

## CHAPTER 349A

### STATE LOTTERY

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#### 349A.01 DEFINITIONS.

Subdivision 1. **Terms defined.** For the purposes of this chapter the terms defined in this section have the meanings given them.

Subd. 2. **Board.** "Board" is the state lottery board.

Subd. 3. **Commissioner.** "Commissioner" is the commissioner of gaming.

Subd. 4. **Department.** "Department" is the department of gaming.

Subd. 5. **Director.** "Director" is the director of the state lottery division.

Subd. 6. **Division.** "Division" is the division of the state lottery in the department of gaming.

Subd. 7. **Gross receipts.** "Gross receipts" means all money received from the sale of lottery tickets less amounts transmitted to the commissioner of revenue under section 297A.259.

Subd. 8. **Gross revenue.** "Gross revenue" means gross receipts from the sale of lottery tickets, fees, or other money received by the director, and interest earned on money in the lottery fund.

Subd. 9. **Lottery.** "Lottery" is the state lottery operated by the state lottery division of the department.

Subd. 10. **Lottery procurement contract.** "Lottery procurement contract" means a contract to provide lottery products, computer hardware and software used to monitor sales of lottery tickets, and lottery tickets. "Lottery procurement contract" does not include a contract to provide an annuity or prize payment agreement or materials, supplies, equipment, or services common to the ordinary operation of a state agency.

Subd. 11. **Lottery retailer.** "Lottery retailer" means a person with whom the director has contracted to sell lottery tickets to the public.

Subd. 12. **Lottery ticket or ticket.** "Lottery ticket" or "ticket" means any tangible evidence issued by the lottery to prove participation in a lottery game.

Subd. 13. **Lottery vendor or vendor.** "Lottery vendor" or "vendor" means a person who has entered into a contract to provide equipment, supplies, or services for the division. A lottery vendor does not include a lottery retailer.

**History:** 1989 c 334 art 3 s 1

#### 349A.02 STATE LOTTERY DIVISION.

Subdivision 1. **Director.** A state lottery division is established in the department of gaming, under the supervision and control of the director of the state lottery appointed by the governor with the advice and consent of the senate. The governor shall appoint the first director from a list of at least three persons recommended to the governor by the governor's commission on the lottery which was appointed by the governor on December 8, 1988. The director must be qualified by experience and training to supervise the lottery. The director serves in the unclassified service.

Subd. 2. **Removal.** (a) The director may be removed from that position only by the governor after notice and a hearing if requested, only for:

- (1) violating section 349A.11;
- (2) malfeasance, nonfeasance, or misfeasance as defined in section 351.14, subdivisions 2, 3, and 4; or
- (3) failure to perform adequately the duties of the director.

(b) For the purposes of this subdivision, adequate performance of the director may be determined by:

- (1) gross revenue from the sale of lottery tickets;
- (2) efficiency of the administration of lottery operations;
- (3) public confidence in the integrity of the lottery; and
- (4) compliance with advertising requirements in section 349A.09.

A hearing under this subdivision must be conducted by the governor.

**Subd. 3. Powers and duties.** In operating the lottery the director shall exercise the following powers and duties:

- (1) adopt rules and game procedures;
- (2) issue lottery retailer contracts and rule on appeals of decisions relating to those contracts;
- (3) enter into lottery procurement contracts for the provision of goods and services to the lottery;
- (4) employ personnel as are required to operate the lottery;
- (5) enter into written agreements with one or more states for the operation, marketing, and promotion of a joint lottery;
- (6) adopt and publish advertising and promotional materials consistent with section 349A.09; and
- (7) take all necessary steps to ensure the integrity of, and public confidence in, the state lottery.

**Subd. 4. Employees; classification.** The director may appoint other personnel as are necessary to operate the state lottery. Employees of the division who are not professional employees as defined in section 179A.03, subdivision 13, and employees whose primary responsibilities are in data processing and accounting, are in the classified service. All other employees of the division are in the unclassified service. At least one position in the division must be an attorney position and the director must employ in that position an attorney to perform legal services for the division.

