

CHAPTER 349

BINGO, GAMBLING DEVICES, AND VIDEO GAMES
OF CHANCE

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|----------|--|--------|---|
| 349.11 | Purpose. | 349.23 | Validity of prior agreements. |
| 349.12 | Definitions. | 349.30 | Definitions. |
| 349.13 | Lawful gambling. | 349.31 | Gambling device; possession of. |
| 349.14 | Organization may conduct lawful gambling; license. | 349.32 | Issuing authority to revoke. |
| 349.15 | Use of profits. | 349.33 | Peace officers to observe and inspect premises. |
| 349.151 | Charitable gambling control board. | 349.34 | Proceedings before issuing authority; order to show cause. |
| 349.16 | Organization licenses. | 349.35 | Revocation of license. |
| 349.161 | Distributor licenses. | 349.36 | Duties of county attorney. |
| 349.162 | Equipment registered. | 349.37 | Witnesses. |
| 349.163 | Registration of manufacturers. | 349.38 | Property owners liability. |
| 349.164 | Bingo hall licenses. | 349.39 | Appeal to district court; stay; continuance under bond; hearing upon one year limitation on premises. |
| 349.17 | Conduct of bingo. | 349.40 | Gambling devices; manufacture for use in other states. |
| 349.171 | Certain signs prohibited. | 349.50 | Definitions. |
| 349.18 | Premises used for gambling. | 349.51 | Distributor and operator licenses. |
| 349.19 | Records and reports. | 349.52 | Video game of chance licenses. |
| 349.20 | Managers. | 349.53 | Record-keeping duties of distributors. |
| 349.21 | Compensation. | 349.54 | Access to games. |
| 349.211 | Prize limits. | 349.55 | Game specifications. |
| 349.212 | Tax imposed. | 349.56 | Location agreements. |
| 349.2121 | Pull-tab tax; collection. | 349.57 | Placement limitations. |
| 349.2122 | Manufacturers; reports to the commissioner; penalty. | 349.58 | Penalties. |
| 349.2123 | Certified physical inventory. | 349.59 | Contraband. |
| 349.2124 | Sales to Indian tribes. | 349.60 | Construction; other actions. |
| 349.2125 | Contraband. | | |
| 349.2127 | Prohibitions. | | |
| 349.213 | Local authority. | | |
| 349.214 | Exemptions. | | |
| 349.22 | Penalty. | | |

349.01 [Repealed, 1976 c 261 s 15]

349.02 [Repealed, 1976 c 261 s 15]

349.03 [Repealed, 1976 c 261 s 15]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.

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) 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, acquisition, improvement, expansion, repair, or maintenance of any real property owned or leased by the organization, 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 clauses (a) to (c). The board may by rule adopt procedures and standards to administer this subdivision.

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.

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, jar tickets, 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 or tipboards with the same serial number.

Subd. 19. **Ideal gross.** "Ideal gross" means the total amount of receipts that would be received if every individual ticket in the pull-tab or tipboard deal was sold at its face value.

Subd. 20. **Ideal net.** "Ideal net" means the pull-tab or tipboard deal's ideal gross, as defined under subdivision 19, less the total predetermined prize amounts available

to be paid out. When the prize is not a monetary one, the ideal net is 50 percent of the ideal gross.

History: 1976 c 261 s 2; 1984 c 502 art 12 s 3; 1986 c 444; 1986 c 467 s 4-6; 1987 c 327 s 2-5; 1988 c 596 s 1; 1988 c 719 art 9 s 1-3

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 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; 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: 1976 c 261 s 5; 1984 c 502 art 12 s 6; 1986 c 467 s 7; 1Sp1986 c 3 art 2 s 16; 1987 c 327 s 7

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 as provided in section 15.0575, subdivision 3.

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. 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.

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; 1987 c 327 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, 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.

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

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.

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 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.

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; 1987 c 327 s 10-12

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.

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: 1984 c 502 art 12 s 10; 1986 c 467 s 14; 1987 c 327 s 13,14

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

349.164 BINGO HALL LICENSES.

Subdivision 1. License required. No person may lease a facility to more than one licensed organization to conduct bingo without having obtained a bingo hall license under this section, unless the person is a licensed organization.

Subd. 2. License application. The board may issue a bingo hall license 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, 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; or

(2) has been convicted in a state or federal court of a gambling-related offense within ten years of the date of license application.

Subd. 4. Fees. The annual fee for a bingo hall license is \$250.

Subd. 5. Criminal history. The board may request the assistance of the bureau of criminal apprehension in investigating the background of an applicant for a bingo hall license and may reimburse the bureau for the costs. The board has access to all criminal history data compiled by the bureau on licensees and applicants.

