

Gaming

CHAPTER 349

LAWFUL GAMBLING AND GAMBLING DEVICES

REGULATION OF LAWFUL GAMBLING

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349.01 [Repealed, 1976 c 261 s 15]

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REGULATION OF LAWFUL GAMBLING

349.11. PURPOSE.

The purpose of sections 349.11 to 349.22 is to regulate lawful gambling to prevent its 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; 1989 c 334 art 2 s 1

349.12. DEFINITIONS.

Subdivision 1. As used in sections 349.11 to 349.23 the terms in this section have the meanings given them.

Subd. 2. **Active member.** "Active member" means a member who has paid all dues to the organization, who is 18 years of age or older, who has equal voting rights with all other members, who has equal opportunity to be an elected officer, who has equal right and responsibilities of attendance at the regularly scheduled meetings of the organization, whose name and membership origination date appear with the member's knowledge and consent on a list of members of the organization, and who has been a member of the organization for at least six months.

Subd. 3. **Affiliate.** "Affiliate" is any person or entity directly or indirectly controlling, controlled by, or under common control or ownership with a licensee of the board or any officer or director of a licensee of the board.

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Subd. 3a. **Allowable expense.** "Allowable expense" means the percentage of the total cost incurred by the organization in the purchase of any good, service, or other item which corresponds to the proportion of the total actual use of the good, service, or other item that is directly related to conduct of lawful gambling. Allowable expense includes the advertising of the conduct of lawful gambling, provided that the amount expended does not exceed five percent of the annual gross profits of the organization or \$5,000 per year per organization, whichever is less. The board may adopt rules to regulate the content of the advertising to ensure that the content is consistent with the public welfare.

Subd. 4. **Bingo.** "Bingo" means a game where each player has a bingo hard card or bingo paper sheet, for which a consideration has been paid, and played in accordance with this chapter and with rules of the board for the conduct of bingo.

Subd. 5. **Bingo occasion.** "Bingo occasion" means a single gathering or session at which a series of one or more successive bingo games is played.

Subd. 6. **Board.** "Board" is the gambling control board.

Subd. 7. **Capital assets.** "Capital assets" means property, real or personal, except gambling equipment, with an expected useful life of at least one year.

Subd. 8. **Checker.** "Checker" means a person who records the number of bingo hard cards purchased and played during each game and records the prizes awarded to the recorded hard cards, but does not collect the payment for the hard cards.

Subd. 9. **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. 10. **Director.** "Director" is the director of the gambling control board.

Subd. 11. **Distributor.** "Distributor" is a person who sells gambling equipment for use within the state to licensed organizations, or to organizations conducting excluded or exempt activities under section 349.166.

Subd. 12. [Repealed, 1991 c 233 s 110]

Subd. 13. **Face value.** "Face value" means the price per ticket printed on the ticket or the flare.

Subd. 14. **Fiscal year.** "Fiscal year 1990" means the period from October 1, 1989, to June 30, 1990. For all subsequent times, "fiscal year" means the period from July 1 to June 30.

Subd. 15. **501(c)(3) organization.** "501(c)(3) organization" is an organization exempt from the payment of federal income taxes under section 501(c)(3) of the Internal Revenue Code.

Subd. 15a. **Festival organization.** "Festival organization" is an organization conducting a community festival that is exempt from the payment of federal income taxes under section 501(c)(4) of the Internal Revenue Code.

Subd. 16. **Flare.** "Flare" is the posted display, with registration stamp affixed or bar code imprinted or affixed, that sets forth the rules of a particular game of pull-tabs or tipboards and that is associated with a specific deal of pull-tabs or grouping of tipboards.

Subd. 17. **Free play.** "Free play" means a winning ticket that is labeled as a free play or its equivalent.

Subd. 18. **Gambling equipment.** "Gambling equipment" means: bingo hard cards or paper sheets, devices for selecting bingo numbers, pull-tabs, jar tickets, paddlewheels, paddlewheel tables, paddletickets, paddleticket cards, tipboards, tipboard tickets, and pull-tab dispensing devices.

Subd. 19. **Gambling manager.** "Gambling manager" means a person who has been an active member of the organization for at least two years and has been designated by the organization to supervise lawful gambling conducted by it.

Subd. 20. **Gross profit.** "Gross profit" means the gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for prizes.

Subd. 21. **Gross receipts.** "Gross receipts" means all receipts derived from lawful gambling activity including, but not limited to, the following items:

(1) gross sales of bingo hard cards and paper sheets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(2) the ideal gross of pull-tab and tipboard deals or games less the value of unsold and defective tickets and before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(3) gross sales of raffle tickets and paddletickets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(4) admission, commission, cover, or other charges imposed on participants in lawful gambling activity as a condition for or cost of participation; and

(5) interest, dividends, annuities, profit from transactions, or other income derived from the accumulation or use of gambling proceeds.

Gross receipts does not include proceeds from rental under section 349.164 or 349.18, subdivision 3.

Subd. 22. **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. In the calculation of ideal gross and prizes, a free play ticket shall be valued at face value.

Subd. 23. **Ideal net.** "Ideal net" means the pull-tab or tipboard deal's ideal gross, as defined under subdivision 22, less the total predetermined prize amounts available to be paid out. When the prize is not entirely a monetary one, the ideal net is 50 percent of the ideal gross.

Subd. 24. "Lawful gambling" is the operation, conduct or sale of bingo, raffles, paddlewheels, tipboards, and pull-tabs.

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

(1) any expenditure by or contribution to a 501(c)(3) or festival organization, as defined in subdivision 15a, provided that the organization and expenditure or contribution are in conformity with standards prescribed by the board under section 349.154, which standards must apply to both types of organizations in the same manner and to the same extent;

(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 program recognized by the Minnesota department of human services for the education, prevention, or treatment of compulsive gambling;

(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, provided that the rules must not include mileage reimbursements in the computation of the per occasion reimbursement limit and must impose no aggregate annual limit on the amount of reasonable and necessary expenditures made to support:

(i) members of a military marching or color guard unit for activities conducted within the state; or

(ii) members of an organization solely for services performed by the members at funeral services;

(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 and the organization complies with section 349.154;

(8) payment of local taxes authorized under this chapter, taxes imposed by the United States on receipts from lawful gambling, the taxes imposed by section 297E.02, subdivisions 1, 4, 5, and 6, and the tax imposed on unrelated business income by section 290.05, subdivision 3;

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

(i) for premises used for bingo, the amount that an organization may expend under board rules on rent for bingo; and

(ii) \$35,000 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 which is a church or body of communicants gathered in common membership for mutual support and edification in piety, worship, or religious observances;

(12) payment of one-half of the reasonable costs of an audit required in section 297E.06, subdivision 4;

(13) a contribution to or expenditure on a wildlife management project that benefits the public at-large, provided that the state agency with authority over that wildlife management project approves the project before the contribution or expenditure is made;

(14) expenditures, approved by the commissioner of natural resources, by an organization for grooming and maintaining snowmobile trails that are (1) grant-in-aid trails established under section 85.019, or (2) other trails open to public use, including purchase or lease of equipment for this purpose; or

(15) conducting nutritional programs, food shelves, and congregate dining programs primarily for persons who are age 62 or older or disabled.

(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, 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; (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; or (v) with respect to an expenditure to bring an existing building into compliance with the Americans with Disabilities Act under item (ii), an organization has the option to apply the amount of the board-approved expenditure to the erection or acquisition of a replacement building that is in compliance with the Americans with Disabilities Act;

(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); or

(6) 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.

Subd. 26. **Manufacturer.** "Manufacturer" means a person or entity who assembles from raw materials or subparts a completed piece of gambling equipment, and who sells or furnishes the equipment for resale or for use in the state. The term includes a person who converts, modifies, adds to, or removes parts or a portion from an item, device, or assembly to further its promotion, sale, or use as gambling equipment in this state. A person only adding or modifying promotional flares to advise the public of the prizes available, the rules of play, and the consideration required is not a manufacturer.

Subd. 26a. **Master flare.** "Master flare" is the posted display, with registration stamp affixed or bar code imprinted or affixed, that is used in conjunction with sealed groupings of 100 or fewer sequentially numbered paddleticket cards.

Subd. 27. **Net profit.** "Net profit" means gross profit less reasonable sums actually expended for allowable expenses.

Subd. 28. **Organization.** "Organization" means any fraternal, religious, veterans, or other nonprofit organization.

Subd. 28a. **Paddleticket.** "Paddleticket" means a preprinted ticket that can be used to place wagers on the spin of a paddlewheel.

Subd. 28b. **Paddleticket card.** "Paddleticket card" means a card to which detachable paddletickets are attached.

Subd. 28c. **Paddleticket card number.** "Paddleticket card number" means the unique serial number preprinted by the manufacturer on the stub of a paddleticket card and the paddletickets attached to the card.

Subd. 29. "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. 30. **Person.** "Person" is an individual, organization, firm, association, partnership, limited liability company, corporation, trustee, or legal representative.

Subd. 30a. **Profit carryover.** "Profit carryover" means cumulative net profit less cumulative lawful purpose expenditures.

Subd. 31. **Promotional ticket.** A pull-tab or tipboard ticket with the words "no purchase necessary" and "for promotional use only" and for which no consideration is given is a promotional ticket.

Subd. 32. **Pull-tab.** "Pull-tab" means a single folded or banded ticket or a multi-ply card with perforated break-open tabs, the face of which is initially 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.

Subd. 32a. **Pull-tab dispensing device.** "Pull-tab dispensing device" means a mechanical device that dispenses paper pull-tabs and has no additional function as an amusement or gambling device.

Subd. 33. "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. 34. **Tipboard.** "Tipboard" means a board, placard or other device containing a seal that conceals the winning number or symbol, and that serves as the game flare for a tipboard game.

Subd. 35. **Tipboard ticket.** "Tipboard ticket" is a single folded or banded ticket, or multi-ply card, the face of which is initially covered or otherwise hidden from view to conceal a

number, symbol, or set of symbols, some of which have been designated in advance and at random as prize winners.

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; 1989 c 203 s 1; 1989 c 334 art 2 s 2-15; 51; 1Sp1989 c 1 art 13 s 1-6; 1990 c 590 art 1 s 4-9; 1991 c 199 art 2 s 1; 1991 c 233 s 100; 1991 c 336 art 2 s 10-12; 1993 c 244 art 5 s 1; 1994 c 633 art 2 s 19; art 5 s 1-20; 1995 c 186 s 68; 1995 c 261 s 20,21; 1995 c 264 art 9 s 9; 1997 c 155 s 2,3; 1998 c 322 s 1.

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. A pull-tab dispensing device permitted by board rule is not a gambling device within the meaning of sections 609.75 to 609.76 and chapter 299L.

History: 1976 c 261 s 3; 1984 c 502 art 12 s 4; 1994 c 633 art 5 s 21

349.14 [Repealed, 1990 c 590 art 1 s 55]

349.15 USE OF GROSS PROFITS.

Subdivision 1. **Expenditure restrictions.** Gross profits from lawful gambling may be expended only for lawful purposes or allowable expenses as authorized by the membership of the conducting organization at a monthly meeting of the organization's membership. Provided that no more than 65 percent of the gross profit less the tax imposed under section 297E.02, subdivision 1, from bingo, and no more than 55 percent of the gross profit from other forms of lawful gambling, may be expended for allowable expenses related to lawful gambling.

Subd. 2. **Cash shortages.** In computing gross profit to determine maximum amounts which may be expended for allowable expenses under subdivision 1, an organization may not reduce its gross receipts by any cash shortages. An organization may report cash shortages to the board only as an allowable expense. An organization may not report cash shortages in any reporting period that in total exceed the following percentages of the organization's gross receipts from lawful gambling for that period: until August 1, 1995, four-tenths of one percent; and on and after August 1, 1995, three-tenths of one percent.

Subd. 3. **Refunds and credits.** For purposes of this section "gross profit" does not include any refund or credit received under section 297E.02, subdivision 4, paragraph (d).

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; 1989 c 203 s 2; 1989 c 334 art 2 s 16; 1Sp1989 c 1 art 13 s 7; 1990 c 590 art 1 s 10; 1991 c 336 art 2 s 13; 1994 c 633 art 2 s 19; art 5 s 22; 1996 c 471 art 13 s 16; 1997 c 155 s 4

349.151 GAMBLING CONTROL BOARD.

Subdivision 1. **Board created.** The gambling control board is created with the powers and duties established by subdivision 4.

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.