**Subd. 5. Incentive plan.** Subject to the provisions of section 43A.18, subdivision 1, the director may develop and implement a plan for making incentive payments to employees of the division whose primary responsibilities are in marketing.

**Subd. 6. Employees; background checks.** The director shall conduct background checks, or request the director of gambling enforcement to conduct background checks, on all prospective employees who are finalists, and shall require that all employees of the division be fingerprinted. No person may be employed by the division who has been convicted of a felony or a crime involving fraud or misrepresentation within five years of starting employment with the division, or has ever been convicted of a gambling-related offense. The director has access to all criminal history data compiled by the division of gambling enforcement on employees and prospective employees of the lottery. The director may employ necessary persons pending the completion of a background check.

**Subd. 7. Assistance.** (a) The director may request any other department or agency of the state, including the division of gambling enforcement, to provide reasonable assistance to the director in carrying out the director's duties. All provision of services to the director from another state agency, must be by agreement made between the director and the agency. An agreement must include provisions specifying the duration of the services, the assignment of personnel of other agencies to provide the services, the determination of the cost of the services, and the transfer, from the lottery operations account to the agency, of funds sufficient to pay the costs of the services.

(b) The director may enter into agreements with the commissioner of finance for the purpose of making payroll and other financial transactions.

Subd. 8. **Attorney general.** The attorney general is the attorney for the division.

**History:** 1989 c 334 art 3 s 2; 1990 c 590 art 1 s 49

### 349A.03 STATE LOTTERY BOARD.

Subdivision 1. **Board created.** There is created within the division a state lottery board. The board consists of six members appointed by the governor plus the commissioner as a voting member. Not more than three of the members appointed by the governor under this subdivision may belong to the same political party and at least three members must reside outside the seven-county metropolitan area. The terms of office, removal from office, and compensation of members of the board, other than the commissioner, are as provided in section 15.059 except the board does not expire as provided under section 15.059, subdivision 5. The members of the board shall select the chair of the board, who shall not be the commissioner.

Subd. 2. **Board duties.** The board has the following duties:

- (1) to advise the director on all aspects of the lottery;
- (2) to review and comment on rules and game procedures adopted by the director;
- (3) review and comment on lottery procurement contracts;
- (4) review and comment on agreements between the director and one or more other lotteries relating to a joint lottery;

(5) to review and comment on advertising promulgated by the director at least quarterly to ensure that all advertising is consistent with the dignity of the state and with section 349A.09; and

- (6) to approve additional compensation for the director under subdivision 3.

Subd. 3. **Director; additional compensation.** The board shall adopt objective criteria for evaluating the performance of the director. The criteria must include, but is not limited to, the performance factors in section 349A.02, subdivision 2, paragraph (b), clauses (1) to (4). The board may approve, by majority vote of all members, compensation for the director in addition to the compensation provided under section 15A.081, subdivision 1, based on the director's performance in office as evaluated according to the board's criteria. The additional compensation shall be paid from the lottery operations account. The board may not approve additional compensation under this subdivision more often than once in a 12-month period.

**History:** 1989 c 334 art 3 s 3

### 349A.04 LOTTERY GAME PROCEDURES.

The director may adopt game procedures governing the following elements of the lottery:

- (1) lottery games;
- (2) ticket prices;
- (3) number and size of prizes;
- (4) methods of selecting winning tickets; and
- (5) frequency and method of drawings.

The adoption of lottery game procedures is not subject to chapter 14. Before adopting a lottery game procedure, the director shall submit the procedure to the board for its review and comment.

