

TITLE I. STATE SOVEREIGNTY AND MANAGEMENT

SUBTITLE 4. EXECUTIVE BRANCH

CHAPTER 8. DEPARTMENT OF MANAGEMENT – BUDGET AND FINANCIAL CONTROL ACT

THE BUDGET

8.22A Revenue estimating conference.

1. The state revenue estimating conference is created consisting of the governor or the governor's designee, the director of the legislative fiscal bureau, and a third member agreed to by the other two.
2. The conference shall meet as often as deemed necessary, but shall meet at least quarterly. The conference may use sources of information deemed appropriate.
3. By December 15 of each fiscal year the conference shall agree to a revenue estimate for the fiscal year beginning the following July 1. That estimate shall be used by the governor in the preparation of the budget message under section 8.22 and by the general assembly in the budget process. If the conference agrees to a different estimate at a later meeting which projects a greater amount of revenue than the initial estimate amount agreed to by December 15, the governor and the general assembly shall continue to use the initial estimate amount in the budget process for that fiscal year. However, if the conference agrees to a different estimate at a later meeting which projects a lesser amount of revenue than the initial estimate amount, the governor and the general assembly shall use the lesser amount in the budget process for that fiscal year. As used in this subsection, "*later meeting*" means only those later meetings which are held prior to the conclusion of the regular session of the general assembly.
4. At the meeting in which the conference agrees to the revenue estimate for the following fiscal year in accordance with the provisions of subsection 3, the conference shall agree to an estimate for tax refunds payable from that estimated revenue. The estimates required by this subsection shall be used in determining the adjusted revenue estimate under section 8.54.
5. At the meeting in which the conference agrees to the revenue estimate for the succeeding fiscal year in accordance with the provisions of subsection 3, the conference shall also agree to the following estimate which shall be used by the governor and the general assembly in preparation of the budget message under section 8.22 and the general assembly in the budget process for the succeeding fiscal year:
 - a. The amount of lottery revenues for the following fiscal year to be available for disbursement following the deductions made pursuant to section 99E.10, subsection 1.
 - b. The amount of revenue for the following fiscal year from gambling revenues and from interest earned on the cash reserve fund and the economic emergency fund to be deposited in the rebuild Iowa infrastructure fund under section 8.57, subsection 5, paragraph "e".

Section History: Recent form

86 Acts, ch 1245, § 2045; 92 Acts, ch 1227, § 2; 94 Acts, ch 1181, § 4; 95 Acts, ch 214, § 5; 96 Acts, ch 1218, §24

Internal References

Referred to in § 8.21, 8.54, 602.1304

APPROPRIATIONS FREEZE – USE OF DESIGNATED MONEYS

8.60 Use of designated moneys.

Moneys credited to or deposited in the general fund of the state on or after July 1, 1993, which under law were previously collected to be used for specific purposes, or to be credited to, or be deposited to a particular account or fund shall only be used for the purposes for which the moneys were collected, including but not limited to moneys collected in accordance with any of the following provisions:

1. Pari-mutuel regulation fund created in section 99D.17, Code Supplement 1993.
2. Excursion boat gambling special account pursuant to section 99F.4, subsection 2, Code Supplement 1993.
3. Milk fund created in section 192.111, Code Supplement 1993.
4. Dairy trade practices trust fund pursuant to section 192A.30, Code Supplement 1993.

5. Commercial feed fund created in section 198.9, Code Supplement 1993.
6. Fertilizer fund created in section 200.9, Code Supplement 1993, and moneys collected for the administration of chapter 201A relating to the regulation of limestone products which were deposited in the fertilizer fund pursuant to section 201.13, Code 1993 and Code 1995.
7. Pesticide fund created in section 206.12, Code Supplement 1993.
8. Motor vehicle fraud account pursuant to section 312.2, subsection 13, Code Supplement 1993.
9. Public transit assistance fund pursuant to section 312.2, subsection 15, and section 324A.6, Code Supplement 1993.
10. Salvage vehicle fee paid to the Iowa law enforcement academy pursuant to section 321.52, Code Supplement 1993.
11. Railroad assistance fund created in section 327H.18, Code Supplement 1993.
12. Special railroad facility fund created in section 327I.23, Code Supplement 1993.
13. State aviation fund created in section 328.36, Code Supplement 1993.
14. Marine fuel tax fund created in section 452A.79, Code Supplement 1993.
15. Public outdoor recreation and resources fund pursuant to section 461A.79, Code Supplement 1993.
16. Energy research and development fund created in section 473.11, Code Supplement 1993.
17. Utilities trust fund created in section 476.10, Code Supplement 1993.
18. Banking revolving fund created in section 524.207, Code Supplement 1993.
19. Credit union revolving fund created in section 533.67, Code Supplement 1993.
20. Professional licensing revolving fund created in section 546.10, Code Supplement 1993.

Section History: Recent form

93 Acts, ch 131, §1; 94 Acts, ch 1107, §32; 94 Acts, ch 1199, §64; 96 Acts, ch 1096, § 1

Internal References

Referred to in § 8.57, 8.61, 99D.17, 99F.4, 99F.11, 192.111, 192A.30, 198.9, 200.9, 201A.11, 206.12, 312.2, 321.52, 327H.18, 328.36, 452A.79, 461A.79, 473.11, 473.16, 476.10, 524.207, 533.67, 546.10, 556.18

Footnotes

1996 amendment to subsection 6 is effective January 1, 1997; 96 Acts, ch 1096, § 15; 96 Acts, ch 1219, § 34

CHAPTER 10A. DEPARTMENT OF INSPECTIONS AND APPEALS

ARTICLE I. ORGANIZATION

10A.104 Powers and duties of the director.

The director or designees of the director shall:

1. Coordinate the internal operations of the department and develop and implement policies and procedures designed to ensure the efficient administration of the department.
2. Appoint the administrators of the divisions within the department and all other personnel deemed necessary for the administration of this chapter, except the state public defender, assistant state public defenders, administrator of the racing and gaming commission, members of the employment appeal board, and administrator of the state citizen foster care review board. All persons appointed and employed in the department are covered by the provisions of chapter 19A, but persons not appointed by the director are exempt from the merit system provisions of chapter 19A.
3. Prepare an annual budget for the department.
4. Develop and recommend legislative proposals deemed necessary for the continued efficiency of department functions, and review legislative proposals generated outside of the department which are related to matters within the department's purview.
5. Adopt rules deemed necessary for the implementation and administration of this chapter in accordance with chapter 17A, including rules governing hearing and appeal proceedings.
6. Issue subpoenas and distress warrants, administer oaths, and take depositions in connection with audits, appeals, investigations, inspections, and hearings conducted by the department. If a person refuses to obey a subpoena or distress warrant issued by the department or otherwise fails to cooperate in proceedings of the department, the director may enlist the assistance of a court of competent jurisdiction in requiring the person's compliance. Failure to obey orders of the court renders the person in contempt of the court and subject to penalties provided for that offense.

7. Enter into contracts for the receipt and provision of services as deemed necessary. The director and the governor may obtain and accept federal grants and receipts to or for the state to be used for the administration of this chapter.
8. Establish by rule standards and procedures for certifying that targeted small businesses are eligible to participate in the procurement set-aside program established in sections 73.15 through 73.21. The procedure for determination of eligibility shall not include self-certification by a business. Rules and guidelines adopted pursuant to this subsection are subject to review and approval by the director of the department of management. The director shall maintain a current directory of targeted small businesses which have been certified pursuant to this subsection.
9. Administer and enforce this chapter, and chapters 99B, 135B, 135C, 135G, 135H, 135J, 137A, 137B, 137C, 137D, and 137E.
10. Enter into and implement agreements or compacts between the state of Iowa and Indian tribes located in the state which are entered into under the authority of the Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq.). The agreements or compacts shall contain provisions intended to implement the policies and objectives of the Indian Gaming Regulatory Act.

Section History: Recent form

86 Acts, ch 1245, § 504; 88 Acts, ch 1273, § 3; 89 Acts, ch 231, § 2--;4; 92 Acts, ch 1141, §1; 93 Acts, ch 53, §1; 94 Acts, ch 1076, §1; 95 Acts, ch 67, § 2; 96 Acts, ch 1052, § 1; 96 Acts, ch 1079, § 1

Internal References

Referred to in § 12.43, 15.108, 73.16

10A.105 Confidentiality.

1. For the purposes of this section, "*governmental entity*" includes an administrative division within the department.
2. The confidentiality of all information in the department produced or collected during or as a result of a hearing, appeal, investigation, inspection, audit, or other function performed by the department on behalf of another governmental entity is governed by the law applicable to the records of that governmental entity. The department may provide information to a governmental entity for which it is conducting a hearing, appeal, inspection, audit, investigation, or other function.
3. The state shall maintain records and materials related to an agreement or compact entered into pursuant to the Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq.), as confidential records if confidentiality is required by the terms of the agreement or compact.
4. The lawful custodian of all records produced or collected during or as a result of any function performed by the department on behalf of another governmental entity is that governmental entity for the purpose of examination and copying pursuant to chapter 22.
5. If information in the possession of the department indicates that a criminal offense may have been committed, the information may be reported to the appropriate criminal justice or regulatory agency.
6. However, this section does not prohibit the department from releasing the minimal amount of information necessary in its judgment to conduct audits, inspections, investigations, appeals, and hearings, and does not prohibit the introduction of the information as evidence at any hearing conducted by the department.
7. The director, administrators, and their designees shall have access to all records deemed by the department to be pertinent to a hearing, appeal, audit, investigation, inspection, or other related function assigned under this chapter.

Section History: Recent form

86 Acts, ch 1245, § 505; 89 Acts, ch 231, § 5

CHAPTER 12. TREASURER OF THE STATE

12.10 Deposits by state officers.

Except as otherwise provided, all elective and appointive state officers, boards, commissions, and departments shall, within ten days succeeding the collection, deposit with the treasurer of state, or to the credit of the treasurer of state in any depository designated by the treasurer of state, ninety percent of all fees, commissions, and moneys collected or received. The balance actually collected in cash, remaining in the hands of any officer, board, or department shall not exceed the sum of five thousand dollars and money collected shall not be held more than thirty days. This section does not apply to the state fair board, the state board of regents, the utilities board of the department of

commerce, the director of the department of human services, the Iowa finance authority or to the funds received by the state racing and gaming commission under sections 99D.7 and 99D.14.

Section History: Early form

[C73, § 3778; C97, § 191; S13, § 170-d; C24, 27, 31, 35, 39, § 143; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.10]

Section History: Recent form

83 Acts, ch 96, § 157, 159; 83 Acts, ch 187, § 29; 84 Acts, ch 1266, § 2

Internal References

Referred to in § 15E.89, 524.207, 533.62, 533.67

SUBTITLE 5. ECONOMIC DEVELOPMENT

CHAPTER 15. DEPARTMENT OF ECONOMIC DEVELOPMENT

SUBCHAPTER I. DEPARTMENT -- ORGANIZATION

15.102 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Board*" means the Iowa economic development board.
2. "*Department*" means the Iowa department of economic development.
3. "*Director*" means the director of the department or the director's designee.
4. "*Small business*" means any enterprise which is located in this state, which is operated for profit and under a single management, and which has either fewer than twenty employees or an annual gross income of less than three million dollars computed as the average of the three preceding fiscal years. This definition does not apply to any program or activity for which a definition for small business is provided for the program or activity by federal law or regulation or other state law.
5. a. "*Targeted small business*" means a small business which is fifty-one percent or more owned, operated, and actively managed by one or more women, minority persons, or persons with a disability provided the business meets all of the following requirements:
 - b. As used in this subsection:
 - (1) "*Disability*" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual. "*Disability*" does not include any of the following:
 - (a) Homosexuality or bisexuality.
 - (b) Transvestitism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders.
 - (c) Compulsive gambling, kleptomania, or pyromania.
 - (d) Psychoactive substance abuse disorders resulting from current illegal use of drugs.
 - (2) "*Major life activity*" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.
 - (3) "*Minority person*" means an individual who is a Black, Hispanic, Asian or Pacific Islander, American Indian, or Alaskan native American.
 - (1) Is located in this state.
 - (2) Is operated for profit.
 - (3) Has an annual gross income of less than three million dollars computed as an average of the three preceding fiscal years.

Section History: Recent form

86 Acts, ch 1245, § 802; 90 Acts, ch 1156, §2; 91 Acts, ch 103, §1; 94 Acts, ch 1076, § 2

Internal References

Referred to in § 12.43, 15.247, 73.15

SUBTITLE 9. RESTRAINTS ON GOVERNMENT

CHAPTER 21. OFFICIAL MEETINGS OPEN TO THE PUBLIC

21.2 Definitions.

As used in this chapter:

1. "*Governmental body*" means:

a. A board, council, commission or other governing body expressly created by the statutes of this state or by executive order.

b. A board, council, commission, or other governing body of a political subdivision or tax-supported district in this state.

c. A multimembered body formally and directly created by one or more boards, councils, commissions, or other governing bodies subject to paragraphs "a" and "b" of this subsection.

d. Those multimembered bodies to which the state board of regents or a president of a university has delegated the responsibility for the management and control of the intercollegiate athletic programs at the state universities.

e. An advisory board, advisory commission, or task force created by the governor or the general assembly to develop and make recommendations on public policy issues.

f. A nonprofit corporation other than a county or district fair or agricultural society, whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D or a nonprofit corporation which is a successor to the nonprofit corporation which built the facility.

g. A nonprofit corporation licensed to conduct gambling games pursuant to chapter 99F.

h. An advisory board, advisory commission, advisory committee, task force, or other body created by statute or executive order of this state or created by an executive order of a political subdivision of this state to develop and make recommendations on public policy issues.

2. "*Meeting*" means a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body's policy-making duties. Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter.

3. "*Open session*" means a meeting to which all members of the public have access.

Section History: Early form

[C71, 73, 75, 77, § 28A.1; C79, 81, § 28A.2]

Section History: Recent form

C85, §21.2 ~189 Acts, ch 73, § 1; 90 Acts, ch 1175, §1; 90 Acts, ch 1271, §701; 91 Acts, ch 258, § 26; 93 Acts, ch 25, § 1

Internal References

Referred to in § 21.11, 331.909

CHAPTER 22. EXAMINATION OF PUBLIC RECORDS

22.7 Confidential records.

The following public records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:

1. Personal information in records regarding a student, prospective student, or former student maintained, created, collected or assembled by or for a school corporation or educational institution maintaining such records.

2. Hospital records, medical records, and professional counselor records of the condition, diagnosis, care, or treatment of a patient or former patient or a counselee or former counselee, including outpatient. However,

confidential communications between a crime victim and the victim's counselor are not subject to disclosure except as provided in section 236A.1. However, the Iowa department of public health shall adopt rules which provide for the sharing of information among agencies concerning the maternal and child health program, while maintaining an individual's confidentiality.

3. Trade secrets which are recognized and protected as such by law.

4. Records which represent and constitute the work product of an attorney, which are related to litigation or claim made by or against a public body.

5. Peace officers' investigative reports, except where disclosure is authorized elsewhere in this Code. However, the date, time, specific location, and immediate facts and circumstances surrounding a crime or incident shall not be kept confidential under this section, except in those unusual circumstances where disclosure would plainly and seriously jeopardize an investigation or pose a clear and present danger to the safety of an individual.

6. Reports to governmental agencies which, if released, would give advantage to competitors and serve no public purpose.

7. Appraisals or appraisal information concerning the purchase of real or personal property for public purposes, prior to public announcement of a project.

8. Iowa department of economic development information on an industrial prospect with which the department is currently negotiating.

9. Criminal identification files of law enforcement agencies. However, records of current and prior arrests and criminal history data shall be public records.

10. Personal information in confidential personnel records of the military division of the department of public defense of the state.

11. Personal information in confidential personnel records of public bodies including but not limited to cities, boards of supervisors and school districts.

12. Financial statements submitted to the department of agriculture and land stewardship pursuant to chapter 203 or chapter 203C, by or on behalf of a licensed grain dealer or warehouse operator or by an applicant for a grain dealer license or warehouse license.

13. The records of a library which, by themselves or when examined with other public records, would reveal the identity of the library patron checking out or requesting an item or information from the library. The records shall be released to a criminal or juvenile justice agency only pursuant to an investigation of a particular person or organization suspected of committing a known crime. The records shall be released only upon a judicial determination that a rational connection exists between the requested release of information and a legitimate end and that the need for the information is cogent and compelling.

14. The material of a library, museum or archive which has been contributed by a private person to the extent of any limitation that is a condition of the contribution.

15. Information concerning the procedures to be used to control disturbances at adult correctional institutions. Such information shall also be exempt from public inspection under section 17A.3. As used in this subsection disturbance means a riot or a condition that can reasonably be expected to cause a riot.

16. Information in a report to the Iowa department of public health, to a local board of health, or to a local health department, which identifies a person infected with a reportable disease.

17. Records of identity of owners of public bonds or obligations maintained as provided in section 76.10 or by the issuer of the public bonds or obligations. However, the issuer of the public bonds or obligations and a state or federal agency shall have the right of access to the records.

18. Communications not required by law, rule, or procedure that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications from such persons outside of government could reasonably believe that those persons would be discouraged from making them to that government body if they were available for general public examination. Notwithstanding this provision:

a. The communication is a public record to the extent that the person outside of government making that communication consents to its treatment as a public record.

b. Information contained in the communication is a public record to the extent that it can be disclosed without directly or indirectly indicating the identity of the person outside of government making it or enabling others to ascertain the identity of that person.

c. Information contained in the communication is a public record to the extent that it indicates the date, time, specific location, and immediate facts and circumstances surrounding the occurrence of a crime or other illegal act, except to the extent that its disclosure would plainly and seriously jeopardize a continuing investigation or pose a clear and present danger to the safety of any person. In any action challenging the failure of the lawful custodian to

disclose any particular information of the kind enumerated in this paragraph, the burden of proof is on the lawful custodian to demonstrate that the disclosure of that information would jeopardize such an investigation or would pose such a clear and present danger.

19. Examinations, including but not limited to cognitive and psychological examinations for law enforcement officer candidates administered by or on behalf of a governmental body, to the extent that their disclosure could reasonably be believed by the custodian to interfere with the accomplishment of the objectives for which they are administered.

20. Memoranda, work products and case files of a mediator and all other confidential communications in the possession of an approved dispute resolution center, as provided in chapter 679. Information in these confidential communications is subject to disclosure only as provided in section 679.12, notwithstanding this chapter.

21. Information concerning the nature and location of any archaeological resource or site if, in the opinion of the state archaeologist, disclosure of the information will result in unreasonable risk of damage to or loss of the resource or site where the resource is located. This subsection shall not be construed to interfere with the responsibilities of the federal government or the state historical preservation officer pertaining to access, disclosure, and use of archaeological site records.

22. Information concerning the nature and location of any ecologically sensitive resource or site if, in the opinion of the director of the department of natural resources after consultation with the state ecologist, disclosure of the information will result in unreasonable risk of damage to or loss of the resource or site where the resource is located. This subsection shall not be construed to interfere with the responsibilities of the federal government or the director of the department of natural resources and the state ecologist pertaining to access, disclosure, and use of the ecologically sensitive site records.

23. Reports or recommendations of the Iowa insurance guaranty association filed or made pursuant to section 515B.10, subsection 1, paragraph "a", subparagraph (2).

24. Information or reports collected or submitted pursuant to section 508C.12, subsections 3 and 5, and section 508C.13, subsection 2, except to the extent that release is permitted under those sections.

25. Records of purchases of alcoholic liquor from the alcoholic beverages division of the department of commerce which would reveal purchases made by an individual class "E" liquor control licensee. However, the records may be revealed for law enforcement purposes or for the collection of payments due the division pursuant to section 123.24.

26. Financial information, which if released would give advantage to competitors and serve no public purpose, relating to commercial operations conducted or intended to be conducted by a person submitting records containing the information to the department of agriculture and land stewardship for the purpose of obtaining assistance in business planning.

27. Applications, investigation reports, and case records of persons applying for county general assistance pursuant to section 252.25.

28. Marketing and advertising budget and strategy of a nonprofit corporation which is subject to this chapter. However, this exemption does not apply to salaries or benefits of employees who are employed by the nonprofit corporation to handle the marketing and advertising responsibilities.

29. The information contained in records of the centralized employee registry created in chapter 252G, except to the extent that disclosure is authorized pursuant to chapter 252G.

30. Records and information obtained or held by independent special counsel during the course of an investigation conducted pursuant to section 68B.34. Information that is disclosed to a legislative ethics committee subsequent to a determination of probable cause by independent special counsel and made pursuant to section 68B.31 is not a confidential record unless otherwise provided by law.

31. Information contained in a declaration of paternity completed and filed with the state registrar of vital statistics pursuant to section 144.12A, except to the extent that the information may be provided to persons in accordance with section 144.12A.

32. Memoranda, work products, and case files of a mediator and all other confidential communications in the possession of a mediator, as provided in chapters 86 and 216. Information in these confidential communications is subject to disclosure only as provided in sections 86.44 and 216.15B, notwithstanding any other contrary provision of this chapter.

33. Social security numbers of the owners of unclaimed property reported to the treasurer of state pursuant to section 556.11, subsection 2, included on claim forms filed with the treasurer of state pursuant to section 556.19, included in outdated warrant reports received by the treasurer of state pursuant to section 25.2, or stored in record systems maintained by the treasurer of state for purposes of administering chapter 556, or social security numbers of payees included on state warrants included in records systems maintained by the department of revenue and finance for the purpose of documenting and tracking outdated warrants pursuant to section 25.2.

34. Data processing software, as defined in section 22.3A, which is developed by a government body.
35. A record required under the Iowa financial transaction reporting Act listed in section 529.2, subsection 9.
36. Records of the Iowa department of public health pertaining to participants in the gambling treatment program except as otherwise provided in this chapter.

Section History: Early form

[C71, 73, 75, 77, 79, 81, § 68A.7; 81 Acts, ch 36, § 1, ch 37, § 1, ch 38, § 1, ch 62, § 4]

Section History: Recent form

83 Acts, ch 90, § 9; 84 Acts, ch 1014, § 1; 84 Acts, ch 1185, § 5, 6 ~IC85, § 22.7 ~I85 Acts, ch 134, §16; 85 Acts, ch 175, §1; 85 Acts, ch 208, §1; 86 Acts, ch 1184, §1; 86 Acts, ch 1228, §1; 87 Acts, ch 223, § 20; 88 Acts, ch 1010, § 1; 88 Acts, ch 1256, § 1; 89 Acts, ch 194, § 1; 89 Acts, ch 304, § 102; 89 Acts, ch 311, § 22; 90 Acts, ch 1017, §1; 90 Acts, ch 1271, §703; 92 Acts, ch 1212, § 3; 93 Acts, ch 79, §2; 93 Acts, ch 163, §27; 94 Acts, ch 1023, §76; 94 Acts, ch 1064, §1; 94 Acts, ch 1092, §1; 94 Acts, ch 1174, §1; 95 Acts, ch 100, § 1; 95 Acts, ch 129, § 1; 95 Acts, ch 191, § 1; 96 Acts, ch 1037, § 1; 96 Acts, ch 1099, § 16; 96 Acts, ch 1133, § 38; 96 Acts, ch 1150, § 1; 96 Acts, ch 1212, § 10

Internal References

Referred to in § 2C.9, 68B.31, 68B.32B, 76.11, 87.11, 100.5, 136A.6, 147A.26, 203D.4, 206.23A, 252G.5, 263B.10, 280.19A, 455B.117, 465C.14, 476.4A, 476.74, 692A.13, 708.2B, 907.4, 912.10

TITLE II. ELECTONS AND OFFICIAL DUTIES

SUBTITLE 2. PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 68B. CONFLICTS OF INTEREST OF PUBLIC OFFICERS AND EMPLOYEES

DIVISION III.

68B.35 Personal financial disclosure---certain officials, members of the general assembly, and candidates.

1. The persons specified in subsection 2 shall file a financial statement at times and in the manner provided in this section that contains all of the following:

a. A list of each business, occupation, or profession in which the person is engaged and the nature of that business, occupation, or profession, unless already apparent.

b. A list of any other sources of income if the source produces more than one thousand dollars annually in gross income. Such sources of income listed pursuant to this paragraph may be listed under any of the following categories, or under any other categories as may be established by rule:

(1) Securities.

(2) Instruments of financial institutions.

(3) Trusts.

(4) Real estate.

(5) Retirement systems.

(6) Other income categories specified in state and federal income tax regulations.

2. The financial statement required by this section shall be filed by the following persons:

a. Any statewide elected official.

b. The executive or administrative head or heads of any agency of state government.

c. The deputy executive or administrative head or heads of an agency of state government.

d. The head of a major subunit of a department or independent state agency whose position involves a substantial exercise of administrative discretion or the expenditure of public funds as defined under rules adopted by the board, pursuant to chapter 17A, in consultation with the department or agency.

e. Members of the banking board, the ethics and campaign disclosure board, the credit union review board, the economic development board, the employment appeal board, the environmental protection commission, the health facilities council, the Iowa business investment corporation board of directors, the Iowa finance authority, the Iowa seed capital corporation, the Iowa public employees' retirement system investment board, the lottery board, the

natural resource commission, the board of parole, the petroleum underground storage tank fund board, the public employment relations board, the state racing and gaming commission, the state board of regents, the tax review board, the transportation commission, the office of consumer advocate, the utilities board, the Iowa telecommunications and technology commission, and any full-time members of other boards and commissions as defined under section 7E.4 who receive an annual salary for their service on the board or commission.

f. Members of the general assembly.

g. Candidates for state office.

h. Legislative employees who are the head or deputy head of a legislative agency or whose position involves a substantial exercise of administrative discretion or the expenditure of public funds.

3. The board, in consultation with each executive department or independent agency, shall adopt rules pursuant to chapter 17A to implement the requirements of this section that provide for the time and manner for the filing of financial statements by persons in the department or independent agency.

4. The ethics committee of each house of the general assembly shall recommend rules for adoption by each house for the time and manner for the filing of financial statements by members or employees of the particular house. The legislative council shall adopt rules for the time and manner for the filing of financial statements by legislative employees of the central legislative staff agencies. The rules shall provide for the filing of the financial statements with either the chief clerk of the house, the secretary of the senate, or other appropriate person or body.

5. A candidate for statewide office shall file a financial statement with the ethics and campaign disclosure board, a candidate for the office of state representative shall file a financial statement with the chief clerk of the house of representatives, and a candidate for the office of state senator shall file a financial statement with the secretary of the senate. Statements shall contain information concerning the year preceding the year in which the election is to be held. The statement shall be filed no later than thirty days after the date on which a person is required to file nomination papers for state office under section 43.11, or, if the person is a candidate in a special election, as soon as practicable after the certification of the name of the nominee under section 43.88, but the statement shall be postmarked no later than seven days after certification. The ethics and campaign disclosure board shall adopt rules pursuant to chapter 17A providing for the filing of the financial statements with the board and for the deposit, retention, and availability of the financial statements. The ethics committees of the house of representatives and the senate shall recommend rules for adoption by the respective houses providing for the filing of the financial statements with the chief clerk of the house or the secretary of the senate and for the deposit, retention, and availability of the financial statements. Rules adopted shall also include a procedure for notification of candidates of the duty to file disclosure statements under this section.

Section History: Recent form

92 Acts, ch 1228, § 17; 93 Acts, ch 163, § 21; 94 Acts, ch 1092, §9; 96 Acts, ch 1200, §2

Internal References

Referred to in § 68B.3, 68B.25, 68B.32

TITLE III. PUBLIC SERVICES AND REGULATION

SUBTITLE 3. RETIREMENT SYSTEMS

CHAPTER 97A. PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT AND DISABILITY SYSTEM

97A.1 Definitions of words and phrases.

The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

1. "*Actuarial equivalent*" shall mean a benefit of equal value, when computed upon the basis of mortality tables adopted by the board of trustees, and interest computed at a rate adopted by the board upon the recommendation of the actuary.

2. "*Amount earned*" shall mean the amount of money actually earned by a beneficiary in some definite period of time.
3. "*Average final compensation*" shall mean the average earnable compensation of the member during the member's highest three years of service as a member of the state department of public safety, or if the member has had less than three years of service, then the average earnable compensation of the member's entire period of service.
4. "*Beneficiary*" shall mean any person receiving a retirement allowance or other benefit as provided by this chapter.
5. "*Board of trustees*" means the board created in section 97A.5 to direct the administration of the Iowa department of public safety peace officers' retirement, accident, and disability system.
6. "*Child*" means only the surviving issue of a deceased active or retired member, or a child legally adopted by a deceased member prior to the member's retirement. "*Child*" includes only an individual who is under the age of eighteen years, an individual who is under the age of twenty-two and is a full-time student, or an individual who is disabled under the definitions used in section 402 of the Social Security Act as amended if the disability occurred to the individual during the time the individual was under the age of eighteen years and the parent of the individual was an active member of the system.
7. "*Commissioner*" means the commissioner of public safety of this state.
8. "*Department*" means the department of public safety of this state.
9. "*Earnable compensation*" or "*compensation earnable*" shall mean the regular compensation which a member would earn during one year on the basis of the stated compensation for the member's rank or position including compensation for longevity and the daily amount received for meals under section 80.8 and excluding any amount received for overtime compensation or other special additional compensation, other payments for meal expenses, uniform cleaning allowances, travel expenses, and uniform allowances and excluding any amount received upon termination or retirement in payment for accumulated sick leave or vacation.
10. "*Medical board*" shall mean the board of physicians provided for in section 97A.5.
11. "*Member*" or "*member of system*" shall mean a member of the Iowa department of public safety peace officers' retirement, accident, and disability system as defined by section 97A.3.
12. "*Membership service*" shall mean service as a peace officer in the division of highway safety, uniformed force, and radio communications, the division of criminal investigation and bureau of identification, or division of drug law enforcement in the department of public safety and arson investigators rendered since last becoming a member, or, where membership is regained as provided in this chapter, all of such service.
13. "*Peace officer*" or "*peace officers*" shall mean all members of the divisions of highway safety and uniformed force and criminal investigation and bureau of identification in the department of public safety, except clerical workers, including but not limited to gaming enforcement officers employed by the division of criminal investigation for excursion boat gambling enforcement activities, who have passed a satisfactory physical and mental examination and have been duly appointed as members of the state department of public safety in accordance with section 80.15, and the division of drug law enforcement, and arson investigators and fire prevention inspector peace officers in the department of public safety, except clerical workers, employees of the division of capitol police, except clerical workers, and the division of beer and liquor law enforcement of the department of public safety, except clerical workers.
14. "*Pension reserve*" shall mean the present value of all payments to be made on account of any pension, or benefit in lieu of a pension, granted under the provisions of this chapter, upon the basis of such mortality tables as shall be adopted by the board of trustees and interest computed at a rate adopted by the board upon the recommendation of the actuary.
15. "*Pensions*" shall mean annual payments for life derived from the appropriations provided by the state of Iowa and from contributions of the members which are deposited in the pension accumulation fund. All pensions shall be paid in equal monthly installments.
16. "*Retirement allowance*" shall mean the pension, or any benefits in lieu thereof, granted to a member upon retirement.
17. "*Surviving spouse*" shall mean the surviving spouse or former spouse of a marriage solemnized prior to retirement of a deceased member from active service. Surviving spouse shall include a former spouse only if the division of assets in the dissolution of marriage decree pursuant to section 598.17 grants the former spouse rights of a spouse under this chapter. If there is no surviving spouse of a marriage solemnized prior to retirement of a deceased member, surviving spouse includes a surviving spouse of a marriage of two years or more duration solemnized subsequent to retirement of the member.
18. "*System*" shall mean the Iowa department of public safety peace officers' retirement, accident, and disability system as defined in section 97A.2.

Section History: Early form

[C50, 54, 58, 62, 66, 71, 73, 75, § 97A.1; C77, 79, 81, § 97A.1, 97A.6(8b); 82 Acts, ch 1261, § 1, 2]

Section History: Recent form

86 Acts, ch 1245, § 243; 88 Acts, ch 1242, § 2; 92 Acts, ch 1232, § 504; 94 Acts, ch 1183, §2

Internal References

Referred to in § 97D.3

97A.3 Membership in system---reemployment.

1. All members of the division of highway safety, uniformed force, and radio communications and the division of criminal investigation and bureau of identification in the department of public safety, excepting the members of the clerical force, who are employed by the state of Iowa when this chapter becomes effective, and all persons thereafter employed as members of such divisions in the department of public safety or division of drug law enforcement and arson investigators, except the members of the clerical force, shall be members of this system, except as otherwise provided in subsection 3. Effective July 1, 1994, gaming enforcement officers employed by the division of criminal investigation for excursion boat gambling enforcement activities, fire prevention inspector peace officers employed by the department of public safety, and employees of the division of capitol police, except clerical workers, shall be members of this system, except as otherwise provided in subsection 3 or section 97B.42B. Such members shall not be required to make contributions under any other pension or retirement system of the state of Iowa, anything to the contrary notwithstanding.

2. Should any member in any period of five consecutive years after last becoming a member, be absent from service for more than four years, or should a member become a beneficiary or die, the person shall thereupon cease to be a member of this system.

3. *a.* As used in this section, unless the context otherwise requires, "*reemployed*" or "*reemployment*" means the employment of a person in a position which would otherwise be included as a membership position under subsection 1, after the person has commenced receiving a service retirement allowance under section 97A.6.

b. If a person is reemployed, the person shall not become an active member of the system upon reemployment, and the person so reemployed and the state of Iowa shall not make contributions to the system based upon the person's compensation for reemployment. A person who is so reemployed shall continue to receive the service retirement allowance, and the service retirement allowance shall not be recalculated based upon the person's reemployment. Notwithstanding section 97B.41 or any other provision of law to the contrary, a person reemployed as provided in this subsection shall be exempt from chapter 97B.

4. Effective July 1, 1979, a person shall not become a member of the system unless that person has passed the physical and mental examination given under the provisions of section 80.15 and unless that person has received a diploma for satisfactory completion of a training school held pursuant to the provisions of section 80.13.

Section History: Early form

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 97A.3]

Section History: Recent form

92 Acts, ch 1232, §505; 94 Acts, ch 1183, §3

Internal References

Referred to in § 97A.1, 97A.6, 97D.3

CHAPTER 97B. IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

97B.42B Transfer to chapter 97A---options for certain public safety employees.

1. Commencing July 1, 1994, a person who is newly hired in the following positions in the department of public safety shall be a member of the Iowa department of public safety peace officers' retirement, accident, and disability system established in chapter 97A:

a. Gaming enforcement officers employed by the division of criminal investigation for excursion boat gambling enforcement activities.

b. Fire prevention inspector peace officers.

c. Employees of the division of capitol police, except clerical workers.

2. Commencing July 1, 1994, notwithstanding any other provision of law to the contrary, a member who is employed in a position specified in subsection 1 prior to July 1, 1994, may elect coverage under the Iowa department of public safety peace officers' retirement, accident, and disability system established in chapter 97A, in lieu of continuing contributions to the Iowa public employees' retirement system, or may remain a member of the Iowa public employees' retirement system. A member who is employed in a position specified in subsection 1 prior to July 1, 1994, must file an election for coverage under the Iowa department of public safety peace officers' retirement, accident, and disability system with the board of trustees established in section 97A.5 on or before July 1, 1995, or the employee shall remain a member under this chapter and shall not be eligible to elect to participate in the system established pursuant to chapter 97A at a later date pursuant to this section. The board of trustees established in section 97A.5 shall notify the department of personnel of elections received pursuant to this section, and the board of trustees and the department shall cooperate to facilitate the implementation of this section. Coverage under chapter 97A shall commence, and coverage as an active member under this chapter shall cease, when the election has been approved by the board of trustees established in section 97A.5.

