

A bill for an act

relating to lawful gambling; providing for electronic bingo; modifying and adjusting rates and collection of certain lawful gambling taxes; amending Minnesota Statutes 2008, sections 297E.02, subdivision 6; 349.12, subdivisions 5, 25b, 25c, 25d; 349.151, subdivision 4c; 349.16, subdivision 7; 349.161, subdivision 5; 349.1635, subdivision 1; 349.17, subdivision 8; 349.211, subdivision 1a; Minnesota Statutes 2009 Supplement, sections 297E.02, subdivision 4; 349.12, subdivision 12a; 349.17, subdivisions 6, 7; 349.18, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 349.

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

ARTICLE 1

LINKED BINGO

Section 1. Minnesota Statutes 2008, section 349.12, subdivision 5, is amended to read:

Subd. 5. **Bingo occasion.** "Bingo occasion" means a single gathering or session at which a series of one or more successive bingo games is played. There is no limit on the number of games conducted during a bingo occasion ~~but~~. A bingo occasion must not last longer than eight consecutive hours, except that linked bingo games played on electronic bingo devices may be played throughout the regular daily business hours of the permitted premises. Linked bingo games played on electronic bingo devices are considered a separate bingo occasion.

Sec. 2. Minnesota Statutes 2009 Supplement, section 349.12, subdivision 12a, is amended to read:

Subd. 12a. **Electronic bingo device.** (a) "Electronic bingo device" means an electronic bingo device used by a bingo player to (1) monitor bingo paper sheets or a facsimile of a bingo paper sheet when purchased at the time and place of an organization's

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bingo occasion ~~and which (1) provides a means for bingo players to; (2) activate numbers announced by a bingo caller; (2) compares or displayed and compare the numbers entered by the player to the bingo faces previously stored in the memory of the device; and (3) identifies~~ identify a winning bingo pattern.

(b) An electronic bingo device may be used only in the conduct of bingo permitted under this chapter and may not display or simulate any other form of gambling or entertainment.

Electronic bingo device does not mean any device into which coin, currency, or tokens are inserted to activate play.

Sec. 3. Minnesota Statutes 2008, section 349.12, subdivision 25b, is amended to read:

Subd. 25b. **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~~ games, who provides linked bingo prize management, and who provides the linked bingo game system.

Sec. 4. Minnesota Statutes 2008, section 349.12, subdivision 25c, is amended to read:

Subd. 25c. **Linked bingo game system.** "Linked bingo game system" means the equipment used by the linked bingo provider to conduct, transmit, and track a linked bingo game. The system must be approved by the board before its use in this state and it must have ~~dial-up or other~~ the capability to permit the board to monitor its operation remotely.

Sec. 5. Minnesota Statutes 2008, section 349.12, subdivision 25d, is amended to read:

Subd. 25d. **Linked bingo prize pool.** "Linked bingo prize pool" means the total of all prize money that each participating organization has contributed to a linked bingo game prize and includes any portion of the prize pool that is carried over from one ~~occasion~~ game to another in a progressive linked bingo game.

Sec. 6. Minnesota Statutes 2008, section 349.151, subdivision 4c, is amended to read:

Subd. 4c. **Electronic bingo.** (a) The board may by rule authorize but not require the use of electronic bingo devices.

(b) Rules adopted under paragraph (a):

(1) must limit the number of bingo faces that can be played using an electronic bingo device to 36;

(2) must require that an electronic bingo device be used with corresponding bingo paper sheets or a facsimile, ~~printed at the point of sale, of a bingo paper sheet~~ as approved by the board;

(3) must require that the electronic bingo device site system have ~~dia-~~^{dia-}~~up~~ the capability to permit the board to remotely monitor the operation of the device and the internal accounting systems; and

(4) must prohibit the price of a face played on an electronic bingo device from being less than the price of a face on a bingo paper sheet sold at the same occasion.

Sec. 7. Minnesota Statutes 2008, section 349.16, subdivision 7, is amended to read:

Subd. 7. **Purchase of gambling equipment.** An organization may purchase or lease gambling equipment only from a person licensed as a distributor or linked bingo game provider.

Sec. 8. Minnesota Statutes 2008, section 349.161, subdivision 5, is amended to read:

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

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

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

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

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

(f) No distributor, distributor salesperson, or any representative, agent, affiliate, or other employee of a distributor may alter or modify any gambling equipment, except to (1) add a "last ticket sold" prize sticker; or (2) provide services for the installation, repair, or maintenance of gambling equipment.

