

## CHAPTER 349

BINGO, GAMBLING DEVICES, AND VIDEO GAMES  
OF CHANCE

349.12 Definitions.  
 349.151 Gambling control board.  
 349.19 Records and reports.  
 349.2115 Sports bookmaking tax.

349.212 Tax imposed.  
 349.217 Civil penalties.  
 349.31 Gambling device; possession of.

**349.12 DEFINITIONS.**

*[For text of subds 1 to 24, see M.S.1992]*

Subd. 25. (a) "Lawful purpose" means one or more of the following:

(1) any expenditure by or contribution to a 501(c)(3) organization, provided that the organization and expenditure or contribution are in conformity with standards prescribed by the board under section 349.154;

(2) a contribution to an individual or family suffering from poverty, homelessness, or physical or mental disability, which is used to relieve the effects of that poverty, homelessness, or disability;

(3) a contribution to an individual for treatment for delayed posttraumatic stress syndrome or a contribution to a recognized program for the treatment of compulsive gambling on behalf of an individual who is a compulsive gambler;

(4) a contribution to or expenditure on a public or private nonprofit educational institution registered with or accredited by this state or any other state;

(5) a contribution to a scholarship fund for defraying the cost of education to individuals where the funds are awarded through an open and fair selection process;

(6) activities by an organization or a government entity which recognize humanitarian or military service to the United States, the state of Minnesota, or a community, subject to rules of the board;

(7) recreational, community, and athletic facilities and activities intended primarily for persons under age 21, provided that such facilities and activities do not discriminate on the basis of gender, as evidenced by (i) provision of equipment and supplies, (ii) scheduling of activities, including games and practice times, (iii) supply and assignment of coaches or other adult supervisors, (iv) provision and availability of support facilities, and (v) whether the opportunity to participate reflects each gender's demonstrated interest in the activity, provided that nothing in this clause prohibits a contribution to or expenditure on an educational institution or other entity that is excepted from the prohibition against discrimination based on sex contained in the Higher Education Act Amendments of 1976, United States Code, title 20, section 1681;

(8) payment of local taxes authorized under this chapter, taxes imposed by the United States on receipts from lawful gambling, and the tax imposed by section 349.212, subdivisions 1 and 4, and the tax imposed on unrelated business income by section 290.05, subdivision 3;

(9) payment of real estate taxes and assessments on licensed gambling premises wholly owned by the licensed organization paying the taxes, not to exceed:

(i) the amount which an organization may expend under board rule on rent for premises used for bingo; or

(ii) \$15,000 per year for premises used for other forms of lawful gambling;

(10) a contribution to the United States, this state or any of its political subdivisions, or any agency or instrumentality thereof other than a direct contribution to a law enforcement or prosecutorial agency;

(11) a contribution to or expenditure by a nonprofit organization, church, or body

of communicants gathered in common membership for mutual support and edification in piety, worship, or religious observances; or

(12) payment of one-half of the reasonable costs of an audit required in section 349.19, subdivision 9.

(b) Notwithstanding paragraph (a), "lawful purpose" does not include:

(1) any expenditure made or incurred for the purpose of influencing the nomination or election of a candidate for public office or for the purpose of promoting or defeating a ballot question;

(2) any activity intended to influence an election or a governmental decision-making process;

(3) the erection, acquisition, improvement, expansion, repair, or maintenance of real property or capital assets owned or leased by an organization, except as provided in clause (6), unless the board has first specifically authorized the expenditures after finding that (i) the real property or capital assets will be used exclusively for one or more of the purposes in paragraph (a); (ii) with respect to expenditures for repair or maintenance only, that the property is or will be used extensively as a meeting place or event location by other nonprofit organizations or community or service groups and that no rental fee is charged for the use; (iii) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building, a building owned by the organization and destroyed or made uninhabitable by fire or natural disaster, provided that the expenditure may be only for that part of the replacement cost not reimbursed by insurance; or (iv) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building a building owned by the organization that was acquired from the organization by eminent domain or sold by the organization to a purchaser that the organization reasonably believed would otherwise have acquired the building by eminent domain, provided that the expenditure may be only for that part of the replacement cost that exceeds the compensation received by the organization for the building being replaced;

