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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 285

01/11/2023 Authored by Robbins, Knudsen, Bennett, Wiens, Zeleznikar and others
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; lawful gambling; repealing the taxes imposed on all lawful
1.3 gambling receipts; making related technical changes; amending Minnesota Statutes
1.4 2022, sections 270C.56, subdivision 1; 297A.68, subdivision 3a; 299L.03,
1.5 subdivision 1; 299L.07, subdivision 8; 349.12, subdivision 25; 349.151, subdivision
1.6 4; 349.162, subdivision 2; 349.163, subdivision 5; 349.1641; 349.19, subdivision
1.7 5; 349.2125, subdivisions 1, 3; 349.2127, subdivisions 1, 2, 4; 349.213, subdivision
1.8 1; 349.22, subdivision 2; repealing Minnesota Statutes 2022, sections 13.4967,
1.9 subdivision 6; 297E.01; 297E.02, subdivisions 1, 2, 2a, 3, 6, 6a, 7, 8, 9, 10, 11;
1.10 297E.03; 297E.031; 297E.04; 297E.05; 297E.06; 297E.07; 297E.10; 297E.11;
1.11 297E.12, subdivisions 1, 2, 4, 5, 6, 7, 8, 9; 297E.13; 297E.14; 297E.16, subdivisions
1.12 1, 2; 297E.17; 349.16, subdivision 11; Minnesota Rules, parts 8122.0100;
1.13 8122.0150; 8122.0200; 8122.0250; 8122.0300; 8122.0350; 8122.0400; 8122.0450;
1.14 8122.0500; 8122.0510; 8122.0550; 8122.0650.

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

1.16 Section 1. Minnesota Statutes 2022, section 270C.56, subdivision 1, is amended to read:

1.17 Subdivision 1. Liability imposed. A person who, either singly or jointly with others,
1.18 has the control of, supervision of, or responsibility for filing returns or reports, paying taxes,
1.19 or collecting or withholding and remitting taxes and who fails to do so, or a person who is
1.20 liable under any other law, is liable for the payment of taxes arising under chapters 295,
1.21 296A, 297A, 297F, and 297G, or sections section 290.92 and 297E.02, and the applicable
1.22 penalties and interest on those taxes.

1.23 EFFECTIVE DATE. This section is effective July 1, 2023.

1.24 Sec. 2. Minnesota Statutes 2022, section 297A.68, subdivision 3a, is amended to read:

1.25 Subd. 3a. Coin-operated entertainment and amusement devices. Coin-operated
1.26 entertainment and amusement devices including, but not limited to, fortune-telling machines,

2.1 cranes, foosball and pool tables, video and pinball games, batting cages, rides, photo or
 2.2 video booths, and jukeboxes are exempt when purchased by retailers selling admission to
 2.3 places of amusement and making available amusement devices as provided in section
 2.4 297A.61, subdivision 3, paragraph (g), clause (1). Coin-operated entertainment and
 2.5 amusement devices do not include vending machines, lottery devices, or gaming devices
 2.6 as described in ~~chapters 297E and~~ chapter 349.

2.7 **EFFECTIVE DATE.** This section is effective July 1, 2023.

2.8 Sec. 5. Minnesota Statutes 2022, section 299L.03, subdivision 1, is amended to read:

2.9 Subdivision 1. **Inspections; access.** In conducting any inspection authorized under this
 2.10 chapter or chapter 240, 349, or 349A, the division employees have free and open access to
 2.11 all parts of the regulated business premises, and may conduct the inspection at any reasonable
 2.12 time without notice and without a search warrant. For purposes of this subdivision, "regulated
 2.13 business premises" means premises where:

2.14 (1) lawful gambling is conducted by an organization licensed under chapter 349 or by
 2.15 an organization exempt from licensing under section 349.166;

2.16 (2) gambling equipment is manufactured, sold, distributed, or serviced by a manufacturer
 2.17 or distributor licensed under chapter 349;

2.18 (3) records required to be maintained under chapter 240, ~~297E~~, 349, or 349A are prepared
 2.19 or retained;

2.20 (4) lottery tickets are sold by a lottery retailer under chapter 349A;

2.21 (5) races are conducted by a person licensed under chapter 240; or

2.22 (6) gambling devices are manufactured, distributed, or tested, including places of storage
 2.23 under section 299L.07.

2.24 **EFFECTIVE DATE.** This section is effective July 1, 2023.

2.25 Sec. 6. Minnesota Statutes 2022, section 299L.07, subdivision 8, is amended to read:

2.26 Subd. 8. **License actions.** (a) The commissioner may not issue or renew a license under
 2.27 this chapter, and shall revoke a license under this chapter, if the applicant or licensee, or a
 2.28 director, officer, partner, governor, person in a supervisory or management position of the
 2.29 applicant or licensee, an employee eligible to make sales on behalf of the applicant or
 2.30 licensee, or direct or indirect holder of more than a five percent financial interest in the
 2.31 applicant or licensee:

- 3.1 (1) has ever been convicted of a felony, or of a crime involving gambling;
- 3.2 (2) has ever been convicted of (i) assault, (ii) a criminal violation involving the use of
3.3 a firearm, or (iii) making terroristic threats;
- 3.4 (3) is or has ever connected with or engaged in an illegal business;
- 3.5 (4) owes \$500 or more in delinquent taxes as defined in section 270C.72;
- 3.6 (5) had a sales and use tax permit revoked by the commissioner of revenue within the
3.7 past two years;
- 3.8 (6) after demand, has not filed tax returns required by the commissioner of revenue; or
- 3.9 (7) had a license or permit revoked or denied by another jurisdiction for a violation of
3.10 law or rule relating to gambling.
- 3.11 The commissioner may deny or refuse to renew a license under this chapter, and may
3.12 revoke a license under this chapter, if any of the conditions in this subdivision is applicable
3.13 to an affiliate of or a direct or indirect holder of more than a five percent financial interest
3.14 in the applicant or licensee.
- 3.15 (b) The commissioner may by order deny, suspend, revoke, refuse to renew a license or
3.16 premises permit, or censure a licensee or applicant, if the commissioner finds that the order
3.17 is in the public interest and that the applicant or licensee, or a director, officer, partner,
3.18 person in a supervisory or management position of the applicant or licensee, or an employee
3.19 eligible to make sales on behalf of the applicant or licensee:
- 3.20 (1) has violated or failed to comply with any provision of this chapter, ~~chapter 297E~~, or
3.21 chapter 349, or any rule adopted or order issued thereunder;
- 3.22 (2) has filed an application for a license that is incomplete in any material respect, or
3.23 contains a statement that, in light of the circumstances under which it was made, is false,
3.24 misleading, fraudulent, or a misrepresentation;
- 3.25 (3) has made a false statement in a document or report required to be submitted to the
3.26 director, the commissioner, or the commissioner of revenue, or has made a false statement
3.27 in a statement made to the director or commissioner;
- 3.28 (4) has been convicted of a crime in another jurisdiction that would be a felony if
3.29 committed in Minnesota;
- 3.30 (5) is permanently or temporarily enjoined by any gambling regulatory agency from
3.31 engaging in or continuing any conduct or practice involving any aspect of gambling;

4.1 (6) has had a gambling-related license revoked or suspended, or has paid or been required
 4.2 to pay a monetary penalty of \$2,500 or more, by a gambling regulator in another state or
 4.3 jurisdiction, or has violated or failed to comply with an order of such a regulator that imposed
 4.4 those actions;

4.5 (7) has been the subject of any of the following actions by the director or commissioner:
 4.6 (i) had a license under this chapter denied, suspended or revoked, (ii) been censured,
 4.7 reprimanded, has paid or been required to pay a monetary penalty or fine, or (iii) has been
 4.8 the subject of any other discipline by the director;

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

4.11 (9) based on the licensee's past activities or criminal record, poses a threat to the public
 4.12 interest or to the effective regulation and control of gambling, or creates or enhances the
 4.13 danger of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of
 4.14 gambling or the carrying on of the business and financial arrangements incidental to the
 4.15 conduct of gambling.

4.16 **EFFECTIVE DATE.** This section is effective July 1, 2023.

4.17 Sec. 7. Minnesota Statutes 2022, section 349.12, subdivision 25, is amended to read:

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

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

4.23 (2) a contribution to or expenditure for goods and services for an individual or family
 4.24 suffering from poverty, homelessness, or disability, which is used to relieve the effects of
 4.25 that suffering;

4.26 (3) a contribution to a program recognized by the Minnesota Department of Human
 4.27 Services for the education, prevention, or treatment of problem gambling;

4.28 (4) a contribution to or expenditure on a public or private nonprofit educational institution
 4.29 registered with or accredited by this state or any other state;

4.30 (5) a contribution to an individual, public or private nonprofit educational institution
 4.31 registered with or accredited by this state or any other state, or to a scholarship fund of a
 4.32 nonprofit organization whose primary mission is to award scholarships, for defraying the

5.1 cost of education to individuals where the funds are awarded through an open and fair
5.2 selection process;

5.3 (6) activities by an organization or a government entity which recognize military service
5.4 to the United States, the state of Minnesota, or a community, subject to rules of the board,
5.5 provided that the rules must not include mileage reimbursements in the computation of the
5.6 per diem reimbursement limit and must impose no aggregate annual limit on the amount of
5.7 reasonable and necessary expenditures made to support:

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

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

5.12 (iii) members of military marching, color guard, or honor guard units may be reimbursed
5.13 for participating in color guard, honor guard, or marching unit events within the state or
5.14 states contiguous to Minnesota at a per participant rate of up to \$50 per diem; or

5.15 (iv) active military personnel and their immediate family members in need of support
5.16 services;

5.17 (7) recreational, community, and athletic facilities and activities, intended primarily for
5.18 persons under age 21, provided that such facilities and activities do not discriminate on the
5.19 basis of gender and the organization complies with section 349.154, subdivision 3a;

5.20 (8) payment of local taxes authorized under this chapter, taxes imposed by the United
5.21 States on receipts from lawful gambling, ~~the taxes imposed by section 297E.02, subdivisions~~
5.22 ~~1, 5, and 6,~~ and the tax imposed on unrelated business income by section 290.05, subdivision
5.23 3;

5.24 (9) payment of real estate taxes and assessments on permitted gambling premises owned
5.25 by the licensed organization paying the taxes, or wholly leased by a licensed veterans
5.26 organization under a national charter recognized under section 501(c)(19) of the Internal
5.27 Revenue Code;

5.28 (10) a contribution to the United States, this state or any of its political subdivisions, or
5.29 any agency or instrumentality thereof other than a direct contribution to a law enforcement
5.30 or prosecutorial agency;

5.31 (11) a contribution to or expenditure by a nonprofit organization which is a church or
5.32 body of communicants gathered in common membership for mutual support and edification
5.33 in piety, worship, or religious observances;

6.1 (12) an expenditure for citizen monitoring of surface water quality by individuals or
6.2 nongovernmental organizations that is consistent with section 115.06, subdivision 4, and
6.3 Minnesota Pollution Control Agency guidance on monitoring procedures, quality assurance
6.4 protocols, and data management, provided that the resulting data is submitted to the
6.5 Minnesota Pollution Control Agency for review and inclusion in the state water quality
6.6 database;

6.7 (13) a contribution to or expenditure on projects or activities approved by the
6.8 commissioner of natural resources for:

6.9 (i) wildlife management projects that benefit the public at large;

6.10 (ii) grant-in-aid trail maintenance and grooming established under sections 84.83 and
6.11 84.927, and other trails open to public use, including purchase or lease of equipment for
6.12 this purpose; and

6.13 (iii) supplies and materials for safety training and educational programs coordinated by
6.14 the Department of Natural Resources, including the Enforcement Division;

6.15 (14) conducting nutritional programs, food shelves, and congregate dining programs
6.16 primarily for persons who are age 62 or older or disabled;

6.17 (15) a contribution to a community arts organization, or an expenditure to sponsor arts
6.18 programs in the community, including but not limited to visual, literary, performing, or
6.19 musical arts;

6.20 (16) an expenditure by a licensed fraternal organization or a licensed veterans organization
6.21 for payment of water, fuel for heating, electricity, and sewer costs for:

6.22 (i) up to 100 percent for a building wholly owned or wholly leased by and used as the
6.23 primary headquarters of the licensed veteran or fraternal organization; or

6.24 (ii) a proportional amount subject to approval by the director and based on the portion
6.25 of a building used as the primary headquarters of the licensed veteran or fraternal
6.26 organization;

6.27 (17) expenditure by a licensed veterans organization of up to \$5,000 in a calendar year
6.28 in net costs to the organization for meals and other membership events, limited to members
6.29 and spouses, held in recognition of military service. No more than \$5,000 can be expended
6.30 in total per calendar year under this clause by all licensed veterans organizations sharing
6.31 the same veterans post home;

7.1 (18) payment of fees authorized under this chapter imposed by the state of Minnesota
7.2 to conduct lawful gambling in Minnesota;

7.3 (19) a contribution or expenditure to honor an individual's humanitarian service as
7.4 demonstrated through philanthropy or volunteerism to the United States, this state, or local
7.5 community;

7.6 (20) a contribution by a licensed organization to another licensed organization with prior
7.7 board approval, with the contribution designated to be used for one or more of the following
7.8 lawful purposes under this section: clauses (1) to (7), (11) to (15), (19), and (25);

7.9 (21) an expenditure that is a contribution to a parent organization, if the parent
7.10 organization: (i) has not provided to the contributing organization within one year of the
7.11 contribution any money, grants, property, or other thing of value, and (ii) has received prior
7.12 board approval for the contribution that will be used for a program that meets one or more
7.13 of the lawful purposes under subdivision 7a;

7.14 (22) an expenditure for the repair, maintenance, or improvement of real property and
7.15 capital assets owned by an organization, or for the replacement of a capital asset that can
7.16 no longer be repaired, with a fiscal year limit of five percent of gross profits from the
7.17 previous fiscal year, with no carryforward of unused allowances. The fiscal year is July 1
7.18 through June 30. Total expenditures for the fiscal year may not exceed the limit unless the
7.19 board has specifically approved the expenditures that exceed the limit due to extenuating
7.20 circumstances beyond the organization's control. An expansion of a building or bar-related
7.21 expenditures are not allowed under this provision.