Subd. 3. [Repealed, 1989 c 334 art 2 s 52]

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

Subd. 4. **Powers and duties.** (a) The board has the following powers and duties:

- (1) to regulate lawful gambling to ensure it is conducted in the public interest;
- (2) to issue licenses to organizations, distributors, bingo halls, manufacturers, and gambling managers;
- (3) to collect and deposit license, permit, and registration fees due under this chapter;
- (4) to receive reports required by this chapter and inspect all premises, records, books, and other documents of organizations, distributors, manufacturers, and bingo halls to insure compliance with all applicable laws and rules;
- (5) to make rules authorized by this chapter;
- (6) to register gambling equipment and issue registration stamps;
- (7) 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;
- (8) to report annually to the governor and legislature on its activities and on recommended changes in the laws governing gambling;
- (9) to impose civil penalties of not more than \$500 per violation on organizations, distributors, employees eligible to make sales on behalf of a distributor, manufacturers, bingo halls, and gambling managers for failure to comply with any provision of this chapter or any rule or order of the board;
- (10) to issue premises permits to organizations licensed to conduct lawful gambling;
- (11) to delegate to the director the authority to issue or deny license and premises permit applications and renewals under criteria established by the board;
- (12) to suspend or revoke licenses and premises permits of organizations, distributors, manufacturers, bingo halls, or gambling managers as provided in this chapter;
- (13) to register employees of organizations licensed to conduct lawful gambling;
- (14) to require fingerprints from persons determined by board rule to be subject to fingerprinting;
- (15) to delegate to a compliance review group of the board the authority to investigate alleged violations, issue consent orders, and initiate contested cases on behalf of the board;
- (16) to order organizations, distributors, manufacturers, bingo halls, and gambling managers to take corrective actions; and
- (17) to take all necessary steps to ensure the integrity of and public confidence in lawful gambling.

(b) The board, or director if authorized to act on behalf of the board, may by citation assess any organization, distributor, employee eligible to make sales on behalf of a distributor, manufacturer, bingo hall licensee, or gambling manager a civil penalty of not more than \$500 per violation for a failure to comply with any provision of this chapter or any rule adopted or order issued by the board. Any organization, distributor, bingo hall licensee, gambling manager, or manufacturer assessed a civil penalty under this paragraph may request a hearing before the board. Appeals of citations imposing a civil penalty are not subject to the provisions of the Administrative Procedure Act.

(c) All fees and penalties received by the board must be deposited in the general fund.

Subd. 4a. [Repealed, 1990 c 590 art 1 s 55]

Subd. 4a. **Paddlewheel rules.** The board shall promulgate rules governing paddlewheels before July 1, 1992. The rules must provide for operation procedures, internal control standards, posted information, records, and reports.

Subd. 4b. **Pull-tab sales from dispensing devices.** (a) The board may by rule authorize but not require the use of pull-tab dispensing devices.

(b) Rules adopted under paragraph (a):

- (1) must limit the number of pull-tab dispensing devices on any permitted premises to three;

(2) must limit the use of pull-tab dispensing devices to a permitted premises which is (i) a licensed premises for on-sales of intoxicating liquor or 3.2 percent malt beverages or (ii) a licensed bingo hall that allows gambling only by persons 18 years or older; and

(3) must prohibit the use of pull-tab dispensing devices at any licensed premises where pull-tabs are sold other than through a pull-tab dispensing device by an employee of the organization who is also the lessor or an employee of the lessor.

(c) The director may charge a manufacturer a fee of up to \$5,000 per pull-tab dispensing device to cover the costs of services provided by an independent testing laboratory to perform testing and analysis of pull-tab dispensing devices. The director shall deposit in a separate account in the state treasury all money the director receives as reimbursement for the costs of services provided by independent testing laboratories that have entered into contracts with the state to perform testing and analysis of pull-tab dispensing devices. Money in the account is appropriated to the director to pay the costs of services under those contracts.

Subd. 5. MS 1988 [Repealed, 1989 c 334 art 2 s 52]

Subd. 5. **Attorney general.** The attorney general is the attorney for the board.

Subd. 6. [Renumbered subd 5]

Subd. 7. **Orders.** The board may order any person subject to its jurisdiction who has violated this chapter or a board rule or order to take appropriate action to correct the violation.

Subd. 8. **Criminal history.** The board may request the director of alcohol and gambling enforcement to assist in investigating the background of an applicant for a license under this chapter, and the director of alcohol and gambling enforcement may bill the license applicant for the cost thereof. The board has access to all criminal history data compiled by the division of alcohol and gambling enforcement on licensees and applicants.

Subd. 9. **Response to requests.** An applicant, licensee, or other person subject to the board's jurisdiction must:

(1) comply with requests for information or documents, or other requests, from the board or director within the time specified in the request or, if no time is specified, within 30 days of the date the board or director mails the request; and

(2) appear before the board or director when requested to do so, and must bring documents or materials requested by the board or director.

Subd. 10. **Production of evidence.** For the purpose of any investigation, inspection, compliance review, audit, or proceeding under this chapter, the board or director may (1) administer oaths and affirmations, (2) subpoena witnesses and compel their attendance, (3) take evidence, and (4) require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the board or director determines are relevant or material to the inquiry.

Subd. 11. **Court orders.** In the event of a refusal to appear by, or refusal to obey a subpoena issued to, any person under this chapter, the district court may on application of the board or director issue to the person an order directing the person to appear before the board or director, and to produce documentary evidence if so ordered or to give evidence relating to the matter under investigation or in question. Failure to obey such an order may be punished by the court as contempt of court.

Subd. 12. **Access.** The board or director has free access during normal business hours to the offices and places of business of licensees or organizations conducting excluded or exempt gambling, and to all books, accounts, papers, records, files, safes, and vaults maintained in the places of business or required to be maintained.

Subd. 13. **Rulemaking.** In addition to any authority to adopt rules specifically authorized under this chapter, the board may adopt, amend, or repeal rules under chapter 14, when necessary or proper in discharging the board's powers and duties.

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; 1989 c 334 art 2 s 17; 1990 c 590 art 1 s 11,12; 1991 c 233 s 101; 1991 c 336 art 2 s 14,15; 1993 c 13 art 1 s 3; 1994 c 465 art 3 s 33; 1994 c 633 art 5 s 23-31; 1995 c 233 art 2 s 56; 1995 c 254 art 1 s 78; 1996 c 467 s 3; 1997 c 129 art 2 s 15

349.152 DIRECTOR.

Subdivision 1. **Appointed.** The governor shall appoint, with the advice and consent of the senate, a director from a list of one or more persons submitted by the board. The director serves in the unclassified service at the pleasure of the governor.

Subd. 2. **Duties of the director.** The director has the following duties:

- (1) to carry out gambling policy established by the board;
- (2) to employ and supervise personnel of the board;
- (3) to advise and make recommendations to the board on rules;
- (4) to issue licenses and premises permits as authorized by the board;
- (5) to issue cease and desist orders;
- (6) to make recommendations to the board on license issuance, denial, censure, suspension and revocation, civil penalties, and corrective action the board imposes;
- (7) to ensure that board rules, policy, and decisions are adequately and accurately conveyed to the board's licensees;
- (8) to conduct investigations, inspections, compliance reviews, and audits under this chapter; and
- (9) to issue subpoenas to compel the attendance of witnesses and the production of documents, books, records, and other evidence relating to an investigation, compliance review, or audit the director is authorized to conduct.

Subd. 3. **Cease and desist orders.** (a) Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any board rule or order the director may issue and cause to be served upon the person an order requiring the person to cease and desist from violations of this chapter or board rule or order. 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. Unless otherwise agreed between the parties, 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 after the receipt of the administrative law judge's report and subsequent exceptions and argument the board shall issue an order vacating the cease and desist order, modifying it, or making it permanent as the facts require. If no hearing is requested within 30 days of the service of the order, the order becomes final and remains in effect until modified or vacated by the board or director. 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) Whenever it appears to the board that any person has engaged or is about to engage in any act or practice that violates this chapter or any board rule or order, 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 board rule or order 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. 4. **Executive assistant.** The director may appoint an executive assistant to the director, who is in the unclassified service.

History: 1989 c 334 art 2 s 18; 1990 c 590 art 1 s 13-15; 1994 c 633 art 5 s 32,33

349.153 CONFLICT OF INTEREST.

(a) A person may not serve on the board, be the director, or be an employee of the board who has an interest in any corporation, association, limited liability company, or partnership that is licensed by the board as a distributor, manufacturer, or a bingo hall under section 349.164.

(b) A member of the board, the director, or an employee of the board may not accept employment with, receive compensation directly or indirectly from, or enter into a contractual relationship with an organization that conducts lawful gambling, a distributor, a bingo

hall or a manufacturer while employed with or a member of the board or within one year after terminating employment with or leaving the board.

(c) A distributor, bingo hall, manufacturer, or organization licensed to conduct lawful gambling may not hire a former employee, director, or member of the gambling control board for one year after the employee, director, or member has terminated employment with or left the gambling control board.

History: 1989 c 334 art 2 s 19; 1991 c 233 s 109; 1994 c 633 art 5 s 34

349.154 EXPENDITURE OF NET PROFITS FROM LAWFUL GAMBLING.

Subdivision 1. **Standards for certain organizations.** The board shall by rule prescribe standards that must be met by any licensed organization that is a 501(c)(3) organization. The standards must provide:

(1) operating standards for the organization, including a maximum percentage or percentages of the organization's total expenditures that may be expended for the organization's administration and operation; and

(2) standards for any expenditure by the organization of net profits from lawful gambling, including a requirement that the expenditure be related to the primary purpose of the organization.

Subd. 2. **Net profit reports.** (a) Each licensed organization must report monthly to the board on a form prescribed by the board each expenditure and contribution of net profits from lawful gambling. The reports must provide for each expenditure or contribution:

(1) the name, address, and telephone number of the recipient of the expenditure or contribution;

(2) the date the contribution was approved by the organization;

(3) the date, amount, and check number or electronic transfer confirmation number of the expenditure or contribution;

(4) a brief description of how the expenditure or contribution meets one or more of the purposes in section 349.12, subdivision 25; and

(5) in the case of expenditures authorized under section 349.12, subdivision 25, paragraph (a), clause (7), whether the expenditure is for a facility or activity that primarily benefits male or female participants.

(b) The board shall make available to the commissioners of revenue and public safety copies of reports received under this subdivision and requested by them.

(c) The report required under this subdivision must provide for a separate accounting for all expenditures made from the reporting organization's tax refund or credit authorized under section 297E.02, subdivision 4, paragraph (d).

Subd. 3. [Repealed, 1991 c 336 art 2 s 53]

Subd. 3a. **Expenditures for recreational, community, and athletic programs.** An organization that makes a greater percentage of its lawful purpose expenditures under section 349.12, subdivision 25, paragraph (a), clause (7), on facilities or activities for one gender rather than another may not deny a reasonable request for funding of a facility or activity for the underrepresented gender if the request is for funding for a facility or activity that is a lawful purpose under that clause. An applicant for funding for a facility or activity for an underrepresented gender who believes that an application for funding was denied in violation of this subdivision may file a complaint with the board. The board shall prescribe a form for the complaint and shall furnish a copy of the form to any requester. The board shall investigate each complaint filed and, if the board finds that the organization against which the complaint was filed has violated this subdivision, shall issue an order directing the organization to take such corrective action as the board deems necessary to bring the organization into compliance with this subdivision.

History: 1989 c 334 art 2 s 51; 1990 c 590 art 1 s 16; 1991 c 336 art 2 s 16; 1994 c 633 art 5 s 35; 1996 c 471 art 13 s 17; 1997 c 231 art 7 s 33; 1998 c 322 s 2

349.155 LICENSES; LICENSE ACTIONS.

Subdivision 1. **Forms.** All applications for a license must be on a form prescribed by the board. In the case of applications by an organization the board may require the organization

to submit a copy of its articles of incorporation and other documents the board deems necessary.

Subd. 2. Investigation fee. In addition to initial and renewal application fees, the board may charge license and renewal applicants a fee to cover the costs of background investigations conducted under this chapter.

Subd. 3. Mandatory disqualifications. (a) In the case of licenses for manufacturers, distributors, bingo halls, and gambling managers, the board may not issue or renew a license under this chapter, and shall revoke a license under this chapter, if the applicant or licensee, or a director, officer, partner, governor, person in a supervisory or management position of the applicant or licensee, or an employee eligible to make sales on behalf of the applicant or licensee:

- (1) has ever been convicted of a felony or a crime involving gambling;
- (2) has ever been convicted of (i) assault, (ii) a criminal violation involving the use of a firearm, or (iii) making terroristic threats;
- (3) is or has ever been connected with or engaged in an illegal business;
- (4) owes \$500 or more in delinquent taxes as defined in section 270.72;
- (5) had a sales and use tax permit revoked by the commissioner of revenue within the past two years; or
- (6) after demand, has not filed tax returns required by the commissioner of revenue. The board may deny or refuse to renew a license under this chapter, and may revoke a license under this chapter, if any of the conditions in this paragraph are applicable to an affiliate or direct or indirect holder of more than a five percent financial interest in the applicant or licensee.

(b) In the case of licenses for organizations, the board may not issue or renew a license under this chapter, and shall revoke a license under this chapter, if the organization, or an officer or member of the governing body of the organization:

- (1) has been convicted of a felony or gross misdemeanor within the five years before the issuance or renewal of the license;
- (2) has ever been convicted of a crime involving gambling; or
- (3) has had a license issued by the board or director permanently revoked for violation of law or board rule.