(4) an expenditure by an organization which is a contribution to a parent organization, foundation, or affiliate of the contributing organization, if the parent organization, foundation, or affiliate has provided to the contributing organization within one year of the contribution any money, grants, property, or other thing of value;

(5) a contribution by a licensed organization to another licensed organization unless the board has specifically authorized the contribution. The board must authorize such a contribution when requested to do so by the contributing organization unless it makes an affirmative finding that the contribution will not be used by the recipient organization for one or more of the purposes in paragraph (a);

(6) the erection, acquisition, improvement, or expansion of real property or capital assets which will be used for one or more of the purposes in paragraph (a), clause (7), unless the organization making the expenditures notifies the board at least 15 days before making the expenditure; or

(7) a contribution to a statutory or home rule charter city, county, or town by a licensed organization with the knowledge that the governmental unit intends to use the contribution for a pension or retirement fund.

*[For text of subds 26 to 34, see M.S.1992]*

**History:** 1993 c 244 art 5 s 1

### **349.151 GAMBLING CONTROL BOARD.**

*[For text of subd 1, see M.S.1992]*

**Subd. 2. Membership.** (a) On and after July 1, 1991, the board consists of seven members, as follows: (1) those members appointed by the governor before July 1, 1991,

whose terms expire June 30, 1992, June 30, 1993, and June 30, 1994; (2) one member appointed by the governor for a term expiring June 30, 1994; (3) one member appointed by the commissioner of public safety for a term expiring June 30, 1995; and (4) one member appointed by the attorney general for a term expiring June 30, 1995.

(b) All appointments under this subdivision are with the advice and consent of the senate.

(c) After expiration of the initial terms, appointments are for four years.

(d) The board shall select one of its members to serve as chair. No more than three members appointed by the governor under this subdivision may belong to the same political party.

*[For text of subds 3a to 5, see M.S.1992]*

**History:** 1993 c 13 art 1 s 3

### 349.19 RECORDS AND REPORTS.

*[For text of subds 1 to 5, see M.S.1992]*

**Subd. 6. Preservation of records.** Records required to be kept by this section must be preserved by a licensed organization for at least 3-1/2 years and may be inspected by the commissioner of revenue, the board, or the commissioner of public safety at any reasonable time without notice or a search warrant.

*[For text of subds 7 to 11, see M.S.1992]*

**History:** 1993 c 13 art 1 s 4

### 349.2115 SPORTS BOOKMAKING TAX.

**Subdivision 1. Imposition of tax.** An excise tax of six percent is imposed on the value of all bets received by, recorded by, accepted by, forwarded by, or placed with a person engaged in sports bookmaking.

**Subd. 2. Bet defined.** For purposes of this section, the term "bet" has the meaning given it in section 609.75, subdivision 2.

**Subd. 3. Sports bookmaking defined.** For purposes of this section, the term "sports bookmaking" has the meaning given it in section 609.75, subdivision 7.

**Subd. 4. Amount of bet.** In determining the value or amount of any bet for purposes of this section, all charges incident to the placing of the bet must be included.

**Subd. 5. Tax returns.** A person engaged in sports bookmaking shall file monthly tax returns with the commissioner of revenue, in the form required by the commissioner, of all bookmaking activity, and shall include information on all bets recorded, accepted, forwarded, and placed. The returns must be filed on or before the 20th day of the month following the month in which the bets reported were recorded, accepted, forwarded, or placed. The tax imposed by this section is due and payable at the time when the returns are filed.

**Subd. 6. Persons liable for tax.** Each person who is engaged in receiving, recording, forwarding, or accepting sports bookmaking bets is liable for and shall pay the tax imposed under this section.

**Subd. 7. Jeopardy assessment; jeopardy collection.** The tax may be assessed by the commissioner of revenue. An assessment made pursuant to this section shall be considered a jeopardy assessment or jeopardy collection as provided in section 270.70. The commissioner shall assess the tax based on personal knowledge or information available to the commissioner. The commissioner shall mail to the taxpayer at the taxpayer's last known address, or serve in person, a written notice of the amount of tax, demand its immediate payment, and, if payment is not immediately made, collect the tax by any method described in chapter 270, except that the commissioner need not await the expiration of the times specified in chapter 270. The tax assessed by the commissioner is presumed to be valid and correctly determined and assessed.

