

Minnesota Laws and Regulations – Part I

Legislature CHAPTER 3 LEGISLATURE, INDIAN AFFAIRS COUNCIL

3.873 Legislative commission on children, youth, and their families.

Subdivision 1. **Establishment.** A legislative commission on children, youth, and their families is established to study state policy and legislation affecting children and youth and their families. The commission shall make recommendations about how to ensure and promote the present and future well-being of Minnesota children and youth and their families, including methods for helping state and local agencies to work together.

Subd. 2. **Membership and terms.** The commission consists of 16 members that reflect a proportionate representation from each party. Eight members from the house shall be appointed by the speaker of the house and eight members from the senate shall be appointed by the subcommittee on committees of the committee on rules and administration. The membership must include members of the following committees in the house and the senate: health and human services, family services, health care, governmental operations and gaming, governmental operations and reform, education, judiciary, and ways and means or finance. The commission must have representatives from both rural and metropolitan areas. The terms of the members are for two years beginning on January 1 of each odd-numbered year.

Subd. 3. **Officers.** The commission shall elect a chair and vice-chair from among its members. The chair must alternate biennially between a member of the house and a member of the senate. When the chair is from one body, the vice-chair must be from the other body.

Subd. 4. **Staff.** The legislative coordinating commission shall supply the commission with the necessary staff, office space, and administrative services. The commission may use existing legislative staff to provide legal counsel, research, fiscal, secretarial, and clerical assistance.

Subd. 5. **Information collection; intergovernmental coordination.** (a) The commission may conduct public hearings and otherwise collect data and information necessary to its purposes.

(b) The commission may request information or assistance from any state agency or officer to assist the commission in performing its duties. The agency or officer shall promptly furnish any information or assistance requested.

(c) The secretary of the senate and the chief clerk of the house shall provide the commission with a copy of each bill introduced in the legislature concerning children, youth, and their families.

(d) To facilitate coordination between executive and legislative authorities, the commission shall meet with the children's cabinet.

Subd. 6. **Legislative reports and recommendations.** The commission shall make recommendations to the legislature to implement combining education, and health and human services and related support services provided to children and their families by the departments of education, human services, health and other state agencies into a single state department of children and families to provide more effective and efficient services. The commission also shall make recommendations to the legislature or committees, as it deems appropriate to assist the legislature in formulating legislation. To facilitate coordination between executive and legislative authorities, the commission shall review and evaluate the plans and proposals of the governor and state agencies on matters within the commission's jurisdiction and shall provide the legislature with its analysis and recommendations. The commission shall report its final recommendations under this subdivision and subdivision 7, paragraph (a), by January 1, 1994. The commission shall submit an annual progress report by January 1 of each year.

Subd. 7. **Priorities.** The commission shall give priority to studying on the matters described in this subdivision. To the extent possible, the commission shall consult with knowledgeable individuals in communities throughout the state when developing recommendations on these matters.

(a) The commission must study methods of improving legislative consideration of children and family issues and coordinating state agency programs relating to children and families, including the desirability, feasibility, and effects of creating a new state department of children's services, or children and family services, in which would be consolidated the responsibility for administering state programs relating to children and families.

(b) The commission must study methods of consolidating or coordinating local health, correctional, educational, job, and human services, to improve the efficiency and effectiveness of services to children and families and to eliminate duplicative and overlapping services. The commission shall evaluate and make recommendations on programs and projects in this and other states that encourage or require local jurisdictions to consolidate the delivery of services in schools or other community centers to reduce the cost and improve the coverage and accessibility of services. The commission must study and recommend specific effectiveness measures to accurately determine the efficacy of programs and services provided to children and their families. The commission must consider and recommend how to transform fragmented, crisis-oriented delivery systems focused on remediation services into flexible, comprehensive, well-coordinated, and family-oriented delivery systems focused on prevention services. The commission must review and evaluate what impact the classification of data has on service providers' ability to anticipate and meet the full range of families' needs.

(c) The commission must study methods of improving and coordinating educational, social, and health care services that assist children and families during the early childhood years. The commission's study must include an evaluation of the following: early childhood health and development screening services, headstart, child care, early childhood family education, and parents' involvement in programs meeting the social, cognitive, physical, and emotional needs of children.

(d) The commission must study methods of improving and coordinating the practices of judicial, correctional, and social service agencies in placing juvenile offenders and children who are in need of protective services or treatment.

