

CHAPTER 349

BINGO, GAMBLING DEVICES

| | | | |
|--------|--|--------|---|
| 349.11 | Purpose. | 349.31 | Gambling device; possession of. |
| 349.12 | Definitions. | 349.32 | Issuing authority to revoke. |
| 349.13 | Not gambling if organization conducts bingo. | 349.33 | Peace officers to observe and inspect premises. |
| 349.14 | Organization may conduct bingo; license. | 349.34 | Proceedings before issuing authority; order to show cause. |
| 349.15 | Use of profits. | 349.35 | Revocation of license. |
| 349.16 | Local regulation. | 349.36 | Duties of county attorney. |
| 349.17 | Conduct of bingo. | 349.37 | Witnesses. |
| 349.18 | Records; players, cards and prizes. | 349.38 | Property owners liability. |
| 349.19 | Exemption. | 349.39 | Appeal to district court; stay; continuance under bond; hearing upon one year limitation on premises. |
| 349.20 | Records; receipts and profits. | 349.40 | Gambling devices; manufacture for use in other states. |
| 349.21 | Reports; discrepancies, reporting agencies. | | |
| 349.22 | Penalty. | | |
| 349.23 | Validity of prior agreements. | | |
| 349.26 | Gambling devices. | | |
| 349.30 | Definitions. | | |

349.01 [Repealed, 1976 c 261 s 15]

349.02 [Repealed, 1976 c 261 s 15]

349.03 [Repealed, 1976 c 261 s 15]

349.11 PURPOSE.

The purpose of sections 349.11 to 349.23 is to closely regulate and control the conduct of the game of bingo and to prohibit commercialization of bingo.

History: 1976 c 261 s 1; 1Sp1981 c 4 art 1 s 162

349.12 DEFINITIONS.

Subdivision 1. As used in sections 349.11 to 349.23 the following terms have the meanings given them.

Subd. 2. "Active member" means a member who has paid all his dues to the organization and has been a member of the organization for at least six months.

Subd. 3. "Bingo" means a game where each player has a card or board for which a consideration has been paid containing five horizontal rows of spaces, with each row except the central one containing five figures. The central row has four figures with the word "free" marked in the center space thereof. A player wins a game of bingo by completing any preannounced combination of spaces or, in the absence of a preannouncement of a combination of spaces, any combination of five spaces in a row, either vertical, horizontal or diagonal.

Subd. 4. "Bingo occasion" means a single gathering or session at which a series of one or more successive bingo games is played.

Subd. 5. "Checker" means a person who records the number of bingo cards purchased and played during each game and records the prizes awarded to the recorded cards, but does not collect the payment for the cards.

Subd. 6. "Lawful purpose" means one or more of the following: (a) benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded; (b) initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; (c) lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; or (d) the improving, expanding, maintaining or repairing real property owned or leased by an organization.

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

Subd. 7. “Local unit of government” means the city or town in which bingo is proposed to be played or is played or, if there is no city or town, the county in which bingo is proposed to be played or is played.

Subd. 8. “Organization” means any fraternal, religious, veterans, or other nonprofit organization.

Subd. 9. “Profit” means the gross receipts collected from one or more bingo occasions, less reasonable sums necessarily and actually expended for bingo supplies and equipment, prizes, rent, and utilities used during the bingo occasions, bingo license fees, taxes related to bingo, and other expenses permitted by Laws 1976, Chapter 261.

Subd. 10. “Bingo manager” means a member who has paid all his dues to the organization and has been a member of the organization for at least two years and has been designated by an organization to supervise bingo occasions conducted by it.

History: 1976 c 261 s 2

349.13 NOT GAMBLING IF ORGANIZATION CONDUCTS BINGO.

Bingo shall not be construed as a lottery or as gambling within the meaning of sections 609.75 to 609.76 if it is conducted by an organization in compliance with Laws 1976, Chapter 261.

History: 1976 c 261 s 3

349.14 ORGANIZATION MAY CONDUCT BINGO; LICENSE.

An organization may conduct bingo occasions if it has been in existence for at least three years, has at least 15 active members, has a license to conduct bingo from the local unit of government and complies with sections 349.15 to 349.21.

