

CHAPTER 349

BINGO, GAMBLING DEVICES, AND VIDEO GAMES
OF CHANCE

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349.01 [Repealed, 1976 c 261 s 15]

349.02 [Repealed, 1976 c 261 s 15]

349.03 [Repealed, 1976 c 261 s 15]

349.11 PURPOSE.

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

History: 1976 c 261 s 1; 1Sp1981 c 4 art 1 s 162; 1984 c 502 art 12 s 2

349.12 DEFINITIONS.

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

Subd. 2. "Lawful gambling" is the operation, conduct or sale of bingo, raffles, paddlewheels, tipboards, and pull-tabs.

Subd. 3. "Active member" means a member who has paid all dues to the organization and has been a member of the organization for at least six months.

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

Subd. 5. "Bingo occasion" means a single gathering or session at which a series of one or more successive bingo games is played.

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Subd. 6. "Checker" means a person who records the number of bingo cards purchased and played during each game and records the prizes awarded to the recorded cards, but does not collect the payment for the cards.

Subd. 7. "Paddlewheel" means a wheel marked off into sections containing one or more numbers, and which, after being turned or spun, uses a pointer or marker to indicate winning chances.

Subd. 8. "Tipboard" means a board, placard or other device marked off in a grid or columns, in which each section contains a hidden number or numbers, or other symbol, which determines the winning chances.

Subd. 9. "Raffle" means a game in which a participant buys a ticket for a chance at a prize with the winner determined by a random drawing to take place at a location and date printed upon the ticket.

Subd. 10. "Pull-tab" means a single folded or banded ticket or a card with a face covered to conceal one or more numbers or symbols, where one or more of each set of tickets or cards has been designated in advance as a winner. "Pull-tab" also includes a ticket sold in a gambling device known as a ticket jar.

Subd. 11. "Lawful purpose" means one or more of the following: (a) benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded; (b) initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; (c) lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; or (d) the improving, expanding, maintaining or repairing real property owned or leased by an organization.

"Lawful purpose" does not include the erection or acquisition of any real property, unless the board specifically authorizes the expenditures after finding that the property will be used exclusively for one or more of the purposes specified in this clause.

Subd. 12. "Organization" means any fraternal, religious, veterans, or other non-profit organization.

Subd. 13. "Profit" means the gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for prizes and taxes imposed by this chapter.

Subd. 14. "Gambling manager" means a person who has paid all dues to an organization and has been a member of the organization for at least two years and has been designated by the organization to supervise lawful gambling conducted by it.

Subd. 15. "Gambling equipment" means: bingo cards and devices for selecting bingo numbers, pull-tabs, ticket jars, paddlewheels, and tipboards.

Subd. 16. "Board" is the charitable gambling control board.

Subd. 17. "Distributor" is a person who sells gambling equipment the distributor manufactures or purchases for resale within the state.

Subd. 18. **Deal.** "Deal" means each separate package, or series of packages, consisting of one game of pull-tabs with the same serial number purchased from a distributor.

History: 1976 c 261 s 2; 1984 c 502 art 12 s 3; 1986 c 444; 1986 c 467 s 4-6

349.13 LAWFUL GAMBLING.

Lawful gambling is not a lottery or gambling within the meaning of sections 609.75 to 609.76 if it is conducted under this chapter.

History: 1976 c 261 s 3; 1984 c 502 art 12 s 4

349.14 ORGANIZATION MAY CONDUCT LAWFUL GAMBLING; LICENSE.

An organization may conduct lawful gambling if it has been in existence for at least three years, has at least 15 active members, has a license to conduct lawful gambling from the board and complies with this chapter.

History: 1976 c 261 s 4; 1982 c 538 s 1; 1984 c 502 art 12 s 5

349.15 USE OF PROFITS.

Profits from lawful gambling may be expended only for lawful purposes or expenses as authorized at a regular meeting of the conducting organization. Provided that no more than 50 percent of profits from bingo, and no more than 40 percent for other forms of lawful gambling, may be expended for necessary expenses related to lawful gambling. The board shall provide by rule for the administration of this section, including specifying allowable expenses. The rules may provide a maximum percentage of gross receipts which may be expended for certain expenses.

History: 1976 c 261 s 5; 1984 c 502 art 12 s 6; 1986 c 467 s 7; 1Sp1986 c 3 art 2 s 16

349.151 CHARITABLE GAMBLING CONTROL BOARD.

Subdivision 1. **Board created.** The charitable gambling control board is created with the powers and duties established by subdivision 4.

Subd. 2. **Membership.** The board consists of 13 members appointed as follows:

(1) eleven persons appointed by the governor with the advice and consent of the senate, at least four of whom must reside outside of the seven-county metropolitan area;

(2) the commissioner of public safety or a designee; and

(3) the attorney general or a designee.

A member serving on the board by appointment must have been a resident of Minnesota for at least five years. Of the appointees of the governor not more than six may belong to the same political party. A member appointed to the board may be removed at any time by the appointing authority. Vacancies on the board are filled in the same manner as the original appointment. Of the members appointed by the governor, three are for terms expiring June 30, 1985, four are for terms expiring June 30, 1986, and four are for terms expiring June 30, 1987. After the expiration of the initial terms, appointments are for three years. The governor shall appoint the chair from among the governor's appointees.

Subd. 3. **Compensation.** The compensation of board members is \$35 per day spent on commission activities, when authorized by the board, plus expenses in the same manner and amount as provided in the commissioner's plan adopted according to section 43A.18, subdivision 2.