Subd. 4. License revocation, suspension, denial; censure. The board may by order (i) deny, suspend, revoke, or refuse to renew a license or premises permit, or (ii) censure a licensee or applicant, if it finds that the order is in the public interest and that the applicant or licensee, or a director, officer, partner, governor, person in a supervisory or management position of the applicant or licensee, an employee eligible to make sales on behalf of the applicant or licensee, or direct or indirect holder of more than a five percent financial interest in the applicant or licensee:

- (1) has violated or failed to comply with any provision of this chapter or chapter 297E or 299L, or any rule adopted or order issued thereunder;
- (2) has filed an application for a license that is incomplete in any material respect, or contains a statement that, in light of the circumstances under which it was made, is false, misleading, fraudulent, or a misrepresentation;
- (3) has made a false statement in a document or report required to be submitted to the board or the commissioner of revenue, or has made a false statement to the board, the compliance review group, or the director;
- (4) has been convicted of a crime in another jurisdiction that would be a felony if committed in Minnesota;
- (5) is permanently or temporarily enjoined by any gambling regulatory agency from engaging in or continuing any conduct or practice involving any aspect of gambling;
- (6) has had a gambling-related license revoked or suspended, or has paid or been required to pay a monetary penalty of \$2,500 or more, by a gambling regulator in another state or jurisdiction;
- (7) has been the subject of any of the following actions by the director of alcohol and gambling enforcement or commissioner of public safety: (i) had a license under chapter

299L denied, suspended, or revoked, (ii) been censured, reprimanded, has paid or been required to pay a monetary penalty or fine, or (iii) has been the subject of any other discipline by the director or commissioner; or

(8) has engaged in conduct that is contrary to the public health, welfare, or safety, or to the integrity of gambling; or

(9) based on past activities or criminal record poses a threat to the public interest or to the effective regulation and control of gambling, or creates or enhances the dangers of unsuitable, unfair, or illegal practices; methods, and activities in the conduct of gambling or the carrying on of the business and financial arrangements incidental to the conduct of gambling.

Subd. 4a. Illegal gambling. The board may not deny, suspend, revoke, or refuse to renew an organization's premises permit because illegal gambling occurred at the site for which the premises permit was issued, unless the board determines that: (1) the organization knowingly participated in the illegal gambling; or (2) the organization or any of its agents knew or reasonably should have known of the illegal gambling and the organization did not notify the lessor of the premises, in writing and with specificity, that illegal gambling was being conducted on the premises and requesting that the lessor take appropriate action.

Subd. 5. Contested case. When the board, or director if the director is authorized to act on behalf of the board, determines that a license should be revoked, suspended or a licensee be censured under subdivision 3 or 4; or a civil penalty be imposed or a person be required to take corrective action, the board or director shall issue an order initiating a contested case hearing. Hearings under this subdivision must be conducted in accordance with chapter 14.

Subd. 6. Notice of denial. When the board, or director if authorized to act on behalf of the board, determines that a license or premises permit application or renewal should be denied under subdivision 3 or 4, the board or director shall promptly give a written notice to the licensee or applicant stating ground for the action and giving reasonable notice of the rights of the licensee or applicant to request a hearing. A hearing must be held not later than 30 days after the board receives the request for the hearing, unless the licensee or applicant and the board agree on a later date. If no hearing is requested within 30 days of the service of the notice, the denial becomes final. Hearings under this subdivision must be conducted in accordance with chapter 14. After the hearing the board may enter an order making such disposition as the facts require. If the applicant fails to appear at the hearing after having been notified of it under this subdivision, the applicant is considered in default and the proceeding may be determined against the person on consideration of the written notice of denial, the allegations of which may be considered to be true. All fees accompanying the license or renewal application are considered earned and are not refundable.

Subd. 7. Lapsed licenses. If a license lapses, or is surrendered, withdrawn, terminated, or otherwise becomes ineffective, the board may (1) institute a proceeding under this section within two years after the last date on which the license was effective, (2) enter a revocation or suspension order as of the date on which the license was effective, (3) impose a civil penalty as provided under section 349.151, subdivision 4, or (4) order corrective action as provided in section 349.151, subdivision 7.

Subd. 8. Actions in another state. A licensee under this chapter must notify the board within 30 days of the action whenever any of the actions listed in subdivision 4, clause (6), have been taken against the licensee in another state or jurisdiction.

History: 1994 c 633 art 5 s 36; 1997 c 129 art 2 s 15; 1997 c 155 s 5

349.16 ORGANIZATION LICENSES.

Subdivision 1. License required. An organization may conduct lawful gambling if it has a license to conduct lawful gambling and complies with this chapter.

Subd. 1a. [Repealed by amendment, 1990 c 590 art 1 s 17]

Subd. 2. Issuance of gambling licenses. (a) Licenses authorizing organizations to conduct lawful gambling may be issued by the board to organizations meeting the qualifications in paragraphs (b) to (h) if the board determines that the license is consistent with the purpose of sections 349.11 to 349.22.

(b) The organization must have been in existence for the most recent three years preceding the license application as a registered Minnesota nonprofit corporation or as an organization designated as exempt from the payment of income taxes by the Internal Revenue Code.

(c) The organization at the time of licensing must have at least 15 active members.

(d) The organization must not be in existence solely for the purpose of conducting gambling.

(e) The organization has identified in its license application the lawful purposes on which it proposes to expend net profits from lawful gambling.

(f) The organization has identified on its license application a gambling manager and certifies that the manager is qualified under this chapter.

(g) The organization must not, in the opinion of the board after consultation with the commissioner of revenue, be seeking licensing primarily for the purpose of evading or reducing the tax imposed by section 297E.02, subdivision 6.

Subd. 3. **Term of license.** Licenses issued under this section are valid for two years.

Subd. 4. [Repealed, 1994 c 633 art 5 s 99]

Subd. 5. [Repealed, 1994 c 633 art 5 s 99]

Subd. 6. **License classifications.** The board may issue four classes of organization licenses: a class A license authorizing all forms of lawful gambling; a class B license authorizing all forms of lawful gambling except bingo; a class C license authorizing bingo only, or bingo and pull-tabs if the gross receipts for any combination of bingo and pull-tabs does not exceed \$50,000 per year; and a class D license authorizing raffles only. The board shall not charge a fee for an organization license.

Subd. 7. **Purchase of gambling equipment.** An organization may purchase gambling equipment only from a person licensed as a distributor.

Subd. 8. **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 or bingo halls applying for or renewing a premises permit or a bingo hall license. 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;
- (3) for all other cities, \$100; and
- (4) for counties, \$375.

Subd. 9. **License renewals; notice.** The board may not deny or delay the renewal of a license under this section, a premises permit, or a gambling manager's license under section 349.167 because of the licensee's failure to submit a complete application by a specified date before the expiration of the license or permit, unless the board has first (1) sent the applicant by registered mail a written notice of the incomplete application, and (2) given the applicant at least five business days from the date of receipt of the notice to submit a complete application, or the information necessary to complete the application.

Subd. 10. **License renewal to merged fire relief associations.** A new relief association formed from the merger of the relief associations of two separate city fire departments, mandated under Laws 1995, chapter 262, article 11, may apply for a license renewal under this section. The board shall consider the application as a license renewal of one of the relief associations that is a licensed organization and was merged to form the new relief association.

History: 1976 c 261 s 6; 1984 c 502 art 12 s 8; 1986 c 467 s 10,11; 1989 c 334 art 2 s 20,21; 1Sp1989 c 1 art 13 s 8; 1990 c 590 art 1 s 17; 1991 c 336 art 2 s 17; 1994 c 633 art 2 s 19; art 5 s 37-41; 1997 c 155 s 6

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 other than for lawful gambling exempt or excluded from licensing, except to an organization licensed for lawful gambling;

(2) sell, offer for sale, or furnish gambling equipment for use within the state without having obtained a distributor license under this section;

(3) sell, offer for sale, or furnish gambling equipment for use within the state that is not purchased or obtained from a manufacturer or distributor licensed under this chapter; or

(4) sell, offer for sale, or furnish gambling equipment for use within the state that has the same serial number as another item of gambling equipment of the same type sold or offered for sale or furnished for use in the state by that distributor.

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. [Repealed, 1994 c 633 art 5 s 99]

Subd. 4. Fees. The annual fee for a distributor's license is \$3,500.

Subd. 5. Prohibition. (a) No distributor, or employee of a distributor, may also be a wholesale distributor of alcoholic beverages or an employee of a wholesale distributor of alcoholic beverages.

(b) No distributor, or any representative, agent, affiliate, or employee of a distributor, may: (1) be involved in the conduct of lawful gambling by an organization; (2) keep or assist in the keeping of an organization's financial records, accounts, and inventories; or (3) prepare or assist in the preparation of tax forms and other reporting forms required to be submitted to the state by an organization.

(c) No distributor or any representative, agent, affiliate, or employee of a distributor may provide a lessor of gambling premises any compensation, gift, gratuity, premium, or other thing of value.

(d) No distributor or any representative, agent, affiliate, or employee of a distributor may participate in any gambling activity at any gambling site or premises where gambling equipment purchased from that distributor is being used in the conduct of lawful gambling.

(e) No distributor or any representative, agent, affiliate, or employee of a distributor may alter or modify any gambling equipment, except to add a "last ticket sold" prize sticker.

(f) No distributor or any representative, agent, affiliate, or employee of a distributor may: (1) recruit a person to become a gambling manager of an organization or identify to an organization a person as a candidate to become gambling manager for the organization; or (2) identify for an organization a potential gambling location.

(g) No distributor may purchase gambling equipment for resale to a person for use within the state from any person not licensed as a manufacturer under section 349.163.

(h) No distributor may sell gambling equipment to any person for use in Minnesota other than (i) a licensed organization or organization excluded or exempt from licensing, or (ii) the governing body of an Indian tribe.

(i) No distributor may sell or otherwise provide a pull-tab or tipboard deal with the symbol required by section 349.163, subdivision 5, paragraph (h), visible on the flare to any person other than in Minnesota to a licensed organization or organization exempt from licensing.

Subd. 6. [Repealed, 1994 c 633 art 5 s 99]

Subd. 7. [Repealed, 1994 c 633 art 5 s 99]

Subd. 8. Employees of distributors. Licensed distributors shall provide the board upon request with the names and home addresses of all employees. Each distributor and employee of a distributor must have in their possession a picture identification card approved by the board. No person other than an employee of a licensed distributor shall make any sales on behalf of a licensed distributor.

History: 1984 c 502 art 12 s 9; 1986 c 467 s 12,13; 1987 c 327 s 10-12; 1989 c 334 art 2 s 22; 1Sp1989 c 1 art 13 s 9; 1990 c 590 art 1 s 18; 1992 c 513 art 4 s 36; 1994 c 633 art 5 s 42,43

349.162 EQUIPMENT REGISTERED.

Subdivision 1. Stamp required. (a) A distributor may not sell, transfer, furnish, or otherwise provide to a person, and no person may purchase, borrow, accept, or acquire from a

distributor gambling equipment for use within the state unless the equipment has been registered with the board and has a registration stamp affixed, except for gambling equipment not stamped by the manufacturer pursuant to section 349.163, subdivision 5 or 8. 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 or manufacturer is entitled to a refund for unused registration stamps and replacement for registration stamps which are defective or canceled by the distributor or manufacturer.

(b) A manufacturer must return all unused registration stamps in its possession to the board by February 1, 1995. No manufacturer may possess unaffixed registration stamps after February 1, 1995.

(c) After February 1, 1996, no person may possess any unplayed pull-tab or tipboard deals with a registration stamp affixed to the flare or any unplayed paddleticket cards with a registration stamp affixed to the master flare. This paragraph does not apply to unplayed pull-tab or tipboard deals with a registration stamp affixed to the flare, or to unplayed paddleticket cards with a registration stamp affixed to the master flare, if the deals or cards are identified on a list of existing inventory submitted by a licensed organization or a licensed distributor, in a format prescribed by the commissioner of revenue, to the commissioner of revenue on or before February 1, 1996. Gambling equipment kept in violation of this paragraph is contraband under section 349.2125.

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 from whom the distributor purchased the equipment;
- (2) the registration number of the equipment;
- (3) the name, address, and license or exempt permit number of the organization to which the sale was made;
- (4) the date of the sale;
- (5) the name of the person who ordered the equipment;
- (6) the name of the person who received the equipment;
- (7) the type of equipment;
- (8) the serial number of the equipment;
- (9) the name, form number, or other identifying information for each game; and
- (10) in the case of bingo hard cards or paper sheets sold on and after January 1, 1991, the individual number of each card or sheet.

The invoice for each sale must be retained for at least 3-1/2 years after the sale is completed and a copy of each invoice is to be delivered to the board in the manner and time prescribed by 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 and the division of alcohol and gambling enforcement may inspect the business premises, books, records, and other documents of a distributor at any reasonable time without notice and without a search warrant.

The board may require that a distributor submit the monthly report and invoices required in this subdivision via magnetic media or electronic data transfer.

Subd. 3. Exemption. For purposes of this section, bingo cards or sheets need not be stamped.

Subd. 4. Prohibition. (a) No person other than a licensed distributor or licensed manufacturer may possess unaffixed registration stamps.

(b) Unless otherwise provided in this chapter, no person may possess gambling equipment that has not been stamped and registered.

(c) On and after January 1, 1991, no distributor may:

- (1) sell a bingo hard card or paper sheet that does not bear an individual number; or
- (2) sell a package of bingo paper sheets that does not contain bingo paper sheets in numerical order.

