

## CHAPTER 7865

### GAMBLING CONTROL BOARD

### DISCIPLINARY ACTIONS

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#### 7865.0010 COMPLIANCE REVIEW GROUP.

Subpart 1. **Establishment.** The chair of the board shall appoint at least one panel consisting of at least three board members to serve as a compliance review group. Compliance review groups will meet as necessary to exercise the powers and duties granted to them by subpart 2.

Subp. 2. **Powers and duties.** Each compliance review group may:

A. meet as necessary to consider alleged violations of laws or rules related to lawful gambling by persons licensed under Minnesota Statutes, chapter 349;

B. direct the director to initiate investigations of persons licensed under Minnesota Statutes, chapter 349, for the purpose of determining whether laws or rules related to lawful gambling have been violated;

C. require any person or entity licensed under Minnesota Statutes, chapter 349, to appear before it to discuss alleged violations of laws or rules related to lawful gambling;

D. conduct hearings according to this subpart;

E. negotiate proposed consent orders with licensees to resolve any violations of laws or rules related to lawful gambling;

F. enter into consent orders with licensees to resolve any violations of laws or rules related to lawful gambling;

G. recommend to the board that it take disciplinary action against a person or entity licensed under Minnesota Statutes, chapter 349;

H. recommend to the board that it summarily suspend a license pursuant to Minnesota Statutes, section 349.1641; and

I. initiate and recommend any other proceedings necessary to ensure that violations of the laws and rules related to lawful gambling are detected and addressed appropriately.

**Statutory Authority:** *MS s 349.151*

**History:** *16 SR 2116*

#### 7865.0020 SUSPENSIONS OR REVOCATIONS.

Subpart 1. **Definitions.** For purposes of this chapter, "suspension" means that the licensee retains ownership rights in its license, even though its lawful gambling activities in Minnesota must cease during the time of license suspension; and "revocation" means that ownership of the license is terminated on the effective date of revocation.

Subp. 1a. **Grounds for suspension.** The board may, by order, suspend or refuse to renew any license or premises permit issued pursuant to Minnesota Statutes, chapter 349, impose a civil fine, or censure a licensee or applicant, if it finds that the order is in the public interest and that the licensee or applicant, or a director, officer, partner, governor, person in a supervisory or management position of the applicant or licensee, an employee eligible to make sales on behalf of the applicant or licensee, or direct or indirect holder of more than a five percent financial interest in the applicant or licensee after a contested case hearing under Minnesota Statutes, chapter 14, if the licensee has:

A. violated or failed to comply with any provision of Minnesota Statutes, chapter 297E, 299L, or 349 or any rule adopted or order issued thereunder;

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

C. made a false statement in a document, application, or report required to be submitted to the board or the commissioner of revenue or has made a false statement in testimony to the board, the compliance review group, an agent of the board conducting an investigation on behalf of the board, or the director;

D. been convicted of a crime in another jurisdiction that would be a felony if committed in Minnesota;

E. been permanently or temporarily enjoined by any gambling regulatory agency from engaging in or continuing any conduct or practice involving any aspect of gambling;

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

G. been the subject of any of the following actions by the director of gambling enforcement or commissioner of public safety:

(1) had a license under Minnesota Statutes, chapter 299L denied, suspended, or revoked;

(2) been censured, reprimanded, has paid or been required to pay a monetary penalty or fine; or

(3) been the subject of any other discipline by the director or commissioner;

H. engaged in conduct that is contrary to the public health, welfare, or safety, or to the integrity of gambling; or

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

The civil fines referred to in this subpart do not include citations issued by the board.

**Subp. 2. Length of suspension.** In determining the length of any suspension of a license issued under Minnesota Statutes, chapter 349, the board shall consider:

A. the severity of the conduct as indicated by the potential harm to the integrity of lawful gambling;

B. the culpability of the violator;

C. the frequency of the violator's failure to comply with laws or rules related to lawful gambling;

D. the actual harm caused to the integrity of lawful gambling;

E. the likelihood that the violations will occur again; and

F. the degree of the violator's cooperation during the course of the investigation into its activities.

**Subp. 3. Grounds for revocation.** The board may revoke the license of any organization, distributor, manufacturer, or bingo hall owner after a hearing pursuant to Minnesota Statutes, chapter 14, or impose a civil fine, for what it determines to be a willful violation of laws or rules related to lawful gambling.