Subd. 6. Prohibition. No bingo hall licensee may also be a licensed distributor or registered manufacturer or affiliate of the distributor or manufacturer under section 349.161 or 349.163.

Subd. 7. Restrictions. A bingo hall licensee or affiliate of the licensee may not:

(1) provide any staff to conduct bingo or any other form of lawful gambling during the bingo occasion;

(2) acquire, provide storage or inventory control, or report the use of any gambling equipment used by an organization that conducts bingo on the premises;

(3) provide accounting services to an organization conducting bingo on the premises;

(4) make any expenditures of gross receipts of an organization from lawful gambling; or

(5) charge any fee to a person at a bingo occasion, without which the person could not play a bingo game.

Subd. 8. Leases. All of the remuneration to be received from the organization for the conduct of lawful gambling must be stated in the lease. No amount may be paid by the organization or received by the operator of the bingo hall based on the number of participants attending the bingo occasion or on the gross receipts or profit received by the organization.

Subd. 9. 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.

History: 1988 c 596 s 2

349.17 CONDUCT OF BINGO.

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

Subd. 2. Bingo on leased premises. (a) 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.

(b) If an organization conducts bingo on premises it does not own, the organization must provide the board with the name of the owner and lessor of the premises, copies of all agreements between the organization and the owner or lessor, and the names of employees of the owner or lessor who will be responsible for the premises during the bingo occasion held by the organization.

(c) During any bingo occasion held by an organization on premises it does not own, the organization shall be directly responsible for the:

- (1) staffing of the bingo occasion;
- (2) conducting of lawful gambling during the bingo occasion;
- (3) acquiring, storage, inventory control, and reporting of all gambling equipment used by the organization; and
- (4) receipt, accounting, and all expenditures of gross receipts from lawful gambling.

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; 1987 c 327 s 15,16; 1988 c 596 s 3,4

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. 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.

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. 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: 1976 c 261 s 8; 1984 c 502 art 12 s 12; 1986 c 467 s 18; 1987 c 327 s 17,18

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. Gross receipts for bingo include any amount received by the organization which has been paid by a person at the bingo occasion to play the game, without which the player could not play the game. 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 profits from lawful gambling 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; 1987 c 327 s 19; 1988 c 596 s 5

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 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: 1976 c 261 s 11; 1979 c 188 s 1; 1984 c 502 art 12 s 15; 1987 c 327 s 20

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

349.212 TAX IMPOSED.

Subdivision 1. Rate. There is hereby imposed a tax on all lawful gambling, other than (1) pull-tabs purchased and placed into inventory after January 1, 1987, and (2) tipboards purchased and placed into inventory after June 30, 1988, 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 (1) pull-tabs purchased and placed into inventory after January 1, 1987, and (2) tipboards purchased and placed into inventory after June 30, 1988, 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 and tipboard tax. (a) There is imposed a tax on the sale of each

deal of pull-tabs and tipboards 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 ideal net of the pull-tab and tipboard 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 and tipboards 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 or tipboards 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 and tipboards 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.

(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: 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; 1987 c 268 art 15 s 1-3; 1988 c 719 art 9 s 4,5

349.2121 PULL-TAB TAX; COLLECTION.

Subdivision 1. Application and issuance. Every distributor licensed by the board who sells pull-tabs and tipboards to organizations authorized to sell pull-tabs and tipboards 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. A distributor shall keep at each licensed place of business complete and accurate records for that place of business, including itemized invoices of pull-tabs and tipboards held, purchased, manufactured, or brought in or caused to be brought in from without this state, and of all sales of pull-tabs and tipboards. The records must show the names and addresses of purchasers, the inventory at the close of each period for which a return is required of all pull-tab and tipboard deals on hand, and other pertinent papers and documents relating to the purchase, sale, or disposition of pull-tab and tipboard deals. Books, records, and other papers and documents required by this section must be kept for a period of at least 3-1/2 years after the date of the documents, or the date of the entries appearing in the records, unless the commissioner authorizes in writing their destruction or disposal at an earlier date. At

any time during usual business hours, the commissioner, executive secretary of the charitable gambling control board, or any of their duly authorized agents or employees, may enter a place of business of a distributor, charitable organization, or any site from which pull-tabs or tipboards are being sold and inspect the premises and the records required to be kept under this section to determine whether or not all the provisions of this section are being fully complied with. If the commissioner, executive secretary, or their duly authorized agents or employees are denied free access to or are hindered or interfered with in making an inspection of the distributor's place of business, the permit of the distributor may be revoked by the commissioner, and the license of the distributor may be revoked by the charitable gambling control board.