Subd. 5. Sales from facilities. (a) All gambling equipment purchased or possessed by a licensed distributor for resale to any person for use in Minnesota must, prior to the equipment's resale, be unloaded into a storage facility located in Minnesota which the distributor owns or leases; and which has been registered, in advance and in writing, with the division of alcohol and gambling enforcement as a storage facility of the distributor. All unregistered gambling equipment and all unaffixed registration stamps owned by, or in the possession of, a licensed distributor in the state of Minnesota shall be stored at a storage facility which has been registered with the division of alcohol and gambling enforcement. No gambling equipment may be moved from the facility unless the gambling equipment has been first registered with the board, except for gambling equipment not stamped by the manufacturer pursuant to section 349.163, subdivision 5 or 8.

(b) Notwithstanding section 349.163, subdivisions 5, 6, and 8, a licensed manufacturer may ship into Minnesota approved or unapproved gambling equipment if the licensed manufacturer ships the gambling equipment to a Minnesota storage facility that is: (1) owned or leased by the licensed manufacturer; and (2) registered, in advance and in writing, with the division of alcohol and gambling enforcement as a manufacturer's storage facility. No gambling equipment may be shipped into Minnesota to the manufacturer's registered storage facility unless the shipment of the gambling equipment is reported to the department of revenue in a manner prescribed by the department. No gambling equipment may be moved from the storage facility unless the gambling equipment is sold to a licensed distributor and is otherwise in conformity with this chapter, is shipped to an out-of-state site and the shipment is reported to the department of revenue in a manner prescribed by the department, or is otherwise sold and shipped as permitted by board rule.

(c) All storage facilities owned, leased, used, or operated by a licensed distributor or manufacturer may be entered upon and inspected by the employees of the division of alcohol and gambling enforcement, the division of alcohol and gambling enforcement director's authorized representatives, employees of the gambling control board or its authorized representatives, employees of the department of revenue, or authorized representatives of the director of the division of special taxes of the department of revenue during reasonable and regular business hours. Obstruction of, or failure to permit, entry and inspection is cause for revocation or suspension of a manufacturer's or distributor's licenses and permits issued under this chapter.

(d) Unregistered gambling equipment and unaffixed registration stamps found at any location in Minnesota other than the manufacturing plant of a licensed manufacturer or a registered storage facility are contraband under section 349.2125. This paragraph does not apply:

(1) to unregistered gambling equipment being transported in interstate commerce between locations outside this state, if the interstate shipment is verified by a bill of lading or other valid shipping document; and

(2) to gambling equipment not stamped by the manufacturer pursuant to section 349.163, subdivision 5 or 8.

Subd. 6. Removal of equipment from inventory. Authorized employees of the board, the division of alcohol and gambling enforcement of the department of public safety, and the commissioner of revenue may remove gambling equipment from the inventories of distributors and organizations and test that equipment to determine its compliance with all applicable laws and rules. A distributor or organization may return to the manufacturer thereof any gambling equipment which is determined to be in violation of law or rule. The cost to an organization of gambling equipment removed from inventory under this paragraph and found to be in compliance with all applicable law and rules is an allowable expense under section 349.15.

History: 1984 c 502 art 12 s 10; 1986 c 467 s 14; 1987 c 327 s 13,14; 1989 c 334 art 2 s 23; 1990 c 590 art 1 s 19; 1991 c 233 s 109; 1994 c 633 art 5 s 44-47; 1995 c 261 s 22; 1997 c 129 art 2 s 15

349.163 LICENSING OF MANUFACTURERS.

Subdivision 1. License required. No manufacturer of gambling equipment may sell any gambling equipment to any person for use or resale within the state, unless the manufac-

turer has a current and valid license issued by the board under this section and has satisfied other criteria prescribed by the board by rule.

A manufacturer licensed under this section may not also be directly or indirectly licensed as a distributor under section 349.161 unless the manufacturer (1) does not manufacture any gambling equipment other than paddlewheels, and (2) was licensed as both a manufacturer and distributor on May 1, 1990.

Subd. 1a. [Repealed, 1994 c 633 art 5 s 99]

Subd. 1b. **Applications; information.** An applicant for a manufacturer's license must list on the license application the names and addresses of all subsidiaries, affiliates, and branches in which the applicant has any form of ownership or control, in whole or in part, without regard to whether the subsidiary, affiliate, or branch does business in Minnesota.

Subd. 2. **License; fee.** A license under this section is valid for one year. The annual fee for the license is \$5,000.

Subd. 2a. [Repealed, 1994 c 633 art 5 s 99]

Subd. 3. **Prohibited sales.** (a) A manufacturer may not:

(1) sell gambling equipment for use or resale within the state to any person not licensed as a distributor unless the manufacturer is also a licensed distributor; or

(2) sell gambling equipment to a distributor in this state that has the same serial number as another item of gambling equipment of the same type that is sold by that manufacturer for use or resale in this state.

(b) A manufacturer, affiliate of a manufacturer, or person acting as a representative or agent of a manufacturer may not provide a lessor of gambling premises or an appointed official any compensation, gift, gratuity, premium, contribution, or other thing of value.

(c) A manufacturer may not sell or otherwise provide a pull-tab or tipboard deal with the symbol required by subdivision 5, paragraph (h), imprinted on the flare to any person other than a licensed distributor unless the manufacturer first renders the symbol permanently invisible.

Subd. 4. **Inspection of manufacturers.** Employees of the board and the division of alcohol and gambling enforcement may inspect the books, records, inventory, and business premises of a licensed manufacturer without notice during the normal business hours of the manufacturer. The board may charge a manufacturer for the actual cost of conducting scheduled or unscheduled inspections of the manufacturer's facilities, where the amount charged to the manufacturer for such inspections in any year does not exceed \$7,500. The board shall deposit in a separate account in the state treasury all money received as reimbursement for the costs of inspections. Until July 1, 1999, money in the account is appropriated to the board to pay the costs of the inspections.

Subd. 5. **Pull-tab and tipboard flares.** (a) A manufacturer may not ship or cause to be shipped into this state or sell for use or resale in this state any deal of pull-tabs or tipboards that does not have its own individual flare as required for that deal by this subdivision and rule of the board. A person other than a manufacturer may not manufacture, alter, modify, or otherwise change a flare for a deal of pull-tabs or tipboards except as allowed by this chapter or board rules.

(b) A manufacturer must comply with either paragraphs (c) to (g) or (f) to (j) with respect to pull-tabs and tipboards sold by the manufacturer before January 1, 1995, for use or resale in Minnesota or shipped into or caused to be shipped into Minnesota by the manufacturer before January 1, 1995. A manufacturer must comply with paragraphs (f) to (j) with respect to pull-tabs and tipboards sold by the manufacturer on and after January 1, 1995, for use or resale in Minnesota or shipped into or caused to be shipped into Minnesota by the manufacturer on and after January 1, 1995. Paragraphs (c) to (e) expire January 1, 1995.

(c) The flare of each deal of pull-tabs and tipboards sold by a manufacturer for use or resale in Minnesota must have the Minnesota gambling stamp affixed. The flare, with the stamp affixed, must be placed inside the wrapping of the deal which the flare describes.

(d) Each pull-tab and tipboard flare must bear the following statement printed in letters large enough to be clearly legible:

"Pull-tab (or tipboard) purchasers — This pull-tab (or tipboard) game is not legal in Minnesota unless:

— a Minnesota gambling stamp is affixed to this sheet, and

— the serial number handwritten on the gambling stamp is the same as the serial number printed on this sheet and on the pull-tab (or tipboard) ticket you have purchased."

(e) The flare of each pull-tab and tipboard game must bear the serial number of the game, printed in numbers at least one-half inch high and must be imprinted with the following:

- (1) the name of the game;
- (2) the name of the manufacturer;
- (3) the number of tickets in the deal; and
- (4) other information the board by rule requires.

(f) The flare of each pull-tab and tipboard game must have affixed to or imprinted at the bottom a bar code that provides all information required by the commissioner of revenue under section 297E.04, subdivision 2.

The serial number included in the bar code must be the same as the serial number of the tickets included in the deal. A manufacturer who manufactures a deal of pull-tabs must affix to the outside of the box containing that game the same bar code that is affixed to or imprinted at the bottom of a flare for that deal.

(g) No person may alter the bar code that appears on the outside of a box containing a deal of pull-tabs and tipboards. Possession of a box containing a deal of pull-tabs and tipboards that has a bar code different from the bar code of the deal inside the box is prima facie evidence that the possessor has altered the bar code on the box.

(h) The flare of each deal of pull-tabs and tipboards sold by a manufacturer for use or resale in Minnesota must have imprinted on it a symbol that is at least one inch high and one inch wide consisting of an outline of the geographic boundaries of Minnesota with the letters "MN" inside the outline. The flare must be placed inside the wrapping of the deal which the flare describes.

(i) Each pull-tab and tipboard flare must bear the following statement printed in letters large enough to be clearly legible:

"Pull-tab (or tipboard) purchasers — This pull-tab (or tipboard) game is not legal in Minnesota unless:

— an outline of Minnesota with letters "MN" inside it is imprinted on this sheet, and

— the serial number imprinted on the bar code at the bottom of this sheet is the same as the serial number on the pull-tab (or tipboard) ticket you have purchased."

(j) The flare of each pull-tab and tipboard game must have the serial number of the game imprinted on the bar code at the bottom of the flare in numerals at least one-half inch high.

Subd. 6. Samples of gambling equipment. The board shall require each licensed manufacturer to submit to the board one or more samples of each item of gambling equipment the manufacturer manufactures for use or resale in this state. The board shall inspect and test all the equipment it deems necessary to determine the equipment's compliance with law and board rules. Samples required under this subdivision must be approved by the board before the equipment being sampled is shipped into or sold for use or resale in this state. The board may request the assistance of the commissioner of public safety and the director of the state lottery board in performing the tests:

Subd. 6a. Paddlewheel moratorium. The board must not approve new types of paddlewheel equipment for sale in this state until July 1, 1993. This subdivision applies to new types of paddlewheel equipment, samples of which are submitted to the board after March 15, 1991.

Subd. 7. Recycled paper. The board may, after January 1, 1991, by rule require that all pull-tabs sold in Minnesota be manufactured using recycled paper.

Subd. 8. Paddleticket card master flares. Each sealed grouping of 100 or fewer paddleticket cards must have its own individual master flare. The manufacturer must affix to or

imprint at the bottom of the master flare a bar code that provides all information required by the commissioner of revenue under section 297E.04, subdivision 3:

History: 1986 c 467 s 15; 1989 c 334 art 2 s 24; 1Sp1989 c 1 art 13 s 10; 1990 c 590 art 1 s 20; 1991 c 233 s 109; 1991 c 336 art 2 s 18; 1992 c 513 art 4 s 37; 1994 c 633 art 5 s 48-52; 1995 c 264 art 17 s 9; 1997 c 129 art 2 s 15; 1997 c 155 s 7; 1997 c 202 art 2 s 45

349.164 BINGO HALL LICENSES.

Subdivision 1. **License required.** No person may lease a facility to more than one organization to conduct bingo without a current and valid bingo hall license under this section.

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. The board may not issue or renew a bingo hall license unless the conditions of section 349.213, subdivision 2, have been satisfied.

Subd. 3. [Repealed, 1994 c 633 art 5 s 99]

Subd. 4. **Fees.** The annual fee for a bingo hall license is \$2,500.

Subd. 5. [Repealed, 1994 c 633 art 5 s 99]

Subd. 6. **Prohibited acts.** No bingo hall licensee, person holding a financial or managerial interest in a bingo hall, or affiliate thereof may:

(1) be a licensed distributor or licensed manufacturer or affiliate of the distributor or manufacturer under section 349.161 or 349.163 or a wholesale distributor of alcoholic beverages;

(2) provide any staff to conduct or assist in the conduct of bingo or any other form of lawful gambling on the premises;

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

(4) provide accounting services to an organization conducting lawful gambling on the premises;

(5) solicit, suggest, encourage, or make any expenditures of gross receipts of an organization from lawful gambling;

(6) charge any fee to a person without which the person could not play a bingo game or participate in another form of lawful gambling on the premises;

(7) provide assistance or participate in the conduct of lawful gambling on the premises;

or

(8) permit more than 21 bingo occasions to be conducted on the premises in any week.

Subd. 7. MS 1988 [Renumbered in part subd 6]

Subd. 7. **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 bingo hall licensee based on the number of participants attending the bingo occasion or participating in lawful gambling on the premises, or based on the gross receipts or profit received by the organization. All provisions of section 349.18 apply to lawful gambling conducted in bingo halls.

Subd. 8. MS 1988 [Renumbered subd 7]

Subd. 8. MS 1992 [Repealed, 1994 c 633 art 5 s 99]

Subd. 9. [Renumbered subd 8]

Subd. 10. **Records.** A bingo hall licensee must maintain and preserve for at least 3-1/2 years records of all remuneration it receives from organizations conducting lawful gambling.

History: 1988 c 596 s 2; 1989 c 334 art 2 s 25; 1990 c 590 art 1 s 21; 1994 c 633 art 5 s 53-55

349.1641 LICENSES; SUMMARY SUSPENSION.

The board may (1) summarily suspend the license of an organization that is more than three months late in filing a tax return or in paying a tax required under chapter 297E and may

keep the suspension in effect until all required returns are filed and required taxes are paid; and (2) summarily suspend for not more than 90 days any license issued by the board or director for what the board determines are actions detrimental to the integrity of lawful gambling in Minnesota. The board must notify the licensee at least 14 days before suspending the license under this section. If a license is summarily suspended under this section, a contested case hearing on the merits must be held within 20 days of the issuance of the order of suspension, unless the parties agree to a later hearing date. The administrative law judge's report must be issued within 20 days after the close of the hearing record. In all cases involving summary suspension, the board must issue its final decision within 30 days after receipt of the report of the administrative law judge and subsequent exceptions and argument under section 14.61. When an organization's license is suspended under this section, the board shall within three days notify all municipalities in which the organization's gambling premises are located and all licensed distributors in the state.