7.22 (i) The expenditure must be related to the portion of the real property or capital asset
7.23 that must be made available for use free of any charge to other nonprofit organizations,
7.24 community groups, or service groups, and is used for the organization's primary mission or
7.25 headquarters.

7.26 (ii) An expenditure may be made to bring an existing building that the organization owns
7.27 into compliance with the Americans with Disabilities Act.

7.28 (iii) An organization may apply the amount that is allowed under item (ii) to the erection
7.29 or acquisition of a replacement building that is in compliance with the Americans with
7.30 Disabilities Act if the board has specifically approved the amount. The cost of the erection
7.31 or acquisition of a replacement building may not be made from gambling proceeds, except
7.32 for the portion allowed under this item;

8.1 (23) an expenditure for the acquisition or improvement of a capital asset with a cost
8.2 greater than \$2,000, excluding real property, that will be used exclusively for lawful purposes
8.3 under this section if the board has specifically approved the amount;

8.4 (24) an expenditure for the acquisition, erection, improvement, or expansion of real
8.5 property, if the board has first specifically authorized the expenditure after finding that the
8.6 real property will be used exclusively for lawful purpose under this section;

8.7 (25) an expenditure, including a mortgage payment or other debt service payment, for
8.8 the erection or acquisition of a comparable building to replace an organization-owned
8.9 building that was destroyed or made uninhabitable by fire or catastrophe or to replace an
8.10 organization-owned building that was taken or sold under an eminent domain proceeding.
8.11 The expenditure may be only for that part of the replacement cost not reimbursed by
8.12 insurance for the fire or catastrophe or compensation not received from a governmental unit
8.13 under the eminent domain proceeding, if the board has first specifically authorized the
8.14 expenditure; or

8.15 (26) a contribution to a 501(c)(19) organization that does not have an organization license
8.16 under section 349.16 and is not affiliated with the contributing organization, and whose
8.17 owned or leased property is not a permitted premises under section 349.165. The 501(c)(19)
8.18 organization may only use the contribution for lawful purposes under this subdivision or
8.19 for the organization's primary mission. The 501(c)(19) organization may not use the
8.20 contribution for expansion of a building or for bar-related expenditures. A contribution may
8.21 not be made to a statewide organization representing a consortia of 501(c)(19) organizations.

8.22 (b) Expenditures authorized by the board under paragraph (a), clauses (24) and (25),
8.23 must be 51 percent completed within two years of the date of board approval; otherwise the
8.24 organization must reapply to the board for approval of the project. "Fifty-one percent
8.25 completed" means that the work completed must represent at least 51 percent of the value
8.26 of the project as documented by the contractor or vendor.

8.27 (c) Notwithstanding paragraph (a), "lawful purpose" does not include:

8.28 (1) any expenditure made or incurred for the purpose of influencing the nomination or
8.29 election of a candidate for public office or for the purpose of promoting or defeating a ballot
8.30 question;

8.31 (2) any activity intended to influence an election or a governmental decision-making
8.32 process;

9.1 (3) a contribution to a statutory or home rule charter city, county, or town by a licensed
9.2 organization with the knowledge that the governmental unit intends to use the contribution
9.3 for a pension or retirement fund; or

9.4 (4) a contribution to a 501(c)(3) organization or other entity with the intent or effect of
9.5 not complying with lawful purpose restrictions or requirements.

9.6 **EFFECTIVE DATE.** This section is effective July 1, 2023.

9.7 Sec. 8. Minnesota Statutes 2022, section 349.151, subdivision 4, is amended to read:

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

9.9 (1) to regulate lawful gambling to ensure it is conducted in the public interest;

9.10 (2) to issue licenses to organizations and gambling managers, and to issue licenses and
9.11 renewals to distributors, distributor salespersons, manufacturers, and linked bingo game
9.12 providers;

9.13 (3) to collect and deposit fees due under this chapter;

9.14 (4) to receive reports required by this chapter and inspect all premises, records, books,
9.15 and other documents of organizations, distributors, manufacturers, and linked bingo game
9.16 providers to insure compliance with all applicable laws and rules;

9.17 (5) to make rules authorized by this chapter;

9.18 (6) to register gambling equipment and issue registration stamps;

9.19 (7) to provide by rule for the mandatory posting by organizations conducting lawful
9.20 gambling of rules of play and the odds and/or house percentage on each form of lawful
9.21 gambling;

9.22 (8) to report annually to the governor and legislature on its activities and on recommended
9.23 changes in the laws governing gambling;

9.24 (9) to report annually to the governor and legislature a financial summary for each
9.25 licensed organization identifying the gross receipts, prizes paid, allowable expenses, lawful
9.26 purpose expenditures including charitable contributions and all taxes and fees as per section
9.27 349.12, subdivision 25, paragraph (a), clauses (8) and (18), and the percentage of annual
9.28 gross profit used for lawful purposes;

9.29 (10) to impose civil penalties of not more than \$1,000 per violation on organizations,
9.30 distributors, distributor salespersons, manufacturers, linked bingo game providers, and

10.1 gambling managers for violating or failing to comply with any provision of this chapter;
10.2 ~~chapter 297E~~, or any rule or order of the board;

10.3 (11) to issue premises permits to organizations licensed to conduct lawful gambling;

10.4 (12) to delegate to the director the authority to issue or deny license and premises permit
10.5 applications and renewals under criteria established by the board;

10.6 (13) to delegate to the director the authority to approve or deny fund loss requests,
10.7 contribution of gambling funds to another licensed organization, and property expenditure
10.8 requests under criteria established by the board;

10.9 (14) to suspend or revoke licenses and premises permits of organizations, distributors,
10.10 distributor salespersons, manufacturers, linked bingo game providers, or gambling managers
10.11 as provided in this chapter;

10.12 (15) to approve or deny requests from licensees for:

10.13 (i) waivers from fee requirements as provided in section 349.16, subdivision 6; and

10.14 (ii) variances from Gambling Control Board rules under section 14.055; and

10.15 (16) to register employees of organizations licensed to conduct lawful gambling;

10.16 (17) to require fingerprints from persons determined by board rule to be subject to
10.17 fingerprinting;

10.18 (18) to delegate to a compliance review group of the board the authority to investigate
10.19 alleged violations, issue consent orders, and initiate contested cases on behalf of the board;

10.20 (19) to order organizations, distributors, distributor salespersons, manufacturers, linked
10.21 bingo game providers, and gambling managers to take corrective actions; and

10.22 (20) to take all necessary steps to ensure the integrity of and public confidence in lawful
10.23 gambling.

10.24 (b) The board, or director if authorized to act on behalf of the board, may by citation
10.25 assess any organization, distributor, distributor salesperson, manufacturer, linked bingo
10.26 game provider, or gambling manager a civil penalty of not more than \$1,000 per violation
10.27 for a failure to comply with any provision of this chapter, ~~chapter 297E~~, or any rule adopted
10.28 or order issued by the board. Any organization, distributor, distributor salesperson, gambling
10.29 manager, linked bingo game provider, or manufacturer assessed a civil penalty under this
10.30 paragraph may request a hearing before the board. Appeals of citations imposing a civil
10.31 penalty are not subject to the provisions of the Administrative Procedure Act.

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

11.2 (d) All fees imposed by the board under sections 349.16 to 349.167 must be deposited
11.3 in the state treasury and credited to a lawful gambling regulation account in the special
11.4 revenue fund. Receipts in this account are available for the operations of the board up to
11.5 the amount authorized in biennial appropriations from the legislature.

11.6 **EFFECTIVE DATE.** This section is effective July 1, 2023.

11.7 Sec. 9. Minnesota Statutes 2022, section 349.162, subdivision 2, is amended to read:

11.8 Subd. 2. **Records required.** (a) A distributor must maintain a record of all gambling
11.9 equipment which it sells to organizations ~~as required by section 297E.05, subdivision 2,~~
11.10 and provide copies of the record to the board upon demand. Employees of the board and
11.11 the Division of Alcohol and Gambling Enforcement may inspect the business premises,
11.12 books, records, and other documents of a distributor at any reasonable time without notice
11.13 and without a search warrant.

11.14 (b) The sales record must include:

11.15 (1) the identity of the person from whom the distributor purchased the product;

11.16 (2) the registration number of the product;

11.17 (3) the name, address, and license or exempt permit number of the organization or person
11.18 to which the sale was made;

11.19 (4) the date of the sale;

11.20 (5) the name of the person who ordered the product;

11.21 (6) the name of the person who received the product;

11.22 (7) the type of product;

11.23 (8) the serial number of the product;

11.24 (9) the name, form number, or other identifying information for each game; and

11.25 (10) in the case of bingo hard cards or sheets sold on and after January 1, 1991, the
11.26 individual number of each card or sheet.

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

11.29 **EFFECTIVE DATE.** This section is effective July 1, 2023.

12.1 Sec. 10. Minnesota Statutes 2022, section 349.163, subdivision 5, is amended to read:

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

12.8 (b) The flare of each paper pull-tab and tipboard game must have affixed to or imprinted
12.9 at the bottom a bar code that provides all information required by the ~~commissioner of~~
12.10 ~~revenue under section 297E.04, subdivision 2~~ board. The board must require that the bar
12.11 code include the serial number of the game. A manufacturer must also affix to the outside
12.12 of the box containing these games a bar code providing all information prescribed by the
12.13 board. The board may also prescribe additional bar coding requirements.

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

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

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

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

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

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

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

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

13.4 **EFFECTIVE DATE.** This section is effective July 1, 2023.

13.5 Sec. 11. Minnesota Statutes 2022, section 349.1641, is amended to read:

13.6 **349.1641 LICENSES; SUMMARY SUSPENSION.**

13.7 (a) The board may (1) summarily suspend the license of an organization that is more
 13.8 than 45 days late in filing a monthly report required to be submitted to the board under this
 13.9 chapter or board rule ~~or a tax return or in paying a tax required under chapter 297E~~ and may
 13.10 keep the suspension in effect until all required returns are filed and required taxes are paid;
 13.11 (2) summarily suspend for not more than 90 days any license issued by the board or director
 13.12 for what the board determines are actions detrimental to the integrity of lawful gambling
 13.13 in Minnesota; (3) summarily suspend the license of a gambling manager who has failed to
 13.14 receive the training required under section 349.167, subdivision 4, clause (2), and may keep
 13.15 the suspension in effect until the gambling manager passes an examination prepared and
 13.16 administered by the board. The examination does not qualify as continuing education credit
 13.17 for the next calendar year; and (4) summarily suspend the license of an organization that
 13.18 fails to pay the fees required under section 349.16, 349.165, or 349.167, and may keep the
 13.19 suspension in effect until all required fees are paid.

13.20 (b) The board must notify the licensee at least 14 days before suspending the license
 13.21 under this section. If a license is summarily suspended under this section, a contested case
 13.22 hearing on the merits must be held within 20 days of the issuance of the order of suspension,
 13.23 unless the parties agree to a later hearing date. The administrative law judge's report must
 13.24 be issued within 20 days after the close of the hearing record. In all cases involving summary
 13.25 suspension, the board must issue its final decision within 30 days after receipt of the report
 13.26 of the administrative law judge and subsequent exceptions and argument under section
 13.27 14.61. When an organization's license is suspended under this section, the board shall within
 13.28 three days notify all municipalities in which the organization's gambling premises are located
 13.29 and all licensed distributors in the state.