(e) The commission must study and recommend constructive changes in preventive, community-based programs that encourage children and youth to responsibly serve their community.

Subd. 8. **Expenses and reimbursements.** The per diem and mileage costs of the members of the commission must be reimbursed as provided in section [3.101](#). The health and human services, governmental operations, education, judiciary, and appropriations or finance committees in the house and the senate shall share equally the responsibility to pay commission members' per diem and mileage costs from their committee budgets.

Subd. 9. Repealed, 1995 c 248 art 2 s 8

HIST: 1991 c 265 art 8 s 1; 1992 c 464 art 1 s 1; 1993 c 4 s 4; 1993 c 224 art 4 s 1-5; 1994 c 483 s 1; 1997 c 7 art 2 s 2,3

3.9221 Indian tribes; compacts to be negotiated.

Subdivision 1. **Definition.** For purposes of this section, "act" means the Indian Gaming Regulatory Act, Public Law Number 100-497, and future amendments to it.

Subd. 2. **Negotiations authorized.** The governor or the governor's designated representatives shall, pursuant to section 11 of the act, negotiate in good faith a tribal-state compact regulating the conduct of class III gambling, as defined in section 4 of the act, on Indian lands of a tribe requesting negotiations. The agreement may include any provision authorized under section 11(d)(3)(C) of the act. The attorney general is the legal counsel for the governor or the governor's representatives in regard to negotiating a compact under this section. If the governor appoints designees to negotiate under this subdivision, the designees must include at least two members of the senate and two members of the house of representatives, two of whom must be the chairs of the senate and house of representatives standing committees with jurisdiction over gambling policy.

Subd. 3. **Time limits.** (a) In the case of negotiations undertaken pursuant to a request for negotiations received before April 20, 1989, the authority granted under subdivision 2 to negotiate with an Indian tribe expires 180 days after April 20, 1989.

(b) In the case of negotiations undertaken pursuant to a request for negotiations received after April 20, 1989, the authority granted under subdivision 2 to negotiate with an Indian tribe expires 180 days after receipt of the request by the governor.

Subd. 4. **Terms of compact; rights of parties.** A compact agreed to on behalf of the state under this section must contain:

(1) a provision recognizing the right of each party to the agreement, including the legislature by joint resolution, to request that the agreement be renegotiated or replaced by a new compact, and providing the

terms under which either party, including the legislature, can request a renegotiation or the negotiation of a new compact; and

(2) a provision that in the event of a request for a renegotiation or a new compact the existing compact will remain in effect until renegotiated or replaced.

Subd. 5. **Report.** The governor, the attorney general, and the governor's designated representatives shall report to the house and senate committees having jurisdiction over gambling regulation annually. This report shall contain information on compacts negotiated, and an outline of prospective negotiations.

HIST: 1989 c 44 s 1; 1991 c 336 art 2 s 1; 1994 c 633 art 7 s 1,2

Legislature CHAPTER 3C REVISOR OF STATUTES

3C.13 Legal status of statutes.

Any volume of Minnesota Statutes, supplement to Minnesota Statutes, and Laws of Minnesota certified by the revisor according to section [3C.11](#), subdivision 1, is prima facie evidence of the statutes contained in it in all courts and proceedings.

Revised Laws of Minnesota 1905, General Statutes of Minnesota 1913, General Statutes of Minnesota 1923, Mason's Minnesota Statutes 1927, and supplements, appendix and addenda, or added volumes to these publications are prima facie evidence of the statutes contained in them in all courts and proceedings.

HIST: 1984 c 480 s 13; 1984 c 655 art 2 s 19 subd 2

Legislature, CHAPTER 3 LEGISLATURE, LEGISLATIVE AUDIT COMMISSION

3.97 Audit policy; creation of commission; transfer of functions of public examiner; access to data.

Subdivision 1. Continuous legislative review of the effect of grant-in-aid programs, the spending of public funds and their financing at all levels of government is required in the public interest to enable the enactment of appropriate legislation.

Subd. 2. The legislative audit commission is created. The commission consists of:

(1) the majority leader of the senate and the president of the senate or their designees;

(2) the chair of the senate committee on taxes or a designee who is a member of the committee;

(3) the chair of the senate committee on governmental operations and reform or a designee who is a member of the committee;

(4) the chair of the senate committee on finance or a designee who is a member of the committee;

(5) five members of the senate appointed by the senate minority leader;

(6) the speaker of the house and the chair of the house committee on rules or their designees;

(7) the chair of the house committee on taxes or a designee who is a member of the committee;

(8) the chair of the house committee on governmental operations and gaming or a designee who is a member of the committee;

(9) the chair of the house ways and means committee or a designee who is a member of the committee; and

(10) five members of the house appointed by the house minority leader.

