

CHAPTER 260—S.F.No. 3098

An act relating to lawful gambling; providing for certain penalties; modifying licensing and other regulatory provisions; making changes to expenditure restrictions; modifying games and prizes; making clarifying, conforming, and technical changes to lawful gambling; requiring a report; amending Minnesota Statutes 2006, sections 349.12, subdivisions 18, 31; 349.15, by adding a subdivision; 349.161, subdivisions 1, 5; 349.1641; 349.167, subdivisions 2, 4, 7; 349.17, subdivision 7; 349.18, subdivision 1; 349.19, subdivision 10; 349.191, subdivisions 1a, 1b; 349.2113; Minnesota Statutes 2007 Supplement, sections 349.15, subdivision 1; 349.17, subdivision 8; 349.211, subdivisions 2, 2a, 2c, 3, 4, by adding a subdivision.

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

Section 1. Minnesota Statutes 2006, section 349.12, subdivision 18, is amended to read:

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

Sec. 2. Minnesota Statutes 2006, section 349.12, subdivision 31, is amended to read:

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

Sec. 3. Minnesota Statutes 2007 Supplement, section 349.15, subdivision 1, is amended to read:

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 from bingo, and no more than 60 percent of the gross profit from other forms of lawful gambling, may be expended biennially during the term of the license for allowable expenses related to lawful gambling, except that for the period of July 1, 2008, to June 30, 2009, no more than 75 percent of the gross profit from bingo, and no more than 65 percent of the gross profit from other forms of lawful gambling, may be expended for allowable expenses related to lawful gambling. For licenses issued after June 30, 2006, compliance with this subdivision will be measured on a biennial basis that is concurrent with the term of the license. Compliance with this subdivision is a condition for the renewal of any license beginning on July 1, 2008. For licenses renewed with an effective date between July 1, 2006, and June 30, 2008, an organization shall carry forward an amount equal to 15

percent of any positive allowable expense carryover amount. This balance must be used to offset any future negative expense balance at the time of license renewal.

Sec. 4. Minnesota Statutes 2006, section 349.15, is amended by adding a subdivision to read:

Subd. 5. **Civil penalty.** (a) If an organization exceeds the expense limitation contained in subdivision 1, the board may suspend the organization's license or impose a civil penalty as follows:

(1) up to five percent of the reimbursement amount for the first violation;

(2) up to ten percent of the reimbursement amount for a second consecutive violation; and

(3) up to 25 percent of the reimbursement amount for subsequent consecutive violations.

(b) In determining any suspension or penalty for a violation of subdivision 1, the board must consider any unique factors or extraordinary circumstances that directly caused the organization to exceed the expense limitation. Unique factors or extraordinary circumstances include, but are not limited to: the purchase of capital assets necessary to conduct lawful gambling; road or other construction causing impaired access to the lawful gambling premise; and flood, tornado, or other catastrophe that had a direct impact on the continuing lawful gambling operation.

(c) Notwithstanding section 349.151, subdivision 4, paragraph (a), clause (10), the board may impose a civil penalty under this subdivision that exceeds \$500.

Sec. 5. Minnesota Statutes 2006, section 349.161, subdivision 1, is amended to read:

Subdivision 1. **Prohibited acts; licenses required.** (a) 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 or a distributor salesperson license under this section except that an organization authorized to conduct bingo by the board may loan bingo hard cards and devices for selecting bingo numbers to another organization authorized to conduct bingo;

(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.

(b) No licensed distributor salesperson may sell, offer for sale, or furnish gambling equipment for use within the state without being employed by a licensed distributor or owning a distributor license.

Sec. 6. Minnesota Statutes 2006, section 349.161, subdivision 5, is amended to read:

Subd. 5. **Prohibition.** (a) No distributor, distributor salesperson, or other 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, distributor salesperson, or any representative, agent, affiliate, or other 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, distributor salesperson, or any representative, agent, affiliate, or other employee of a distributor may provide a lessor of gambling premises any compensation, gift, gratuity, premium, or other thing of value.