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

(1) to issue, revoke, and suspend licenses to organizations, distributors, and manufacturers under sections 349.16, 349.161, and 349.163;

(2) to collect and deposit license fees and taxes due under this chapter;

(3) to receive reports required by this chapter and inspect the records, books, and other documents of organizations and suppliers to insure compliance with all applicable laws and rules;

(4) to make rules, including emergency rules, required by this chapter;

(5) to register gambling equipment and issue registration stamps under section 349.162;

(6) 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;

(7) to report annually to the governor and legislature on its activities and on recommended changes in the laws governing charitable gambling; and

(8) impose civil penalties of not more than \$500 per violation on organizations, distributors, and manufacturers for failure to comply with any provision of sections 349.12 to 349.23 or any rule of the board.

Subd. 5. **Employees.** The board shall employ an executive secretary in the unclassified service and such other employees in the classified service as are required to enable it to carry out its functions. One or more of the employees must be bingo inspectors.

Subd. 6. **Attorney general.** The attorney general is the attorney for the board.

History: 1984 c 502 art 12 s 7; 1984 c 640 s 32; 1986 c 444; 1986 c 467 s 8,9

349.16 ORGANIZATION LICENSES.

Subdivision 1. **Issuance of gambling licenses.** Licenses authorizing organizations to conduct lawful gambling may be issued by the board to organizations meeting the qualifications of section 349.14, if the board determines that the license is consistent with the purpose of sections 349.11 to 349.22. Licenses issued under this section are valid for one year and may be suspended by the board for a violation of law or board rule or revoked for what the board determines to be a pattern of willful violations of law or board rule. A revocation or suspension is a contested case under sections 14.57 to 14.69 of the administrative procedure act.

Subd. 2. **Application.** All applications for a license under this section must be on a form prescribed by the board. The board may require the applying organization to submit a copy of its articles of incorporation and other documents it deems necessary.

Subd. 3. **Fees.** The board shall by rule establish a schedule of fees for licenses under this section. The schedule must establish four classes of license, authorizing all forms of lawful gambling, all forms except bingo, raffles only, and bingo only.

Subd. 4. **Local investigation fee.** A statutory or home rule charter city or county notified under section 349.213, subdivision 2, may assess an investigation fee on organizations applying for or renewing a license to conduct lawful gambling. 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; and
- (3) for all other cities and counties, \$100.

History: 1976 c 261 s 6; 1984 c 502 art 12 s 8; 1986 c 467 s 10,11

349.161 DISTRIBUTOR LICENSES.

Subdivision 1. **Prohibited acts; licenses required.** No person may:

(1) sell, offer for sale, or furnish gambling equipment for use within the state for gambling purposes, other than for lawful gambling exempt from licensing under section 349.214, except to an organization licensed for lawful gambling; or

(2) sell, offer for sale, or furnish gambling equipment to an organization licensed for lawful gambling without having obtained a distributor license under this section.

No licensed organization may purchase gambling equipment from any person not licensed as a distributor under this section.

Subd. 2. **License application.** The board may issue licenses for the sale of gambling equipment to persons who meet the qualifications of this section if the board determines that a license is consistent with the purpose of sections 349.11 to 349.22. Applications must be on a form the board prescribes.

Subd. 3. **Qualifications.** A license may not be issued under this section to a person, or to a corporation, firm, or partnership which has as an officer, director, or other person in a supervisory or management position a person, who:

- (1) has been convicted of a felony in a state or federal court within the past five years or who has a felony charge pending;

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(2) has ever been convicted in a state or federal court of a gambling-related offense;
or

(3) is or has ever been engaged in an illegal business.

Subd. 4. **Fees.** The annual fee for a suppliers license is \$1,500.

Subd. 5. **Prohibition.** No distributor may also be a wholesale distributor of liquor or alcoholic beverages.

Subd. 6. **Revocation and suspension.** A license under this section may be suspended by the board for a violation of law or board rule or for failure to meet the qualifications in subdivision 3 at any time or revoked for what the board determines to be a pattern of willful violations of law or board rule. A revocation or suspension is a contested case under sections 14.57 to 14.69 of the administrative procedure act.

Subd. 7. **Criminal history.** The board may request the assistance of the bureau of criminal apprehension in investigating the background of an applicant for a supplier's license and may reimburse the bureau for the costs thereof. The board has access to all criminal history data compiled by the bureau on licensees and applicants.

Subd. 8. **Employees of distributors.** Licensed distributors shall provide the board upon request with the names and business addresses of all employees. Each person eligible to conduct sales on behalf of a distributor must have in possession a picture identification card approved by the board.

History: 1984 c 502 art 12 s 9; 1986 c 467 s 12,13

349.162 EQUIPMENT REGISTERED.

Subdivision 1. **Stamp required.** A distributor may not sell to an organization and an organization may not purchase from a distributor gambling equipment unless the equipment has been registered with the board and has a registration stamp affixed. The board shall charge a fee of five cents for each stamp. Each stamp must bear a registration number assigned by the board. A distributor is entitled to a refund for unused stamps and replacement for stamps which are defective or canceled by the distributor.

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

- (1) the identity of the person or firm from whom the equipment was purchased;
- (2) the registration number of the equipment;
- (3) the name and address of the organization to which the sale was made; and
- (4) the date of the sale.

The invoice for each sale must be retained for at least one year after the sale is completed and a copy of the invoice is delivered to the board. For purposes of this section, a sale is completed when the gambling equipment is physically delivered to the purchaser.

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

Subd. 3. **Exemption.** For purposes of this section, bingo cards intended to be used for more than one game need not be registered.

History: 1984 c 502 art 12 s 10; 1986 c 467 s 14

349.163 REGISTRATION OF MANUFACTURERS.

Subdivision 1. **Registration.** No manufacturer of gambling equipment may sell any gambling equipment to any person unless the manufacturer has registered with the board and has been issued a certificate of registration.

Subd. 2. **Certificate; fee.** A certificate under this section is valid for one year. The annual fee for registration is \$500.