**History:** 1989 c 334 art 3 s 4

### 349A.05 RULES.

The director may adopt rules, including emergency rules, under chapter 14 governing the following elements of the lottery:

- (1) the number and types of lottery retailers' locations;
- (2) qualifications of lottery retailers and application procedures for lottery retailer contracts;
- (3) investigation of lottery retailer applicants;
- (4) appeal procedures for denial, suspension, or cancellation of lottery retailer contracts;
- (5) compensation of lottery retailers;
- (6) accounting for and deposit of lottery revenues by lottery retailers;
- (7) procedures for issuing lottery procurement contracts and for the investigation of bidders on those contracts;
- (8) payment of prizes;
- (9) procedures needed to ensure the integrity and security of the lottery; and
- (10) other rules the director considers necessary for the efficient operation and administration of the lottery.

Before adopting a rule the director shall submit the rule to the board for its review and comment.

**History:** 1989 c 334 art 3 s 5

#### 349A.06 LOTTERY RETAILERS.

**Subdivision 1. Contracts.** The director shall sell tickets for the lottery through lottery retailers with whom the director contracts. Contracts under this section are not subject to the provisions of sections 16B.06 to 16B.102, and 16B.17, and are valid for a period of one year.

**Subd. 2. Qualifications.** (a) The director may not contract with a retailer who:

- (1) is under the age of 18;
- (2) is in business solely as a seller of lottery tickets;
- (3) owes \$500 or more in delinquent taxes as defined in section 270.72;
- (4) has been convicted within the previous five years of a felony or gross misdemeanor, any crime involving fraud or misrepresentation, or a gambling-related offense;
- (5) is a member of the immediate family, residing in the same household, as the director, board member, or any employee of the division;
- (6) in the director's judgment does not have the financial stability or responsibility to act as a lottery retailer, or whose contracting as a lottery retailer would adversely affect the public health, welfare, and safety, or endanger the security and integrity of the lottery; or
- (7) is a currency exchange, as defined in section 53A.01.

A contract entered into before August 1, 1990, which violates clause (7) may continue in effect until its expiration but may not be renewed.

(b) An organization, firm, partnership, or corporation that has a stockholder who owns more than five percent of the business or the stock of the corporation, an officer, or director, that does not meet the requirements of paragraph (a), clause (4), is not eligible to be a lottery retailer under this section.

(c) The restrictions under paragraph (a), clause (4), do not apply to an organization, partnership, or corporation if the director determines that the organization, partnership, or firm has terminated its relationship with the individual whose actions directly contributed to the disqualification under this subdivision.

**Subd. 3. Bond.** The director shall require that each lottery retailer post a bond, in an amount as the director deems necessary, to protect the financial interests of the state.

**Subd. 4. Criminal history.** The director may request the director of gambling enforcement to investigate all applicants for lottery retailer contracts to determine their compliance with the requirements of subdivision 2. The director may issue a temporary contract, valid for not more than 90 days, to an applicant pending the completion of

the investigation or a final determination of qualifications under this section. The director has access to all criminal history data compiled by the director of gambling enforcement on any person (1) holding or applying for a retailer contract, (2) any person holding a lottery vendor contract or who has submitted a bid on such a contract, and (3) any person applying for employment with the lottery.

**Subd. 5. Restrictions on lottery retailers.** (a) A lottery retailer may sell lottery tickets only on the premises described in the contract.

(b) A lottery retailer must prominently display a certificate issued by the director on the premises where lottery tickets will be sold.

(c) A lottery retailer must keep a complete set of books of account, correspondence, and all other records necessary to show fully the retailer's lottery transactions, and make them available for inspection by employees of the division at all times during business hours. The director may require a lottery retailer to furnish information as the director deems necessary to carry out the purposes of this chapter, and may require an audit to be made of the books of account and records. The director may select an auditor to perform the audit and may require the retailer to pay the cost of the audit. The auditor has the same right of access to the books of account, correspondence, and other records as is given to employees of the division.

(d) A contract issued under this section may not be transferred or assigned.

(e) The director shall require that lottery tickets may be sold by retailers only for cash.

**Subd. 6. Retention by retailers.** The director may by rule provide for:

(1) amounts which a lottery retailer may retain from gross receipts from the sale of lottery tickets in order to pay prizes to holders of winning tickets; and

(2) amounts which a lottery retailer may retain from gross receipts from the sale of lottery tickets as a commission.