(d) No distributor, distributor salesperson, or any representative, agent, affiliate, or other employee of a distributor may provide an employee or agent of the organization any compensation, gift, gratuity, premium, or other thing of value greater than \$25 per organization in a calendar year.

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

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

(g) No distributor, distributor salesperson, or any representative, agent, affiliate, or other 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.

(h) No distributor or distributor salesperson 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, except for gambling equipment returned from an organization licensed under section 349.16, or exempt or excluded from licensing under section 349.166.

(i) No distributor or distributor salesperson may sell gambling equipment, except gambling equipment identified as a promotional ticket, 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.

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

Sec. 7. Minnesota Statutes 2006, section 349.1641, is amended to read:

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; and (3) summarily suspend the license of a gambling manager who has failed to receive the training required under section 349.167, subdivision 4, clause (2), and may keep the suspension in effect until the gambling manager passes an examination prepared and administered by the board. The examination does not qualify as continuing education credit for the next calendar year. 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.

Sec. 8. Minnesota Statutes 2006, section 349.167, subdivision 2, is amended to read:

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~~ clauses (1) and (2);
- (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 annual fee for a gambling manager's license is \$100.

Sec. 9. Minnesota Statutes 2006, section 349.167, subdivision 4, is amended to read:

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

- (1) each gambling manager must receive training within the last six months before being issued a new license, except that in the case of the death, disability, resignation, 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 receive~~ continuing education training, ~~as required by board rule, at least once during each calendar year of the two-year license period, or pass a gambling manager examination as required in subdivision 7;~~ 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 board or the director may provide the training required by this subdivision using employees of the board.

Sec. 10. Minnesota Statutes 2006, section 349.167, subdivision 7, is amended to read:

Subd. 7. **Gambling manager examination.** Each applicant for a new gambling manager's license, ~~and each renewing applicant that has failed to receive training as required in subdivision 4;~~ must pass an examination prepared and administered by the board that tests the applicant's knowledge of the responsibilities of gambling managers, and of gambling procedures, laws, and rules before being issued the license. In the case of the death, disability, resignation, 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 subdivision.

Sec. 11. Minnesota Statutes 2006, section 349.17, subdivision 7, is amended to read:

Subd. 7. **Bar bingo.** An organization may conduct bar bingo subject to the following restrictions:

(1) 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;

(2) the bingo is conducted using only bingo paper sheets purchased from a licensed distributor; ~~and~~

(3) no rent may be paid for a bar bingo occasion; and

(4) the lessor's immediate family and employees may participate if they are not involved with the sale or operation of bar bingo.

Sec. 12. Minnesota Statutes 2007 Supplement, section 349.17, subdivision 8, is amended to read:

Subd. 8. **Linked bingo games.** (a) A licensed organization may conduct or participate in not more than two linked bingo games per occasion, one of which may be a progressive game in which a portion of the prize is carried over from one occasion to another until won by a player achieving a bingo within a predetermined amount of bingo numbers called.

(b) Each participating licensed organization shall contribute to each prize awarded in a linked bingo game in an amount not to exceed \$300.

(c) An electronic bingo device as defined in section 349.12, subdivision 12a, may be used for a linked bingo game.

(d) The board may adopt rules to:

(1) specify the manner in which a linked bingo game must be played and how the linked bingo prizes must be awarded;

(2) specify the records to be maintained by a linked bingo game provider;

(3) require the submission of periodic reports by the linked bingo game provider and specify the content of the reports;

(4) establish the qualifications required to be licensed as a linked bingo game provider; and

(5) any other matter involving the operation of a linked bingo game.