3. If an employee elects coverage under chapter 97A as provided in subsection 2 and the election is approved by the board of trustees established in section 97A.5, membership in the Iowa public employees' retirement system shall cease, and the employee shall be transferred to membership in the Iowa department of public safety peace officers' retirement, accident, and disability system. The department of personnel shall transfer the accumulated contributions of these employees to the treasurer of state for deposit in the pension accumulation fund established in section 97A.8. However, employer contributions which were made with respect to the employees while the employees were members of the Iowa public employees' retirement system shall remain in the fund established in section 97B.7, and any costs pertaining to the payment of employer contributions to the system established in chapter 97A with respect to the period of time during which the employees were members of the Iowa public employees' retirement system, or any other costs related to the transfer, shall be borne by the system established in chapter 97A, notwithstanding any other provision of law to the contrary.

4. Notwithstanding any other provision of law to the contrary, if the board of trustees established in section 97A.5 approves an election pursuant to subsection 2, the employees transferred from coverage under this chapter to coverage under the system established in chapter 97A shall receive credit for years of service under chapter 97A for those years of service during which the employees were members of the Iowa public employees' retirement system and employed in positions specified in subsection 1. In addition, notwithstanding the limitation on covered wages provided in section 97B.41, subsection 25, compensation which was paid to an employee in a position specified in subsection 1 while the employee was a member pursuant to this chapter shall be included in determining the average final compensation of the employee pursuant to chapter 97A, if applicable. Employees whose membership is transferred pursuant to this section and the employer, the department of public safety, shall not be required to pay the difference in the employee and employer contributions in effect for the period of time in which the employees were members pursuant to this chapter, as compared to the employee and employer contributions then in effect for members of the system established in chapter 97A.

5. It is the intent of the general assembly that in administering the provisions of this section, the board of trustees established in section 97A.5 and the department of personnel shall interpret this section in a manner which provides that the employees whose membership is transferred shall not lose benefits which would have otherwise accrued had the employees been members of the system established in chapter 97A during the period of time in which the employees were actually members of the Iowa public employees' retirement system.

Section History: Recent form

94 Acts, ch 1183, §26

Internal References

Referred to in § 97A.3, 97B.49

SUBTITLE 4. GAMBLING

99.1 Houses of prostitution or other nuisances.

Whoever shall erect, establish, continue, maintain, use, own, or lease any building, erection, or place used for the purpose of prostitution or gambling, except as authorized under the laws of this state is guilty of a nuisance, and the building, erection, or place, or the ground itself, in or upon which such prostitution or gambling is conducted,

permitted, or carried on, continued, or exists, and the furniture, fixtures, musical instruments, and movable property used in conducting or maintaining such nuisance, are also declared a nuisance and shall be enjoined and abated as hereinafter provided.

The provisions of this section do not apply to games of skill, games of chance, or raffles conducted pursuant to chapter 99B or to devices lawful under section 99B.10.

Section History: Early form

[SS15, § 4944-h1; C24, 27, 31, 35, 39, § 1587; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 99.1]

99A.1 Definitions.

For the purpose of this chapter, the words, terms, and phrases defined in this section shall have the meanings given them.

1. "*Gambling devices*" means gambling devices as defined in section 725.9.

2. "*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.

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

4. "*Licensed business*" means any business, trade, vocation, commercial enterprise, or undertaking for which any license is issued.

5. "*Licensed premises*" means the place or building, or the room in a building of the licensed business, 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 of the licensed business.

6. "*Licensee*" means any person to whom a license of any kind is issued.

7. "*Municipality*" means any county, city, village or township.

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

Section History: Early form

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 99A.1]

99A.2 Intentional possession.

The intentional possession or willful keeping of a gambling device upon any licensed premises, except as provided in this chapter, is cause for the revocation of any license upon the premises where the gambling device is found. Possession by an employee of the licensee on the premises of the licensee creates a presumption of intentional possession by the licensee.

All licenses of any licensed business shall be revoked if the intentional possession or willful keeping of any such gambling device 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.

Section History: Early form

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 99A.2]

Section History: Recent form

83 Acts, ch 187, § 31

99A.4 Duties of peace officers.

Every sheriff, deputy sheriff, constable, marshal, policeman, police officer, and peace officer shall immediately report the finding of gambling devices at licensed premises to the authority or authorities issuing the license or licenses applicable to the premises in question.

Section History: Early form

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 99A.4]

Section History: Recent form

94 Acts, ch 1173, §6

Internal References

Referred to in § 99A.5, 331.653

99A.6 Licenses revoked---appeal.

If, upon the hearing of the order to show cause, the issuing authority finds that the licensee intentionally possessed or willfully kept upon the licensee's licensed premises any gambling device, then the license or licenses under which the licensed business is operated, or used in the operation of such business on the licensed premises, shall be revoked.

Judicial review of actions of the issuing authorities may be sought in accordance with the terms of the Iowa administrative procedure Act. Municipalities acting as issuing authorities shall be deemed state agencies solely for the purposes of bringing their actions under this chapter within the terms of section 17A.19. If the licensee has not filed a petition for judicial review in district court, revocation shall date from the thirty-first day following the date of the order of the issuing authority. If the licensee has filed a petition for judicial review, revocation shall date from the thirty-first day following entry of the order of the district court, if action by the district court is adverse to the licensee.

No new license or licenses shall be granted the licensee, nor for the same business if it is established that the owner had actual knowledge of the existence of the gambling devices resulting in the license revocation, upon the same premises, for the period of one year following the date of revocation.

Section History: Early form

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 99A.6]

Internal References

Referred to in § 99A.7, 99A.9, 331.756(22)

99A.9 Owner of premises---when penalized.

When the license is revoked under the provisions of this chapter, subject to the provisions of section 99A.6, 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 the owner had knowledge of the existence of the gambling devices resulting in the license revocation.

Section History: Early form

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 99A.9]

99A.10 Manufacture and distribution of gambling devices permitted.

A person may manufacture or act as a distributor for gambling devices for sale out of the state in another jurisdiction where possession of the device is legal or for sale in the state or use in the state if the use is permitted pursuant to either chapter 99B or chapter 99E.

Section History: Recent form

85 Acts, ch 32, §117; 86 Acts, ch 1052, § 1; 90 Acts, ch 1062, § 1

99B.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Amusement concession*" means any place where a single game of skill or game of chance is conducted by a person for profit, and includes the area within which are confined the equipment, playing area and other personal property necessary for the conduct of the game.

2. "*Amusement device*" means an electrical or mechanical device possessed and used in accordance with section 99B.10. When possessed and used in accordance with that section, an amusement device is not a game of skill or game of chance, and is not a gambling device.

3. "*Applicant*" means an individual or an organization.
4. "*Authorized*" means approved as a concession by the Iowa state fair board or a county or district fair or agricultural society holding a fair.
5. "*Bingo*" means a game, whether known as bingo or any other name, in which each participant uses one or more cards each of which is marked off into spaces arranged in horizontal and vertical rows of spaces, with each space being designated by number, letter, or combination of numbers and letters, no two cards being identical, with the players covering spaces as the operator of the game announces the number, letter, or combination of numbers and letters appearing on an object selected by chance, either manually or mechanically, from a receptacle in which have been placed objects bearing numbers, letters, or combinations of numbers and letters corresponding to the system used for designating the spaces, with the winner of each game being the player or players first properly covering a predetermined and announced pattern of spaces on a card being used by the player or players. Each determination of a winner by the method described in the preceding sentence is a single bingo game at any bingo occasion.
6. "*Bingo occasion*" means a single gathering or session at which successive bingo games are played. A bingo occasion commences when the operator of the game begins to announce the number, letter, or combination of numbers or letters through which the winner of a single bingo game will be determined.
7. "*Bona fide social relationship*" as used herein means a real, genuine, unfeigned social relationship between two or more persons wherein each person has an established knowledge of the other, which has not arisen for the purpose of gambling.
8. "*Bookmaking*" as used herein means the taking or receiving of any bet or wager upon the result of any trial or contest of skill, speed, power or endurance of human, beast, fowl or motor vehicle, which is not a wager or bet pursuant to section 99B.12, subsection 2, paragraph "c", or which is laid off, placed, given, received or taken, by an individual who was not present when the wager or bet was undertaken, or by any publicly or privately owned enterprise where such wagers or bets may be undertaken.
9. A person "*conducts*" a specified activity if that person owns, promotes, sponsors, or operates a game or activity. A natural person does not "*conduct*" a game or activity if the person is merely a participant in a game or activity which complies with section 99B.12.
10. "*Controlling shareholder*" means either of the following:
 - a. A person who directly or indirectly owns or controls ten percent or more of any class of stock of a license applicant.
 - b. A person who directly or indirectly has an interest of ten percent or more in the ownership or profits of a license applicant.
11. "*Department*" means the department of inspections and appeals.
12. "*Eligible applicant*" means an applicant who meets all of the following requirements:
 - a. The applicant's financial standing and good reputation are within the standards established by the department by rule under chapter 17A so as to satisfy the director of the department that the applicant will comply with this chapter and the rules applicable to operations under it.
 - b. The applicant is a citizen of the United States and a resident of this state, or a corporation licensed to do business in this state, or a business that has an established place of business in this state or that is doing business in this state.
 - c. The applicant has not been convicted of a felony. However, if the applicant's conviction occurred more than five years before the date of the application for a license, and if the applicant's rights of citizenship have been restored by the governor, the director of the department may determine that the applicant is an eligible applicant. If the applicant is an organization, then the requirements of paragraphs "a", "b", and "c" apply to its officers, directors, partners and controlling shareholders.
13. "*Fair*" means an annual fair and exposition held by the Iowa state fair board and any fair held by a county or district fair or agricultural society under the provisions of chapter 174.
14. "*Game of chance*" means a game whereby the result is determined by chance and the player in order to win aligns objects or balls in a prescribed pattern or order or makes certain color patterns appear and specifically includes but is not limited to the game defined as bingo. Game of chance does not include a slot machine.
15. "*Game of skill*" means a game whereby the result is determined by the player directing or throwing objects to designated areas or targets, or by maneuvering water or an object into a designated area, or by maneuvering a dragline device to pick up particular items, or by shooting a gun or rifle.
16. "*Gross receipts*" means the total revenue received from the sale of rights to participate in a game of skill, game of chance, or raffle and admission fees or charges.
17. "*Merchandise*" includes lottery tickets or shares sold or authorized under chapter 99E. The value of the ticket or share is the price of the ticket or share as established by the lottery division of the department of revenue and finance pursuant to chapter 99E.

18. *"Net receipts"* means gross receipts less amounts awarded as prizes and less state and local sales tax paid upon the gross receipts. Reasonable expenses, charges, fees, taxes other than the state and local sales tax, and deductions allowed by the department shall not exceed twenty-five percent of net receipts.

19. *"Net rent"* means the total rental charge minus reasonable expenses, charges, fees, and deductions allowed by the department.

20. *"Posted"* means that the person conducting a game has caused to be placed near the front or playing area of the game a sign at least thirty inches by thirty inches, with permanent material and lettering, stating at the top in letters at least three inches high: "Rules of the Game". Thereunder there shall be set forth in large, easily readable print, the name of the game, the price to play the game, the complete rules for the game and the name and permanent mailing address of the owner of the game.

21. *"Qualified organization"* means any licensed organization which dedicates the net receipts of a game of skill, game of chance or raffle as provided in section 99B.7 and meets the requirements of section 99B.7, subsection 1, paragraph "m".

22. *"Raffle"* means a lottery in which each participant buys a ticket for a chance at a prize with the winner determined by a random method and the winner is not required to be present to win. *"Raffle"* does not include a slot machine.

23. *"Social games"* means and includes only the activities permitted by section 99B.12, subsection 2.

Section History: Early form

[C75, 77, 79, 81, § 99B.1; 81 Acts, ch 44, § 1--;3]

Section History: Recent form

84 Acts, ch 1220, § 3; 86 Acts, ch 1042, § 1; 86 Acts, ch 1201, § 1; 86 Acts, ch 1245, § 711; 87 Acts, ch 115, § 14; 89 Acts, ch 231, § 13--;15; 90 Acts, ch 1233, § 4; 94 Acts, ch 1062, §1

99B.2 Licensing---records required---bingo accounts---inspections---penalties.

1. The department of inspections and appeals shall issue the licenses required by this chapter. A license shall not be issued, except upon submission to the department of an application on forms furnished by the department, and the required license fee. A license may be issued to an eligible applicant. An authorization number to operate may be issued to an applicant until a license is issued. However, a license or authorization number shall not be issued to an applicant who has been convicted of or pled guilty to a violation of this chapter, or who has been convicted of or pled guilty to a violation of chapter 123 that resulted, at any time, in revocation of a license issued to the applicant under chapter 123 or that resulted, within the twelve months preceding the date of application for a license required by this chapter, in suspension of a license issued under chapter 123. To be eligible for a two-year license under section 99B.7, an organization shall have been in existence at least five years prior to the date of issuance of the license. However, an organization which has been in existence for less than five years prior to the date of issuance of the license may obtain a two-year license if either of the following conditions apply:

a. That prior to July 1, 1984, the organization was licensed under this subsection.

b. If the organization is a local chapter of a national organization and the national organization is a tax-exempt organization under one of the provisions enumerated in section 99B.7, subsection 1, paragraph "m", then the local organization is eligible for a two-year license if the national organization has been in existence at least five years. A license shall not be issued to an individual whose previous license issued under this chapter or chapter 123 has been revoked until the period of revocation or revocations has elapsed. This prohibition applies even though the individual has created a different legal entity than the one to which the previous license that had been revoked was issued. Except as otherwise provided in this chapter, a license is valid for a period of two years from the date of issue. The license fee is not refundable, but shall be returned to the applicant if an application is not approved. If a bingo license is issued by the department of inspections and appeals, the licensee shall be notified by the department of inspections and appeals of the renewal date for the license ten days prior to that date.

2. A licensee other than one issued a license pursuant to section 99B.3, 99B.6, 99B.7A, or 99B.9 shall maintain proper books of account and records showing in addition to any other information required by the department, gross receipts and the amount of the gross receipts taxes collected or accrued with respect to gambling activities, all expenses, charges, fees and other deductions, and the cash amounts, or the cost to the licensee of goods or other noncash valuables, distributed to participants in the licensed activity. If the licensee is a qualified organization, the amounts dedicated and the date and name and address of each person to whom distributed also shall be kept in the books and records. The books of account and records shall be made available to the department or a law

enforcement agency for inspection at reasonable times, with or without notice. A failure to permit inspection is a serious misdemeanor.

3. A qualified organization conducting bingo occasions under a two-year license and expecting to have annual gross receipts of more than ten thousand dollars shall establish and maintain one regular checking account designated the "*bingo account*" and may also maintain one or more interest-bearing savings accounts designated as "*bingo savings account*".

a. Funds derived from the conduct of bingo, less the amount awarded as cash prizes, shall be deposited in the bingo account. No other funds except limited funds of the organization deposited to pay initial or unexpected emergency expenses shall be deposited in the bingo account. Deposits shall be made no later than the next business day following the day of the bingo occasion on which the receipts were obtained. Accounts shall be maintained in a financial institution in Iowa.

b. Funds from the bingo account shall be withdrawn by preprinted, consecutively numbered checks or share drafts, signed by a duly authorized representative of the licensee and made payable to a person or organization. Checks shall be imprinted with the words "Bingo Account" and shall contain the organization's gambling license number on the face of the check. There shall also be noted on the face of the check or share draft the nature of the payment made. A check or slip shall not be made payable to "cash", "bearer", or a fictitious payee. Checks, including voided checks and drafts, shall be kept and accounted for.

c. Checks shall be drawn on the bingo account for only the following purposes:

(1) The payment of necessary and reasonable bona fide expenses permitted under section 99B.7, subsection 3, paragraph "b", incurred and paid in connection with the conduct of bingo.

(2) The disbursement of net proceeds derived from the conduct of bingo to charitable purposes as required by section 99B.7, subsection 3, paragraphs "b" and "c".

(3) The transfer of net proceeds derived from the conduct of bingo to a bingo savings account pending disbursement to a charitable purpose.

(4) To withdraw initial or emergency funds deposited under subsection 3, paragraph "a".

(5) To pay prizes if the qualified organization decides to pay prizes by check rather than cash.

d. The disbursement of net proceeds on deposit in a bingo savings account to a charitable purpose shall be made by transferring the intended disbursement back into the bingo account and then withdrawing the amount by a check drawn on that account as prescribed in this section.

e. Except as permitted by subsection 3, paragraph "a", gross receipts derived from the conduct of bingo shall not be commingled with other funds of the licensed organization. Except as permitted by paragraph "c", subparagraphs (3) and (4), gross receipts shall not be transferred to another account maintained by the licensed organization.

4. A licensee required by subsection 2 to maintain records shall submit quarterly reports to the department on forms furnished by the department. These reports shall be due thirty days following the end of each calendar quarter. The reports shall contain a compilation of the information required to be recorded by subsection 2, and shall include all of the transactions occurring during the three- month period for which the report is submitted. Failure to submit the quarterly reports is grounds for revocation of the license. Willful failure to submit quarterly reports is a serious misdemeanor. However, the time for filing of reports may be extended for thirty days if the licensee makes written request to the department for an extension which request shows good cause for granting the extension. A person who intentionally files a false or fraudulent report or application with the department commits a fraudulent practice.

5. An organization receiving funds reported as being dedicated by a qualified organization shall maintain proper books of account and records showing both the receipt and the use of the funds. These records shall be made available to the department or a law enforcement agency for inspection with or without notice at reasonable times. A failure to permit inspection is a serious misdemeanor.

Section History: Early form

[C75, 77, 79, 81, § 99B.2; 81 Acts, ch 44, § 4, 5]

Section History: Recent form

84 Acts, ch 1220, § 4; 86 Acts, ch 1201, § 2; 86 Acts, ch 1245, § 712; 87 Acts, ch 184, § 1; 88 Acts, ch 1274, § 30; 89 Acts, ch 231, §16; 94 Acts, ch 1062, §2

Internal References

Referred to in § 99B.5, 99B.7, 99B.16

99B.3 Amusement concessions.

1. A game of skill or game of chance is lawful when conducted by a person at an amusement concession, but only if all of the following are complied with:

- a.* The location where the game is conducted by the person has been authorized as provided in section 99B.4.
- b.* The person conducting the game has submitted a license application and a fee of fifty dollars for each game, and has been issued a license for the game, and prominently displays the license at the playing area of the game. A license is valid for a period of one year from the date of issue.
- c.* Gambling other than the licensed game is not conducted or engaged in at the amusement concession.
- d.* The game is posted and the cost to play the game does not exceed three dollars.
- e.* A prize is not displayed which cannot be won.
- f.* Cash prizes are not awarded and merchandise prizes are not repurchased.
- g.* The game is not operated on a build-up or pyramid basis.
- h.* The actual retail value of any prize does not exceed fifty dollars. If a prize consists of more than one item, unit, or part, the aggregate retail value of all items, units, or parts shall not exceed fifty dollars.
- i.* Concealed numbers or conversion charts are not used to play the game and the game is not designed or adapted with any control device to permit manipulation of the game by the operator in order to prevent a player from winning or to predetermine who the winner will be, and the object target, block or object of the game must be attainable and possible to perform under the rules stated from the playing position of the player.
- j.* The game is conducted in a fair and honest manner.

2. It is lawful for an individual other than a person conducting the game to participate in a game of skill or game of chance conducted at an amusement concession, whether or not the amusement concession is conducted in compliance with subsection 1.

Section History: Early form

[C75, § 99B.2, 99B.3; C77, 79, 81, § 99B.3; 81 Acts, ch 44, § 6]

Section History: Recent form

88 Acts, ch 1274, § 31; 95 Acts, ch 163, §1

Internal References

Referred to in § 99B.2, 99B.4, 99B.6, 99B.8, 99B.9, 99B.12

99B.4 Permitted locations of amusement concessions.

A game of skill or game of chance lawfully may be conducted by a person at an amusement concession, but only if the person has been authorized to conduct the game at a specific location as follows:

1. At a fair, by written permission given to the person by the sponsor of the fair.
2. At an amusement park so designated by resolution of the city council of a city or the board of supervisors of a county, by written permission given to the person by the respective city or county.
3. At a carnival, bazaar, centennial, or celebration sponsored by a bona fide civic group, service club, or merchants group when that event has been authorized by resolution of the city council of a city or the board of supervisors of a county, by written permission given to the person by the authorizing city or county. Section 99B.3, subsection 1, paragraph "b", notwithstanding, a license may be issued for an event held pursuant to this paragraph at a fee of twenty-five dollars, which shall enable the sponsor of the event to conduct all games and raffles permitted under section 99B.3 for a specified period of fourteen consecutive calendar days.

Section History: Early form

[C75, § 99B.3, 99B.5, 99B.6; C77, 79, 81, § 99B.4]

Internal References

Referred to in § 99B.3, 99B.6, 331.304

99B.5 Raffles conducted at a fair.

1. Raffles lawfully may be conducted at a fair, but only if all of the following are complied with:

- a.* The raffle is conducted by the sponsor of the fair or a qualified organization licensed under section 99B.7 that has received permission from the sponsor of the fair to conduct the raffle.
- b.* The sponsor of the fair or the qualified organization has submitted a license application and a fee of thirty dollars for each raffle, has been issued a license, and prominently displays the license at the drawing area of the raffle.

- c.* The raffle is posted.
 - d.* Except with respect to an annual raffle as provided in paragraph "g", the cost of each chance in or ticket to the raffle does not exceed one dollar.
 - e.* Except with respect to an annual raffle as provided in paragraph "g", cash prizes are not awarded and merchandise prizes are not repurchased.
 - f.* The raffle is not operated on a pyramid or build-up basis.
 - g.* The actual retail value of any prize does not exceed two hundred dollars. If a prize consists of more than one item, unit, or part, the aggregate retail value of all items, units, or parts shall not exceed two hundred dollars. However, either a fair sponsor or a qualified organization, but not both, may hold one raffle per calendar year at which prizes having a combined value of more than two hundred dollars may be offered. If the prize is merchandise, its value shall be determined by the purchase price paid by the fair sponsor or qualified organization.
 - h.* The raffle is conducted in a fair and honest manner.
2. It is lawful for an individual other than a person conducting the raffle to participate in a raffle conducted at a fair, whether or not conducted in compliance with subsection 1.
 3. A licensee under this section may hold one real property raffle per calendar year at which the value of the real property may exceed two hundred dollars in lieu of the annual raffle authorized in subsection 1, paragraph "g", if all of the following requirements are met:
 - a.* The licensee has submitted the special real property raffle license application and a fee of one hundred dollars to the department, has been issued a license, and prominently displays the license at the drawing area of the raffle.
 - b.* The real property was acquired by gift or donation or has been owned by the licensee for a period of at least five years.
 - c.* All other requirements of this section and section 99B.2 are met, except that the cost to participate in the raffle may exceed one dollar for each participant.
 - d.* Receipts from the raffle are kept in a separate financial account.
 - e.* A cumulative report for the raffle on a form determined by the department and one percent of the gross receipts are submitted to the department within sixty days of the raffle drawing. The one percent of the gross receipts shall be retained by the department to pay for the cost of the special audit.
 4. For each real property raffle license issued, the department shall conduct a special audit of the raffle to verify compliance with the appropriate requirements of this chapter.

Section History: Early form

[C75, § 99B.4; C77, 79, 81, § 99B.5; 82 Acts, ch 1189, § 1]

Section History: Recent form

85 Acts, ch 191, §1; 86 Acts, ch 1201, § 3; 87 Acts, ch 184, § 2; 96 Acts, ch 1143, § 1, 2

Internal References

Referred to in § 99B.6, 99B.8, 99B.9, 99B.12, 422.45

99B.6 Games where liquor or beer is sold.

1. Except as provided in subsections 5, 6, 7, 8, and 9, gambling is unlawful on premises for which a class "A", class "B", class "C", or class "D" liquor control license, or class "B" beer permit has been issued pursuant to chapter 123 unless all of the following are complied with:
 - a.* The holder of the liquor control license or beer permit has submitted an application for a license and an application fee of one hundred fifty dollars, and has been issued a license, and prominently displays the license on the premises.
 - b.* The holder of the liquor control license or beer permit or any agent or employee of the license or permit holder does not participate in, sponsor, conduct or promote, or act as cashier or banker for any gambling activities, except as a participant while playing on the same basis as every other participant.
 - c.* Gambling other than social games is not engaged in on the premises covered by the license or permit.
 - d.* Concealed numbers or conversion charts are not used to play any game, and a game is not adapted with any control device to permit manipulation of the game by the operator in order to prevent a player from winning or to predetermine who the winner will be, and the object of the game is attainable and possible to perform under the rules stated from the playing position of the player.
 - e.* The game must be conducted in a fair and honest manner.

- f.* No person receives or has any fixed or contingent right to receive, directly or indirectly, any amount wagered or bet or any portion of amounts wagered or bet, except an amount which the person wins as a participant while playing on the same basis as every other participant.
- g.* No cover charge, participation charge or other charge is imposed upon a person for the privilege of participating in or observing gambling, and no rebate, discount, credit, or other method is used to discriminate between the charge for the sale of goods or services to participants in gambling and the charge for the sale of goods or services to nonparticipants. Satisfaction of an obligation into which a member of an organization enters to pay at regular periodic intervals a sum fixed by that organization for the maintenance of that organization is not a charge which is prohibited by this paragraph.
- h.* No participant wins or loses more than a total of fifty dollars or more consideration equivalent thereto in one or more games or activities permitted by this section at any time during any period of twenty-four consecutive hours or over that entire period. For the purpose of this paragraph a person wins the total amount at stake in any game, wager or bet, regardless of any amount that person may have contributed to the amount at stake.
- i.* No participant is participating as an agent of another person.
- j.* A representative of the department or a law enforcement agency is immediately admitted, upon request, to the premises with or without advance notice.
- k.* A person under the age of twenty-one years shall not participate in the gambling except pursuant to sections 99B.3, 99B.4, 99B.5, and 99B.7. Any licensee knowingly allowing a person under the age of twenty-one to participate in the gambling prohibited by this paragraph or any person knowingly participating in gambling with a person under the age of twenty-one, is guilty of a simple misdemeanor.
2. The holder of a license issued pursuant to this section is strictly accountable for complying with subsection 1. Proof of an act constituting a violation is grounds for revocation of the license issued pursuant to this section if the holder of the license permitted the violation to occur when the licensee knew or had reasonable cause to know of the act constituting the violation.
3. A participant in a social game which is not in compliance with this section shall be liable for a criminal penalty only if that participant has knowledge of or reason to know the facts constituting the violation.
4. The holder of a license issued pursuant to this section and every agent of that licensee who is required by the licensee to exercise control over the use of the premises who knowingly permits or engages in acts or omissions which constitute a violation of subsection 1 commits a serious misdemeanor. A licensee has knowledge of acts or omissions if any agent of the licensee has knowledge of those acts or omissions.
5. Lottery tickets or shares authorized pursuant to chapter 99E may be sold on the premises of an establishment that serves or sells alcoholic beverages, wine, or beer as defined in section 123.3.
6. A qualified organization may conduct games of skill, games of chance, or raffles pursuant to section 99B.7 in an establishment that serves or sells alcoholic beverages, wine, or beer as defined in section 123.3 if the games or raffles are conducted pursuant to this chapter or rules adopted pursuant to this chapter.
7. The holder of a liquor control license or beer permit may conduct a sports betting pool if the game is publicly displayed and the rules of the game, including the cost per participant and the amount of the winning is conspicuously displayed on or near the pool. No participant may wager more than five dollars and the maximum winnings to all participants from the pool shall not exceed five hundred dollars. The provisions of subsection 1, except paragraphs "*c*" and "*h*" and the prohibition of the use of concealed numbers in paragraph "*d*", are applicable to pools conducted under this subsection. If a pool permitted by this subsection involves the use of concealed numbers, the numbers shall be selected by a random method and no person shall be aware of the numbers at the time wagers are made in the pool. All moneys wagered shall be awarded to participants. For purposes of this subsection, "*pool*" means a game in which the participants select a square on a grid corresponding to numbers on two intersecting sides of the grid and winners are determined by whether the square selected corresponds to numbers relating to an athletic event in the manner prescribed by the rules of the game.
8. Gambling games authorized under chapter 99F may be conducted on an excursion gambling boat which is licensed as an establishment that serves or sells alcoholic beverages, wine, or beer as defined in section 123.3 if the gambling games are conducted pursuant to chapter 99F and rules adopted under chapter 99F. Notwithstanding section 123.3, subsection 26, paragraph "*b*", a person holding a federal gambling permit and licensed to conduct gambling games pursuant to chapter 99F may hold a liquor license.
9. Pari-mutuel wagering authorized under chapter 99D may be conducted within a racetrack enclosure which is licensed as an establishment that serves or sells alcoholic beverages as defined in section 123.3 if the pari-mutuel wagering is conducted pursuant to chapter 99D and rules adopted under chapter 99D.

Section History: Early form

[C77, 79, 81, § 99B.6; 81 Acts, ch 44, § 7]

Section History: Recent form

86 Acts, ch 1201, § 4--;6; 86 Acts, ch 1002, § 1, 2; 87 Acts, ch 184, § 3, 4; 88 Acts, ch 1274, § 32; 89 Acts, ch 67, § 20, 21; 89 Acts, ch 231, § 17; 90 Acts, ch 1175, § 3, 4; 94 Acts, ch 1021, § 1

Internal References

Referred to in § 99B.2, 99B.9, 99B.12

99B.7 Games conducted by qualified organizations---penalties.

1. Except as otherwise provided in section 99B.8, games of skill, games of chance and raffles lawfully may be conducted at a specified location meeting the requirements of subsection 2 of this section, but only if all of the following are complied with:

a. The person conducting the game or raffle has been issued a license pursuant to subsection 3 of this section and prominently displays that license in the playing area of the games.

b. No person receives or has any fixed or contingent right to receive, directly or indirectly, any profit, remuneration, or compensation from or related to a game of skill, game of chance, or raffle, except any amount which the person may win as a participant on the same basis as the other participants. A person conducting a game or raffle shall not be a participant in the game or raffle.

c. Cash or merchandise prizes may be awarded in the game of bingo and, except as otherwise provided in this paragraph, shall not exceed one hundred dollars. Merchandise prizes may be awarded in the game of bingo, but the actual retail value of the prize, or if the prize consists of more than one item, unit or part, the aggregate retail value of all items, units or parts, shall not exceed the maximum provided by this paragraph. A jackpot bingo game may be conducted once during any twenty- four hour period in which the prize may begin at not more than three hundred dollars in cash or actual retail value of merchandise prizes and may be increased by not more than one hundred dollars after each bingo occasion. However, the cost of play in a jackpot bingo game shall not be increased and the jackpot shall not amount to more than eight hundred dollars in cash or actual retail value of merchandise prizes. A jackpot bingo game is not prohibited by paragraph "h". A bingo occasion shall not last for longer than four consecutive hours. A qualified organization shall not hold more than fourteen bingo occasions per month. Bingo occasions held under a limited license shall not be counted in determining whether a qualified organization has conducted more than fourteen bingo occasions per month, nor shall bingo occasions held under a limited license be limited to four consecutive hours. With the exception of a limited license bingo, no more than three bingo occasions per week shall be held within a structure or building and only one person licensed to conduct games under this section may hold bingo occasions within a structure or building. A licensed qualified organization shall not conduct free games.

However, a qualified organization, which is a senior citizens' center or a residents' council at a senior citizen housing project or a group home, may hold more than fourteen bingo occasions per month and more than three bingo occasions per week within the same structure or building, and bingo occasions conducted by such a qualified organization may last for longer than four consecutive hours, if the majority of the patrons of the qualified organization's bingo occasions also participate in other activities of the senior citizens' center or are residents of the housing project. At the conclusion of each bingo occasion, the person conducting the game shall announce both the gross receipts received from the bingo occasion and the use permitted under subsection 3, paragraph "b", to which the net receipts of the bingo occasion will be dedicated and distributed.

d. Cash prizes shall not be awarded in games other than bingo and raffles. The value of a prize shall not exceed two hundred dollars and merchandise prizes shall not be repurchased. If a prize consists of more than one item, unit, or part, the aggregate value of all items, units, or parts shall not exceed two hundred dollars. However, one raffle may be conducted per calendar year at which prizes having a combined value of more than two hundred dollars may be awarded. If the prize is merchandise, its value shall be determined by purchase price paid by the organization or donor.

e. Except as provided in paragraph "d" of this subsection with respect to an annual raffle, the cost to a participant for each game shall not exceed one dollar.

f. No prize is displayed which cannot be won.

g. Merchandise prizes are not repurchased.

h. A game or raffle shall not be operated on a build-up or pyramid basis.

i. Concealed numbers or conversion charts shall not be used to play any game and a game or raffle shall not be adapted with any control device to permit manipulation of the game by the operator in order to prevent a player from

winning or to predetermine who the winner will be, and the object of the game must be attainable and possible to perform under the rules stated from the playing position of the player.

j. The game must be conducted in a fair and honest manner.

k. Each game or raffle shall be posted.

l. During the entire time that games permitted by this section are being engaged in, both of the following are observed:

(1) No other gambling is engaged in at the same location, except that lottery tickets or shares issued by the lottery division of the department of revenue and finance may be sold pursuant to chapter 99E.

(2) No free prize or other gift is given to a participant. However, one or more door prizes of a value not to exceed ten dollars each may be given by random drawing.

m. The organization conducting the game can show to the satisfaction of the department that all of the following requirements are met:

(1) The organization is eligible for exemption from federal income taxes under section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code as defined in section 422.3.

(2) The organization has an active membership of not less than twelve persons.

(3) The organization does not have a self-perpetuating governing body and officers.

This lettered paragraph "*m*" does not apply to a political party, as defined in section 43.2, to a nonparty political organization that has qualified to place a candidate as its nominee for statewide office pursuant to chapter 44, or to a candidate's committee as defined in section 56.2.

n. The person conducting the game does none of the following:

(1) Hold, currently, another license issued under this section.

(2) Own or control, directly or indirectly, any class of stock of another person who has been issued a license to conduct games under this section.

(3) Have, directly or indirectly, an interest in the ownership or profits of another person who has been issued a license to conduct games under this section.

o. Except as provided in subsection 6, paragraph "*a*", a person shall not conduct, promote, administer, or assist in the conducting, promoting or administering of a bingo occasion, unless the person regularly participates in activities of the qualified organization other than conducting bingo occasions or participates in an educational, civic, public, charitable, patriotic, or religious organization to which the net receipts are dedicated by the qualified organization.

p. A licensee shall keep records of all persons who serve as manager or cashier, or who are responsible for carrying out duties with respect to a bingo account. A licensee is subject to license revocation if it knowingly permits a person to serve in one of these capacities if the person was a manager, cashier, or responsible for carrying out duties with respect to a bingo account for another licensee at the time of one or more violations leading to revocation of the other licensee's license, and if the license is still revoked at the time of the subsequent service.

q. A licensee under this section may hold one real property raffle per calendar year at which the value of the real property may exceed two hundred dollars in lieu of the annual raffle authorized in subsection 1, paragraph "*d*", if all of the following requirements are met:

(1) The licensee has submitted the special real property raffle license application and a fee of one hundred dollars to the department, has been issued a license, and prominently displays the license at the drawing area of the raffle.

(2) The real property was acquired by gift or donation or has been owned by the licensee for a period of at least five years.

(3) All other requirements of this section and section 99B.2 are met, except that the cost to participate in the raffle may exceed one dollar for each participant.

(4) Receipts from the raffle are kept in a separate financial account.