History: 1976 c 261 s 4; 1982 c 538 s 1

349.15 USE OF PROFITS.

Profits from a bingo occasion shall be expended only for lawful purposes as authorized at a regular meeting of the organization.

History: 1976 c 261 s 5

349.16 LOCAL REGULATION.

Subdivision 1. Nothing in sections 349.11 to 349.23 shall be construed to prohibit a local unit of government from adopting ordinances, rules and regulations concerning the conduct of bingo which are more restrictive than state regulations, including an ordinance to ban the conduct of bingo. Prior to promulgating bingo regulations or issuing a bingo license, the local unit of government shall consult with the local building inspector, if any, and the fire and police authorities. A local unit of government which permits bingo but has not adopted regulations shall be deemed to have adopted the provisions of Laws 1976, Chapter 261 as its regulations. A local unit of government may amend its regulations.

Subd. 2. A local unit of government that permits bingo shall establish a system for licensing organizations to conduct bingo occasions, and shall act on a bingo license application within 180 days from the date of application, but shall not issue a license until at least 30 days after the date of application. A license

shall be valid for one year, and may be suspended or revoked by the issuing authority for violation of Laws 1976, Chapter 261 or of any local ordinance relating to bingo.

Subd. 3. Each year the local unit of government shall allocate an amount of money at least equal to the lesser of \$25,000 or 25 percent of the amount it collected and retained from bingo fees, bingo licenses, and bingo taxes in the preceding year for the supervision, regulation and inspection of the conduct of bingo.

History: 1976 c 261 s 6

349.17 CONDUCT OF BINGO.

Subdivision 1. No compensation shall be paid to any person in connection with a bingo occasion except an active member of the organization, or its auxiliary, or the spouse or surviving spouse of an active member, conducting the bingo occasion nor shall any person not an active member of the organization or its auxiliary or the spouse or surviving spouse of an active member participate in the conduct of a bingo occasion, except by resolution of a majority of the membership, recorded in the official minutes of the organization, non-management assistants who are not active members of the organization, or its auxiliary, or the spouse or surviving spouse of an active member, may be hired to assist members in conducting a bingo occasion. Compensation shall not exceed \$20 for a bingo occasion.

Subd. 2. No more than 104 bingo occasions each year or two bingo occasions each week shall be conducted by any organization, except that the local unit of government issuing the license may permit additional bingo occasions to be conducted by an organization. A bingo occasion shall not continue for more than four consecutive hours.

Subd. 3. (1) Any person or corporation, other than an organization, which leases any premises that it owns to two or more organizations for purposes including the conduct of bingo occasions, shall not allow more than four bingo occasions to be conducted on the premises in any week.

(2) Any organization which leases any premises to one or more other organizations for purposes including the conduct of bingo occasions shall use the proceeds of the rental, less reasonable sums for maintenance, furnishings and other necessary expenses, only for lawful purposes as defined in section 349.12. Not less than once each year the organization shall report to the licensing authority the disposition of all receipts which it has received during the reporting period from the rental of its facilities to other organizations for purposes including the conduct of bingo occasions.

(3) No organization shall conduct bingo on any leased premises without a written lease for a term at least equal to the remainder of the term of the bingo license of the organization. Lease payments shall be at a fixed monthly rate, or rate per bingo occasion, not subject to change during the term of the lease. No such lease shall provide that rental payments be based on a percentage of receipts or profits from bingo occasions.

Subd. 4. Prizes for a single bingo game shall not exceed \$100 except prizes for a game of the type commonly known as a "cover-all" game. "Cover-all" prizes may exceed \$100 provided that the aggregate value of such prizes for a bingo occasion shall not exceed \$500. The aggregate value of prizes for a bingo occasion shall not exceed \$2,500 except that in the case of a bingo occasion during which a "cover-all" game is played for a maximum prize of more than \$100 but not more than \$500, the aggregate value of prizes for the bingo occasion shall not exceed \$3,000. Merchandise prizes shall be valued at fair market retail value.

Subd. 5. No expense shall be incurred or amounts paid in connection with the conduct of bingo, except those reasonably expended for bingo supplies and equipment, prizes, rent, or utilities used during the bingo occasion, bingo license fees, taxes related to bingo, and compensation to active members who conduct the game.