**Subd. 8. Disclosure prohibited.** (a) Notwithstanding any law to the contrary, neither the commissioner nor a public employee may reveal facts contained in a sports bookmaking tax return filed with the commissioner of revenue as required by this section, nor can any information contained in the report or return be used against the tax obligor in any criminal proceeding, unless independently obtained, except in connection with a proceeding involving taxes due under this section, or as provided in section 270.064.

(b) Any person violating this section is guilty of a gross misdemeanor.

(c) This section does not prohibit the commissioner from publishing statistics that do not disclose the identity of tax obligors or the contents of particular returns or reports.

**History:** 1993 c 375 art 9 s 43

### 349.212 TAX IMPOSED.

*[For text of subds 1 and 2, see M.S.1992]*

**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. The rate of the tax is two percent of the ideal gross of the pull-tab or tipboard deal. The sales tax imposed by chapter 297A on the sale of the pull-tabs and tipboards by the licensed distributor 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 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 customer, to a common or contract carrier for delivery to the customer, or when received by the customer's authorized representative at the distributor's place of business, regardless of the distributor's method of accounting or the terms of the sale.

The tax imposed by this subdivision is imposed on all sales of pull-tabs and tipboards, except the following:

(1) sales to the governing body of an Indian tribal organization for use on an Indian reservation;

(2) sales to distributors licensed under this chapter;

(3) sales to distributors licensed under the laws of another state or of a province of Canada, as long as all statutory and regulatory requirements are met in the other state or province; and

(4) sales of promotional tickets as defined in section 349.12.

(c) Pull-tabs and tipboards sold to an organization that sells pull-tabs and tipboards under the exemption from licensing in section 349.166, subdivision 2, paragraph (a), are exempt from the tax imposed by this subdivision. A distributor must require an organization conducting exempt gambling to show proof of its exempt status before making a tax-exempt sale of pull-tabs or tipboards to such an organization. A distributor shall identify, on all reports submitted to the commissioner, all sales of pull-tabs and tipboards that are exempt from tax under this subdivision.

(d) A distributor having a liability of \$120,000 or more during a fiscal year ending June 30 must remit all liabilities in the subsequent calendar year by means of a funds transfer as defined in section 336.4A-104, paragraph (a). The funds transfer payment date, as defined in section 336.4A-401, must be on or before the date the tax is due. If the date the tax is due is not a funds transfer business day, as defined in section 336.4A-105, paragraph (a), clause (4), the payment date must be on or before the funds transfer business day next following the date the tax is due.

*[For text of subds 5 to 7, see M.S.1992]*

**History:** 1993 c 375 art 10 s 46

**349.217 CIVIL PENALTIES.**

Subdivision 1. **Penalty for failure to pay tax.** If a tax is not paid within the time specified for payment, a penalty is added to the amount required to be shown as tax. The penalty is five percent of the unpaid tax if the failure is for not more than 30 days, with an additional penalty of percent of the amount of tax remaining unpaid during each additional 30 days or fraction of 30 days during which the failure continues, not exceeding 15 percent in the aggregate.

If the taxpayer has not filed a return, for purposes of this subdivision the time specified for payment is the final date a return should have been filed.

Subd. 2. **Penalty for failure to make and file return.** If a taxpayer fails to make and file a return within the time prescribed or an extension, a penalty is added to the tax. The penalty is five percent of the amount of tax not paid on or before the date prescribed for payment of the tax.

If a taxpayer fails to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision must be at least the lesser of: (1) \$200; or (2) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax, or (b) \$50.

*[For text of subds 3 to 5, see M.S.1992]*

Subd. 5a. **Penalty for repeated failures to file returns or pay taxes.** If there is a pattern by a person of repeated failures to timely file returns or timely pay taxes, and written notice is given that a penalty will be imposed if such failures continue, a penalty of 25 percent of the amount of tax not timely paid as a result of each such subsequent failure is added to the tax. The penalty can be abated under the abatement authority in section 270.07, subdivisions 1, paragraph (e), and 6.

*[For text of subds 6 to 9, see M.S.1992]*

**History:** 1993 c 375 art 10 s 47-49

**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 suspension or 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 18, 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.

*[For text of subd 2, see M.S.1992]*

**History:** 1993 c 13 art 1 s 37