

CHAPTER 327—H.F.No. 169

An act relating to lawful gambling; providing for representation of horsepersons contracting with a licensee; including payment of taxes as a lawful purpose; increasing the percentage of profits that may be used for necessary expenses; changing requirements for distributors; allowing the board to summarily suspend licenses under certain conditions; providing for a limit on the number of bingo occasions which an organization may conduct in a week, and the number of occasions which may occur on any site in a week; authorizing the board to adopt rules restricting the amount of rent charged by organizations; prohibiting local units of government from requiring organizations to make certain expenditures; making various technical changes; amending Minnesota Statutes 1986, sections 240.13, subdivision 5; 349.12, subdivisions 11, 12, 13, and 15; 349.14; 349.15; 349.151, subdivision 3, and by adding a subdivision; 349.161, subdivisions 3, 5, and 7; 349.162, by adding subdivisions; 349.17, subdivisions 1 and 2; 349.18, subdivisions 1 and 3; 349.19, subdivision 3; 349.21; and 349.213, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1986, section 240.13, subdivision 5, is amended to read:

Subd. 5. **PURSES.** (a) From the amounts deducted from all pari-mutuel pools by a licensee, an amount equal to not less than five percent of all money in all pools must be set aside by the licensee and used for purses for races conducted by the licensee. The commission may by rule provide for the administration and enforcement of this subdivision.

(b) From the money set aside for purses, the licensee shall pay to the horseperson's organization representing the majority of the horsepersons racing the breed involved and contracting with the licensee with respect to purses and the conduct of the racing meetings and providing representation, benevolent programs, benefits, and services for horsepersons and their on-track employees, an amount, sufficient to perform these services, as may be determined by agreement by the licensee and the horseperson's organization. The amount paid may be deducted only from the money set aside for purses to be paid in races for the breed represented by the horseperson's organization. With respect to racing meetings where more than one breed is racing, the licensee may contract independently with the horseperson's organization representing each breed racing.

Sec. 2. Minnesota Statutes 1986, section 349.12, subdivision 11, is amended to read:

Subd. 11. "Lawful purpose" means one or more of the following: (a) benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded;

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(b) initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; (c) lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; or (d) the improving, expanding, maintaining or repairing real property owned or leased by an organization; or (e) payment of taxes imposed under this chapter, and other taxes imposed by the state or the United States on receipts from lawful gambling.

"Lawful purpose" does not include the erection or acquisition of any real property, unless the board specifically authorizes the expenditures after finding that the property will be used exclusively for one or more of the purposes specified in this clause.

Sec. 3. Minnesota Statutes 1986, section 349.12, subdivision 12, is amended to read:

Subd. 12. "Organization" means any fraternal, religious, veterans, or other nonprofit organization which has been in existence for at least three years and has at least 15 active members.

Sec. 4. Minnesota Statutes 1986, section 349.12, subdivision 13, is amended to read:

Subd. 13. "Profit" means the gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for prizes ~~and taxes imposed by this chapter.~~

Sec. 5. Minnesota Statutes 1986, section 349.12, subdivision 15, is amended to read:

Subd. 15. "Gambling equipment" means: bingo cards and devices for selecting bingo numbers, pull-tabs, ~~ticket jars~~ jar tickets, paddlewheels, and tipboards.

Sec. 6. Minnesota Statutes 1986, section 349.14, is amended to read:

**349.14 ORGANIZATION MAY CONDUCT LAWFUL GAMBLING;
LICENSE.**

An organization may conduct lawful gambling if it ~~has been in existence for at least three years; has at least 15 active members;~~ has a license to conduct lawful gambling from the board and complies with this chapter.

Sec. 7. Minnesota Statutes 1986, section 349.15, is amended to read:

349.15 USE OF PROFITS.

Profits from lawful gambling may be expended only for lawful purposes or expenses as authorized at a regular meeting of the conducting organization.

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Provided that no more than ~~50~~ 55 percent of profits from bingo, and no more than ~~40~~ 45 percent for other forms of lawful gambling, may be expended for necessary expenses related to lawful gambling.

The board shall provide by rule for the administration of this section, including specifying allowable expenses. The rules must specify that no more than one-third of the annual premium on a policy of liability insurance procured by the organization may be taken as an allowable expense from the gross receipts from lawful gambling. This expense shall be allowed by the board only to the extent that it relates directly to the conduct of lawful gambling and is verified in the manner the board prescribes by rule. The rules may provide a maximum percentage of gross receipts which may be expended for certain expenses.