Subd. 3. **Prohibited sales.** A manufacturer may not sell gambling equipment to any person not licensed as a distributor unless the manufacturer is also a licensed distributor.

History: 1986 c 467 s 15

349.17 CONDUCT OF BINGO.

Subdivision 1. **Bingo occasions.** Not more than 104 bingo occasions each year or two bingo occasions each week may be conducted by an organization, except as provided in this subdivision. A bingo occasion may not continue for more than four consecutive hours.

The board may permit an organization to conduct more than two bingo occasions in a week and more than 104 bingo occasions in a year if the board determines that the additional occasions are consistent with the purpose of sections 349.11 to 349.22 and if the following procedures are followed:

- (1) the organization applies for the additional occasions, stating the number of additional occasions applied for;
- (2) the board notifies the governing body of the county or home rule or statutory city in which the applicant is located; and
- (3) the governing body fails to adopt a resolution disapproving the additional occasions within 30 days of the notification.

Subd. 2. **Bingo on leased premises.** A person or corporation, other than an organization, which leases any premises that it owns to two or more organizations for purposes including the conduct of bingo occasions, may not allow more than four bingo occasions to be conducted on the premises in any week. The board may waive this restriction and permit a person or corporation to allow a specified member of bingo occasions on the premises in excess of four per week if it finds that the waiver is consistent with the purpose of sections 349.11 to 349.22 and if the following procedures are followed:

- (1) the person or corporation applies for the waiver, stating the number of additional occasions sought per week;
- (2) the board notifies the governing body of the county or home rule or statutory city in which the premises are located; and
- (3) the governing body fails to adopt a resolution disapproving the waiver within 30 days of the notification.

Subd. 2a. **Distributor license exemption for lessor.** As part of a lease agreement on a leased bingo premises, the lessor may furnish bingo equipment without being a licensed distributor.

Subd. 3. Each bingo winner must be determined and every prize shall be awarded and delivered the same day on which the bingo occasion is conducted.

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

History: 1976 c 261 s 7; 1979 c 166 s 1; 1984 c 502 art 12 s 11; 1986 c 467 s 16

349.171 CERTAIN SIGNS PROHIBITED.

No organization may post on the premises where it conducts lawful gambling any sign which states directly or indirectly that all of the receipts from the lawful gambling it conducts are used for charitable purposes.

History: 1986 c 467 s 17

349.18 PREMISES USED FOR GAMBLING.

Subdivision 1. **Lease or ownership required.** An organization may conduct lawful gambling only on premises it owns or leases. Leases must be for a period of at least one year and must be in writing. Copies of all leases must be made available to employees of the board on request. A lease may not provide for rental payments based on a percentage of receipts or profits from lawful gambling.

Subd. 2. **Exceptions.** (a) A licensed organization may conduct raffles on a premise it does not own or lease.

(b) A licensed organization may with the permission of the board, conduct bingo on premises it does not own or lease for up to six days in a calendar year, in connection with a county fair or civil celebration.

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

Subd. 3. **Proceeds from rental.** A licensed organization which leases premises it owns to one or more other licensed organizations for purposes including the conduct of lawful gambling may expend the rental proceeds, less reasonable deductions for maintenance, furnishings, and utilities, only for lawful purposes. The rental proceeds must be recorded and reported as proceeds from gambling under section 349.19.

History: 1976 c 261 s 8; 1984 c 502 art 12 s 12; 1986 c 467 s 18

349.19 RECORDS AND REPORTS.

Subdivision 1. **Required record of receipts.** A licensed organization must keep a record of each occasion on which it conducts gambling, including each bingo occasion and each day on which other forms of lawful gambling are conducted. The record must include gross receipts, quantities of free plays if any, expenses, and profits. The board may by rule provide for the methods by which expenses are documented. In the case of bingo, gross receipts must be compared to the checkers' records for the occasion by a person who did not sell cards for the occasion. Separate records must be kept for bingo and all other forms of lawful gambling.

Subd. 2. **Accounts.** Gross receipts from lawful gambling must be segregated from all other revenues of the conducting organization and placed in a separate account. The person who accounts for gambling gross receipts and profits may not be the same person who accounts for other revenues of the organization.

Subd. 3. **Expenditures.** All expenditures of bingo profits must be itemized as to payee, purpose, amount, and date of payment.

Subd. 4. **Discrepancies.** If at a bingo occasion a discrepancy of more than \$20 is found between the gross receipts as reported by the checkers and the gross receipts determined by adding the cash receipts, the discrepancy must be reported to the board within five days of the bingo occasion.

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

Subd. 6. **Preservation of records.** The board may require that records required to be kept by this section must be preserved by a licensed organization for at least two years and may be inspected by employees of the board at any reasonable time without notice or a search warrant.

Subd. 7. **Tax records.** The board may by rule require each licensed organization to provide copies of forms it files with the United States department of the treasury which are required for organizations exempt from income tax.

History: 1976 c 261 s 9; 1984 c 502 art 12 s 13; 1986 c 467 s 19,20

349.20 MANAGERS.

All lawful gambling conducted by a licensed organization must be under the supervision of one or more gambling managers. A gambling manager designated by an organization to supervise a gambling occasion is responsible for the gross receipts from the occasion and for its conduct in compliance with all laws and rules. An organization may designate a different person to act as manager for each type of lawful gambling conducted. Each person designated as a gambling manager must give a fidelity bond in the sum of \$10,000 in favor of the organization conditioned on the faithful performance of the manager's duties, and the terms of the bond must provide that notice be given to the board in writing not less than 30 days before its cancellation.

