

CHAPTER 349

LAWFUL GAMBLING AND GAMBLING DEVICES

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349.12 DEFINITIONS.

[For text of subds 1 to 24, see M.S.2000]

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;

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

(iii) members of military marching, color guard, or honor guard units may be reimbursed for participating in color guard, honor guard, or marching unit events within the state or states contiguous to Minnesota at a per participant rate of up to \$35 per occasion;

(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 the reasonable costs of an audit required in section 297E.06, subdivision 4, provided the annual audit is filed in a timely manner with the department of revenue;

(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 and all-terrain vehicle 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; or

(16) a contribution to a community arts organization, or an expenditure to sponsor arts programs in the community, including but not limited to visual, literary, performing, or musical arts.

(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.

[For text of subs 26 to 35, see M.S.2000]

History: 2001 c 96 s 6

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 70 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. 1a. **Natural disaster relief.** An organization may expend net profits from lawful gambling to relieve the effects of a natural disaster without the prior approval of its membership if:

(1) the contribution is a lawful purpose under section 349.12, subdivision 25;

(2) the contribution is authorized by the organization's chief executive officer and gambling manager; and

(3) the contribution is approved by the membership of the organization at its next regularly scheduled monthly meeting.

If the contribution is not approved by the membership of the organization at its next regularly scheduled monthly meeting, the organization shall reimburse its gambling account in the amount of the contribution.

[For text of subs 2 to 4, see M.S.2000]

History: 2001 c 96 s 7,8

349.155 LICENSES; LICENSE ACTIONS.

[For text of subs 1 to 4, see M.S.2000]

Subd. 4a. **Illegal gambling.** (a) 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 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. For purposes of this paragraph, "agent" means any person, compensated or otherwise, who participates in the conduct of the organization's lawful gambling.

(b) The board may not deny, suspend, revoke, or refuse to renew an organization's license because illegal gambling occurred at a site for which a premises permit was issued to the organization unless the board determines that the organization's chief executive officer, gambling manager, or one or more of its assistant gambling managers participated in or authorized the illegal gambling.

[For text of subds 5 to 8, see M.S.2000]

History: 2001 c 96 s 9

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. The premises permit issued by the board runs concurrently with the license of the organization unless the premises permit is suspended, revoked, or voluntarily terminated by the organization. The board may by rule limit the number of premises permits that may be issued to an organization.

[For text of subd 2, see M.S.2000]

Subd. 3. **Fees.** (a) 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.

(b) If a premises permit is issued during the second year of an organization's license, the fee for each class of permit is:

- (1) \$200 for a class A permit;
- (2) \$125 for a class B permit;
- (3) \$100 for a class C permit; and
- (4) \$75 for a class D permit.

[For text of subd 4, see M.S.2000]

History: 1Sp2001 c 10 art 2 s 75,76

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, date of birth, and social security number; (2) the name, address, and license number of the employing organization; and (3) 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.

[For text of subds 2 to 9, see M.S.2000]

History: 2001 c 96 s 10

349.17 CONDUCT OF BINGO.

[For text of subds 1 to 6, see M.S.2000]

Subd. 7. **Noon hour bingo.** Notwithstanding subdivisions 1 and 3, an organization may conduct bingo subject to the following restrictions:

- (1) the bingo is conducted only between the hours of 11:00 a.m. and 2:00 p.m.;
- (2) the bingo is conducted at a site the organization owns or leases and which has a license for the sale of intoxicating beverages on the premises under chapter 340A;

(3) the bingo is limited to one progressive bingo game per site as defined by section 349.211, subdivision 2;

(4) the bingo is conducted using only bingo paper sheets; and

(5) if the premises are leased, the rent may not exceed \$25 per day for each day bingo is conducted.

History: 2001 c 96 s 11

349.19 RECORDS AND REPORTS.

[For text of subs 1 and 2, see M.S.2000]

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) The organization may expend the tax refund or credit issued under section 297E.02, subdivision 4, paragraph (d), 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.

[For text of subs 3 to 11, see M.S.2000]

History: 1Sp2001 c 5 art 13 s 13

349.2127 PROHIBITIONS.

[For text of subs 1 to 6, see M.S.2000]

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 except a raffle. If an organization accepts a check, the payment of which is subsequently dishonored, the organization shall reimburse its gambling account for the amount of the dishonored check within 30 days of receiving notice of the dishonor. 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.

[For text of subs 8 and 9, see M.S.2000]

History: 2001 c 96 s 12

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 per year 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 per year 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 and township 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 90 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 per year 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: 2001 c 96 s 13