The appointed members of the commission shall serve for a term commencing upon appointment and expiring at the opening of the next regular session of the legislature in the odd-numbered year and until a successor is appointed. A vacancy in the membership of the commission shall be filled for the unexpired term in a manner that will preserve the representation established by this subdivision.

The commission shall meet in January of each odd-numbered year to elect its chair and other officers as it may determine necessary. A chair shall serve a two-year term, expiring on January 1 in the odd-numbered year following election, and until a successor is elected. The chair shall alternate biennially between the senate and the house. The commission shall meet at the call of the chair or the executive secretary. The members shall serve without compensation but be reimbursed for their reasonable expenses as members of the legislature. The

commission may exercise the powers prescribed by section [3.153](#).

Subd. 3. The department of public examiner is transferred from the executive to the legislative branch.

Subd. 4. The legislative auditor is the executive secretary of the commission. The legislative auditor shall be appointed by the commission for a six-year term and serve in the unclassified service. The legislative auditor shall not at any time while in office hold any other public office. The legislative auditor shall not be removed from office before the expiration of the term of service except for cause after public hearing.

Subd. 5. The legislative auditor shall establish a financial audits division and a program evaluation division to fulfill the duties prescribed in this section. Each division shall be supervised by a deputy auditor, appointed by the legislative auditor, with the approval of the commission, for a term coterminous with the legislative auditor's term. The deputy auditors may be removed before the expiration of their terms only for cause. The legislative auditor and deputy auditors may each appoint a confidential secretary to serve at pleasure. The commission shall fix the salaries of the deputy auditors and confidential secretaries. The deputy auditors may perform and exercise the powers, duties and responsibilities imposed by law on the legislative auditor when authorized by the legislative auditor. The deputy auditors and the confidential secretaries serve in the unclassified civil service, but all other employees of the legislative auditor are in the classified civil service.

Subd. 6. All the powers, duties, and responsibilities of the department of public examiner relating to the state of Minnesota, its departments and agencies as described in Minnesota Statutes 1971, section [215.03](#), and any other law concerning powers, duties, and responsibilities of the public examiner not otherwise dealt with by Laws 1973, chapter 492, are transferred to the legislative auditor. Nothing in this subdivision shall supersede the powers conferred upon the commissioner of finance under section [16A.055](#).

Subd. 7. In addition to the legislative auditing duties concerning state financial matters, the legislative auditor shall also exercise and perform duties prescribed by rule of the legislature or either body of it or by the commission. The legislative auditor shall review department policies and evaluate projects or programs requested by the commission. Any standing legislative committee having legislative jurisdiction may request the commission to review projects or programs.

Subd. 8. The legislature may, by rule, provide to the legislative auditor the testimonial powers that are conferred by law on legislative standing commissions or committees.

Subd. 9. The legislative auditor is subject to the Government Data Practices Act, chapter 13. If data provided by the legislative auditor to the commission is disseminated by the commission or its members or agents in violation of section [13.05](#), subdivision 4, the commission is subject to liability under section [13.08](#), subdivisions 1 and 3.

Subd. 10. Members of the commission have access to data that is collected or used by the legislative auditor and classified as not public or as private or confidential only as authorized by resolution of the commission. The commission shall not authorize its members to have access to private or confidential data on individuals collected or used in connection with the collection of any tax.

Subd. 11. "Audit" as used in this subdivision means a financial audit, a program evaluation, a best practices review, or an investigation. Data relating to an audit are not public or with respect to data on individuals are confidential until the final report of the audit has been published or the audit is no longer being actively pursued. Data that support the conclusions of the report and that the legislative auditor reasonably believes will result in litigation are not public and with respect to data on individuals are confidential until the litigation has been completed or is no longer being actively pursued. Data on individuals that could reasonably be used to determine the identity of an individual supplying data for an audit are private if the data supplied by the individual were needed for an audit and the individual would not have provided the data to the legislative auditor without an assurance that the individual's identity would remain private, or the legislative auditor reasonably believes that the subject would not have provided the data. The definitions of terms provided in section [13.02](#) apply for purposes of this subdivision.