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

History: 1976 c 261 s 10; 1984 c 502 art 12 s 14

349.21 COMPENSATION.

Compensation to persons who participate in the conduct of lawful gambling may be paid only to active members of the conducting organization or its auxiliary, or the spouse or surviving spouse of an active member, except that nonmanagement assistants who are not active members or spouses may be hired to assist in the conduct of lawful gambling in nonmanagement positions if approved by a majority of the organization's members.

The amounts of compensation which may be paid under this section must be provided for in a schedule of compensation adopted by the board by rule. In adopting the schedule the board must consider the nature of the participation and the types of lawful gambling participated in.

A licensed organization may pay a percentage of the gross receipts from raffle ticket sales to a nonprofit organization which sells tickets for the licensed organization.

History: 1976 c 261 s 11; 1979 c 188 s 1; 1984 c 502 art 12 s 15

349.211 PRIZE LIMITS.

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

Subd. 2. **Bingo cumulative prizes.** A prize of up to \$1,000 may be awarded for a single bingo game if the prize is an accumulation of prizes not won in games in previous bingo occasions. The total amount awarded in cumulative prizes in any calendar year may not exceed \$12,000. For bingo occasions in which a cumulative prize is awarded the aggregate value of prizes which may be awarded for the occasion is increased by the amount of the cumulative prize so awarded less \$100.

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

Subd. 3. **Other gambling.** The board by rule shall establish a schedule of prize limits for all other forms of gambling consistent with the purposes set out in section 349.11. The schedule may include daily and annual prize limits and prize limits for each game, raffle or operation of a gambling device.

Subd. 4. **Prize value.** Merchandise prizes must be valued at their fair market value. For purposes of sections 349.11 to 349.22 "prizes" do not include free plays awarded.

History: 1984 c 502 art 12 s 16; 1986 c 467 s 21

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349.212 TAX IMPOSED.

Subdivision 1. **Rate.** There is hereby imposed a tax on all lawful gambling, other than pull-tabs, conducted by organizations licensed by the board at the rate specified in this subdivision. The tax imposed by this subdivision is in lieu of the tax imposed by section 297A.02 and all local taxes and license fees except a fee authorized under section 349.16, subdivision 4.

On all lawful gambling, other than pull-tabs, the tax is ten percent of the gross receipts of a licensed organization from lawful gambling less prizes actually paid out, payable by the organization.

Subd. 2. **Collection; disposition.** The tax must be paid to the board at times and in a manner the board prescribes by rule. The proceeds, along with the revenue received from all license fees and other fees under sections 349.11 to 349.21 and 349.211, 349.212, and 349.213, must be paid to the state treasurer for deposit in the general fund.

Subd. 3. [Repealed, 1Sp1985 c 13 s 376 subd 1]

Subd. 4. **Pull-tab tax.** There is imposed a tax on the sale of each deal of pull-tabs sold by a licensed distributor to a licensed organization, or to an organization holding an exemption identification number. The rate of the tax is ten percent of the face resale value of all the pull-tabs in each deal less the total prizes which may be paid out on all the pull-tabs in that deal. The tax is payable to the commissioner of revenue in the manner prescribed in section 349.2121 and the rules of the commissioner. The commissioner shall pay the proceeds of the tax to the state treasurer for deposit in the general fund. The sales tax imposed by chapter 297A on the sale of the pull-tabs by the licensed distributor to an organization is imposed on the retail sales price less the tax imposed by this subdivision. The retail sale of pull-tabs by the organization is exempt from taxes imposed by chapter 297A if the tax imposed by this subdivision has been paid and is exempt from all local taxes and license fees except a fee authorized under section 349.16, subdivision 4.

History: 1984 c 502 art 12 s 17; 1985 c 3 s 1; 1986 c 467 s 22,23; 1Sp1986 c 3 art 2 s 14,15

349.2121 PULL-TAB TAX; COLLECTION.

Subdivision 1. **Application and issuance.** Every distributor licensed by the board who sells pull-tabs to organizations authorized to sell pull-tabs under this chapter must file with the commissioner of revenue an application, on a form the commissioner prescribes, for a gambling tax identification number and gambling tax permit. The commissioner, when satisfied that the applicant has a valid license from the board, shall issue the applicant a permit and number. A permit is not assignable and is valid only for the distributor in whose name it is issued.

Subd. 2. **Records.** The commissioner may by rule require a licensed distributor holding a permit under this section to keep such books, papers, documents, and records as the commissioner deems necessary to the enforcement of this chapter. The commissioner may examine, or cause to be examined, any books, papers, records, or other documents relevant to making a determination, whether they are in the possession of a distributor or another person or corporation. The commissioner may require the attendance of any persons having knowledge or information in the premises, to compel the production of books, papers, records, or memoranda by persons so required to attend, to take testimony on matters material to a determination, and to administer oaths or affirmations.

Subd. 3. **Suspension, revocation.** The commissioner, after notice and hearing, may for reasonable cause revoke or suspend a permit held by a distributor. A notice must be sent to the distributor at least 30 days before the hearing and give notice of the time and place of the hearing, must give the reason for the proposed suspension or revocation, and must require the distributor show cause why the proposed action should not be taken. The notice may be served personally or by mail in the manner

prescribed for service of notice of a deficiency. The commissioner may not issue a new permit after revocation except upon application accompanied by reasonable evidence of the intention of the applicant to comply with all applicable laws and rules.

Subd. 4. **Collection.** The tax imposed by section 349.212, subdivision 4, for each taxable sale is due and payable to the commissioner monthly on or before the 25th day of the month succeeding the month in which the taxable sale was made.

Subd. 5. **Information confidential.** Neither the commissioner nor any other public official or employee may divulge or otherwise make known in any manner any particulars disclosed in any report or return required by this section, or any information concerning the affairs of the distributor making the return acquired from its records, officers, or employees while examining or auditing under the authority of this chapter, except in connection with a proceeding involving taxes due under this chapter. Nothing herein prohibits the commissioner from publishing statistics so classified as not to disclose the identity of particular returns or reports and their contents. Any person violating the provisions of this section is guilty of a gross misdemeanor.