Subd. 2a. A distributor who sells pull-tabs and tipboards to persons other than the ultimate consumer shall give with each sale an itemized invoice showing the distributor's name and address, the purchaser's name and address, the date of the sale, description of the deals including the ideal net amounts, and all prices and discounts, and shall keep legible copies of all the itemized invoices for 3-1/2 years from the date of sale.

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 or tipboards 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 or tipboards 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.

Subd. 5. **Public information.** All records concerning the administration of the pull-tab and tipboard taxes are classified as public information.

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 or tipboards. It is a gross misdemeanor for any person to possess pull-tabs or tipboards 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 or tipboards.

History: 1986 c 467 s 24; 1Sp1986 c 3 art 2 s 17; 1987 c 268 art 15 s 4-10; 1987 c 384 art 1 s 33; 1988 c 719 art 9 s 6-11

349.2122 MANUFACTURERS; REPORTS TO THE COMMISSIONER; PENALTY.

A manufacturer registered with the board who sells pull-tabs and tipboards 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 and tipboards 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; 1988 c 719 art 9 s 12

349.2123 CERTIFIED PHYSICAL INVENTORY.

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

History: 1987 c 268 art 15 s 12; 1988 c 719 art 9 s 13

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

349.2125 CONTRABAND.

Subdivision 1. **Contraband defined.** The following are contraband:

(1) all pull-tab or tipboard deals that do not have stamps affixed to them as provided in section 349.162;

(2) all pull-tab or tipboard deals in the possession of any unlicensed organization whether stamped or unstamped;

(3) any container used for the storage and display of any contraband pull-tab or tipboard deals as defined in clauses (1) and (2);

(4) any cash drawer, cash register, or any other container used for illegal pull-tab or tipboard transactions including its contents; and

(5) any device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes, and boats used, with the knowledge of the owner or of a person operating with the consent of the owner, for the storage or transportation of more than five pull-tab or tipboard deals that are contraband under this subdivision. When pull-tabs and tipboards are being transported in the course of interstate commerce, or from one distributor to another, the pull-tab and tipboard deals are not contraband, notwithstanding the provisions of clause (1).

Subd. 2. **Seizure.** Pull-tabs or tipboards or other property made contraband by subdivision 1 may be seized by the commissioner of revenue or the executive secretary of the charitable gambling control board or their authorized agents or by any sheriff or other police officer, hereinafter referred to as the seizing authority, with or without process, and shall be subject to forfeiture as provided in subdivisions 3 and 4.

Subd. 3. **Inventory; judicial determination; appeal; disposition of seized property.** Within two days after the seizure of any alleged contraband, the person making the seizure shall deliver an inventory of the property seized to the person from whom the property was seized, if known, and file a copy with the commissioner or the executive secretary of the charitable gambling control board. Within ten days after the date of service of the inventory, the person from whom the property was seized or any person claiming an interest in the property may file with the seizing authority a demand for judicial determination of whether the property was lawfully subject to seizure and forfeiture. Within 30 days after the date of filing of the demand, the seizing authority must bring an action in the district court of the county where seizure was made to determine the issue of forfeiture. The action must be brought in the name of the state and be prosecuted by the county attorney or by the attorney general. The court shall hear the action without a jury and determine the issues of fact and laws involved. When a judgment of forfeiture is entered, the seizing authority may, unless the judgment is stayed pending an appeal, either (1) cause the forfeited property to be destroyed; or (2) cause it to be sold at a public auction as provided by law.

If demand for judicial determination is made and no action is commenced as provided in this subdivision, the property must be released by the seizing authority and delivered to the person entitled to it. If no demand is made, the property seized is considered forfeited to the state by operation of law and may be disposed of by the seizing authority as provided where there has been a judgment of forfeiture. When the seizing authority is satisfied that a person from whom property is seized was acting in good faith and without intent to evade the tax imposed by section 349.2121, subdivision 4, the seizing authority shall release the property seized without further legal proceedings.

Subd. 4. **Disposal.** The property described in subdivision 1, clauses (4) and (5), must be confiscated after conviction of the person from whom it was seized, upon compliance with the following procedure: the seizing authority shall file with the court a separate complaint against the property, describing it and charging its use in the specific violation, and specifying substantially the time and place of the unlawful use. A copy of the complaint must be served upon the defendant or person in charge of the property at the time of seizure, if any. If the person arrested is acquitted, the court shall dismiss the complaint against the property and order it returned to the persons legally