Sec. 13. Minnesota Statutes 2006, section 349.18, subdivision 1, is amended to read:

Subdivision 1. **Lease or ownership required; rent limitations.** (a) An organization may conduct lawful gambling only on premises it owns or leases. Leases must be on a form prescribed by the board. 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. Leases approved by the board must specify that the board may authorize an organization to withhold rent from a lessor for a period of up to 90 days if the board determines that illegal gambling occurred on the premises and that the lessor or its employees participated in the illegal gambling or knew of the gambling and did not take prompt action to stop the gambling. The lease must authorize the continued tenancy of the organization without the payment of rent during the time period determined by the board under this paragraph. Copies of all leases must be made available to employees of the board and the Division of Alcohol and Gambling Enforcement on request. The board may prescribe by rule limits on the amount of rent which an organization may pay to a lessor for premises leased for 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) Rent paid by an organization for leased premises for the conduct of pull-tabs, tipboards, and paddlewheels is subject to the following limits:

(1) for booth operations, including booth operations where a pull-tab dispensing device is located, booth operations where a bar operation is also conducted, and booth operations where both a pull-tab dispensing device is located and a bar operation is also conducted, the maximum rent is:

(i) in any month where the organization's gross profit at those premises does not exceed \$4,000, up to \$400; and

(ii) in any month where the organization's gross profit at those premises exceeds \$4,000, up to \$400 plus not more than ten percent of the gross profit for that month in excess of \$4,000;

(2) for bar operations, including bar operations where a pull-tab dispensing device is located but not including bar operations subject to clause (1), and for locations where only a pull-tab dispensing device is located:

(i) in any month where the organization's gross profit at those premises does not exceed \$1,000, up to \$200; and

(ii) in any month where the organization's gross profit at those premises exceeds \$1,000, up to \$200 plus not more than 20 percent of the gross profit for that month in excess of \$1,000;

(3) a lease not governed by clauses (1) and (2) must be approved by the board before becoming effective;

(4) total rent paid to a lessor from all organizations from leases governed by clause (1) may not exceed \$1,750 per month. Total rent paid to a lessor from all organizations from leases governed by clause (2) may not exceed \$2,500 per month.

(c) Rent paid by an organization for leased premises for the conduct of bingo is subject to either of the following limits at the option of the parties to the lease:

(1) not more than ten percent of the monthly gross profit from all lawful gambling activities held during bingo occasions excluding bar bingo or at a rate based on a cost per square foot not to exceed 110 percent of a comparable cost per square foot for leased space as approved by the director; and

(2) no rent may be paid for bar bingo.

(d) Amounts paid as rent under leases are all-inclusive. No other services or expenses provided or contracted by the lessor may be paid by the organization, including, but not limited to, trash removal, janitorial and cleaning services, snow removal, lawn services, electricity, heat, security, security monitoring, storage, other utilities or services, and, in the case of bar operations, cash shortages, unless approved by the director. Any other expenditure made by an organization that is related to a leased premises must be approved by the director. An organization may not provide any compensation or thing of value to a lessor or the lessor's employees from any fund source other than its gambling account. Rent payments may not be made to an individual.

(e) Notwithstanding paragraph (b), an organization may pay a lessor for food or beverages or meeting room rental if the charge made is comparable to similar charges made to other individuals or groups.

(f) No entity other than the licensed organization may conduct any activity within a booth operation on a leased premises.

(g) Employees of a lessor not involved in the conduct of lawful gambling on the premises or nongambling employees of an organization conducting lawful gambling on the premises may participate in lawful gambling on the premises provided if pull-tabs or tipboards are sold, the organization posts the major prizes awarded.

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

- (1) the organization posts the major prizes for pull-tab or tipboard games; and
- (2) the employee is not involved in the sale of pull-tabs or tipboards at that site.

(i) At a leased site where an organization uses a paddlewheel consisting of ~~30~~ 32 numbers or less or a tipboard consisting of ~~30~~ 32 tickets or less, tickets may be sold throughout the permitted premises, but winning tickets must be redeemed, the paddlewheel must be located, and the tipboard seal must be opened within the leased premises.

Sec. 14. Minnesota Statutes 2006, section 349.19, subdivision 10, is amended to read:

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~~ the licensed organization uses a pull-tab dispensing device, 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.

(c) 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.

Sec. 15. Minnesota Statutes 2006, section 349.191, subdivision 1a, is amended to read:

Subd. 1a. **Credit and sales to delinquent organizations.** (a) If a distributor or linked bingo game provider does not receive payment in full from an organization within ~~35~~ 30 days of the day immediately following the date of the invoice, the distributor or linked bingo game provider must notify the board in writing of the delinquency on the next business day.

