

CHAPTER 299L

GAMBLING ENFORCEMENT

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299L.01 DIVISION OF GAMBLING ENFORCEMENT.

Subdivision 1. **Definitions.** (a) For the purposes of this chapter, the terms defined in this subdivision have the meanings given them.

(b) "Division" means the division of gambling enforcement.

(c) "Commissioner" means the commissioner of public safety.

(d) "Director" means the director of gambling enforcement.

(e) "Manufacturer" means a person who assembles from raw materials or subparts a gambling device for sale or use in Minnesota.

(f) "Distributor" means a person who sells, offers to sell, or otherwise provides a gambling device to a person in Minnesota.

Subd. 2. **Established.** The division of gambling enforcement is a division in the department of public safety under the control and supervision of a director, appointed by the commissioner and serving at the commissioner's pleasure in the unclassified service. The director must be a person who is licensed or eligible to be licensed as a peace officer under sections 626.84 to 626.863.

Subd. 3. **Employees.** The director shall employ in the division of gambling enforcement personnel, in the classified service, necessary to carry out the duties under this chapter. The director shall request the bureau of criminal apprehension to perform background checks on persons who are finalists for employment with the division but may employ personnel pending completion of the background check.

History: 1989 c 334 art 5 s 1; 1991 c 336 art 2 s 8

299L.02 DUTIES OF DIVISION OF GAMBLING ENFORCEMENT.

Subdivision 1. **Lottery.** (a) The director shall when required under chapter 349A or when requested by the director of the lottery conduct background checks on employees of the state lottery, lottery retailers, and bidders of lottery procurement contracts.

(b) The director shall, when so requested by the director of the state lottery or when the director believes it to be reasonable and necessary, conduct investigations of lottery retailers, applicants for lottery retailer contracts, suppliers of goods or services to the state lottery, and persons bidding on contracts for goods or services with the state lottery.

(c) The director shall conduct an annual security audit of the state lottery, or arrange for such an audit by an outside agency or person, firm, or corporation. The director shall report to the state lottery board and the director of the lottery on the results of the audit.

Subd. 2. **Gambling.** The director shall:

(1) conduct background investigations of applicants for licensing as a manufacturer or distributor of gambling equipment or as a bingo hall under chapter 349; and

(2) when requested by the director of gambling control, or when the director believes it to be reasonable and necessary, inspect the premises of a licensee under chapter 349 to determine compliance with law and with the rules of the board, or to conduct an audit of the accounts, books, records, or other documents required to be kept by the licensee.

Subd. 3. **Horse racing investigations.** (a) The director shall conduct background investigations as provided by law on all applicants for licenses issued by the Minnesota racing commission.

(b) The director shall, upon request of the director of the racing commission, or when the director believes it to be reasonable and necessary, investigate the activities of a licensee of the Minnesota racing commission to determine the licensee's compliance with law and with rules of the commission.

Subd. 4. **Other gambling.** The director of gambling enforcement shall cooperate with all state and local agencies in the detection and apprehension of unlawful gambling.

Subd. 5. **Background checks.** In any background check required to be conducted by the division of gambling enforcement under chapter 240, 349, or 349A, the director may, or shall when required by law, require that fingerprints be taken and the director may forward the fingerprints to the Federal Bureau of Investigation for the conducting of a national criminal history check.

History: 1989 c 334 art 5 s 2; 1991 c 233 s 109

299L.03 POWERS OF DIRECTOR.

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

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

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

(3) records required to be maintained under chapter 240, 349, or 349A are prepared or retained;

(4) lottery tickets are sold by a lottery retailer under chapter 340A; or

(5) races are conducted by a person licensed under chapter 240.

Subd. 2. **Items required to be produced.** In conducting an audit or inspection authorized under chapter 240, 349 or 349A the director may inspect any book, record, or other document the licensee, retailer, or vendor is required to keep.

Subd. 3. **Subpoena power.** The director may issue subpoenas to compel the attendance of witnesses and the production of documents, books, records, and other evidence relating to any investigation or audit the director is authorized to conduct.

Subd. 4. **Access to criminal history.** The director has access to all criminal history data compiled by the bureau of criminal apprehension on any person licensed or under contract with the state lottery, racing commission, or the gambling control board, or any applicant for licensing or a person who has submitted a bid on a lottery contractor or any employee and finalist for employment with the state lottery board.

