

## CHAPTER 349

BINGO, GAMBLING DEVICES, AND VIDEO GAMES  
OF CHANCE

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**349.12 DEFINITIONS.**

*[For text of subds 1 to 10, see M.S.1986]*

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; or (e) payment of taxes imposed under this chapter, and other taxes imposed by the state or the United States on receipts from lawful gambling.

"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 which has been in existence for at least three years and has at least 15 active members.

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

*[For text of subd 14, see M.S.1986]*

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

*[For text of subds 16 to 18, see M.S.1986]*

**History:** 1987 c 327 s 2-5

**349.14 ORGANIZATION MAY CONDUCT LAWFUL GAMBLING; LICENSE.**

An organization may conduct lawful gambling if it has a license to conduct lawful gambling from the board and complies with this chapter.

**History:** 1987 c 327 s 6

**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 55 percent of profits from bingo, and no more than 45 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 must specify that no more than one-third of the annual premium on a policy of liability insurance procured by the organization may be taken as an allowable expense from the gross receipts from lawful gambling. This expense shall be allowed by the board only to the extent that it relates directly to the conduct of lawful gambling and is verified in the manner the board prescribes by rule. The rules may provide a maximum percentage of gross receipts which may be expended for certain expenses.

**History:** 1987 c 327 s 7

### 349.151 CHARITABLE GAMBLING CONTROL BOARD.

*[For text of subs 1 and 2, see M.S.1986]*

**Subd. 3. Compensation.** The compensation of board members is as provided in section 15.0575, subdivision 3.

*[For text of subd 4, see M.S.1986]*

**Subd. 4a. Additional powers.** Whenever it appears to the board that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule:

(a) The board has the power to issue and cause to be served upon the person an order requiring the person to cease and desist from violations of this chapter. The order must give reasonable notice of the rights of the person to request a hearing and must state the reason for the entry of the order. A hearing shall be held not later than seven days after the request for the hearing is received by the board after which and within 20 days of the date of the hearing the board shall issue a further order vacating the cease and desist order or making it permanent as the facts require. All hearings shall be conducted in accordance with the provisions of chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against the person upon consideration of the cease and desist order, the allegations of which may be deemed to be true.

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

*[For text of subs 5 and 6, see M.S.1986]*

**History:** 1987 c 327 s 8,9

### 349.161 DISTRIBUTOR LICENSES.

*[For text of subs 1 and 2, see M.S.1986]*

**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, other person in a supervisory or management position, or employee eligible to make sales on behalf of the distributor 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;
- (2) has been convicted in a state or federal court of a gambling-related offense within ten years of the date of license application; or
- (3) is or has ever been engaged in an illegal business.

*[For text of subd 4, see M.S.1986]*

Subd. 5. **Prohibition.** (a) No distributor, or employee eligible to make sales on behalf of a distributor, may also be a wholesale distributor of liquor or alcoholic beverages.

(b) No distributor, or employee authorized to make sales on behalf of a distributor, may be involved directly in the operation of lawful gambling conducted by an organization.

*[For text of subd 6, see M.S.1986]*

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 distributor'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.

*[For text of subd 8, see M.S.1986]*

**History:** 1987 c 327 s 10-12

### 349.162 EQUIPMENT REGISTERED.

*[For text of subs 1 to 3, see M.S.1986]*

Subd. 4. **Prohibition.** No person other than a licensed organization or a licensed distributor may possess registration stamps issued by the board.

Subd. 5. **Sales from facilities.** All gambling equipment purchased by a licensed distributor for resale in Minnesota must prior to its resale be unloaded into a facility located in Minnesota which the distributor owns or leases.

**History:** 1987 c 327 s 13,14

### 349.17 CONDUCT OF BINGO.

Subdivision 1. **Bingo occasions.** Not more than six bingo occasions each week may be conducted by an organization. A bingo occasion may not continue for more than four consecutive hours.

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 18 bingo occasions to be conducted on the premises in any week.

*[For text of subs 2a to 4, see M.S.1986]*

**History:** 1987 c 327 s 15,16

### 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. The board may prescribe by rule limits on the amount of rent which an organization may pay to a lessor for premises leased for lawful gambling.

*[For text of subd 2, see M.S.1986]*

Subd. 3. **Proceeds from rental.** Rental proceeds from premises owned by a licensed organization and leased or subleased to one or more other licensed organizations for the purposes of conducting lawful gambling shall not be reported as gambling proceeds under this chapter.

**History:** 1987 c 327 s 17,18

**349.19 RECORDS AND REPORTS.**

*[For text of subs 1 and 2, see M.S.1986]*

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

*[For text of subs 4 to 7, see M.S.1986]*

**History:** 1987 c 327 s 19

**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 may be provided for in a schedule of compensation adopted by the board by rule. In adopting a 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:** 1987 c 327 s 20

**349.212 TAX IMPOSED.**

Subdivision 1. **Rate.** There is hereby imposed a tax on all lawful gambling, other than pull-tabs purchased and placed into inventory after January 1, 1987, 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 purchased and placed into inventory after January 1, 1987, 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.

*[For text of subd 2, see M.S.1986]*

Subd. 4. **Pull-tab tax.** (a) 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.