13.30 **EFFECTIVE DATE.** This section is effective July 1, 2023.

14.1 Sec. 12. Minnesota Statutes 2022, section 349.19, subdivision 5, is amended to read:

14.2 Subd. 5. **Reports.** ~~(a)~~ A licensed organization must report monthly to the board in an
 14.3 electronic format prescribed by the board and to its membership on its gross receipts,
 14.4 expenses, profits, and expenditure of profits from lawful gambling for each permitted
 14.5 premises. The organization must account for and report on each form of lawful gambling
 14.6 conducted. The organization must include a reconciliation of the organization's profit
 14.7 carryover with its cash balance on hand. All gambling fund expenditures must be reported
 14.8 to the board on a cash basis.

14.9 ~~(b) The organization must report monthly to the commissioner of revenue as required~~
 14.10 ~~under section 297E.06.~~

14.11 **EFFECTIVE DATE.** This section is effective July 1, 2023.

14.12 Sec. 13. Minnesota Statutes 2022, section 349.2125, subdivision 1, is amended to read:

14.13 Subdivision 1. **Contraband defined.** The following are contraband:

14.14 (1) all pull-tab or tipboard deals, paddle ticket cards, or raffle boards not bar coded in
 14.15 accordance with this chapter ~~or chapter 297E;~~

14.16 (2) all pull-tab or tipboard deals or raffle boards in the possession of any unlicensed
 14.17 person, firm, or organization;

14.18 (3) any container used for the storage and display of any contraband pull-tab or tipboard
 14.19 deals or raffle boards as defined in clauses (1) and (2);

14.20 (4) all currency, checks, and other things of value used for pull-tab, tipboard, or raffle
 14.21 board transactions not expressly permitted under this chapter, and any cash drawer, cash
 14.22 register, or any other container used for illegal pull-tab, tipboard, or raffle board transactions
 14.23 including its contents;

14.24 (5) any device including, but not limited to, motor vehicles, trailers, snowmobiles,
 14.25 airplanes, and boats used, with the knowledge of the owner or of a person operating with
 14.26 the consent of the owner, for the storage or transportation of more than five pull-tab or
 14.27 tipboard deals or raffle boards that are contraband under this subdivision. When pull-tabs,
 14.28 tipboards, or raffle boards are being transported in the course of interstate commerce between
 14.29 locations outside this state, the pull-tab and tipboard deals or raffle boards are not contraband,
 14.30 notwithstanding the provisions of clauses (1) and (2);

14.31 (6) any unaffixed registration stamps except as provided in section 349.162, subdivision
 14.32 4;

- 15.1 (7) any prize used or offered in a game utilizing contraband as defined in this subdivision;
- 15.2 (8) any altered, modified, or counterfeit pull-tab or tipboard ticket or raffle board;
- 15.3 (9) any unregistered gambling equipment except as permitted by this chapter;
- 15.4 (10) any gambling equipment kept in violation of section 349.18;
- 15.5 (11) any gambling equipment not in conformity with law or board rule;
- 15.6 (12) any pull-tab or tipboard deal or raffle board in the possession of a person other than
- 15.7 a licensed distributor or licensed manufacturer for which the person, upon demand of a
- 15.8 licensed peace officer or authorized agent of the commissioner of revenue or director of
- 15.9 alcohol and gambling enforcement, does not immediately produce for inspection the invoice
- 15.10 or a true and correct copy of the invoice for the acquisition of the deal or board from a
- 15.11 licensed distributor; and
- 15.12 ~~(13) any pull-tab or tipboard deals or raffle boards or portions of deals or boards on~~
- 15.13 ~~which the tax imposed under chapter 297E has not been paid; and~~
- 15.14 ~~(14)~~ (13) any device prohibited by section 609.76, subdivisions 4 to 6.

15.15 **EFFECTIVE DATE.** This section is effective July 1, 2023.

15.16 Sec. 14. Minnesota Statutes 2022, section 349.2125, subdivision 3, is amended to read:

15.17 Subd. 3. **Inventory; judicial determination; appeal; disposition of seized**

15.18 **property.** Within ten days after the seizure of any alleged contraband, the person making

15.19 the seizure shall make available an inventory of the property seized to the person from

15.20 whom the property was seized, if known, and file a copy with the commissioner of revenue

15.21 or the director of alcohol and gambling enforcement. Within ten days after the date of service

15.22 of the inventory, the person from whom the property was seized or any person claiming an

15.23 interest in the property may file with the seizing authority a demand for judicial determination

15.24 of whether the property was lawfully subject to seizure and forfeiture. Within 60 days after

15.25 the date of filing of the demand, the seizing authority must bring an action in the district

15.26 court of the county where seizure was made to determine the issue of forfeiture. The action

15.27 must be brought in the name of the state and be prosecuted by the county attorney or by the

15.28 attorney general. The court shall hear the action without a jury and determine the issues of

15.29 fact and laws involved. When a judgment of forfeiture is entered, the seizing authority may,

15.30 unless the judgment is stayed pending an appeal, either (1) cause the forfeited property to

15.31 be destroyed; or (2) cause it to be sold at a public auction as provided by law.

16.1 If demand for judicial determination is made and no action is commenced by the seizing
 16.2 authority as provided in this subdivision, the property must be released by the seizing
 16.3 authority and delivered to the person entitled to it. If no demand is made, the property seized
 16.4 is considered forfeited to the seizing authority by operation of law and may be disposed of
 16.5 by the seizing authority as provided where there has been a judgment of forfeiture. ~~When~~
 16.6 ~~the seizing authority is satisfied that a person from whom property is seized was acting in~~
 16.7 ~~good faith and without intent to evade a tax imposed by chapter 297E, the seizing authority~~
 16.8 ~~shall release the property seized without further legal proceedings.~~

16.9 **EFFECTIVE DATE.** This section is effective July 1, 2023.

16.10 Sec. 15. Minnesota Statutes 2022, section 349.2127, subdivision 1, is amended to read:

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

16.15 **EFFECTIVE DATE.** This section is effective July 1, 2023.

16.16 Sec. 16. Minnesota Statutes 2022, section 349.2127, subdivision 2, is amended to read:

16.17 Subd. 2. **Prohibition against possession.** (a) A person is guilty of a crime who sells,
 16.18 offers for sale, or possesses a pull-tab or tipboard deal, paddle ticket cards, or raffle board
 16.19 not stamped or bar coded in accordance with the provisions of this chapter ~~or chapter 297E.~~
 16.20 A violation of this paragraph is a gross misdemeanor if it involves ten or fewer pull-tab or
 16.21 tipboard deals or raffle boards. A violation of this paragraph is a felony if it involves more
 16.22 than ten pull-tab or tipboard deals or raffle boards, or a combination of more than ten deals
 16.23 of pull-tabs and tipboards or raffle boards.

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

16.31 (c) A person is guilty of a crime who alters, modifies, or counterfeits pull-tabs, tipboards,
 16.32 tipboard tickets, or raffle boards or possesses altered, modified, or counterfeit pull-tabs,

17.1 tipboards, tipboard tickets, or raffle boards. A violation of this paragraph is a gross
 17.2 misdemeanor if the total face value for all such pull-tabs, tipboards, tipboard tickets or raffle
 17.3 boards does not exceed \$200. A violation of this paragraph is a felony if the total face value
 17.4 exceeds \$200. For purposes of this paragraph, the face value of all pull-tabs, tipboards, and
 17.5 tipboard tickets or raffle boards altered, modified, or counterfeited within a six-month period
 17.6 may be aggregated and the defendant charged accordingly.

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

17.18 **EFFECTIVE DATE.** This section is effective July 1, 2023.

17.19 Sec. 17. Minnesota Statutes 2022, section 349.2127, subdivision 4, is amended to read:

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

17.28 **EFFECTIVE DATE.** This section is effective July 1, 2023.

17.29 Sec. 18. Minnesota Statutes 2022, section 349.213, subdivision 1, is amended to read:

17.30 Subdivision 1. **Local regulation.** (a) A statutory or home rule city or county has the
 17.31 authority to adopt more stringent regulation of lawful gambling within its jurisdiction,
 17.32 including the prohibition of lawful gambling.

18.1 (b) A statutory or home rule city or county may require a permit for the conduct of
18.2 gambling exempt from licensing under section 349.166. The fee for a permit issued under
18.3 section 349.166 may not exceed \$100.

18.4 (c) The authority granted by this subdivision does not include the authority to require a
18.5 license or fee for a license or permit to conduct gambling by organizations, gambling
18.6 managers, gambling employees, or sales by distributors or linked bingo game providers
18.7 licensed by or registered with the board.

18.8 (d) The authority granted by this subdivision does not include the authority to require
18.9 an organization to make specific expenditures of more than ten percent per year from its
18.10 net profits derived from lawful gambling.

18.11 (e) For the purposes of this subdivision, net profits are gross profits less amounts
18.12 expended for allowable expenses and paid in taxes assessed on lawful gambling.

18.13 (f) A statutory or home rule charter city or a county may not require an organization
18.14 conducting lawful gambling within its jurisdiction to make an expenditure to the city or
18.15 county as a condition to operate within that city or county, except:

18.16 (1) as authorized under section 349.16, subdivision 8, ~~or 297E.02~~; or

18.17 (2) by an ordinance requirement that such organizations must contribute ten percent per
18.18 year of their net profits derived from lawful gambling conducted at premises within the
18.19 city's or county's jurisdiction to a fund administered and regulated by the responsible local
18.20 unit of government without cost to such fund. The funds must be disbursed by the local unit
18.21 of government for (i) charitable contributions as defined in section 349.12, subdivision 7a,
18.22 or (ii) police, fire, and other emergency or public safety-related services, equipment, and
18.23 training, excluding pension obligations. A contribution made by an organization is not
18.24 considered an expenditure to the city or county ~~nor a tax under section 297E.02~~, and is valid
18.25 and lawful. A city or county receiving and making expenditures authorized under this clause
18.26 must by March 15 of each year file a report with the board, on a form the board prescribes,
18.27 that lists all such revenues collected, interest received on fund balances, and expenditures
18.28 for the previous calendar year. A home rule or statutory city or county making charitable
18.29 contributions authorized under this clause must acknowledge financial contributions of
18.30 organizations conducting lawful gambling to the community and to the recipients of the
18.31 funds. This may occur in communications about the funds as well as in the distribution of
18.32 funds.

18.33 (g) A statutory or home rule city or county may by ordinance require that a licensed
18.34 organization conducting lawful gambling within its jurisdiction expend all or a portion of

19.1 its expenditures for lawful purposes on lawful purposes conducted or located within the
 19.2 city's or county's trade area. Such an ordinance must be limited to lawful purpose expenditures
 19.3 of gross profits derived from lawful gambling conducted at premises within the city's or
 19.4 county's jurisdiction, must define the city's or county's trade area, and must specify the
 19.5 percentage of lawful purpose expenditures which must be expended within the trade area.
 19.6 A trade area defined by a city under this subdivision must include each city and township
 19.7 contiguous to the defining city.

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

19.12 **EFFECTIVE DATE.** This section is effective July 1, 2023.

19.13 Sec. 19. Minnesota Statutes 2022, section 349.22, subdivision 2, is amended to read:

19.14 Subd. 2. **Other action.** This section does not preclude civil or criminal actions under
 19.15 other applicable law or preclude any agency of government from investigating or prosecuting
 19.16 violations of the provisions of sections 349.11 to 349.213, and chapter 297E. County
 19.17 attorneys and the attorney general have joint responsibility for prosecuting violations of
 19.18 sections 349.11 to 349.213, ~~and chapter 297E~~, and the attorney general may prosecute any
 19.19 violation of those sections. If the county attorney fails to initiate the prosecution within 30
 19.20 days, the attorney general may initiate prosecution.

19.21 **EFFECTIVE DATE.** This section is effective July 1, 2023.

19.22 Sec. 20. **REPEALER.**

19.23 Minnesota Statutes 2022, sections 13.4967, subdivision 6; 297E.01; 297E.02, subdivisions
 19.24 1, 2, 2a, 3, 6, 6a, 7, 8, 9, 10, and 11; 297E.03; 297E.031; 297E.04; 297E.05; 297E.06;
 19.25 297E.07; 297E.10; 297E.11; 297E.12, subdivisions 1, 2, 4, 5, 6, 7, 8, and 9; 297E.13;
 19.26 297E.14; 297E.16, subdivisions 1 and 2; 297E.17; and 349.16, subdivision 11, and Minnesota
 19.27 Rules, parts 8122.0100; 8122.0150; 8122.0200; 8122.0250; 8122.0300; 8122.0350;
 19.28 8122.0400; 8122.0450; 8122.0500; 8122.0510; 8122.0550; and 8122.0650, are repealed.

19.29 **EFFECTIVE DATE.** This section is effective July 1, 2023.