Subd. 6. Each bingo winner shall be determined and every prize shall be awarded and delivered the same day on which the bingo occasion is conducted.

Subd. 7. All bingo occasions shall be under the supervision of a bingo manager designated by the organization who shall be responsible for gross receipts and profits from bingo and for the conduct of the bingo occasion in compliance with all applicable laws and ordinances. The bingo manager shall give a fidelity bond in the sum of \$10,000 in favor of the organization conditioned on the faithful performance of his duties. Terms of the bond shall provide that notice shall be given in writing to the licensing authority not less than 30 days prior to its cancellation. The governing body of a local unit of government may waive this bond requirement by including a waiver provision in the bingo license issued to an organization, provided that a license containing such a provision shall be granted only by unanimous vote.

Subd. 8. No person shall act as a bingo manager for more than one organization.

History: 1976 c 261 s 7; 1979 c 166 s 1

349.18 RECORDS; PLAYERS, CARDS AND PRIZES.

One or more checkers shall be engaged for each bingo occasion. The checker or checkers shall record the number of cards played in each game prior to the completion of each game and record the prizes awarded to the recorded cards. Each checker shall certify all figures which he has recorded as accurate and correct to the best of his knowledge. A local unit of government may require the records to be on forms which it provides.

History: 1976 c 261 s 8

349.19 EXEMPTION.

Bingo may be conducted without complying with the requirements of sections 349.14 and 349.17, subdivisions 2 and 3, if conducted: (a) in connection with a county fair conducted by a county agricultural society or association, the state fair conducted by the state agricultural society or a civic celebration recognized by resolution or other similar official action of the local governing body provided that the bingo is conducted for no more than 12 consecutive days in any one calendar year; or, (b) by an organization that conducts less than five bingo occasions in any calendar year.

History: 1976 c 261 s 9

349.20 RECORDS; RECEIPTS AND PROFITS.

Each organization shall keep records of its gross receipts and profits for each bingo occasion. Gross receipts shall be compared to the checker's records for the bingo occasion by a person who did not sell cards for the bingo occasion. All deductions from gross receipts from a bingo occasion shall be documented with receipts or other records. The distribution of profits shall be itemized as to payee, amount and date of payment.

Bingo gross receipts shall be segregated from other revenues of an organization and placed in a separate account. Each organization shall maintain separate records of its bingo operations. The person who accounts for bingo gross receipts

and profits shall not be the same person who accounts for other revenues of the organization. Records required by Laws 1976, Chapter 261 shall be preserved for three years. The law enforcement agency of the licensing authority shall have the authority to investigate the bingo records of an organization at any reasonable time. Organizations shall make available their bingo records for investigation upon proper notice.

History: 1976 c 261 s 10

349.21 REPORTS; DISCREPANCIES, REPORTING AGENCIES.

Subdivision 1. If any discrepancy is found between the amount of gross receipts for a bingo occasion as determined by the checker's records and the amount of gross receipts as determined by totaling the cash receipts and the discrepancy exceeds \$20, the discrepancy shall be reported to and investigated by the licensing authority of the place where the bingo occasion was held.

Subd. 2. An organization shall report monthly to its membership its gross receipts from bingo, its profits from bingo and the distribution of those profits itemized as required by section 349.20.

Subd. 3. At least 30 days prior to conducting its first bingo occasion of the year and on an annual basis thereafter, an organization shall file with the local government unit which regulates its conduct copies of the following:

(a) Department of the treasury, internal revenue service, "Return of Organization Exempt from Income Tax," Form 990, or a comparable form if the organization is required to file the form with the department of the treasury;

(b) Department of the treasury, internal revenue service, "Exempt Organization Business Income Tax," Form 990-T, or a comparable form if the organization is required to file the form with the department of the treasury;

(c) A "Statement of Bingo Operations" in the form prescribed by the local governmental unit. All information contained in the statement shall be true, correct, and complete to the best of the knowledge of the person or persons signing the statement. Any person who shall knowingly make a false statement or knowingly conceal a material fact in the statement shall be subject to the penalties provided in section 349.22;

(d) Any lease agreements required by Laws 1976, Chapter 261, executed by the organization in regard to premises leased for the conduct of bingo.