**Subd. 7. Retailer rental payments.** If a lottery retailer's rental payments for the business premises are contractually computed, in whole or in part, on the basis of a percentage of retail sales, and the computation of retail sales is not explicitly defined to include the sale of lottery tickets, the compensation retained by the sales agent for the sale of lottery tickets shall be considered the amount of the retail sale for purposes of computing the rental payments.

**Subd. 8. Proceeds of sales.** All proceeds from the sale of lottery tickets received by a lottery retailer constitute a trust fund until paid to the director. The lottery retailer is personally liable for all proceeds.

**Subd. 9. Fee.** The director may charge a nonrefundable application fee to a person applying for a lottery retailer contract, in an amount sufficient to cover the costs of making the investigation required under subdivision 4. The fee collected under this subdivision must be deposited in the lottery fund.

**Subd. 10. Local licenses.** No political subdivision may require a local license to operate as a lottery retailer or impose a tax or fee on the business of operating as a lottery retailer.

**Subd. 11. Revocation, suspension, and refusal to renew licenses.** (a) The director shall cancel the contract of any lottery retailer who:

(1) has been convicted of a felony or gross misdemeanor;

(2) has committed fraud, misrepresentation, or deceit;

(3) has provided false or misleading information to the division; or

(4) has acted in a manner prejudicial to public confidence in the integrity of the lottery.

(b) The director may cancel, suspend, or refuse to renew the contract of any lottery retailer who:

(1) changes business location;

(2) fails to account for lottery tickets received or the proceeds from tickets sold;

- (3) fails to remit funds to the director in accordance with the director's rules;
- (4) violates a law or a rule or order of the director;
- (5) fails to comply with any of the terms in the lottery retailer's contract;
- (6) fails to comply with bond requirements under this section;
- (7) in the opinion of the director fails to maintain a sufficient sales volume to justify continuation as a lottery retailer; or
- (8) has violated section 340A.503, subdivision 2, clause (1), two or more times within a two-year period.

(c) The director may also cancel, suspend, or refuse to renew a lottery retailer's contract if there is a material change in any of the factors considered by the director under subdivision 2.

(d) A contract cancellation, suspension, or refusal to renew under this subdivision is a contested case under sections 14.57 to 14.69 and is in addition to any criminal penalties provided for a violation of law or rule.

(e) The director may temporarily suspend a contract without notice for any of the reasons specified in this subdivision provided that a hearing is conducted within seven days after a request for a hearing is made by a lottery retailer. Within 20 days after receiving the administrative law judge's report, the director shall issue an order vacating the temporary suspension or making any other appropriate order. If no hearing is requested within 30 days of the temporary suspension taking effect, the director may issue an order making the suspension permanent.

**History:** 1989 c 334 art 3 s 6; 1990 c 590 art 1 s 50,51

#### **349A.07 VENDOR CONTRACTS.**

**Subdivision 1. Contracts authorized.** The director may enter into lottery procurement contracts for the purchase, lease, or lease-purchase of the goods or services. In entering into a lottery procurement contract, the director shall utilize an open bid process and shall take into account the particularly sensitive nature of the state lottery and shall consider the competence, quality of product, experience, and timely performance of each potential vendor in order to promote and ensure security, honesty, fairness, and integrity in the operation and administration of the lottery. The director shall also consider the extent to which a bidder for a contract for printing preprinted lottery tickets would utilize employees and facilities within Minnesota in fulfilling the contract.

**Subd. 2. Investigation of potential vendors.** The director shall request the director of the division of gambling enforcement to investigate the background, financial responsibility, security, and integrity of any person who submits a bid, proposal, or offer as part of a lottery procurement contract issuance by the director. The director may require the person making the bid, proposal, or offer to pay for the cost of the investigation. Any fee collected under this subdivision must be deposited into the lottery fund. At the time of submitting any bid, proposal, or offer, the bidder shall disclose to the director the information the director considers necessary to carry out the purposes of this section. The director has access to all criminal history data compiled by the division of gambling enforcement on all vendors and potential vendors who have submitted a bid to the division.

