

## CHAPTER 349A

### STATE LOTTERY

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#### 349A.01 DEFINITIONS.

*[For text of subds 1 to 12, see M.S.1992]*

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 lottery. A lottery vendor does not include a lottery retailer.

**History:** 1991 c 233 s 109

#### 349A.02 STATE LOTTERY.

Subdivision 1. **Director.** A state lottery is established 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 director from a list of at least three persons recommended to the governor by the board. The director must be qualified by experience and training to supervise the lottery. The director serves in the unclassified service. The annual salary rate authorized for the director is equal to 80 percent of the salary rate prescribed for the governor as of the effective date of Laws 1993, chapter 146.

*[For text of subds 2 and 3, see M.S.1992]*

Subd. 4. **Employees.** The director may appoint other personnel as necessary to operate the state lottery in accordance with chapter 43A. At least one position in the lottery must be an attorney position and the director shall employ in that position an attorney to perform legal services for the lottery.

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 lottery 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 lottery be fingerprinted. No person may be employed by the lottery who has been convicted of a felony or a crime involving fraud or misrepresentation within five years of starting employment with the lottery, or has ever been convicted of a gambling-related offense. The director has access to all criminal history data compiled by the lottery of gambling enforcement on employees and prospective employees of the lottery. The director may employ necessary persons pending the completion of a background check.

*[For text of subds 7 and 8, see M.S.1992]*

**History:** 1991 c 233 s 109; 1993 c 146 art 3 s 8

#### 349A.03 STATE LOTTERY BOARD.

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

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; and
- (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.

Subd. 3. [Repealed, 1993 c 146 art 3 s 13]

**History:** 1993 c 146 art 3 s 9

### 349A.06 LOTTERY RETAILERS.

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

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 lottery;
- (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.

*[For text of subds 3 and 4, see M.S.1992]*

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 lottery 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 lottery.

(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.

(f) A lottery retailer must prominently post at the point of sale of lottery tickets, in a manner approved by the commissioner of human services, the toll-free telephone number established by the commissioner of human services in connection with the compulsive gambling program established under section 245.98.

*[For text of subds 6 to 10, see M.S.1992]*

**Subd. 11. Cancellation, suspension, and refusal to renew contracts.** (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 lottery; 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 file a bond, securities, or a letter of credit as required under subdivision 3;
- (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 suspension becomes permanent unless the director vacates or modifies the order.

**History:** 1991 c 233 s 109

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

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

**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 lottery.

*[For text of subds 3 to 7, see M.S.1992]*

**History:** 1991 c 233 s 109

### **349A.08 LOTTERY PRIZES.**

*[For text of subds 1 to 6, see M.S.1992]*

**Subd. 7. Payments prohibited.** (a) No prize may be paid to a member of the board, the director or an employee of the lottery, 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 \$600 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.

*[For text of subd 9, see M.S.1992]*

**History:** 1991 c 233 s 109; 1993 c 340 s 17

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

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

**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 fiscal year 1993 amounts to the lottery operations account which when totaled exceed 14.5 percent of gross revenue to the lottery fund. The director may not credit in any fiscal year thereafter 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, 1991, 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 lottery 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 lottery 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, and the remainder must be credited to the general fund.

**History:** 1991 c 233 s 109; 1993 c 369 s 126

### 349A.11 CONFLICT OF INTEREST.

(a) The director, a board member, an employee of the lottery, 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 lottery may not, within one year of terminating employment with the lottery, 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 lottery within a period of two years prior to the termination of their employment. A violation of this paragraph is a misdemeanor.

**History:** 1991 c 233 s 109

### 349A.12 PROHIBITED ACTS.

*[For text of subds 1 to 3, see M.S.1992]*

**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 lottery 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, or to a member of the immediate family residing in the same household as that person.

*[For text of subds 5 and 6, see M.S.1992]*

**History:** 1991 c 233 s 109