History: 1976 c 261 s 11; 1979 c 188 s 1

349.22 PENALTY.

Violation of any provision of Laws 1976, Chapter 261 is a gross misdemeanor. This section shall not preclude civil or criminal actions under other applicable law or preclude any agency of government from investigating or prosecuting violations of the provisions of Laws 1976, Chapter 261.

History: 1976 c 261 s 12

349.23 VALIDITY OF PRIOR AGREEMENTS.

Nothing in sections 349.11 to 349.22 shall be construed to affect the validity of any agreement or contract between an organization and any financial or lending institution, entered into prior to August 1, 1976.

History: 1976 c 261 s 13

349.26 GAMBLING DEVICES.

Subdivision 1. For the purposes of this section the terms defined in this section have the meanings given them.

Subd. 2. "Gambling devices" means those gambling devices known as "paddlewheels" or "tipboards", "pull-tabs" (or "ticket jars"), or apparatus used in conducting raffles.

Subd. 3. "Paddlewheel" means a wheel marked off into sections containing one or more numbers, and which, after being turned or spun, uses a pointer or marker to indicate winning chances.

Subd. 4. "Tipboard" means a board, placard or other device measuring at least 12 inches square, marked off in a grid or columns, in which each section contains a hidden number or numbers, or other symbol, which determines the winning chances.

Subd. 5. "Raffle" means a game in which a participant buys a ticket for a chance at a prize with the winner determined by a random drawing to take place at a location and date printed upon the ticket.

Subd. 5a. "Pull-tabs" (or "ticket jars") means a single folded or banded ticket or a card, the face of which is initially covered, or otherwise hidden from view, to conceal a number or set of numbers or a symbol or set of symbols. A few of the numbers or symbols out of every set of pull-tabs (or ticket jars) will have been designated in advance and at random as prizewinners. A participant pays a consideration to an operator for the opportunity to obtain a folded or banded ticket or a card, view the numbers or symbols on it and possibly obtain a prizewinning pull-tab (or ticket jar).

Subd. 6. "Profit" means the gross receipts from the operation of gambling devices and the conduct of raffles, less reasonable sums expended for prizes, local licensing fees, taxes and maintenance costs for the devices.

Subd. 7. Nothing in this section shall be construed to authorize any use, possession or operation of:

(a) Any gambling device which is activated by the insertion of a coin or token; or

(b) Any gambling game or device in which the winning numbers, tickets or chances are in any way determined by the outcome of any athletic contest or sporting event.

Subd. 8. Any county or city may establish a system for the licensing of organizations to operate gambling devices and to conduct raffles. The system may include a fee for each license in an amount to be determined by the local governing body. Licenses issued pursuant to this section shall be valid for one year, and may be suspended or revoked for any violation of this section. A local governing body shall act on a license application within 180 days from the date of application, but shall not issue a license until at least 30 days after the date of the application. Nothing in this section shall be construed to prohibit a county or city from adopting rules or ordinances for the operation of gambling devices or the conduct of raffles that are more restrictive than state law, including rules or ordinances prohibiting the operation of such devices.

Subd. 9. **Issuance of license.** Licenses shall be issued only to a fraternal, religious, veterans or other nonprofit organization which is a corporation, fund, foundation, trust, or association organized for exclusively scientific, literary, religious, charitable, educational, or artistic purposes, or for the purpose of making contributions to or for the use of the United States, the state of Minnesota, or any of its political subdivisions for exclusively public purposes, or for any combination of the above-enumerated purposes, if no part of the net income of any such corporation, fund, foundation, trust, or association inures to the benefit of any private member, stockholder, or individual, or is a club organized and operated exclusively for pleasure, recreation, or other nonprofitable purposes, no part of the net income of which inures to the benefit of any private member, stockholder, or

MINNESOTA STATUTES 1982

individual, which organization has been in existence for at least three years and has at least 15 active members, as defined in section 349.12, subdivision 2.

Subd. 10. Profits from the operation of gambling devices or the conduct of raffles shall be used solely for lawful purposes as defined in section 349.12, subdivision 6, and as authorized at a regular meeting of the organization.