Subd. 5. **Arrest powers.** The director may designate certain employees within the division of gambling enforcement who are authorized to arrest or investigate any person who is suspected of violating any provision of chapter 240, 349, or 349A, or is suspected of committing any crime involving gambling, and to conduct searches and seizures to enforce any of those laws. Any employee authorized by this subdivision to make an arrest must be licensed under sections 626.84 to 626.863.

Subd. 6. **Unlicensed sellers.** (a) If anyone not licensed under chapter 349 sells gambling equipment at a business establishment, the director may, in addition to any other provisions of chapter 349:

(1) assess a civil penalty of not more than \$300 against each person participating in the sales and assess a civil penalty of not more than \$1,000 against the owner or owners of the business establishment; or

(2) if the subject violation is the second or subsequent violation of this subdivision at the same business establishment within any 24-month period, assess a civil penalty of not more than \$300 against each person participating in such sales, and assess a civil penalty of not more than \$5,000 against the owner or owners of the business establishment.

(b) The assessment of a civil penalty under this section does not preclude a recommendation by the director at any time deemed appropriate to a licensing authority for revocation, suspension, or denial of a license controlled by the licensing authority.

(c) Within ten days of an assessment under this subdivision, the person assessed the penalty must pay the assessment or request that a hearing be held under chapter 14. If a hearing is requested, the hearing must be scheduled within 20 days of the request, and the recommendations of the administrative law judge must be issued within five working days of the close of the hearing. The director's final determination must be issued within five working days of the issuance of the recommendations of the administrative law judge.

Subd. 7. **Other powers.** Nothing in this chapter limits the authority of the division of gambling enforcement to exercise any other power specified under chapter 240, 349, or 349A.

Subd. 8. **Rulemaking.** The commissioner may adopt rules, including emergency rules, under chapter 14 to carry out the commissioner's duties under this chapter.

Subd. 9. [Repealed, 1990 c 590 art 1 s 48]

Subd. 10. **Fingerprinting.** The director may require that any: (1) licensee under sections 349.11 to 349.23, (2) employee of such a licensee, or (3) shareholder or officer of such a licensee be fingerprinted by the director, or otherwise submit to fingerprinting in a form and manner acceptable to the director.

History: 1989 c 334 art 5 s 3; 1990 c 590 art 1 s 1,2; 1991 c 199 art 2 s 1; 1991 c 233 s 109

NOTE: See section 349.61.

299L.04 CONFLICT OF INTEREST.

Subdivision 1. **Interest.** The director and any person employed by the division may not have a direct or indirect financial interest in:

- (1) a class A or B licensee of the racing commission;
- (2) a lottery retailer under contract with the state lottery;
- (3) a person who is under a lottery procurement contract with the state lottery; or
- (4) a bingo hall, manufacturer, or distributor licensed under chapter 349.

Subd. 2. **Gambling.** The director or an employee of the division of gambling enforcement may not participate in the conducting of lawful gambling under chapter 349.

History: 1989 c 334 art 5 s 4

299L.05 GAMBLING VIOLATIONS; RESTRICTIONS ON FURTHER ACTIVITY.

An owner of an establishment is prohibited from having lawful gambling under chapter 349 conducted on the premises, selling any lottery tickets under chapter 349A, or having a video game of chance as defined under section 349.50 located on the premises, if a person was convicted of violating section 609.76, subdivision 1, clause (7), or 609.76, subdivision (2), for an activity occurring on the owner's premises.

History: 1989 c 334 art 5 s 5

299L.06 JURISDICTION.

In any investigation or other enforcement activity where there is probable cause to believe that a criminal violation relating to gambling has occurred, except a violation

relating only to taxation, the division rather than any other state department, agency, or office shall be the primary investigation entity where enforcement rests.

History: 1990 c 590 art 1 s 3

299L.07 GAMBLING DEVICES.