13.4967 OTHER TAX DATA CODED ELSEWHERE.

Subd. 6. **Gambling taxes.** (a) **Administration of taxes.** Records concerning administration of gambling taxes are classified under section 297E.02, subdivision 9.

(b) **Sports bookmaking tax.** Disclosure of facts contained in a sports bookmaking tax return is prohibited by section 297E.03, subdivision 8.

297E.01 DEFINITIONS.

Subdivision 1. **Scope.** Unless otherwise defined in this chapter, or unless the context clearly indicates otherwise, the terms used in this chapter have the meaning given them in chapter 349. The definitions in this section are for tax administration purposes and apply to this chapter.

Subd. 2. **Bingo.** For purposes of this chapter "bingo" means the game of bingo as defined in section 349.12, subdivision 4, and as conducted under chapter 349, and any other game that is substantially the same as or similar to that game, including but not limited to a game where:

(1) players pay compensation for a game sheet, card, or paper that has spaces arranged on it in columns and rows containing printed numbers or figures, or that has spaces in which players are allowed to place their own numbers or figures, or for an electronic, mechanical, or other facsimile of such sheets, cards, or paper;

(2) numbers or figures are randomly selected for comparison with the numbers or figures on each game sheet, card, paper, or facsimile;

(3) game winners are those who have a game sheet, card, paper, or facsimile with some or all of the randomly selected numbers or figures displayed thereon, in the same pattern or arrangement that has been previously designated or understood to be a winning pattern or arrangement for the game; and

(4) game winners receive or are eligible to receive a prize such as money, property, or other reward or benefit.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of revenue or a person to whom the commissioner has delegated functions.

Subd. 4. **Contraband.** For purposes of this chapter, "contraband" means all of the items listed in section 349.2125, and all pull-tab or tipboard deals or portions of deals on which the tax imposed under section 297E.02 has not been paid.

Subd. 5. **Distributor.** "Distributor" means a distributor as defined in section 349.12, subdivision 11, or a person or linked bingo game provider who markets, sells, or provides gambling product to a person or entity for resale or use at the retail level.

Subd. 6. **Fiscal year.** "Fiscal year" means the period from July 1 to June 30.

Subd. 7. **Gambling product.** "Gambling product" means bingo hard cards, bingo paper sheets, linked bingo paper sheets, or electronic linked bingo games; pull-tabs; electronic pull-tab games; tipboards; paddle tickets and paddle ticket cards; raffle tickets; or any other ticket, card, board, placard, device, or token that represents a chance, for which consideration is paid, to win a prize.

Subd. 8. **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, paper sheets, linked bingo paper sheets, and electronic linked bingo games before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(2) the ideal gross of pull-tab, electronic pull-tab games, 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 paddle tickets 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.

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Gross receipts does not include rental proceeds from premises owned by an organization and leased to one or more other organizations for the purposes of conducting lawful gambling.

Subd. 9. **Ideal gross.** "Ideal gross" means the total amount of receipts that would be received if every individual ticket in the pull-tab, electronic pull-tab games or tipboard deal, paddlewheel game, and raffle ticket was sold at its face value. In the calculation of ideal gross and prizes, a free play ticket pull-tab or electronic pull-tab shall be valued at face value. Ideal gross also means the total amount of receipts that would be received if every bingo paper sheet, linked bingo paper sheet, and electronic linked bingo games were sold at face value.

Subd. 9a. **Linked bingo game.** "Linked bingo game" means a bingo game played at two or more locations where licensed organizations are authorized to conduct bingo, when there is a common prize pool and a common selection of numbers or symbols conducted at one location, and when the results of the selection are transmitted to all participating locations by satellite, telephone, or other means by a linked bingo game provider.

Subd. 9b. **Linked bingo game provider.** "Linked bingo game provider" means any person who provides the means to link bingo prizes in a linked bingo game, who provides linked bingo paper sheets to the participating organizations, who provides linked bingo prize management, and who provides the linked bingo game system.

Subd. 10. **Manufacturer.** "Manufacturer" means a manufacturer as defined in section 349.12, subdivision 26, or a person or entity who:

(1) assembles from raw materials, or from subparts or other components, a completed item of gambling product for resale, use, or receipt in Minnesota; or

(2) sells, furnishes, ships, or imports completed gambling product from outside Minnesota for resale, use, receipt, or storage in Minnesota; or

(3) being within the state, assembles, produces, or otherwise creates gambling products.

Subd. 11. **Prize.** "Prize" means a thing of value, other than a free play, offered or awarded to the winner of a gambling game.

Subd. 12. **Pull-tab.** "Pull-tab" is a pull-tab as defined in section 349.12, subdivision 32, or any other gambling ticket or device that is substantially the same as or similar to such a pull-tab, including but not limited to, a ticket or card that:

(1) has one or more concealed numbers, figures, or symbols, or combination thereof, printed on it;

(2) may be used in games where the player knows in advance, or can determine in advance, what the predesignated winning numbers, figures, symbols, or combinations are; and

(3) may be played by revealing the concealed ticket information and comparing that information with the predesignated winning numbers, figures, symbols, or combinations in order to determine a winner.

Subd. 13. **Raffle.** "Raffle" means a raffle as defined in section 349.12, subdivision 33, and any other game that is played in a manner substantially similar to the play of such a raffle, including but not limited to raffles in which compensation is paid for the chance to win a thing of value, the chance is evidenced by a ticket, card, token, or equivalent item, and the winner is selected by random drawing.

Subd. 14. **Retail level.** "Retail level" means an activity where gambling product is sold to players or participants in gambling games and where the players or participants give consideration for a chance to win a prize.

Subd. 15. **Taxpayer.** "Taxpayer" means a person subject to or liable for a tax imposed by this chapter, a person required to file reports or returns with the commissioner under this chapter, a person required to keep or retain records under this chapter, or a person required by this chapter to obtain or hold a permit.

Subd. 16. **Ticket.** "Ticket" means a valid token, card, or other tangible voucher, other than bingo cards, sheets, or paper, that grants the holder a chance or chances to participate in a game of gambling.

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Subd. 17. **Tipboard.** "Tipboard" means a tipboard as defined in section 349.12, subdivision 34, and any game that is substantially the same as or similar to the game of tipboards authorized under chapter 349, including but not limited to any of the following games:

(1) a game that consists of one or more boards, placards, or other devices in which (i) the board, placard, or other device has been marked off into a grid or columns in which each section represents a chance to win a prize, (ii) participants pay a consideration to select a section or sections, (iii) all or some of the winning numbers, figures, symbols, or other winning criteria for the game are concealed or otherwise not known by the player at the time the player obtains a chance in the game, and (iv) the numbers, figures, symbols, or other criteria for winning the game are later revealed for comparison with the information on the board, placard, or other device in order to determine a winner;

(2) a game that consists of one or more boards, placards, or other devices that (i) have tickets attached to or otherwise associated with them, and that have one or more concealed numbers, figures, or combination thereof on the tickets; (ii) participants pay a consideration to obtain the tickets, (iii) all or some of the winning numbers, figures, symbols, or other winning criteria for the game are concealed or otherwise not known by the player at the time the player obtains a chance in the game, and (iv) the numbers, figures, symbols, or other criteria for winning the game are later revealed for comparison with the information on the game tickets in order to determine a winner; or

(3) a game that consists of a deal or set of tickets that (i) have one or more concealed numbers, figures, or symbols, or combination thereof, on the tickets, (ii) participants pay a consideration to obtain the tickets, (iii) all or some of the winning numbers, figures, symbols, or combination thereof, are concealed or otherwise not known to the player at the time the player obtains the ticket, and (iv) the tickets are used in games where the numbers, figures, symbols, or other winning criteria are later revealed for comparison with the information on the game tickets in order to determine a winner.

"Tipboards" includes any game otherwise described in this subdivision in which the winning chances are determined in whole or in part by the outcome of one or more sporting events. "Tipboard" does not include boards, placards, tickets, or other devices lawfully used in connection with the operation of the State Lottery under chapter 349A or the lawful conduct of pari-mutuel betting on horse racing under chapter 240.

Subd. 17a. **Business day.** "Business day" means Monday through Friday, excluding any holidays as defined in section 645.44.

Subd. 18. **Other words.** Unless specifically defined in this chapter, or unless the context clearly indicates otherwise, the words used in this chapter have the meanings given them in chapter 349.

297E.02 TAX IMPOSED.

Subdivision 1. **Imposition.** A tax is imposed on all lawful gambling other than (1) paper or electronic pull-tab deals or games; (2) tipboard deals or games; (3) electronic linked bingo; and (4) items listed in section 297E.01, subdivision 8, clauses (4) and (5), at the rate of 8.5 percent on the gross receipts as defined in section 297E.01, subdivision 8, less prizes actually paid. The tax imposed by this subdivision is in lieu of the tax imposed by section 297A.62 and all local taxes and license fees except a fee authorized under section 349.16, subdivision 8, or a tax authorized under section 349.213, subdivision 3.

The tax imposed under this subdivision is payable by the organization or party conducting, directly or indirectly, the gambling.

Subd. 2. **Tax-exempt gambling.** An organization's receipts from lawful gambling that are excluded or exempt from licensing under section 349.166, are not subject to the tax imposed by this section or section 297A.62. This exclusion from tax is only valid if at the time of the event giving rise to the tax the organization either has an exclusion under section 349.166, subdivision 1, or has applied for and received a valid exemption from the lawful gambling control board.

Subd. 2a. **Tax credit for certain raffles.** An organization may claim a credit equal to the tax reported under subdivision 1 resulting from a raffle the net proceeds of which have been used exclusively for the purposes of section 349.12, subdivision 25, paragraph (a), clause (2). The organization claiming the credit must do so on the monthly gambling tax return on which the raffle activity is reported under subdivision 1.

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Subd. 3. **Collection; disposition.** (a) Taxes imposed by this section are due and payable to the commissioner when the gambling tax return is required to be filed. Distributors must file their monthly sales figures with the commissioner on a form prescribed by the commissioner. Returns covering the taxes imposed under this section must be filed with the commissioner on or before the 20th day of the month following the close of the previous calendar month. The commissioner shall prescribe the content, format, and manner of returns or other documents pursuant to section 270C.30. The proceeds, along with the revenue received from all license fees and other fees under sections 349.11 to 349.191, 349.211, and 349.213, must be paid to the commissioner of management and budget for deposit in the general fund.

(b) The sales tax imposed by chapter 297A on the sale of pull-tabs and tipboards by the distributor is imposed on the retail sales price. The retail sale of pull-tabs or tipboards by the organization is exempt from taxes imposed by chapter 297A and is exempt from all local taxes and license fees except a fee authorized under section 349.16, subdivision 8.

(c) One-half of one percent of the revenue deposited in the general fund under paragraph (a), is appropriated to the commissioner of human services for the compulsive gambling treatment program established under section 245.98. One-half of one percent of the revenue deposited in the general fund under paragraph (a), is appropriated to the commissioner of human services for a grant to the state affiliate recognized by the National Council on Problem Gambling to increase public awareness of problem gambling, education and training for individuals and organizations providing effective treatment services to problem gamblers and their families, and research relating to problem gambling. Money appropriated by this paragraph must supplement and must not replace existing state funding for these programs.

(d) The commissioner of human services must provide to the state affiliate recognized by the National Council on Problem Gambling a monthly statement of the amounts deposited under paragraph (c). Beginning January 1, 2022, the commissioner of human services must provide to the chairs and ranking minority members of the legislative committees with jurisdiction over treatment for problem gambling and to the state affiliate recognized by the National Council on Problem Gambling an annual reconciliation of the amounts deposited under paragraph (c). The annual reconciliation under this paragraph must include the amount allocated to the commissioner of human services for the compulsive gambling treatment program established under section 245.98, and the amount allocated to the state affiliate recognized by the National Council on Problem Gambling.

Subd. 6. **Combined net receipts tax.** (a) In addition to the taxes imposed under subdivision 1, a tax is imposed on the combined net receipts of the organization. As used in this section, "combined net receipts" is the sum of the organization's gross receipts from lawful gambling less gross receipts directly derived from the conduct of paper bingo, raffles, and paddlewheels, as defined in section 297E.01, subdivision 8, and less the net prizes actually paid, other than prizes actually paid for paper bingo, raffles, and paddlewheels, for the fiscal year. The combined net receipts of an organization are subject to a tax computed according to the following schedule:

| If the combined net receipts for the fiscal year are: | The tax is: |
|---|---|
| Not over \$87,500 | nine percent |
| Over \$87,500, but not over \$122,500 | \$7,875 plus 18 percent of the amount over \$87,500, but not over \$122,500 |
| Over \$122,500, but not over \$157,500 | \$14,175 plus 27 percent of the amount over \$122,500, but not over \$157,500 |
| Over \$157,500 | \$23,625 plus 36 percent of the amount over \$157,500 |

(b) Gross receipts derived from sports-themed tipboards are exempt from taxation under this section. For purposes of this paragraph, a sports-themed tipboard means a sports-themed tipboard as defined in section 349.12, subdivision 34, under which the winning numbers are determined by the numerical outcome of a professional sporting event.

