

CHAPTER 299L

GAMBLING ENFORCEMENT

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299L.01 DIVISION OF ALCOHOL AND 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 alcohol and gambling enforcement.

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

(d) "Director" means the director of alcohol and 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.

(g) "Used gambling device" means a gambling device five or more years old from the date of manufacture.

(h) "Test" means the process of examining a gambling device to determine its characteristics or compliance with the established requirements of any jurisdiction.

(i) "Testing facility" means a person in Minnesota who is engaged in the testing of gambling devices for use in any jurisdiction.

Subd. 2. **Established; consolidation with liquor control.** Effective October 1, 1996, the duties and powers of the division of gambling enforcement are transferred to the division of alcohol and gambling enforcement 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 alcohol and 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.

Subd. 4. **Conflict of interest.** (a) 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;
- (4) a bingo hall, manufacturer, or distributor licensed under chapter 349; or
- (5) a manufacturer or distributor licensed under this chapter.

(b) The director or an employee of the division of alcohol and gambling enforcement may not participate in the conducting of lawful gambling under chapter 349.

History: 1989 c 334 art 5 s 1; 1991 c 336 art 2 s 8; 1994 c 633 art 4 s 1,2; 1995 c 261 s 10; 1997 c 129 art 2 s 6,7,15

299L.02 DUTIES OF DIVISION OF ALCOHOL AND 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 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.

The director may charge applicants under clause (1) a reasonable fee to cover the costs of the investigation.

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 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 under this chapter, chapter 240, 349, 349A, or section 3.9221, 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. The director may charge a fee for fingerprint recording and investigation under section 3.9221.

Subd. 6. Response to requests. An applicant, licensee, or the person subject to the jurisdiction of the commissioner or director under this chapter, must:

(1) comply with a request from the commissioner or director for information, documents, or other material within 30 days of the mailing of the request by the commissioner or director unless the notice specifies a different time; and

(2) appear before the commissioner or director when requested to do so, and must bring documents or materials that the commissioner or director has requested.

Subd. 7. Revolving account. The director shall deposit in a separate account in the state treasury all money received from Indian tribal governments for charges for investigations and background checks under compacts negotiated under section 3.9221, except for \$7 from each charge that shall be deposited in the general fund. Money in the account is appropriated to the director for the purpose of carrying out the director's powers and duties under those compacts.

History: 1989 c 334 art 5 s 2; 1991 c 233 s 109; 1994 c 633 art 4 s 3,4; art 7 s 4,5; 1997 c 7 art 1 s 124; 1997 c 129 art 2 s 8,9,15; 2002 c 220 art 7 s 14

299L.03 POWERS OF DIRECTOR.

Subdivision 1. Inspections; access. In conducting any inspection authorized under this chapter or chapter 240, 349, or 349A, the division employees 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:

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(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, 297E, 349, or 349A are prepared or retained;

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

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

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

Subd. 2. **Items required to be produced.** In conducting an audit or inspection authorized under this chapter or 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.

Subd. 5. **Arrest powers.** The director may designate certain division employees 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 for each violation against each person participating in the sales and assess a civil penalty of not more than \$1,000 for each violation 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 for each violation against each person participating in such sales, and assess a civil penalty of not more than \$5,000 for each violation 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 to exercise any other power specified under chapter 240, 340A, 349, or 349A.

Subd. 8. **Rulemaking.** The commissioner may adopt 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.

Subd. 11. **Data classification.** Data provided to the director, by a governmental entity located outside Minnesota for use in an authorized investigation, audit, or background check, has the same data access classification or restrictions on access, for the purposes of chapter 13, that it had in the entity providing it. If the classification or restriction on access in the entity providing the data is less restrictive than the Minnesota data classification, the Minnesota classification applies.

Data classified as not public by this section are only discoverable as follows:

- (1) the data are subject to discovery in a legal proceeding; and
- (2) the data are discoverable in a civil or administrative proceeding if the subject matter of the proceeding is a final agency decision adverse to the party seeking discovery of the data.

Subd. 12. **Cease and desist orders.** (a) When it appears to the director that any person has engaged in or is about to engage in any act or practice constituting a violation of this chapter, or any rule or order issued under this chapter, the director may issue and cause to be served on the person an order requiring the person to cease and desist from violations of this chapter, or any rule or order issued under this chapter. The order must give reasonable notice of the rights of the person to request a hearing and must state the reason for the entry of the order. Unless otherwise agreed between the parties, a hearing must be held not later than seven days after receiving the request for a hearing. Within 20 days of receiving the administrative law judge's report and subsequent exceptions and argument, the director shall issue an order vacating the cease and desist order, modifying the order, or making it permanent, as the facts require. If no hearing is requested within 30 days of service of the order, the order becomes final and remains in effect until modified or vacated by the commissioner. All hearings under this subdivision must be conducted in accordance with sections 14.57 to 14.69 of the Administrative Procedure Act. If the person to whom a cease and desist order has been issued under this subdivision fails to appear at a hearing after being notified of the hearing, the person is deemed in default and the proceeding may be determined against the person on consideration of the cease and desist order, the allegations of which are deemed to be true.