entitled to it. Upon conviction of the person arrested, the court shall issue an order directed to any person known or believed to have any right, title or interest in, or lien upon, any of the property, and to persons unknown claiming any right, title, interest, or lien in it, describing the property and (1) stating that it was seized and that a complaint against it, charging the specified violation, has been filed with the court, (2) requiring the persons to file with the court administrator their answer to the complaint, setting forth any claim they may have to any right or title to, interest in, or lien upon the property, within 30 days after the service of the order, and (3) notifying them in substance that if they fail to file their answer within the time, the property will be ordered sold by the seizing authority. The court shall cause the order to be served upon any person known or believed to have any right, title, interest, or lien as in the case of a summons in a civil action, and upon unknown persons by publication, as provided for service of summons in a civil action. If no answer is filed within the time prescribed, the court shall, upon affidavit by the court administrator, setting forth the fact, order the property sold by the seizing authority. The proceeds of the sale, after deducting the expense of keeping the property and fees and costs of sale, must be paid into the state treasury and credited to the general fund. If answer is filed within the time provided, the court shall fix a time for a hearing, which shall be not less than ten nor more than 30 days after the time for filing answer expires. At the time fixed for hearing, unless continued for cause, the matter shall be heard and determined by the court, without a jury, as in other civil actions.

If the court finds that the property, or any part of it, was used in the violation specified in the complaint, it shall order the property unlawfully used, sold as provided by law, unless the owner shows to the satisfaction of the court that the owner had no notice or knowledge or reason to believe that the property was used or intended to be used in the violation. The officer making a sale, after deducting the expense of keeping the property, the fee for seizure, and the costs of the sale, shall pay all liens according to their priority, which are established at the hearing as being bona fide and as existing without the lienor having any notice or knowledge that the property was being used or was intended to be used for or in connection with the violation specified in the order of the court, and shall pay the balance of the proceeds into the state treasury to be credited to the general fund. A sale under this section shall free the property sold from any and all liens on it. Appeal from the order of the district court will lie as in other civil cases. At any time after seizure of the articles specified in this subdivision, and before the hearing provided for, the property must be returned to the owner or person having a legal right to its possession, upon execution of a good and valid bond to the state, with corporate surety, in the sum of not less than \$100 and not more than double the value of the property seized, to be approved by the court in which the case is triable, or a judge of it, conditioned to abide any order and the judgment of the court, and to pay the full value of the property at the time of the seizure. The seizing authority may dismiss the proceedings outlined in this subdivision when the seizing authority considers it to be in the best interests of the state to do so.

History: 1988 c 719 art 9 s 14

349.2127 PROHIBITIONS.

Subdivision 1. Counterfeiting. No person shall with intent to defraud the state, make, alter, forge, or counterfeit any license or stamp provided for in this chapter, or have in possession any forged, spurious, or altered stamps, with the intent, or with the result of, depriving the state of the tax imposed by this chapter.

Subd. 2. Prohibition against possession. No person, other than a licensed distributor, shall sell, offer for sale, or have in possession with intent to sell or offer for sale, a pull-tab or tipboard deal not stamped in accordance with the provisions of this chapter.

Subd. 3. Falsification of records. No person required by section 349.2121, subdivision 2, to keep records or to make returns shall falsify or fail to keep the records or falsify or fail to make the returns.

Subd. 4. **Transporting unstamped deals.** No person shall transport into, or receive, carry, or move from place to place in this state, any deals of pull-tabs or tipboards not stamped in accordance with this chapter except in the course of interstate commerce, unless the deals are moving from one distributor to another.

History: 1988 c 719 art 9 s 15

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.

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 60 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; 1987 c 327 s 21; 1988 c 705 s 1

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
- (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. A person who in any manner violates sections 349.11 to 349.214 to evade the tax imposed by this chapter, or who aids and abets evasion of the tax, or hinders or interferes with a seizing authority when a seizure is made as provided by section 349.2125, is guilty of 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.

Subd. 3. Felony. (a) A person violating section 349.2127, subdivision 1 or 3, is guilty of a felony.

(b) A person violating section 349.2127, subdivisions 2 and 4, by possessing, receiving, or transporting more than ten pull-tab or tipboard deals not stamped in accordance with this chapter is guilty of a felony.

Subd. 4. Sales after revocation. A person selling pull-tabs or tipboards after the person's license or permit has been revoked is guilty of a felony.

History: 1976 c 261 s 12; 1984 c 502 art 12 s 20; 1988 c 719 art 9 s 16-18

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 revocation 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 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 340A.404, subdivision 1.

History: 1984 c 654 art 3 s 89; 1987 c 384 art 2 s 1

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.

(e) 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 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.

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; 1987 c 320 s 3,4

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 representatives 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

MINNESOTA STATUTES 1988

7399

BINGO, GAMBLING DEVICES, AND VIDEO GAMES OF CHANCE 349.60

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