Subd. 6a. **Unaccounted games.** If a licensed distributor cannot account for a pull-tab game, an electronic pull-tab game, a tipboard deal, a raffle board, paddletickets, an electronic linked bingo game, bingo paper sheets, or linked bingo paper sheets, the distributor must report the sheets, games,

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or boards to the commissioner as lost and remit a tax of six percent on the ideal gross of the sheets, games, or boards.

Subd. 7. Untaxed gambling product. (a) In addition to penalties or criminal sanctions imposed by this chapter, a person, organization, or business entity possessing or selling a pull-tab, electronic pull-tab game, raffle board, or tipboard upon which the tax imposed by this chapter has not been paid is liable for a tax of six percent of the ideal gross of each pull-tab, electronic pull-tab game, raffle board, or tipboard. The tax on a partial deal must be assessed as if it were a full deal.

(b) In addition to penalties and criminal sanctions imposed by this chapter, a person (1) not licensed by the board who conducts bingo, linked bingo, electronic linked bingo, raffles, or paddlewheel games, or (2) who conducts gambling prohibited under sections 609.75 to 609.763, other than activities subject to tax under section 297E.03, is liable for a tax of six percent of the gross receipts from that activity.

(c) The tax may be assessed by the commissioner. An assessment must be considered a jeopardy assessment or jeopardy collection as provided in section 270C.36. The commissioner shall assess the tax based on personal knowledge or information available to the commissioner. The commissioner shall mail to the taxpayer at the taxpayer's last known address, or serve in person, a written notice of the amount of tax, demand its immediate payment, and, if payment is not immediately made, collect the tax by any method described in chapter 270C, except that the commissioner need not await the expiration of the times specified in chapter 270C. The tax assessed by the commissioner is presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show its incorrectness or invalidity. The tax imposed under this subdivision does not apply to gambling that is exempt from taxation under subdivision 2.

(d) A person, organization, or business entity conducting gambling activity under this subdivision must file monthly tax returns with the commissioner, in the form required by the commissioner. The returns must be filed on or before the 20th day of the month following the month in which the gambling activity occurred. The tax imposed by this section is due and payable at the time when the returns are required to be filed.

(e) Notwithstanding any law to the contrary, neither the commissioner nor a public employee may reveal facts contained in a tax return filed with the commissioner of revenue as required by this subdivision, nor can any information contained in the report or return be used against the tax obligor in any criminal proceeding, unless independently obtained, except in connection with a proceeding involving taxes due under this section, or as provided in section 270C.055, subdivision 1. However, this paragraph does not prohibit the commissioner from publishing statistics that do not disclose the identity of tax obligors or the contents of particular returns or reports. Any person violating this paragraph is guilty of a gross misdemeanor.

Subd. 8. Personal debt. The tax imposed by this section, and interest and penalties imposed with respect to it, are a personal debt of the person required to file a return from the time the liability for it arises, irrespective of when the time for payment of the liability occurs. The debt must, in the case of the executor or administrator of the estate of a decedent and in the case of a fiduciary, be that of the person in the person's official or fiduciary capacity only unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties, in which event the person is personally liable for any deficiency.

Subd. 9. Public information. All records concerning the administration of the taxes under this chapter are classified as public information.

Subd. 10. Refunds; appropriation. A person who has, under this chapter, paid to the commissioner an amount of tax for a period in excess of the amount legally due for that period, may file with the commissioner a claim for a refund of the excess. The amount necessary to pay the refunds under this subdivision is appropriated from the general fund to the commissioner.

Subd. 11. Defective gambling products. If a defective deal registered with the board or bar coded in accordance with this chapter and chapter 349 is returned to the manufacturer, the distributor shall submit to the commissioner of revenue certification from the manufacturer that the deal was returned and in what respect it was defective. The certification must be on a form prescribed by the commissioner and must contain additional information the commissioner requires.

The commissioner may require under this subdivision that all defective and returned pull-tabs, tipboards, paddle tickets, paper bingo sheets, and linked bingo paper sheets be set aside for inspection by the commissioner's employee.

Reductions in previously paid taxes authorized by this subdivision must be made when and in the manner prescribed by the commissioner.

297E.03 SPORTS BOOKMAKING TAX.

Subdivision 1. **Imposition of tax.** An excise tax of six percent is imposed on the value of all bets received by, recorded by, accepted by, forwarded by, or placed with a person engaged in sports bookmaking.

Subd. 2. **Bet defined.** For purposes of this section, the term "bet" has the meaning given it in section 609.75, subdivision 2.

Subd. 3. **Sports bookmaking defined.** For purposes of this section, the term "sports bookmaking" has the meaning given it in section 609.75, subdivision 7.

Subd. 4. **Amount of bet.** In determining the value or amount of any bet for purposes of this section, all charges incident to the placing of the bet must be included.

Subd. 5. **Tax returns.** A person engaged in sports bookmaking shall file monthly tax returns with the commissioner of revenue, in the form required by the commissioner, of all bookmaking activity, and shall include information on all bets recorded, accepted, forwarded, and placed. The returns must be filed on or before the 20th day of the month following the month in which the bets reported were recorded, accepted, forwarded, or placed. The tax imposed by this section is due and payable at the time when the returns are filed.

Subd. 6. **Persons liable for tax.** Each person who is engaged in receiving, recording, forwarding, or accepting sports bookmaking bets is liable for and shall pay the tax imposed under this section.

Subd. 7. **Jeopardy assessment; jeopardy collection.** The tax may be assessed by the commissioner of revenue. An assessment made pursuant to this section shall be considered a jeopardy assessment or jeopardy collection as provided in section 270C.36. The commissioner shall assess the tax based on personal knowledge or information available to the commissioner. The commissioner shall mail to the taxpayer at the taxpayer's last known address, or serve in person, a written notice of the amount of tax, demand its immediate payment, and, if payment is not immediately made, collect the tax by any method described in chapter 270C, except that the commissioner need not await the expiration of the times specified in chapter 270C. The tax assessed by the commissioner is presumed to be valid and correctly determined and assessed.

Subd. 8. **Disclosure prohibited.** (a) Notwithstanding any law to the contrary, neither the commissioner nor a public employee may reveal facts contained in a sports bookmaking tax return filed with the commissioner of revenue as required by this section, nor can any information contained in the report or return be used against the tax obligor in any criminal proceeding, unless independently obtained, except in connection with a proceeding involving taxes due under this section, or as provided in section 270C.055, subdivision 1.

(b) Any person violating this section is guilty of a gross misdemeanor.

(c) This section does not prohibit the commissioner from publishing statistics that do not disclose the identity of tax obligors or the contents of particular returns or reports.

297E.031 GAMBLING TAX PERMIT.

Subdivision 1. **Application and issuance.** A distributor who sells gambling products under this chapter must file an application with the commissioner, on a form prescribed by the commissioner, for a gambling tax permit and identification number. The commissioner, when satisfied that the applicant meets all applicable requirements under this chapter and chapter 349, shall issue the applicant a permit and number. A permit is not assignable and is valid only for the distributor in whose name it is issued.

Subd. 2. **Suspension; revocation.** (a) If a distributor fails to comply with this chapter or a rule of the commissioner, or if a license issued under chapter 349 is revoked or suspended, the commissioner, after giving notice, may for reasonable cause revoke or suspend a permit held by a distributor. A notice must be sent to the distributor at least 15 days before the proposed suspension or revocation is to take effect. The notice must give the reason for the proposed suspension or revocation and must require the distributor to show cause why the proposed action should not be taken. The notice may be served personally or by mail.

(b) The notice must inform the distributor of the right to a contested case hearing. If a request in writing is made to the commissioner within 14 days of the date of the notice, the commissioner

shall defer action on the suspension or revocation and shall refer the case to the Office of Administrative Hearings for the scheduling of a contested case hearing. The distributor must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the distributor.

(c) The commissioner shall issue a final order following receipt of the recommendation of the administrative law judge.

(d) Under section 271.06, subdivision 1, an appeal to the Tax Court may be taken from the commissioner's order of revocation or suspension. The commissioner may not issue a new permit after revocation except upon application accompanied by reasonable evidence of the intention of the applicant to comply with all applicable laws and rules.

297E.04 MANUFACTURER'S REPORTS AND RECORDS.

Subdivision 1. **Reports of sales.** A manufacturer who sells gambling product for use or resale in this state, or for receipt by a person or entity in this state, shall file with the commissioner, on a form prescribed by the commissioner, a report of gambling product sold to any person in the state, including the established governing body of an Indian tribe recognized by the United States Department of the Interior. The report must be filed monthly on or before the 20th day of the month succeeding the month in which the sale was made. The commissioner shall prescribe the content, format, and manner of returns or other documents pursuant to section 270C.30. The commissioner may inspect the premises, books, records, and inventory of a manufacturer without notice during the normal business hours of the manufacturer. A person violating this section is guilty of a misdemeanor.

Subd. 2. **Bar codes.** The flare of each pull-tab and tipboard game must be imprinted by the manufacturer with a bar code that provides all information prescribed by the commissioner. The commissioner must require that the bar code include the serial number of the game. A manufacturer must also affix to the outside of the box containing these games a bar code providing all information prescribed by the commissioner. The commissioner may also prescribe additional bar coding requirements.

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.

Subd. 3. **Paddle ticket card master flares.** Each sealed grouping of 100 or fewer paddle ticket cards must have its own individual master flare. The manufacturer of the paddle ticket cards must affix to or imprint at the bottom of each master flare a bar code that provides:

- (1) the name of the manufacturer;
- (2) the first paddle ticket card number in the group;
- (3) the number of paddle tickets attached to each paddle ticket card in the group; and
- (4) all other information required by the commissioner.

297E.05 DISTRIBUTOR REPORTS AND RECORDS.

Subdivision 1. **Business records.** A distributor shall keep at each place of business complete and accurate records for that place of business, including itemized invoices of gambling product held, purchased, manufactured, or brought in or caused to be brought in from without this state, and of all sales of gambling product. The records must show the names and addresses of purchasers, the inventory at the close of each period for which a return is required of all gambling product on hand, and other pertinent papers and documents relating to the purchase, sale, or disposition of gambling product. Books, records, itemized invoices, and other papers and documents required by this section must be kept for a period of at least 3-1/2 years after the date of the documents, or the date of the entries appearing in the records, unless the commissioner of revenue authorizes in writing their destruction or disposal at an earlier date.

Subd. 2. **Sales records.** A distributor must maintain a record of all gambling product that it sells. The record must include:

- (1) the identity of the person from whom the distributor purchased the product;
- (2) the registration number of the product;

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(3) the name, address, and license or exempt permit number of the organization or person to which the sale was made;

(4) the date of the sale;

(5) the name of the person who ordered the product;

(6) the name of the person who received the product;

(7) the type of product;

(8) the serial number of the product;

(9) the name, form number, or other identifying information for each game; and

(10) in the case of bingo hard cards or sheets sold on and after January 1, 1991, the individual number of each card or sheet.

Subd. 3. **Invoices.** A distributor shall give with each sale of gambling product an itemized invoice showing the distributor's name and address, the purchaser's name and address, the date of the sale, description of the deals, including the ideal gross from every deal of pull-tabs and every deal of tipboards.

Subd. 4. **Reports.** A distributor shall report monthly to the commissioner, on a form the commissioner prescribes, its sales of each type of gambling product. This report must be filed monthly on or before the 20th day of the month succeeding the month in which the sale was made. The commissioner shall prescribe the content, format, and manner of returns or other documents pursuant to section 270C.30.

Subd. 5. **Certified physical inventory.** The commissioner may, upon request, require a distributor to furnish a certified physical inventory of all gambling product in stock. The inventory must contain the information required by the commissioner.

297E.06 ORGANIZATION REPORTS AND RECORDS.

Subdivision 1. **Reports.** An organization must file with the commissioner, on a form prescribed by the commissioner, a report showing all gambling activity conducted by that organization for each month. Gambling activity includes all gross receipts, prizes, all gambling taxes owed or paid to the commissioner, all gambling expenses, and all lawful purpose and board-approved expenditures. The report must be filed with the commissioner on or before the 20th day of the month following the month in which the gambling activity takes place. The commissioner shall prescribe the content, format, and manner of returns or other documents pursuant to section 270C.30.

Subd. 1a. **Required signatures.** The gambling manager and the chief executive officer of the organization, or their respective designees, and the person who completed the tax return must sign the tax return. The organization shall inform the commissioner of revenue in writing of the identity of the designees as soon as practicable in the form and manner prescribed by the commissioner.