(b) If a distributor or linked bingo game provider 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 or linked bingo game provider must notify the board of the continuing delinquency.

(c) On receipt of a notice under paragraph (a), the board shall order all distributors and linked bingo game providers 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 and linked bingo game providers not to sell any gambling equipment to the delinquent organization.

(d) No distributor or linked bingo game provider 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.

Sec. 16. Minnesota Statutes 2006, section 349.191, subdivision 1b, is amended to read:

Subd. 1b. **Credit and sales to delinquent distributors.** (a) If a manufacturer does not receive payment in full from a distributor within ~~35~~ 30 days of the day immediately following the date of invoice, the manufacturer must notify the board in writing of the delinquency on the next business day.

(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.

Sec. 17. Minnesota Statutes 2007 Supplement, section 349.211, subdivision 2, is amended to read:

Subd. 2. **Progressive bingo games.** Except as provided in subdivision 1a, 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 \$500 and be increased by up to \$100 for each occasion during which the progressive bingo game is played. A consolation prize of up to \$200 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 \$48,000.~~

Sec. 18. Minnesota Statutes 2007 Supplement, section 349.211, subdivision 2a, is amended to read:

Subd. 2a. **Pull-tab prizes.** The maximum prize which may be awarded for any single pull-tab is \$599 for \$2 and under pull-tabs, \$899 for \$3 pull-tabs, \$1,199 for \$4 pull-tabs, and \$1,499 for \$5 pull-tabs, not including any cumulative or carryover prizes. Cumulative or carryover prizes in a pull-tab game shall not exceed \$2,500. An organization may not sell any pull-tab for more than \$5.

Sec. 19. Minnesota Statutes 2007 Supplement, section 349.211, subdivision 2c, is amended to read:

Subd. 2c. **Tipboard prizes.** The maximum prize which may be awarded for a tipboard ticket is \$599 for \$2 and under tipboard tickets, \$899 for \$3 tipboard tickets, \$1,199 for \$4 tipboard tickets, and \$1,499 for \$5 tipboard tickets, not including any cumulative or carryover prizes. Cumulative or carryover prizes in tipboard games shall not exceed \$2,500. An organization may not sell any tipboard ticket for more than \$5.

Sec. 20. Minnesota Statutes 2007 Supplement, section 349.211, is amended by adding a subdivision to read:

Subd. 2d. **Raffle prizes.** The board may not impose an annual limit on the value of raffle prizes awarded by licensed organizations but the total value of an individual raffle prize may not exceed \$50,000.

Sec. 21. Minnesota Statutes 2007 Supplement, section 349.211, subdivision 3, is amended to read:

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.

Sec. 22. Minnesota Statutes 2007 Supplement, section 349.211, subdivision 4, is amended to read:

Subd. 4. **Prize value.** (a) 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.

(b) Merchandise prizes for a paddlewheel consisting of ~~30~~ 32 numbers or less or a tipboard consisting of ~~30~~ 32 tickets or less may be paid for by the organization up to 30 days after the prize is received by the organization.

Sec. 23. Minnesota Statutes 2006, section 349.2113, is amended to read:

349.2113 PRIZE PAYOUT LIMIT.

On or after January 1, 2004, a licensed organization may not put into play a pull-tab or tipboard ~~that game~~ that provides for a prize payout of greater than 85 percent of the ideal gross of the ~~that game~~.

Sec. 24. LAWFUL GAMBLING STUDY AND REPORT.

The Gambling Control Board shall review operational and regulatory procedures, accounting functions, tax structure, and recent trends in lawful purpose contributions and allowable expenses incurred by licensed charitable organizations relating to lawful gambling activities. The board must seek public input including comment from licensees and professionals working in the lawful gambling industry. The board must provide a report with recommendations and proposed legislation, if any, to the chairs of the legislative standing committees with jurisdiction over lawful gambling by January 15, 2009.

Sec. 25. EFFECTIVE DATE.

This act is effective the day following final enactment.

Presented to the governor April 30, 2008

Signed by the governor May 1, 2008, 11:10 a.m.