Notwithstanding the provisions of this section, the commissioner may furnish information on a reciprocal basis to the taxing officials of another state or the board in order to implement the purposes of this chapter.

In order to facilitate processing of returns and payments of taxes required by this chapter, the commissioner may contract with outside vendors and may disclose private and nonpublic data to the vendor. The data disclosed must be administered by the vendor consistent with this section.

Subd. 6. **Collections; civil penalties.** The provisions of chapter 297A relating to the commissioner's authority to audit, assess, and collect the tax imposed by that chapter apply to the tax, penalties and interest imposed by section 349.212, subdivision 4. The commissioner shall impose civil penalties for violation of this section as provided in chapter 297A, and the additional tax and penalties are subject to interest at the rate provided in section 270.75.

Subd. 7. **Rules.** The commissioner shall adopt rules, including emergency rules, for the administration and enforcement of this section and section 349.212, subdivision 4.

History: 1986 c 467 s 24; 1Sp1986 c 3 art 2 s 17

349.213 LOCAL AUTHORITY.

Subdivision 1. **Local regulation.** A statutory or home rule city or county has the authority to adopt more stringent regulation of any form of lawful gambling within its jurisdiction, including the prohibition of any form of lawful gambling, and may require a permit for the conduct of gambling exempt from licensing under section 349.214. The fee for a permit issued under this subdivision may not exceed \$100. The authority granted by this subdivision does not include the authority to require a license or permit to conduct gambling by organizations or sales by distributors licensed by the board.

Subd. 2. **Local approval.** Before issuing or renewing an organization license, the board must notify the city council of the statutory or home rule city in which the organization's premises are located or, if the premises are located outside a city, by the county board of the county and the town board of the town where the premises are located. If the city council or county board adopts a resolution disapproving the license and so informs the board within 30 days of receiving notice of the license, the license may not be issued or renewed.

History: 1984 c 502 art 12 s 18; 1986 c 467 s 25

349.214 EXEMPTIONS.

Subdivision 1. **Bingo.** Bingo may be conducted without a license and without complying with sections 349.17, subdivision 1, and 349.18 if it is conducted:

(1) in connection with a county fair, the state fair, or a civic celebration if it is not conducted for more than 12 consecutive days in a calendar year; or

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

Subd. 1a. Bingo; certain organizations. Bingo may be conducted within a nursing home or a senior citizen housing project or by a senior citizen organization without compliance with sections 349.11 to 349.213 if the prizes for a single bingo game do not exceed \$10, total prizes awarded at a single bingo occasion do not exceed \$200, no more than two bingo occasions are held by the organization or at the facility each week, only members of the organization or residents of the nursing home or housing project are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, a manager is appointed to supervise the bingo, and the manager registers with the board. The gross receipts from bingo conducted under the limitations of this subdivision are exempt from taxation under chapter 297A.

Subd. 2. Lawful gambling. (a) Raffles may be conducted by an organization as defined in section 349.12, subdivision 12, without complying with sections 349.11 to 349.14 and 349.151 to 349.213 if the value of all raffle prizes awarded by the organization in a calendar year does not exceed \$750.

(b) Lawful gambling may be conducted by an organization as defined in section 349.12, subdivision 12, without complying with sections 349.11 to 349.14 and 349.151 to 349.212 if:

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

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

(3) the organization notifies the board in writing not less than 30 days before each lawful gambling occasion of the date and location of the occasion, the types of lawful gambling to be conducted, the prizes to be awarded, and receives an exemption identification number;

(4) the organization notifies the local government unit 30 days before the lawful gambling occasion;

(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.

(c) If the organization fails to file a timely report as required by paragraph (b), clause (3) or (6), a \$250 penalty is imposed on the organization. Failure to file a timely report does not disqualify the organization as exempt under this paragraph if a report is subsequently filed and the penalty paid.

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

Subd. 3. Raffles, certain organizations. The provisions of sections 349.21 and 349.211, subdivision 3, and the membership requirements of sections 349.14 and 349.20 do not apply to raffles conducted by an organization which directly or under contract to the state or a political subdivision delivers health or social services and which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954, as amended through December 31, 1983, if the prizes awarded in the raffles are real or personal property donated by an individual, firm, or other organization. The person who accounts for the gross receipts, expenses, and profits of the raffles may be the same person who accounts for other funds of the organization.

Subd. 4. Taxation. An organization's receipts from lawful gambling that is exempt from licensing under this section is not subject to the tax imposed by section 297A.02 or 349.212.

History: 1984 c 502 art 12 s 19; 1Sp1985 c 3 s 34; 1986 c 467 s 26,27

349.22 PENALTY.

Subdivision 1. **Gross misdemeanor.** Any other violation of sections 349.11 to 349.214 is a gross misdemeanor.

Subd. 2. **Other action.** This section does not preclude civil or criminal actions under other applicable law or preclude any agency of government from investigating or prosecuting violations of the provisions of sections 349.11 to 349.214. County attorneys have primary responsibility for prosecuting violations of sections 349.11 to 349.214, but the attorney general may prosecute any violation of those sections.

History: 1976 c 261 s 12; 1984 c 502 art 12 s 20

349.23 VALIDITY OF PRIOR AGREEMENTS.

Nothing in sections 349.11 to 349.22 shall be construed to affect the validity of any agreement or contract between an organization and any financial or lending institution, entered into prior to August 1, 1976.

History: 1976 c 261 s 13

349.26 [Repealed, 1984 c 502 art 12 s 25]**349.30 DEFINITIONS.**

Subdivision 1. For the purposes of sections 349.30 to 349.39, unless a different meaning is indicated by the context, the words, terms, and phrases defined in this section shall have the meanings given them.