(5) A cumulative report for the raffle on a form determined by the department and one percent of the gross receipts are submitted to the department within sixty days of the raffle drawing. The one percent of the gross receipts shall be retained by the department to pay for the cost of the special audit.

r. For each real property license issued, the department shall conduct a special audit of the raffle to verify compliance with the appropriate requirements of this chapter.

2. Games of skill, games of chance, and raffles may be conducted on premises owned or leased by the licensee, but shall not be conducted on rented premises unless the premises are rented from a person licensed under this section, and unless the net rent received is dedicated to one or more of the uses permitted under subsection 3 for dedication of net receipts. This subsection shall not apply where the rented premises are those upon which a qualified organization usually carries out a lawful business other than operating games of skill, games of chance or raffles. However, a qualified organization may rent premises other than from a licensed qualified organization to be used for

the conduct of games of skill, games of chance and raffles, and the person from whom the premises are rented may impose and collect rent for such use of those premises, but only if all of the following are complied with:

a. The rent imposed and collected shall not be a percentage of or otherwise related to the amount of the receipts of the game or raffle.

b. The qualified organization shall have the right to terminate any rental agreement at any time without penalty and without forfeiture of any sum.

c. Except for purposes of bingo, the person from whom the premises are rented shall not be a liquor control licensee or beer permittee with respect to those premises or with respect to adjacent premises.

The board of directors of a school district may authorize that public schools within that district, and the policymaking body of a nonpublic school, may authorize that games of skill, games of chance, bingo and raffles may be held at bona fide school functions, such as carnivals, fall festivals, bazaars and similar events. Each school shall obtain a license pursuant to this section prior to permitting the games or activities on the premises. However, the board of directors of a public school district may also be issued a license under this section. However, a board of directors of a public school shall not spend or authorize the expenditure of public funds for the purpose of purchasing a license. The department of inspections and appeals shall provide by rule a short form application for a license issued to a board of directors. Upon written approval by the board of directors, the license may be used by any school group or parent support group in the district to conduct activities authorized by this section. The board of directors shall not authorize a school group or parent support group to use the license more than twice in twelve months.

3. a. A person wishing to conduct games and raffles pursuant to this section as a qualified organization shall submit an application and a license fee of one hundred fifty dollars. However, upon submission of an application accompanied by a license fee of fifteen dollars, a person may be issued a limited license to conduct all games and raffles pursuant to this section at a specified location and during a specified period of fourteen consecutive calendar days. In addition, a qualified organization may be issued a limited license to conduct raffles pursuant to this section for a period of ninety days for a license fee of forty dollars or for a period of one hundred eighty days for a license fee of seventy-five dollars. A limited license shall not be issued more than once during any calendar year to the same person, or for the same location. For the purposes of this paragraph, a limited license is deemed to be issued on the first day of the period for which the license is issued.

b. A person or the agent of a person submitting application to conduct games pursuant to this section as a qualified organization shall certify that the receipts of all games, less reasonable expenses, charges, fees, taxes, and deductions allowed by this chapter, either will be distributed as prizes to participants or will be dedicated and distributed to educational, civic, public, charitable, patriotic or religious uses in this state and that the amount dedicated and distributed will equal at least seventy-five percent of the net receipts. "*Educational, civic, public, charitable, patriotic, or religious uses*" means uses benefiting a society for the prevention of cruelty to animals or animal rescue league, or uses benefiting an indefinite number of persons either by bringing them under the influence of education or religion or relieving them from disease, suffering, or constraint, or by erecting or maintaining public buildings or works, or otherwise lessening the burden of government, or uses benefiting any bona fide nationally chartered fraternal or military veterans' corporation or organization which operates in Iowa a clubroom, post, dining room, or dance hall, but does not include the erection, acquisition, improvement, maintenance, or repair of real, personal or mixed property unless it is used for one or more of the uses stated. "*Public uses*" specifically includes dedication of net receipts to political parties as defined in section 43.2. "*Charitable uses*" includes uses benefiting a definite number of persons who are the victims of loss of home or household possessions through explosion, fire, flood, or storm when the loss is uncompensated by insurance, and uses benefiting a definite number of persons suffering from a seriously disabling disease or injury, causing severe loss of income or incurring extraordinary medical expense when the loss is uncompensated by insurance.

Proceeds given to another charitable organization to satisfy the seventy-five percent dedication requirement shall not be used by the donee to pay any expenses in connection with the conducting of bingo by the donor organization, or for any cause, deed, or activity that would not constitute a valid dedication under this section.

c. A qualified organization shall distribute amounts awarded as prizes on the day they are won. A qualified organization shall dedicate and distribute the balance of the net receipts received within a quarter and remaining after deduction of reasonable expenses, charges, fees, taxes, and deductions allowed by this chapter, before the quarterly report required for that quarter under section 99B.2, subsection 4, is due. The amount dedicated and distributed must equal at least seventy-five percent of the net receipts. A person desiring to hold the net receipts for a period longer than permitted under this paragraph shall apply to the department for special permission and upon good cause shown the department may grant the request.

If permission is granted to hold the net receipts, the person shall, as a part of the quarterly report required by section 99B.2, report the amount of money currently being held and all expenditures of the funds. This report shall be filed even if the person no longer holds a gambling license.

4. It is lawful for an individual other than a person conducting games or raffles to participate in games or raffles conducted by a qualified organization, whether or not there is compliance with subsections 2 and 3: However, it is unlawful for the individual to participate where the individual has knowledge of or reason to know facts which constitute a failure to comply with subsection 1.

5. A political party or a political party organization is a qualified organization within the meaning of this chapter. Political parties or party organizations may contract with other qualified organizations to conduct the games of skill, games of chance, and raffles which may lawfully be conducted by the political party or party organization. A licensed qualified organization may promote the games of skill, games of chance, and raffles which it may lawfully conduct.

6. Proceeds coming into the possession of a person under this section are deemed to be held in trust for payment of expenses and dedication to charitable purposes as required by this section.

a. Except as provided in this paragraph, a person shall not be compensated for services rendered in connection with a game of skill, game of chance, or raffle conducted under this section. This section forbids payment of compensation to persons including, but not limited to, managers, callers, cashiers, floor workers, janitorial personnel, accountants and bookkeepers. The privilege of selling merchandise on the premises during a bingo occasion is deemed to be compensation. However, not more than four persons per one hundred players, participating in the bingo occasion may be employed. An employee under this paragraph need not be a member of the qualified organization or a regular participant in the activities of the qualified organization or in an educational, civic, public, charitable, patriotic, or religious organization to which the net receipts are dedicated by the qualified organization. The wages of an employee shall not exceed the federal minimum wage. This section does not prohibit the employment of one or more individuals to serve as security officers. A person who knowingly pays or receives compensation in violation of this section commits a fraudulent practice.

b. A licensee or agent who willfully fails to dedicate the required amount of proceeds to charitable purposes as required by this section commits a fraudulent practice.

c. Violations of paragraphs "*a*" and "*b*" may be considered as a single fraudulent practice and the value may be the total value of all money, property and services involved.

7. A qualified organization licensed under this section shall purchase bingo equipment and supplies only from a manufacturer or a distributor licensed by the department.

Section History: Early form

[C75, 77, 79, 81, § 99B.7; 81 Acts, ch 44, § 8--;12; 82 Acts, ch 1189, § 2]

Section History: Recent form

83 Acts, ch 85, § 1; 83 Acts, ch 164, § 1, 2; 84 Acts, ch 1220, § 5--;11; 84 Acts, ch 1305, § 22; 85 Acts, ch 150, § 1--;3; 86 Acts, ch 1042, § 2; 86 Acts, ch 1201, § 7--;9; 87 Acts, ch 184, § 5, 6; 88 Acts, ch 1134, § 21; 88 Acts, ch 1274, § 33; 89 Acts, ch 231, § 18--;21; 91 Acts, ch 175, §1; 94 Acts, ch 1062, §3--;5; 96 Acts, ch 1143, § 3, 4

Internal References

Referred to in § 99B.1, 99B.2, 99B.5, 99B.6, 99B.8, 99B.9, 99B.9A, 99B.12, 99D.8, 99F.6

99B.8 Annual game night.

1. Games of skill, games of chance, card games and raffles lawfully may be conducted during a period of twelve consecutive hours once each year by any person. The games or raffles may be conducted at any location except one for which a license is required pursuant to section 99B.3 or section 99B.5, but only if all of the following are complied with:

a. The sponsor of the event has been issued a license pursuant to subsection 3 and prominently displays that license on the premises covered by the license.

b. A bona fide social or employment relationship exists between the sponsor and all of the participants.

c. No participant pays any consideration of any nature, either directly or indirectly, to participate in the games or raffles.

d. All money or other items wagered are provided to the participant free by the sponsor.

e. The person conducting the game or raffle receives no consideration, either directly or indirectly, other than good will.

f. During the entire time activities permitted by this section are being engaged in, no other gambling is engaged in at the same location.

2. The other provisions of this section notwithstanding, if the games or raffles are conducted by a qualified organization also licensed under section 99B.7, the sponsor may charge an entrance fee or a fee to participate in the games or raffles, and participants may wager their own funds and pay an entrance or other fee for participation, provided that a participant may not expend more than a total of fifty dollars for all fees and wagers. The provisions of section 99B.7, subsection 3, paragraphs "b" and "c", shall apply to games and raffles conducted by a qualified organization pursuant to this section.

3. The department of inspections and appeals may issue a license pursuant to this section only once during a calendar year to any one person. The license may be issued only upon submission to the department of an application and a license fee of twenty-five dollars.

4. However, an organization may sponsor one or more game nights using play money for participation by students without the organization obtaining a license otherwise required by this section if the organization obtains prior approval for the game night from the board of directors of the accredited public school or the authorities in charge of the nonpublic school accredited by the state board of education for whose students the game night is to be held.

5. However, notwithstanding subsection 1, paragraphs "b" and "c", if the games or raffles are conducted by a qualified organization issued a license pursuant to subsection 3, the sponsor may charge an entrance fee to a participant and the sponsor need not have a bona fide social relationship with the participant.

Section History: Early form

[C77, 79, 81, § 99B.8]

Section History: Recent form

86 Acts, ch 1201, § 10; 87 Acts, ch 184, § 7, 8; 92 Acts, ch 1203, §1

Internal References

Referred to in § 99B.7, 99B.9, 99B.12

99B.9 Gambling in public places.

1. Except as otherwise permitted by section 99B.3, 99B.5, 99B.6, 99B.7, 99B.8, or 99B.11, it is unlawful to permit gambling on any premises owned, leased, rented, or otherwise occupied by a person other than a government, governmental agency or subdivision, unless all of the following are complied with:

a. The person occupying the premises as an owner or tenant has submitted an application for a license and an application fee of one hundred dollars, and has been issued a license for those premises, and prominently displays the license on the premises.

b. The holder of the license or any agent or employee of the license holder does not participate in, sponsor, conduct, or promote, or act as cashier or banker for any gambling activities.

c. Gambling other than social games is not engaged in on the premises covered by the license or permit.

d. Concealed numbers or conversion charts are not used to play any game, and a game is not adapted with any control device to permit manipulation of the game by the operator in order to prevent a player from winning or to predetermine who the winner will be, and the object of the game is attainable and possible to perform under the rules stated from the playing position of the player.

e. The game must be conducted in a fair and honest manner.

f. No person receives or has any fixed or contingent right to receive, directly or indirectly any amount wagered or bet or any portion of amounts wagered or bet, except an amount which the person wins as a participant while playing on the same basis as every other participant.

g. No cover charge, participation charge or other charge is imposed upon a person for the privilege of participating in or observing gambling, and no rebate, discount, credit, or other method is used to discriminate between the charge for the sale of goods or services to participants in gambling and the charge for the sale of goods or services to nonparticipants. Satisfaction of an obligation into which a member of an organization enters to pay at regular periodic intervals a sum fixed by that organization for the maintenance of that organization is not a charge which is prohibited by this paragraph.

h. No participant wins or loses more than a total of fifty dollars or other consideration equivalent thereto in all games and activities at any one time during any period of twenty-four consecutive hours or over that entire period. For the purpose of this paragraph, a person wins the total amount at stake in any game, wager or bet, regardless of any amount that person may have contributed to the amount at stake.

- i.* No participant is participating as an agent of another person.
 - j.* A representative of the department or a law enforcement agency is immediately admitted, upon request, to the premises with or without advance notice.
2. The holder of a license issued pursuant to this section shall be strictly accountable for maintaining compliance with subsection 1, and proof of any violation shall constitute grounds for revocation of the license issued pursuant to this section, whether or not the holder of the license had knowledge of the facts constituting the violation.
 3. A participant in a social game which is not in compliance with this section shall be liable for a criminal penalty only if that participant has knowledge of or reason to know the facts constituting the violation.
 4. The holder of a license issued pursuant to this section and every agent of that licensee who is required by the licensee to exercise control over the use of the premises who knowingly permits acts or omissions which constitute a violation of subsection 1 commits a serious misdemeanor. A licensee has knowledge of acts or omissions if any agent of the licensee has knowledge of those acts or omissions.
 5. This section shall not apply to premises or portions of premises constituting the living quarters of the actual residence of an individual if that individual is a participant in the activities permitted by this section.

Section History: Early form

[C77, 79, 81, § 99B.9; 81 Acts, ch 44, § 13]

Section History: Recent form

89 Acts, ch 231, §22

Internal References

Referred to in § 99B.2, 99B.12

99B.10 Electrical and mechanical amusement devices.

It is lawful to own, possess, and offer for use by any person at any location an electrical or mechanical amusement device, but only if all of the following are complied with:

1. A prize of merchandise exceeding five dollars in value or cash shall not be awarded for use of the device. However, a mechanical or amusement device may be designed or adapted to award a prize or one or more free games or portions of games without payment of additional consideration by the participant.
2. An amusement device shall not be designed or adapted to cause or to enable a person to cause the release of free games or portions of games when designated as a potential award for use of the device, and shall not contain any meter or other measurement device for recording the number of free games or portions of games which are awarded.
3. An amusement device shall not be designed or adapted to enable a person using the device to increase the chances of winning free games or portions of games by paying more than is ordinarily required to play the game.

It is lawful for an individual other than an owner or promoter of an amusement device to operate an amusement device, whether or not the amusement device is owned, possessed or offered for use in compliance with this section.

The use of an amusement device which complies with this section shall not be deemed gambling.

Section History: Early form

[C75, 77, 79, 81, § 99B.10]

Section History: Recent form

87 Acts, ch 234, § 425; 88 Acts, ch 1274, § 34; 89 Acts, ch 231, §24

Internal References

Referred to in § 99.1, 99B.1, 725.16

99B.11 Bona fide contests.

1. It is lawful for a person to conduct any of the contests specified in subsection 2, and to offer and pay awards to persons winning in those contests whether or not entry fees, participation fees, or other charges are assessed against or collected from the participants, but only if all of the following are complied with:

- a.* The contest is not held at an amusement concession.
- b.* No gambling device is used in conjunction with, or incident to the contest.
- c.* The contest is not conducted in whole or in part on or in any property subject to chapter 297, relating to schoolhouses and schoolhouse sites, unless the contest and the person conducting the contest has the express written approval of the governing body of that school district.

d. The contest is conducted in a fair and honest manner. A contest shall not be designed or adapted to permit the operator of the contest to prevent a participant from winning or to predetermine who the winner will be, and the object of the contest must be attainable and possible to perform under the rules stated.

2. A contest is not lawful unless it is one of the following contests:

a. Athletic or sporting contests, leagues or tournaments, rodeos, horse shows, golf, bowling, trap or skeet shoots, fly casting, tractor pulling, rifle, pistol, musket, muzzle-loader, archery and horseshoe contests, leagues or tournaments.

b. Horse races, harness racing, ski, airplane, snowmobile, raft, boat, bicycle and motor vehicle races.

c. Contests or exhibitions of cooking, horticulture, livestock, poultry, fish or other animals, artwork, hobbywork or craftwork, except those prohibited by section 725.11.

d. Cribbage, bridge, chess, checkers, dominoes, pinochle and similar contests, leagues or tournaments. The provisions of this paragraph are retroactive to August 15, 1975.

Section History: Early form

[C75, § 99B.11, 726.13; C77, 79, 81, § 99B.11]

Internal References

Referred to in § 99B.9, 99B.12, 99B.17

99B.12 Games between individuals.

1. Except in instances where because of the location of the game or the circumstances of the game section 99B.3, section 99B.5, section 99B.6, section 99B.7, section 99B.8, or section 99B.9 is applicable, individuals may participate in gambling specified in subsection 2, but only if all of the following are complied with:

a. The gambling is incidental to a bona fide social relationship between all participants.

b. The gambling is not participated in, either wholly or in part, on or in any property subject to chapter 297, relating to schoolhouses and schoolhouse sites.

c. All participants in the gambling are individuals, and no participant may participate as the agent of another person.

d. The gambling shall be fair and honest, and shall not be designed, devised or adapted to permit predetermination of the winner, or to prevent a participant from winning, and no concealed numbers or conversion charts may be used to determine the winner of any game.

e. No person receives or has any fixed or contingent right to receive, directly or indirectly, any profit, remuneration, or compensation from or as a result of the gambling, except any amount which the person may win as a participant on the same basis as the other participants.

f. No person may participate in any wager, bet or pool which relates to an athletic event or contest and which is authorized or sponsored by one or more schools, educational institutions, or interscholastic athletic organizations if the person is a coach, official, player or contestant in the athletic event or contest.

g. No participant wins or loses more than a total of fifty dollars or other consideration equivalent thereto in one or more games or activities permitted by this section at any time during any period of twenty-four consecutive hours or over that entire period. For the purpose of this paragraph a person wins the total amount at stake in any game, wager or bet, regardless of any amount that person may have contributed to the amount at stake.

h. No participant pays an entrance fee, cover charge, or other charge for the privilege of participating in gambling, or for the privilege of gaining access to the location in which gambling occurs.

i. In any game requiring a dealer or operator, the participants must have the option to take their turn at dealing or operating the game in a regular order according to the standard rules of the game.

2. Games which are permitted by this section are limited to the following:

a. Card and parlor games, including but not limited to poker, pinochle, pitch, gin rummy, bridge, euchre, hearts, cribbage, dominoes, checkers, chess, backgammon and darts. However, it shall be unlawful gambling for any person to engage in bookmaking, or to play any punchboard, pushcard, pull-tab or slot machine, or to play craps, chuck-a-luck, roulette, klondike, blackjack, chemin de fer, baccarat, faro, equality, three-card monte or any other game, except poker, which is customarily played in gambling casinos and in which the house customarily provides a banker, dealer or croupier to operate the game, or a specially designed table upon which to play same.

b. Games of skill and games of chance, except those prohibited by paragraph "a" of this subsection.

c. Wagers or bets between two or more individuals who are physically in the presence of each other with respect to a contest specified in section 99B.11, subsection 2, except as provided in subsection 1, paragraph "g", or with respect

to any other event or outcome which does not depend upon gambling or the use of a gambling device unlawful in this state.

3. An individual may not be convicted of a violation of this section unless the individual had knowledge of or reason to know the facts constituting the violation.

Section History: Early form

[C75, § 726.12; C77, 79, 81, § 99B.12]

Internal References

Referred to in § 99B.1

99B.13 Administrative rules.

The department may adopt rules pursuant to chapter 17A to carry out the provisions of this chapter. Rules adopted by the department may include but are not limited to the following:

1. Descriptions of books, records and accounting required.
2. Requirements for qualified organizations.
3. Methods of displaying costs and explanations of games and rules.
4. Defining unfair or dishonest games, acts or practices.

Section History: Early form

[C77, 79, 81, § 99B.13]

Section History: Recent form

89 Acts, ch 231, §25

99B.14 Revocation of license.

The department shall revoke a license issued pursuant to this chapter if the licensee or an agent of the licensee violates or permits a violation of a provision of this chapter, or a departmental rule adopted pursuant to chapter 17A, or if a cause exists for which the director of the department would have been justified in refusing to issue a license, or upon the conviction of a person of a violation of this chapter or a rule adopted under this chapter which occurred on the licensed premises. However, the revocation of one type of gambling license does not require the revocation of a different type of gambling license held by the same licensee.

Revocation proceedings shall be held only after giving notice and an opportunity for hearing to the licensee. Notice shall be given at least ten days in advance of the date set for hearing. If the department finds cause for revocation, the license shall be revoked for a period not to exceed two years.

Section History: Early form

[C77, 79, 81, § 99B.14]

Section History: Recent form

84 Acts, ch 1220, § 12; 86 Acts, ch 1201, § 11; 89 Acts, ch 231, §26

99B.15 Applicability of chapter---penalty.

It is the intent and purpose of this chapter to authorize gambling in this state only to the extent specifically permitted by a section of this chapter or chapter 99D, 99E, or 99F. Except as otherwise provided in this chapter, the knowing failure of any person to comply with the limitations imposed by this chapter constitutes unlawful gambling, a serious misdemeanor.

Section History: Early form

[C77, 79, 81, § 99B.15]

Section History: Recent form

86 Acts, ch 1002, § 3; 89 Acts, ch 67, §22

99B.16 Failure to maintain or submit records.

A licensee who willfully fails to maintain the records when required by section 99B.2, or who willfully fails to submit records when required by that section commits a serious misdemeanor.

Section History: Early form
[C77, 79, 81, § 99B.16]

99B.17 Gambling on credit unlawful.

A person who tenders and a person who receives any promise, agreement, note, bill, bond, contract, mortgage or other security, or any negotiable instrument, as consideration for any wager or bet, whether or not lawfully conducted or engaged in pursuant to this chapter, commits a misdemeanor. However, a participant in a bingo occasion or in a contest lawful under section 99B.11 may make payment by personal check for any entry or participation fee assessed by the sponsor of the bingo occasion or contest.

Section History: Early form
[C77, 79, 81, § 99B.17]
Section History: Recent form
89 Acts, ch 231, §27

99B.18 Company games.

Games of skill, games of chance, card games and raffles may be conducted on premises either licensed or unlicensed and no license fee shall be required therefor provided a bona fide social, employment, trade or professional association relationship exists between the sponsors and the participants and the participants pay no consideration of any nature, either directly or indirectly, to participate in the games or raffles, and only play money or other items of no intrinsic value which may be wagered are provided to the participant free, and the sponsor conducting the game or raffle receives no consideration, either directly or indirectly, other than goodwill.

A gambling device intended for use or used as provided in this section is exempt from the provisions of section 725.9, subsection 3.

Section History: Early form
[C75, § 99B.8; C77, 79, 81, § 99B.18]

99B.19 Attorney general and county attorney---prosecution.

Upon request of the department of inspections and appeals or the division of criminal investigation of the department of public safety, the attorney general shall institute in the name of the state the proper proceedings against a person charged by either department with violating this chapter, and a county attorney, at the request of the attorney general, shall appear and prosecute an action when brought in the county attorney's county.

Section History: Early form
[S81, § 99B.19; 81 Acts, ch 44, § 14]
Section History: Recent form
84 Acts, ch 1220, § 13; 87 Acts, ch 115, § 15; 89 Acts, ch 231, §28

99B.20 Division of criminal investigation.

The division of criminal investigation of the department of public safety may investigate to determine licensee compliance with the requirements of this chapter. Investigations may be conducted either on the criminal investigation division's own initiative or at the request of the department of inspections and appeals. The criminal investigation division and the department of inspections and appeals shall cooperate to the maximum extent possible on an investigation.

Section History: Recent form

84 Acts, ch 1220, § 2; 87 Acts, ch 115, § 16; 89 Acts, ch 231, §29

99B.21 Tax on prizes.

All prizes awarded are Iowa earned income and are subject to state and federal income tax laws. A person conducting a game of skill, game of chance, or a raffle shall deduct state income taxes, pursuant to section 422.16, subsection 1, from a cash prize awarded to an individual. An amount deducted from the prize for payment of a state tax shall be remitted to the state department of revenue and finance on behalf of the prize winner.

Section History: Recent form

86 Acts, ch 1201, § 12; 92 Acts, 2nd Ex, ch 1001, § 232

99D.1 Short title.

This chapter shall be known and may be cited as the "*Iowa Pari-mutuel Wagering Act*".

Section History: Recent form

83 Acts, ch 187, § 1

99D.2 Definitions.

As used in this chapter unless the context otherwise requires:

1. "*Applicant*" means an individual applying for an occupational license or the officers and members of the board of directors of a nonprofit corporation applying for a license to conduct a race where pari-mutuel wagering would be permitted under this chapter.
2. "*Breakage*" means the odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple of ten cents.
3. "*Commission*" means the state racing and gaming commission created under section 99D.5.
4. "*Holder of occupational license*" means a person licensed by the commission to perform an occupation which the commission has identified as requiring a license to engage in within the racing industry in Iowa.
5. "*Licensee*" means a nonprofit corporation licensed under section 99D.9.
6. "*Pari-mutuel wagering*" means the system of wagering described in section 99D.11.
7. "*Race*", "*racing*", "*race meeting*", "*track*", and "*racetrack*" refer to dog racing and horse racing, including, but not limited to, quarterhorse, thoroughbred, and harness racing, as approved by the commission.
8. "*Racetrack enclosure*" means the grandstand, clubhouse, turf club or other areas of a licensed racetrack which a person may enter only upon payment of an admission fee or upon presentation of authorized credentials. "*Racetrack enclosure*" also means any additional areas designated by the commission.

Section History: Recent form

83 Acts, ch 187, § 2; 84 Acts, ch 1265, § 1; 84 Acts, ch 1266, § 3; 89 Acts, ch 67, §23

99D.3 Scope of provisions.

This chapter does not apply to horse-race or dog-race meetings unless the pari-mutuel system of wagering is used or intended to be used in connection with the horse-race or dog-race meetings. If the pari-mutuel system is used or intended to be used a person shall not conduct a race meeting without a license as provided by section 99D.9.

Section History: Recent form
83 Acts, ch 187, § 3

99D.4 Pari-mutuel wagering legalized.

The system of wagering on the results of horse or dog races as provided by this chapter is legal, when conducted within the racetrack enclosure at a licensed horse-race or dog-race meeting.

Section History: Recent form
83 Acts, ch 187, § 4

99D.5 Creation of state racing and gaming commission.

1. A state racing and gaming commission is created within the department of inspections and appeals consisting of five members who shall be appointed by the governor subject to confirmation by the senate, and who shall serve not to exceed a three-year term at the pleasure of the governor. The term of each member shall begin and end as provided in section 69.19.

2. A vacancy on the commission shall be filled as provided in section 2.32.

3. Not more than three members of the commission shall belong to the same political party. A member of the commission shall not have a financial interest in a racetrack.

4. Commission members are each entitled to receive an annual salary of six thousand dollars. Members shall also be reimbursed for actual expenses incurred in the performance of their duties to a maximum of thirty thousand dollars per year for the commission. Each member shall post a bond in the amount of ten thousand dollars, with sureties to be approved by the governor, to guarantee the proper handling and accounting of moneys and other properties required in the administration of this chapter. The premiums on the bonds shall be paid as other expenses of the commission.

5. A member or a holder of an official's license shall not knowingly:

a. Have a pecuniary, equitable, or other interest in or engage in a business or employment which would be a conflict of interest or interfere or conflict with the proper discharge of the duties of the commission including any of the following:

(1) A business which does business with a licensee.

(2) A business issued a concession operator's license.

b. Participate directly or indirectly as an owner, owner-trainer, trainer of a horse or dog, or jockey of a horse in a race meeting conducted in this state.

c. Place a wager on an entry in a race or on a gambling game operated on an excursion gambling boat.

A violation of this subsection is a serious misdemeanor. In addition, the individual may be subject to disciplinary actions pursuant to the commission rules.

6. A member, employee, or appointee of the commission, spouse of a member, employee, or appointee of the commission, or a family member related within the second degree of affinity or consanguinity to a member, employee, or appointee of the commission shall not do either of the following:

a. Hold an occupational license except an official's license.

b. Enter directly or indirectly into any business dealing, venture, or contract with an owner or lessee of a racetrack.

A member who knowingly approves of a violation of this subsection is guilty of a serious misdemeanor.

Section History: Recent form

83 Acts, ch 187, § 5, 36; 84 Acts, ch 1266, § 4, 5; 86 Acts, ch 1245, § 713, 714; 88 Acts, ch 1267, § 17; 89 Acts, ch 67, § 24, 25; 89 Acts, ch 83, § 21; 89 Acts, ch 231, § 30; 91 Acts, ch 266, §21; 92 Acts, ch 1203, §2

Internal References

Referred to in § 99D.2, 99F.1

99D.6 Chairperson---administrator---employees---duties---bond.

The commission shall elect in July of each year one of its members chairperson for the succeeding year. The commission shall appoint an administrator of the commission subject to confirmation by the senate. The administrator shall serve a four-year term. The term shall begin and end in the same manner as set forth in section 69.19. A vacancy shall be filled for the unexpired portion of the term in the same manner as a full-term appointment is made. The administrator may hire other assistants and employees as necessary to carry out the commission's duties. Some or all of the information required of applicants in section 99D.8A, subsections 1 and 2, may also be required of employees of the commission if the commission deems it necessary. The administrator shall keep a record of the proceedings of the commission, and preserve the books, records, and documents entrusted to the administrator's care. The commission shall require the administrator to post a bond in a sum it may fix, conditioned upon the faithful performance of the administrator's duties. Subject to the approval of the governor, the commission shall fix the compensation of the administrator within the salary range as set by the general assembly. The commission shall have its headquarters in the city of Des Moines, and shall meet in July of each year and at other times and places as it finds necessary for the discharge of its duties.

Section History: Recent form

83 Acts, ch 187, § 6; 84 Acts, ch 1265, § 2; 86 Acts, ch 1245, § 715; 87 Acts, ch 115, § 17; 89 Acts, ch 231, § 31

Internal References

Referred to in § 99D.10

99D.7 Powers.

The commission shall have full jurisdiction over and shall supervise all race meetings governed by this chapter. The commission shall have the following powers and shall adopt rules pursuant to chapter 17A to implement this chapter:

1. To investigate applicants and determine the eligibility of applicants for a license and to select among competing applicants for a license the applicant which best serves the interests of the citizens of Iowa.
2. To identify occupations within the racing industry which require licensing and adopt standards for licensing the occupations including establishing fees for the occupational licenses. The fees shall be paid to the commission and used as required in section 99D.17.
3. To adopt standards under which all race meetings shall be held and standards for the facilities within which the race meetings shall be held.
4. To regulate the purse structure for race meetings including establishing a minimum purse.
5. To cooperate with the department of agriculture and land stewardship to establish and operate, or contract for, a laboratory and related facilities to conduct saliva, urine, and other tests on animals that are to run or that have run in races governed by this chapter.
6. To establish and provide for the disposition of fees for the testing of animals sufficient to cover the costs of the tests and to purchase the necessary equipment for the testing.
7. To enter the office, racetrack, facilities, or other places of business of a licensee to determine compliance with this chapter.
8. To investigate alleged violations of this chapter or the commission rules, orders, or final decisions and to take appropriate disciplinary action against a licensee or a holder of an occupational license for the violation, or institute appropriate legal action for enforcement, or both. Decisions by the commission are final agency actions pursuant to chapter 17A.
9. To authorize stewards, starters, and other racing officials to impose fines or other sanctions upon a person violating a provision of this chapter or the commission rules, orders, or final orders, including authorization to expel a tout, bookmaker, or other person deemed to be undesirable from the racetrack facilities.

10. To require the removal of a racing official, an employee of a licensee, or a holder of an occupational license, or employee of a holder of an occupational license for a violation of this chapter or a commission rule or engaging in a fraudulent practice.
11. To prevent an animal from racing if the commission or commission employees with cause believe the animal or its owner, trainer, or an employee of the owner or trainer is in violation of this chapter or commission rules.
12. To withhold payment of a purse if the outcome of a race is disputed or until tests are performed on the animals to determine if they were illegally drugged.
13. To provide for immediate determination of the disposition of a challenge by a racing official or representative of the commission by establishing procedures for informal hearings before a panel of stewards at a racetrack.
14. To require a licensee to file an annual balance sheet and profit and loss statement pertaining to the licensee's racing activities in this state, together with a list of the stockholders or other persons having any beneficial interest in the racing activities of each licensee.
15. To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records and other pertinent documents in accordance with chapter 17A, and to administer oaths and affirmations to the witnesses, when, in the judgment of the racing and gaming commission, it is necessary to enforce this chapter or the commission rules.
16. To keep accurate and complete records of its proceedings and to certify the records as may be appropriate.
17. To require all licensees to use a computerized totalizator system for calculating odds and payouts from the pari-mutuel wagering pool and to establish standards to insure the security of the totalizator system.
18. To revoke or suspend licenses and impose fines not to exceed one thousand dollars.
19. To require licensees to indicate in their racing programs those horses which are treated with the legal medication lasix or phenylbutazone. The program shall also indicate if it is the first or subsequent time that a horse is racing with lasix, or if the horse has previously raced with lasix and the present race is the first race for the horse without lasix following its use.
20. Notwithstanding any contrary provision in this chapter, to provide for interstate combined wagering pools related to simulcasting horse or dog races and all related interstate pari-mutuel wagering activities.
21. To cooperate with the gambling treatment program administered by the Iowa department of public health to incorporate information regarding the gambling treatment program and its toll-free telephone number in printed materials distributed by the commission. The commission may require licensees to have the information available in a conspicuous place as a condition of licensure.
22. To take any other action as may be reasonable or appropriate to enforce this chapter and the commission rules.

Section History: Recent form

83 Acts, ch 187, § 7; 84 Acts, ch 1265, § 3; 84 Acts, ch 1266, § 6; 88 Acts, ch 1137, § 1; 89 Acts, ch 231, §32; 91 Acts, ch 166, §1; 91 Acts, ch 260, §1205; 94 Acts, ch 1100, §1; 95 Acts, ch 205, §34; 96 Acts, ch 1212, § 11

Internal References

Referred to in § 12.10, 99D.10

99D.8 Horse or dog racing licenses---applications.

A qualifying organization, as defined in section 513(d)(2)(C) of the Internal Revenue Code, as defined in section 422.3, exempt from federal income taxation under sections 501(c)(3), 501(c)(4), or 501(c)(5) of the Internal Revenue Code or a nonprofit corporation organized under the laws of this state, whether or not it is exempt from federal income taxation, which is organized to promote those purposes enumerated in section 99B.7, subsection 3, paragraph "b", or which regularly conducts an agricultural and educational fair or exposition for the promotion of the horse, dog, or other livestock breeding industries of the state, or an agency, instrumentality, or political subdivision of the state, may apply to the commission for a license to conduct horse or dog racing. The application shall be filed with the administrator of the commission at least sixty days before the first day of the horse race or dog race meeting which the organization proposes to conduct, shall specify the day or days when and the exact location where it proposes to conduct racing, and shall be in a form and contain information as the commission prescribes. If any part of the net income of a licensee is determined to be unrelated business taxable income as defined in sections 511 through 514 of the Internal Revenue Code, or is otherwise taxable, the licensee shall be required to distribute such amount to political subdivisions in the state and organizations described in section 501(c)(3) of the Internal Revenue Code in the county in which the licensee operates.

An organization which meets the requirements of this section, as amended, on or before July 1, 1988, shall be considered to have met the requirements of this section on the date that its initial application was originally filed.

Section History: Recent form

83 Acts, ch 187, § 8; 88 Acts, ch 1243, § 1; 95 Acts, ch 176, § 1

Internal References

Referred to in § 99D.9, 99D.10

99D.9 Licenses---terms and conditions---revocation.