**Subd. 3. Persons ineligible for contract.** (a) The director may not enter into a lottery procurement contract with an applicant that has been convicted of a felony within the last ten years, has been convicted of a gross misdemeanor or gambling-related misdemeanor within the last five years, or has been found guilty of any crime involving fraud or misrepresentation within the last five years.

(b) The director may not enter into a lottery procurement contract with an applicant that has (1) a person who owns more than five percent of the stock in the applicant that does not meet the requirements of this subdivision, or (2) a partner, officer, or director that does not meet the requirements of this subdivision.

(c) The restrictions under this subdivision do not apply to an applicant for a lot-

tery procurement contract if the director determines that the applicant has terminated its relationship with the individuals whose actions directly contributed to the disqualification of the applicant under this subdivision.

**Subd. 4. Conflict of interest.** The director may not enter into a lottery procurement contract with a person to supply goods or services if that person has an ownership interest in an entity that had supplied consultation services under a contract to the lottery regarding the request for proposal pertaining to those particular goods or services.

**Subd. 5. Bond.** (a) The director shall require securities to be deposited, or a performance bond or a letter of credit to be executed by the person or corporation that is awarded a lottery procurement contract in an amount as determined by the director.

(b) Any securities deposited with the director under this subdivision must be interest-bearing and limited to:

(1) certificates of deposit issued by a solvent bank or savings association organized and existing under the laws of this state or under the laws of the United States and having its principal place of business in this state;

(2) United States bonds, notes, and bills, for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest; and

(3) general obligation bonds of any political subdivision of this state, or corporate bonds of a corporation that is not an affiliate or subsidiary of the vendor, if the general obligation bonds or corporate bonds are rated in one of the four highest classifications by an established nationally recognized investment rating service.

(c) Any letter of credit executed under this subdivision must provide that:

(1) nothing more than a demand for payment is necessary for payment and is not conditional on the delivery of any other documents or materials;

(2) the letter of credit is irrevocable and cannot be modified or revoked without the consent of the director;

(3) the letter of credit cannot expire without notice from the issuer and the notice must occur at least 60 days before the expiration date of the letter of credit;

(4) the letter of credit is issued by a bank which is a member of the federal reserve system which has a long-term debt rating by a recognized national rating agency of investment grade or better, if no long-term debt rating is available, the financial institution must have investment grade financial characteristics;

(5) the letter of credit is unconditional, is not conditional upon reimbursement to the bank or the bank's ability to perfect any lien or security interest, and does not contain references to any other agreement, document, or entity; and

(6) the letter of credit designates the director as beneficiary.

**Subd. 6. Exemptions.** Lottery procurement contracts entered into by the director are not subject to the provisions of sections 16B.06 to 16B.102 or 16B.17, provided that the director must utilize an open and competitive bid process, and as nearly as practicable follow the procedures of chapter 16B governing contracts, consistent with the provisions of this section.

**Subd. 7. Assignment.** A lottery procurement contract entered into under this section may not be assigned without the specific written approval of the director.

**History:** 1989 c 334 art 3 s 7

### 349A.08 LOTTERY PRIZES.

**Subdivision 1. Agreement by players.** A person who buys a lottery ticket agrees to be bound by the rules applicable to the particular lottery game for which the ticket is purchased. The player acknowledges that the determination of whether a ticket is a valid winning ticket is subject to the rules of the director, claims procedures established by the director for that game, and any confidential or public validation tests established by the director for that game.

**Subd. 2. Prizes not assignable.** A prize in the state lottery is not assignable except as provided in subdivision 3 and except that:

(1) if a prize winner dies before the prize is paid, the director shall pay the prize to the prize winner's estate; and

(2) the director may pay a prize to a person other than the winner of that prize under an appropriate court order.