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

(h) No distributor or distributor salesperson may purchase gambling equipment for resale to a person for use within the state from any person not licensed as a manufacturer under section 349.163, except for gambling equipment returned from an organization licensed under section 349.16, or exempt or excluded from licensing under section 349.166.

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

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

Sec. 9. Minnesota Statutes 2008, section 349.1635, subdivision 1, is amended to read:

Subdivision 1. **License required.** ~~No person may do any of the following without having first obtained a license from the board.~~ A person may do the following after having first obtained a license from the board:

(1) provide the means to link prizes in a linked bingo game;

(2) provide linked bingo game prize management;

(3) provide the linked bingo system; ~~or~~

(4) provide linked bingo paper sheets or electronic bingo devices for use in a linked bingo game to an organization; or

(5) contract with a licensed distributor or other person for the installation, repair, or maintenance of electronic bingo devices used in a linked bingo game.

Sec. 10. Minnesota Statutes 2009 Supplement, section 349.17, subdivision 6, is amended to read:

Subd. 6. **Conduct of bingo.** A game of bingo begins with the first letter and number called or displayed. Each player must cover, mark, or activate the numbers when bingo numbers are randomly selected; and announced; ~~and~~ or displayed to the players; ~~either~~

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~~manually or with a flashboard and monitor.~~ The game is won when a player, using bingo paper, bingo hard card, or a facsimile of a bingo paper sheet, has completed, as described in the bingo program, a previously designated pattern or previously determined requirements of the game and declared bingo. The game is completed when a winning card, sheet, or facsimile is verified and a prize awarded pursuant to subdivision 3.

Sec. 11. Minnesota Statutes 2009 Supplement, section 349.17, subdivision 7, is amended to read:

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

(1) the bingo is conducted at a site the organization owns or leases and which has a license for the sale of intoxicating beverages on the premises under chapter 340A;

(2) the bingo is conducted using only bingo paper sheets or facsimiles of bingo paper sheets purchased from a licensed distributor or licensed linked bingo game provider; and

(3) except as allowed in section 349.185, no rent may be paid for a bar bingo occasion.

Sec. 12. Minnesota Statutes 2008, section 349.17, subdivision 8, is amended to read:

Subd. 8. **Linked bingo games.** (a) A licensed organization may not conduct or participate in ~~not~~ more than two linked bingo games per occasion, ~~one of which if the~~ linked bingo games are played without electronic bingo devices. A linked bingo game may be a progressive game in which a portion of the prize is carried over from one ~~occasion game~~ to another until won by a player achieving a valid bingo within based on a predetermined ~~amount of bingo numbers called and posted win determination.~~

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

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

~~(d)~~ (c) Linked bingo games played on an electronic bingo device may be located only at a permitted premises where the organization conducts another form of gambling and the premises is:

(1) a licensed premises for the on-sale or off-sale of intoxicating liquor or 3.2 percent malt beverages, except for a general foods store or drug store permitted to sell alcoholic beverages under section 340A.405, subdivision 1; and

(2) where bingo is conducted as the primary business, the premises has a seating capacity of at least 100, and admission is restricted to persons 18 years or older.

(d) For linked bingo games played on an electronic bingo device, no more than six electronic bingo devices may be located at a permitted premises with 200 seats or less, and no more than 12 electronic bingo devices may be located at a permitted premises with 201 seats or more. Seating capacity is determined as specified under local fire code.

(e) Prior to a bingo occasion for linked bingo games played on an electronic bingo device, the linked bingo game provider, on behalf of the participating organizations, must provide to the board a bingo program in a format prescribed by the board.

(f) The board may adopt rules to:

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

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

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

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

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

Sec. 13. Minnesota Statutes 2009 Supplement, section 349.18, subdivision 1, is amended to read:

Subdivision 1. **Lease or ownership required; rent limitations.** (a) An organization may conduct lawful gambling only on premises it owns or leases. Leases must be on a form prescribed by the board. The term of the lease is concurrent with the premises permit. Leases approved by the board must specify that the board may authorize an organization to withhold rent from a lessor for a period of up to 90 days if the board determines that illegal gambling occurred on the premises or that the lessor or its employees participated in the illegal gambling or knew of the gambling and did not take prompt action to stop the gambling. The lease must authorize the continued tenancy of the organization without the payment of rent during the time period determined by the board under this paragraph. Copies of all leases must be made available to employees of the board and the Division of Alcohol and Gambling Enforcement on request.