1. If the commission is satisfied that its rules and sections 99D.8 through 99D.25 applicable to licensees have been or will be complied with, it may issue a license for a period of not more than three years. The commission may decide which types of racing it will permit. The commission may permit dog racing, horse racing of various types, or both dog and horse racing. The commission shall decide the number, location, and type of all racetracks licensed under this chapter. The license shall set forth the name of the licensee, the type of license granted, the place where the race meeting is to be held, and the time and number of days during which racing may be conducted by the licensee. The commission shall not approve the licenses for racetracks in Dubuque county and Black Hawk county if the proposed racing schedules of the two tracks conflict. The commission shall not approve a license application if any part of the racetrack is to be constructed on prime farmland outside the city limits of an incorporated city. As used in this subsection, "*prime farmland*" means as defined by the United States department of agriculture in 7 C.F.R. sec. 657.5(a). A license is not transferable or assignable. The commission may revoke any license issued for good cause upon reasonable notice and hearing. The commission shall conduct a neighborhood impact study to determine the impact of granting a license on the quality of life in neighborhoods adjacent to the proposed racetrack facility. The applicant for the license shall reimburse the commission for the costs incurred in making the study. A copy of the study shall be retained on file with the commission and shall be a public record. The study shall be completed before the commission may issue a license for the proposed facility.

2. A license shall only be granted to a nonprofit corporation or association upon the express condition that:

a. The nonprofit corporation or association shall not, by a lease, contract, understanding, or arrangement of any kind, grant, assign, or turn over to a person the operation of a race meeting licensed under this section or of the pari-mutuel system of wagering described in section 99D.11. This section does not prohibit a management contract approved by the commission.

b. The nonprofit corporation shall not in any manner permit a person other than the licensee to have a share, percentage, or proportion of the money received for admissions to the race or race meeting.

3. A license shall not be granted to a nonprofit corporation if there is substantial evidence that the applicant for a license:

a. Has been suspended or ruled off a recognized course in another jurisdiction by the racing board or commission of that jurisdiction.

b. Has not demonstrated financial responsibility sufficient to meet adequately the requirements of the enterprise proposed.

c. Is not the true owner of the enterprise proposed.

d. Is not the sole owner, and other persons have ownership in the enterprise which fact has not been disclosed.

e. Is a corporation and ten percent of the stock of the corporation is subject to a contract or option to purchase at any time during the period for which the license is issued unless the contract or option was disclosed to the commission and the commission approved the sale or transfer during the period of the license.

f. Has knowingly made a false statement of a material fact to the commission.

g. Has failed to meet any monetary obligation in connection with a race meeting held in this state.

4. A license shall not be granted to a nonprofit corporation if there is substantial evidence that stockholders or officers of the nonprofit corporation are not of good repute and moral character.

5. A license shall not be granted to a licensee for racing on more than one racetrack at the same time.

6. A licensee may not loan to any person money or any other thing of value for the purpose of permitting that person to wager on any race.

7. Upon a violation of any of the conditions listed in this section, the commission shall immediately revoke the license.

Section History: Recent form

83 Acts, ch 187, § 9; 84 Acts, ch 1266, § 8--;10; 94 Acts, ch 1021, §2
Internal References
Referred to in § 99D.2, 99D.3, 99D.10, 99D.14

99D.10 Bond of licensee.

A licensee licensed under section 99D.9 shall post a bond to the state of Iowa before the license is issued in a sum as the commission shall fix, with sureties to be approved by the commission. The bond shall be used to guarantee that the licensee faithfully makes the payments, keeps its books and records and makes reports, and conducts its racing in conformity with sections 99D.6 through 99D.23 and the rules adopted by the commission. The bond shall not be canceled by a surety on less than thirty days notice in writing to the commission. If a bond is canceled and the licensee fails to file a new bond with the commission in the required amount on or before the effective date of cancellation, the licensee's license shall be revoked. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond.

Section History: Recent form

83 Acts, ch 187, § 10

Internal References

Referred to in § 99D.9

99D.11 Pari-mutuel wagering---televising races---age restrictions.

1. Except as permitted in this section, the licensee shall permit no form of wagering on the results of the races.
2. Licensees shall only permit the pari-mutuel or certificate method of wagering as defined in this section.
3. The licensee may receive wagers of money only from a person present in a licensed racing enclosure on a horse or dog in the race selected by the person making the wager to finish first in the race. The person wagering shall acquire an interest in the total money wagered on all horses or dogs in the race as first winners in proportion to the amount of money wagered by the person.
4. The licensee shall issue to each person wagering a certificate on which shall be shown the number of the race, the amount wagered, and the number or name of the horse or dog selected as first winner.
5. As each race is run the licensee shall deduct sixteen percent from the total sum wagered on all horses or dogs as first winners. However, the commission shall authorize at the request of the licensee a deduction of a higher or lower percentage of the total sum wagered not to exceed eighteen percent and the additional deduction shall be retained by the licensee. The balance, after deducting breakage, shall be paid to the holders of certificates on the winning horse or dog in the proportion that the amount wagered by each certificate holder bears to the total amount wagered on all horses or dogs in the race as first winners. The licensee may pay a larger amount if approved by the commission. The licensee shall likewise receive other wagers on horses or dogs in places or combinations the commission may authorize. The method, procedure, and the authority and right of the licensee, as well as the deduction allowed to the licensee, shall be as specified with respect to wagers upon horses or dogs selected to run first. However, the commission shall authorize at the request of the licensee a deduction of a higher or lower percent of the total sum wagered not to exceed twenty-four percent on multiple or exotic wagering involving not more than two horses or dogs. The deduction authorized above twenty percent on the multiple or exotic wagering involving not more than two dogs or horses shall be retained by the licensee. For exotic wagering involving three or more horses or dogs, the commission shall authorize at the request of the licensee a deduction of a higher or lower percent of the total sum wagered not to exceed twenty-five percent on the exotic wagers. The additional deduction authorized above twenty-two percent on the multiple or exotic wagers involving more than two horses or dogs shall be retained by the licensee. One percent of the exotic wagers on three or more horses or dogs shall be distributed as provided in section 99D.12.
6. *a.* All wagering shall be conducted within the racetrack enclosure where the licensed race is held, except as provided in paragraph "b".
b. The commission may authorize the licensee to simultaneously telecast within the racetrack enclosure, for the purpose of pari-mutuel wagering, a horse or dog race licensed by the racing authority of another state. It is the

responsibility of each licensee to obtain the consent of appropriate racing officials in other states as required by the federal Interstate Horseracing Act of 1978, 15 U.S.C. § 3001-3007, to televise races for the purpose of conducting pari-mutuel wagering. A licensee may also obtain the permission of a person licensed by the commission to conduct horse or dog races in this state to televise races conducted by that person for the purpose of conducting pari-mutuel racing. However, arrangements made by a licensee to televise any race for the purpose of conducting pari-mutuel wagering are subject to the approval of the commission, and the commission shall select the races to be televised. The races selected by the commission shall be the same for all licensees approved by the commission to televise races for the purpose of conducting pari-mutuel wagering. The commission shall not authorize the simultaneous telecast or televising of and a licensee shall not simultaneously telecast or televise any horse or dog race for the purpose of conducting pari-mutuel wagering unless the simultaneous telecast or televising is done at the racetrack of a licensee that schedules no less than sixty performances of nine live races each day of the season. For purposes of the taxes imposed under this chapter, races televised by a licensee for purposes of pari-mutuel wagering shall be treated as if the races were held at the racetrack of the licensee. Notwithstanding any contrary provision in this chapter, the commission may allow a licensee to adopt the same deductions as those of the pari-mutuel racetrack from which the races are being simultaneously telecast.

7. A person under the age of twenty-one years shall not make a pari-mutuel wager.

Section History: Recent form

83 Acts, ch 187, § 11; 84 Acts, ch 1266, § 11--;13; 89 Acts, ch 216, § 1; 90 Acts, ch 1175, § 5; 90 Acts, ch 1261, § 31; 91 Acts, ch 166, § 2, 3; 92 Acts, ch 1163, § 23; 92 Acts, ch 1203, § 3, 4; 92 Acts, ch 1207, § 1; 94 Acts, ch 1021, § 3, 4; 96 Acts, ch 1211, § 32

Internal References

Referred to in § 99D.2, 99D.9, 99D.10, 99D.13, 99D.16, 99D.24

99D.12 Breakage.

A licensee shall deduct the breakage from the pari-mutuel pool which shall be distributed to the breeders of Iowa-foaled horses and Iowa-whelped dogs in the manner described in section 99D.22. The remainder of the breakage shall be distributed as follows:

1. In horse races the breakage shall be retained by the licensee to supplement purses for races restricted to Iowa-foaled horses or to supplement purses won by Iowa-foaled horses by finishing first, second, third, or fourth in any other race. The purse supplements will be paid in proportion to the purse structure of the race. Two percent shall be deposited by the commission into a special fund to be known as the horse racing promotion fund. The commission each year shall approve a nonprofit organization to use moneys in the fund for research, education, and marketing of horse racing in the state, including public relations, and other promotional techniques. The nonprofit organization shall not engage in political activity. It shall be a condition of the allocation of funds that any organization receiving funds shall not expend the funds on political activity or on any attempt to influence legislation.

2. In dog races the breakage shall be distributed as follows:

a. Seventy-three percent shall be retained by the licensee to supplement purses for races won by Iowa- whelped dogs as provided in section 99D.22.

b. Twenty-five percent shall be retained by the licensee and shall be put into a stake race for Iowa-whelped dogs. An amount equal to twelve percent of the winner's share shall be set aside and distributed to the breeder of the winning greyhound in accordance with section 99D.22 and the remainder shall be apportioned as purse moneys for the stake race. All dogs racing in the stake race must have run in at least twelve races during the current racing season at the track sponsoring the stake race to qualify to participate.

c. Two percent shall be deposited by the commission into a special fund to be known as the dog racing promotion fund. The commission each year shall approve a nonprofit organization to use moneys in the fund for research, education, and marketing of dog racing in the state, including public relations, and other promotional techniques. The nonprofit organization shall not engage in political activity. It shall be a condition of the allocation of funds that any organization receiving funds shall not expend the funds on political activity or on any attempt to influence legislation.

Section History: Recent form

83 Acts, ch 187, § 12; 84 Acts, ch 1266, § 14; 88 Acts, ch 1137, § 2; 89 Acts, ch 216, § 2, 3; 91 Acts, ch 166, § 4; 92 Acts, ch 1203, § 6

Internal References

Referred to in § 99D.9, 99D.10, 99D.11

99D.13 Unclaimed winnings---appropriation.

1. Winnings provided in section 99D.11 not claimed by the person who placed the wager within sixty days of the close of the racing meet during which the wager was placed shall be forfeited.
2. Winnings from each racetrack forfeited under subsection 1 shall escheat to the state and to the extent appropriated by the general assembly shall be used by the department of agriculture and land stewardship to administer section 99D.22. The remainder shall be paid over to the commission to pay all or part of the cost of drug testing at the tracks. To the extent the remainder paid over to the commission, less the cost of drug testing, is from unclaimed winnings from harness racing meets, the remainder shall be used as provided in subsection 3. To the extent the remainder paid to the commission, less the cost of drug testing, is from unclaimed winnings from licensed dog tracks, the commission shall remit annually five thousand dollars, or an equal portion of that amount, to each licensed dog track to carry out the racing dog adoption program pursuant to section 99D.27. To the extent the remainder paid over to the commission, less the cost of drug testing, is from unclaimed winnings from tracks licensed for dog or horse races, the commission, on an annual basis, shall remit one-third of the amount to the treasurer of the city in which the racetrack is located, one-third of the amount to the treasurer of the county in which the racetrack is located, and one-third of the amount to the racetrack from which it was forfeited. If the racetrack is not located in a city, then one-third shall be deposited as provided in chapter 556. The amount received by the racetrack under this subsection shall be used only for retiring the debt of the racetrack facilities and for capital improvements to the racetrack facilities.
3. One hundred twenty thousand dollars of winnings from wagers placed at harness racing meets forfeited under subsection 1 in a calendar year that escheat to the state and are paid over to the commission are appropriated to the racing commission for the fiscal year beginning in that calendar year to be used as follows:
 - a. Eighty percent of the amount appropriated shall be allocated to qualified harness racing tracks, to be used by the tracks to supplement the purses for those harness races in which only Iowa-bred or owned horses may run. However, beginning with the allocation of the appropriation made for the fiscal year beginning July 1, 1992, the races for which the purses are to be supplemented under this paragraph shall be those in which only Iowa-bred two-year and three-year olds may run. In addition, the races must be held under the control or jurisdiction of the Iowa state fair board, established under section 173.1, or of a society, as defined under section 174.1.
 - b. Twenty percent of the amount appropriated shall be allocated to qualified harness racing tracks, to be used by the tracks for maintenance of and improvements to the tracks. Races held at the tracks must be under the control or jurisdiction of the Iowa state fair board, established under section 173.1, or of a society, as defined under section 174.1.
 - c. For purposes of this subsection, "*qualified harness racing track*" means a harness racing track that has either held at least one harness race meet between July 1, 1985, and July 1, 1989, or after July 1, 1989, has applied to and been approved by the racing commission for the allocation of funds under this subsection. The racing commission shall approve an application if the harness racing track has held at least one harness race meet during the year preceding the year for which the track seeks funds under this subsection.

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30 of the fiscal year for which the funds were appropriated shall not revert but shall be available for expenditure for the following fiscal year for the purposes of this subsection.

Section History: Recent form

83 Acts, ch 187, § 13; 86 Acts, ch 1246, § 509; 89 Acts, ch 216, §4, 5; 90 Acts, ch 1233, § 5; 90 Acts, ch 1261, § 32; 91 Acts, ch 166, §5

Internal References

Referred to in § 99D.9, 99D.10

99D.14 Racing meets---tax---fees---tax exemption.

1. A licensee under section 99D.9 shall pay the tax imposed by section 99D.15.
2. A licensee shall also pay to the commission the sum of fifty cents for each person entering the grounds or enclosure of the licensee upon a ticket of admission.
 - a. If tickets are issued which are good for more than one day, the sum of fifty cents shall be paid for each person using the ticket on each day that the ticket is used.
 - b. If free passes or complimentary admission tickets are issued, the licensee shall pay the same tax upon these passes or complimentary tickets as if they were sold at the regular and usual admission rate.
 - c. However, the licensee may issue tax-free passes to actual and necessary officials and employees of the licensee or other persons actually working at the racetrack.
 - d. The issuance of tax-free passes is subject to the rules of the commission, and a list of all persons to whom the tax-free passes are issued shall be filed with the commission.
3. The licensee shall also pay to the commission a licensee fee of two hundred dollars for each racing day of each horse-race or dog-race meeting for which a license has been issued.
4. No other license tax, permit tax, occupation tax, or racing fee, shall be levied, assessed, or collected from a licensee by the state or by a political subdivision, except as provided in this chapter.
5. No other excise tax shall be levied, assessed, or collected from the licensee on horse racing, dog racing, pari-mutuel wagering or admission charges by the state or by a political subdivision, except as provided in this chapter.
6. Any property used in the operation of a racetrack which is not exempt from property tax on July 1, 1989, or which becomes taxable property as a result of a court decision or change of ownership, or the construction of a new track that is not otherwise exempt shall be exempt from property taxation for three years beginning January 1 of the 1989 assessment year or beginning January 1 of the assessment year in which the property first becomes taxable as a result of a court decision or change in ownership, or the construction of a new track that is not otherwise exempt, whichever is applicable. During the last assessment year for which the property is exempt, the county board of supervisors shall present the question of the extension for an additional ten years of the tax exemption at a regular state election or a special election. If a majority of those voting on the question favor the tax exemption of the property, the property shall be exempt for an additional ten years. The exemption may be extended for additional ten-year periods in the same manner as was done for the first ten-year period.

Section History: Recent form

83 Acts, ch 187, § 14; 84 Acts, ch 1266, § 15, 16; 89 Acts, ch 216, §6

Internal References

Referred to in § 12.10, 99D.9, 99D.10, 99D.17, 99F.4A

99D.15 Pari-mutuel wagering taxes---rate---credit---loan.

1. A tax of six percent is imposed on the gross sum wagered by the pari-mutuel method at each horse race meeting. The tax imposed by this subsection shall be paid by the licensee to the commission within ten days after the close of each horse race meeting and shall be distributed as follows:
 - a. If the racetrack is located in a city, five percent of the gross sum wagered shall be deposited with the commission. One-half of one percent of the gross sum wagered shall be remitted to the treasurer of the city in which the racetrack is located and shall be deposited in the general fund of the city. The remaining one-half of one percent of the gross sum wagered shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county.
 - b. If the racetrack is located in an unincorporated part of a county, five and one-half percent of the gross sum wagered shall be deposited with the commission. The remaining one-half of one percent of the gross sum wagered shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county.
2. A tax credit of up to five percent of the gross sum wagered per year shall be granted to licensees licensed for horse races and paid into a special fund to be used for debt retirement or operating expenses. However, the tax credit is equal to six percent of the gross sum wagered in a year when the gross sum wagered is less than ninety million dollars. Any portion of the credit not used in a particular year shall be retained by the commission. A tax credit shall first be assessed against any share going to a city, then to the share going to a county, and then to the share going to the state.

3. *a.* A tax is imposed on the gross sum wagered by the pari-mutuel method at each track licensed for dog races. The tax imposed by this subsection shall be paid by the licensee to the commission within ten days after the close of the track's racing season. The rate of tax on each track is as follows:

(1) Six percent, if the gross sum wagered in the racing season is fifty-five million dollars or more.

(2) Five percent, if the gross sum wagered in the racing season is thirty million dollars or more but less than fifty-five million dollars.

(3) Four percent, if the gross sum wagered in the racing season is less than thirty million dollars.

b. The tax revenue shall be distributed as follows:

(1) If the racetrack is located in a city, one-half of one percent of the gross sum wagered shall be remitted to the treasurer of the city in which the racetrack is located and shall be deposited in the general fund of the city. One-half of one percent of the gross sum wagered shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county. The remaining amount shall be deposited with the commission.

(2) If the racetrack is located in an unincorporated part of a county, one-half of one percent of the gross sum wagered shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county. The remaining amount shall be deposited with the commission.

c. If the rate of tax imposed under paragraph "*a*" is six percent, five percent, or four percent, a licensee shall set aside for retiring any debt of the licensee, for capital improvement to the facilities of the licensee, for funding of possible future operating losses, or for charitable giving, the following amount:

(1) If the rate of tax paid by the licensee is six percent, one-sixth of the tax liability by the licensee during the racing season shall be set aside.

(2) If the rate of tax paid by the licensee is five percent, one percent of the gross sum wagered in the racing season shall be set aside.

(3) If the rate of tax paid by the licensee is four percent, two percent of the gross sum wagered in the racing season shall be set aside.

d. If the gross sum wagered at a racetrack for the 1991-1992 racing season is less than twenty million dollars, the licensee may retain up to three hundred eighty thousand dollars of its tax liability for the 1991-1992 racing season as a no interest loan. The loan shall be repaid to the treasurer of state in four equal annual installments. The first installment is due and payable at the conclusion of the 1992-1993 racing season and an additional installment is due and payable at the conclusion of each succeeding racing season ending with the 1995-1996 racing season. A lien in favor of the state shall attach to the property of the taxpayer as provided in section 422.26 when the tax payment would otherwise be due and may be enforced by the state upon the delinquency of the loan repayment.

4. A tax of two percent is imposed on the gross sum wagered by the pari-mutuel method on horse races and dog races which are simultaneously telecast. The tax imposed by this subsection is in lieu of the taxes imposed pursuant to subsection 1 or 3, but the tax revenue from simulcast horse races shall be distributed as provided in subsection 1 and the tax revenue from simulcast dog races shall be distributed as provided in subsection 3.

Section History: Recent form

83 Acts, ch 187, § 15; 84 Acts, ch 1266, § 17; 89 Acts, ch 216, § 7--9; 90 Acts, ch 1261, § 33; 91 Acts, ch 166, §6; 91 Acts, ch 268, §427; 92 Acts, ch 1203, §8--10; 92 Acts, ch 1207, §2; 94 Acts, ch 1107, §6

Internal References

Referred to in § 99D.9, 99D.10, 99D.14, 99D.17

99D.16 Withholding tax on winnings.

All winnings provided in section 99D.11 are Iowa earned income and are subject to state and federal income tax laws. An amount deducted from winnings for payment of the state tax, pursuant to section 422.16, subsection 1, shall be remitted to the department of revenue and finance on behalf of the individual who won the wager.

Section History: Recent form

87 Acts, ch 214, § 1; 92 Acts, 2nd Ex, ch 1001, § 233

Internal References

Referred to in § 99D.9, 99D.10

99D.17 Use of funds.

Funds received pursuant to sections 99D.14 and 99D.15 shall be deposited in the general fund of the state and shall be subject to the requirements of section 8.60. These funds shall first be used to the extent appropriated by the general assembly. The commission is subject to the budget requirements of chapter 8 and the applicable auditing requirements and procedures of chapter 11.

Section History: Recent form

83 Acts, ch 187, § 17; 90 Acts, ch 1261, § 34; 91 Acts, ch 260, § 1206; 92 Acts, ch 1163, § 24; 93 Acts, ch 131, § 2; 94 Acts, ch 1107, § 33

Internal References

Referred to in § 8.57, 99D.7, 99D.9, 99D.10

99D.18 Surplus funds---how used.

Repealed by 91 Acts, ch 260, § 1250.

99D.19 Horse or dog racing---licensees ---records---reports---supervision.

A licensee shall keep its books and records so as to clearly show the following:

1. The total number of admissions to races conducted by it on each racing day, including the number of admissions upon free passes or complimentary tickets.
2. The amount received daily from admission fees.
3. The total amount of money wagered during the race meet.

The licensee shall furnish to the commission reports and information as the commission may require with respect to its activities. The commission may designate a representative to attend a licensed race meeting, who shall have full access to all places within the enclosure of the meeting and who shall supervise and check the admissions. The compensation of the representative shall be fixed by the commission but shall be paid by the licensee.

Section History: Recent form

83 Acts, ch 187, § 19

Internal References

Referred to in § 99D.9, 99D.10

99D.20 Audit of licensee operations.

Within ninety days after the end of each race meet, the licensee shall transmit to the commission an audit of the financial transactions and condition of the licensee's operations conducted under this chapter. Additionally, within ninety days after the end of the licensee's fiscal year, the licensee shall transmit to the commission an audit of the financial transactions and condition of the licensee's total operations. All audits shall be conducted by certified public accountants registered in the state of Iowa under chapter 542C.

Section History: Recent form

83 Acts, ch 187, § 20

Internal References

Referred to in § 99D.9, 99D.10

99D.21 Annual report of commission.

The commission shall make an annual report to the governor, for the period ending December 31 of each year. Included in the report shall be an account of the commission's actions, its financial position and results of operation under this chapter, the practical results attained under this chapter, and any recommendations for legislation which the commission deems advisable.

Section History: Recent form

83 Acts, ch 187, § 21; 84 Acts, ch 1266, § 19

Internal References

Referred to in § 99D.9, 99D.10

99D.22 Native horses or dogs.

1. A licensee shall hold at least one race on each racing day limited to Iowa-foaled horses or Iowa-whelped dogs as defined by the department of agriculture and land stewardship using standards consistent with this section. However, if sufficient competition cannot be had among that class of horses or dogs on any day, another race for the day may be substituted. A sum equal to twelve percent of the purse won by an Iowa-foaled horse or Iowa-whelped dog shall be used to promote the horse and dog breeding industries. The twelve percent shall be withheld by the licensee from the breakage and shall be paid at the end of the race meeting to the state department of agriculture and land stewardship which in turn shall deposit it in a special fund to be known as the Iowa horse and dog breeders fund and pay it by December 31 of each calendar year to the breeder of the winning Iowa-foaled horse or Iowa-whelped dog. For the purposes of this section, the breeder of a thoroughbred horse shall be considered to be the owner of the brood mare at the time the foal is dropped. The breeder of a quarter horse or standardbred horse shall be considered to be the owner of the mare at the time of breeding.

2. For the purposes of this chapter, the following shall be considered in determining if a horse is an Iowa-foaled thoroughbred horse, quarter horse, or standardbred horse:

a. All thoroughbred horses, quarter horses, or standardbred horses foaled in Iowa prior to January 1, 1985, which are registered by the jockey club, American quarter horse association, or United States trotting association as Iowa foaled shall be considered to be Iowa foaled.

b. After January 1, 1985, eligibility for brood mare residence shall be achieved by meeting at least one of the following rules:

(1) Thirty days residency until the foal is inspected, if in foal to a registered Iowa stallion.

(2) Thirty days residency until the foal is inspected for brood mares which are bred back to registered Iowa stallions.

(3) Continuous residency from December 31 until the foal is inspected if the mare was bred by other than an Iowa registered stallion and is not bred back to an Iowa registered stallion.

c. To be eligible for registration as an Iowa thoroughbred, quarter horse, or standardbred stallion, the following requirements shall be met:

(1) Stallion residency from January 1 through July 31 for the year of registration. However, horses going to stud for the first year shall be eligible upon registration with residency to continue through July 31.

(2) At least fifty-one percent of an Iowa registered stallion shall be owned by bona fide Iowa residents.

d. State residency shall not be required for owners of brood mares.

3. To facilitate the implementation of this section, the department of agriculture and land stewardship shall do all of the following:

a. Adopt standards to qualify thoroughbred, quarter horse, or standardbred stallions for Iowa breeding. A stallion shall stand for service in the state at the time of the foal's conception and shall not stand for service at any place outside the state during the calendar year in which the foal is conceived.

b. Provide for the registration of Iowa-foaled horses and that a horse shall not compete in a race limited to Iowa-foaled horses unless the horse is registered with the department of agriculture and land stewardship. The department may prescribe such forms as necessary to determine the eligibility of a horse.

c. The secretary of agriculture shall appoint investigators to determine the eligibility for registration of Iowa-foaled horses.

d. Adopt a schedule of fees to be charged to breeders of thoroughbreds, quarter horses, or standardbreds to administer this subsection.

4. To qualify for the Iowa horse and dog breeders fund, a dog shall have been whelped in Iowa and raised for the first six months of its life in Iowa. In addition, the owner of the dog shall have been a resident of the state for at least two years prior to the whelping. The department of agriculture and land stewardship shall adopt rules and prescribe forms to bring Iowa breeders into compliance with residency requirements of dogs and breeders in this subsection.

Section History: Recent form

83 Acts, ch 187, § 22; 84 Acts, ch 1266, § 20, 21; 85 Acts, ch 67, §12; 95 Acts, ch 133, § 1--;7

Internal References

Referred to in § 99D.9, 99D.10, 99D.12, 99D.13

99D.23 Commission veterinarian and chemist.

1. The commission shall employ one or more chemists or contract with a qualified chemical laboratory to determine by chemical testing and analysis of saliva, urine, blood, or other excretions or body fluids whether a substance or drug has been introduced which may affect the outcome of a race or whether an action has been taken or a substance or drug has been introduced which may interfere with the testing procedure. The commission shall adopt rules under chapter 17A concerning procedures and actions taken on positive drug reports. The commission may adopt by reference the standards of the national association of state racing commissioners, the association of official racing chemists, and New York jockey club, or the United States trotting association, or may adopt any other procedure or standard. The commission has the authority to retain and preserve by freezing, test samples for future analysis.

2. The commission shall employ or contract with one or more veterinarians to extract or procure the saliva, urine, blood, or other excretions or body fluids of the horses or dogs for the chemical testing purposes of this section. A commission veterinarian shall be in attendance at every race meeting held in this state.

3. A chemist or veterinarian who willfully or intentionally fails to perform the functions or duties of employment required by this section shall be banned for life from employment at a race meeting held in this state.

4. The commission veterinarian shall keep a continuing record of all horses determined to be sick, unsafe, unsound, or unfit to race by a commission veterinarian at a racetrack.

Section History: Recent form

83 Acts, ch 187, § 23; 88 Acts, ch 1137, § 3, 4; 94 Acts, ch 1100, §2

Internal References

Referred to in § 99D.9, 99D.10

99D.24 Prohibited activities---penalty.

1. A person is guilty of an aggravated misdemeanor for doing any of the following:

a. Holding or conducting a race or race meeting where the pari-mutuel system of wagering is used or to be used without a license issued by the commission.

b. Holding or conducting a race or race meeting where wagering is permitted other than in the manner specified by section 99D.11.

c. Committing any other corrupt or fraudulent practice as defined by the commission in relation to racing which affects or may affect the result of a race.

2. A person knowingly permitting a person under the age of twenty-one years to make a pari-mutuel wager is guilty of a simple misdemeanor.

3. A person wagering or accepting a wager at any location outside the betting enclosure is subject to the penalties in section 725.7.

4. A person commits a class "D" felony and, in addition, shall be barred for life from racetracks under the jurisdiction of the commission, if the person does any of the following:

a. Offers, promises, or gives anything of value or benefit to a person who is connected with racing including, but not limited to, an officer or employee of a licensee, an owner of a horse, a jockey or driver, a trainer, or handler, pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a race, or to influence official action of a member of the commission.

b. Solicits or knowingly accepts or receives a promise of anything of value or benefit while the person is connected with racing including, but not limited to, an officer or employee of a licensee, an owner of a horse, a jockey or driver, a trainer, or handler, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a race, or to influence official action of a member of the commission.

5. A person commits a class "D" felony and the commission shall suspend or revoke a license held by the person if the person:

a. Uses, possesses, or conspires to use or possess a device other than the ordinary whip or spur for the purpose of stimulating or depressing a horse or dog during a race or workout.

b. Sponges a horse's or dog's nostrils or windpipe or uses any method, injurious or otherwise, for the purpose of stimulating or depressing a horse or dog or affecting its speed in a race or a workout.

6. A person commits a serious misdemeanor if the person has in the person's possession within the confines of a racetrack, stable, shed, building or grounds, or within the confines of a stable, shed, building or grounds where a horse or dog is kept which is eligible to race over a racetrack licensed under this chapter, an appliance other than the ordinary whip or spur which can be used for the purpose of stimulating or depressing a horse or dog or affecting its speed at any time.

Section History: Recent form

83 Acts, ch 187, § 24; 84 Acts, ch 1265, § 5; 91 Acts, ch 195, §1; 94 Acts, ch 1021, §5

Internal References

Referred to in § 99D.9

99D.25 Drugging or numbing---exception---tests---reports---penalties.

1. As used in this section, unless the context otherwise requires:

a. "*Drugging*" means administering to a horse or dog any substance foreign to the natural horse or dog prior to the start of a race. However, in counties with a population of two hundred fifty thousand or more, "*drugging*" does not include administering to a horse the drugs lasix and phenylbutazone in accordance with section 99D.25A and rules adopted by the commission.

b. "*Numbing*" means the applying of ice or a freezing device or substance to the limbs of a horse or dog within two hours before the start of a race, or a surgical or other procedure which was, at any time, performed in which the nerves of a horse or dog were severed, destroyed, injected, or removed.

c. "*Entered*" means that a horse or dog has been registered as a participant in a specified race, and not withdrawn prior to presentation of the horse or dog for inspection and testing.

2. The general assembly finds that the practice of drugging or numbing a horse or dog prior to a race:

a. Corrupts the integrity of the sport of racing and promotes criminal fraud in the sport;

b. Misleads the wagering public and those desiring to purchase a horse or dog as to the condition and ability of the horse or dog;

c. Poses an unreasonable risk of serious injury or death to the rider of a horse and to the riders of other horses competing in the same race; and

d. Is cruel and inhumane to the horse or dog so drugged or numbed.

3. The following conduct is prohibited:

a. The entering of a horse or dog in a race by the trainer or owner of the horse or dog if the trainer or owner knows or if by the exercise of reasonable care the trainer or owner should know that the horse or dog is drugged or numbed;

b. The drugging or numbing of a horse or dog with knowledge or with reason to believe that the horse or dog will compete in a race while so drugged or numbed. However, the commission may by rule establish permissible trace levels of substances foreign to the natural horse or dog that the commission determines to be innocuous;

c. The willful failure by the operator of a racing facility to disqualify a horse or dog from competing in a race if the operator has been notified that the horse or dog is drugged or numbed, or was not properly made available for tests or inspections as required by the commission; and

d. The willful failure by the operator of a racing facility to prohibit a horse or dog from racing if the operator has been notified that the horse or dog has been suspended from racing.

4. The owners of a horse or dog and their agents and employees shall permit a member of the commission or a person employed or appointed by the commission to make tests as the commission deems proper in order to

determine whether a horse or dog has been improperly drugged. The fact that purse money has been distributed prior to the issuance of a test report shall not be deemed a finding that no chemical substance has been administered unlawfully to the horse or dog earning the purse money. The findings of the commission that a horse or dog has been improperly drugged by a narcotic or other drug are prima facie evidence of the fact. The results of the tests shall be kept on file by the commission for at least one year following the tests.

5. Every horse which suffers a breakdown on the racetrack, in training, or in competition, and is destroyed, and every other horse which expires while stabled on the racetrack under the jurisdiction of the commission, shall undergo a postmortem examination at a time and place acceptable to the commission veterinarian to determine the injury or sickness which resulted in euthanasia or natural death. The postmortem examination shall be conducted by a veterinarian employed by the owner or the owner's trainer in the presence of and in consultation with the commission veterinarian. Test samples shall be obtained from the carcass upon which the postmortem examination is conducted and shall be sent to a laboratory approved by the commission for testing for foreign substances and natural substances at abnormal levels. When practical, blood and urine test samples should be procured prior to euthanasia. The owner of the deceased horse is responsible for payment of any charges due the veterinarian employed to conduct the postmortem examination. The services of the commission veterinarian and the laboratory testing of postmortem samples shall be made available by the commission without charge to the owner. A record of every postmortem shall be filed with the commission by the owner's veterinarian within seventy-two hours of the death and shall be submitted on a form supplied by the commission. Each owner and trainer accepts the responsibility for the postmortem examination provided herein as a requisite for maintaining the occupational license issued by the commission.

6. Any horse which in the opinion of the commission veterinarian has suffered a traumatic injury or disability such that a controlled program of phenylbutazone administration would not aid in restoring the racing soundness of the horse shall not be allowed to race while medicated with phenylbutazone or with phenylbutazone present in the horse's bodily systems.

7. A person found within or in the immediate vicinity of a security stall who is in possession of unauthorized drugs or hypodermic needles or who is not authorized to possess drugs or hypodermic needles shall, in addition to any other penalties, be barred from entry into any racetrack in Iowa and any occupational license the person holds shall be revoked.

8. Before a horse is allowed to race using phenylbutazone, the veterinarian attending the horse shall certify to the commission the course of treatment followed in administering the phenylbutazone.

9. The commission shall conduct random tests of bodily substances of horses entered to race each day of a race meeting to aid in the detection of any unlawful drugging. The tests shall be conducted both prior to and after a race. The commission shall also test any horse that breaks down during a race and shall perform an autopsy on any horse that is killed or subsequently destroyed as a result of accident during a race.

10. Veterinarians must submit daily to the commission veterinarian on a prescribed form a report of all medications and other substances which the veterinarian prescribed, administered, or dispensed for horses registered at a current race meeting. A logbook detailing other professional services performed while on the grounds of a racetrack shall be kept by veterinarians and shall be made immediately available to the commission veterinarian or the stewards upon request.

A person who violates this section is guilty of a class "D" felony.

Section History: Recent form

83 Acts, ch 187, § 25; 88 Acts, ch 1137, § 5--;12; 94 Acts, ch 1100, §3, 4

Internal References

Referred to in § 99D.9

99D.25A Administration of lasix or phenylbutazone.