**Subd. 3. Prizes won by persons under age 18.** The following provisions govern the payment of a lottery prize to a person under age 18:

(1) if the prize is less than \$5,000, the director may give a draft, payable to the order of the person under age 18, to the person's parents, custodial parent if one parent has custody, guardian, or other adult member of the person's family; and

(2) if the prize is \$5,000 or more, the director shall deposit the prize with the district court and section 540.08 applies to the investment and distribution of the money.

**Subd. 4. Discharge of liability.** The payment of a prize by the director discharges the director and the state of all liability for the prize.

**Subd. 5. Payment; unclaimed prizes.** A prize in the state lottery must be claimed by the winner within one year of the date of the drawing at which the prize was awarded or the last day sales were authorized for a game where a prize was determined in a manner other than by means of a drawing. If a valid claim is not made for a prize payable directly by the lottery by the end of this period, the unclaimed prize money must be added by the director to prize pools of subsequent lottery games and the winner of the prize shall have no further claim to the prize. A prize won by a person who purchased the winning ticket in violation of section 349A.12, subdivision 1, or won by a person ineligible to be awarded a prize under subdivision 7 must be treated as an unclaimed prize under this section.

**Subd. 6. Installment payments.** If the director decides to pay all or part of a prize in the form of installments over a period of years, the director shall provide for the payment of all installments by:

(1) entering into a contract with a financially responsible person or firm or by purchasing an annuity to provide for the payment of the installments; or

(2) establishing and maintaining as a separate and independent fund outside the state treasury a reserve account with sufficient funds for the payment of the installments as they become due.

**Subd. 7. Payments prohibited.** (a) No prize may be paid to a member of the board, the director or an employee of the division, or a member of their families residing in the same household of the member, director, or employee. No prize may be paid to an officer or employee of a vendor which at the time the game or drawing was being conducted was involved with providing goods or services to the lottery under a lottery procurement contract.

(b) No prize may be paid for a stolen, altered, or fraudulent ticket.

**Subd. 8. Withholding of delinquent state taxes or other debts.** The director shall report the name, address, and social security number of each winner of a lottery prize of \$1,000 or more to the department of revenue to determine whether the person who has won the prize is delinquent in payment of state taxes or owes a debt as defined in section 270A.03, subdivision 5. If the person is delinquent in payment of state taxes or owes a debt as defined in section 270A.03, subdivision 5, the director shall withhold the delinquent amount from the person's prize for remittance to the department of revenue for payment of the delinquent taxes or distribution to a claimant agency in accordance with chapter 270A. Section 270A.10 applies to the priority of claims.

**History:** 1989 c 334 art 3 s 8

### 349A.09 LOTTERY ADVERTISING.

**Subdivision 1. Odds; required information.** The director shall include on each brochure, pamphlet, booklet, or other similar material the director publishes to promote or explain any lottery game, a prominent and clear statement of the approximate odds of winning each prize offered in that lottery game. Each lottery retailer must post prom-



inently at or near the point of ticket sale a notice or notices printed and provided by the director of the approximate odds of winning each prize in each game for which the lottery retailer sells tickets.

**Subd. 2. Content of advertising.** (a) Advertising and promotional materials for the lottery adopted or published by the director must be consistent with the dignity of the state and may only:

(1) present information on how lottery games are played, prizes offered, where and how tickets may be purchased, when drawings are held, and odds on the games advertised;

(2) identify state programs supported by lottery net revenues;

(3) present the lottery as a form of entertainment; or

(4) state the winning numbers or identity of winners of lottery prizes.

(b) The director may not adopt or publish any advertising for the lottery which:

(1) presents directly or indirectly any lottery game as a potential means of relieving any person's financial difficulties;

(2) is specifically targeted with the intent to exploit a person, a specific group or an economic class of people;

(3) presents the purchase of a lottery ticket as a financial investment or a way to achieve financial security;

(4) uses the name or picture of a current elected state official to promote a lottery game;

(5) exhorts the public to bet by directly or indirectly misrepresenting a person's chance of winning a prize; or

(6) denigrates a person who does not buy a lottery ticket or unduly praises a person who does buy a ticket.