The board may revoke the license of any gambling manager after a hearing pursuant to Minnesota Statutes, chapter 14, or impose a civil fine, for any violation of laws or rules related to lawful gambling after considering the factors identified in subpart 2.

The civil fines referred to in this subpart do not include citations issued by the board.

The board may, by order, revoke the license of an organization, distributor, manufacturer, or bingo hall owner if it finds that the order is in the public interest and that the applicant or licensee, or a director, officer, partner, governor, person in a supervisory or management position of the applicant or licensee, an employee eligible to make sales on behalf of the applicant or licensee, or direct or indirect holder of more than a five percent financial interest in the applicant or licensee has:

A. violated or failed to comply with any provision of Minnesota Statutes, chapter 297E, 299L, or 349, or any rule adopted or order issued thereunder;

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

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

D. been convicted of a crime in another jurisdiction that would be a felony if committed in Minnesota;

E. been permanently or temporarily enjoined by any gambling regulatory agency from engaging in or in continuing any conduct or practice involving any aspect of gambling;

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

G. been the subject of any of the following actions by the director of gambling enforcement or commissioner of public safety:

(1) had a license under Minnesota Statutes, chapter 299L denied, suspended, or revoked;

(2) been censured, reprimanded, has paid or been required to pay a monetary penalty or fine; or

(3) been the subject of any other discipline by the director or commissioner;

H. engaged in conduct that is contrary to the public health, welfare, or safety, or to the integrity of gambling; or

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

In the case of licenses for manufacturers, distributors, bingo hall owners, and gambling managers, the board shall revoke a license under this chapter, if the applicant or licensee, or a director, officer, partner, governor, person in a supervisory or management position of the applicant or licensee, or an employee eligible to make sales on behalf of the applicant or licensee has:

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

(2) ever been convicted of:

(a) assault;

(b) a criminal violation involving the use of a firearm; or

(c) making terroristic threats;

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

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

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

(6) after demand, not filed tax returns required by the commissioner of revenue.

The board may revoke a license under this chapter, if any of the conditions in this subpart are applicable to an affiliate or direct or indirect holder of more than a five percent financial interest in the applicant or licensee.

**Subp. 4. Additional grounds.** Any grounds for denial of a license are also grounds for suspension or revocation of a license. Any grounds for denial of a premises permit are also grounds for suspension or revocation of a premises permit.

**Subp. 5. Compliance review groups.** In negotiating consent orders containing proposed suspensions or revocations, the compliance review groups shall consider the provisions of this part.

**Statutory Authority:** *MS s 349.151*

**History:** *16 SR 2116; 19 SR 156; 19 SR 1854*

## **7865.0025 REIMBURSEMENT.**

The board may require an organization to deposit nongambling funds in the organization's gambling bank account to reimburse the account for unlawful expenditures or ex-

penses, to otherwise bring the organization into compliance with Minnesota Statutes, section 349.15, or to reimburse the account for gambling receipts that the organization failed to deposit in the account. Subject to parts 7861.0020, subpart 8, and 7861.0120, subpart 5, item B, subitem (5), reimbursement is a contested case under Minnesota Statutes, chapter 14. In determining the extent of the reimbursement to be required after a contested case hearing, the board shall consider:

A. the severity of the conduct as indicated by the potential harm to the integrity of lawful gambling;

B. the culpability of the violator;

C. the frequency of the violator's failure to comply with laws or rules relating to the deposit and expenditure of gambling receipts;

D. the actual harm caused to the integrity of lawful gambling;

E. the likelihood that the violation will occur again;

F. the degree of the violator's cooperation during the course of the investigation into its activities; and

G. any other factor related to the violation that the board considers crucial to its determination of the extent of the reimbursement as long as the same factors are considered with regard to all violators.

**Statutory Authority:** *MS s 349.151*

**History:** *17 SR 2712*

#### **7865.0030 FINES.**

**Subpart 1. Imposition.** The board may impose a civil fine upon any licensed organization, gambling manager, bingo hall lessor, distributor, or manufacturer for violation of any provision of Minnesota Statutes, sections 349.12 to 349.23, or a violation of the board's rules. The civil penalty may not exceed \$500 per violation.