1. As used in this section unless the context otherwise requires:

a. "*Bleeder*" means, according to its context, either:

(1) A horse which, during a race or exercise, is observed by the commission veterinarian or designee to be shedding blood from one or both nostrils and in which no upper airway injury is noted during an examination by the commission veterinarian immediately following such a race or exercise;

(2) A horse which, within one and one-half hours of such a race or exercise, is observed by the commission veterinarian, through visual or endoscopic examination, to be shedding blood from the lower airway; or

(3) A horse which has been certified as a bleeder in another state.

b. "Bleeder list" means a tabulation of all bleeders maintained by the commission veterinarian.

c. "Detention barn" means a secured structure designated by the commission.

2. Phenylbutazone shall not be administered to a horse in dosages which would result in concentrations of more than two point two micrograms of the substance or its metabolites per millimeter of blood.

3. If a horse is to race with phenylbutazone in its system, the trainer shall be responsible for marking the information on the entry blank for each race in which the horse shall use phenylbutazone. Changes made after the time of entry must be submitted on the prescribed form to the commission veterinarian no later than scratch time.

4. If a test detects concentrations of phenylbutazone in the system of a horse in excess of the level permitted in this section, the commission shall assess a civil penalty against the trainer of two hundred dollars for the first offense and five hundred dollars for a second offense. The penalty for a third or subsequent offense shall be in the discretion of the commission. A penalty assessed under this subsection shall not affect the placing of the horse in the race.

5. Lasix may be administered to certified bleeders. Upon request, any horse placed on the bleeder list shall, in its next race, be permitted the use of lasix. Once a horse has raced with lasix, it must continue to race with lasix in all subsequent races unless a request is made to discontinue the use. If the use of lasix is discontinued, the horse shall be prohibited from again racing with lasix unless it is later observed to be bleeding. Requests for the use of or discontinuance of lasix must be made to the commission veterinarian by the horse's trainer or assistant trainer on a form prescribed by the commission on or before the day of entry into the race for which the request is made.

6. Once a horse has been permitted the use of lasix, it must be brought to the detention barn for treatment not less than four hours prior to scheduled post time for the race in which it is entered to start. After the lasix treatment, the commission, by rule, may authorize the release of the horse from the detention barn before the scheduled post time. If a horse is brought to the detention barn late, the commission shall assess a civil penalty of one hundred dollars against the trainer.

7. A horse entered to race with lasix must be treated at least four hours prior to post time. The lasix shall be administered intravenously by a veterinarian employed by the owner or trainer of the horse under the visual supervision of the commission veterinarian. The practicing veterinarian must deposit with the commission veterinarian at the detention barn an unopened supply of lasix and sterile hypodermic needles and syringes to be used for the administrations. Lasix shall only be administered in a dose level of two hundred fifty milligrams. The commission veterinarian shall extract a test sample of the horse's blood, urine, or saliva to determine whether the horse was improperly drugged after the race is run.

8. A person found within or in the immediate vicinity of the detention barn who is in possession of unauthorized drugs or hypodermic needles or who is not authorized to possess drugs or hypodermic needles shall, in addition to any other penalties, be barred from entry into any racetrack in Iowa and any occupational license the person holds shall be revoked.

Section History: Recent form

88 Acts, ch 1137, § 13; 92 Acts, ch 1203, §11; 94 Acts, ch 1100, §5

Internal References

Referred to in § 99D.25

99D.26 Forfeiture of property.

1. Anything of value, including all traceable proceeds including but not limited to real and personal property, moneys, negotiable instruments, securities, and conveyances are subject to forfeiture to the state of Iowa if the item was used for any of the following:

a. In exchange for a bribe intended to affect the outcome of a race.

b. In exchange for or to facilitate a violation of this chapter.

2. All moneys, coin, and currency found in close proximity of wagers, or of records of wagers are presumed forfeited. The burden of proof is upon the claimant of the property to rebut this presumption.

3. Subsections 1 and 2 do not apply if the act or omission which would give rise to the forfeiture was committed or omitted without the owner's knowledge or consent.

Section History: Recent form

99D.27 Racing dog adoption program.

A track licensed to race dogs under this chapter shall maintain a racing dog adoption program. The track shall advertise the availability of adoptable dogs in the media, including but not limited to racing programs. The track shall compile a list of persons applying to adopt a dog. A dog's owner or dog's trainer acting with the consent of the owner may participate in the program by placing the dog for adoption. The ownership of the dog shall be transferred from the owner of the dog to the person who is adopting the dog. A dog shall not be transferred to a person for purposes related to racing, breeding, hunting, laboratory research, or scientific experimentation. A dog shall not be transferred unless the dog has been examined by a veterinarian and found to be free of disease requiring extensive medical treatment. A dog shall not be transferred, until a veterinarian has certified that the dog has been sterilized. The track may transfer a dog to a governmental agency or nonprofit organization without examination or certification. However, other requirements relating to the transfer of a dog to a person by a track under this section apply to the transfer of a dog to a person by the agency or organization. A person violating this section is guilty of a simple misdemeanor.

Section History: Recent form

89 Acts, ch 216, §10; 90 Acts, ch 1155, § 1

Internal References

Referred to in § 99D.13, 162.20

99D.28 Use of industrial revenue bonds prohibited.

Repealed by 84 Acts, ch 1266, § 23. See § 419.1.

99E.1 Title.

This chapter may be cited as the "*Iowa Lottery Act*".

Section History: Recent form

85 Acts, ch 33, §101

99E.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Board*" means the Iowa lottery board.
2. "*Commissioner*" means the commissioner of the lottery.
3. "*Director*" means the director of the department of revenue and finance.
4. "*Instant lottery*" means a game that offers preprinted tickets that indicate immediately whether the player has won.
5. "*Licensee*" means the person issued a license by the commissioner to sell lottery tickets or shares. The licensee is responsible for the licensee's employees' conduct which is within the scope of this chapter.
6. "*Lottery*" means the lottery created and operated under this chapter.
7. "*On-line lotto*" means a lottery game hooked up to a central computer via telecommunications lines in which the player selects a specified group of numbers out of a predetermined range of numbers.
8. "*Share*" means any intangible manifestation authorized by the Iowa lottery division to prove participation in a game conducted by the state lottery division.

9. "Ticket" means any tangible evidence issued by the Iowa lottery division to prove participation in a game conducted by the state lottery division.

Section History: Recent form

85 Acts, ch 33, §102; 86 Acts, ch 1245, § 403

99E.3 Establishment of lottery---commissioner---employees.

1. A lottery division is established under the department of revenue and finance. Except as provided in section 99E.9, subsection 3, paragraph "b", the lottery division is subject to chapter 17A. The head of the lottery division is the commissioner.

2. The commissioner shall be qualified by training and experience to direct the lottery. The commissioner shall be appointed by the governor within thirty days after May 3, 1985 subject to confirmation by the senate, and shall serve at the pleasure of the governor. A vacancy occurring in the office of the commissioner shall be filled in the same manner as the original appointment. Section 2.32 applies to the appointment of the commissioner. The commissioner shall devote time and attention solely to the duties of the office and shall not be engaged in any other profession or occupation. The commissioner shall receive a salary determined by the governor within salary range five as set by the general assembly.

3. The commissioner may employ, with the approval of the director, clerks, stenographers, inspectors, agents, and other employees pursuant to chapter 19A as necessary to carry out this chapter, except as provided in section 99E.14.

Section History: Recent form

85 Acts, ch 33, §103; 86 Acts, ch 1245, § 404

99E.4 Commissioner's oath---bond---employees---bonding of employees.

1. Before taking office, the commissioner shall take an oath to faithfully execute the duties of the office according to the laws of the state, and shall give bond with sufficient surety to be approved by the governor in the sum of not less than twenty-five thousand dollars, conditioned upon faithful execution and performance of the duties of the office. The bond when fully executed and approved shall be filed in the office of the secretary of state. When in the governor's opinion the bond has become or is likely to become invalid or insufficient, the governor shall require the commissioner to renew the bond in an amount approved by the governor but not less than twenty-five thousand dollars. The cost of a bond given shall be part of the necessary expenses of the lottery.

2. The commissioner, with the approval of the director, shall employ personnel necessary to implement this chapter. The director may require lottery division employees to give bond in an amount the director determines. Each bond when fully executed and approved shall be filed in the office of the secretary of state. The cost of each bond given shall be part of the necessary expenses of the lottery. The director may obtain a blanket bond to cover personnel of the lottery division for which the director requires a bond.

Section History: Recent form

85 Acts, ch 33, §104; 86 Acts, ch 1245, § 405

99E.5 Lottery board.

An Iowa lottery board is created to consist of five members, not more than three of whom shall be from the same political party, and who shall be appointed by the governor subject to confirmation by the senate. The governor shall appoint the board members within sixty days of May 3, 1985. The term of each member shall begin and end as provided in section 69.19. A vacancy on the board shall be filled in the same manner as regular appointments are made and the term shall be for the unexpired portion of the regular term.

Section History: Recent form

85 Acts, ch 33, §105

99E.6 Board qualifications.

Board members shall be residents of this state. Except for the initial appointees, at least one member of the board shall be a person who has been a law enforcement officer for not less than five years, one member shall be an attorney admitted to the practice of law in Iowa for not less than five years, and one member shall be a certified public accountant who has practiced accountancy in Iowa for not less than five years.

Section History: Recent form

85 Acts, ch 33, §106; 85 Acts, ch 256, §14

99E.7 Board meetings.

The board shall hold at least one meeting quarterly and as often as necessary. The board shall select a chairperson from its membership at the first regular meeting of the board and shall thereafter select a chairperson at the first regular meeting of each fiscal year. Written notice of the time and place of each meeting shall be given to each member of the board. A majority of the board constitutes a quorum.

Section History: Recent form

85 Acts, ch 33, §107; 86 Acts, ch 1245, § 406

99E.8 Expenses---compensation.

Members of the board shall be allowed the actual and necessary expenses incurred in the performance of their duties. Each member of the board may also be eligible to receive compensation as provided in section 7E.6. The expenses incurred by members of the board are part of the necessary expenses of the lottery division.

Section History: Recent form

85 Acts, ch 33, §108; 86 Acts, ch 1245, § 407

99E.9 Duties of the board and commissioner---contracts---rules.

1. The board and the commissioner shall supervise the lottery in order to produce the maximum amount of net revenues for the state in a manner which maintains the dignity of the state and the general welfare of the people.

2. Subject to the approval of the board, the commissioner may enter into contracts for the operation and marketing of the lottery, except that the board may by rule designate classes of contracts other than major procurements which do not require prior approval by the board. A major procurement shall be as the result of competitive bidding with the contract being awarded to the responsible vendor submitting the lowest and best proposal. However, before a contract for a major procurement is awarded, the division of criminal investigation of the department of public safety shall conduct a thorough background investigation of the vendor, any parent or subsidiary corporation of the vendor, all shareholders of five percent or more interest of the vendor or parent or subsidiary corporation of the vendor, and all officers and directors of the vendor or parent or subsidiary corporation of the vendor to whom the contract is to be awarded. The vendor shall submit to the division of criminal investigation appropriate investigation authorizations to facilitate this investigation. A contract for a major procurement awarded or entered into by the commissioner with an individual or business organization shall require that individual or business organization to establish a permanent office in this state. As used in this subsection, "*major procurement*" means consulting agreements and the major procurement contract with a business organization for the printing of tickets, or for purchase or lease of equipment or services essential to the operation of a lottery game.

3. Except as provided in paragraph "b", the board shall make rules in accordance with chapter 17A for implementing and enforcing this chapter. The rules shall include but are not limited to the following subject matters:

a. The fees charged for a license to sell lottery tickets or shares. Revenue received by the lottery from license fees shall be transferred to the lottery fund immediately after the cost of processing license applications is deducted.

b. The types of lottery games to be conducted. Rules governing the operation of a class of games are subject to chapter 17A. However, rules governing the particular features of specific games within a class of games are not subject to chapter 17A. Such rules may include, but are not limited to, setting the name and prize structure of the game and shall be made available to the public prior to the time the games go on sale and shall be kept on file at the office of the commissioner. The board shall authorize instant lottery and on-line lotto games and may authorize the use of any type of lottery game that on May 3, 1985, has been conducted by a state lottery of another state in the United States, or any game that the board determines will achieve the revenue objectives of the lottery and is consistent with subsection 1. However, the board shall not authorize a game using an electronic computer terminal or other device if, upon winning a game, the terminal or device immediately dispenses coins or currency or a ticket, credit or token which is redeemable for cash or a prize. In a game utilizing instant tickets other than pull-tab tickets, each ticket in the game shall bear a unique consecutive serial number distinguishing it from every other ticket in the game, and each lottery number or symbol shall be accompanied by a confirming caption consisting of a repetition of a symbol or a description of the symbol in words. In the game other than an instant game which uses tangible evidence of participation, each ticket shall bear a unique serial number distinguishing it from every other ticket in the game.

c. The price of tickets or shares in the lottery, including but not limited to authorization of sales of tickets or shares at a discount for marketing purposes.

d. The number and size of the prizes on the winning tickets or shares, including but not limited to prizes of free tickets or shares in lottery games conducted by the lottery and merchandise prizes. The lottery division shall maintain and make available for public inspection at its offices during regular business hours a detailed listing of the estimated number of prizes of each particular denomination that are expected to be awarded in any game that is on sale or the estimated odds of winning the prizes and, after the end of the claim period, shall maintain and make available a listing of the total number of tickets or shares sold in a game and the number of prizes of each denomination which were awarded.

e. The method of selecting the winning tickets or shares and the manner of payment of prizes to the holders of winning tickets or shares. The rules may provide for payment by the purchase of annuities in the case of prizes payable in installments. Lottery employees shall examine claims and shall not pay any prize for altered, stolen, or counterfeit tickets or shares nor tickets or shares which fail to meet validation rules established for a lottery game. A prize shall not be paid more than once. If the commissioner determines that more than one person is entitled to a prize, the sole remedy of the claimants is to receive an equal share in the single prize. The rules may provide for payment of prizes directly by the licensee.

f. The methods of validation of the authenticity of winning tickets or shares.

g. The frequency of selection of winning tickets or shares. Drawings shall be held in public. Drawings shall be witnessed by an independent certified public accountant. Equipment used to select winning tickets or shares or participants for prizes shall be examined by lottery division employees and an independent certified public accountant prior to and after each public drawing.

h. Requirements for eligibility for participation in runoff drawings, including but not limited to requirements for submission of evidence of eligibility.

i. The locations at which tickets or shares may be sold. The board may authorize the sale of tickets or shares on the premises of establishments which sell or serve alcoholic beverages, wine, or beer as defined in section 123.3.

j. The method to be used in printing and selling tickets or shares. An elected official's name shall not be printed on the tickets. The overall estimated odds of winning a prize in a given game shall be printed on each ticket if the games have either preprinted winners or fixed odds. Estimated odds of winning a prize are not required to be printed on tickets in lottery games of a pari-mutuel nature. As used in this paragraph, "*games of a pari-mutuel nature*" means a game in which the amount of the winnings and the odds of winning are determined by the number of participants in the game.

k. The issuing of licenses to sell tickets or shares. In addition to any other rules made regarding the qualifications of an applicant for a license, a person shall not be issued a license unless the person meets the criteria established in section 99E.16, subsection 7.

l. The compensation to be paid licensees including but not limited to provision for variable compensation based on sales volume or incentive considerations.

m. The form and type of marketing, informational, and educational material to be permitted. Marketing material and campaigns shall include the concept of investing in Iowa's economic development and show the economic development initiatives funded from lottery revenue.

n. Subject to section 99E.10, the apportionment of the annual revenues accruing from the sale of lottery tickets or shares and from other sources for the payment of prizes to the holders of winning tickets or shares and for the following:

(1) The payment of costs incurred in the operation and administration of the lottery and the lottery division, including the expenses of the lottery and the cost resulting from contracts entered into for consulting or operational services, or for marketing.

(2) Actual and necessary expenses of all audits performed pursuant to section 99E.20, subsection 3.

(3) Incentive programs for lottery licensees and lottery employees.

(4) Payment of compensation to licensees necessary to provide for the adequate availability of tickets, shares, or services to prospective buyers and for the convenience of the public.

(5) The purchase or lease of lottery equipment, tickets, and materials.

o. Requirement that a licensee either print or stamp the licensee's name and address on the back of each instant ticket, except pull-tab tickets.

4. The board and the commissioner may enter into written agreements or compacts with another state or states or one or more political subdivisions of another state or states for the operation, marketing, and promotion of a joint lottery or joint lottery games.

5. The board may authorize the commissioner to enter into written agreements with business entities for special lottery promotions in which, incident to the special lottery games, additional prizes, including annuities, may be purchased by the business entity and transferred to the lottery division for payment to qualifying holders of lottery tickets or shares.

6. If reasonably practical when the lottery division awards a contract under subsection 2, for the lease or purchase of a machine to be used in the conducting of a lottery game including, but not limited to, a machine used in lotto, the lottery division shall give preference to awarding the contract to a responsible vendor who manufactures the machines in the state, provided the costs and benefits to the lottery division are equal to those available from competing vendors.

If reasonably practical when the lottery division awards a contract under subsection 2, for the servicing of a machine to be used in the conducting of a lottery game including, but not limited to, a machine used in lotto, the lottery division shall give preference to a responsible vendor whose principal place of business is in Iowa, provided the costs and benefits to the lottery division are equal to those available from competing vendors.

7. In making decisions relating to the marketing or advertising of the Iowa lottery and the various games offered, the board shall give consideration to marketing or advertising through Iowa-based advertising agencies and media outlets.

8. The Iowa lottery board shall cooperate with the gambling treatment program administered by the Iowa department of public health to incorporate information regarding the gambling treatment program and its toll-free telephone number in printed materials distributed by the board.

Section History: Recent form

85 Acts, ch 33, §109; 86 Acts, ch 1002, § 4; 86 Acts, ch 1042, § 3--;5; 86 Acts, ch 1052, § 2; 86 Acts, ch 1245, § 408--;410; 87 Acts, ch 231, § 1; 88 Acts, ch 1268, § 1; 92 Acts, ch 1203, § 12, 13; 95 Acts, ch 205, §35; 96 Acts, ch 1212, § 12

Internal References

Referred to in § 99E.3, 99E.13

99E.10 Allocation and appropriation of funds generated---CLEAN fund.

1. Upon receipt of any revenue, the commissioner shall deposit the moneys in the lottery fund created pursuant to section 99E.20. As nearly as is practicable, at least fifty percent of the projected annual revenue, after deduction of the amount of the sales tax, accruing from the sale of tickets or shares is appropriated for payment of prizes to the holders of winning tickets. After the payment of prizes, all of the following shall be deducted from lottery revenue prior to disbursement:

a. An amount equal to three-tenths of one percent of the gross lottery revenue shall be deposited in a gambling treatment fund in the office of the treasurer of state. The director of the Iowa department of public health shall administer the fund and shall provide that receipts are allocated on a monthly basis to fund administrative costs and to provide programs which may include, but are not limited to, outpatient and follow-up treatment for persons affected by problem gambling, rehabilitation and residential treatment programs, information and referral services, and education and preventive services.

Of the moneys remaining in the gambling treatment fund at the close of the fiscal year which otherwise would remain unexpended or unobligated for the purposes designated in this paragraph "a", up to four hundred thousand dollars shall be used by the Iowa department of public health for substance abuse program grants.

b. An amount equal to the product of the state sales tax rate under section 422.43 multiplied by the gross sales price of each ticket or share sold shall be deducted as the sales tax on the sale of that ticket or share, remitted to the treasurer of state and deposited into the state general fund.

c. The expenses of conducting the lottery including the reasonable expenses incurred by the attorney general's office in enforcing this chapter.

d. The contractual expenses required in this paragraph. The division of criminal investigation shall be the primary state agency responsible for investigating criminal violations of the law under this chapter. The commissioner shall contract with the department of public safety for investigative services, including the employment of special agents and support personnel, and procurement of necessary equipment to carry out the responsibilities of the division of criminal investigation under the terms of the agreement and this chapter.

e. For the fiscal year beginning July 1, 1993, after the first thirty-three million dollars is transferred to the general fund of the state, five hundred thousand dollars shall be deposited in the Iowa state fair foundation in the office of the treasurer of state to be used by the foundation fund for capital projects or major maintenance improvements at the Iowa state fairgrounds. For the fiscal period beginning July 1, 1994, and ending June 30, 1996, five hundred thousand dollars shall annually be deposited in the Iowa state fair foundation fund in the office of the treasurer of state to be used by the foundation for capital projects or major maintenance improvements at the Iowa state fairgrounds. Matching funds from other sources shall not be required for expenditure of funds deposited pursuant to this subsection.

Lottery expenses for marketing, educational, and informational material shall not exceed four percent of the lottery revenue.

The committing the lottery to environment, agriculture, and natural resources fund, also to be known as the CLEAN fund, is created in the office of the treasurer of state. Lottery revenue remaining after expenses are determined shall be transferred to the CLEAN fund on a monthly basis. Revenues generated during the last month of the fiscal year which are transferred to the CLEAN fund during the following fiscal year shall be considered revenues transferred during the previous fiscal year for purposes of the allotments made to and appropriations made from the separate accounts in the CLEAN fund for that previous fiscal year. However, upon the request of the director and subject to approval by the treasurer of state, an amount sufficient to cover the foreseeable administrative expenses of the lottery for a period of twenty-one days may be retained from the lottery revenue. Prior to the monthly transfer to the CLEAN fund, the director may direct that lottery revenue shall be deposited in the lottery fund and in interest-bearing accounts designated by the treasurer of state in the financial institutions of this state or invested in the manner provided in section 12B.10. Interest or earnings paid on the deposits or investments is considered lottery revenue and shall be transferred to the CLEAN fund in the same manner as other lottery revenue. Money in the CLEAN fund shall be deposited in interest-bearing accounts in financial institutions in this state or invested in the manner provided in section 12B.10. The interest or earnings on the deposits or investments shall be considered part of the CLEAN fund and shall be retained in the fund unless appropriated by the general assembly.

2. The director of management shall not include lottery revenues in the director's fiscal year revenue estimates. Moneys in the CLEAN fund shall not be considered a part of the Iowa economic emergency fund.

Section History: Recent form

85 Acts, ch 32, §114, 115; 85 Acts, ch 33, §110; 85 Acts, ch 256, § 9; 86 Acts, ch 1207, § 20; 86 Acts, ch 1068, §1; 86 Acts, ch 1244, § 21; 86 Acts, ch 1042, § 6; 87 Acts, ch 231, § 2; 88 Acts, ch 1268, § 2; 90 Acts, ch 1255, § 6--8; 90 Acts, ch 1270, § 41; 91 Acts, ch 267, § 138; 92 Acts, 2nd Ex, ch 1001, § 201; 93 Acts, ch 131, §3; 93 Acts, ch 180, §31; 94 Acts, ch 1186, §32; 96 Acts, ch 1212, § 13, 14

Internal References

Referred to in § 8.22A, 99E.9, 99E.20, 99E.34, 99F.11, 422.43

99E.11 Reports.

1. The commissioner shall report quarterly to the director, the governor, the treasurer of state, and the general assembly. The quarterly report shall include the total lottery revenue, prize disbursements, and other expenses for the preceding quarter. The fourth quarter report shall be included in the annual report made pursuant to subsection 2.
2. The commissioner also shall report annually to the director, the governor, the treasurer of state, and the general assembly. The annual report shall include a complete statement of lottery revenues, prize disbursements, and other expenses, and recommendations for changes in the law which the commissioner deems necessary or desirable. The annual report shall be submitted within ninety days after the close of a fiscal year.
3. The commissioner shall report immediately to the director, the governor, the treasurer of state, and the general assembly any matters that require immediate changes in the law in order to prevent abuses or evasions of this chapter or rules adopted or to rectify undesirable conditions in connection with the administration or operation of the lottery.

Section History: Recent form

85 Acts, ch 33, §111; 86 Acts, ch 1245, § 411

99E.12 Studies.

1. The commissioner shall make a continuous study of the lottery to ascertain any defects of this chapter or in the rules which could result in abuses in the administration and operation of the lottery or in any evasion of this chapter or the rules of the commissioner and make recommendations for improvement in this chapter.
2. The commissioner shall make a continuous study of the operation and the administration of similar laws in effect in other states, written material on the subject which is published or available, federal laws which may affect the operation of the lottery, and the reaction of citizens to existing and potential features of the lottery in order to recommend changes that will serve the purposes of this chapter.
3. The commissioner shall make a demographic study of lottery players.
4. The commissioner shall contract with the department of human services to conduct a study of the extent to which the lottery creates a compulsive gambling problem among lottery players and the impact of gambling on affected families.

Section History: Recent form

85 Acts, ch 33, §112

99E.13 Conflict of interest---penalty.

1. A member of the board, the director, the commissioner, or an employee of the lottery shall not directly or indirectly, individually, as a member of a partnership or other association, or as a shareholder, director, or officer of a corporation have an interest in a business which contracts for the operation and marketing of the lottery as authorized by section 99E.9, subsection 2.
2. A member of the board, the director, the commissioner, an employee of the lottery, or a member of their immediate family shall not ask for, offer to accept, or receive a gift, gratuity, or other thing of more than fifty dollars in value from a person contracting or seeking to contract with the state to supply gaming equipment or materials for use in the operation of a lottery or from an applicant for a license to sell tickets or shares in the lottery or from a licensee.
3. A person contracting or seeking to contract with the state to supply gaming equipment or materials for use in the operation of a lottery, an applicant for a license to sell tickets or shares in the lottery, or a licensee shall not offer a member of the board, the director, the commissioner, an employee of the lottery, or a member of their immediate family a gift, gratuity, or other thing of more than fifty dollars in value.
4. A board member, director, commissioner, or employee of the lottery who violates a provision of this section, or if a member of their immediate family violates a provision of this section, shall be immediately removed from the office or position.
5. A violation of this section is a serious misdemeanor.

6. As used in this section, "*member of their immediate family*" means a spouse, child, stepchild, brother, brother-in-law, stepbrother, sister, sister-in-law, stepsister, parent, parent-in-law, or stepparent of the board member, the commissioner, or the employee.

7. Enforcement of this section against a board member or the director or commissioner shall be by the attorney general who upon finding a violation shall initiate an action to remove the board member or the director or commissioner.

8. In addition to the prohibitions of this section, the prohibitions of sections 722.1 and 722.2 are applicable.

Section History: Recent form

85 Acts, ch 33, §113; 86 Acts, ch 1245, § 412

99E.14 Lottery administrators.

The commissioner shall designate three administrative positions within the division which require specific areas of expertise relating to the operation of the lottery. These three administrative positions are exempt from the merit system provisions of chapter 19A. The commissioner shall designate one of these three administrators to serve as acting commissioner in the commissioner's absence.

Departments, boards, commissions or other agencies of this state shall provide reasonable assistance to the lottery upon the request of the commissioner with the approval of the director.

Section History: Recent form

85 Acts, ch 33, §114; 86 Acts, ch 1245, § 413; 88 Acts, ch 1158, § 16

Internal References

Referred to in § 99E.3

99E.15 Power to administer oaths and take testimony---subpoena.

The commissioner or the commissioner's designee authorized to conduct an inquiry, investigation, or hearing under this chapter may administer oaths and take testimony under oath relative to the matter of inquiry, investigation, or hearing. At a hearing ordered by the commissioner, the commissioner or the designee may subpoena witnesses and require the production of records, papers, and documents pertinent to the hearing.

Section History: Recent form

85 Acts, ch 33, §115

99E.16 Licensing---bonds.

1. The commissioner shall license persons to sell lottery tickets or shares to best serve public convenience. The lottery division may sell tickets or shares to the public. Except for the lottery division, a licensee shall not engage in business exclusively to sell lottery tickets or shares. However, the board may approve a special license to permit a licensee or the lottery division itself to sell lottery tickets or shares to the public at special events approved by the board. Before issuing a license the commissioner shall consider the financial responsibility and security of the applicant, the applicant's business or activity, the accessibility of the applicant's place of business or activity to the public, the sufficiency of existing licensees to serve the public convenience, and the volume of expected sales. A licensee shall cooperate with the lottery by using point-of-purchase materials, posters, and other educational, informational, and marketing materials when requested to do so by the lottery. Lack of cooperation is sufficient cause for revocation of a person's license.

2. A licensee shall sell tickets or shares only on the premises stated in the license. Except for the lottery division, the licensee shall only sell a ticket or share in person and not over a telephone or through the mail. However, the lottery division may sell lottery tickets or shares over the telephone or through the mail. The licensee may accept payment

by cash, check, money order, debit card, or electronic funds transfer. The licensee shall not extend or arrange credit for the purchase of a ticket or share. As used in this subsection "cash" means United States currency.

3. A licensee shall display the license or a copy of the license together with the lottery rules wherever tickets or shares are sold. A license is not assignable or transferable. The commissioner may issue a temporary license when deemed necessary.

4. The commissioner may require a bond from a licensee in an amount as provided in the rules graduated according to the volume of expected sales of lottery tickets or shares by the licensee, or may require a licensee to furnish evidence of financial responsibility.

5. A bond shall not be canceled by a surety on less than thirty days' notice in writing to the commissioner. If a bond is canceled and the licensee fails to file a new bond with the commissioner in the required amount on or before the effective date of cancellation, the licensee's license shall be automatically suspended. A suspended license shall be revoked if the requirements of this subsection are not met within thirty days of the license suspension. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond.

6. Subject to the approval of the board, the commissioner may authorize compensation to licensees in the manner and amounts and subject to the limitations the commissioner determines if the commissioner finds that compensation is necessary to assure adequate availability of lottery tickets or shares.

7. A license shall be granted only after the commissioner finds all of the following:

a. The applicant is at least eighteen years of age.

b. The person has not been convicted of a fraud or a felony.

c. The person has not been convicted or found to have committed a violation of this chapter.

d. The person has not previously had a license issued under this chapter revoked.

e. The person has not had a license to sell lottery tickets or shares in another jurisdiction suspended or revoked by the authority regulating a lottery or by a court of that jurisdiction.

f. The applicant has demonstrated financial responsibility sufficient to adequately meet the requirements of the proposed enterprise.

g. The applicant is the true owner of the proposed lottery business and that all persons holding at least a ten percent ownership interest in the applicant's business have been disclosed.

h. The applicant has not knowingly made a false statement of material fact to the commission.

8. If after a license is granted the commissioner finds that the licensee has violated this section, then the commissioner shall revoke the license.

Section History: Recent form

85 Acts, ch 33, §116; 86 Acts, ch 1042, § 7, 8

Internal References

Referred to in § 99E.9, 99E.20

99E.17 Suspension or revocation of license---hearings---hearing board.

1. The commissioner may suspend or revoke the license of a licensee who violates a provision of this chapter or a rule adopted pursuant to this chapter. If the commissioner suspends or revokes a license, or refuses to grant a license, the aggrieved party is entitled to a hearing by filing a written request with the commissioner. Upon receipt of the request for hearing, the commissioner shall set a hearing date within thirty days of receipt of the request, and shall notify the aggrieved party, in writing, at least seven days in advance of the hearing date. The commissioner may stay the revocation or suspension of a license pending the outcome of the hearing, when a stay is requested with the request for hearing.

2. A three-member hearing board for the purpose of conducting hearings relating to controversies concerning the issuance, suspension, or revocation of licenses is created. One member shall be a designee of the board, one member shall be the treasurer of state or a designee of the treasurer of state, and one member shall be the commissioner of public safety or a designee of the commissioner of public safety. The lottery board shall adopt rules and procedures for conducting the hearings.

3. A license shall be suspended for a period deemed appropriate by the commissioner. A former licensee whose license is revoked is not eligible to receive another license.

Section History: Recent form

85 Acts, ch 33, §117

99E.18 Prohibited sales of tickets or shares---forgery---penalties.

1. A ticket or share shall not be sold at a price greater than that fixed by the board and the commissioner and a sale shall not be made other than by a licensee or an employee of the licensee who is authorized by the licensee to sell tickets or shares. A person who violates a provision of this subsection is guilty of a simple misdemeanor.
2. A ticket or share shall not be sold to a person who has not reached the age of twenty-one. This does not prohibit the lawful purchase of a ticket or share for the purpose of making a gift to a person who has not reached the age of twenty-one. A licensee or a licensee's employee who knowingly sells or offers to sell a lottery ticket or share to a person who has not reached the age of twenty-one is guilty of a simple misdemeanor. In addition the license of a licensee shall be suspended. A prize won by a person who has not reached the age of twenty-one but who purchases a winning ticket or share in violation of this subsection shall be forfeited.
3. A ticket or share shall not be purchased by and a prize shall not be paid to the commissioner, a board member or employee of the lottery division, or to a spouse, child, stepchild, brother, brother-in-law, stepbrother, sister, sister-in-law, stepsister, parent, parent-in-law, or stepparent residing as a member of the same household in the principal residence of the commissioner, a board member, or an employee. A ticket or share purchased in violation of this subsection is void.
4. A person who, with intent to defraud, falsely makes, alters, forges, utters, passes, or counterfeits a lottery ticket or share or attempts to falsely make, alter, forge, utter, pass, or counterfeit a lottery ticket or share is guilty of a class "D" felony.

Section History: Recent form

85 Acts, ch 33, §118; 86 Acts, ch 1042, § 9; 89 Acts, ch 83, §22; 94 Acts, ch 1021, §6

99E.19 Distribution of prizes---unclaimed prizes.

1. The commissioner shall award the designated prize to the ticket or share holder upon presentation of the winning ticket or confirmation of a winning share.
All prizes awarded are Iowa earned income and are subject to state and federal income tax laws. An amount deducted from the prize for payment of a state tax, pursuant to section 422.16, subsection 1, shall be transferred by the commissioner to the department of revenue and finance on behalf of the prize winner.
Unclaimed prize money for the prize on a winning ticket or share shall be retained for a period deemed appropriate by the commissioner, subject to approval by the board. If a valid claim is not made for the money within the applicable period, the prize money shall be added to future prize pools and given to holders of winning tickets or shares in addition to amounts already allocated.
2. The prize shall be given to the person who presents a winning ticket. A prize may be given to only one person per winning ticket. However, a prize shall be divided between holders of winning tickets if there is more than one winning ticket. Payment of a prize may be made to the estate of a deceased prize winner or to another person pursuant to an appropriate judicial order. The commissioner is discharged of all further liability upon payment of a prize pursuant to this subsection. This section does not prohibit the making of a gift of a lottery ticket or share to a person.

Section History: Recent form

85 Acts, ch 33, §119; 92 Acts, 2nd Ex, ch 1001, §234

99E.20 Deposit of receipts---lottery fund---audits.

1. The board shall adopt rules for the deposit as soon as possible in the lottery fund of money received by licensees from the sale of tickets or shares less the amount of compensation, if any, authorized under section 99E.16, subsection 6. Subject to approval of the board, the commissioner may require licensees to file with the commissioner

reports of receipts and transactions in the sale of tickets or shares. The reports shall be in the form and contain the information the commissioner requires.

2. A lottery fund is created in the office of the treasurer of state. The fund consists of all revenues received from the sale of lottery tickets or shares and all other moneys lawfully credited or transferred to the fund. The commissioner shall certify monthly that portion of the fund that is transferred to the CLEAN fund under section 99E.10 and shall cause that portion to be transferred to the CLEAN fund of the state. The commissioner shall certify before the twentieth of each month that portion of the fund resulting from the previous month's sales to be transferred to the CLEAN fund.

3. The auditor of state or a certified public accounting firm appointed by the auditor shall conduct quarterly and annual audits of all accounts and transactions of the lottery and other special audits as the auditor of state, the general assembly, or the governor deems necessary. The auditor or a designee conducting an audit under this chapter shall have access and authority to examine any and all records of licensees necessary to determine compliance with this chapter and the rules adopted pursuant to this chapter.