Subd. 2. "Gambling devices" means slot machines, roulette wheels, punchboards, and pin ball machines which return coins or slugs, chips, or tokens of any kind, which are redeemable in merchandise or cash.

Subd. 3. "Person" means an individual, a copartnership, an association, a corporation, or any other entity or organization.

Subd. 4. "Municipality" means any county, city, or town.

Subd. 5. "License" includes permits of every kind, nature and description issued pursuant to any statute or ordinance for the carrying on of any business, trade, vocation, commercial enterprise or undertaking.

Subd. 6. "Licensee" means any person to whom a license of any kind is issued, but does not include a common carrier transporting, or a public warehouse operator storing, any gambling device for hire, or a manufacturer or distributor of such devices keeping the same only for the purpose of sale or distribution to others or repairing of same.

Subd. 7. "Licensed business" means any business, trade, vocation, commercial enterprise, or undertaking for which a license is issued.

Subd. 8. "Licensed premises" means the place or building, or the room in a building, designated in the license as the place where the licensed business is to be carried on, and all land adjacent thereto and used in connection with and in the operation of a licensed business, and all adjacent or contiguous rooms or buildings operated or used in connection with the buildings where the licensed business is carried on. If no place is described in any license, then "licensed premises" means the building or place where the licensed business is carried on under such license.

Subd. 9. "Issuing authority" and "authority issuing the license" mean and include the officer, board, bureau, department, commission, or agency of the state, or of any of its municipalities, by whom any license is issued and include the councils and governing bodies of all municipalities.

History: 1947 c 586 s 1; 1973 c 123 art 5 s 7; 1981 c 204 s 9; 1986 c 444

349.31 GAMBLING DEVICE; POSSESSION OF.

Subdivision 1. **Intentional possession; willful keeping.** The intentional possession or willful keeping of a gambling device on a licensed premises is cause for the revoca-

tion of any license under which the licensed business is carried on upon the premises where the gambling device is found, provided that possession of gambling equipment as defined in section 349.12, subdivision 17, which is used for lawful gambling authorized by this chapter, and the manufacture of gambling devices for use in jurisdictions where use of the gambling device is legal as provided for by section 349.40 shall not be cause for revocation of a license.

Subd. 2. Revocation of licenses. All licenses under which any licensed business is permitted to be carried on upon the licensed premises shall be revoked if the intentional possession or willful keeping of any such gambling devices upon the licensed premises is established, notwithstanding that it may not be made to appear that such devices have actually been used or operated for the purpose of gambling.

History: 1947 c 586 s 2; 1978 c 507 s 1; 1981 c 126 s 1; 1981 c 204 s 10; 1984 c 502 art 12 s 21; 1986 c 467 s 28

349.32 ISSUING AUTHORITY TO REVOKE.

The proceedings for revocation shall be had before the issuing authority, which shall have power to revoke the license or licenses involved, as hereinafter provided.

History: 1947 c 586 s 3

349.33 PEACE OFFICERS TO OBSERVE AND INSPECT PREMISES.

Every sheriff, deputy sheriff, constable, marshal, police officer, and peace officer shall observe and inspect the premises where occupations are carried on under license and ascertain whether gambling devices are present thereon and immediately report the finding thereof to the authority or authorities issuing the license or licenses applicable to the premises in question.

History: 1947 c 586 s 4; 1986 c 444

349.34 PROCEEDINGS BEFORE ISSUING AUTHORITY; ORDER TO SHOW CAUSE.

Upon the receipt of such information from any of the peace officers referred to in section 349.33, if any issuing authority is of the opinion that cause exists for the revocation of any such license, then that authority shall issue an order to show cause directed to the licensee of the premises, stating the ground upon which the proceeding is based and requiring the licensee to appear and show cause at a time and place, within the county in which the licensed premises are located, not less than ten days after the date of the order, why the license should not be revoked. That order to show cause shall be served upon the licensee in the manner prescribed by law for the service of summons in a civil action, or by certified mail, not less than eight days before the date fixed for the hearing thereof. A copy of the order shall forthwith be mailed to the owner of the premises, as shown by the records in the office of the county recorder, at the owner's last known post office address. A copy of the order shall at the same time be mailed to any other issuing authority, of which the authority issuing the order to show cause has knowledge, by which other license to that licensee may have been issued, and any such other authority may participate in the revocation proceedings after notifying the licensee and the officer or authority holding the hearing of its intention so to do on or before the date of hearing, and after the hearing take such action as it could have taken had it instituted the revocation proceedings in the first instance.

History: 1947 c 586 s 5; 1976 c 181 s 2; 1978 c 674 s 60; 1986 c 444

349.35 REVOCATION OF LICENSE.

Subdivision 1. Revocation; stay; appeal. If, upon the hearing of the order to show cause, it appears that the licensee intentionally possessed or willfully kept upon the licensed premises any gambling device, then the license or licenses under which the licensed business is operated on the licensed premises, shall be revoked. The order of revocation shall not be enforced during the period allowed by section 349.39 for taking an appeal.

Subd. 2. **Limitation as to issuance of new license on premises.** No new license or licenses for the same business upon the same premises shall be issued for the period of one year thereafter, except as hereinafter provided.

History: 1947 c 586 s 6; 1986 c 444

349.36 DUTIES OF COUNTY ATTORNEY.

The county attorney of the county in which the hearing is held shall attend the hearing, interrogate the witnesses, and advise the issuing authority. The county attorney shall also appear for the issuing authority on any appeal taken pursuant to the provisions of section 349.39.