History: 1990 c 590 art 1 s 22; 1994 c 633 art 5 s 56

349.165 PREMISES PERMITS.

Subdivision 1. **Premises permit required; application.** A licensed organization may not conduct lawful gambling at any site unless it has first obtained from the board a premises permit for the site. The board shall prescribe a form for permit applications, and each application for a permit must be submitted on a separate form. A premises permit issued by the board is valid for two years. The board may by rule limit the number of premises permits that may be issued to an organization.

Subd. 2. **Contents of application.** An application for a premises permit must contain:

- (1) the name and address of the applying organization and of the organization's gambling manager;
- (2) a description of the site for which the permit is sought, including its address and, where applicable, its placement within another premises or establishment;
- (3) if the site is leased, the name and address of the lessor and information about the lease the board requires, including all rents and other charges for the use of the site; and
- (4) other information the board deems necessary to carry out its purposes.

An organization holding a premises permit must notify the board in writing within ten days whenever any material change is made in the above information.

Subd. 3. **Fees.** The board may issue four classes of premises permits corresponding to the classes of licenses authorized under section 349.16, subdivision 6. The fee for each class of permit is:

- (1) \$400 for a class A permit;
- (2) \$250 for a class B permit;
- (3) \$200 for a class C permit; and
- (4) \$150 for a class D permit.

Subd. 4. **Identification of premises.** No organization may seek or accept assistance from a manufacturer or distributor, or a representative, agent, affiliate, or employee of a manufacturer or distributor, in identifying potential locations for gambling conducted by the organization.

History: 1990 c 590 art 1 s 23; 1991 c 336 art 2 s 19,20

349.166 EXCLUSIONS; EXEMPTIONS.

Subdivision 1. **Exclusions.** (a) Bingo may be conducted without a license and without complying with sections 349.168, subdivisions 1 and 2; 349.17, subdivisions 1, 4, and 5; 349.18, subdivision 1; and 349.19, if it is conducted:

- (1) by an organization in connection with a county fair, the state fair, or a civic celebration and is not conducted for more than 12 consecutive days and is limited to no more than four separate applications for activities applied for and approved in a calendar year; or
- (2) by an organization that conducts four or fewer bingo occasions in a calendar year.

An organization that holds a license to conduct lawful gambling under this chapter may not conduct bingo under this subdivision.

(b) 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 349.15 and 349.153 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.

(c) Raffles may be conducted by an organization without a license and without complying with sections 349.154 to 349.165 and 349.167 to 349.213 if the value of all raffle prizes awarded by the organization in a calendar year does not exceed \$750.

(d) The organization must maintain all required records of excluded gambling activity for 3-1/2 years.

Subd. 2. Exemptions. (a) Lawful gambling may be conducted by an organization without a license and without complying with sections 349.168, subdivisions 1 and 2; 349.17, subdivisions 4 and 5; 349.18, subdivision 1; and 349.19 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 pays a fee of \$25 to the board, notifies the board in writing not less than 30 days before each lawful gambling occasion of the date and location of the occasion, or 60 days for an occasion held in the case of a city of the first class, 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, or 60 days for an occasion held in a city of the first class;

(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.

(b) If the organization fails to file a timely report as required by paragraph (a), clause (3) or (6), the board shall not issue any authorization, license, or permit to the organization to conduct lawful gambling on an exempt, excluded, or licensed basis until the report has been filed.

(c) Merchandise prizes must be valued at their fair market value.

(d) Unused pull-tab and tipboard deals must be returned to the distributor within seven working days after the end of the lawful gambling occasion. The distributor must accept and pay a refund for all returns of unopened and undamaged deals returned under this paragraph.

(e) An organization that is exempt from taxation on purchases of pull-tabs and tipboards under section 297E.02, subdivision 4, paragraph (b), clause (4), must return to the distributor any tipboard or pull-tab deal no part of which is used at the lawful gambling occasion for which it was purchased by the organization.

(f) The organization must maintain all required records of exempt gambling activity for 3-1/2 years.

Subd. 3. Raffles; certain organizations. Sections 349.168, subdivision 4; and 349.211, subdivision 3, and the membership requirements of section 349.16, subdivision 2, paragraph (c), do not apply to raffles conducted by an organization that directly or under contract to the state or a political subdivision delivers health or social services and that is a 501(c)(3) organization 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. [Repealed, 1994 c 633 art 2 s 21].

History: 1989 c 334 art 2 s 51; 1990 c 590 art 1 s 24; 1991 c 199 art 2 s 1; 1994 c 633 art 2 s 19; art 5 s 57-59; 1996 c 467 s 4,5.

349.167 GAMBLING MANAGERS.

Subdivision 1. Gambling manager required. (a) All lawful gambling conducted by a licensed organization must be under the supervision of a gambling manager. A gambling manager designated by an organization to supervise lawful gambling is responsible for the gross receipts of the organization and for its conduct in compliance with all laws and rules. A person designated as a gambling manager shall maintain a fidelity bond in the sum of \$10,000 in favor of the organization conditioned on the faithful performance of the manager's duties. The terms of the bond must provide that notice be given to the board in writing not less than 30 days before its cancellation.

(b) A person may not act as a gambling manager for more than one organization.

(c) An organization may not conduct lawful gambling without having a gambling manager.

(d) An organization may not have more than one gambling manager at any time.

Subd. 2. Gambling managers; licenses. A person may not serve as a gambling manager for an organization unless the person possesses a valid gambling manager's license issued by the board. In addition to the disqualifications in section 349.155, subdivision 3, the board may not issue a gambling manager's license to a person applying for the license who:

(1) has not complied with subdivision 4, clause (1);

(2) within the five years before the date of the license application, has committed a violation of law or board rule that resulted in the revocation of a license issued by the board;

(3) has ever been convicted of a criminal violation involving fraud, theft, tax evasion, misrepresentation, or gambling; or

(4) has engaged in conduct the board determines is contrary to the public health, welfare, or safety or the integrity of lawful gambling.

A gambling manager's license runs concurrent with the organization's license unless the gambling manager's license is suspended or revoked. The fee for a gambling manager's license is \$200. During the second year of an organization's license the license fee for a new gambling manager is \$100.

Subd. 3. [Repealed, 1994 c 633 art 5 s 99]

Subd. 4. Training of gambling managers. The board shall by rule require all persons licensed as gambling managers to receive periodic training in laws and rules governing lawful gambling. The rules must contain the following requirements:

(1) each gambling manager must receive training before being issued a new license, except that in the case of the death, disability, or termination of a gambling manager, a replacement gambling manager must receive the training within 90 days of being issued a license;

(2) each gambling manager applying for a renewal of a license must have received continuing education training, as required by board rule, each year of the two-year license period; and

(3) the training required by this subdivision may be provided by a person authorized by the board to provide the training. Before authorizing a person to provide training, the board must determine that:

(i) the provider and all of the provider's personnel conducting the training are qualified to do so;

(ii) the curriculum to be used fully and accurately covers all elements of lawful gambling law and rules that the board determines are necessary for a gambling manager to know and understand;

(iii) the fee to be charged for participants in the training sessions is fair and reasonable; and

(iv) the training provider has an adequate system for documenting completion of training.

The rules may provide for differing training requirements for gambling managers based on the class of license held by the gambling manager's organization.

The board or the director may provide the training required by this subdivision using employees of the board.

Subd. 5. [Repealed, 1994 c 633 art 5 s 99]

Subd. 6. **Recruitment of gambling managers.** No organization may seek or accept assistance from a manufacturer or distributor, or a representative, agent, affiliate, or employee of a manufacturer or distributor, in identifying or recruiting candidates to become a gambling manager for the organization.

Subd. 7. **Gambling manager examination.** (a) By January 1, 1996, each gambling manager must pass an examination prepared and administered by the board that tests the gambling manager's knowledge of the responsibilities of gambling managers and of gambling procedures, laws, and rules. The board shall revoke the license of any gambling manager who has not passed the examination by January 1, 1996.

(b) On and after January 1, 1996, each applicant for a new gambling manager's license must pass the examination provided for in paragraph (a) before being issued the license. In the case of the death, disability, or termination of a gambling manager, a replacement gambling manager must pass the examination within 90 days of being issued a gambling manager's license. The board shall revoke the replacement gambling manager's license if the replacement gambling manager fails to pass the examination as required in this paragraph.

History: 1990 c 590 art 1 s 25; 1991 c 233 s 109; 1991 c 336 art. 2 s 21-23; 1994 c 633 art 5 s 60-63.

349.168 GAMBLING EMPLOYEES.

Subdivision 1. **Registration of employees.** A person may not receive compensation for participating in the conduct of lawful gambling as an employee of a licensed organization unless the person has first registered with the board on a form the board prescribes. The form must require each registrant to provide: (1) the person's name, address, and social security number; (2) a current photograph; (3) the name, address, and license number of the employing organization; and (4) a listing of all employment in the conduct of lawful gambling within the previous three years, including the name and address of each employing organization and the circumstances under which the employment was terminated.

Subd. 2. **Identification of employees.** The board shall issue to each person registering under subdivision 1 a registration number and identification card which must include the employee's photograph. Each person receiving compensation for the conduct of lawful gambling must wear the identification card provided by the board at all times while conducting the lawful gambling.

Subd. 3. [Repealed, 1996 c 467 s 9]

Subd. 4. **Amounts paid.** The amounts of compensation that 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.

Subd. 5. **Compensation records.** An organization paying compensation to persons who participate in the conduct of lawful gambling must maintain a compensation record. The record must be retained for at least two years after the month in which the compensation is paid. The record must itemize each payment made to each recipient of compensation and must include the amount and the full name, address, and membership status of each recipient.

Subd. 6. **Compensation paid by check or electronic transfer.** Compensation paid by an organization in connection with lawful gambling must either be: (1) in the form of a check drawn on the organization's gambling account, as specified in section 349.19, and paid directly to the person being compensated; (2) transferred electronically from the organization's gambling account, as specified in section 349.19, subdivision 3, directly to the employee's bank account; or (3) transferred electronically to and from the account of a payroll processing firm for payment to the employee's account and for the payment of local, state, and federal withholding taxes, provided that the payroll processing firm is (i) currently regis-

tered with and meets the criteria of the department of revenue as a third-party bulk filer under section 290.92, subdivision 30, (ii) is able to provide proof of a third-party audit and an annual report and statement of financial condition, (iii) is able to provide evidence of a fidelity bond, and (iv) can provide proof of having been in business as a third-party bulk filer for the most recent three years.

Subd. 7. Penalty. (a) An organization that makes payment of compensation, or causes compensation to be made, that violates subdivision 4 must be assessed a civil penalty not to exceed \$1,000 for each violation of subdivision 4. A second violation within 12 months of notification by the board to the organization of the first violation must result in suspension of the organization's gambling license for a period of three months, in addition to any civil penalty assessed. A third violation within 12 months of the board's notification to the organization of the second violation must result in revocation of the organization's gambling license in addition to any civil penalty assessed.

(b) Upon each violation, the director shall notify the organization in writing of its violation and of the penalties under this subdivision for future violations. Notification is effective upon mailing.

(c) For purposes of this subdivision, a violation consists of a payroll period or compensation date that includes payments made in violation of subdivision 4.

Subd. 8. Percentage of gross profit paid. A licensed organization may pay a percentage of the gross profit from raffle ticket sales to a nonprofit organization that sells raffle tickets for the licensed organization.

Subd. 9. Compensation report. A licensed organization must submit to the board once each year, on a form the board prescribes, a compensation report that specifies for the year being reported: (1) each job category for which the organization pays compensation, (2) each compensation rate paid in each job category, and (3) the number of employees being paid each compensation rate during the year.

History: 1990 c 590 art 1 s 26; 1994 c 633 art 5 s 64-66; 1998 c 322 s 3

349.169 FILING OF PRICES.

Subdivision 1. Filing required. All manufacturers and distributors must file with the director, not later than the first day of each month, the prices at which the manufacturer or distributor will sell all gambling equipment in that month. The filing must be on a form the director prescribes. Prices filed must include all charges the manufacturer or distributor makes for each item of gambling equipment sold, including all volume discounts, exclusive of transportation costs. All filings are effective on the first day of the month for which they are filed, except that a manufacturer or distributor may amend a filed price within five days of filing it and may file a price any time during a month for gambling equipment not previously included on that month's filed pricing report, but may not later amend the price during the month.

Subd. 2. Copies. The director shall provide copies of price filings to any person requesting them and may charge a reasonable fee for the copies. Any person may examine price filings in the board office at no cost, and the director shall make the filings available for that purpose.

Subd. 3. Sales at filed prices. No manufacturer may sell to a distributor, and no distributor may sell to an organization, any gambling equipment for any price other than a price the manufacturer or distributor has filed with the director under subdivision 1, exclusive of transportation costs.