Section History: Recent form

85 Acts, ch 33, §120; 87 Acts, ch 231, § 3; 90 Acts, ch 1255, § 9

Internal References

Referred to in § 99E.9, 99E.10

99E.21 Liability and funding.

The board and the commissioner shall operate the lottery so that after the initial state appropriation, it shall be self-sustaining and self-funded. A claim for the payment of an expense of the lottery and the payment of a lottery prize shall not be made unless it is against the lottery fund or money collected from the sale of lottery tickets or shares. Except for the initial appropriation to the lottery, funds of the state shall not be used or obligated to pay the expenses of the lottery or prizes of the lottery.

Section History: Recent form

85 Acts, ch 33, §121

99E.22 through 99E.30

Reserved.

99E.31 Appropriations---1986 fiscal year.

Repealed by 94 Acts, ch 1199, §19.

99E.32 Appropriations---1987, 1988, 1989, and 1990 fiscal years.

Repealed by 94 Acts, ch 1199, §19.

99E.33 Determination of amount of appropriations---1987, 1988, 1989, and 1990 fiscal years.

Repealed by 94 Acts, ch 1199, §19.

99E.34 Appropriations---ten fiscal years.

1. The treasurer of state shall, for each fiscal year of the fiscal period beginning July 1, 1990, and ending June 30, 2000, make allotments of the moneys within the CLEAN fund created in section 99E.10 to separate accounts within that fund as follows:

a. For each fiscal year, sixty-two and five-tenths percent to the Iowa resources enhancement and protection fund created in section 455A.18 and which amount is appropriated for the purposes of that fund. However, the total amount allotted under this paragraph in the fiscal year beginning July 1, 1990, shall not exceed twenty million dollars and in each of the following fiscal years shall not exceed twenty-five million dollars.

b. For each fiscal year, six percent to the soil conservation account. However, the total amount allotted under this paragraph in the fiscal year beginning July 1, 1990, shall not exceed two million four hundred thousand dollars.

2. For each fiscal year of the fiscal period, moneys in the soil conservation account are appropriated to the department of agriculture and land stewardship to be allocated as follows:

a. Sixty-two and four-tenths percent to the soil conservation division of the department of agriculture and land stewardship to provide state soil and water conservation cost-share moneys pursuant to division V of chapter 161A.

b. Eighteen and eight-tenths percent to the water protection fund created in section 161C.4, to be used for filter strips and waterways projects. The governing body of each soil and water conservation district shall identify those critical areas within the district where permanent grass and buffer zones would mitigate the effects of concentrated runoff on surface water quality. The governing body shall notify the landowners of the critical areas and provide the landowners with recommendations to establish permanent grass and buffer zones, including any erosion control structures that may be appropriate, to mitigate the effects of concentrated runoff on surface water quality. In providing the notification and recommendations, the governing body shall also inform the landowners that the establishment of these zones along with any erosion control structures may be eligible for financial assistance under the incentive programs within the water protection fund pursuant to section 161C.4 and may also qualify for cost-share moneys pursuant to division V of chapter 161A.

c. Eighteen and eight-tenths percent to the soil conservation division of the department of agriculture and land stewardship for reforestation programs.

3. The moneys appropriated in subsection 1, paragraph "a", and subsection 2 shall remain in the appropriate account of the CLEAN fund until such time as the agency, entity, or fund to which moneys are appropriated has made a request to the treasurer for use of moneys appropriated to it and the amount needed for that use. Notwithstanding section 8.33, moneys remaining of the appropriations made for a fiscal year from any of the accounts within the CLEAN fund on June 30 of that fiscal year, shall not revert to any fund but shall remain in that account to be used for the purposes for which they were appropriated and the moneys remaining in that account shall not be considered in making the allotments for the next fiscal year.

4. The agency, entity, or fund to which moneys are appropriated under this section shall to the extent feasible make every effort to maximize the impact of these moneys through matching government and private funds unless otherwise provided by law.

Section History: Recent form

90 Acts, ch 1255, §10; 91 Acts, ch 260, §1004; 92 Acts, ch 1184, §1

99F.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. "*Adjusted gross receipts*" means the gross receipts less winnings paid to wagerers.

2. "*Applicant*" means any person applying for an occupational license or applying for a license to operate an excursion gambling boat, or the officers and members of the board of directors of a qualified sponsoring organization located in Iowa applying for a license to conduct gambling games on an excursion gambling boat.

3. "*Cheat*" means to alter the selection of criteria which determine the result of a gambling game or the amount or frequency of payment in a gambling game.

4. "*Commission*" means the state racing and gaming commission created under section 99D.5.

5. "*Distributor*" means a person who sells, markets, or otherwise distributes gambling games or implements of gambling which are usable in the lawful conduct of gambling games pursuant to this chapter, to a licensee authorized to conduct gambling games pursuant to this chapter.
6. "*Dock*" means the location where an excursion gambling boat moors for the purpose of embarking passengers for and disembarking passengers from a gambling excursion.
7. "*Excursion gambling boat*" means a self-propelled excursion boat on which lawful gambling is authorized and licensed as provided in this chapter.
8. "*Gambling excursion*" means the time during which gambling games may be operated on an excursion gambling boat whether docked or during a cruise.
9. "*Gambling game*" means any game of chance authorized by the commission. However, for racetrack enclosures, "*gambling game*" does not include table games of chance or video machines. "*Gambling game*" does not include sports betting.
10. "*Gross receipts*" means the total sums wagered under this chapter.
11. "*Holder of occupational license*" means a person licensed by the commission to perform an occupation which the commission has identified as requiring a license to engage in excursion boat gambling in Iowa.
12. "*Licensee*" means any person licensed under section 99F.7.
13. "*Manufacturer*" means a person who designs, assembles, fabricates, produces, constructs, or who otherwise prepares a product or a component part of a product of any implement of gambling usable in the lawful conduct of gambling games pursuant to this chapter.
14. "*Qualified sponsoring organization*" means a nonprofit corporation organized under the laws of this state, whether or not it is exempt from federal income taxation, or a person or association that can show to the satisfaction of the commission that the person or association is eligible for exemption from federal income taxation under section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code as defined in section 422.3.
15. "*Racetrack enclosure*" means the grandstand, clubhouse, turf club, or other areas of a licensed racetrack which an individual may enter only upon payment of an admission fee or upon presentation of authorized credentials. "*Racetrack enclosure*" also means any additional areas designated by the commission.

Section History: Recent form

89 Acts, ch 67, §1; 92 Acts, ch 1203, §14; 94 Acts, ch 1021, §7--9; 95 Acts, ch 176, §2

99F.2 Scope of provisions.

This chapter does not apply to the pari-mutuel system of wagering used or intended to be used in connection with the horse-race or dog-race meetings as authorized under chapter 99D, lottery or lotto games authorized under chapter 99E, or bingo or games of skill or chance authorized under chapter 99B.

Section History: Recent form

89 Acts, ch 67, §2

99F.3 Excursion boat gambling authorized.

The system of wagering on a gambling game as provided by this chapter is legal, when conducted on an excursion gambling boat at authorized locations by a licensee as provided in this chapter.

Section History: Recent form

89 Acts, ch 67, §3

99F.4 Powers.

The commission shall have full jurisdiction over and shall supervise all gambling operations governed by this chapter. The commission shall have the following powers and shall adopt rules pursuant to chapter 17A to implement this chapter:

1. To investigate applicants and determine the eligibility of applicants for a license and to select among competing applicants for a license the applicant which best serves the interests of the citizens of Iowa.
2. To license qualified sponsoring organizations, to license the operators of excursion gambling boats, to identify occupations within the excursion gambling boat operations which require licensing, and to adopt standards for licensing the occupations including establishing fees for the occupational licenses and licenses for qualified sponsoring organizations. The fees shall be paid to the commission and deposited in the general fund of the state. All revenue received by the commission under this chapter from license fees and admission fees shall be deposited in the general fund of the state and shall be subject to the requirements of section 8.60.
3. To adopt standards under which all excursion gambling boat operations shall be held and standards for the facilities within which the gambling operations are to be held. The commission may authorize the operation of gambling games on an excursion gambling boat which is also licensed to sell or serve alcoholic beverages, wine, or beer as defined in section 123.3.
4. To license the licensee of a pari-mutuel dog or horse racetrack enclosure subject to the provisions of this chapter and rules adopted pursuant to this chapter relating to gambling except as otherwise provided in section 99F.4A.
5. To enter the office, excursion gambling boat, facilities, or other places of business of a licensee to determine compliance with this chapter.
6. To investigate alleged violations of this chapter or the commission rules, orders, or final decisions and to take appropriate disciplinary action against a licensee or a holder of an occupational license for a violation, or institute appropriate legal action for enforcement, or both.
7. To require a licensee, an employee of a licensee or holder of an occupational license to remove a person violating a provision of this chapter or the commission rules, orders, or final orders, or other person deemed to be undesirable, from the excursion gambling boat facilities.
8. To require the removal of a licensee, an employee of a licensee, or a holder of an occupational license for a violation of this chapter or a commission rule or engaging in a fraudulent practice.
9. To require a licensee to file an annual balance sheet and profit and loss statement pertaining to the licensee's gambling activities in this state, together with a list of the stockholders or other persons having any beneficial interest in the gambling activities of each licensee.
10. To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, and other pertinent documents in accordance with chapter 17A, and to administer oaths and affirmations to the witnesses, when, in the judgment of the commission, it is necessary to enforce this chapter or the commission rules.
11. To keep accurate and complete records of its proceedings and to certify the records as may be appropriate.
12. To assess a fine and revoke or suspend licenses.
13. To take any other action as may be reasonable or appropriate to enforce this chapter and the commission rules.
14. To require all licensees of gambling game operations to utilize a cashless wagering system whereby all players' money is converted to tokens, electronic cards, or chips which only can be used for wagering on the excursion gambling boat.
15. To determine the payouts from the gambling games authorized under this chapter. In making the determination of payouts, the commission shall consider factors that provide gambling and entertainment opportunities which are beneficial to the gambling licensees and the general public.
16. To set the payout rate for all slot machines.
17. To define the excursion season and the duration of an excursion. While an excursion gambling boat is docked, passengers may embark or disembark at any time during its business hours.
18. To provide for the continuous videotaping of all gambling activities on an excursion boat. The videotaping shall be performed under guidelines set by rule of the division of criminal investigation and the rules may require that all or part of the original tapes be submitted to the division on a timely schedule.
19. To provide for adequate security aboard each excursion gambling boat.
20. To establish minimum charges for admission to excursion gambling boats and regulate the number of free admissions.
21. Drug testing, as permitted by section 730.5, shall be required periodically, not less than every sixty days, of persons employed as captains, pilots, or physical operators of excursion gambling boats under the provisions of this chapter.

Section History: Recent form

89 Acts, ch 67, §4; 89 Acts, ch 139, §1; 91 Acts, ch 260, §1207; 93 Acts, ch 131, §4; 94 Acts, ch 1021, §10--:12; 94 Acts, ch 1107, §35
Internal References
Referred to in § 99F.10, 99F.17

99F.4A Gambling games at pari- mutuel racetracks---fees and taxes.

1. Upon application, the commission shall license the licensee of a pari-mutuel dog or horse racetrack to operate gambling games at a pari-mutuel racetrack enclosure subject to the provisions of this chapter and rules adopted pursuant to this chapter relating to gambling except as otherwise provided in this section.
2. A license to operate gambling games shall be issued only to a licensee holding a valid license to conduct pari-mutuel dog or horse racing pursuant to chapter 99D on January 1, 1994.
3. A person holding a valid license pursuant to chapter 99D to conduct pari-mutuel wagering at a dog or horse racetrack is exempt from further investigation and examination for licensing to operate a gambling game pursuant to this chapter. However, the commission may order future investigations or examinations as the commission finds appropriate.
4. The fee imposed in section 99D.14, subsection 2, shall be collected for admission to a racetrack enclosure where gambling games are licensed to operate in lieu of the admission fee imposed in section 99F.10.
5. In lieu of the annual license fee specified in section 99F.5, the annual license fee for operating gambling games at a pari-mutuel racetrack shall be one thousand dollars.
6. The adjusted gross receipts received from gambling games shall be taxed at the same rates and the proceeds distributed in the same manner as provided in section 99F.11.
7. A licensee shall keep its books and records regarding the operation of gambling games in compliance with section 99F.12, as applicable.

Section History: Recent form
94 Acts, ch 1021, §13
Internal References
Referred to in § 99F.4, 99F.6

99F.4B Rules.

The department of inspections and appeals shall cooperate to the maximum extent possible with the division of criminal investigation in adopting rules relating to the gaming operations in this chapter and chapter 99D.

Section History: Recent form
94 Acts, ch 1199, §46

99F.5 Licenses for conducting gambling games on an excursion boat and for boat operators--- applications---fee.

1. A qualified sponsoring organization may apply to the commission for a license to conduct gambling games on an excursion gambling boat as provided in this chapter. A person may apply to the commission for a license to operate an excursion gambling boat. The application shall be filed with the administrator of the commission at least ninety days before the first day of the next excursion season as determined by the commission, shall identify the excursion gambling boat upon which gambling games will be authorized, shall specify the exact location where the excursion gambling boat will be docked, and shall be in a form and contain information as the commission prescribes. The minimum passenger capacity of an excursion gambling boat is two hundred fifty persons.
2. The annual license fee to operate an excursion gambling boat shall be based on the passenger-carrying capacity including crew, for which the excursion gambling boat is registered. The annual fee shall be five dollars per person capacity.

Section History: Recent form

99F.6 Requirements of applicant---fee---penalty.

1. A person shall not be issued a license to conduct gambling games on an excursion gambling boat or a license to operate an excursion gambling boat under this chapter, an occupational license, a distributor license, or a manufacturer license unless the person has completed and signed an application on the form prescribed and published by the commission. The application shall include the full name, residence, date of birth and other personal identifying information of the applicant that the commission deems necessary. The application shall also indicate whether the applicant has any of the following:

- a. A record of conviction of a felony.
- b. An addiction to alcohol or a controlled substance.
- c. A history of mental illness.

2. An applicant shall submit pictures, fingerprints, and descriptions of physical characteristics to the commission in the manner prescribed on the application forms.

3. The commission shall charge the applicant a fee set by the department of public safety, division of criminal investigation and bureau of identification, to defray the costs associated with the search and classification of fingerprints required in subsection 2 and background investigations conducted by agents of the division of criminal investigation. This fee is in addition to any other license fee charged by the commission.

4. a. Before a license is granted, the division of criminal investigation of the department of public safety shall conduct a thorough background investigation of the applicant for a license to operate a gambling game operation on an excursion gambling boat. The applicant shall provide information on a form as required by the division of criminal investigation. A qualified sponsoring organization licensed to operate gambling games under this chapter shall distribute the receipts of all gambling games, less reasonable expenses, charges, taxes, fees, and deductions allowed under this chapter, as winnings to players or participants or shall distribute the receipts for educational, civic, public, charitable, patriotic, or religious uses as defined in section 99B.7, subsection 3, paragraph "b". However, if a licensee who is also licensed to conduct pari-mutuel wagering at a horse racetrack has unpaid debt from the pari-mutuel racetrack operations, the first receipts of the gambling games operated within the racetrack enclosure less reasonable operating expenses, taxes, and fees allowed under this chapter shall be first used to pay the annual indebtedness. The commission shall authorize, subject to the debt payments for horse racetracks and the provisions of paragraph "b" for dog racetracks, a licensee who is also licensed to conduct pari- mutuel dog or horse racing to use receipts from gambling games within the racetrack enclosure to supplement purses for races particularly for Iowa-bred horses pursuant to an agreement which shall be negotiated between the licensee and representatives of the dog or horse owners. A qualified sponsoring organization shall not make a contribution to a candidate, political committee, candidate's committee, state statutory political committee, county statutory political committee, national political party, or fund-raising event as these terms are defined in section 56.2. The membership of the board of directors of a qualified sponsoring organization shall represent a broad interest of the communities.

b. The commission shall authorize the licensees of pari- mutuel dog racetracks located in Dubuque county and Black Hawk county to conduct gambling games as provided in section 99F.4A if the licensees schedule at least one hundred thirty performances of twelve live races each day during a season of twenty-five weeks. For the pari-mutuel dog racetrack located in Pottawattamie county, the commission shall authorize the licensee to conduct gambling games as provided in section 99F.4A if the licensee schedules at least two hundred ninety performances of twelve live races each day during a season of fifty weeks. The commission shall approve an annual contract to be negotiated between the annual recipient of the dog racing promotion fund and each dog racetrack licensee to specify the percentage or amount of gambling game proceeds which shall be dedicated to supplement the purses of live dog races. The parties shall agree to a negotiation timetable to insure no interruption of business activity. If the parties fail to agree, the commission shall impose a timetable. If the two parties cannot reach agreement, each party shall select a representative and the two representatives shall select a third person to assist in negotiating an agreement. The two representatives may select the commission or one of its members to serve as the third party. Alternately, each party shall submit the name of the proposed third person to the commission who shall then select one of the two persons to serve as the third party. All parties to the negotiations, including the commission, shall consider that

the dog racetracks were built to facilitate the development and promotion of Iowa greyhound racing dogs in this state and shall negotiate and decide accordingly.

5. Before a license is granted, an operator of an excursion gambling boat shall work with the department of economic development to promote tourism throughout Iowa. Tourism information from local civic and private persons may be submitted for dissemination.

6. A person who knowingly makes a false statement on the application is guilty of an aggravated misdemeanor.

7. For the purposes of this section, applicant includes each member of the board of directors of a qualified sponsoring organization.

8. *a.* The licensee or a holder of an occupational license shall consent to the search, without a warrant, by agents of the division of criminal investigation of the department of public safety or commission employees designated by the secretary of the commission, of the licensee's or holder's person, personal property, and effects, and premises which are located on the excursion gambling boat or adjacent facilities under control of the licensee, in order to inspect or investigate for violations of this chapter or rules adopted by the commission pursuant to this chapter. The department or commission may also obtain administrative search warrants under section 808.14.

b. However, this subsection shall not be construed to permit a warrantless inspection of living quarters or sleeping rooms on the riverboat if all of the following are true:

(1) The licensee has specifically identified those areas which are to be used as living quarters or sleeping rooms in writing to the commission.

(2) Gaming is not permitted in the living quarters or sleeping rooms, and devices, records, or other items relating to the licensee's gaming operations are not stored, kept, or maintained in the living quarters or sleeping rooms.

(3) Alcoholic beverages are not stored, kept, or maintained in the living quarters or sleeping rooms except those legally possessed by the individual occupying the quarters or room.

c. The commission shall adopt rules to enforce this subsection.

Section History: Recent form

89 Acts, ch 67, §6; 89 Acts, ch 231, § 33; 94 Acts, ch 1021, §15; 95 Acts, ch 176, §3

99F.7 Licenses---terms and conditions---revocation.

1. If the commission is satisfied that this chapter and its rules adopted under this chapter applicable to licensees have been or will be complied with, the commission shall issue a license for a period of not more than three years to an applicant to own a gambling game operation and to an applicant to operate an excursion gambling boat. The commission shall decide which of the gambling games authorized under this chapter it will permit. The commission shall decide the number, location, and type of excursion gambling boats licensed under this chapter for operation on the rivers, lakes, and reservoirs of this state. The license shall set forth the name of the licensee, the type of license granted, the place where the excursion gambling boats will operate and dock, and the time and number of days during the excursion season and the off season when gambling may be conducted by the licensee. The commission shall not allow a licensee to conduct gambling games on an excursion gambling boat while docked during the off season if the licensee does not operate gambling excursions for a minimum number of days during the excursion season. The commission may delay the commencement of the excursion season at the request of a licensee.

2. A license shall only be granted to an applicant upon the express conditions that:

a. The applicant shall not, by a lease, contract, understanding, or arrangement of any kind, grant, assign, or turn over to a person the operation of an excursion gambling boat licensed under this section or of the system of wagering described in section 99F.9. This section does not prohibit a management contract approved by the commission.

b. The applicant shall not in any manner permit a person other than the licensee to have a share, percentage, or proportion of the money received for admissions to the excursion gambling boat.

3. The commission shall require, as a condition of granting a license, that an applicant to operate an excursion gambling boat develop, and as nearly as practicable, recreate boats that resemble Iowa's riverboat history.

4. The commission shall require that an applicant utilize Iowa resources, goods and services in the operation of an excursion gambling boat. The commission shall develop standards to assure that a substantial amount of all resources and goods used in the operation of an excursion gambling boat come from Iowa and that a substantial amount of all services and entertainment be provided by Iowans.

5. The commission shall, as a condition of granting a license, require an applicant to provide written documentation that, on each excursion gambling boat:

- a.* An applicant shall make every effort to ensure that a substantial number of the staff and entertainers employed are residents of Iowa.
 - b.* A section is reserved solely for activities and interests of persons under the age of twenty-one and is staffed to provide adequate supervision.
 - c.* A section is reserved for promotion and sale of arts, crafts, and gifts native to and made in Iowa.
6. It is the intent of the general assembly that employees be paid at least twenty-five percent above the federal minimum wage level.
7. A license shall not be granted if there is substantial evidence that any of the following apply:
- a.* The applicant has been suspended from operating a game of chance or gambling operation in another jurisdiction by a board or commission of that jurisdiction.
 - b.* The applicant has not demonstrated financial responsibility sufficient to meet adequately the requirements of the enterprise proposed.
 - c.* The applicant is not the true owner of the enterprise proposed.
 - d.* The applicant is not the sole owner, and other persons have ownership in the enterprise, which fact has not been disclosed.
 - e.* The applicant is a corporation and ten percent of the stock of the corporation is subject to a contract or option to purchase at any time during the period for which the license is to be issued unless the contract or option was disclosed to the commission and the commission approved the sale or transfer during the period of the license.
 - f.* The applicant has knowingly made a false statement of a material fact to the commission.
 - g.* The applicant has failed to meet a monetary obligation in connection with an excursion gambling boat.
8. A license shall not be granted if there is substantial evidence that the applicant is not of good repute and moral character or if the applicant has pled guilty to, or has been convicted of, a felony.
9. A licensee shall not loan to any person money or any other thing of value for the purpose of permitting that person to wager on any game of chance.
10. *a.* A license to conduct gambling games on an excursion gambling boat in a county shall be issued only if the county electorate approves the conduct of the gambling games as provided in this subsection. The board of supervisors, upon receipt of a valid petition meeting the requirements of section 331.306, shall direct the commissioner of elections to submit to the registered voters of the county a proposition to approve or disapprove the conduct of gambling games on an excursion gambling boat in the county. The proposition shall be submitted at a general election or at a special election called for that purpose. To be submitted at a general election, the petition must be received by the board of supervisors at least five working days before the last day for candidates for county offices to file nomination papers for the general election pursuant to section 44.4. If a majority of the county voters voting on the proposition favor the conduct of gambling games, the commission may issue one or more licenses as provided in this chapter. If a majority of the county voters voting on the proposition do not favor the conduct of gambling games, a license to conduct gambling games in the county shall not be issued.
- b.* If licenses to conduct gambling games and to operate an excursion gambling boat are in effect pursuant to a referendum as set forth in this section and are subsequently disapproved by a referendum of the county electorate, the licenses issued by the commission after a referendum approving gambling games on excursion gambling boats shall remain valid and are subject to renewal for a total of nine years from the date of original issue unless the commission revokes a license at an earlier date as provided in this chapter.
- c.* If a licensee of a pari-mutuel racetrack who held a valid license issued under chapter 99D as of January 1, 1994, requests a license to operate gambling games as provided in this chapter, the board of supervisors of a county in which the licensee of a pari-mutuel racetrack requests a license to operate gambling games shall submit to the county electorate a proposition to approve or disapprove the operation of gambling games at pari-mutuel racetracks at a special election at the earliest practicable time. If the operation of gambling games at the pari-mutuel racetrack is not approved by a majority of the county electorate voting on the proposition at the election, the commission shall not issue a license to operate gambling games at the racetrack.
- d.* If the proposition to operate gambling games on an excursion gambling boat or at a racetrack enclosure is approved by a majority of the county electorate voting on the proposition, the board of supervisors shall submit the same proposition to the county electorate at the general election held in 2002 and, unless the operation of gambling games is terminated earlier as provided in this chapter or chapter 99D, at the general election held at each subsequent eight-year interval.
- e.* After a referendum has been held which defeated a proposal to conduct gambling games on excursion gambling boats or which defeated a proposal to conduct gambling games at a licensed pari-mutuel racetrack enclosure as provided in this section, another referendum on a proposal to conduct gambling games on an excursion gambling boat or at a licensed pari-mutuel racetrack shall not be held for at least two years.

11. If a docking fee is charged by a city or a county, a licensee operating an excursion gambling boat shall pay the docking fee one year in advance.
12. A licensee shall not be delinquent in the payment of property taxes or other taxes or fees or in the payment of any other contractual obligation or debt due or owed to a city or county.
13. An excursion gambling boat operated on inland waters of this state shall meet all of the requirements of chapter 462A and is subject to an inspection of its sanitary facilities to protect the environment and water quality before a certificate of registration is issued by the department of natural resources or a license is issued under this chapter.
14. If a licensed excursion boat stops at more than one harbor and travels past a county without stopping at any port in that county, the commission shall require the excursion boat operator to develop a schedule for ports of call in which a county referendum has been approved, and the port of call has the necessary facilities to handle the boat. The commission may limit the schedule to only one port of call per county.
15. Upon a violation of any of the conditions listed in this section, the commission shall immediately revoke the license.
16. The commission shall require each licensee operating gambling games to post in conspicuous locations specified by the commission the average percentage payout from the gambling machines.

Section History: Recent form

89 Acts, ch 67, §7; 89 Acts, ch 139, § 2--;5; 92 Acts, ch 1203, §15, 16; 93 Acts, ch 143, §42; 94 Acts, ch 1021, §16--;18; 95 Acts, ch 49, §2; 95 Acts, ch 176, §4, 5

Internal References

Referred to in § 99F.1, 99F.8, 99F.10

99F.8 Bond of licensee.

A licensee licensed under section 99F.7 shall post a bond to the state of Iowa before the license is issued in a sum as the commission shall fix, with sureties to be approved by the commission. The bond shall be used to guarantee that the licensee faithfully makes the payments, keeps its books and records and makes reports, and conducts its gambling games in conformity with this chapter and the rules adopted by the commission. The bond shall not be canceled by a surety on less than thirty days' notice in writing to the commission. If a bond is canceled and the licensee fails to file a new bond with the commission in the required amount on or before the effective date of cancellation, the licensee's license shall be revoked. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond.

Section History: Recent form

89 Acts, ch 67, §8

99F.9 Wagering---age restrictions.

1. Except as permitted in this section, the licensee shall permit no form of wagering on gambling games.
2. Reserved.
3. The licensee may receive wagers only from a person present on a licensed excursion gambling boat or in a licensed racetrack enclosure.
4. The licensee shall exchange the money of each wagerer for tokens, chips, or other forms of credit to be wagered on the gambling games. However, nickels and quarters of legal tender may be used for wagering in lieu of tokens or other forms of credit. The licensee shall exchange the gambling tokens, chips, or other forms of wagering credit for money at the request of the wagerer.
5. A person under the age of twenty-one years shall not make a wager on an excursion gambling boat and shall not be allowed in the area of the excursion boat where gambling is being conducted. However, a person eighteen years of age or older may be employed to work in a gambling area.
6. A licensee shall not accept a credit card as defined in section 537.1301, subsection 16, to purchase coins, tokens, or other forms of credit to be wagered on gambling games.

Section History: Recent form

89 Acts, ch 67, §9; 89 Acts, ch 139, §6; 91 Acts, ch 144, §1; 94 Acts, ch 1021, §19--;24

Internal References

Referred to in § 99F.7, 99F.15, 99F.16

99F.10 Admission fee---tax---local fees.

1. A qualified sponsoring organization conducting gambling games on an excursion gambling boat licensed under section 99F.7 shall pay the tax imposed by section 99F.11.
2. An excursion boat licensee shall pay to the commission an admission fee for each person embarking on an excursion gambling boat with a ticket of admission. The admission fee shall be set by the commission.
 - a. If tickets are issued which are good for more than one excursion, the admission fee shall be paid for each person using the ticket on each excursion that the ticket is used.
 - b. If free passes or complimentary admission tickets are issued, the licensee shall pay the same fee upon these passes or complimentary tickets as if they were sold at the regular and usual admission rate.
 - c. However, the excursion boat licensee may issue fee-free passes to actual and necessary officials and employees of the licensee or other persons actually working on the excursion gambling boat.
 - d. The issuance of fee-free passes is subject to the rules of the commission, and a list of all persons to whom the fee-free passes are issued shall be filed with the commission.
3. In addition to the admission fee charged under subsection 2 and subject to approval of excursion gambling boat docking by the voters, a city may adopt, by ordinance, an admission fee not exceeding fifty cents for each person embarking on an excursion gambling boat docked within the city or a county may adopt, by ordinance, an admission fee not exceeding fifty cents for each person embarking on an excursion gambling boat docked outside the boundaries of a city. The admission revenue received by a city or a county shall be credited to the city general fund or county general fund as applicable.
4. In determining the license fees and state admission fees to be charged as provided under section 99F.4 and this section, the commission shall use the amount appropriated to the commission plus the cost of salaries for no more than two special agents and no more than four gaming enforcement officers for each excursion gambling boat for the division of criminal investigation's excursion gambling boat activities as the basis for determining the amount of revenue to be raised from the license fees and admission fees. The division's salary costs shall be limited to sixty-five percent of the salary costs for special agents and sixty-five percent of the salary costs for gaming enforcement for personnel assigned to excursion gambling boats who enforce laws and rules adopted by the commission.
5. No other license tax, permit tax, occupation tax, excursion fee, or taxes on fees shall be levied, assessed, or collected from a licensee by the state or by a political subdivision, except as provided in this chapter.
6. No other excise tax shall be levied, assessed, or collected from the licensee relating to gambling excursions or admission charges by the state or by a political subdivision, except as provided in this chapter.

Section History: Recent form

89 Acts, ch 67, §10; 91 Acts, ch 267, §605; 95 Acts, ch 207, §22

Internal References

Referred to in § 99F.4A

99F.11 Wagering tax---rate---allocations.

A tax is imposed on the adjusted gross receipts received annually from gambling games authorized under this chapter at the rate of five percent on the first one million dollars of adjusted gross receipts, at the rate of ten percent on the next two million dollars of adjusted gross receipts, and at the rate of twenty percent on any amount of adjusted gross receipts over three million dollars. However, beginning January 1, 1997, the rate on any amount of adjusted gross receipts over three million dollars from gambling games at racetrack enclosures is twenty-two percent and shall increase by two percent each succeeding calendar year until the rate is thirty-six percent. The taxes imposed by this section shall be paid by the licensee to the treasurer of state within ten days after the close of the day when the wagers were made and shall be distributed as follows:

1. If the gambling excursion originated at a dock located in a city, one-half of one percent of the adjusted gross receipts shall be remitted to the treasurer of the city in which the dock is located and shall be deposited in the

general fund of the city. Another one-half of one percent of the adjusted gross receipts shall be remitted to the treasurer of the county in which the dock is located and shall be deposited in the general fund of the county.

2. If the gambling excursion originated at a dock located in a part of the county outside a city, one-half of one percent of the adjusted gross receipts shall be remitted to the treasurer of the county in which the dock is located and shall be deposited in the general fund of the county. Another one-half of one percent of the adjusted gross receipts shall be remitted to the treasurer of the Iowa city nearest to where the dock is located and shall be deposited in the general fund of the city.

3. Three-tenths of one percent of the adjusted gross receipts shall be deposited in the gamblers assistance fund specified in section 99E.10, subsection 1, paragraph "a".

4. The remaining amount of the adjusted gross receipts tax shall be credited to the general fund of the state.

Section History: Recent form

89 Acts, ch 67, §11; 89 Acts, ch 139, §7; 94 Acts, ch 1021, §25; 94 Acts, ch 1186, §33

Internal References

Referred to in § 8.57, 99F.4A, 99F.10

99F.12 Licensees---records---reports---supervision.

A licensee shall keep its books and records so as to clearly show all of the following:

1. The total number of admissions to gambling excursions conducted by the licensee on each day, including the number of admissions upon free passes or complimentary tickets.

2. The amount received daily from admission fees.

3. The total amount of money wagered during each excursion day and the adjusted gross receipts for the day.

The licensee shall furnish to the commission reports and information as the commission may require with respect to its activities. The gross receipts and adjusted gross receipts from gambling shall be separately handled and accounted for from all other moneys received from operation of an excursion gambling boat. The commission may designate a representative to board a licensed excursion gambling boat, who shall have full access to all places within the enclosure of the boat, who shall directly supervise the handling and accounting of all gross receipts and adjusted gross receipts from gambling, and who shall supervise and check the admissions. The compensation of a representative shall be fixed by the commission but shall be paid by the licensee.

The books and records kept by a licensee as provided by this section are public records and the examination, publication, and dissemination of the books and records are governed by the provisions of chapter 22.

Section History: Recent form

89 Acts, ch 67, §12; 89 Acts, ch 139, §8

Internal References

Referred to in § 99F.4A

99F.13 Annual audit of licensee operations.

Within ninety days after the end of the licensee's fiscal year, the licensee shall transmit to the commission an audit of the financial transactions and condition of the licensee's total operations. All audits shall be conducted by certified public accountants registered or licensed in the state of Iowa under chapter 542C.

Section History: Recent form

89 Acts, ch 67, §13; 91 Acts, ch 166, §7

99F.14 Annual report of commission.

The commission shall make an annual report to the governor, for the period ending December 31 of each year.

Included in the report shall be an account of the commission's actions, its financial position and results of operation

under this chapter, the practical results attained under this chapter, and any recommendations for legislation which the commission deems advisable.

Section History: Recent form

89 Acts, ch 67, §14

99F.15 Prohibited activities---penalties.

1. A person is guilty of an aggravated misdemeanor for any of the following:
 - a. Operating a gambling excursion where wagering is used or to be used without a license issued by the commission.
 - b. Operating a gambling excursion where wagering is permitted other than in the manner specified by section 99F.9.
 - c. Acting, or employing a person to act, as a shill or decoy to encourage participation in a gambling game.
2. A person knowingly permitting a person under the age of twenty-one years to make a wager is guilty of a simple misdemeanor.
3. A person wagering or accepting a wager at any location outside an excursion gambling boat or a racetrack enclosure is in violation of section 725.7.
4. A person commits a class "D" felony and, in addition, shall be barred for life from excursion gambling boats under the jurisdiction of the commission, if the person does any of the following:
 - a. Offers, promises, or gives anything of value or benefit to a person who is connected with an excursion gambling boat operator including, but not limited to, an officer or employee of a licensee or holder of an occupational license pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the commission.
 - b. Solicits or knowingly accepts or receives a promise of anything of value or benefit while the person is connected with an excursion gambling boat including, but not limited to, an officer or employee of a licensee, or holder of an occupational license, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the commission.
 - c. Uses a device to assist in any of the following:
 - (1) In projecting the outcome of the game.
 - (2) In keeping track of the cards played.
 - (3) In analyzing the probability of the occurrence of an event relating to the gambling game.
 - (4) In analyzing the strategy for playing or betting to be used in the game except as permitted by the commission.
 - d. Cheats at a gambling game.
 - e. Manufactures, sells, or distributes any cards, chips, dice, game or device which is intended to be used to violate any provision of this chapter.
 - f. Instructs a person in cheating or in the use of a device for that purpose with the knowledge or intent that the information or use conveyed may be employed to violate any provision of the chapter.
 - g. Alters or misrepresents the outcome of a gambling game on which wagers have been made after the outcome is made sure but before it is revealed to the players.
 - h. Places a bet after acquiring knowledge, not available to all players, of the outcome of the gambling game which is the subject of the bet or to aid a person in acquiring the knowledge for the purpose of placing a bet contingent on that outcome.
 - i. Claims, collects, or takes, or attempts to claim, collect, or take, money or anything of value in or from the gambling games, with intent to defraud, without having made a wager contingent on winning a gambling game, or claims, collects, or takes an amount of money or thing of value of greater value than the amount won.
 - j. Knowingly entices or induces a person to go to any place where a gambling game is being conducted or operated in violation of the provisions of this chapter with the intent that the other person plays or participates in that gambling game.
 - k. Uses counterfeit chips or tokens in a gambling game.
 - l. Knowingly uses, other than chips, tokens, coin, or other methods or credit approved by the commission, legal tender of the United States of America, or uses coin not of the denomination as the coin intended to be used in the gambling games.
 - m. Has in the person's possession any device intended to be used to violate a provision of this chapter.