Sec. 8. Minnesota Statutes 1986, section 349.151, subdivision 3, is amended to read:

Subd. 3. **COMPENSATION.** ~~The compensation of board members is \$35 per day spent on commission activities, when authorized by the board, plus expenses in the same manner and amount as provided in the commissioner's plan adopted according to section 43A.18, subdivision 2 as provided in section 15.0575, subdivision 3.~~

Sec. 9. Minnesota Statutes 1986, section 349.151, is amended by adding a subdivision to read:

Subd. 4a. **ADDITIONAL POWERS.** Whenever it appears to the board that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule:

(a) The board has the power to issue and cause to be served upon the person an order requiring the person to cease and desist from violations of this chapter. 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. 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 of the date of the hearing the board shall issue a further order vacating the cease and desist order or making it permanent as the facts require. 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) 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 rule 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.

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Sec. 10. Minnesota Statutes 1986, section 349.161, subdivision 3, is amended to read:

Subd. 3. **QUALIFICATIONS.** A license may not be issued under this section to a person, or to a corporation, firm, or partnership which has as an officer, director, ~~or~~ other person in a supervisory or management position, or employee eligible to make sales on behalf of the distributor a person, who:

(1) has been convicted of a felony in a state or federal court within the past five years or who has a felony charge pending;

(2) has ~~ever~~ been convicted in a state or federal court of a gambling-related offense within ten years of the date of license application; or

(3) is or has ever been engaged in an illegal business.

Sec. 11. Minnesota Statutes 1986, section 349.161, subdivision 5, is amended to read:

Subd. 5. **PROHIBITION.** (a) No distributor, or employee eligible to make sales on behalf of a distributor, may also be a wholesale distributor of liquor or alcoholic beverages.

(b) No distributor, or employee authorized to make sales on behalf of a distributor, may be involved directly in the operation of lawful gambling conducted by an organization.

Sec. 12. Minnesota Statutes 1986, section 349.161, subdivision 7, is amended to read:

Subd. 7. **CRIMINAL HISTORY.** The board may request the assistance of the bureau of criminal apprehension in investigating the background of an applicant for a ~~supplier's distributor's~~ distributor's license and may reimburse the bureau for the costs thereof. The board has access to all criminal history data compiled by the bureau on licensees and applicants.

Sec. 13. Minnesota Statutes 1986, section 349.162, is amended by adding a subdivision to read:

Subd. 4. PROHIBITION. No person other than a licensed organization or a licensed distributor may possess registration stamps issued by the board.

Sec. 14. Minnesota Statutes 1986, section 349.162, is amended by adding a subdivision to read:

Subd. 5. SALES FROM FACILITIES. All gambling equipment purchased by a licensed distributor for resale in Minnesota must prior to its resale be unloaded into a facility located in Minnesota which the distributor owns or leases.

Sec. 15. Minnesota Statutes 1986, section 349.17, subdivision 1, is amended to read:

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Subdivision 1. **BINGO OCCASIONS.** Not more than ~~104~~ bingo occasions each year or ~~two~~ six bingo occasions each week may be conducted by an organization; except as provided in this subdivision. A bingo occasion may not continue for more than four consecutive hours.

The board may permit an organization to conduct more than two bingo occasions in a week and more than ~~104~~ bingo occasions in a year if the board determines that the additional occasions are consistent with the purpose of sections 349.11 to 349.22 and if the following procedures are followed:

(1) the organization applies for the additional occasions; stating the number of additional occasions applied for;

(2) the board notifies the governing body of the county or home rule or statutory city in which the applicant is located; and

(3) the governing body fails to adopt a resolution disapproving the additional occasions within 30 days of the notification.

Sec. 16. Minnesota Statutes 1986, section 349.17, subdivision 2, is amended to read:

Subd. 2. **BINGO ON LEASED PREMISES.** A person or corporation, other than an organization, which leases any premises that it owns to two or more organizations for purposes including the conduct of bingo occasions, may not allow more than ~~four~~ 18 bingo occasions to be conducted on the premises in any week. The board may waive this restriction and permit a person or corporation to allow a specified number of bingo occasions on the premises in excess of four per week if it finds that the waiver is consistent with the purpose of sections 349.11 to 349.22 and if the following procedures are followed:

(1) the person or corporation applies for the waiver, stating the number of additional occasions sought per week;

(2) the board notifies the governing body of the county or home rule or statutory city in which the premises are located; and

(3) the governing body fails to adopt a resolution disapproving the waiver within 30 days of the notification.