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

If a licensed organization or any organization holding an exemption number

receives pull-tabs directly from the manufacturer and the manufacturer is not a licensed distributor, the distributor from whom the pull-tabs were purchased is liable for tax when the manufacturer delivers the pull-tabs to the organization, or to a contract or common carrier for delivery to the organization, or when the pull-tabs are received by the organization's authorized representative at the manufacturer's place of business, regardless of the manufacturer's or the distributor's method of accounting or the terms of the sale.

(c) The exemptions contained in section 349.214, subdivision 2, paragraph (b), do not apply to the tax imposed in this subdivision.

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

*History: 1987 c 268 art 15 s 1-3*

#### **349.2121 PULL-TAB TAX; COLLECTION.**

*[For text of subs 1 and 2, see M.S.1986]*

**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 to 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. The tax must be reported on a form prescribed by the commissioner.

**Subd. 4a. Refund.** If any deal of pull-tabs registered with the board and upon which the tax imposed by section 349.212, subdivision 4, has been paid is returned unplayed to the distributor, the commissioner of revenue shall allow a refund of the tax paid.

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

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

Reductions in previously paid taxes authorized by this subdivision shall be made at the time and in the manner prescribed by the commissioner.

*[For text of subd 5, see M.S.1986]*

**Subd. 6. Collections; civil penalties.** (1) 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 section 297A.39, and the additional tax and penalties are subject to interest at the rate provided in section 270.75.

(2) If any part of any additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to ten percent of the additional assessment. The amount of the tax together with this amount shall bear interest at the rate stated in section 270.75 from the time the tax should have been paid until paid.

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

**Subd. 8. Personal debt.** The tax imposed by section 349.212 and interest and penalties imposed with respect to it, shall be a personal debt of the person required to file a return from the time the liability for it arises, irrespective of when the time for payment of the liability occurs. The debt shall, in the case of the executor or administrator of the estate of a decedent and in the case of any fiduciary, be that of the person in the person's official or fiduciary capacity only unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties, in which event the person shall be personally liable for any deficiency.

**Subd. 9. Refunds; appropriation.** A person who has, under this chapter, paid to the commissioner an amount of tax for any period in excess of the amount legally due for that period, may file with the commissioner of revenue a claim for a refund of the excess. The amount necessary to pay the refunds is appropriated from the general fund to the commissioner.

**Subd. 10. Untaxed pull-tabs.** It is a gross misdemeanor for any person to possess pull-tabs for resale in this state that have not been registered with the board, for which a registration stamp has not been affixed to the flare, and upon which the taxes imposed by section 349.212, subdivision 4, or chapter 297A have not been paid. The executive secretary of the charitable gambling control board or the commissioner of revenue or their designated inspectors and employees may seize in the name of the state of Minnesota any unregistered or untaxed pull-tabs.

**History:** 1987 c 268 art 15 s 4-10; 1987 c 384 art 1 s 33

### **349.2122 MANUFACTURERS; REPORTS TO THE COMMISSIONER; PENALTY.**

A manufacturer registered with the board who sells pull-tabs to a distributor licensed by the board must file with the commissioner of revenue, on a form prescribed by the commissioner, a report of pull-tabs sold to licensed distributors. The report must be filed monthly on or before the 25th day of the month succeeding the month in which the sale was made. Any person violating this section shall be guilty of a misdemeanor.

**History:** 1987 c 268 art 15 s 11

### **349.2123 CERTIFIED PHYSICAL INVENTORY.**

The commissioner of revenue may, upon request, require a pull-tab distributor to furnish a certified physical inventory of the pull-tabs in stock. The inventory must contain the information required by the commissioner.

**History:** 1987 c 268 art 15 s 12

**349.2124 SALES TO INDIAN TRIBES.**

A distributor may set aside that part of the distributor's stock necessary for the conduct of business in making sales to the established governing body of any Indian tribe recognized by the United States Department of Interior. A distributor shall, when shipping or delivering any stock to an Indian tribal organization, make a true duplicate invoice showing the complete details of the sale or delivery and shall keep the duplicate.

**History:** 1987 c 268 art 15 s 13

**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. The authority granted by this subdivision does not include the authority to require an organization to make specific expenditures of more than ten percent from its net profits derived from lawful gambling. For the purposes of this subdivision, net profits are profits less amounts expended for allowable expenses. A statutory or home rule charter city or a county may not require an organization conducting lawful gambling within its jurisdiction to make an expenditure to the city or county as a condition to operate within that city or county, except as authorized under section 349.16, subdivision 4, or section 349.212.

*[For text of subd 2, see M.S.1986]*

**History:** 1987 c 327 s 21

**349.52 VIDEO GAME OF CHANCE LICENSES.**

*[For text of subd 1, see M.S.1986]*

**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 commissioner for distribution under subdivision 3.

**Subd. 3. Video gaming license account.** (a) Fees collected by the commissioner under sections 349.50 to 349.60 must be deposited in the state treasury in a special account to be known as the "video gaming license account." Money in the account is appropriated to the commissioner for distribution under paragraph (b).

(b) The operator shall, by January 31 of each year, certify to the commissioner 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 15 days of receiving this certification the commissioner 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 commissioner shall transfer the unexpended balance in the account to the general fund.

*[For text of subd 4, see M.S.1986]*

**History:** 1987 c 320 s 3,4