- n.* Has in the person's possession, except a gambling licensee or employee of a gambling licensee acting in furtherance of the employee's employment, any key or device designed for the purpose of opening, entering, or affecting the operation of a gambling game, drop box, or an electronic or mechanical device connected with the gambling game or for removing coins, tokens, chips or other contents of a gambling game.
5. The possession of more than one of the devices described in subsection 4, paragraphs "c", "e", "m", or "n", permits a rebuttable inference that the possessor intended to use the devices for cheating.
6. Except for wagers on gambling games or exchanges for money as provided in section 99F.9, subsection 4, a licensee who exchanges tokens, chips, or other forms of credit to be used on gambling games for anything of value commits a simple misdemeanor.

Section History: Recent form

89 Acts, ch 67, §15; 89 Acts, ch 139, § 9; 91 Acts, ch 144, §2; 94 Acts, ch 1021, §27, 28

99F.16 Forfeiture of property.

1. Anything of value, including all traceable proceeds including but not limited to real and personal property, moneys, negotiable instruments, securities, and conveyances, is subject to forfeiture to the state of Iowa if the item was used for any of the following:
- a.* In exchange for a bribe intended to affect the outcome of a gambling game.
- b.* In exchange for or to facilitate a violation of this chapter.
2. Except for coins authorized in section 99F.9, subsection 4, all moneys, coin, and currency found in close proximity of wagers, or of records of wagers are presumed forfeited. The burden of proof is upon the claimant of the property to rebut this presumption.
3. Subsections 1 and 2 do not apply if the act or omission which would give rise to the forfeiture was committed or omitted without the owner's knowledge or consent.
4. Upon receipt of forfeited property, the county attorney or attorney general shall permit an owner or lienholder of record having a nonforfeitable property interest in the property the opportunity to purchase the property interest forfeited. If the owner or lienholder does not exercise the option under this subsection within thirty days the option is terminated, unless the time for exercising the option is extended by the county attorney or attorney general.
5. A person having a valid, recorded lien or property interest in forfeited property, which has not been purchased pursuant to subsection 4, shall either be reimbursed to the extent of the nonforfeitable interest or to the extent that the sale of the item produces sufficient revenue to do so, whichever amount is less. The sale of forfeited property should be conducted in a manner which is commercially reasonable and calculated to provide a sufficient return to cover the costs of the sale and reimburse any nonforfeitable interest. The validity of a lien or property interest is determined as of the date upon which property becomes forfeitable.
6. This section does not preclude a civil suit by an owner of an interest in forfeited property against the party who, by criminal use, caused the property to become forfeited to the state.

Section History: Recent form

89 Acts, ch 67, §16; 91 Acts, ch 167, §1; 94 Acts, ch 1021, §29

99F.17 Distributors and manufacturers---licenses.

1. A manufacturer or distributor of gambling games or implements of gambling shall annually apply for a license upon a form prescribed by the commission before the first day of April in each year and shall submit the appropriate license fee. An applicant shall provide the necessary information as the commission requires. The license fee for a distributor is one thousand dollars, and the license fee for a manufacturer is two hundred fifty dollars. The license fees shall be credited to the general fund of the state as provided for in section 99F.4, subsection 2.
2. A licensee shall acquire all gambling games or implements of gambling from a distributor licensed pursuant to this chapter. A licensee shall not sell or give gambling games or implements of gambling to another licensee.
3. A licensee shall not be a manufacturer or distributor of gambling games or implements of gambling.
4. The commission may suspend or revoke the license of a distributor or manufacturer for a violation of this chapter or a rule adopted pursuant to this chapter committed by the distributor or manufacturer or an officer, director, employee, or agent of the manufacturer or distributor.

5. The manufacturer or distributor of gambling games or implements of gambling shall provide the commission with a copy of the invoice showing the items shipped to the licensee and a copy of the bill of lading.

6. Subsection 2 does not apply in the following cases, if approved by the commission:

a. Gambling games or implements of gambling previously installed on an excursion gambling boat licensed in another jurisdiction.

b. Gambling games or implements of gambling previously installed on an excursion gambling boat licensed in this state.

Section History: Recent form

89 Acts, ch 67, §17; 92 Acts, ch 1203, §18; 94 Acts, ch 1100, § 6, 7; 94 Acts, ch 1107, §37

Internal References

Referred to in § 99F.17A

99F.17A Inspection of gambling games or implements of gambling.

A licensed manufacturer or distributor of gambling games or implements of gambling shall deliver the gambling games or implements of gambling to a location approved by the commission for inspection and approval prior to being placed in operation. Gambling games or implements of gambling acquired pursuant to section 99F.17, subsection 6, shall be inspected and approved by the commission prior to being placed in operation. Gambling games or implements of gambling passing inspection and receiving approval may then be placed in operation on an excursion gambling boat.

Section History: Recent form

92 Acts, ch 1207, §3; 94 Acts, ch 1100, §8

99F.18 Tax on winnings.

All winnings derived from slot machines operated pursuant to this chapter are Iowa earned income and are subject to state and federal income tax laws. An amount deducted from winnings for payment of the state tax, pursuant to section 422.16, subsection 1, shall be remitted to the department of revenue and finance on behalf of the winner.

Section History: Recent form

92 Acts, 2nd Ex, ch 1001, §235

TITLE IV. PUBLIC HEALTH

SUBTITLE 1. ALCOHOLIC BEVERAGES AND CONTROLLED SUBSTANCES

CHAPTER 123. ALCOHOLIC BEVERAGE CONTROL

DIVISION I. GENERAL PROVISIONS RELATING TO ALCOHOLIC BEVERAGES

123.30 Liquor control licenses---classes.

1. a. A liquor control license may be issued to any person who is of good moral character as defined by this chapter.

b. As a condition for issuance of a liquor control license or wine or beer permit, the applicant must give consent to members of the fire, police, and health departments and the building inspector of cities; the county sheriff, deputy sheriff, members of the department of public safety, representatives of the division and of the department of inspections and appeals, certified police officers, and any official county health officer to enter upon areas of the premises where alcoholic beverages are stored, served, or sold, without a warrant during business hours of the licensee or permittee to inspect for violations of this chapter or ordinances and regulations that cities and boards of

supervisors may adopt. However, a subpoena issued under section 421.17 or a warrant is required for inspection of private records, a private business office, or attached living quarters. Persons who are not certified peace officers shall limit the scope of their inspections of licensed premises to the regulatory authority under which the inspection is conducted. All persons who enter upon a licensed premises to conduct an inspection shall present appropriate identification to the owner of the establishment or the person who appears to be in charge of the establishment prior to commencing an inspection; however, this provision does not apply to undercover criminal investigations conducted by peace officers.

c. As a further condition for the issuance of a class "E" liquor control license, the applicant shall post a bond in a sum of not less than five thousand nor more than fifteen thousand dollars as determined on a sliding scale established by the division; however, a bond shall not be required if all purchases of alcoholic liquor from the division by the licensee are made by cash payment or by means that ensure that the division will receive full payment in advance of delivery of the alcoholic liquor.

d. A class "E" liquor control license may be issued to a city council for premises located within the limits of the city if there are no class "E" liquor control licensees operating within the limits of the city and no other applications for a class "E" license for premises located within the limits of the city at the time the city council's application is filed. If a class "E" liquor control license is subsequently issued to a private person for premises located within the limits of the city, the city council shall surrender its license to the division within one year of the date that the class "E" liquor control licensee begins operating, liquidate any remaining assets connected with the liquor store, and cease operating the liquor store.

2. No liquor control license shall be issued for premises which do not conform to all applicable laws, ordinances, resolutions, and health and fire regulations. Nor shall any licensee have or maintain any interior access to residential or sleeping quarters unless permission is granted by the administrator in the form of a living quarters permit.

3. Liquor control licenses issued under this chapter shall be of the following classes:

a. *Class "A"*. A class "A" liquor control license may be issued to a club and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine from class "A" wine permittees or class "B" wine permittees who also hold class "E" liquor control licenses only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer to bona fide members and their guests by the individual drink for consumption on the premises only.

b. *Class "B"*. A class "B" liquor control license may be issued to a hotel or motel and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine from class "A" wine permittees or class "B" wine permittees who also hold class "E" liquor control licenses only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises. Each license shall be effective throughout the premises described in the application.

c. *Class "C"*. A class "C" liquor control license may be issued to a commercial establishment but must be issued in the name of the individuals who actually own the entire business and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine from class "A" wine permittees or class "B" wine permittees who also hold class "E" liquor control licenses only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises.

A special class "C" liquor control license may be issued and shall authorize the holder to purchase wine from class "A" wine permittees or class "B" wine permittees who also hold class "E" liquor control licenses only, and to sell wine and beer to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises. The license issued to holders of a special class "C" license shall clearly state on its face that the license is limited.

d. *Class "D"*.

(1) A class "D" liquor control license may be issued to a railway corporation, to an air common carrier, and to passenger-carrying boats or ships for hire with a capacity of twenty-five persons or more operating in inland or boundary waters, and shall authorize the holder to sell or furnish alcoholic beverages, wine, and beer to passengers for consumption only on trains, watercraft as described in this section, or aircraft, respectively. Each license is valid throughout the state. Only one license is required for all trains, watercraft, or aircraft operated in the state by the licensee. However, if a watercraft is an excursion gambling boat licensed under chapter 99F, the owner shall obtain a separate class "D" liquor control license for each excursion gambling boat operating in the waters of this state.

(2) A class "D" liquor control licensee who operates a train or a watercraft intrastate only, or an excursion gambling boat licensed under chapter 99F, shall purchase alcoholic liquor from a class "E" liquor control licensee only, wine

from a class "A" wine permittee or a class "B" wine permittee who also holds a class "E" liquor control license only, and beer from a class "A" beer permittee only.

e. Class "E". A class "E" liquor control license may be issued and shall authorize the holder to purchase alcoholic liquor from the division only and to sell the alcoholic liquor to patrons for consumption off the licensed premises and to other liquor control licensees. A class "E" license shall not be issued to premises at which gasoline is sold. A holder of a class "E" liquor control license may hold other retail liquor control licenses or retail wine or beer permits, but the premises licensed under a class "E" liquor control license shall be separate from other licensed premises, though the separate premises may have a common entrance. However, the holder of a class "E" liquor control license may also hold a class "B" wine or class "C" beer permit or both for the premises licensed under a class "E" liquor control license.

The division may issue a class "E" liquor control license for premises covered by a liquor control license or wine or beer permit for on-premise consumption, if the premises are in a county having a population under nine thousand five hundred in which no other class "E" liquor control license has been issued by the division, and no other application for a class "E" license has been made within the previous twelve consecutive months.

Section History: Early form

[C35, § 1921-f27; C39, § 1921.027; C46, 50, 54, 58, 62, 66, 71, § 123.27; C73, 75, 77, 79, 81, § 123.30]

Section History: Recent form

85 Acts, ch 32, § 22; 86 Acts, ch 1246, § 741, 742; 87 Acts, ch 22, § 4--;6; 88 Acts, ch 1088, §2, 3; 88 Acts, ch 1241, §6, 7; 90 Acts, ch 1175, § 6; 91 Acts, ch 203, § 1; 93 Acts, ch 91, § 7, 8

Internal References

Referred to in § 123.33, 123.36, 123.95, 123.127, 123.128, 123.129, 123.138, 123.175, 123.176, 123.185

123.31 Application contents.

Except as otherwise provided in section 123.35, verified applications for the original issuance or the renewal of liquor control licenses shall be filed at the time and in the number of copies as the administrator shall prescribe, on forms prescribed by the administrator, and shall set forth under oath the following information:

1. The name and address of the applicant.
2. The precise location of the premises for which a license is sought.
3. The names and addresses of all persons, in the case of a corporation, the officers, directors, and persons owning or controlling ten percent or more of the capital stock thereof, having a financial interest, by way of loan, ownership, or otherwise, in the business.
4. When required by the administrator, a sketch or drawing of the premises proposed to be licensed, in such form and containing such information as the administrator may require.
5. A statement whether any person specified in subsection 3 has ever been convicted of any offense against the laws of the United States, or any state or territory thereof, or any political subdivision of any such state or territory.
6. A statement whether the applicant or any person specified in subsection 3 possesses a federal gambling stamp.
7. Such other information as the administrator shall require.

Section History: Early form

[C35, § 1921-f27; C39, § 1921.027; C46, 50, 54, 58, 62, 66, 71, § 123.27; C73, 75, 77, 79, 81, § 123.31]

Section History: Recent form

93 Acts, ch 91, § 9

123.49 Miscellaneous prohibitions.

1. A person shall not sell, dispense, or give to an intoxicated person, or one simulating intoxication, any alcoholic liquor, wine, or beer.

a. A person other than a person required to hold a license or permit under this chapter who dispenses or gives an alcoholic beverage, wine, or beer in violation of this subsection is not civilly liable to an injured person or the estate of a person for injuries inflicted on that person as a result of intoxication by the consumer of the alcoholic beverage, wine, or beer.

b. The general assembly declares that this subsection shall be interpreted so that the holding of *Clark v. Mincks*, 364 N.W.2d. 226 (Iowa 1985) is abrogated in favor of prior judicial interpretation finding the consumption of alcoholic beverages, wine, or beer rather than the serving of alcoholic beverages, wine, or beer as the proximate cause of injury inflicted upon another by an intoxicated person.

2. A person or club holding a liquor control license or retail wine or beer permit under this chapter, and the person's or club's agents or employees, shall not do any of the following:

a. Knowingly permit any gambling, except in accordance with chapter 99B, 99D, 99E, or 99F, or knowingly permit solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

b. Sell or dispense any alcoholic beverage or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two a.m. and six a.m. on a weekday, and between the hours of two a.m. on Sunday and six a.m. on the following Monday, however, a holder of a liquor control license or retail beer permit granted the privilege of selling alcoholic liquor or beer on Sunday may sell or dispense alcoholic liquor or beer between the hours of eight a.m. on Sunday and two a.m. on the following Monday.

c. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.

d. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the division, and except mixed drinks or cocktails mixed on the premises for immediate consumption. This prohibition does not apply to common carriers holding a class "D" liquor control license.

e. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been so reused or adulterated.

f. Employ a person under eighteen years of age in the sale or serving of alcoholic liquor, wine, or beer for consumption on the premises where sold.

g. Allow any person other than the licensee, permittee, or employees of the licensee or permittee, to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as permitted in section 123.95. This paragraph does not apply to the lodging quarters of a class "B" liquor control licensee or wine or beer permittee, or to common carriers holding a class "D" liquor control license.

h. Sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, or permit any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, to consume any alcoholic beverage, wine, or beer.

i. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine, or any other beverage in or about the permittee's place of business.

j. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

k. Sell or dispense any wine on the premises covered by the permit or permit the consumption on the premises between the hours of two a.m. and six a.m. on a weekday, and between the hours of two a.m. on Sunday and six a.m. on the following Monday, however, a holder of a wine permit authorized to sell wine on Sunday may sell or dispense wine between the hours of eight a.m. on Sunday and two a.m. on the following Monday.

3. No person under legal age shall misrepresent the person's age for the purpose of purchasing or attempting to purchase any alcoholic beverage, wine, or beer from any licensee or permittee. If any person under legal age misrepresents the person's age, and the licensee or permittee establishes that the licensee or permittee made reasonable inquiry to determine whether the prospective purchaser was over legal age, the licensee or permittee is not guilty of selling alcoholic liquor, wine, or beer to minors.

4. No privilege of selling alcoholic liquor, wine, or beer on Sunday as provided in sections 123.36, subsection 6, and 123.134, subsection 5, shall be granted to a club or other organization which places restrictions on admission or membership in the club or organization on the basis of sex, race, religion, or national origin. However, the privilege may be granted to a club or organization which places restrictions on membership on the basis of sex, if the club or organization has an auxiliary organization open to persons of the other sex.

Section History: Early form

[C35, § 1921-f46, 1921-f114, 1921-g3; C39, § 1921.046, 1921.115, 1921.116; C46, 50, 54, 58, 62, 66, 71, § 123.46, 124.20, 124.21; C73, 75, 77, 79, 81, § 123.49]

Section History: Recent form

84 Acts, ch 1275, § 3; 85 Acts, ch 32, § 38--;42; 86 Acts, ch 1002, § 5; 86 Acts, ch 1211, § 11; 89 Acts, ch 67, § 26; 90 Acts, ch 1175, § 8; 91 Acts, ch 245, §2, 3; 94 Acts, ch 1172, §4
Internal References
Referred to in § 123.36, 123.39, 123.47A, 123.50, 123.134, 123.150, 602.6405, 805.8(10)

SUBTITLE 3. MENTAL HEALTH

CHAPTER 225C/. MENTAL ILLNESS, MENTAL RETARDATION, DEVELOPMENTAL DISABILITIES, OR BRAIN INJURY, PERSONAL ASSISTANCE, AND FAMILY SUPPORT SERVICES

225C.46 Personal assistance services program.

1. As used in this section, unless the context otherwise requires:

a. (1) "*Disability*" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual.

(2) "*Disability*" does not include any of the following:

(a) Homosexuality or bisexuality.

(b) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders.

(c) Compulsive gambling, kleptomania, or pyromania.

(d) Psychoactive substance abuse disorders resulting from current illegal use of drugs.

(e) Alcoholism.

b. "*Major life activity*" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

c. "*Personal assistance services*" means services performed by a person to assist an individual with a disability with tasks which that individual would typically do if the individual did not have a disability. The services are intended to enable an individual with a disability to live in the individual's home or community rather than in an institutional setting and may include but are not limited to any of the following:

(1) Dressing.

(2) Bathing.

(3) Access to and from bed or a wheelchair.

(4) Toilet assistance, including bowel, bladder, and catheter assistance.

(5) Eating and feeding.

(6) Cooking and housekeeping assistance.

(7) Employment support.

(8) Cognitive assistance with tasks such as handling money and scheduling.

(9) Fostering communication access through interpreting and reading services.

d. (1) "*Substantially limits*" means either of the following:

(a) Unable to perform a major life activity that the average person in the general population can perform.

(b) Significantly restricted as to the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.

(2) The following factors may be considered in determining whether an individual is substantially limited in a major life activity:

(a) The nature and severity of the impairment.

(b) The duration or expected duration of the impairment.

(c) The permanent or long-term impact, or expected permanent or long-term impact of or resulting from the impairment.

2. Eligibility for the personal assistance services program shall be limited to individuals with a disability, who have Iowa or federal taxable income of less than forty thousand dollars, who are residents of this state, and who are at least eighteen years of age or are emancipated minors. For the purposes of this subsection, "*emancipated minor*" means a person under eighteen years of age who is married or who is living separate and apart from the person's parent, regardless of the duration of the separate residence, and is managing the person's own financial affairs regardless of the source or extent of the person's income.

3. An individual served under the personal assistance services program shall determine the components of the personal assistance services to be provided with the person who is providing the services to the individual. Based upon the components determined by the individual, the department shall develop a provider contract or other means of paying for services. The components may include but are not limited to all of the following:

- a. Training of the person providing services.
- b. Selection of the person providing services.
- c. Management of the person providing services.
- d. Performance standards for the person providing services.
- e. Annual review or review upon demonstration of significant changes in the circumstances of the individual being provided with personal assistance services.

4. The department shall adopt rules providing for all of the following:

- a. Coordination of personal assistance service activities and funding with other state and local agencies which provide services to individuals with disabilities or funding of such services.
- b. The components of contracts between individuals with disabilities being provided personal assistance services and providers of personal assistance services.
- c. Upon request of an individual with disabilities, provision of assistance in locating a provider of personal assistance services for the individual.
- d. Upon request of an individual with disabilities, provision of technical assistance to the individual concerning the employment of a personal assistant or contracting for services with a personal assistance services provider.
- e. Procedures for disbursement of funds. Funds for the purchase of personal assistance services shall be paid directly to individuals with disabilities pursuant to a contract or by other appropriate means of payment. The rules shall include provisions to track the use of the funds and to monitor contract compliance.
- f. Implementation of the program in accordance with the funding appropriated for the program.

Section History: Recent form

94 Acts, ch 1041, §2

Internal References

Referred to in § 225C.48, 225C.49

TITLE IX. LOVAL GOVERNMENT

SUBTITLE 1. COUNTIES

CHAPTER 331. COUNTY HOME RULE IMPLEMENTATION

DIVISION V. COUNTY OFFICERS

PART 4. COUNTY SHERIFF

331.653 General duties of the sheriff.

The sheriff shall:

1. Execute and return all writs and other legal process issued to the sheriff by legal authority. The sheriff shall execute and return any legal process in the sheriff's possession at the expiration of the sheriff's term of office and if a vacancy occurs in the office of sheriff, the sheriff's deputies shall execute and return the legal processes in their possession as if the sheriff had continued in office. The sheriff's successor or other officer authorized to discharge the duties of the office of sheriff may execute and return the legal processes on behalf of the outgoing sheriff and the

sheriff's deputies, but the outgoing sheriff and the sheriff's deputies remain liable for the execution and return of the legal processes in their possession when the sheriff leaves office or the vacancy occurs.

2. Upon written order of the county attorney, make a special investigation of any alleged infraction of the law within the county and report the findings to the county attorney within a reasonable time. Upon completion of the investigation, the sheriff shall file with the auditor a detailed, sworn statement of the expenses of the investigation accompanied by the written order of the county attorney. The board shall audit and pay the reasonable and necessary expenses of the investigation.
3. Upon leaving office, deliver to the sheriff's successor and take the successor's receipt for all books and papers pertaining to the office except as provided in subsection 1, property attached and levied upon, and prisoners in the county jail. The receipt is sufficient indemnity to the outgoing sheriff.
4. Provide bailiff and other law enforcement service to the district judges, district associate judges, and judicial magistrates of the county upon request.
5. Serve as a member of the joint emergency management commission as provided in section 29C.9.
6. Enforce the provisions of chapter 718A relating to the desecration of flags and insignia.
7. Carry out duties relating to election contests as provided in sections 57.6, 62.4, and 62.19.
8. Carry out duties relating to the seizure and disposition of illegal oil and gas supplies as provided in section 458A.15.
9. Serve a notice or subpoena received from a board of arbitration as provided in section 679B.10.
10. Cooperate with the division of labor services of the department of workforce development in the enforcement of child labor laws as provided in section 92.22.
11. Carry out duties relating to the seizure and forfeiture of cigarettes, vehicles, and other property used in violation of cigarette tax laws as provided in section 453A.32.
12. Observe and inspect any licensed premise for gambling devices and report findings to the license-issuing authority as provided in section 99A.4.
13. Carry out duties relating to the issuance of permits for the possession, transportation, and detonation of explosive materials as provided in sections 101A.3, 101A.5, 101A.7, and 101A.8.
14. Seize fish and game taken, possessed, or transported in violation of the state fish and game laws as provided in section 481A.12.
15. Carry out duties relating to the enforcement of state liquor and beer laws as provided in sections 123.14, 123.117, and 123.118.
16. Reserved.
17. Enforce the payment of the mobile home tax as provided in section 435.24.
18. Carry out duties relating to the reporting of persons injured in the commission of a crime, either as perpetrators or victims, as provided in sections 147.111 and 147.112.
19. Carry out duties relating to the enforcement of livestock transportation laws as provided in chapter 172B.
20. Investigate disputes in the ownership or custody of branded animals as provided in section 169A.10.
21. Reserved.
22. Reserved.
23. Carry out duties relating to the involuntary hospitalization of persons with mental illness as provided in sections 229.7 and 229.11.
24. Carry out duties relating to the investigation of reported child abuse cases and the protection of abused children as provided in section 232.71.
25. Remove, upon court order, an indigent person to the county or state of the person's legal settlement as provided in section 252.18.
26. File a complaint upon receiving knowledge of an indigent person who is ill and may be improved, cured or advantageously treated by medical or surgical treatment or hospital care as provided in section 255.2.
27. Give notice of the time and place of making an appraisal of unneeded school land as provided in sections 297.17 and 297.28.
28. Cooperate with the department of transportation, the department of public safety, and other law enforcement agencies in the enforcement of local and state traffic laws and inspections as provided in sections 321.5 and 321.6.
29. Report the theft and recovery of a registered motor vehicle as provided in section 321.72.
30. Collect unpaid motor vehicle fees and penalties as provided in sections 321.133 to 321.135.
31. Reserved.
32. Enforce sections 321.372 to 321.379 relating to school buses.
33. Carry out duties relating to the enforcement of laws prohibiting the operation of a motor vehicle while under the influence of an alcoholic beverage as provided in chapter 321J.

34. Upon request, assist the department of revenue and finance and the state department of transportation in the enforcement of motor fuel tax laws as provided in section 452A.76.
35. Have charge of the county jails in the county and custody of the prisoners committed to the jails as provided in chapter 356.
36. Reserved.
37. Reserved.
38. Notify the department of natural resources of hazardous conditions of which the sheriff is notified as provided in section 455B.386.
39. Carry out duties relating to condemnation of private property as provided under chapter 6B.
40. Carry out duties relating to the removal and disposition of abandoned motor vehicles as provided in section 556B.1.
41. Carry out duties relating to the determination of what is included in a homestead as provided in section 561.8.
42. Carry out duties relating to liens for services of animals as provided in chapter 580.
43. Carry out duties relating to the service of notice on a jury commissioner or jury manager as provided in section 607A.44.
44. Reserved.
45. Designate the newspapers in which notices pertaining to the sheriff's office are published as provided in section 618.7.
46. Carry out duties relating to the execution of judgments and orders of the court as provided in chapter 626.
47. Add the amount of an advancement made by the holder of the sheriff's sale certificate to the execution, upon verification by the clerk as provided by section 629.3.
48. Upon appointment of the court, serve as a receiver of property of a judgment debtor as provided in sections 630.7 and 630.9.
49. Carry out duties relating to the attachment of property as provided in chapters 639, 640, and 641.
50. Carry out duties relating to garnishment under chapter 642.
51. Carry out duties relating to an action of replevin as provided in chapter 643.
52. Carry out orders of the court or a judge relating to the service or execution of a writ of habeas corpus as provided under chapter 663.
53. Carry out duties relating to the disposition of lost property as provided in chapter 556F.
54. Carry out orders of the court requiring the sheriff to take custody and deposit or deliver trust funds as provided in section 636.30.
55. Carry out legal processes directed by an appellate court as provided in section 625A.14.
56. Furnish the bureau of criminal identification with the criminal identification records and other information upon direction by the commissioner of public safety as provided in section 690.1.
57. Take the fingerprints of all persons specified under section 690.2 and forward the fingerprint records to the commissioner of public safety.
58. Report information on crimes committed and delinquent acts committed, which would be an aggravated misdemeanor or felony if committed by an adult, and furnish disposition reports on persons arrested and juveniles taken into custody, for a delinquent act which would be an aggravated misdemeanor or felony if committed by an adult, and criminal complaints or information or juvenile delinquency petitions, alleging a delinquent act which would be an aggravated misdemeanor or felony if committed by an adult, filed in any court as provided in section 692.15.
59. Carry out duties relating to firearm training and the issuance and revocation of firearm permits as provided in chapter 724.
60. Accept custody of persons handed over to the sheriff by the department of public safety as provided in section 804.28.
61. Carry out duties relating to the forfeiture and judgment of bail as provided in section 811.6.
62. Resume custody of a defendant who is recommitted after bail by order of a magistrate as provided in section 811.7.
63. Carry out duties relating to the confinement of persons with mental illness or dangerous persons as provided in section 812.5.
64. Release a defendant in custody upon receipt of a certificate of release as provided in section 814.14.
65. Upon call of the governor or attorney general, render assistance in the enforcement of the law as provided in section 817.2.
- 65A. Carry out the duties imposed under section 910A.8.

66. Upon court order, take an accused person into custody from the warden of a penal institution and convey the person to the place of trial as provided in rule of criminal procedure 7.
67. Receive and detain a defendant transferred from another county under a change of venue as provided in rule of criminal procedure 10, subsection 10.
68. Carry out duties relating to the execution of a judgment for confinement or other execution as provided in rule of criminal procedure 24.
69. Carry out duties relating to the return of service in civil cases as provided in rule of civil procedure 59.
70. Serve a writ of certiorari as provided in rule of civil procedure 312.
71. Carry out other duties required by law and duties assigned pursuant to section 331.323.

Section History: Early form

1. [C51, § 170, 177; R60, § 383, 390, 3264; C73, § 337, 344, 346; C97, § 499, 504, 506; S13, § 499-b; C24, 27, 31, 35, 39, § 5183, 5188, 5190; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 337.3, 337.8, 337.10; S81, § 331.653(1); 81 Acts, ch 117, § 652] ~I2. [S13, § 499-c; C24, 27, 31, 35, 39, § 5184; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 337.4; S81, § 331.653(2); 81 Acts, ch 117, § 652] ~I3. [C51, § 178; R60, § 391; C73, § 345; C97, § 505; C24, 27, 31, 35, 39, § 5189; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 337.9; S81, § 331.653(3); 81 Acts, ch 117, § 652] ~I4. [C51, § 174; R60, § 387; C73, § 341; C97, § 503; C24, 27, 31, 35, 39, § 5187; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 337.7; S81, § 331.653(4); 81 Acts, ch 117, § 652] ~I5--;71. [S81, § 331.653(5--;71); 81 Acts, ch 117, § 652]

Section History: Recent form

83 Acts, ch 101, § 79; 83 Acts, ch 186, § 10090, 10091, 10201; 85 Acts, ch 67, § 41; 86 Acts, ch 1108, § 5; 86 Acts, ch 1121, § 2; 86 Acts, ch 1155, § 7; 86 Acts, ch 1220, § 39; 87 Acts, ch 115, § 54; 90 Acts, ch 1230, § 91; 91 Acts, ch 191, § 14; 92 Acts, ch 1139, § 28; 94 Acts, ch 1103, § 3; 94 Acts, ch 1173, § 27; 95 Acts, ch 67, § 29; 95 Acts, ch 191, § 24; 96 Acts, ch 1111, § 1; 96 Acts, ch 1129, § 113; 96 Acts, ch 1186, § 23

Internal References

Referred to in § 331.654

PART 6. COUNTY ATTORNEY

331.756 Duties of the county attorney.

The county attorney shall:

1. Diligently enforce or cause to be enforced in the county, state laws and county ordinances, violations of which may be commenced or prosecuted in the name of the state, county, or as county attorney, except as otherwise provided.
 2. Appear for the state and the county in all cases and proceedings in the courts of the county to which the state or the county is a party, except actions or proceedings resulting from a change of venue from another county, and appear in the appellate courts in all cases in which the county is a party, and appear in all actions or proceedings which are transferred on a change of venue to another county or which require the impaneling of a jury from another county and in which the county or the state is a party.
 3. Prosecute all preliminary hearings for charges triable upon indictment.
 4. Prosecute misdemeanors under chapter 236. The county attorney shall prosecute other misdemeanors when not otherwise engaged in the performance of other official duties.
 5. Enforce all forfeited bonds and recognizances and prosecute all proceedings necessary for the recovery of debts, revenues, moneys, fines, penalties, restitution of court-appointed attorney fees or expense of a public defender, and forfeitures accruing to the state, the county or a road district in the county, and all suits in the county against public service corporations which are brought in the name of the state. To assist in this duty, the county attorney may procure professional collection services provided by persons or organizations, including private attorneys, which are generally considered to have knowledge and special abilities which are not generally available to state or local government or may designate another county official or agency to assist with collection efforts.
- If professional collection services are procured, the county attorney shall file with the clerk of the district court an indication of the satisfaction of each obligation to the full extent of all moneys collected in satisfaction of that obligation, including all fees and compensation retained by the collection service incident to the collection and not paid into the office of the clerk.

Before a county attorney designates another county official or agency to assist with collection of debts, revenues, moneys, fines, penalties, restitution of court-appointed attorney fees or expense of a public defender, and forfeitures, the board of supervisors of the county must approve the designation.

All fines, penalties, court costs, fees, and restitution for court-appointed attorney fees or expenses of a public defender which are delinquent as defined in section 602.8107 may be collected by the county attorney or the person procured or designated by the county attorney. In order to receive a percentage of the amounts collected pursuant to section 602.8107, the county attorney must file annually with the clerk of the district court on or before July 1 a notice of full commitment to collect delinquent obligations and must file on the first day of each month a list of the cases in which the county attorney or the person procured or designated by the county attorney is pursuing the collection of delinquent obligations. The annual notice shall contain a list of procedures which will be initiated by the county attorney. Amounts collected by the county attorney or the person procured or designated by the county attorney shall be distributed in accordance with section 602.8107.

6. Commence, prosecute, and defend all actions and proceedings in which a county officer, in the officer's official capacity, or the county is interested or a party.

7. Give advice or a written opinion, without compensation, to the board and other county officers and to school and township officers, when requested by an officer, upon any matters in which the state, county, school, or township is interested, or relating to the duty of the officer in any matters in which the state, county, school, or township may have an interest, but the county attorney shall not appear before the board at a hearing in which the state or county is not interested.

8. Attend the grand jury when necessary for the purpose of examining witnesses before it or giving it legal advice. The county attorney shall procure subpoenas or other process for witnesses and prepare all informations and bills of indictment.

9. Give a receipt to all persons from whom the county attorney receives money in an official capacity and file a duplicate receipt with the county auditor.

10. Make reports relating to the duties and the administration of the county attorney's office to the governor when requested by the governor.

11. Cooperate with the auditor of state to secure correction of a financial irregularity as provided in section 11.15.

12. Submit reports as to the condition and operation of the county attorney's office when required by the attorney general as provided in section 13.2, subsection 7.

13. Reserved.

14. Hear and decide objections to a nomination filed with the county election commissioner as provided in section 44.7.

15. Review the report and recommendations of the ethics and campaign disclosure board and proceed to institute the recommended actions or advise the board that prosecution is not merited, as provided in sections 68B.32C and 68B.32D.

16. Prosecute or assist in the prosecution of actions to remove public officers from office as provided in section 66.11.

17. Institute legal proceedings against persons who violate laws administered by the division of labor services of the department of workforce development as provided in section 91.11.

18. Investigate complaints and prosecute violations of child labor laws as provided in section 92.22.

19. Prosecute violations of employment security laws and rules as provided in section 96.17, subsection 2.

20. Assist, at the request of the director of revenue and finance, in the enforcement of cigar and tobacco tax laws as provided in sections 453A.32 and 453A.49.

21. Prosecute nuisances as provided in section 99.24.

22. Attend the hearing, interrogate witnesses, and advise a license-issuing authority relating to the revocation of a license for violation of gambling laws as provided in section 99A.7. The county attorney shall also represent the license-issuing authority in appeal proceedings taken under section 99A.6.