Subd. 11. All operation of gambling devices and the conduct of raffles shall be under the supervision of a single gambling manager designated by the organization. The gambling manager shall be responsible for gross receipts and profits from gambling devices and raffles and for their operation. The gambling manager shall give a fidelity bond in the sum of \$10,000 in favor of the organization conditioned on the faithful performance of his duties, and the bond and the waiver thereof shall be subject to the same provisions as those applying to the bond required of a bingo manager pursuant to section 349.17, subdivision 7. A person may act as both gambling manager and bingo manager for a single organization, but a gambling manager for a single organization shall not act as either a gambling manager or bingo manager for any other organization. A gambling manager for an organization shall be an active member of the organization, as defined in section 349.12, subdivision 2.

Subd. 12. No compensation in excess of \$25 a week, shall be paid in connection with the operation of a gambling device or the conduct of a raffle by a licensed organization except a licensed organization may elect to pay a percent of raffle ticket sales to nonprofit organizations selling for the licensed organization. No person who is not an active member of an organization, or its auxiliary, or the spouse or surviving spouse of an active member may participate in the organization's operation of a gambling device or conduct of a raffle except the licensed organization may utilize nonmember nonprofit organizations in raffle ticket sales.

Subd. 13. Each organization licensed to operate gambling devices shall keep records of its gross receipts, quantity of free plays, if any, expenses and profits for each single gathering or occasion at which gambling devices are operated or a raffle is conducted. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of profits shall be itemized as to payee, purpose, amount and date of payment.

Gross receipts from the operation of gambling devices and the conduct of raffles shall be segregated from other revenues of the organization, including bingo gross receipts, and placed in a separate account. Each organization shall have separate records of its gambling operations. The person who accounts for gross receipts, expenses and profits from the operation of gambling devices or the conduct of raffles may be the same person who accounts for bingo gross receipts, expenses and profits.

Each organization licensed to operate gambling devices or to conduct raffles shall report monthly to its membership, and to the licensing local unit of government, its gross receipts, expenses and profits from gambling devices or raffles, and the distribution of profits itemized as required in this subdivision.

Records required by this section shall be preserved for three years, and organizations shall make available their records relating to operation of gambling devices and the conduct of raffles for public inspection at reasonable times and places.

Subd. 14. Gambling devices shall be operated and raffles conducted by a licensed organization only upon premises which it owns or leases except that tickets for raffles conducted in accordance with this section may be sold off the premises. Leases, unless authorized in another location by the local unit of government, shall be for a period of not less than one year and shall be in writing.

The local unit of government may authorize raffles to be conducted by a licensed organization on premises not owned or leased by the organization. No lease shall provide that rental payments be based on a percentage of receipts or profits from gambling devices or raffles. Copies of all leases shall be provided to the licensing local unit of government.

Subd. 15. Total prize award limits. Total prizes from the operation of paddlewheels, tipboards and pull-tabs (or ticket jars) awarded in any single day in which they are operated shall not exceed \$1,000. Total prizes resulting from any single spin of a paddlewheel, or from any single seal of a tipboard, each tipboard limited to a single seal, or from a single pull-tab (or ticket jar), shall not exceed \$150. Total prizes awarded in any calendar year by any organization from the operation of paddlewheels, tipboards and pull-tabs (or ticket jars) and the conduct of raffles, except as provided in subdivision 15a, shall not exceed \$35,000. Merchandise prizes shall be valued at fair market retail value.

The county attorney of each county shall be responsible for investigating and, if appropriate, prosecuting organizations for violations of this section.

Subd. 15a. Exception; total prize awards limitations. (a) An organization which directly or under contract to the state or a political subdivision delivers health or social services and which is exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, as amended through December 30, 1981, may award total prizes in a calendar year from the conduct of raffles, in excess of the limitation provided in subdivision 15, provided the prizes consist of real or personal property donated to the organization by an individual, corporation, or other organization and, except as provided in clause (b), provided the organization complies with the other requirements and restrictions of section 349.26.

(b) For the purposes of this subdivision, an organization covered by clause (a) is not subject to the membership limitations of subdivisions 9, 11, and 12, nor to the compensation limitations of subdivision 12. Subject to the other requirements of subdivision 13, the person who accounts for gross receipts, expenses, and profits from the conduct of raffles may be the same person who accounts for other revenues of the organization.

Subd. 16. Violation of any provision of this section is a misdemeanor. This subdivision shall not preclude civil or criminal action under other applicable law or preclude any agency of government from investigating or prosecuting violations of the provisions of this section.