(b) When it appears to the director that any person has engaged in or is about to engage in any act or practice constituting a violation of this chapter, or any rule adopted or subpoena or order issued under this chapter, the director may bring an action in the district court in the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter or any rule, subpoena, or order issued or adopted under this chapter, and may refer the matter to the attorney general. On a proper showing, the court shall grant a permanent or temporary injunction, restraining order, or writ of mandamus. The court may not require the director to post a bond.

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; 1993 c 351 s 36; 1994 c 633 art 4 s 5-8; 1995 c 233 art 2 s 56; 1995 c 261 s 11; 1997 c 129 art 2 s 10-12

299L.04 [Repealed, 1994 c 633 art 4 s 11]

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, or selling any lottery tickets under chapter 349A, 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; 1995 c 186 s 62; 1995 c 261 s 12

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. **License required.** Except as provided in subdivision 2, a person may not (1) manufacture, sell, offer to sell, lease, rent, or otherwise provide, in whole or in part, a gambling device as defined in sections 349.30, subdivision 2, and 609.75, subdivision 4, or (2) operate a testing facility, without first obtaining a license under this section.

Subd. 2. **Exclusions.** Notwithstanding subdivision 1, a gambling device:

(1) may be sold by a person who is not licensed under this section, if the person (i) is not engaged in the trade or business of selling gambling devices, and (ii) does not sell more than one gambling device in any calendar year;

(2) may be sold by the governing body of a federally recognized Indian tribe described in subdivision 2a, paragraph (b), clause (1), which is not licensed under this section, if (i) the gambling device was operated by the Indian tribe, (ii) the sale is to a distributor licensed under this section, and (iii) the licensed distributor notifies the commissioner of the purchase, in the same manner as is required when the licensed distributor ships a gambling device into Minnesota;

(3) may be possessed by a person not licensed under this section if the person holds a permit issued under section 299L.08; and

(4) may be possessed by a state agency, with the written authorization of the director, for display or evaluation purposes only and not for the conduct of gambling.

Subd. 2a. **Restrictions.** (a) A manufacturer licensed under this section may sell, offer to sell, lease, or rent, in whole or in part, a gambling device only to a distributor licensed under this section.

(b) A distributor licensed under this section may sell, offer to sell, market, rent, lease, or otherwise provide, in whole or in part, a gambling device only to:

(1) 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, Public Law Number 100-497, and future amendments to it;

(2) 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;

(3) another distributor licensed under this section; or

(4) a person in another state who is authorized under the laws of that state to possess the gambling device.

Subd. 2b. **Testing facilities.** (a) A person holding a license to operate a testing facility may possess a gambling device only for the purpose of performing tests on the gambling device.

(b) No person may hold a license to operate a testing facility under this section who is licensed as a manufacturer or distributor of gambling devices under this section or as a manufacturer or distributor of gambling equipment under chapter 349.

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.

Subd. 4. **Application.** An application for a license under this section 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 license under this section 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 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. Of this fee, \$7 from each charge shall be deposited in the general fund.

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.

(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.

(d) For a testing facility, the fee is \$5,000.

Subd. 7. [Repealed, 1994 c 633 art 4 s 11]

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

- (1) has ever been convicted of a felony, or of a crime involving gambling;
- (2) has ever been convicted of (i) assault, (ii) a criminal violation involving the use of a firearm, or (iii) making terroristic threats;
- (3) is or has ever connected with or engaged in an illegal business;
- (4) owes \$500 or more in delinquent taxes as defined in section 270.72;
- (5) had a sales and use tax permit revoked by the commissioner of revenue within the past two years;
- (6) after demand, has not filed tax returns required by the commissioner of revenue; or
- (7) had a license or permit revoked or denied by another jurisdiction for a violation of law or rule relating to gambling.

The commissioner may deny or refuse to renew a license under this chapter, and may revoke a license under this chapter, if any of the conditions in this subdivision is applicable to an affiliate of or a direct or indirect holder of more than a five percent financial interest in the applicant or licensee.

(b) The commissioner may by order deny, suspend, revoke, refuse to renew a license or premises permit, or censure a licensee or applicant, if the commissioner finds that the order is in the public interest and that the applicant or licensee, or a director,

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officer, partner, person in a supervisory or management position of the applicant or licensee, or an employee eligible to make sales on behalf of the applicant or licensee:

(1) has violated or failed to comply with any provision of this chapter, chapter 297E, or 349, or any rule adopted or order issued thereunder;

(2) has filed an application for a license that is incomplete in any material respect, or contains a statement that, in light of the circumstances under which it was made, is false, misleading, fraudulent, or a misrepresentation;

(3) has made a false statement in a document or report required to be submitted to the director, the commissioner, or the commissioner of revenue, or has made a false statement in a statement made to the director or commissioner;

(4) has been convicted of a crime in another jurisdiction that would be a felony if committed in Minnesota;

(5) is permanently or temporarily enjoined by any gambling regulatory agency from engaging in or continuing any conduct or practice involving any aspect of gambling;

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

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

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

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

Subd. 8a. Civil penalties. The commissioner may impose a civil penalty not to exceed \$500 per violation on a person who has violated this chapter, or any rule adopted or order issued under this chapter, unless a different penalty is specified.

