chance to participate in any form of lawful gambling except a raffle. If an organization accepts a

check or debit card, the payment of which is subsequently dishonored, the organization shall reimburse its gambling account for the amount of the dishonored check payment within 30 days of receiving notice of the dishonor. This subdivision does not apply to gaming activities conducted pursuant to the Indian Gaming Regulatory Act, United States Code, title 25, section 2701 et seq.

Sec. 58. Minnesota Statutes 2008, 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~~

(b) A statutory or home rule city or county may require a permit for the conduct of gambling exempt from licensing under section 349.166. The fee for a permit issued under section 349.166 may not exceed \$100.

(c) The authority granted by this subdivision does not include the authority to require a license or fee for a license or permit to conduct gambling by organizations, gambling managers, gambling employees, or sales by distributors or linked bingo game providers licensed by or registered with the board.

(d) The authority granted by this subdivision does not include the authority to require an organization to make specific expenditures of more than ten percent per year from its net profits derived from lawful gambling.

(e) 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.

(f) 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:

(1) as authorized under section 349.16, subdivision 8, or 297E.02; ~~provided; however, that or~~

(2) by an ordinance requirement that such organizations must contribute ten percent per year 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.~~ The funds must be disbursed by the ~~responsible~~ local unit of government ~~of the receipts~~ for (i) charitable contributions as defined in section 349.12, subdivision 7a, or (ii) police, fire, and other emergency or public safety-related services, equipment, and training, excluding pension obligations. A contribution made by an organization is not considered an expenditure to the city or county nor a tax under section 297E.02, and is valid and lawful. A city or county receiving and making expenditures authorized under this ~~paragraph~~ clause must by March 15 of each year file a report with the board, on a form the board prescribes, that lists all such revenues collected, interest received on fund balances, and expenditures for the previous calendar year.

~~(b)~~ (g) 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 and township contiguous to the defining city.

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

Sec. 59. Minnesota Statutes 2008, section 349.213, subdivision 2, is amended to read:

Subd. 2. **Local approval.** ~~Before issuing or renewing a premises permit, the board must notify the city council of the statutory or home rule city in which the organization's premises is located or, if the premises is located outside a city, the county board of the county and the town board of the town where the premises is located. The board may require organizations to notify the appropriate local government at the time of application. This required notification is sufficient to constitute the notice required by this subdivision. The board may not issue or renew a premises permit unless the organization submits a resolution from the city council or county board approving the premises permit. The resolution must have been adopted within 90 days of the date of application for the new or renewed permit or license. The board may not issue an initial premises permit unless approval is received from:~~

(1) the city council of the statutory or home rule city in which the organization's premises is located; or

(2) the county board of the county where the premises is located.

The organization must submit a resolution from the city council or county board approving the premises permit. The resolution must have been adopted within 90 days of the date of application for the new permit.

Sec. 60. **REPEALER.**

(a) Minnesota Statutes 2008, sections 349.15, subdivision 4; 349.154, subdivision 2; 349.155, subdivision 7; 349.16, subdivisions 9 and 10; 349.166, subdivision 3; 349.168, subdivisions 4, 6, 7, and 10; 349.18, subdivisions 2 and 3; and 349.2127, subdivision 8, are repealed effective July 1, 2009.

(b) Minnesota Statutes 2008, section 349.15, subdivision 5, is repealed effective December 31, 2009.

Sec. 61. **EFFECTIVE DATE.**

Except as otherwise provided, this act is effective July 1, 2009.

Presented to the governor May 18, 2009

Signed by the governor May 20, 2009, 2:42 p.m.