History: 1990 c 590 art 1 s 27; 1991 c 233 s 109; 1994 c 633 art 5 s 67

349.17 CONDUCT OF BINGO.

Subdivision 1. Bingo occasions. Not more than ten 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. During any bingo occasion conducted by an organization, the organization is 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;
 - (4) receipt, accounting, and all expenditures of gross receipts from lawful gambling;
- and
- (5) preparation of the bingo packets!

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. For purposes of this section, "furnish" does not include the right to sell or offer for sale.

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 when bingo is conducted using bingo hard cards. The checker or checkers must record, on a form the board provides, the number of hard cards played in each game and the prizes awarded to recorded hard cards. The form must provide for the inclusion of the face number of each winning hard card and must include a checker's certification that the figures recorded are correct to the best of the checker's knowledge.

Subd. 5. **Bingo cards and sheets.** (a) The board shall by rule require that all licensed organizations: (1) conduct bingo only using liquid daubers on bingo paper sheets that bear an individual number recorded by the distributor; and (2) use each bingo paper sheet for no more than one bingo occasion. In lieu of the requirements of clause (2), a licensed organization may electronically record the sale of each bingo hard card or paper sheet at each bingo occasion using an electronic recording system approved by the board.

(b) The requirements of paragraph (a) shall only apply to a licensed organization that received gross receipts from bingo in excess of \$150,000 in the organization's last fiscal year.

Subd. 6. **Conduct of bingo.** (a) Each bingo hard card and paper sheets must have five horizontal rows of spaces with each row except one having five numbers. The center row must have four numbers and the center space marked "free." Each column must have one of the letters B-I-N-G-O in order at the top. Bingo paper sheets may also have numbers that are not preprinted but are filled in by players.

(b) A game of bingo begins with the first letter and number called. Each player must cover or mark with a liquid dauber the numbers when bingo balls, similarly numbered, are randomly drawn, announced, and displayed to the players, either manually or with a flash-board and monitor. The game is won when a player has covered or marked a previously designated arrangement of numbers on the card or sheet and declared bingo. The game is completed when a winning card or sheet is verified and a prize awarded.

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; 1989 c 334 art 2 s 26; 1990 c 590 art 1 s 28; 1991 c 336 art 2 s 24; 1994 c 633 art 5 s 68-71; 1995 c 186 s 69; 1995 c 261 s 23

349.171 [Repealed, 1989 c 334 art 2 s 52]

349.1711 CONDUCT OF TIPBOARDS.

Subdivision 1. **Sale of tickets.** Tipboard games must be played using only tipboard tickets that are either (1) attached to a placard and arranged in columns or rows, or (2) separate from the placard and contained in a receptacle while the game is in play. The placard serves as the game flare. The placard must contain a seal that conceals the winning number or symbol. When a tipboard ticket is purchased and opened, each player having a tipboard ticket with one or more predesignated numbers or symbols must sign the placard at the line indicated by the number or symbol on the tipboard ticket.

Subd. 2. **Determination of winners.** When the predesignated numbers or symbols have all been purchased, or all of the tipboard tickets for that game have been sold, the seal must be removed to reveal a number or symbol that determines which of the predesignated

numbers or symbols is the winning number or symbol. A tipboard may also contain consolation winners that need not be determined by the use of the seal.

Subd. 3. **Prizes.** Cash or merchandise prizes may be awarded in a tipboard game. All prizes available in each game must be stated on the game flare.

History: 1994 c 633 art 5 s 72

349.172 PULL-TABS; INFORMATION REQUIRED TO BE POSTED.

Subdivision 1. **Board may require certain posting.** The board may issue an order requiring an organization selling pull-tabs to post major pull-tab prizes and the names of major prize winners if the board has reasonable grounds to believe that the organization, or a person receiving compensation from the organization for participating in the sale of pull-tabs, has been or is providing information to a player or players that provides an unfair advantage related to the potential winnings from pull-tabs. The board must notify the organization at least 14 days before the order becomes effective. The notice to the organization must describe the organization's right to a hearing under subdivision 3.

Subd. 2. **Posting; requirements.** The information required to be posted under subdivision 1 must be posted prominently at the point of sale of the pull-tabs. An easily legible pull-tab flare that lists prizes in the deal for that flare, and on which prizes are marked off as they are awarded, satisfies the requirements of this section that major prizes be posted, provided that a separate flare is posted for each deal of pull-tabs. An organization must post or mark off each major prize and post the name of the prize winner immediately on awarding the prize.

Subd. 3. **Appeal.** An organization to which the board issues an order under subdivision 1 may request a contested case hearing on the order. The hearing must be held within 20 days of the effective date of the order, and the report by the administrative law judge must be issued within 20 days after the close of the hearing record. The board must issue its final decision within 30 days after receipt of the report of the administrative law judge and subsequent exceptions and arguments under section 14.61.

Subd. 4. **Major prizes.** For purposes of this section, a "major prize" in a deal of pull-tabs is a prize of at least 50 times the face value of any pull-tab in the deal.

Subd. 5. **Compulsive gambling hotline number.** An organization conducting lawful gambling must post at each point of sale a sign containing the toll-free telephone number established by the commissioner of human services in connection with the compulsive gambling program established under section 245.98. The sign must be kept in easily legible form and repair by the owner, lessee, or person having control thereof, and must either:

- (1) be approved by the commissioner; or
- (2) have lettering at least three-quarters of an inch in height, of block letter design.

Subd. 6. **Voluntary posting.** Nothing in this section limits the right of an organization voluntarily to post the names of winners of lawful gambling prizes.

History: 1990 c 590 art 1 s 29; 1991 c 336 art 2 s 25

349.174 PULL-TABS; DEADLINE FOR USE.

A deal of pull-tabs or tipboards received by an organization before September 1, 1989, must be put into play by that organization before September 1, 1990, unless the deal bears a serial number that allows it to be traced back to its manufacturer and to the distributor who sold it to the organization. An organization in possession on and after September 1, 1990, of a deal of pull-tabs or tipboards the organization received before September 1, 1989, may not put such a deal in play but must remove it from the organization's inventory and return it to the manufacturer.

History: 1990 c 590 art 1 s 30; 1994 c 633 art 5 s 73

349.18 PREMISES USED FOR GAMBLING.

Subdivision 1. **Lease or ownership required.** (a) An organization may conduct lawful gambling only on premises it owns or leases. Leases must be on a form prescribed by the

board. Except for leases entered into before August 1, 1994, the term of the lease may not begin before the effective date of the premises permit and must expire on the same day that the premises permit expires. Copies of all leases must be made available to employees of the board and the division of alcohol and gambling enforcement on request. A lease may not provide for payments determined directly or indirectly by the 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 provided that no rule of the board may prescribe a limit of less than \$1,000 per month on rent paid for premises used for lawful gambling other than bingo. Any rule adopted by the board limiting the amount of rent to be paid may only be effective for leases entered into, or renewed, after the effective date of the rule.

(b) No person, distributor, manufacturer, lessor, or organization other than the licensed organization leasing the space may conduct any activity other than the sale or serving of food and beverages on the leased premises during times when lawful gambling is being conducted on the premises.

(c) At a site where the leased premises consists of an area on or behind a bar at which alcoholic beverages are sold and employees of the lessor are employed by the organization as pull-tab sellers at the site, pull-tabs and tipboard tickets may be sold and redeemed by those employees at any place on or behind the bar, but the tipboards and receptacles for pull-tabs and cash drawers for lawful gambling receipts must be maintained only within the leased premises.

(d) Employees of a lessor may participate in lawful gambling on the premises provided (1) if pull-tabs or tipboards are sold, the organization voluntarily posts, or is required to post, the major prizes as specified in section 349.172; and (2) any employee of the lessor participating in lawful gambling is not a gambling employee for the organization conducting lawful gambling on the premises.

(e) A gambling employee may purchase pull-tabs at the site of the employee's place of employment provided:

(1) the organization voluntarily posts, or is required to post, the major prizes for pull-tab or tipboard games as specified in section 349.172; and

(2) the employee is not involved in the sale of pull-tabs at that site.

Subd. 1a. Storage of gambling equipment. (a) Gambling equipment owned by or in the possession of an organization must be kept at a permitted premises owned or leased by the organization, or at other storage sites within the state that the organization has notified the board are being used as gambling equipment storage sites. At each storage site or permitted premises, the organization must have the invoices or true and correct copies of the invoices for the purchase of all gambling equipment at the site or premises. Gambling equipment owned by an organization may not be kept at a distributor's office, warehouse, storage unit, or other place of the distributor's business.

(b) Gambling equipment, other than devices for selecting bingo numbers, owned by an organization must be secured and kept separate from gambling equipment owned by other persons, organizations, distributors, or manufacturers.

(c) Paddlewheels must be covered or disabled when not in use by the organization in the conduct of lawful gambling.

(d) Gambling equipment kept in violation of this subdivision is contraband under section 349.2125.

(e) An organization may transport gambling equipment it owns or possesses between approved gambling equipment storage sites and to and from licensed distributors, if the invoices or true and correct copies of the invoices for the organization's acquisition of the gambling equipment accompany the gambling equipment at all times and are available for inspection.

Subd. 2. Exceptions. (a) An organization may conduct raffles on a premise it does not own or lease.

(b) An organization may, with the permission of the board, conduct bingo on premises it does not own or lease for up to 12 consecutive days in a calendar year, in connection with a county fair, the state fair, or a civic celebration.

(c) A licensed organization may, after compliance with section 349.213, conduct lawful gambling on premises other than the organization's permitted premises 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 an organization and leased to one or more other organizations for the purposes of conducting lawful gambling shall not be reported as gambling proceeds under this chapter.

Subd. 4. Prohibition. (a) An organization may not pay rent to itself or to any of its affiliates for use of space for conducting lawful gambling.

(b) An organization may not pay rent for space for conducting lawful gambling from any account or fund other than the organization's separate gambling account.

Subd. 5. Certain agreements prohibited. An organization may not enter into or be a party to a lending agreement under which any of the organization's receipts from lawful gambling are pledged as collateral for a loan.

History: 1976 c 261 s 8; 1984 c 502 art 12 s 12; 1986 c 467 s 18; 1987 c 327 s 17,18; 1989 c 334 art 2 s 27,28; 1990 c 590 art 1 s 31; 1991 c 233 s 109; 1991 c 336 art 2 s 26,27; 1994 c 633 art 5 s 74-76; 1996 c 467 s 6; 1997 c 129 art 2 s 15; 1998 c 322 s 4

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, prizes, and gross profit. The board may by rule provide for the methods by which expenses are documented. 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 by each organization must be segregated from all other revenues of the conducting organization and placed in a separate account. All expenditures for expenses, taxes, and lawful purposes must be made from the separate account except (1) in the case of expenditures previously approved by the organization's membership for emergencies as defined by board rule, or (2) as provided in subdivision 2a. The name and address of the bank, the account number for the separate account, and the names of organization members authorized as signatories on the separate account must be provided to the board when the application is submitted. Changes in the information must be submitted to the board at least ten days before the change is made. Gambling receipts must be deposited into the gambling bank account within four business days of completion of the bingo occasion, deal, or game from which they are received. A deal of pull-tabs is considered complete when either the last pull-tab of the deal is sold or the organization does not continue the play of the deal during the next scheduled period of time in which the organization will conduct pull-tabs. A tipboard game is considered complete when the seal on the game flare is uncovered. Deposit records must be sufficient to allow determination of deposits made from each bingo occasion, deal, or game at each permitted premises. 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. 2a. Tax refund or credit. (a) Each organization that receives a refund or credit under section 297E.02, subdivision 4, paragraph (d), must within four business days of receiving a refund under that paragraph deposit the refund in the organization's gambling account.

(b) In addition, each organization must annually calculate 5.26 percent of the sum of the amount of tax it paid under:

(1) section 297E.02, subdivision 1, on gross receipts, less prizes paid, after August 1, 1998; and

(2) section 297E.02, subdivision 6, on combined receipts received after August 1, 1998.

(c) The calculated amount must be reported to the board on a form prescribed by the board by March 20 of the year after the calendar year for which the calculated amount is made. The calculated amount must be filed as part of the organization's report of expenditure of profits from lawful gambling required under section 349.19, subdivision 5.

(d) The organization may expend the tax refund or credit issued under section 297E.02, subdivision 4, paragraph (d), plus the amount calculated under paragraph (b), only for lawful purposes, other than lawful purposes described in section 349.12, subdivision 25, paragraph (a), clauses (8), (9), and (12). Amounts subject to this paragraph must be spent for qualifying lawful purposes no later than one year after the refund or credit is received or the tax savings calculated under paragraph (b).

Subd. 3. Expenditures. (a) All expenditures of gross profits from lawful gambling must be itemized as to payee, purpose, amount, and date of payment, and must be in compliance with section 349.154. Authorization of the expenditures must be recorded in the monthly meeting minutes of the licensed organization. Checks for expenditures of gross profits must be signed by at least two persons authorized by board rules to sign the checks. Expenditures of gross profits from lawful gambling for local, state, and federal taxes as identified in section 349.12, subdivision 25, paragraph (a), clause (8), may be: (1) transferred electronically from the organization's gambling account directly to bank accounts identified by local, state, or federal agencies if the organization's gambling account monthly bank statement specifically identifies the payee by name, the amount transferred, the account number of the account into which the funds were transferred, and the date of the transaction; or (2) transferred electronically to and from the account of a payroll processing firm that meets the criteria for such a firm established under section 349.168, subdivision 6. Expenditures of gross profits from lawful gambling as authorized by section 349.15, subdivision 1, for utility payments may be transferred electronically from the organization's gambling account directly to bank accounts identified by the utility vendor if the organization's gambling account monthly bank statement specifically identifies the payee by name, the amount transferred, the account number of the account into which the funds were transferred, and the date of the transaction. Electronic payments of local, state, and federal taxes and utility payments are permitted only if they have been authorized by the membership, the organization maintains supporting documentation, and the expenditures can be verified.