Subd. 8b. Show cause orders. (a) If the commissioner determines that one of the conditions listed in subdivision 8 exists, or that a licensee is no longer conducting business in the manner required by subdivision 2a, the commissioner may issue an order requiring a person to show cause why any or all of the following should not occur: (1) the license be revoked or suspended, (2) the licensee be censured, (3) a civil penalty be imposed or (4) corrective action be taken.

(b) The order must give reasonable notice of the time and place for hearing on the matter, and must state the reasons for the entry of the order. The commissioner may by order summarily suspend a license pending final determination of any order to show cause. If a license is suspended pending final determination of an order to show cause, a hearing on the merits must be held within 30 days of the issuance of the order of suspension. All hearings must be conducted in accordance with sections 14.57 to 14.69 of the Administrative Procedure Act.

(c) After the hearing the commissioner must enter an order disposing of the matter as the facts require. If the licensee fails to appear at a hearing after being notified of the hearing, the person is deemed in default and the proceeding may be determined against the person on consideration of the order to show cause, the allegations of which are deemed to be true.

Subd. 8c. Applications; renewals. (a) When it appears to the commissioner that a license application or renewal should be denied under subdivision 8, the commissioner must promptly give to the applicant a written notice of the denial. The notice must state the grounds for the denial and give reasonable notice of the rights of the

applicant to request a hearing. A hearing must be held not later than 30 days after the request for the hearing is received by the commissioner, unless the applicant and the commissioner agree that the hearing may be held at a later date. If no hearing is requested within 30 days of the service of the notice, the denial becomes final. All hearings under this subdivision must be conducted in accordance with sections 14.57 to 14.69 of the Administrative Procedure Act.

(b) After the hearing, the commissioner shall enter an order making such disposition as the facts require. If the applicant fails to appear at a hearing after being notified of the hearing, the applicant is deemed in default and the proceeding may be determined against the applicant on consideration of the notice denying application or renewal, the allegations of which are deemed to be true. All fees accompanying the initial or renewal application are considered earned and are not refundable.

Subd. 8d. **Actions against lapsed license.** If a license lapses, is surrendered, withdrawn, terminated, or otherwise becomes ineffective, the commissioner may institute a proceeding under this subdivision within two years after the license was last effective and enter a revocation or suspension order as of the last day on which the license was in effect, or impose a civil penalty as provided in subdivision 8a.

Subd. 8e. **Notification of actions taken by other state.** A licensee under this section must notify the commissioner within 30 days of the action whenever any of the actions listed in subdivision 8, paragraph (b), clause (6), have been taken against the licensee in another state or jurisdiction.

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 or out of Minnesota must be in compliance with United States Code, title 15, sections 1171 to 1177, as amended.

Subd. 11. **Inspection.** The commissioner, director, and employees of the division may inspect the business premises of a licensee under this section.

History: 1991 c 336 art 2 s 9; 1994 c 633 art 4 s 9; 1995 c 186 s 63; 1995 c 261 s 13-18; 1996 c 305 art 1 s 68; 2000 c 336 s 1,2; 2002 c 220 art 7 s 15; 2002 c 386 art 4 s 1

299L.08 TEMPORARY POSSESSION; PERMIT.

Subdivision 1. **Permit authorized.** The director may issue a temporary permit for a person to possess a gambling device for the purpose of displaying the gambling device at a trade show, convention, or other event where gambling devices are displayed.

Subd. 2. **Application; fee.** An application for a temporary permit under this section must contain:

- (1) the applicant's name, address, and telephone number;
- (2) the name, date, and location of the event where the gambling device will be displayed;
- (3) the method or methods by which the gambling device will be transported to the event, including the name of all carriers performing the transportation and the date of expected shipment;
- (4) the individual or individuals who will be responsible for the gambling device while it is in Minnesota;
- (5) the type, make, model, and serial number of the device;
- (6) the location where the device will be stored in Minnesota while not at the event location;
- (7) the date on which the device will be transported outside Minnesota;
- (8) evidence satisfactory to the director that the applicant is registered and in compliance with United States Code, title 15, sections 1171 to 1178; and
- (9) other information the director deems necessary.

The fee for a permit under this section is \$100.

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Subd. 3. **Terms.** A permit under this section authorizes possession of a gambling device only during the period and for the event named in the permit. The permit authorizes the possession of a gambling device for display, educational, and information purposes only, and does not authorize the conduct of any gambling. The permit may not extend for more than 72 hours beyond the end of the event named in the permit.

Subd. 4. **Inspection.** The director may conduct inspections of events where gambling devices are displayed to ensure compliance with this section and other laws relating to gambling.

History: 1995 c 261 s 19