Subd. 2. **Business records.** An organization shall maintain records supporting the gambling activity reported to the commissioner. Records include, but are not limited to, the following items:

(1) all winning and unsold tickets, cards, or stubs for pull-tab, tipboard, paddlewheel, and raffle games;

(2) all reports and statements, including checker's records, for each bingo occasion;

(3) all cash journals and ledgers, deposit slips, register tapes, and bank statements supporting gambling activity receipts;

(4) all invoices that represent purchases of gambling product;

(5) all canceled checks or copies of substitute checks as defined in Public Law 108-100, section 3, check recorders, journals and ledgers, vouchers, invoices, bank statements, and other documents supporting gambling activity expenditures; and

(6) all organizational meeting minutes.

All records required to be kept by this section must be preserved by the organization for at least 3-1/2 years and may be inspected by the commissioner of revenue at any reasonable time without notice or a search warrant.

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Subd. 3. **Accounts.** All gambling activity transactions must be segregated from all other revenues and expenditures made by the conducting organization.

Subd. 4. **Annual audit, certified inventory, and cash count.** (a) An organization licensed under chapter 349 with gross receipts from lawful gambling of more than \$750,000 in any year must have an annual financial audit of its lawful gambling activities and funds for that year.

(b) The commissioner may require a financial audit of the lawful gambling activities and funds of an organization licensed under chapter 349, with gross receipts less than \$750,000 annually, when an organization has:

- (1) failed to timely file required gambling tax returns;
- (2) failed to timely pay the gambling tax or regulatory fee;
- (3) filed fraudulent gambling tax returns;
- (4) failed to take corrective actions required by the commissioner; or
- (5) failed to otherwise comply with this chapter.

(c) Audits under this subdivision must be performed by an independent accountant licensed in accordance with chapter 326A.

(d) An organization licensed under chapter 349 must perform an annual certified inventory and cash count at the end of its fiscal year and submit the report to the commissioner within 30 days after the end of its fiscal year. The report shall be on a form prescribed by the commissioner.

(e) The commissioner of revenue shall prescribe standards for the audits, certified inventory, and cash count reports required under this subdivision. The standards may vary based on the gross receipts of the organization. The standards must incorporate and be consistent with standards prescribed by the American Institute of Certified Public Accountants. A complete, true, and correct copy of the audits, certified inventory, and cash count report must be filed as prescribed by the commissioner.

297E.07 INSPECTION RIGHTS.

At any reasonable time, without notice and without a search warrant, the commissioner may enter a place of business of a manufacturer, distributor, organization, or linked bingo game provider; any site from which pull-tabs or tipboards or other gambling equipment or gambling product are being manufactured, stored, or sold; or any site at which lawful gambling is being conducted, and inspect the premises, books, records, and other documents required to be kept under this chapter to determine whether or not this chapter is being fully complied with. If the commissioner is denied free access to or is hindered or interfered with in making an inspection of the place of business, books, or records, the permit of the distributor may be revoked by the commissioner, and the license of the manufacturer, the distributor, the organization, or linked bingo game provider may be revoked by the board.

297E.10 EXTENSIONS FOR FILING RETURNS AND PAYING TAXES.

If, in the commissioner's judgment, good cause exists, the commissioner may extend the time for filing tax returns, paying taxes, or both, for not more than six months.

297E.11 LIMITATIONS ON TIME FOR ASSESSMENT OF TAX.

Subdivision 1. **General rule.** Except as otherwise provided in this chapter, the amount of taxes assessable must be assessed within 3-1/2 years after the return is filed, whether or not the return is filed on or after the date prescribed. A return must not be treated as filed until it is in processible form. A return is in processible form if it is filed on a permitted form and contains sufficient data to identify the taxpayer and permit the mathematical verification of the tax liability shown on the return. For purposes of this section, a tax return filed before the last day prescribed by law for filing is considered to be filed on the last day.

Subd. 2. **False or fraudulent return.** Notwithstanding subdivision 1, the tax may be assessed at any time if a false or fraudulent return is filed or if a taxpayer fails to file a return.

Subd. 3. **Omission in excess of 25 percent.** Additional taxes may be assessed within 6-1/2 years after the due date of the return or the date the return was filed, whichever is later, if the taxpayer omits from a tax return taxes in excess of 25 percent of the taxes reported in the return.

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Subd. 4. **Time limit for refunds.** Unless otherwise provided in this chapter, a claim for a refund of an overpayment of tax must be filed within the period prescribed in section 289A.40, subdivision 1. Interest on refunds must be computed at the rate specified in section 270C.405 from the date of payment to the date the refund is paid or credited. For purposes of this subdivision, the date of payment is the later of the date the tax was finally due or was paid.

Subd. 5. **Bankruptcy; suspension of time.** The time during which a tax must be assessed or collection proceedings begun is suspended during the period from the date of a filing of a petition in bankruptcy until 30 days after either:

(1) notice to the commissioner that the bankruptcy proceedings have been closed or dismissed; or

(2) the automatic stay has been ended or has expired, whichever occurs first.

The suspension of the statute of limitations under this subdivision applies to the person the petition in bankruptcy is filed against, and all other persons who may also be wholly or partially liable for the tax.

Subd. 6. **Extension agreement.** If before the expiration of time prescribed in subdivisions 1 and 4 for the assessment of tax or the filing of a claim for refund, both the commissioner and the taxpayer have consented in writing to the assessment or filing of a claim for refund after that time, the tax may be assessed or the claim for refund filed at any time before the expiration of the agreed-upon period. The period may be extended by later agreements in writing before the expiration of the period previously agreed upon.

297E.12 CIVIL PENALTIES.

Subdivision 1. **Penalty for failure to pay tax.** If a tax is not paid within the time specified for payment, a penalty is added to the amount required to be shown as tax. The penalty is five percent of the unpaid tax if the failure is for not more than 30 days, with an additional penalty of five percent of the amount of tax remaining unpaid during each additional 30 days or fraction of 30 days during which the failure continues, not exceeding 15 percent in the aggregate.

If the taxpayer has not filed a return, for purposes of this subdivision the time specified for payment is the final date a return should have been filed.

Subd. 2. **Penalty for failure to make and file return.** If a taxpayer fails to make and file a return within the time prescribed or an extension, a penalty is added to the tax. The penalty is five percent of the amount of tax not paid on or before the date prescribed for payment of the tax.

Subd. 4. **Penalty for intentional disregard of law or rules.** If part of an additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there is added to the tax an amount equal to ten percent of the additional assessment.

Subd. 5. **Penalty for false or fraudulent return; evasion.** If a person files a false or fraudulent return, or attempts in any manner to evade or defeat a tax or payment of tax, there is imposed on the person a penalty equal to 50 percent of the tax found due for the period to which the return related, less amounts paid by the person on the basis of the false or fraudulent return.

Subd. 6. **Penalty for repeated failures to file returns or pay taxes.** If there is a pattern by a person of repeated failures to timely file returns or timely pay taxes, and written notice is given that a penalty will be imposed if such failures continue, a penalty of 25 percent of the amount of tax not timely paid as a result of each such subsequent failure is added to the tax. The penalty can be abated under the abatement authority in section 270C.34.

Subd. 7. **Penalty for sales after revocation, suspension, or expiration.** A distributor who engages in, or whose representative engages in, the offering for sale, sale, transport, delivery, or furnishing of gambling equipment to a person, firm, or organization, after the distributor's license or permit has been revoked or suspended, or has expired, and until such license or permit has been reinstated or renewed, is liable for a penalty of \$1,000 for each day the distributor continues to engage in the activity. This subdivision does not apply to the transport of gambling equipment for the purpose of returning the equipment to a licensed manufacturer.

Subd. 8. **Payment of penalties.** The penalties imposed by this section must be collected and paid in the same manner as taxes.

Subd. 9. **Penalties are additional.** The civil penalties imposed by this section are in addition to the criminal penalties imposed by this chapter.

297E.13 TAX-RELATED CRIMINAL PENALTIES.

Subdivision 1. **Penalty for failure to file or pay.** (a) A person required to file a return, report, or other document with the commissioner, who knowingly fails to file it when required, is guilty of a gross misdemeanor. A person required to file a return, report, or other document who willfully attempts to evade or defeat a tax by failing to file it when required is guilty of a felony.

(b) A person required to pay or to collect and remit a tax, who knowingly fails to do so when required, is guilty of a gross misdemeanor. A person required to pay or to collect and remit a tax, who willfully attempts to evade or defeat a tax law by failing to do so when required is guilty of a felony.

Subd. 2. **False or fraudulent returns; penalties.** (a) A person required to file a return, report, or other document with the commissioner, who delivers to the commissioner a return, report, or other document known by the person to be fraudulent or false concerning a material matter is guilty of a felony.

(b) A person who knowingly aids or assists in, or advises in the preparation or presentation of a return, report, or other document that is fraudulent or false concerning a material matter, whether or not the falsity or fraud committed is with the knowledge or consent of the person authorized or required to present the return, report, or other document, is guilty of a felony.

Subd. 3. **False information.** A person is guilty of a felony if the person:

(1) is required by section 297E.05 to keep records or to make returns, and falsifies or fails to keep the records or falsifies or fails to make the returns; or

(2) knowingly submits materially false information in any report, document, or other communication submitted to the commissioner in connection with lawful gambling or with this chapter.

Subd. 4. **Sales without permit; violations.** (a) A person who engages in the business of selling gambling product in Minnesota without the licenses or permits required under this chapter or chapter 349, or an officer of a corporation who so engages in the sales, is guilty of a gross misdemeanor.

(b) A person selling gambling product in Minnesota after revocation of a license or permit under this chapter or chapter 349, when the commissioner or the board has not issued a new license or permit, is guilty of a felony.

Subd. 5. **Untaxed gambling equipment.** It is a gross misdemeanor for a person to possess gambling equipment for resale in this state that has not been stamped or bar-coded in accordance with this chapter and chapter 349 and upon which the taxes imposed by chapter 297A or section 297E.02 have not been paid. The director of alcohol and gambling enforcement or the commissioner or the designated inspectors and employees of the director or commissioner may seize in the name of the state of Minnesota any unregistered or untaxed gambling equipment.

Subd. 6. **Criminal penalties.** (a) Criminal penalties imposed by this section are in addition to civil penalties imposed by this chapter.

(b) A person who violates a provision of this chapter for which another penalty is not provided is guilty of a misdemeanor.

(c) A person who violates a provision of this chapter 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 a provision of this chapter.

(d) A person who in any manner violates a provision of this chapter to evade a tax imposed by this chapter, or who aids and abets the evasion of a tax, or hinders or interferes with a seizing authority when a seizure is made as provided by section 297E.16 is guilty of a gross misdemeanor.

(e) This section does not preclude civil or criminal action under other applicable law or preclude any agency of government from investigating or prosecuting violations of this chapter or chapter 349. County attorneys have primary responsibility for prosecuting violations of this chapter, but the attorney general may prosecute a violation of this chapter.

Subd. 7. **Statute of limitations.** Notwithstanding section 628.26, or other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a

criminal offense named in this section, in the proper court within six years after the offense is committed.

297E.14 INTEREST.

Subdivision 1. **Interest rate.** If an interest assessment is required under this section, interest is computed at the rate specified in section 270C.40.

Subd. 2. **Late payment.** If a tax is not paid within the time specified by law for payment, the unpaid tax bears interest from the date the tax should have been paid until the date the tax is paid.

Subd. 3. **Extensions.** If an extension of time for payment has been granted, interest must be paid from the date the payment should have been made if no extension had been granted, until the date the tax is paid.

Subd. 4. **Additional assessments.** If a taxpayer is liable for additional taxes because of a redetermination by the commissioner, or for any other reason, the additional taxes bear interest from the time the tax should have been paid, without regard to any extension allowed, until the date the tax is paid.

Subd. 5. **Erroneous refunds.** In the case of an erroneous refund, interest accrues from the date the refund was paid unless the erroneous refund results from a mistake of the commissioner, then no interest or penalty is imposed unless the deficiency assessment is not satisfied within 60 days of the order.

Subd. 6. **Interest on judgments.** Notwithstanding section 549.09, if judgment is entered in favor of the commissioner with regard to any tax, the judgment bears interest at the rate specified in section 270C.40 from the date the judgment is entered until the date of payment.

Subd. 7. **Interest on penalties.** (a) A penalty imposed under section 297E.12, subdivision 1, 2, 3, 4, or 5, bears interest from the date provided in section 270C.40, subdivision 3, to the date of payment of the penalty.

(b) A penalty not included in paragraph (a) bears interest only if it is not paid within ten days from the date of notice. In that case interest is imposed from the date of notice to the date of payment.

297E.16 CONTRABAND.

Subdivision 1. **Seizure.** Contraband may be seized by the commissioner or by any sheriff or other police officer, hereinafter referred to as the "seizing authority," with or without process, and is subject to forfeiture as provided in subdivision 2.