(b) Expenditures authorized by the board according to section 349.12, subdivision 25, paragraph (b), clause (3), must be 51 percent completed within two years of the date of board approval. "Fifty-one percent completed" means that the work completed must represent at least 51 percent of the value of the project as documented by the contractor or vendor. An organization that fails to comply with this paragraph shall reapply to the board for approval of the project.

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 class C licensee or 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. The report must include a reconciliation of the organization's profit carryover with its cash balance on hand. 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. Submission of the report required by section 349.154 satisfies the requirement for reporting monthly to the board on expenditure of net profits.

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.

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.

Subd. 8. Termination plan. Upon termination of a license for any reason, a licensed organization must notify the board in writing within 30 calendar days of the license termination date of its plan for disposal of gambling equipment and distribution of remaining gambling proceeds. Before implementation, a plan must be approved by the board as provided in board rule. The board may accept or reject a plan and order submission of a new plan or amend a proposed plan. The board may specify a time for submission of new or amended plans or for completion of an accepted plan.

Subd. 9. Annual audit; filing requirement. An organization licensed under this chapter must have an annual financial audit or financial review when required by section 297E.06, subdivision 4.

Subd. 9a. Records. An organization licensed under this chapter must maintain records that account for the assets, liabilities, and fund balance of the organization. The records must also account for the revenues, taxes, prize payouts, expenses, and lawful purpose expenditures of the organization. The records must include a perpetual inventory of games purchased but not yet played and games in play.

Subd. 9b. Accounting manual. The board must prepare and distribute to each organization licensed under this chapter a manual designed to facilitate compliance with section 349.19, subdivision 9a. The manual must include a clear description of the processes needed to maintain the records required in section 349.19, subdivision 9a. The board may contract for preparation of the manual.

Subd. 10. Pull-tab records. (a) The board shall by rule require a licensed organization to require each winner of a pull-tab prize of \$50 or more to present identification in the form of a driver's license, Minnesota identification card, or other identification the board deems sufficient to allow the identification and tracing of the winner. The rule must require the organization to retain winning pull-tabs of \$50 or more, and the identification of the winner of the pull-tab, for 3-1/2 years.

(b) An organization must maintain separate cash banks for each deal of pull-tabs unless (1) two or more deals are commingled in a single receptacle, or (2) the organization uses a cash register, of a type approved by the board, which records all sales of pull-tabs by separate deals. The board shall (1) by rule adopt minimum technical standards for cash registers that may be used by organizations, and shall approve for use by organizations any cash register that meets the standards, and (2) before allowing an organization to use a cash register that commingles receipts from several different pull-tab games in play, adopt rules that define how cash registers may be used and that establish a procedure for organizations to reconcile all pull-tab games in play at the end of each month.

Subd. 11. Information made part of organization minutes. A licensed organization which receives a copy of a written audit under subdivision 9, or an audit or compliance report prepared by an agency of the state, must place the audit report or compliance report in the minutes of the next meeting of the organization following receipt of the report. Copies of such minutes must be made available to all members of the organization upon request.

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; 1989 c 334 art 2 s 29-33; 1Sp1989 c 1 art 13 s 11; 1990 c 590 art 1 s 32; 1991 c 336 art 2 s 28-32; 1993 c 13 art 1 s 4; 1994 c 633 art 5 s 77-81; 1996 c 467 s 7; 1996 c 471 art 13 s 18,19; 1997 c 7 art 1 s 128; 1997 c 231 art 7 s 34; 1998 c 322 s 5; 1998 c 389 art 13 s 6

349.191 SALES ON CREDIT.

Subdivision 1. Credit restriction. A manufacturer may not offer or extend to a distributor, and a distributor may not offer or extend to an organization, credit for a period of more than 30 days for the sale of any gambling equipment. No right of action exists for the collection of any claim based on credit prohibited by this subdivision. The 30-day period allowed by this subdivision begins with the day immediately following the day of invoice and in-

eludes all successive days, including Sundays and holidays, to and including the 30th successive day.

Subd. 1a. Credit and sales to delinquent organizations. (a) If a distributor does not receive payment in full from an organization within 35 days of the delivery of gambling equipment, the distributor must notify the board in writing of the delinquency.

(b) If a distributor who has notified the board under paragraph (a) has not received payment in full from the organization within 60 days of the notification under paragraph (a), the distributor must notify the board of the continuing delinquency.

(c) On receipt of a notice under paragraph (a), the board shall order all distributors that until further notice from the board, they may sell gambling equipment to the delinquent organizations only on a cash basis with no credit extended. On receipt of a notice under paragraph (b), the board shall order all distributors not to sell any gambling equipment to the delinquent organization.

(d) No distributor may extend credit or sell gambling equipment to an organization in violation of an order under paragraph (c) until the board has authorized such credit or sale.

Subd. 1b. Credit and sales to delinquent distributors. (a) If a manufacturer does not receive payment in full from a distributor within 35 days of the delivery of gambling equipment, the manufacturer must notify the board in writing of the delinquency.

(b) If a manufacturer who has notified the board under paragraph (a) has not received payment in full from the distributor within 60 days of the notification under paragraph (a), the manufacturer must notify the board of the continuing delinquency.

(c) On receipt of a notice under paragraph (a), the board shall order all manufacturers that until further notice from the board, they may sell gambling equipment to the delinquent distributor only on a cash basis with no credit extended. On receipt of a notice under paragraph (b), the board shall order all manufacturers not to sell any gambling equipment to the delinquent distributor.

(d) No manufacturer may extend credit or sell gambling equipment to a distributor in violation of an order under paragraph (c) until the board has authorized such credit or sale.

Subd. 2. Invoices. All invoices prepared by a manufacturer or distributor and presented as part of a credit transaction for the purchase of gambling equipment must clearly bear the words "Notice: State Law Prohibits the Extension of Credit For This Sale For More Than 30 Days."

Subd. 3. Rules. Any rule of the board which requires a manufacturer to report to the board any distributor who is delinquent in payment for gambling equipment must provide that a distributor is subject to the rule if the distributor is more than 30 days delinquent in payment to a manufacturer.

Subd. 4. Credit; postdated checks. For purposes of this section, "credit" includes acceptance by a manufacturer or distributor of a postdated check in payment for gambling equipment.

History: 1990 c 590 art 1 s 33; 1994 c 633 art 5, s 82-85; 1995 c 261 s 24; 1997 c 231 art 7 s 35

349.20 [Repealed, 1990 c 590 art 1 s 55]

349.21 [Repealed, 1990 c 590 art 1 s 55]

349.211 PRIZE LIMITS.

Subdivision 1. Bingo. Except as provided in subdivision 2, prizes for a single bingo game may not exceed \$200 except prizes for a cover-all game, which may exceed \$200 if the aggregate value of all cover-all prizes in a bingo occasion does not exceed \$1,000. 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 \$3,500. A prize may be determined based on the value of the bingo packet sold to the player. 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. Progressive bingo games. A prize of up to \$2,000 may be awarded for a progressive bingo game, including a cover-all game. The prize for a progressive bingo game

may start at \$300 and be increased by up to \$100 for each occasion during which the progressive bingo game is played. A consolation prize of up to \$100 for a progressive bingo game may be awarded in each occasion during which the progressive bingo game is played and the accumulated prize is not won. The total amount awarded in progressive bingo game prizes in any calendar year may not exceed \$36,000.

Subd. 2a. **Pull-tab prizes.** The maximum prize which may be awarded for any single pull-tab is \$500. An organization may not sell any pull-tab for more than \$2.

Subd. 2b. **Paddlewheel prizes.** The maximum cash prize which may be awarded for a paddleticket is \$70. An organization may not sell any paddleticket 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; 1991 c 336 art 2 s 33; 1994 c 633 art 5 s 86-88; 1995 c 261 s 25; 1997 c 155 s 8,9

349.2115 [Repealed, 1994 c 633 art 2 s 21]

349.212 Subdivision 1. [Repealed, 1994 c 633 art 2 s 21]

Subd. 2. [Repealed, 1994 c 633 art 2 s 21]

Subd. 3. [Repealed, 1Sp1985 c 13 s 376 subd 1]

Subd. 4. [Repealed, 1994 c 633 art 2 s 21]

Subd. 5. [Repealed, 1994 c 633 art 2 s 21]

Subd. 6. [Repealed, 1994 c 633 art 2 s 21]

Subd. 7. [Repealed, 1994 c 633 art 2 s 21]

349.2121 [Repealed, 1994 c 633 art 2 s 21]

349.2122 [Repealed, 1994 c 633 art 2 s 21]

349.2123 CERTIFIED PHYSICAL INVENTORY.

The board may, upon request, require a distributor to furnish a certified physical inventory of all gambling equipment in stock. The inventory must contain the information required by the board.

History: 1987 c 268 art 15 s 12; 1988 c 719 art 9 s 13; 1990 c 590 art 1 s 36; 1994 c 633 art 3 s 2

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 or paddleticket cards not stamped or bar coded in accordance with this chapter or chapter 297E;
- (2) all pull-tab or tipboard deals in the possession of any unlicensed person, firm, or 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) all currency, checks, and other things of value used for pull-tab or tipboard transactions not expressly permitted under this chapter, and any cash drawer, cash register, or any other container used for illegal pull-tab or tipboard transactions including its contents;

(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 between locations outside this state, the pull-tab and tipboard deals are not contraband, notwithstanding the provisions of clauses (1) and (12);

(6) any unaffixed registration stamps except as provided in section 349.162, subdivision 4;

(7) any prize used or offered in a game utilizing contraband as defined in this subdivision;

(8) any altered, modified, or counterfeit pull-tab or tipboard ticket;

(9) any unregistered gambling equipment except as permitted by this chapter;

(10) any gambling equipment kept in violation of section 349.18;

(11) any gambling equipment not in conformity with law or board rule;

(12) any pull-tab or tipboard deal in the possession of a person other than a licensed distributor or licensed manufacturer for which the person, upon demand of a licensed peace officer or authorized agent of the commissioner of revenue or director of alcohol and gambling enforcement, does not immediately produce for inspection the invoice or a true and correct copy of the invoice for the acquisition of the deal from a licensed distributor; and

(13) any pull-tab or tipboard deals or portions of deals on which the tax imposed under chapter 297E has not been paid.

Subd. 2. **Seizure.** Property made contraband by subdivision 1 may be seized by the commissioner of revenue or the director of alcohol and gambling enforcement 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 ten days after the seizure of any alleged contraband, the person making the seizure shall make available an inventory of the property seized to the person from whom the property was seized, if known; and file a copy with the commissioner of revenue or the director of alcohol and gambling enforcement. 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 60 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 by the seizing authority 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 seizing authority 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 a tax imposed by chapter 297E, the seizing authority shall release the property seized without further legal proceedings.

Subd. 4. **Disposal.** (a) 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. Seventy percent of the proceeds of the sale of forfeited property, after payment of seizure, storage, forfeiture and sale expenses, must be forwarded to the seizing authority for deposit as a supplement to its operating fund or similar fund for official use, and 20 percent must be forwarded to the county attorney or other prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes. The remaining ten percent of the proceeds must be forwarded within 60 days after resolution of the forfeiture to the department of human services to fund programs for the treatment of compulsive gamblers. 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.

(b) 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 to the seizing authority for official use and sharing in the manner provided in paragraph (a). 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 public interest to do so.

History: 1988 c 719 art 9 s 14; 1989 c 334 art 2 s 40-42; 1990 c 590 art 2 s 1-3; 1994 c 633 art 5 s 89,90; 1997 c 129 art 2 s 15

349.2127 PROHIBITIONS.

Subdivision 1. Counterfeiting. A person is guilty of a felony who, with intent to defraud the state, makes, alters, forges, or counterfeits any license or stamp provided for in this chapter, or has in possession any forged, spurious, or altered stamps, with the intent, or with the result of, depriving the state of the tax imposed by chapter 297E.

Subd. 2. Prohibition against possession. (a) A person is guilty of a crime who sells, offers for sale, or possesses a pull-tab or tipboard deal or paddleticket cards not stamped or bar coded in accordance with the provisions of this chapter or chapter 297E. A violation of this paragraph is a gross misdemeanor if it involves ten or fewer pull-tab or tipboard deals. A violation of this paragraph is a felony if it involves more than ten pull-tab or tipboard deals, or a combination of more than ten deals of pull-tabs and tipboards.

(b) A person, other than a licensed manufacturer, a licensed distributor, or an organization licensed or exempt or excluded from licensing under this chapter, is guilty of a crime who sells, offers to sell, or possesses gambling equipment. A violation of this paragraph is a gross misdemeanor if it involves ten or fewer pull-tab or tipboard deals. A violation of this paragraph is a felony if it involves more than ten pull-tab or tipboard deals, or a combination of more than ten deals of pull-tabs and tipboards.