History: 1978 c 507 s 3; 1979 c 313 s 4; 1981 c 204 s 1-8; 1982 c 538 s 2; 1982 c 570 s 1-3

349.30 DEFINITIONS.

Subdivision 1. For the purposes of sections 349.30 to 349.39, unless a different meaning is indicated by the context, the words, terms, and phrases defined in this section shall have the meanings given them.

Subd. 2. "Gambling devices" means slot machines, roulette wheels, punchboards, and pin ball machines which return coins or slugs, chips, or tokens of any kind, which are redeemable in merchandise or cash.

Subd. 3. "Person" means an individual, a copartnership, an association, a corporation, or any other entity or organization.

Subd. 4. "Municipality" means any county, city, or town.

Subd. 5. "License" includes permits of every kind, nature and description issued pursuant to any statute or ordinance for the carrying on of any business, trade, vocation, commercial enterprise or undertaking.

Subd. 6. "Licensee" means any person to whom a license of any kind is issued, but does not include a common carrier transporting, or a public warehouseman storing, any gambling device for hire, or a manufacturer or distributor of such devices keeping the same only for the purpose of sale or distribution to others or repairing of same.

Subd. 7. "Licensed business" means any business, trade, vocation, commercial enterprise, or undertaking for which a license is issued.

Subd. 8. "Licensed premises" means the place or building, or the room in a building, designated in the license as the place where the licensed business is to be carried on, and all land adjacent thereto and used in connection with and in the operation of a licensed business, and all adjacent or contiguous rooms or buildings operated or used in connection with the buildings where the licensed business is carried on. If no place is described in any license, then "licensed premises" means the building or place where the licensed business is carried on under such license.

Subd. 9. "Issuing authority" and "authority issuing the license" mean and include the officer, board, bureau, department, commission, or agency of the state, or of any of its municipalities, by whom any license is issued and include the councils and governing bodies of all municipalities.

History: 1947 c 586 s 1; 1973 c 123 art 5 s 7; 1981 c 204 s 9

349.31 GAMBLING DEVICE; POSSESSION OF.

Subdivision 1. **Intentional possession; wilful keeping.** The intentional possession or wilful keeping of a gambling device upon any licensed premises is cause for the revocation of any license under which the licensed business is carried on upon the premises where the gambling device is found, provided that possession of gambling devices commonly known as "paddlewheels" or "tipboards" or "pull-tabs" (or "ticket jars") or apparatus used in conducting raffles on the premises of a nonprofit organization and operated by organizations licensed for such operation pursuant to section 349.26 and the manufacture of gambling devices for use in jurisdictions where use of the gambling device is legal as provided for by section 349.40 shall not be cause for revocation of a license.

Subd. 2. **Revocation of licenses.** All licenses under which any licensed business is permitted to be carried on upon the licensed premises shall be revoked if the intentional possession or wilful keeping of any such gambling devices upon the licensed premises is established, notwithstanding that it may not be made to appear that such devices have actually been used or operated for the purpose of gambling.

History: 1947 c 586 s 2; 1978 c 507 s 1; 1981 c 126 s 1; 1981 c 204 s 10

349.32 ISSUING AUTHORITY TO REVOKE.

The proceedings for revocation shall be had before the issuing authority, which shall have power to revoke the license or licenses involved, as hereinafter provided.

History: 1947 c 586 s 3

349.33 PEACE OFFICERS TO OBSERVE AND INSPECT PREMISES.

Every sheriff, deputy sheriff, constable, marshal, policeman, police officer, and peace officer shall observe and inspect the premises where occupations are carried on under license and ascertain whether gambling devices are present thereon and immediately report the finding thereof to the authority or authorities issuing the license or licenses applicable to the premises in question.