History: 1947 c 586 s 7; 1986 c 444

349.37 WITNESSES.

The issuing authority may issue subpoenas and compel the attendance of witnesses at any hearing. Witnesses duly subpoenaed and attending any such hearing shall be paid fees and mileage by the issuing authority equal to the fees and mileage paid witnesses in the district court.

History: 1947 c 586 s 8

349.38 PROPERTY OWNERS LIABILITY.

When a license is revoked under the provisions of sections 349.30 to 349.39, the owner of the premises upon which any licensed business has been operated shall not be penalized by reason thereof unless it is established that the owner had knowledge of the existence of the gambling devices resulting in license revocation.

History: 1947 c 586 s 9; 1986 c 444

349.39 APPEAL TO DISTRICT COURT; STAY; CONTINUANCE UNDER BOND; HEARING UPON ONE YEAR LIMITATION ON PREMISES.

Any licensee, or any owner of licensed premises, aggrieved by an order of an issuing authority revoking any license may appeal from that order to the district court of the county in which the licensee resides by serving a notice of the appeal upon the issuing authority or the clerk thereof. The notice of appeal shall state that the person appealing takes an appeal to that district court from the order revoking the license or licenses, describing them and identifying the order appealed from. This notice shall be served within 15 days from the date of service of the order appealed from, and the same, with proof of service thereof, shall be filed with the court administrator of the district court of the proper county. The appeal shall stand for trial at the next term of the district court following the filing of the notice of appeal, without the service of any notice of trial, and shall be tried in the district court de novo. The trial shall be by jury if the appellant shall so demand. The licensee may continue to operate the licensed business or businesses until the final disposition of such appeal. If the district court upon the appeal shall determine that any license involved in the appeal should be revoked, it may, nevertheless, in its discretion permit the continuance of the licensed business under a bond in the amount and in the form and containing the conditions prescribed by the court. The district court on the appeal, or in a separate proceeding, may permit the issuance of a new license to a different licensee before the expiration of the period of one year specified in section 349.35, subdivision 2, upon such terms and conditions imposed by the court as will insure that no gambling device shall thereafter be maintained upon the licensed premises.

History: 1947 c 586 s 10; 1986 c 444; 1Sp1986 c 3 art 1 s 82

349.40 GAMBLING DEVICES; MANUFACTURE FOR USE IN OTHER STATES.

The manufacture in this state of gambling devices, or any component parts thereof, for shipment, sale, and use in jurisdictions where use of the gambling device is legal

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is allowed notwithstanding the provisions of this chapter, sections 349.31, 609.75, and 609.76, or other laws to the contrary.

History: 1981 c 126 s 2

349.50 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of sections 349.50 to 349.60, the terms defined in this section have the meanings given them.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of public safety.

Subd. 3. **Department.** "Department" means the department of public safety.

Subd. 4. **Distributor.** "Distributor" means a person which manufactures, sells, markets, advertises, or otherwise distributes video games of chance.

Subd. 5. **Location agreement.** "Location agreement" is an agreement between an operator and an owner for the placement of video games of chance for use by the public.

Subd. 6. **Operator.** "Operator" means a person which holds legal title to video games of chance and places them for use by the public pursuant to a location agreement.

Subd. 7. **Owner.** "Owner" means a person operating a business in which video games of chance are placed for use by the public.

Subd. 8. **Video game of chance.** "Video game of chance" means games or devices that simulate games commonly referred to as poker, blackjack, craps, hi-lo, roulette or other common gambling forms, though not offering any type of pecuniary award or gain to players. The term also includes any video game having one or more of the following characteristics:

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

(2) it awards game credits or replays and contains a meter or device which records unplayed credits or replays and contains a device that permits them to be canceled.

Subd. 9. **Private clubs.** "Private clubs" are clubs holding club on-sale licenses issued under section 340.11, subdivision 11.

History: 1984 c 654 art 3 s 89

349.51 DISTRIBUTOR AND OPERATOR LICENSES.

Subdivision 1. **License required.** No person shall engage in the business of a distributor or operator of video games of chance at any place of business without first having received a license from the department to engage in that business at that location.

Subd. 2. **Application; requirements.** (a) Every application for a license must be made on a form prescribed by the department and must state the name and address of the applicant. If the applicant is a firm, partnership, or association, the application must state the name and address of each of its members. If the applicant is a corporation, the application must state the name and address of each of its officers, the date of incorporation, the address of its principle place of business, the place where the business is to be licensed and business conducted, and information concerning whether or not any officer, director, resident manager, or direct salesperson of the applicant has been convicted of a felony or convicted for a gambling offense within the past five years. The application may contain other information the department requires for licensing purposes.

(b) Every applicant for a license shall be a legal resident or be incorporated within the state of Minnesota prior to the date of application for a distributor or operator license.

(c) Every applicant shall disclose under oath to the commissioner whether or not the applicant has any financial, legal, or other interests in a licensed wholesale liquor or alcoholic beverage distributorship or video game of chance distributorship in another state.

(d) No distributor may also be a wholesale distributor of liquor or alcoholic beverages.

(c) No distributor in this state may also be a distributor in another state, unless the distributor adequately demonstrates that the distributor does not manufacture video games of chance outside of this state for use, sale, or distribution within this state.

Subd. 3. **Fees.** (a) The annual license fee for a distributor license is \$10,000.

(b) The annual license fee for an operator license is \$2,500.

Subd. 4. **Distributor bond.** An application for a distributor's license must be accompanied by a corporate surety bond issued by a surety licensed to do business in this state, in the sum of \$10,000, conditioned upon the true and faithful compliance by the distributor with all the provisions of the license. The bond required by this subdivision must be kept in full force during the period covered by the license.