**Subd. 3. Prizes; required information.** The director must include, in any publication or print advertising which refers to a prize which is or may be paid in installments, a statement to the effect that the prize will be or may be paid in installments.

*History: 1989 c 334 art 3 s 9*

### **349A.10 LOTTERY FUNDS.**

**Subdivision 1. State lottery fund.** The director shall establish a lottery fund outside the state treasury, consisting of the gross revenues of the lottery and all other money credited or transferred to it by law, except for money set aside and deposited in the lottery prize fund under subdivision 2.

**Subd. 2. Deposit in prize fund.** (a) The director shall establish a lottery prize fund outside the state treasury. The fund consists of all money deposited in it under this subdivision and all interest earned thereon.

(b) The director shall deposit in the lottery prize fund, from gross receipts from the sale of lottery tickets, an amount sufficient to pay lottery prizes from the lottery prize fund according to the following provisions:

(1) for games which require on-line terminal connections, the prizes paid in any fiscal year must be at least 45 percent of gross receipts from those games in that fiscal year;

(2) for games which do not require on-line terminal connections, the prizes paid in any fiscal year must be at least the following percentages of gross receipts from those games:

(i) 50 percent through fiscal year 1991;

(ii) 55 percent from July 1, 1991, to June 30, 1992; and

(iii) 60 percent thereafter.

**Subd. 3. Lottery operations.** (a) The director shall establish a lottery operations account in the lottery fund. The director shall pay all costs of operating the lottery, including payroll costs or amounts transferred to the state treasury for payroll costs, but

not including lottery prizes, from the lottery operating account. The director shall credit to the lottery operations account amounts sufficient to pay the operating costs of the lottery.

(b) The director may not credit in any fiscal year amounts to the lottery operations account which when totaled exceed 15 percent of gross revenue to the lottery fund in that fiscal year. In computing total amounts credited to the lottery operations account under this paragraph the director shall disregard amounts transferred to or retained by lottery retailers as sales commissions or other compensation.

(c) The director of the lottery may not expend after July 1, 1992, more than 2-3/4 percent of gross revenues in a fiscal year for contracts for the preparation, publication, and placement of advertising.

(d) Except as the director determines, the division is not subject to chapter 16A relating to budgeting, payroll, and the purchase of goods and services.

**Subd. 4. Deposit of receipts.** (a) The director may require lottery retailers to:

(1) deposit in a separate account to the credit of the lottery fund, in banks designated by the director, all money received by the lottery retailer from the sale of lottery tickets, less money retained as the lottery retailer's commission and for payment of prizes;

(2) file with the director reports of the lottery retailer's receipts and transactions in ticket sales in a form that the director prescribes; and

(3) allow money deposited by the lottery retailer from the sale of lottery tickets to be transferred to the division through electronic fund transfer.

(b) The director may make arrangements for any person, including a financial institution, to perform functions, activities, or services in connection with the receipt and distribution of lottery revenues.

(c) A lottery retailer who fails to pay any money due to the director within the time prescribed by the director shall pay interest on the amount owed at the rate determined by rule.

**Subd. 5. Deposit of net proceeds.** Within 30 days after the end of each month, the director shall deposit in the state treasury the net proceeds of the lottery, which is the balance in the lottery fund after transfers to the lottery prize fund and credits to the lottery operations account. Of the net proceeds, 40 percent must be credited to the Minnesota environment and natural resources trust fund, 28.3 percent must be credited to the infrastructure development fund for capital improvement projects at state institutions of higher education, 6.7 percent must be credited to the infrastructure development fund for capital improvement projects to develop or protect the state's environment and natural resources, and, through the first ten full fiscal years during which proceeds from the lottery are received, 25 percent must be credited to the Greater Minnesota account in the special revenue fund.