Subdivision 1. Restriction. A person may not manufacture, sell, offer to sell, or otherwise provide, in whole or in part, a gambling device as defined in sections 349.30, subdivision 2, and 609.75, subdivision 4, except that a gambling device may be:

- (1) manufactured as provided in section 349.40;
- (2) sold, offered for sale, or otherwise provided to a distributor licensed under subdivision 3;
- (3) sold, offered for sale, or otherwise provided to the governing body of a federally recognized Indian tribe that is authorized to operate the gambling device under a tribal-state compact under the Indian Gaming Regulatory Act, United States Code, title 25, sections 2701 to 2721;
- (4) sold, offered for sale, or otherwise provided to a person for use in the person's dwelling for display or amusement purposes in a manner that does not afford players an opportunity to obtain anything of value; or
- (5) sold by a person who is not licensed under this section and who is not engaged in the trade or business of selling gambling devices, if the person does not sell more than one gambling device in any calendar year.

Subd. 2. License required. A person may not manufacture or distribute gambling devices without having obtained a license under this section.

Subd. 3. License issuance. The commissioner may issue a license under this section if the commissioner determines that the applicant will conduct the business in a manner that will not adversely affect the public health, welfare, and safety or be detrimental to the effective regulation and control of gambling. A license may not be issued under this section to a person, or a corporation, firm, or partnership that has an officer, director, or other person with a direct or indirect financial or management interest of five percent or more, who has ever:

- (1) been convicted of a felony;
- (2) been convicted of a crime involving gambling;
- (3) been connected with or engaged in an illegal business; or
- (4) had a license revoked or denied by another jurisdiction for a violation of law or rule related to gambling.

Subd. 4. Application. An application for a manufacturer's or distributor's license must be on a form prescribed by the commissioner and must, at a minimum, contain:

- (1) the name and address of the applicant and, if it is a corporation, the names of all officers, directors, and shareholders with a financial interest of five percent or more;
- (2) the names and addresses of any holding corporation, subsidiary, or affiliate of the applicant, without regard to whether the holding corporation, subsidiary, or affiliate does business in Minnesota; and
- (3) if the applicant does not maintain a Minnesota office, an irrevocable consent statement signed by the applicant, stating that suits and actions relating to the subject matter of the application or acts of omissions arising from it may be commenced against the applicant in a court of competent jurisdiction in this state by service on the secretary of state of any summons, process, or pleadings authorized by the laws of this state. If any summons, process, or pleading is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown on the application.

Subd. 5. Investigation. Before a manufacturer's or distributor's license is granted, the director may conduct a background and financial investigation of the applicant, including the applicant's sources of financing. The director may, or shall when required

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by law, require that fingerprints be taken and the director may forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The director may charge an investigation fee to cover the cost of the investigation.

Subd. 6. **License fees.** (a) A license issued under this section is valid for one year.

(b) For a person who distributes 100 or fewer used gambling devices per year, the fee is \$1,500. For a person who distributes more than 100 used gambling devices per year, the fee is \$2,000. For purposes of this subdivision, a used gambling device is a gambling device five or more years old.

(c) For a person who manufactures or distributes 100 or fewer new, or new and used gambling devices in a year, the fee is \$5,000. For a person who manufactures or distributes more than 100 new, or new and used gambling devices in a year, the fee is \$7,500.

Subd. 7. **Renewal.** Upon making the same determination as in subdivision 3, the commissioner may renew a license issued under this section.

Subd. 8. **License suspension and revocation.** (a) The commissioner may suspend a license under this section for a violation of law or rule. The commissioner may revoke a license:

- (1) for a violation of law or rule which, in the commissioner's opinion, adversely affects the integrity of gambling in Minnesota;
- (2) for an intentional false statement in a license application; or
- (3) if the licensee is the subject of a disciplinary proceeding in another jurisdiction which results in the revocation of a license.

A revocation or suspension is a contested case under sections 14.57 to 14.69.

(b) The commissioner may summarily suspend a license prior to a contested case hearing if the commissioner determines that a summary suspension is necessary to ensure the integrity of gambling. A contested case hearing must be held within 20 days of the summary suspension and the administrative law judge must issue a report within 20 days of the close of the hearing record. The commissioner shall issue a final decision within 30 days from receipt of the report of the administrative law judge and subsequent exceptions and argument under section 14.61.

Subd. 9. **Required information.** A person to whom a license is issued under this section shall provide, in a manner prescribed by the commissioner, information required by the commissioner relating to the shipment and sale of gambling devices.

Subd. 10. **Transportation of gambling devices.** In addition to the requirements of this section, the transportation of gambling devices into Minnesota must be in compliance with United States Code, title 15, sections 1171 to 1177, as amended.

History: 1991 c 336 art 2 s 9