(c) A person is guilty of a crime who alters, modifies, or counterfeits pull-tabs, tipboards, or tipboard tickets, or possesses altered, modified, or counterfeit pull-tabs, tipboards, or tipboard tickets. A violation of this paragraph is a gross misdemeanor if the total face value for all such pull-tabs, tipboards, or tipboard tickets does not exceed \$200. A violation of this paragraph is a felony if the total face value exceeds \$200. For purposes of this paragraph, the face value of all pull-tabs, tipboards, and tipboard tickets altered, modified, or counterfeited within a six-month period may be aggregated and the defendant charged accordingly.

(d) A person, other than a licensed distributor or licensed manufacturer, is guilty of a crime who possesses a pull-tab or tipboard deal for which the person, upon demand of a licensed peace officer or authorized agent of the commissioner of revenue or director of alcohol and gambling enforcement, does not immediately produce for inspection the invoice or a true and correct copy of the invoice for the acquisition of the deal from a licensed distributor. A violation of this paragraph is a gross misdemeanor if it involves ten or fewer pull-tab or tipboard deals. A violation of this paragraph is a felony if it involves more than ten pull-tab or tipboard deals, or a combination of more than ten deals of pull-tabs and tipboards. This paragraph does not apply to pull-tab and tipboard deals being transported in interstate commerce between locations outside this state.

Subd. 3. False information. A person is guilty of a felony who:

(1) knowingly submits materially false information in any license application or other document or communication submitted to the board;

(2) knowingly places materially false information on a pull-tab or tipboard deal invoice or a copy of the invoice; or

(3) knowingly presents to a licensed peace officer or authorized agent of the commissioner of revenue or director of alcohol and gambling enforcement a pull-tab or tipboard deal invoice, or a copy of the invoice, that contains materially false information.

Subd. 4. Transporting unstamped deals. A person is guilty of a gross misdemeanor who transports into, causes to be transported into, receives, carries, moves from place to place, or causes to be moved from place to place in this state, any paddleticket cards or deals of pull-tabs or tipboards not stamped or bar coded in accordance with this chapter or chapter 297E except in the course of interstate commerce between locations outside this state. A person is guilty of a felony who violates this subdivision with respect to more than ten pull-tab or tipboard deals, or a combination of more than ten deals of pull-tabs and tipboards.

Subd. 5. Providing information. (a) An employee of an organization may not provide any information to a player that would provide an unfair advantage to the player related to the potential winnings of any lawful gambling activity.

(b) An employee may not provide, and a person may not receive, with expectation of pecuniary gain to either, any information that would provide an unfair advantage to the recipient of the information related to the potential winnings of any lawful gambling activity. A person who violates this paragraph is guilty of a gross misdemeanor. A person who violates this paragraph within five years after a previous conviction under this paragraph is guilty of a felony.

(c) For purposes of this subdivision, "employee" includes a volunteer.

Subd. 6. **Unlawful expenditures.** (a) A person who knowingly or with reason to know makes an unlawful expenditure of gross profits from lawful gambling is guilty of a crime and may be sentenced as provided in this subdivision.

(b) If the unlawful expenditure is of \$200 or less, the penalty in section 349.22, subdivision 1, applies.

(c) If the unlawful expenditure is of more than \$200 but not more than \$2,500, the person is guilty of a gross misdemeanor.

(d) If the unlawful expenditure is of more than \$2,500, the person is guilty of a felony.

(e) For purposes of this subdivision, expenditures made within a six-month period may be aggregated and the defendant charged accordingly.

Subd. 7. **Checks for gambling purchases.** An organization may not accept checks in payment for the purchase of any gambling equipment or for the chance to participate in any form of lawful gambling. This subdivision does not apply to gaming activities conducted pursuant to the Indian Gaming Regulatory Act, United States Code, title 25, section 2701 et seq.

Subd. 8. **Minimum age.** (a) A person under the age of 18 years may not buy a pull-tab, tipboard ticket, paddlewheel ticket, or raffle ticket, or a chance to participate in a bingo game other than a bingo game exempt or excluded from licensing. Violation of this paragraph is a misdemeanor.

(b) A licensed organization or employee may not allow a person under age 18 to participate in lawful gambling in violation of paragraph (a). Violation of this paragraph is a misdemeanor.

(c) In a prosecution under paragraph (b), it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in section 340A.503, subdivision 6, paragraph (a).

Subd. 9. **Tipboard defined.** For purposes of this section "tipboard" includes tipboards as defined in section 349.12, subdivision 34, and any 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.

History: 1988 c 719 art 9 s 15; 1989 c 334 art 2 s 43; 1Sp1989 c 1 art 13 s 16,17; 1990 c 590 art 2 s 4-10; 1991 c 256 s 10; 1994 c 633 art 2 s 19; art 5 s 91-95; 1997 c 129 art 2 s 15

349.213 LOCAL AUTHORITY.

Subdivision 1. **Local regulation.** (a) A statutory or home rule city or county has the authority to adopt more stringent regulation of lawful gambling within its jurisdiction, including the prohibition of lawful gambling, and may require a permit for the conduct of gambling exempt from licensing under section 349.166. 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 gross profits less amounts expended for allowable expenses and paid in taxes assessed on lawful gambling. 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 8, or 297E.02; provided, however, that an ordinance requirement that such organizations must contribute ten percent of their net profits derived from lawful gambling conducted at premises within the city's or county's jurisdiction to a fund administered and regulated by the responsible local unit of government without cost to such fund, for disbursement by the responsible local unit of government of the receipts for (i) lawful purposes, or (ii) police, fire, and other emergency or public safety-related services, equipment, and training, excluding pension obligations, is not considered an expenditure to the city or county nor a tax under section 297E.02, and is valid and lawful. A city or county making expenditures authorized under this paragraph must by March 15 of each year file a

report with the board, on a form the board prescribes, that lists all such revenues collected and expenditures for the previous calendar year.

(b) A statutory or home rule city or county may by ordinance require that a licensed organization conducting lawful gambling within its jurisdiction expend all or a portion of its expenditures for lawful purposes on lawful purposes conducted or located within the city's or county's trade area. Such an ordinance must be limited to lawful purpose expenditures of gross profits derived from lawful gambling conducted at premises within the city's or county's jurisdiction, must define the city's or county's trade area, and must specify the percentage of lawful purpose expenditures which must be expended within the trade area. A trade area defined by a city under this subdivision must include each city contiguous to the defining city.

(c) A more stringent regulation or prohibition of lawful gambling adopted by a political subdivision under this subdivision must apply equally to all forms of lawful gambling within the jurisdiction of the political subdivision, except a political subdivision may prohibit the use of paddlewheels.

Subd. 2. Local approval. Before issuing or renewing a premises permit or bingo hall license, the board must notify the city council of the statutory or home rule city in which the organization's premises or the bingo hall is located or, if the premises or hall is located outside a city, the county board of the county and the town board of the town where the premises or hall is located. The board may require organizations or bingo halls to notify the appropriate local government at the time of application. This required notification is sufficient to constitute the notice required by this subdivision. The board may not issue or renew a premises permit or bingo hall license unless the organization submits a resolution from the city council or county board approving the premises permit or bingo hall license. The resolution must have been adopted within 60 days of the date of application for the new or renewed permit or license.

Subd. 3. Local gambling tax. A statutory or home rule charter city that has one or more licensed organizations operating lawful gambling, and a county that 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 to regulate lawful gambling. A tax imposed under this subdivision is in lieu of all other local taxes and local investigation fees on lawful gambling. A 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 18; 1986 c 467 s 25; 1987 c 327 s 21; 1988 c 705 s 1; 1989 c 209 art 1 s 35; 1989 c 334 art 2 s 44,45; 1989 c 335 art 1 s 220; 1990 c 590 art 1 s 37; 1991 c 199 art 2 s 1; 1991 c 336 art 2 s 34; 1994 c 633 art 2 s 19; art 5 s 96; 1994 c 633 art 2 s 2; 1995 c 264 art 17 s 11; 1998 c 322 s 6

349.214 [Repealed, 1990 c 590 art 1 s 55]

349.215 [Repealed, 1994 c 633 art 2 s 21]

349.2151 [Repealed, 1994 c 633 art 2 s 21]

349.2152 [Repealed, 1994 c 633 art 2 s 21]

349.216 [Repealed, 1994 c 633 art 2 s 21]

349.217 [Repealed, 1994 c 633 art 2 s 21]

349.2171 [Repealed, 1994 c 633 art 2 s 21]

349.218 [Repealed, 1996 c 305 art 1 s 73]

349.219 [Repealed, 1994 c 633 art 2 s 21]

349.22 PENALTY.

Subdivision 1. **Penalty.** (a) A person who violates any provision of sections 349.11 to 349.23 for which another penalty is not provided is guilty of a misdemeanor.

(b) A person who violates any provision of sections 349.11 to 349.23 for which another penalty is not provided is guilty of a gross misdemeanor if the violation occurs within five years after a previous conviction under any provision of sections 349.11 to 349.23.

(c) A person who in any manner 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 349.213, and chapter 297E. County attorneys and the attorney general have joint responsibility for prosecuting violations of sections 349.11 to 349.213, and chapter 297E, and the attorney general may prosecute any violation of those sections. If the county attorney fails to initiate the prosecution within 30 days, the attorney general may initiate prosecution.

Subd. 3. [Repealed, 1990 c 590 art 2 s 18]

Subd. 3a. **Aggregation.** When the value of prizes or pull-tabs received within a six-month period is aggregated under this section and two or more offenses were committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this section.

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; 1989 c 334 art 2 s 47,48; 1990 c 590 art 2 s 11,12; 1990 c 594 art 1 s 70; 1991 c 199 art 2 s 1; 1994 c 633 art 2 s 19; art 3 s 3

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]

REGULATION OF GAMBLING DEVICES**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 device" has the meaning given it in section 609.75, subdivision 4.

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; 1990 c 590 art 1 s 38

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.

Subd. 2. **Suspension and revocation of licenses.** All licenses under which any licensed business is permitted to be carried on upon the licensed premises shall be suspended or 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; 1989 c 334 art 2 s 51; 1990 c 590 art 1 s 39; 1993 c 13 art 1 s 37

349.32 ISSUING AUTHORITY TO SUSPEND OR REVOKE.

The proceedings for suspension or revocation are held before the issuing authority, which has the power to suspend or revoke the license or licenses involved, as hereinafter provided.

History: 1947 c 586 s 3; 1990 c 590 art 1 s 40

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.

If an issuing authority, on receipt of information from a peace officer described in section 349.33, is of the opinion that cause exists for the suspension or revocation of a license, the 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 suspended or 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 suspension or 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 suspension or 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; 1990 c 590 art 1 s 41

349.35 REVOCATION OF LICENSE.

Subdivision 1. **Suspension; 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 suspended or revoked. The order of suspension or 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; 1990 c 590 art 1 s 42

349.36 DUTIES OF COUNTY ATTORNEY OR ATTORNEY GENERAL.

The county attorney of the county in which the hearing is held, the city attorney if the issuing authority is the city, or the attorney general shall attend the hearing, interrogate the witnesses, advise the issuing authority, and 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; 1990 c 590 art 1 s 43; 1990 c 594 art 1 s 71

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 suspended or 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 suspension or revocation.

History: 1947 c 586 s 9; 1986 c 444; 1990 c 590 art 1 s 44

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 suspending or 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 suspending or 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 suspended or 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; 1990 c 590 art 1 s 45

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 [Repealed, 1990 c 590 art 1 s 48]

349.501 [Repealed, 1990 c 590 art 1 s 48]

349.502 Subdivision 1. [Repealed; 1990 c 590 art 1 s 48]

Subd. 2. [Repealed, 1990 c 590 art 2 s 18]

349.51 [Repealed, 1990 c 590 art 1 s 48]

349.52 [Repealed, 1990 c 590 art 1 s 48]

349.53 [Repealed, 1990 c 590 art 1 s 48]

349.54 [Repealed, 1990 c 590 art 1 s 48]

349.55 [Repealed, 1990 c 590 art 1 s 48]

349.56 [Repealed, 1990 c 590 art 1 s 48]

349.57 [Repealed, 1990 c 590 art 1 s 48]

349.58 [Repealed, 1990 c 590 art 1 s 48]

349.59 [Repealed, 1990 c 590 art 1 s 48]

349.60 [Repealed, 1990 c 590 art 1 s 48]

349.61 REPEAL; TERMINATION OF LICENSES.

Subdivision 1. **Repeal.** Section 299L.03, subdivision 9, and sections 349.50; 349.501; 349.502; 349.51; 349.52; 349.53; 349.54; 349.55; 349.56; 349.57; 349.58; 349.59; and 349.60 are repealed January 1, 1992. All licenses issued under sections 349.51 and 349.52 in effect on that date expire on that date. The commissioner of finance shall on that date transfer all money in the video gaming license account to the general fund.

Subd. 2. **Not to affect certain compacts.** Nothing in subdivision 1 is intended to affect the validity of any compact entered into before or after August 1, 1990, between the state and the governing body of an Indian tribe that governs the conduct of any form of gambling on Indian lands.

History: 1990 c 590 art 1 s 48