(b) Rent paid by an organization for leased premises for the conduct of pull-tabs, tipboards, and paddle wheels is subject to the following limits:

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

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

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

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

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

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

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

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

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

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

(2) no rent may be paid for bar bingo or linked bingo except as allowed under section 349.185.

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

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

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

Sec. 14. [349.185] GROSS PROFIT ALLOCATION; LINKED BINGO ON AN ELECTRONIC BINGO DEVICE.

Subdivision 1. **Definition.** For the purposes of this section, a "year" is determined to start on the first date of operation of a linked bingo game played on an electronic device at a permitted premises.

Subd. 2. **Gross profit allocation.** The allocation of gross profits from the operation of linked bingo on an electronic bingo device is as follows:

(a) The licensed organization shall receive:

(1) a minimum of 50 percent of gross profits to be used exclusively for lawful purpose expenditures as defined under section 349.12, subdivision 25; and

(2) no more than 15 percent each year for allowable expenses as defined under section 349.12, subdivision 3a.

(b) A linked bingo game provider shall receive no more than 25 percent of gross profits in the first year, no more than 19 percent in the second year, and no more than 15 percent thereafter.

(c) When linked bingo, using an electronic bingo device, is played in a location where the primary business is not bingo, the gross profit allocation for rent to the lessor shall be no more than ten percent of the gross profits in the first year, no more than 16 percent in the second year, and no more than 20 percent thereafter. The lessor and the lessor's employees shall operate the linked bingo games on behalf of the licensed organization and the lessor is responsible for cash shortages.

(d) When linked bingo using an electronic device is played in a location where the primary business is bingo, the lessor is limited to the rent limitations under section 349.18, subdivision 1, paragraph (c), clause (1).

Sec. 15. Minnesota Statutes 2008, section 349.211, subdivision 1a, is amended to read:

Subd. 1a. **Linked bingo prizes.** Prizes for a linked bingo game shall be limited as follows:

~~(1) no organization may contribute more than \$300 per linked bingo game to a linked bingo prize pool;~~ for linked bingo games played without electronic bingo devices,

an organization may not contribute to a linked bingo game prize pool more than \$300 per linked bingo game;

(2) for linked bingo games played with electronic bingo devices, an organization may not contribute more than 85 percent of the gross receipts per permitted premises to a linked bingo game prize pool;

~~(2)~~ (3) no organization may award more than \$200 for a linked bingo game consolation prize. For purposes of this subdivision, a linked bingo game consolation prize is a prize awarded by an organization after a prize from the linked bingo prize pool has been won; and

~~(3)~~ (4) for a progressive linked bingo game, if no player declares a valid bingo ~~within the~~ for a progressive prize or prizes based on a predetermined amount of bingo numbers called and posted win determination, a portion of the ~~prize is~~ gross receipts may ~~be carried over to another occasion game until the accumulated progressive prize is or prizes are won. The portion of the prize that is not carried over must be awarded to the first player or players who declares a valid bingo as additional numbers are called. If a valid bingo is declared within the predetermined amount of bingo numbers called, the entire prize pool for that game is awarded to the winner. The annual limit for progressive bingo game prizes contained in subdivision 2 must be reduced by the amount an organization contributes to progressive linked bingo games during the same calendar year.~~

Sec. 16. **EFFECTIVE DATE.**

Sections 1 to 15 are effective July 1, 2010.

ARTICLE 2

LAWFUL GAMBLING TAXES

Section 1. Minnesota Statutes 2009 Supplement, section 297E.02, subdivision 4, is amended to read:

Subd. 4. **Pull-tab and tipboard tax.** (a) A tax is imposed on the sale of each deal of pull-tabs and tipboards sold by a distributor. The rate of the tax is ~~1.7~~ 1.6 percent of the ideal gross of the pull-tab or tipboard deal and beginning July 1, 2012, is 1.5 percent of the ideal gross of the pull-tab or tipboard deal. The sales tax imposed by chapter 297A on the sale of the pull-tabs and tipboards by the distributor is imposed on the retail sales price less the tax imposed by this subdivision. 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.