Subd. 2. **Inventory; judicial determination; appeal; disposition of seized property.** (a) Within ten days after the seizure of alleged contraband described in section 349.2125, subdivision 1, the person making the seizure shall serve by certified mail an inventory of the property seized on the person from whom the property was seized, if known, and on any person known or believed to have any right, title, interest, or lien in the property, at the last known address, and file a copy with the commissioner or the director of alcohol and gambling enforcement. The notice must include an explanation of the right to demand a judicial forfeiture determination.

(b) Within 60 days after the date of service of the inventory, which is the date of mailing, the person from whom the property was seized or any person claiming an interest in the property may file a demand for judicial determination of whether the property was lawfully subject to seizure and forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the commissioner of revenue or the director of alcohol and gambling enforcement, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is \$15,000 or less, the claimant may file an action in conciliation court for recovery of the property. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee.

(c) The complaint must be captioned in the name of the claimant as plaintiff and the seized property as defendant, and must state with specificity the grounds on which the claimant alleges the property was improperly seized and the plaintiff's interest in the property seized. No responsive pleading is required of the commissioner or director, and no court fees may be charged for the commissioner's or director's appearance in the matter. The proceedings are governed by the Rules of Civil Procedure. Notwithstanding any law to the contrary, an action for the return of property seized under this section may not be maintained by or on behalf of any person who has been served

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with an inventory unless the person has complied with this subdivision. The court shall hear the action without a jury and determine the issues of fact and law involved.

(d) If a judgment of forfeiture is entered, the seizing authority may, unless the judgment is stayed pending an appeal, either (1) cause the forfeited property, other than a vehicle, to be destroyed; or (2) cause it to be sold at a public auction as provided by law. The person 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 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. The balance of the proceeds must be paid 70 percent to the seizing authority for deposit as a supplement to its operating fund or similar fund for official use, and 20 percent to the county attorney or other prosecuting agency that handled the court proceeding, if there is one, 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 there is no prosecuting authority involved in the forfeiture, the 20 percent of the proceeds otherwise designated for the prosecuting authority must be deposited into the general fund.

(e) If no demand for judicial determination 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.

297E.17 DISTRIBUTOR'S BOND.

On finding it necessary to ensure compliance with this chapter, the commissioner may require that a distributor deposit with the commissioner security in the form and amount determined by the commissioner, but not more than the lesser of (1) twice the estimated average monthly tax liability for the previous 12 months, or (2) \$10,000.

In lieu of security, the commissioner may require a distributor to file a bond issued by a surety company authorized to transact business in this state and approved by the commissioner of commerce as to solvency and responsibility.

The commissioner may make claim against this security or bond for all taxes, penalties, and interest owed by the distributor.

349.16 ORGANIZATION LICENSES.

Subd. 11. **Agreement to pay taxes.** An organization which is recognized by federal law, regulation, or other ruling as a quasi-governmental organization that would otherwise be exempt from one or more taxes under chapter 297E must agree to pay all taxes under chapter 297E on lawful gambling conducted by the organization as a condition of receiving a license or premises permit.

8122.0100 SCOPE; PURPOSE.

Minnesota Statutes, section 297E.06, subdivision 4, mandates that the commissioner of revenue prescribe standards for the annual audit of certain organizations licensed to conduct lawful gambling in Minnesota. The purpose of this chapter is to set minimum standards for these annual audits.

8122.0150 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter are defined in Minnesota Statutes, chapter 297E, unless separately defined under this part.

Subp. 2. **Accrual basis.** "Accrual basis" means the method of accounting in which revenue is recognized in the period earned and expense is recognized in the period incurred.

Subp. 3. **Audit.** "Audit" means the examination of accounting records with the expression of an opinion on whether the financial statements of the organization present fairly, in all material respects, the financial position, results of operations, and its cash flows, in conformity with the regulatory basis of accounting.

Subp. 4. **Certified public accountant; CPA.** "Certified public accountant" or "CPA" means a person who is licensed as a certified public accountant in accordance with Minnesota Statutes, chapter 326A.

Subp. 5. **Cash basis.** "Cash basis" means the method of accounting in which revenues are recognized when actually received and expenses are recognized when actually disbursed.

Subp. 6. **Ending inventory.** "Ending inventory" means the cost of unopened pull-tab and tipboard deals, paddletickets, unused bingo paper or sheets, and the cost of pull-tab, tipboard, and paddleticket games in play on the last day of the month. Sales tax is excluded from ending inventory.

Subp. 7. [Repealed, L 2010 c 191 s 14]

Subp. 8. **Material weakness.** "Material weakness" means a reportable condition in which the design or operation of the specific internal control structure elements do not reduce to a relatively low level the risk that material errors or irregularities could occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Subp. 9. **Regulatory basis.** "Regulatory basis" means a method of accounting other than generally accepted accounting principles. All receipts, allowable expenses, and lawful purpose expenditures are determined using the cash basis method of accounting with the exception of the cost of the games and taxes imposed under Minnesota Statutes, section 297E.02, subdivisions 1 and 6 (8.5 percent gross receipts tax and combined net receipts tax), which are recognized on the accrual basis method of accounting.

Subp. 10. **Reportable condition.** "Reportable condition" means significant deficiencies in the design or operation of the internal control structure which could adversely affect the organization's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements.

Subp. 11. [Repealed, 45 SR 827]

Subp. 12. **Year.** "Year," when used in defining an audit period, means the organization's fiscal year used for filing federal form 990 or 990-T (Unrelated Business Income Tax).

8122.0200 ACCOUNTANTS QUALIFICATIONS.

Subpart 1. **License required.** An accountant must be an independent certified public accountant and licensed to practice in Minnesota.

Subp. 2. **Standards of independence.** The CPA shall maintain objectivity and be free of the appearance of conflicts of interest when discharging professional responsibilities

needed to perform the audit. CPAs shall adhere to the standards of objectivity and independence as established in the American Institute of Certified Public Accountants professional standards.

In addition, for purposes of this subpart, an individual CPA who is a member of an organization, or the accounting firm the individual belongs to, must not perform the organization's annual audit if one or more of the following occurred during the fiscal year:

- A. the CPA was an employee of the organization;
- B. the CPA was an officer of the organization, such as treasurer, executive director, chief executive officer, gambling manager, or president;
- C. the CPA served on the board of directors for the organization;
- D. the CPA served on a gambling committee or other committee with oversight or decision-making authority over gambling business transactions, other than in a member's capacity to approve gambling business transactions presented at monthly membership meetings as required under Minnesota Statutes, chapter 349; or
- E. in connection with the organization general fund, gambling fund, or any other organization fund, the CPA prepared or reconstructed accounting record source documents, consummated transactions, had custody over assets, exercised authority, or unduly exercised authority on behalf of the organization by assuming the role of employee or management.

8122.0250 DUE DATE; EXTENSIONS.

The annual audits required are due on or before the last day of the sixth month following the organization's fiscal year end or on an extended due date.

A written request to file the annual audit after the required due date must be submitted to the Department of Revenue by the required annual audit due date. The request must be signed by the organization's chief executive officer, gambling manager, or the independent accountant performing the audit. The request must include the:

- A. organization's name;
- B. organization's license number;
- C. organization's fiscal year end;
- D. reason for the request; and
- E. expected completion date.

An automatic 30-day extension will be granted in each fiscal year. Second requests for an extension or requests for extensions exceeding 30 days will be granted only upon a showing of reasonable cause. "Reasonable cause" shall mean cases where the reasons for the filing delay are beyond the control of the organization. Acceptable reasons for granting an additional extension include, but are not limited to:

- (1) delay or failure to file was due to serious illness or death of the accountant or a key member of the accountant's staff;
- (2) delay or failure to file was due to erroneous information given the organization by a Department of Revenue employee; or
- (3) delay or failure to file was caused by the destruction by fire or other casualty of the organization's place of business or business records.

8122.0300 COMMUNICATION OF ILLEGAL ACTS, MATERIAL ERRORS, AND IRREGULARITIES.

An organization is responsible to communicate illegal acts, material errors, and irregularities to the Department of Revenue in writing within ten days of notification from

auditors that such acts, errors, or irregularities exist. The organization must include a copy of all correspondence or notes taken during meetings between the independent auditors and the licensed organization specifically detailing the illegal acts, material errors, and irregularities.

8122.0350 ACCOUNTING RECORDS.

All licensed organizations are required to maintain records that account for the assets, liabilities, and fund balance of their lawful gambling operation. These records must also account for their gambling revenue, prize payouts, allowable expenses, and lawful purpose expenditures.

If, in the opinion of the independent CPA engaged to conduct the annual financial audit, the licensed organization has not maintained proper accounting records in a form that can be audited, the accountant must either:

A. notify the organization in writing of the deficiencies that exist and the corrective action required, with an estimate of the cost to generate auditable records or the reason the cost cannot be estimated; or

B. terminate the audit engagement.

8122.0400 ACCOUNTANT'S WORKPAPERS AND COMMUNICATIONS; ACCESS AND RETENTION.

Subpart 1. **Workpapers.** Workpapers are the records kept by the independent CPA of the procedures followed, tests performed, information obtained, and conclusions reached pertinent to the examination and review of the financial statements of a licensed gambling organization. Workpapers must include, but are not limited to, work programs, analyses, memoranda, letters of confirmation and representation, management letters, abstracts of organization documents, and schedules or commentaries prepared or obtained by the accountant in the course of the audit and that support the accountant's opinion or assurance.

Subp. 2. **Communications.** Communications are written documentation or notes of oral contacts between the independent CPA and an organization. The communication with the organization must include, but is not limited to, matters relating to the auditor's responsibility, significant accounting policies, the process used in obtaining management judgments, significant audit adjustments, auditor responsibilities for other information, auditor disagreements with organization's management, auditor views on auditing and accounting matters for which other auditors were contacted, major issues discussed with management prior to retention, and any difficulties encountered while performing the audit.

Subp. 3. **Access and retention.** Every licensed gambling organization required to file an audit shall require the accountant, through the licensed gambling organization, to make available for review by the Department of Revenue the workpapers and communications with the organization prepared in the conduct of the audit. The licensed gambling organization shall require that the accountant retain the workpapers for a period of not less than 3-1/2 years after the opinion date of the audit report.

8122.0450 TERMINATION OF AUDIT ENGAGEMENT.

If for any reason the audit engagement is terminated by either the licensed organization or the independent accountant prior to its completion and filing of the annual financial audit report, the accountant is, within ten days of termination, required to make a written report to the Department of Revenue detailing the reason or reasons for the termination.

8122.0500 LESS THAN A 12-MONTH AUDIT.

An organization whose license is active, discontinued, terminated, or expired at the organization's fiscal year end, is required to complete and file an audit, if the organization's gross receipts exceed the thresholds as specified in Minnesota Statutes, section 297E.06.

In the year an organization commences gambling activity, the audit required may cover the operations of the organization for a period of less than 12 months.

In the year an organization's license expires, is discontinued, or terminated, the audit will be through the organization's fiscal year end, unless the organization's license termination plan has been approved by the Gambling Control Board prior to the fiscal year end. In this circumstance, the organization has the option of performing the required audit through the license termination plan approval date, or another date specified by the organization that is between the approval date and the last day of the fiscal year.

8122.0510 MORE THAN A 12-MONTH AUDIT.

An organization that is terminating gambling activity or changing its year end date in accordance with Internal Revenue Code, section 442, may, upon specific prior approval from the Department of Revenue, have an audit prepared for periods longer than 12 months but no longer than 18 months. The audit will then be due at the end of the sixth month following the new fiscal year end or the month the organization terminated gambling activity, whichever applies. The request for an extended audit period must be submitted to the Department of Revenue in writing on or before the due date of the audit that would be prepared under the organization's actual fiscal year end.

Example: An organization with a fiscal year end of December 31, 2018, is terminating gambling activity April 30, 2019. The audit may cover the period January 1, 2018, through April 30, 2019. The request for the extended audit period must be submitted by June 30, 2019, the due date of a December 31 audit. The extended audit is due October 31, 2019.

8122.0550 AUDIT.

Subpart 1. **Minimum requirements.** The annual financial audits must be prepared on the regulatory basis of accounting and contain, at a minimum, an opinion, financial statements, supplemental schedules, a report on internal controls, a response to internal controls report, and other information as noted.

Subp. 2. **Opinion.** An audit opinion expressed in accordance with generally accepted auditing standards regarding the fairness of the presentation of the financial statements must be properly signed and dated by the CPA firm who performed the audit. The address, telephone number, and fax number of the accounting firm must be listed. For firms with more than one office, the address of the office that prepared the financial statements should be specified.