23. Represent the state fire marshal in legal proceedings as provided in section 100.20.

24. Prosecute, at the request of the director of the department of natural resources or an officer appointed by the director, violations of the state fish and game laws as provided in section 481A.35.

25. Assist the division of beer and liquor law enforcement in the enforcement of beer and liquor laws as provided in section 123.14. The county attorney shall also prosecute nuisances, forfeitures of abatement bonds, and foreclosures of the bonds as provided in sections 123.62 and 123.86.

26. Reserved.

27. Serve as attorney for the county health care facility administrator in matters relating to the administrator's service as a conservator or guardian for a resident of the health care facility as provided in section 135C.24.

28. Reserved.
29. At the request of the director of public health, commence legal action to enjoin the unlawful use of radiation-emitting equipment as provided in section 136C.5.
30. Reserved.
31. Prosecute violations of the Iowa veterinary practice Act as provided in section 169.19.
32. Assist the department of inspections and appeals in the enforcement of the food establishment laws, the Iowa food service sanitation code, and the Iowa hotel sanitation code as provided in sections 137A.26, 137B.21, and 137C.30.
33. Institute legal procedures on behalf of the state to prevent violations of the corporate or partnership farming laws as provided in section 9H.3.
34. Prosecute violations of the Iowa dairy industry laws as provided in section 179.11.
35. Prosecute persons who fail to file an annual or special report with the secretary of agriculture under the meat and poultry inspection Act as provided in section 189A.17.
36. Cooperate with the secretary of agriculture in the enforcement of label requirements for food packages as provided in section 191.7.
37. Prosecute violations of the Iowa commercial feed law as provided in section 198.13, subsection 3.
38. Cooperate with the secretary of agriculture in the enforcement of the agricultural seed laws as provided in section 199.14.
39. Prosecute violations of the Iowa fertilizer law as provided in section 200.18, subsection 4.
40. Prosecute violations of the Iowa drug, device, and cosmetic Act as requested by the board of pharmacy examiners as provided in section 126.7.
41. Provide the Iowa department of corrections with information relating to the background and criminal acts committed by each person sentenced to a state correctional institution from the county as provided in section 904.202.
42. Carry out duties relating to the commitment of a person with mental retardation as provided in section 222.18.
43. Proceed to collect, as requested by the county, the reasonable costs for the care, treatment, training, instruction, and support of a person with mental retardation from parents or other persons who are legally liable for the support of the person with mental retardation as provided in section 222.82.
44. At the direction of a district court judge, investigate the financial condition of a person under commitment proceedings to the state psychiatric hospital or those legally responsible for the person as provided in section 225.13.
45. Appear on behalf of the administrator of the division of mental health and developmental disabilities of the department of human services in support of an application to transfer a person with mental illness who becomes incorrigible and dangerous from a state hospital for persons with mental illness to the Iowa medical and classification center as provided in section 226.30.
46. Carry out duties relating to the hospitalization of persons for mental illness as provided in section 229.12.
47. Carry out duties relating to the collection of the costs for the care, treatment, and support of persons with mental illness as provided in sections 230.25 and 230.27.
48. Carry out duties relating to the care, guidance, and control of juveniles as provided in chapter 232.
49. Prosecute violations of law relating to the family investment program, medical assistance, and supplemental assistance as provided in sections 239.20, 249.13, and 249A.14.
50. Commence legal proceedings to enforce the rights of children placed under foster care arrangements as provided in section 233A.11.
51. Commence legal proceedings, at the request of the superintendent of the Iowa juvenile home, to recover possession of a child as provided in section 233B.12.
52. Furnish, upon request of the governor, a copy of the minutes of evidence and other pertinent facts relating to an application for a pardon, reprieve, commutation, or remission of a fine or forfeiture as provided in section 914.5.
53. Carry out duties relating to the provision of medical and surgical treatment for an indigent person as provided in sections 255.7 and 255.8.
54. Commence legal proceedings to recover school funds as provided in section 257B.33.
55. At the request of the state geologist, commence legal proceedings to obtain a copy of the map of a mine or mine extension as provided in section 460A.13.
56. Enforce, upon complaint, the performance of duties by officers charged with the responsibilities of controlling or eradicating noxious weeds as provided in section 317.23.
57. Commence legal proceedings to remove billboards and signs which constitute a public nuisance as provided in section 319.11.
58. Reserved.

59. Assist, upon request, the department of transportation's general counsel in the prosecution of violations of common carrier laws and regulations as provided in section 327C.30.
 60. Enforce the control of vegetation on railroad property by the railroad corporations as provided in section 327F.29.
 61. Appoint a member of the civil service commission for deputy sheriffs as provided in section 341A.2 or 341A.3.
 62. Represent the civil service commission for deputy sheriffs in civil suits initiated by the commission for the proper enforcement of the civil service law as provided in section 341A.16.
 63. Present to the grand jury at its next session a copy of the report filed by the division of corrections of the department of human services of its inspection of the jails in the county as provided in section 356.43.
 64. Represent the township trustees in counties having a population of less than twenty-five thousand except when the interests of the trustees and the county are adverse as provided in section 359.18.
 - 64A. Reserved.
 - 64B. Make a written report to the department of inspections and appeals within fifteen days of the end of each calendar quarter of the amount of funds which were owed to the state for indigent defense services and which were recouped pursuant to subsection 5.
 65. Represent the assessor and the board of review in legal proceedings relating to assessments as provided in section 441.41.
 66. Represent the state in litigation relating to the inheritance tax if requested by the department of revenue and finance as provided in section 450.1.
 67. Institute proceedings to enjoin persons from violating water treatment laws as provided in section 455B.224.
 68. Conduct legal proceedings relating to the condemnation of private property as provided in section 6B.2.
 69. Reserved.
 70. Institute legal proceedings against violations of insurance laws as provided in sections 511.7 and 515.93.
 71. Assist, as requested by the attorney general, with the enforcement of the Iowa competition law as provided in section 553.7.
 72. Initiate proceedings to enforce provisions relating to the recordation of conveyances and leases of agricultural land as provided in section 558.44.
 73. Reserved.
 74. Bid on real estate on behalf of the county when necessary to secure the county from loss as provided by section 569.2.
 75. Reserved.
 76. Reserved.
 77. Prosecute a complaint to establish paternity and compel support for a child as provided in section 600B.19.
 78. Give to an accused person a copy of each report of the findings of the criminalistics laboratory in the investigation of an indictable criminal charge against the accused as provided in section 691.4.
 79. Notify state and local governmental agencies issuing licenses or permits, of a person's conviction of obscenity laws relating to minors as provided in section 728.8.
 80. In the case of appeal from the district court, furnish the attorney general with a copy of the notice of appeal and pertinent material from the district court proceedings as provided in section 814.8.
 81. Certify fees and mileage payable to witnesses subpoenaed by the county attorney before the district court as provided in section 815.3.
 82. Carry out duties relating to extradition of fugitive defendants as provided in chapter 818.
 83. Advise the director of the judicial district department of correctional services of the facts and circumstances surrounding the crime committed and the record and history of the defendant granted probation as provided in section 907.8.
 - 83A. Carry out the duties imposed under sections 910A.2, 910A.5, and 910A.6.
 84. Bring an action in the nature of quo warranto as provided in rule of civil procedure 300.
 85. Perform other duties required by law and duties assigned pursuant to section 331.323.
- Section History: Early form
[C97, SS15, § 301; C24, 27, 31, 35, 39, § 5180; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 336.2; S81, § 331.756; 81 Acts, ch 117, § 756; 82 Acts, ch 1021, § 10, 12(1), ch 1100, § 28, ch 1104, § 59]
- Section History: Recent form
83 Acts, ch 96, § 111, 112, 157, 159; 84 Acts, ch 1163, § 2; 84 Acts, ch 1299, § 9; 85 Acts, ch 195, § 42; 86 Acts, ch 1001, § 21; 86 Acts, ch 1112, § 11; 86 Acts, ch 1155, § 8; 86 Acts, ch 1238, § 17; 86 Acts, ch 1245, § 1117; 87 Acts, ch 30, § 18; 87 Acts, ch 98, § 4; 88 Acts, ch 1134, § 73; 89 Acts, ch 197, § 30; 90 Acts, ch 1165, § 17; 92 Acts, ch 1242, § 30, 31; 93 Acts, ch 97, § 39; 93 Acts, ch 110, § 2--4; 93 Acts, ch 142, § 12; 93 Acts, ch 163, § 32;

94 Acts, ch 1023, §106; 94 Acts, ch 1170, §53; 94 Acts, ch 1173, §29, 30; 95 Acts, ch 49, § 9; 95 Acts, ch 143, §9; 95 Acts, ch 169, §3; 96 Acts, ch 1034, § 31; 96 Acts, ch 1111, § 2; 96 Acts, ch 1129, § 113; 96 Acts, ch 1131, §1; 96 Acts, ch 1186, § 23

Internal References

Referred to in § 13B.4, 96.11, 602.8107

TITLE X. FINANCIAL RESOURCES

SUBTITLE 1. REVENUES AND FINANCIAL MANAGEMENT

CHAPTER 422. INCOME, SALES, SERVICES, AND FRANCHISE TAXES

DIVISION II. PERSONAL NET INCOME

422.16 Withholding of income tax at source---penalties---interest---declaration of estimated tax---bond.

1. Every withholding agent and every employer as defined in this chapter and further defined in the Internal Revenue Code, with respect to income tax collected at source, making payment of wages to a nonresident employee working in Iowa, or to a resident employee, shall deduct and withhold from the wages an amount which will approximate the employee's annual tax liability on a calendar year basis, calculated on the basis of tables to be prepared by the department and schedules or percentage rates, based on the wages, to be prescribed by the department. Every employee or other person shall declare to the employer or withholding agent the number of the employee's or other person's personal exemptions and dependency exemptions or credits to be used in applying the tables and schedules or percentage rates. However, no greater number of personal or dependency exemptions or credits may be declared by the employee or other person than the number to which the employee or other person is entitled except as allowed under section 3402(m)(1) of the Internal Revenue Code and as allowed for the child and dependent care credit provided in section 422.12C. The claiming of exemptions or credits in excess of entitlement is a serious misdemeanor.

Nonresidents engaged in any facet of feature film, television, or educational production using the film or videotape disciplines in the state are not subject to Iowa withholding if the employer has applied to the department for exemption from the withholding requirement and the department has determined that any nonresident receiving wages would be entitled to a credit against Iowa income taxes paid.

For the purposes of this subsection, state income tax shall be withheld from pensions, annuities, other similar periodic payments, and other income payments of those persons whose primary residence is in Iowa in those circumstances in which those persons have federal income tax withheld from pensions, annuities, other similar periodic payments, and other income payments under sections 3402(o), 3402(p), 3402(s), 3405(a), 3405(b), and 3405(c) of the Internal Revenue Code at a rate to be specified by the department.

For the purposes of this subsection, state income tax shall be withheld on winnings in excess of six hundred dollars derived from gambling activities authorized under chapter 99B or 99E. State income tax shall be withheld on winnings in excess of one thousand dollars from gambling activities authorized under chapter 99D. State income tax shall be withheld on winnings in excess of twelve hundred dollars derived from slot machines authorized under chapter 99F.

For the purposes of this subsection, state income tax at the rate of six percent shall be withheld from supplemental wages of employees in those circumstances in which the employer treats the supplemental wages as wholly separate from regular wages for purposes of withholding and federal income tax is withheld from the supplemental wages under section 3402(g) of the Internal Revenue Code.

2. A withholding agent required to deduct and withhold tax under subsections 1 and 12, except those required to deposit on a semimonthly basis, shall deposit for each calendar quarterly period, on or before the last day of the month following the close of the quarterly period, on a quarterly deposit form as prescribed by the director and shall pay to the department, in the form of remittances made payable to "Treasurer, State of Iowa", the tax required to be withheld, or the tax actually withheld, whichever is greater, under subsections 1 and 12. However, a withholding agent who withholds more than fifty dollars in any one month, except those required to deposit on a semimonthly basis, shall deposit with the department the amount withheld, with a monthly deposit form as prescribed by the

director. The monthly deposit form is due on or before the fifteenth day of the month following the month of withholding, except that a deposit is not required for the amount withheld in the third month of the quarter but the total amount of withholding for the quarter shall be computed and the amount by which the deposits for that quarter fail to equal the total quarterly liability is due with the filing of the quarterly deposit form. The quarterly deposit form is due within the month following the end of the quarter. A withholding agent who withholds more than eight thousand dollars in a semimonthly period shall deposit with the department the amount withheld, with a semimonthly deposit form as prescribed by the director. The first semimonthly deposit form for the period from the first of the month through the fifteenth of the month is due on the twenty-fifth day of the month in which the withholding occurs. The second semimonthly deposit form for the period from the sixteenth of the month through the end of the month is due on the tenth day of the month following the month in which the withholding occurs. Every withholding agent on or before the end of the second month following the close of the calendar year in which the withholding occurs shall make an annual reporting of taxes withheld and other information prescribed by the director and send to the department copies of wage and tax statements with the return.

If the director has reason to believe that the collection of the tax provided for in subsections 1 and 12 is in jeopardy, the director may require the employer or withholding agent to make the report and pay the tax at any time, in accordance with section 422.30. The director may authorize incorporated banks, trust companies, or other depositories authorized by law which are depositories or financial agents of the United States or of this state, to receive any tax imposed under this chapter, in the manner, at the times, and under the conditions the director prescribes. The director shall also prescribe the manner, times, and conditions under which the receipt of the tax by those depositories is to be treated as payment of the tax to the department.

3. Every withholding agent employing not more than two persons who expects to employ either or both of such persons for the full calendar year may, with respect to such persons, pay with the withholding tax return due for the first calendar quarter of the year the full amount of income taxes required to be withheld from the wages of such persons for the full calendar year. The amount to be paid shall be computed as if the employee were employed for the full calendar year for the same wages and with the same pay periods as prevailed during the first quarter of the year with respect to such employee. No such lump sum payment of withheld income tax shall be made without the written consent of all employees involved. The withholding agent shall be entitled to recover from the employee any part of such lump sum payment that represents an advance to the employee. If a withholding agent pays a lump sum with the first quarterly return the withholding agent shall be excused from filing further quarterly returns for the calendar year involved unless the withholding agent hires other or additional employees.

4. Every withholding agent who fails to withhold or pay to the department any sums required by this chapter to be withheld and paid, shall be personally, individually, and corporately liable therefor to the state of Iowa, and any sum or sums withheld in accordance with the provisions of subsections 1 and 12, shall be deemed to be held in trust for the state of Iowa. Notwithstanding sections 490A.601 and 490A.602, this subsection applies to a member or manager of a limited liability company.

5. In the event a withholding agent fails to withhold and pay over to the department any amount required to be withheld under subsections 1 and 12 of this section, such amount may be assessed against such employer or withholding agent in the same manner as prescribed for the assessment of income tax under the provisions of divisions II and VI of this chapter.

6. Whenever the director determines that any employer or withholding agent has failed to withhold or pay over to the department sums required to be withheld under subsections 1 and 12 of this section the unpaid amount thereof shall be a lien as defined in section 422.26, shall attach to the property of said employer or withholding agent as therein provided, and in all other respects the procedure with respect to such lien shall apply as set forth in said section 422.26.

7. Every withholding agent required to deduct and withhold a tax under subsections 1 and 12 of this section shall furnish to such employee, nonresident, or other person in respect of the remuneration paid by such employer or withholding agent to such employee, nonresident, or other person during the calendar year, on or before January 31 of the succeeding year, or, in the case of employees, if the employee's employment is terminated before the close of such calendar year, within thirty days from the day on which the last payment of wages is made, if requested by such employee, but not later than January 31 of the following year, a written statement showing the following:

- a. The name and address of such employer or withholding agent, and the identification number of such employer or withholding agent.
- b. The name of the employee, nonresident, or other person and that person's federal social security account number, together with the last known address of such employee, nonresident, or other person to whom wages have been paid during such period.
- c. The gross amount of wages, or other taxable income, paid to the employee, nonresident, or other person.

d. The total amount deducted and withheld as tax under the provisions of subsections 1 and 12 of this section.

e. The total amount of federal income tax withheld.

The statements required to be furnished by this subsection in respect of any wages or other taxable Iowa income shall be in such form or forms as the director may, by regulation, prescribe.

8. An employer or withholding agent shall be liable for the payment of the tax required to be deducted and withheld or the amount actually deducted, whichever is greater, under subsections 1 and 12 of this section; and any amount deducted and withheld as tax under subsections 1 and 12 of this section during any calendar year upon the wages of any employee, nonresident, or other person shall be allowed as a credit to the employee, nonresident, or other person against the tax imposed by section 422.5, irrespective of whether or not such tax has been, or will be, paid over by the employer or withholding agent to the department as provided by this chapter.

9. The amount of any overpayment of the individual income tax liability of the employee taxpayer, nonresident, or other person which may result from the withholding and payment of withheld tax by the employer or withholding agent to the department under subsections 1 and 12, as compared to the individual income tax liability of the employee taxpayer, nonresident, or other person properly and correctly determined under the provisions of section 422.4, to and including section 422.25, may be credited against any income tax or installment thereof then due the state of Iowa and any balance of one dollar or more shall be refunded to the employee taxpayer, nonresident or other person with interest at the rate in effect under section 421.7 for each month or fraction of a month, the interest to begin to accrue on the first day of the second calendar month following the date the return was due to be filed or was filed, whichever is the later date. Amounts less than one dollar shall be refunded to the taxpayer, nonresident, or other person only upon written application, in accordance with section 422.73, and only if the application is filed within twelve months after the due date of the return. Refunds in the amount of one dollar or more provided for by this subsection shall be paid by the treasurer of state by warrants drawn by the director of revenue and finance, or an authorized employee of the department, and the taxpayer's return of income shall constitute a claim for refund for this purpose, except in respect to amounts of less than one dollar. There is appropriated, out of any funds in the state treasury not otherwise appropriated, a sum sufficient to carry out the provisions of this subsection.

10. *a.* An employer or withholding agent required under this chapter to furnish a statement required by this chapter who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish the statement is, for each failure, subject to a civil penalty of five hundred dollars, the penalty to be in addition to any criminal penalty otherwise provided by the Code.

b. In addition to the tax or additional tax, any person or withholding agent shall pay a penalty as provided in section 421.27. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7, for each month counting each fraction of a month as an entire month, computed from the date the semimonthly, monthly, or quarterly deposit form was required to be filed. The penalty and interest become a part of the tax due from the withholding agent.

c. If any withholding agent, being a domestic or foreign corporation, required under the provisions of this section to withhold on wages or other taxable Iowa income subject to this chapter, fails to withhold the amounts required to be withheld, make the required returns or remit to the department the amounts withheld, the director may, having exhausted all other means of enforcement of the provisions of this chapter, certify such fact or facts to the secretary of state, who shall thereupon cancel the articles of incorporation or certificate of authority (as the case may be) of such corporation, and the rights of such corporation to carry on business in the state of Iowa shall thereupon cease. The secretary of state shall immediately notify by registered mail such domestic or foreign corporation of the action taken by the secretary of state. The provisions of section 422.40, subsection 3, shall be applicable.

d. The department shall upon request of any fiduciary furnish said fiduciary with a certificate of acquittance showing that no liability as a withholding agent exists with respect to the estate or trust for which said fiduciary acts, provided the department has determined that there is no such liability.

11. *a.* A person or married couple filing a return shall make estimated tax payments if the person's or couple's Iowa income tax attributable to income other than wages subject to withholding can reasonably be expected to amount to two hundred dollars or more for the taxable year, except that, in the cases of farmers and fishermen, the exceptions provided in the Internal Revenue Code with respect to making estimated payments apply. The estimated tax shall be paid in quarterly installments. The first installment shall be paid on or before the last day of the fourth month of the taxpayer's tax year for which the estimated payments apply. The other installments shall be paid on or before the last day of the sixth month of the tax year, the last day of the ninth month of the tax year, and the last day of the first month after the tax year. However, at the election of the person or married couple, an installment of the estimated tax may be paid prior to the date prescribed for its payment. If a person or married couple filing a return has reason to believe that the person's or couple's Iowa income tax may increase or decrease, either for purposes of meeting the

requirement to make estimated tax payments or for the purpose of increasing or decreasing estimated tax payments, the person or married couple shall increase or decrease any subsequent estimated tax payments accordingly.

b. In the case of persons or married couples filing jointly, the total balance of the tax payable after credits for taxes paid through withholding, as provided in subsection 1 of this section, or through payment of estimated tax, or a combination of withholding and estimated tax payments is due and payable on or before April 30 following the close of the calendar year, or if the return is to be made on the basis of a fiscal year, then on or before the last day of the fourth month following the close of the fiscal year.

c. If a taxpayer is unable to make the taxpayer's estimated tax payments, the payments may be made by a duly authorized agent, or by the guardian or other person charged with the care of the person or property of the taxpayer.

d. Any amount of estimated tax paid is a credit against the amount of tax found payable on a final, completed return, as provided in subsection 9, relating to the credit for the tax withheld against the tax found payable on a return properly and correctly prepared under sections 422.5 through 422.25, and any overpayment of one dollar or more shall be refunded to the taxpayer and the return constitutes a claim for refund for this purpose. Amounts less than one dollar shall not be refunded. The method provided by the Internal Revenue Code for determining what is applicable to the addition to tax for underpayment of the tax payable applies to persons required to make payments of estimated tax under this section except the amount to be added to the tax for underpayment of estimated tax is an amount determined at the rate in effect under section 421.7. This addition to tax specified for underpayment of the tax payable is not subject to waiver provisions relating to reasonable cause, except as provided in the Internal Revenue Code. Underpayment of estimated tax shall be determined in the same manner as provided under the Internal Revenue Code and the exceptions in the Internal Revenue Code also apply.

e. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return for the taxable year credited to the taxpayer's tax liability for the following taxable year.

12. In the case of nonresidents having income subject to taxation by Iowa, but not subject to withholding of such tax under subsection 1 hereof, withholding agents shall withhold from such income at the same rate as provided in subsection 1 hereof, and such withholding agents and such nonresidents shall be subject to the provisions of this section, according to the context, except that such withholding agents may be absolved of such requirement to withhold taxes from such nonresident's income upon receipt of a certificate from the department issued in accordance with the provisions of section 422.17, as hereby amended. In the case of nonresidents having income from a trade or business carried on by them in whole or in part within the state of Iowa, such nonresident shall be considered to be subject to the provisions of this subsection unless such trade or business is of such nature that the business entity itself, as a withholding agent, is required to and does withhold Iowa income tax from the distributions made to such nonresident from such trade or business.

Notwithstanding this subsection, withholding agents are not required to withhold state income tax from payments subject to taxation made to nonresidents for commodity credit certificates, grain, livestock, domestic fowl, or other agricultural commodities or products sold to the withholding agents by the nonresidents or their representatives, if the withholding agents provide on forms prescribed by the department information relating to the sales required by the department to determine the state income tax liabilities of the nonresidents. However, the withholding agents may elect to make estimated tax payments on behalf of the nonresidents on the basis of the net incomes of the nonresidents from the agricultural commodities or products, if the estimated tax payments are made on or before the last day of the first month after the end of the tax years of the nonresidents.

13. The director shall enter into an agreement with the secretary of the treasury of the United States with respect to withholding of income tax as provided by this chapter, pursuant to an Act of Congress, section 1207 of the Tax Reform Act of 1976, Public Law 94-455, amending title 5, section 5517 of the United States Code.

14. The director may, when necessary and advisable in order to secure the collection of the tax required to be deducted and withheld or the amount actually deducted, whichever is greater, require an employer or withholding agent to file with the director a bond, issued by a surety company authorized to conduct business in this state and approved by the insurance commissioner as to solvency and responsibility, in an amount as the director may fix, to secure the payment of the tax and penalty due or which may become due. In lieu of the bond, securities shall be kept in the custody of the department and may be sold by the director at public or private sale, without notice to the depositor, if it becomes necessary to do so in order to recover any tax and penalty due. Upon a sale, any surplus above the amounts due under this section shall be returned to the employer or withholding agent who deposited the securities.

If the withholding agent fails to file the bond as requested by the director to secure collection of the tax, the withholding agent is subject to penalty for failure to file the bond. The penalty is equal to fifteen percent of the tax the withholding agent is required to withhold on an annual basis. However, the penalty shall not exceed five thousand dollars.

Section History: Early form

[C39, § 6943.048; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.16; 81 Acts, ch 131, § 4--:6, ch 133, § 1, 4; 82 Acts, ch 1022, § 1, 2, 8, ch 1023, § 29, ch 1180, § 2, 8]

Section History: Recent form

83 Acts, ch 160, § 3, 4; 83 Acts, ch 179, § 11; 84 Acts, ch 1173, § 4; 86 Acts, ch 1007, § 23--:25; 86 Acts, ch 1208, § 1; 86 Acts, ch 1241, § 16; 87 Acts, ch 115, § 55; 87 Acts, ch 214, § 4; 87 Acts, 1st Ex, ch 1, § 26; 88 Acts, ch 1028, §25, 26; 88 Acts, ch 1157, §1; 89 Acts, ch 6, § 4, 5; 89 Acts, ch 251, § 17, 18; 90 Acts, ch 1172, § 8; 90 Acts, ch 1248, § 11 ~IUnnumbered paragraph 2 of subsection 1 was inadvertently deleted in the 1991 Code and 1991 Code Supplement ~I91 Acts, ch 215, § 4; 92 Acts, 2nd Ex, ch 1001, § 238; 94 Acts, ch 1165, §13--:15

Internal References

Referred to in § 15.331, 15A.7, 15A.9, 99B.21, 99D.16, 99E.19, 99F.18, 260E.5, 422.4, 422.17, 422.38

Footnotes

1991 amendment adding unnumbered paragraph 2 to subsection 1 effective January 1, 1992, for tax years beginning on or after that date; 91 Acts, ch 215, §8 ~I1994 amendment to subsection 1, unnumbered paragraph 3, applies retroactively to January 1, 1994, for distributions from qualified pension plans made on or after that date; 94 Acts, ch 1165, §47 ~ISubsection 1, unnumbered paragraph 5, is retroactive to January 1, 1994, for tax years beginning on or after that date; 94 Acts, ch 1165, §48 ~I1994 amendment to subsection 4 applies retroactively to July 1, 1993; 94 Acts, ch 1165, §45

TITLE XIII. COMMERCE

SUBTITLE 3. MONEY AND CREDIT

CHAPTER 537A. CONTRACTS

537A.4 Gaming contracts void--exceptions.

All promises, agreements, notes, bills, bonds, or other contracts, mortgages or other securities, when the whole or any part of the consideration thereof is for money or other valuable thing won or lost, laid, staked, or bet, at or upon any game of any kind or on any wager, are absolutely void and of no effect.

This section does not apply to a contract for the operation of or for the sale or rental of equipment for games of skill or games of chance, if both the contract and the games are in compliance with chapter 99B. This section does not apply to wagering under the pari-mutuel method of wagering authorized by chapter 99D. This section does not apply to the sale, purchase or redemption of a ticket or share in the state lottery in compliance with chapter 99E. This section does not apply to wagering under the excursion boat gambling method of wagering authorized by chapter 99F. This section does not apply to the sale, purchase, or redemption of any ticket or similar gambling device legally purchased in Indian lands within this state.

Section History: Early form

[C51, § 2724; R60, § 4366; C73, § 4029; C97, § 4965; C24, 27, 31, 35, 39, § 9442; C46, 50, 54, 58, 62, 66, 71, 73, § 537.4; C75, 77, 79, 81, § 537A.4]

Section History: Recent form

83 Acts, ch 187, § 32; 85 Acts, ch 33, § 123; 86 Acts, ch 1125, § 4; 88 Acts, ch 1136, § 1; 89 Acts, ch 231, § 34; 92 Acts, ch 1203, § 19

TITLE XV. JUDICIAL BRANCH AND JUDICIAL PROCEDURES

SUBTITLE 5. SPECIAL ACTIONS

CHAPTER 657. NUISANCES

657.2 What deemed nuisances.

The following are nuisances:

1. The erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.
2. The causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.
3. The obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.
4. The corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. The obstructing or encumbering by fences, buildings, or otherwise the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.
6. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, places resorted to by persons participating in criminal gang activity prohibited by chapter 723A, or places resorted to by persons using controlled substances, as defined in section 124.101, subsection 5, in violation of law, or houses where drunkenness, quarreling, fighting, or breaches of the peace are carried on or permitted to the disturbance of others.
7. Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard, or alley or of a railroad or street railway track as to render dangerous the use thereof.
8. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees in cities.
9. Any object or structure hereafter erected within one thousand feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation, including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.
10. The depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by dealers in such articles within the fire limits of a city, unless in a building of fireproof construction, is a public nuisance.
11. The emission of dense smoke, noxious fumes, or fly ash in cities is a nuisance and cities may provide the necessary rules for inspection, regulation and control.
12. Dense growth of all weeds, vines, brush, or other vegetation in any city so as to constitute a health, safety, or fire hazard is a public nuisance.
13. Trees infected with Dutch elm disease in cities.

Section History: Early form

[C51, § 2759, 2761; R60, § 4409, 4411; C73, § 4089, 4091; C97, § 5078, 5080; S13, § 713-a, -b, 1056-a19; C24, 27, 31, 35, 39, § 5740, 5741, 6567, 6743, 12396; C46, 50, § 368.3, 368.4, 416.92, 420.54, 657.2; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 657.2]

Section History: Recent form

92 Acts, ch 1163, § 116; 92 Acts, ch 1231, § 56; 95 Acts, ch 195, §35

Internal References

Referred to in § 654B.1

Footnotes

See also § 319.10, 329.2, 329.5

TITLE XVI. CRIMINAL LAW AND PROCEDURE

SUBTITLE 1. CRIME CONTROL AND CRIMINAL ACTS

CHAPTER 725. VICE

725.5 Keeping gambling houses.

Any person who keeps a house, shop, or place resorted to for the purpose of gambling, or permits any person in any house, shop, or other place under the person's control or care to conduct bookmaking or to play at cards, dice, faro, roulette, equality, punchboard, slot machine or other game for money or other thing, commits a serious misdemeanor.

Section History: Early form

[C51, § 2721; R60, § 4363; C73, § 4026; C97, § 4962; C24, 27, 31, 35, 39, § 13198; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, § 726.1; C79, 81, § 725.5]

Internal References

Referred to in § 709A.1, 725.6, 725.15

Footnotes

Sections 725.5 to 725.18 were not enacted as a part of the criminal code but were transferred here from § 726.1 to 726.16, Code 1977

725.7 Gaming and betting---penalty.

1. Except as permitted in chapters 99B and 99D, a person shall not do any of the following:

- a. Participate in a game for any sum of money or other property of any value.
- b. Make any bet.
- c. For a fee, directly or indirectly, give or accept anything of value to be wagered or to be transmitted or delivered for a wager to be placed within or without the state of Iowa.
- d. For a fee, deliver anything of value which has been received outside the enclosure of a racetrack licensed under chapter 99D to be placed as wagers in the pari-mutuel pool or other authorized systems of wagering.
- e. Engage in bookmaking.

2. A person who violates this section is guilty of the following:

a. Illegal gaming in the fourth degree if the sum of money or value of other property involved does not exceed one hundred dollars. Illegal gaming in the fourth degree constitutes the following:

- (1) A serious misdemeanor for a first offense.
- (2) An aggravated misdemeanor for a second offense.
- (3) A class "D" felony for a third offense.
- (4) A class "C" felony for a fourth or subsequent offense.

b. Illegal gaming in the third degree if the sum of money or value of other property involved exceeds one hundred dollars but does not exceed five hundred dollars. Illegal gaming in the third degree constitutes the following:

- (1) An aggravated misdemeanor for a first offense.
- (2) A class "D" felony for a second offense.
- (3) A class "C" felony for a third or subsequent offense.

c. Illegal gaming in the second degree if the sum of money or value of other property involved exceeds five hundred dollars but does not exceed five thousand dollars. Illegal gaming in the second degree constitutes the following:

- (1) A class "D" felony for a first offense.
- (2) A class "C" felony for a second or subsequent offense.

d. Illegal gaming in the first degree if the sum of money or value of other property involved exceeds five thousand dollars. Illegal gaming in the first degree constitutes a class "C" felony.

Section History: Early form

[C51, § 2723; R60, § 4365; C73, § 4028; C97, § 4964; C24, 27, 31, 35, 39, § 13202; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, § 726.3; C79, 81, § 725.7]

Section History: Recent form

83 Acts, ch 187, § 34; 89 Acts, ch 296, §88
Internal References
Referred to in § 99D.24, 99F.15, 725.15

725.8 Wagers---forfeiture.

Property, whether real or personal, offered as a stake, or any moneys, property, or other thing of value staked, paid, bet, wagered, laid, or deposited in connection with or as a part of any game of chance, lottery, gambling scheme or device, gift enterprise, or other trade scheme unlawful under the laws of this state shall be forfeited to the state and said personal property may be seized and disposed of under chapter 809.

Section History: Early form

[C24, 27, 31, 35, 39, § 13203; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, § 726.4; C79, 81, § 725.8]

Internal References

Referred to in § 725.15

725.9 Possession of gambling devices prohibited---exception for manufacturing.

1. "*Antique slot machine*" means a slot machine which is twenty-five years old or older.
2. "*Antique pinball machine*" means a pinball machine which is twenty-five years old or older.
3. "*Gambling device*" means a device used or adapted or designed to be used for gambling and includes, but is not limited to, roulette wheels, klondike tables, punchboards, faro layouts, keno layouts, numbers tickets, slot machines, pinball machines, push cards, jar tickets and pull-tabs. However, "gambling device" does not include an antique slot machine, antique pinball machine, or any device regularly manufactured and offered for sale and sold as a toy, except that any use of such a toy, antique slot machine or antique pinball machine for gambling purposes constitutes unlawful gambling.
4. A person who, in any manner or for any purpose, except under a proceeding to destroy the device, has in possession or control a gambling device is guilty of a serious misdemeanor.
5. This chapter does not prohibit the possession of gambling devices by a manufacturer or distributor if the possession is solely for sale out of the state in another jurisdiction where possession of the device is legal or for sale in the state or use in the state if the use is licensed pursuant to either chapter 99B or chapter 99E.

Section History: Early form

[S13, § 4965-a; C24, 27, 31, 35, 39, § 13210; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, § 726.5; C79, 81, § 725.9]

Section History: Recent form

85 Acts, ch 32, §118; 86 Acts, ch 1052, § 3; 90 Acts, ch 1062, § 2

Internal References

Referred to in § 99A.1, 99B.18, 725.15

Footnotes

See chapter 99A

725.13 Definition of bookmaking.

"*Bookmaking*" means advancing gambling activity by accepting bets upon the outcome of future contingent events as a business other than as permitted in chapters 99B, 99D, and 99F. These events include, but are not limited to, the results of a trial or contest of skill, speed, power, or endurance of a person or beast or between persons, beasts, fowl, motor vehicles, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event.

Section History: Recent form

83 Acts, ch 187, § 35; 89 Acts, ch 67, §27

725.14 Exception for state racing and gaming commission and pari-mutuel betting.

This chapter does not prohibit the establishment and operation of a state racing and gaming commission and pari-mutuel betting on horse or dog races as provided in chapter 99D.

Section History: Recent form

83 Acts, ch 187, § 35

725.18 Collection service prohibited.

Any person who knowingly offers, gives or sells the person's services for use in collecting or enforcing any debt arising from gambling, whether or not lawful gambling, commits an aggravated misdemeanor.

Section History: Early form

[C77, § 726.16; C79, 81, § 725.18]