History: 1947 c 586 s 4

349.34 PROCEEDINGS BEFORE ISSUING AUTHORITY; ORDER TO SHOW CAUSE.

Upon the receipt of such information from any of the peace officers referred to in section 349.33, if any issuing authority is of the opinion that cause exists for the revocation of any such license, then that authority shall issue an order to show cause directed to the licensee of the premises, stating the ground upon which the proceeding is based and requiring him to appear and show cause at a time and place, within the county in which the licensed premises are located, not less than ten days after the date of the order, why his license should not be revoked. That order to show cause shall be served upon the licensee in the manner prescribed by law for the service of summons in a civil action, or by certified mail, not less than eight days before the date fixed for the hearing thereof. A copy of the order shall forthwith be mailed to the owner of the premises, as shown by the records in the office of the county recorder, at his last known post office address. A copy of the order shall at the same time be mailed to any other issuing authority, of which the authority issuing the order to show cause has knowledge, by which other license to that licensee may have been issued, and any such other authority may participate in the revocation proceedings after notifying the licensee and the officer or authority holding the hearing of its intention so to do on or before the date of hearing, and after the hearing take such action as it could have taken had it instituted the revocation proceedings in the first instance.

History: 1947 c 586 s 5; 1976 c 181 s 2; 1978 c 674 s 60

349.35 REVOCATION OF LICENSE.

Subdivision 1. **Revocation; stay; appeal.** If, upon the hearing of the order to show cause, it appears that the licensee intentionally possessed or wilfully kept upon his licensed premises any gambling device, then the license or licenses under which the licensed business is operated on the licensed premises, shall be revoked. The order of revocation shall not be enforced during the period allowed by section 349.39 for taking an appeal.

Subd. 2. **Limitation as to issuance of new license on premises.** No new license or licenses for the same business upon the same premises shall be issued for the period of one year thereafter, except as hereinafter provided.

History: 1947 c 586 s 6

349.36 DUTIES OF COUNTY ATTORNEY.

The county attorney of the county in which the hearing is held shall attend the hearing, interrogate the witnesses, and advise the issuing authority. He shall also appear for the issuing authority on any appeal taken pursuant to the provisions of section 349.39.

History: 1947 c 586 s 7

349.37 WITNESSES.

The issuing authority may issue subpoenas and compel the attendance of witnesses at any hearing. Witnesses duly subpoenaed and attending any such hearing shall be paid fees and mileage by the issuing authority equal to the fees and mileage paid witnesses in the district court.

History: 1947 c 586 s 8

349.38 PROPERTY OWNERS LIABILITY.

When a license is revoked under the provisions of sections 349.30 to 349.39, the owner of the premises upon which any licensed business has been operated

shall not be penalized by reason thereof unless it is established that he had knowledge of the existence of the gambling devices resulting in license revocation.

History: 1947 c 586 s 9

349.39 APPEAL TO DISTRICT COURT; STAY; CONTINUANCE UNDER BOND; HEARING UPON ONE YEAR LIMITATION ON PREMISES.

Any licensee, or any owner of licensed premises, aggrieved by an order of an issuing authority revoking any license may appeal from that order to the district court of the county in which the licensee resides by serving a notice of his appeal upon the issuing authority or the clerk thereof. The notice of appeal shall state that the person appealing takes an appeal to that district court from the order revoking the license or licenses, describing them and identifying the order appealed from. This notice shall be served within 15 days from the date of service of the order appealed from, and the same, with proof of service thereof, shall be filed with the clerk of the district court of the proper county. The appeal shall stand for trial at the next term of the district court following the filing of the notice of appeal, without the service of any notice of trial, and shall be tried in the district court de novo. The trial shall be by jury if the appellant shall so demand. The licensee may continue to operate the licensed business or businesses until the final disposition of such appeal. If the district court upon the appeal shall determine that any license involved in the appeal should be revoked, it may, nevertheless, in its discretion permit the continuance of the licensed business under a bond in the amount and in the form and containing the conditions prescribed by the court. The district court on the appeal, or in a separate proceeding, may permit the issuance of a new license to a different licensee before the expiration of the period of one year specified in section 349.35, subdivision 2, upon such terms and conditions imposed by the court as will insure that no gambling device shall thereafter be maintained upon the licensed premises.

History: 1947 c 586 s 10

349.40 GAMBLING DEVICES; MANUFACTURE FOR USE IN OTHER STATES.

The manufacture in this state of gambling devices, or any component parts thereof, for shipment, sale, and use in jurisdictions where use of the gambling device is legal is allowed notwithstanding the provisions of this chapter, sections 349.31, 609.75, and 609.76, or other laws to the contrary.

History: 1981 c 126 s 2