Sec. 17. Minnesota Statutes 1986, section 349.18, subdivision 1, is amended to read:

Subdivision 1. **LEASE OR OWNERSHIP REQUIRED.** An organization may conduct lawful gambling only on premises it owns or leases. Leases must be for a period of at least one year and must be in writing. Copies of all leases must be made available to employees of the board on request. A lease may not provide for rental payments based on a percentage of 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.

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Sec. 18. Minnesota Statutes 1986, section 349.18, subdivision 3, is amended to read:

Subd. 3. **PROCEEDS FROM RENTAL.** ~~A licensed organization which leases Rental proceeds from premises it owns owned by a licensed organization and leased or subleased to one or more other licensed organizations for the purposes including the conduct of conducting lawful gambling may expend the rental proceeds, less reasonable deductions for maintenance, furnishings, and utilities, only for lawful purposes. The rental proceeds must be recorded and reported as proceeds from gambling under section 349.19 shall not be reported as gambling proceeds under this chapter.~~

Sec. 19. Minnesota Statutes 1986, section 349.19, subdivision 3, is amended to read:

Subd. 3. **EXPENDITURES.** All expenditures of ~~binge~~ profits from lawful gambling must be itemized as to payee, purpose, amount, and date of payment.

Sec. 20. Minnesota Statutes 1986, section 349.21, is amended to read:

349.21 COMPENSATION.

Compensation to persons who participate in the conduct of lawful gambling may be paid only to active members of the conducting organization or its auxiliary, or the spouse or surviving spouse of an active member, except that nonmanagement assistants who are not active members or spouses may be hired to assist in the conduct of lawful gambling in nonmanagement positions if approved by a majority of the organization's members.

The amounts of compensation which may be paid under this section ~~must~~ may be provided for in a schedule of compensation adopted by the board by rule. In adopting ~~the a~~ schedule the board must consider the nature of the participation and the types of lawful gambling participated in.

A licensed organization may pay a percentage of the gross receipts from raffle ticket sales to a nonprofit organization which sells tickets for the licensed organization.

Sec. 21. Minnesota Statutes 1986, section 349.213, subdivision 1, is amended to read:

Subdivision 1. **LOCAL REGULATION.** A statutory or home rule city or county has the authority to adopt more stringent regulation of any form of lawful gambling within its jurisdiction, including the prohibition of any form of lawful gambling, and may require a permit for the conduct of gambling exempt from licensing under section 349.214. 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

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profits derived from lawful gambling. For the purposes of this subdivision, net profits are profits less amounts expended for allowable expenses. 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 4, or section 349.212.

Sec. 22. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment. Sections 2 to 13 and 15 to 21 are effective June 1, 1987. Section 14 is effective January 1, 1988.

Approved May 29, 1987

CHAPTER 328—H.F.No. 294

An act relating to intoxicating liquor; permitting certain transactions by brewers and wholesalers; authorizing counties to issue temporary on-sale licenses; authorizing cities to issue temporary off-sale licenses for the sale of vintage wine at auctions; amending Minnesota Statutes 1986, sections 340A.308; 340A.404, subdivision 10; and 340A.405, by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1986, section 340A.308, is amended to read:

340A.308 PROHIBITED TRANSACTIONS.

(a) No brewer or malt liquor wholesaler may directly or indirectly, or through an affiliate or subsidiary company, or through an officer, director, stockholder, or partner:

- (1) give, or lend money, credit, or other thing of value to a retailer;
- (2) give, lend, lease, or sell furnishing or equipment to a retailer;
- (3) have an interest in a retail license; or
- (4) be bound for the repayment of a loan to a retailer.

(b) This section does not prohibit a manufacturer or wholesaler from:

- (1) furnishing, lending, or renting to a retailer outside signs, of a cost of up to \$100 excluding installation and repair costs;
- (2) furnishing, lending, or renting to a retailer inside signs and other promotional material, of a cost of up to \$100 in a year;

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