In determining the amount of the fine to be imposed for a violation of law or rule, the board shall consider:

A. the severity of the conduct as indicated by the potential harm to the integrity of lawful gambling;

B. the culpability of the violator;

C. the frequency of the violator's failure to comply with the law or rules;

D. the actual harm caused to the integrity of lawful gambling; and

E. any other factor related to the violation that the board considers crucial to its determination of the amount of the fine as long as the same factors are considered with regard to all violators.

**Subp. 2. Citation form.** The director or agents of the commissioner of revenue may issue to any licensee or person registered with the board a proposed fine on a citation form prescribed by the board. The amount of the proposed fine must be determined according to the factors listed in subpart 1. The proposed fine must be paid to the board within seven days, excluding Saturdays, Sundays, and holidays, of the date on which the citation is issued. Failure to pay the proposed fine within seven days may subject the licensee or registered person to further disciplinary action by the board unless the licensee or registered person appeals the citation and the proposed fine to the board within the seven-day period.

**Subp. 3. Appeals.** An appeal of the proposed fine must contain the name of the person or organization that received the citation, the date on which the citation was issued, the amount of the proposed fine as stated on the citation, and the specific reasons why the proposed fine should not be paid.

Appeals of proposed fines shall be referred by the board to the compliance review group for purposes of a hearing. Within ten days of the receipt of an appeal, the compliance review group must schedule a hearing. The licensee or registered person may be represented by counsel and may present documents and other relevant evidence to support its position. The compliance review group must issue an order within ten days of the date of the hearing, recommending to the board whether or not a civil fine should be imposed.

If the compliance review group determines that a civil fine should be imposed, the order must contain a recommendation for the amount of the fine. The board must act on the recom-

mentation of the compliance review group at its next regularly scheduled meeting. Within ten days of acting on the matter, the board must issue an order, including findings of fact and conclusions of law. The order is a final agency decision.

**Subp. 4. Payment from gross receipts prohibited.** Money used to pay a fine imposed by the board may not be paid from the gross receipts of gambling.

**Subp. 5. Consequences of failure to correct violations.** Failure to correct the violation for which the fine was imposed is grounds for the suspension or revocation of a license.

**Statutory Authority:** *MS s 349.151*

**History:** *16 SR 2116*

#### **7865.0040 STAYS.**

**Subpart 1. Entitlement.** A licensee subjected to a board order suspending or revoking its license or imposing a civil fine upon it is entitled to a stay of imposition of that sanction upon filing an appeal to the court of appeals unless the board determines that the potential or actual harm to the public and/or the integrity of lawful gambling resulting from the grant of such a stay would exceed the harm to the licensee from the denial of such a stay.

**Subp. 2. Procedure.** The following items apply to the procedure for requests for stays of impositions of sanctions:

A. A licensee seeking a stay pursuant to subpart 1 must file a written request with the board. The request must contain:

(1) a copy of the licensee's appeal to the court of appeals and proof that the appeal has been filed with the court of appeals;

(2) a brief statement describing why the harm the licensee would suffer from the denial of a stay exceeds the potential or actual harm to the public or the integrity of lawful gambling that would result from the grant of a stay; and

(3) a copy of the order issued by the board imposing the sanction the licensee seeks to have stayed.

B. Any request for a stay complying with the provisions of item A must be considered by the chair of the board pursuant to subpart 1. The chair shall respond to the applicant in writing within five days, excluding Saturdays, Sundays, and holidays, of the date the application is received by the board. The response shall grant or deny the stay and explain the reasons for the decision. The chair's decision regarding the stay shall represent the official board response to the request until the board is able to consider the request pursuant to item C.

C. All requests for stays shall be considered by the board after initial consideration and response by the chair. If the chair has granted the licensee's request for the stay, the board shall consider the request at its next regularly scheduled meeting. If the chair has denied the request, the chair shall call a special board meeting to consider the licensee's request for a stay. The special meeting must be held no later than ten days after the chair has issued a written response to the request. When the board considers the request for a stay, it shall grant or deny the stay pursuant to subpart 1 and issue a written order containing its decision and the reasons for the decision within five days of the date it considers the request. The board's decision constitutes a final agency action.

**Statutory Authority:** *MS s 349.151*

**History:** *16 SR 2116*