**History:** 1989 c 334 art 3 s 10; 1990 c 610 art 1 s 52

### 349A.11 CONFLICT OF INTEREST.

(a) The director, a board member, an employee of the division, a member of the immediate family of the director, board member, or employee residing in the same household may not:

(1) purchase a lottery ticket;

(2) have any personal pecuniary interest in any vendor holding a lottery procurement contract, or in any lottery retailer; or

(3) receive any gift, gratuity, or other thing of value, excluding food or beverage, from any lottery vendor or lottery retailer, or person applying to be a retailer or vendor, in excess of \$100 in any calendar year.

(b) A violation of paragraph (a), clause (1), is a misdemeanor. A violation of paragraph (a), clause (2), is a gross misdemeanor. A violation of paragraph (a), clause (3), is a misdemeanor unless the gift, gratuity, or other item of value received has a value in excess of \$500, in which case a violation is a gross misdemeanor.

(c) The director or an unclassified employee of the division may not, within one year of terminating employment with the division, accept employment with, act as an agent or attorney for, or otherwise represent any person, corporation, or entity that had any lottery procurement contract or bid for a lottery procurement contract with the division within a period of two years prior to the termination of their employment. A violation of this paragraph is a misdemeanor.

**History:** 1989 c 334 art 3 s 11

#### **349A.12 PROHIBITED ACTS.**

**Subdivision 1. Purchase by minors.** A person under the age of 18 years may not buy a ticket in the state lottery.

**Subd. 2. Sale to minors.** A lottery retailer may not sell a ticket in the state lottery to any person under the age of 18 years. It is an affirmative defense to a charge under this subdivision for the lottery retailer to prove by a preponderance of the evidence that the lottery retailer reasonably and in good faith relied upon representation of proof of age described in section 340A.503, subdivision 6, in making the sale.

**Subd. 3. Prohibited sales.** (a) A person other than a lottery retailer may not sell a ticket in the state lottery.

(b) A lottery retailer may not sell a ticket for a price other than the price set by the director.

**Subd. 4. Lottery retailers and vendors.** A person who is a lottery retailer, or is applying to be a lottery retailer, a person applying for a contract with the director, or a person under contract with the director to supply goods or services to division may not pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service, excluding food or beverage, having an aggregate value of over \$100 in any calendar year to the director, board member, employee of the lottery division, or to a member of the immediate family residing in the same household as that person.

**Subd. 5. Exceptions.** Nothing in this chapter prohibits giving a state lottery ticket as a gift, or buying a state lottery ticket as a gift for a person under the age of 18.

**Subd. 6. Violations.** A violation of subdivision 1 is a petty misdemeanor. A violation of subdivision 2 or a rule adopted by the director is a misdemeanor. A violation of subdivision 3 or 4 is a gross misdemeanor.

**History:** 1989 c 334 art 3 s 12

#### **349A.13 RESTRICTIONS.**

Nothing in this chapter:

(1) authorizes the director to conduct a lottery game or contest the winner or winners of which are determined by the result of a sporting event other than a horse race conducted under chapter 240;

(2) authorizes the director to install or operate a lottery device operated by coin or currency which when operated determines the winner of a game; and

(3) authorizes the director to sell pull-tabs as defined under section 349.12, subdivision 32.

**History:** 1989 c 334 art 2 s 51; art 3 s 13

#### **349A.14 AUDIT.**

The director shall contract for an annual certified audit of all accounts and transactions of the lottery. The audit must be conducted by a certified public accountant in accordance with generally accepted accounting standards. The director shall file a copy of each audit report of the lottery with the governor and the legislature.

**History:** 1989 c 334 art 3 s 14

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## **349A.15 STATE LOTTERY**

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### **349A.15 REPORT.**

The director shall file an annual report with the governor and legislature which must include a complete statement of lottery revenues, administrative and operating costs, net proceeds transferred, and other financial transactions for the period the report covers.

**History:** 1989 c 334 art 3 s 15