Subp. 3. **Financial statements.** The financial statements must be comparative financial statements showing the current year and previous year's financial information, unless it is a first year engagement for the accounting firm in which case the preparation of comparative statements is optional. The statements must be presented in a format prescribed by and acceptable to the commissioner of revenue. The financial statements required are as follows:

A. The statement of assets, liabilities, and fund balance must include all assets, liabilities, and the fund balance of the gambling operations as follows, if applicable:

- (1) all game starting banks;
- (2) all gambling checking accounts;
- (3) all savings accounts;
- (4) all certificates of deposit and other negotiable instruments;
- (5) inventory from paper pull-tabs, tipboards, paddletickets, nonlinked bingo, raffles, and sports-themed tipboards, in play and unused;
- (6) fund losses;
- (7) excess cash shortages to be reimbursed;

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- (8) merchandise prize inventory;
- (9) other assets specifically identified;
- (10) accrued taxes imposed under Minnesota Statutes, section 297E.02, subdivision 1 (net receipts tax);
- (11) accrued taxes imposed under Minnesota Statutes, section 297E.02, subdivision 6 (combined net receipts tax);
- (12) unpaid cost of games, plus sales tax;
- (13) loans from all sources;
- (14) other liabilities specifically identified; and
- (15) fund balance (profit carryover).

B. The statement of revenue and expense must include revenues and expenses from the gambling operations and include, at a minimum:

- (1) gross receipts detailed by game type, such as nonlinked bingo, linked bingo, paper pull-tabs, electronic pull-tabs, tipboards, paddletickets, raffles, and sports-themed tipboards, including ideal or actual gross receipts from games found to be missing or unreported, respectively;
- (2) actual prizes paid out detailed by game type including ideal or actual prizes from games found to be missing or unreported, respectively;
- (3) interest income;
- (4) gross profit;
- (5) allowable expenses;
- (6) lawful purpose expenditures detailed by tax imposed under Minnesota Statutes, section 297E.02, subdivision 1, combined net receipts tax, unrelated business income tax, federal form 730 and form 11C tax, federal and state income taxes, real estate taxes, restricted use donations from tax savings, and donations; and
- (7) board-approved expenditures.

C. The statement of changes in fund balance must include, at a minimum:

- (1) beginning fund balance (profit carryover);
- (2) profit or loss for the year;
- (3) ending fund balance (profit carryover); and
- (4) other adjustments.

D. The annual audit must include notes to the financial statements. The notes to the financial statements must include, at a minimum:

- (1) nature of organization;
- (2) basis of presentation of the financial statements;
- (3) related party activity;
- (4) restrictions on assets;
- (5) subsequent events;
- (6) uncertainties;
- (7) commitments such as mortgages, rent, donations, or all taxes not paid or not filed, if material;

- (8) contingent liabilities;
- (9) board-approved expenditures;
- (10) games tested and results: of the games tested, state:
 - (a) if the games tested included games with unsold tickets;
 - (b) if games were tested from all active sites;
 - (c) the types of games tested, such as paper pull tabs and tipboards; and
 - (d) the manufacturer ID, part number, and serial number of any games that could not be located; and
- (11) a list of all forms of gambling conducted by the organization which must be confirmed by the chief executive officer.

Subp. 4. Supplemental schedule; reconciliations; physical inventory.

A. The annual audit must include an allowable expense comparison schedule. The schedule must include, at a minimum, allowable expenses expended, detailed by type of expenditure as listed on Form LG100A, which is the total amount of actual allowable expenses from the revenue and expense statement.

B. The annual audit must include a reconciliation of the gambling operations bank accounts to the reported profit carryover. The reconciliation must include, at a minimum:

- (1) a comparison of the audited fund balance (profit carryover) made to a confirmed Gambling Control Board fund balance (profit carryover) as of the fiscal year end;
- (2) any difference between the adjusted gambling fund balance and the fund balance (profit carryover) is a variance; and
- (3) any or all of the items that identify the variance if known.

C. The annual audit must include a reconciliation between the number of paper pull-tab, paddleticket, and tipboard games played to the number of paper pull-tab, paddleticket, and tipboard games reported on Schedule B2, Lawful Gambling Report of Barcoded Games, for the fiscal year audited. The schedule must include, at a minimum:

- (1) the cost and number of games in beginning inventory;
- (2) the cost and number of games purchased during the year audited;
- (3) the cost and number of games available during the year audited;
- (4) the cost and number of games in ending inventory as of the last day of the organization's fiscal year end;
- (5) the cost and number of games used which is determined by subtracting the ending inventory from total games available;
- (6) the number of games reported on Schedule B2, Lawful Gambling Report of Barcoded Games; and
- (7) a calculation of the difference between the games determined as played and games reported on Schedule B2, Lawful Gambling Report of Barcoded Games.

D. A physical inventory observation and cash count of all sites and locations must be taken as part of the annual audit process, regardless of when the audit engagement was scheduled. A physical inventory must be taken within 30 days of the balance sheet date or engagement date, whichever is later, unless prior written approval of an alternate date is obtained from the Department of Revenue. A list of the games in inventory by manufacturer ID, part number, and serial number must be submitted to the Department of Revenue within

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30 days of the date the physical inventory was taken. The physical inventory and cash count must be performed by:

- (1) the CPA engaged to conduct the annual audit; or
- (2) two members, officers, or employees of the organization, appointed by the organization's board, who are not involved in the gambling activity of the organization. These members, officers, or employees must certify to the CPA the correctness of their physical inventory and cash count.

Subp. 5. **Sampling and testing; closed games.** Closed games and occasions must be tested independently by the CPA based upon criteria set by the CPA within professional standards. The sampling and testing of tipboard, paper pull-tab, paddleticket, nonlinked bingo, and raffle closed games must meet the following requirements:

A. When a minimum sample size is required, the random or systematic method of sampling will be used. When a minimum sample is expanded, the expanded portion of the sample may use random, systematic, or haphazard methods. When a minimum sample is not required, the sample method may be random, systematic, or haphazard. The following chart of gross receipts will be used to determine the minimum size of a sample for closed pull-tab and tipboard games.

| Gross Receipts | | | Minimum Sample Size |
|------------------|----|-------------|---------------------|
| \$0 | to | \$999,999 | 10 games |
| \$1,000,000 | to | \$2,499,999 | 20 games |
| \$2,500,000 | to | \$4,999,999 | 30 games |
| over \$5,000,000 | | | 40 games |

There is no minimum sample size requirement for testing paddletickets, nonlinked bingo, and raffles. Closed games and occasions will be sampled independently by the CPA using judgment based on professional standards.

B. Closed tipboard and paper pull-tab games selected in the sample will be tested for the following minimum criteria, and any differences or deficiencies must be noted in the results of the games tested:

- (1) each game specified in the sample was available from closed-deal storage;
- (2) the following items as reported on Schedule B2, Lawful Gambling Report of Barcoded Games, must be compared against test results for the same items, and differences shown:
 - (a) ideal gross receipts;
 - (b) ideal prizes;
 - (c) total value of unsold tickets;
 - (d) gross receipts;
 - (e) total value of prizes paid;
 - (f) net receipts;
 - (g) cash in hand;
 - (h) cash long or short; and
 - (i) date removed from play;
- (3) each deposit ticket meets the gambling receipt deposit requirements in Minnesota Statutes, section 349.19, subdivision 2;

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(4) each deposit was recorded at the bank within four business days after the game was completed;

(5) each prize receipt form was properly completed for prizes awarded of \$100 or more and for last sale prizes of \$20 or more;

(6) the dates on the prize receipts fall within the date the game is put into play and the date the game is removed from play, as listed on the Schedule B2 for that game, with the exception of sports-themed tipboards whose prize receipts can be completed seven days after the last frame of the professional sporting event or when all prizes are claimed, whichever occurs first;

(7) each redeemed prize winning ticket was adequately defaced;

(8) each game flare is easily available from storage; and

(9) the serial number on the flare must be compared to the serial number on the tickets.

C. The results of closed game sampling and testing must be provided to the organization upon a request from the organization.

Subp. 6. Report on internal control structure and other matters.

A. A report about internal control structure reportable conditions observed, or evidenced by testing, during the course of an audit, that could affect the organization's ability to record, process, summarize, and report financial data must be submitted. The report shall elevate a condition to that of a material weakness when the magnitude of the condition is considered material in relation to the financial statements being audited. This report must include all the elements required by, and the department adopts and incorporates by reference, AU-C section 265, *Communicating Internal Control Related Matters Identified in an Audit* (AICPA, *Professional Standards*, section 265, 2020). If no reportable conditions or material weaknesses are detected, a report must be submitted stating that no material weaknesses were detected. This report is required under subpart 1.

A list of the types of gambling audit reportable condition or material weakness to include in this report follows in subitems (1) to (12). This list is illustrative, and not all-inclusive:

(1) absence of appropriate segregation of duties including a detailed explanation;

(2) inadequate provision for safeguarding of inventory, cash, or other assets;

(3) excessive cash shortages or overages;

(4) material delinquent taxes due to state or federal taxing authorities;

(5) lack of required accounting records maintained;

(6) lack of or inaccurate preparation of bank reconciliations or gambling fund reconciliations;

(7) material differences between games played and games reported as played;

(8) nonuse or inaccurate use of perpetual or physical inventories for all forms of gambling engaged in;

(9) lack of specific required identification for tracking and accountability of deposit tickets;

(10) material underreporting or overreporting of allowable expenses, lawful purpose expenditures, or board-approved expenditures;

(11) failure to properly account for and report fund losses, form LG250, Fund Loss Request for Profit Carryover Adjustment; and

(12) inattention to and lack of correction to prior year reportable conditions and material weaknesses.

B. A regulatory checklist questionnaire must be included with the report from item A, on a form prescribed by the commissioner. Responses to questions on this checklist must be based on findings and information collected during the course of the audit.

Subp. 7. **Organization's response to report on internal control structure.** The licensed organization shall file with the Department of Revenue a response to the reportable conditions item by item, including any remedial action taken or proposed by the organization. This response may be submitted with the annual audit or be filed separately within 60 days after the due date of the annual audit. The response must include the following items:

A. Any profit carryover variance as shown on the reconciliation of profit carryover supplemental schedule must be identified. All identified variances which require amendments to tax returns must be amended and submitted to the Department of Revenue along with supporting documentation. The auditor must, upon agreement with the organization, assist in preparing an amended return or returns for the organization. The response must indicate if such amendments have been submitted to the Department of Revenue.

Variances which require adjustments instead of amendments should be adjusted by sending a letter to the Department of Revenue requesting an adjustment along with supporting documentation. Requests for an approved adjustment cannot be substituted for filing amended tax returns that correct the condition that resulted in the variance. If the variance is identified, an amended tax return or returns must be filed.

Unidentified variances must be investigated by the organization and identified. If after investigation an organization is unable to resolve the variance, the organization shall contact the Department of Revenue. The Department of Revenue will then assist the organization in resolving the variance. Final resolution will be based upon an organization's individual situation and can include: amended tax returns, an approved adjustment, required reimbursement from nongambling sources, or a combination of all three.

B. If the comparison of games played to games reported on Schedule B2, Lawful Gambling Report of Barcoded Games, shows a difference, the organization must respond to the reportable conditions item by identifying and stating if the game difference was due to the games being:

- (1) missing or lost;
- (2) destroyed, with state approval;
- (3) played and unreported; or
- (4) reported in following month.

C. Specific items as noted on the internal control structure report must be responded to.

If no response is received from the organization, the organization must submit to the Department of Revenue a copy of the audit management letter upon request.

Subp. 8. **Other.** The front page of the annual audit report must contain the following items:

- A. the organization's legal name and licensed name, if different;
- B. the organization's license number;
- C. the Minnesota ID number; and
- D. the federal ID number.

8122.0650 FAILURE TO FILE OR FAILURE TO MEET REQUIREMENTS.

Subpart 1. **Failure to file.** If an organization fails to file the required annual audit, the Department of Revenue will request the delinquent items. If the organization fails to respond to the request and correct the delinquency, the Gambling Control Board will be informed and a suspension of the organization's gambling activity will be requested. An organization may also be ineligible for relicensing until the delinquent reports are submitted. The Gambling Control Board may also issue fines for noncompliance with the annual audit requirements. See Minnesota Statutes, sections 349.151, subdivision 4, paragraph (a), clause (9), and 349.155, subdivision 4.

Subp. 2. **Failure to meet requirements.** If the audit fails to comply with all or part of the audit requirements, the audit will be deemed deficient and not satisfying the annual audit requirements. If an organization fails to file the required annual audit or fails to comply with any part of the requirements for the annual audit, the Department of Revenue will request the delinquent items. If the organization fails to respond to the request and correct the delinquency, the Gambling Control Board will be informed and a suspension of the organization's gambling activity will be requested. An organization may also be ineligible for relicensing until the delinquent reports are submitted. The Gambling Control Board may also issue fines for noncompliance with the annual audit requirements. See Minnesota Statutes, sections 349.151, subdivision 4, paragraph (a), clause (9), and 349.155, subdivision 4.