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(b) The liability for the tax imposed by this section is incurred when the ~~pull-tabs and tipboards are delivered by the distributor to the customer or to a common or contract carrier for delivery to the customer, or when received by the customer's authorized representative at the distributor's place of business, regardless of the distributor's method of accounting or the terms of the sale~~ tipboard game or pull-tab game is closed and shall be paid by the organization on a monthly basis.

The tax imposed by this subdivision is imposed on all sales of pull-tabs and tipboards, except the following:

(1) sales to the governing body of an Indian tribal organization for use on an Indian reservation;

(2) sales to distributors licensed under the laws of another state or of a province of Canada, as long as all statutory and regulatory requirements are met in the other state or province;

(3) sales of promotional tickets as defined in section 349.12; and

(4) pull-tabs and tipboards sold to an organization that sells pull-tabs and tipboards under the exemption from licensing in section 349.166, subdivision 2. A distributor shall require an organization conducting exempt gambling to show proof of its exempt status before making a tax-exempt sale of pull-tabs or tipboards to the organization. A distributor shall identify, on all reports submitted to the commissioner, all sales of pull-tabs and tipboards that are exempt from tax under this subdivision.

(c) A distributor having a liability of \$10,000 or more during a fiscal year ending June 30 must remit all liabilities in the subsequent calendar year by electronic means.

~~(d) Any customer who purchases deals of pull-tabs or tipboards from a distributor may file an annual claim for a refund or credit of taxes paid pursuant to this subdivision for unsold pull-tab and tipboard tickets. The claim must be filed with the commissioner on a form prescribed by the commissioner by March 20 of the year following the calendar year for which the refund is claimed. The refund must be filed as part of the customer's February monthly return. The refund or credit is equal to 1.7 percent of the face value of the unsold pull-tab or tipboard tickets, provided that the refund or credit will be 1.75 percent of the face value of the unsold pull-tab or tipboard tickets for claims for a refund or credit of taxes filed on the February 2001 monthly return. The refund claimed will be applied as a credit against tax owing under this chapter on the February monthly return. If the refund claimed exceeds the tax owing on the February monthly return, that amount will be refunded. The amount refunded will bear interest pursuant to section 270C.405 from 90 days after the claim is filed.~~

EFFECTIVE DATE. This section is effective July 1, 2010.

Sec. 2. Minnesota Statutes 2008, section 297E.02, subdivision 6, is amended to read:

Subd. 6. **Combined receipts tax.** In addition to the taxes imposed under subdivisions 1 and 4, a tax is imposed on the combined receipts of the organization. As used in this section, "combined receipts" is the sum of the organization's gross receipts from lawful gambling less gross receipts directly derived from the conduct of bingo, raffles, and paddle wheels, as defined in section 297E.01, subdivision 8, for the fiscal year. The combined receipts of an organization are subject to a tax computed according to the following schedule:

If the combined receipts for the fiscal year are:	The tax is:
Not over \$500,000	zero
Over \$500,000, but not over \$700,000	1.7 <u>1.5</u> percent of the amount over \$500,000, but not over \$700,000 <u>and</u> <u>beginning July 1, 2012, 1.0 percent</u> <u>of the amount over \$500,000, but not</u> <u>over \$700,000</u>
Over \$700,000, but not over \$900,000	\$3,400 plus 3.4 <u>3.0</u> percent of the amount over \$700,000, but not over \$900,000 <u>and beginning July 1,</u> <u>2012, 2.0 percent of the amount over</u> <u>\$700,000, but not over \$900,000</u>
Over \$900,000	\$10,200 plus 5.1 <u>4.5</u> percent of the amount over \$900,000 <u>and beginning</u> <u>July 1, 2012, 3.0 percent of the</u> <u>amount over \$900,000</u>

EFFECTIVE DATE. This section is effective July 1, 2010.

Sec. 3. **REFUND OR CREDIT OF TAXES PAID.**

Any customer who is eligible to file a claim for a refund or credit of taxes paid pursuant to Minnesota Statutes 2009 Supplement, section 297E.02, subdivision 4, for deals of pull-tabs or tipboards purchased before July 1, 2010, may claim the refund or credit of taxes paid in the manner provided by Minnesota Statutes 2009 Supplement, section 297E.02, subdivision 4, paragraph (d).