Subd. 5. **License issued.** Upon receipt of the application, the bond in proper form, and payment of the license fee required by subdivision 3, the department shall issue a license in form as prescribed by the department to the applicant, unless it determines that the applicant is otherwise unqualified. The license permits the applicant to whom it is issued to engage in business as a distributor or operator at the place of business shown in the application. The department must assign a license number to each person licensed at the time the initial license is issued. The license number must be inscribed upon all licenses issued to that distributor or operator.

History: 1984 c 654 art 3 s 90; 1985 c 248 s 53; 1986 c 444

349.52 VIDEO GAME OF CHANCE LICENSES.

Subdivision 1. **Requirements.** In addition to a license, an operator must obtain from the commissioner an annual nontransferable license for each video game of chance. The license fee is \$120 per game. The fee must be prorated according to the number of months remaining in the calendar year at the time of the license application.

Subd. 2. **Collection.** At the time a video game of chance is sold to an operator, the distributor must collect the license fee specified in subdivision 1. The distributor must affix to each game a stamp containing the operator's license number. All license fees must be given to the state treasurer for deposit in the account created in subdivision 3.

Subd. 3. **Video gaming license account.** There is created in the state treasury an account to be known as the "video gaming license account." All fees received by the state treasury pursuant to this section must be credited to this account. The commissioner shall, by January 10 of each year, certify to the state treasurer the number of video games of chance located in each city, and in each county outside of incorporated areas, on December 31 of the previous year. Within ten days of receiving this certification the state treasurer shall pay from the video gaming license account to each city and county \$30 for each video game of chance located in the city or in the county outside city limits. After making these payments the state treasurer shall transfer the unexpended balance in the account to the general fund.

Subd. 4. **Local fees prohibited.** A municipality may not impose a fee or tax of any kind on video games of chance.

History: 1984 c 654 art 3 s 91; 1986 c 444

349.53 RECORD-KEEPING DUTIES OF DISTRIBUTORS.

A distributor shall keep at each licensed place of business complete and accurate records for that place of business, including invoices of video games of chance held, purchased, manufactured, brought in or caused to be brought in from outside the state, or shipped or transported to operators in this state, and of all sales of video games of chance made. The distributor must also keep adequate records of the names, addresses, and license numbers of operators to whom video games of chance are sold. All books, records, and other papers and documents required by this section to be kept must be preserved for a period of at least one year after the date of the documents, or the date

of their entries as they appear in the records, unless the department, in writing, authorizes their destruction or disposal at an earlier date. At any time during usual business hours, the commissioner or designated representatives may enter any place of business of a distributor without a search warrant and inspect the premises and the records required to be kept under this section, to determine whether or not all the provisions of this chapter are being fully complied with. If the commissioner or any representative is denied free access or is hindered or interfered with in making an examination, the license of the distributor at the premises is subject to revocation.

History: 1984 c 654 art 3 s 92; 1986 c 444

349.54 ACCESS TO GAMES.

The commissioner and designated representatives must be given access to all video games of chance, whether the games are in the possession of distributors, operators, or owners, upon reasonable notice.

History: 1984 c 654 art 3 s 93; 1986 c 444

349.55 GAME SPECIFICATIONS.

No payment may be made directly from any game or in connection with the operation of any device. Each game must contain a random character generator, and any internal meter must be nonresetable. Any game canceling replays or credits must cancel them no more than one at a time.

History: 1984 c 654 art 3 s 94

349.56 LOCATION AGREEMENTS.

An operator is required to have a location agreement with the owner where the game is placed for use by the public. The location agreement must show that the game is to be placed only in locations permitted by law. The location agreements, together with the other records of the operator, must be accessible to the commissioner and designated representatives. The operator is required to certify under oath to the department annually the name and address of the location in which each game has been placed and that the games have been placed only in locations permitted by law. Placing a game in an illegal location is grounds for suspension or revocation of the operator's license.

History: 1984 c 654 art 3 s 95; 1986 c 444

349.57 PLACEMENT LIMITATIONS.

Subdivision 1. **Numerical.** No more than two video games of chance may be operated in any location.

Subd. 2. **Locations.** Video games of chance may be operated only at licensed on-sale intoxicating liquor establishments and private clubs.

History: 1984 c 654 art 3 s 96

349.58 PENALTIES.

A violation of any of the provisions of sections 349.50 to 349.57 is punishable as a misdemeanor.

History: 1984 c 654 art 3 s 97

349.59 CONTRABAND.

Subdivision 1. **Packages declared to be contraband.** The following are declared to be contraband:

- (1) all video games of chance which do not have a licensing stamp affixed to them and all containers that contain contraband video games of chance;
- (2) all video games of chance to which the commissioner or designated representa-

tives have been denied access for the inspection of contents. In lieu of seizure, the commissioner or designated representatives may seal the game to prevent its use until inspection of contents is permitted;

(3) all video games of chance at a location at which there is no location agreement in force; and

(4) all video games of chance illegally brought into the state.

Subd. 2. **Seizure.** Contraband may be seized by the commissioner or designated representatives or by any sheriff or other police officer, with or without process, and is subject to forfeiture as provided in subdivision 3.

Subd. 3. **Disposition of seized property.** The person who has seized the property must follow the procedure set forth under section 297A.15, subdivision 4. Whenever the commissioner is satisfied that any person from whom property is seized under this section acting in good faith and without intent to evade the tax imposed by those sections, the commissioner shall release the property seized without further legal proceedings.

History: 1984 c 654 art 3 s 98; 1986 c 444

349.60 CONSTRUCTION; OTHER ACTIONS.

Subdivision 1. **Construction.** Video games of chance are also governed by sections 349.30 to 349.31 and 609.75 to 609.76.

Subd. 2. **Other actions.** Agencies of government may investigate and prosecute violations of the laws governing video games of chance as well as other laws relating to gambling.

History: 1984 c 654 art 3 s 99