Subd. 12. The commission shall periodically select topics for the legislative auditor to evaluate. Topics may include any agency, program, or activity established by law to achieve a state purpose, or any topic that affects the operation of state government, but the commission shall give primary consideration to topics that are likely, upon examination, to produce recommendations for cost savings, increased productivity, or the elimination of duplication among public agencies.

HIST: 1973 c 492 s 12; 1973 c 720 s 76 subd 2; 1975 c 204 s 90; 1980 c 484 s 1-3; 1981 c 311 s 39; 1982 c 545 s 24; 1983 c 317 s 1; 1985 c 248 s 70; 1986 c 444; 1988 c 469 art 1 s 1; 1989 c 351 s 1; 1991 c 345 art 1 s 38; 1993 c 4 s 5; 1994 c 632 art 3

Constitutional Offices, CHAPTER 3C REVISOR OF STATUTES

4.47 Report on compulsive gambling.

The governor shall report to the legislature by February 1 of each odd-numbered year on the state's progress in addressing the problem of compulsive gambling. The report must include:

(1) a summary of available data describing the extent of the problem in Minnesota;

(2) a summary of programs, both governmental and private, that

(i) provide diagnosis and treatment for compulsive gambling;

(ii) enhance public awareness of the problem and the availability of compulsive gambling services;

(iii) are designed to prevent compulsive gambling and other problem gambling by elementary and secondary school students and vulnerable adults; and

(iv) offer professional training in the identification, referral, and treatment of compulsive gamblers;

(3) the likely impact on compulsive gambling of each form of gambling; and

(4) budget recommendations for state-level compulsive gambling programs and activities.

Ethics, Fund Investments, Emergency Management, CHAPTER 10A ETHICS IN GOVERNMENT

10A.01 Definitions.

Subdivision 1. **Scope.** For the purposes of sections 10A.01 to [10A.34](#), the terms defined in this section have the meanings given them unless the context clearly indicates otherwise.

Subd. 2. **Administrative action.** "Administrative action" means an action by any official, board, commission or agency of the executive branch to adopt, amend, or repeal a rule pursuant to chapter 14. "Administrative action" does not include the application or administration of an adopted rule, except in cases of rate setting, power plant and powerline siting and granting of certificates of need under chapter 116J.

Subd. 3. **Association.** "Association" means business, corporation, firm, partnership, committee, labor organization, club, or any other group of two or more persons, which includes more than an immediate family, acting in concert.

Subd. 4. **Associated business.** "Associated business" means any association in connection with which the individual is compensated in excess of \$50 except for actual and reasonable expenses in any month as a director, officer, member, partner, employer or employee, or is a holder of securities worth \$2,500 or more at fair market value.

Subd. 5. **Candidate.** "Candidate" means an individual who seeks nomination or election to any statewide or legislative office for which reporting is not required under federal laws. The term candidate shall also include an individual who seeks nomination or election to supreme court, court of appeals, or district court judgeships of the state. An individual shall be deemed to seek nomination or election if the individual has taken the action necessary under the law of the state of Minnesota to qualify for nomination or election, has received contributions or made expenditures in excess of \$100, or has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100, for the purpose of bringing about the individual's nomination or election. A candidate remains a candidate until the candidate's principal campaign committee is dissolved as provided in section [10A.24](#).

Subd. 6. **Board.** "Board" means the state campaign finance and public disclosure board.

Subd. 7. **Contribution.** "Contribution" means a transfer of funds or a donation in kind.

Contribution includes any loan or advance of credit to a political committee, political fund, or principal campaign committee, which loan or advance of credit is (a) forgiven, or (b) paid by an individual or an association other than the political committee, political fund, or principal campaign committee to which the loan or advance of credit is made. If an advance of credit or a loan is forgiven or paid as provided in this subdivision, it is a contribution in the year in which the loan or advance of credit is made.

A contribution made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

Contribution does not include services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee or political fund, or the publishing or broadcasting of news items or editorial comments by the news media.

Subd. 7a. **Transfer of funds.** "Transfer of funds" or "transfer" means money or negotiable instruments given by an individual or association to a political committee, political fund, or principal campaign committee for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

Subd. 7b. **Donation in kind.** "Donation in kind" means anything of value other than money or negotiable instruments given by an individual or association to a political committee, political fund, or principal campaign committee for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question. Donation in kind includes an approved expenditure.

Subd. 8. **Depository.** "Depository" means any bank, savings association or credit union, organized under federal or state law and transacting business within Minnesota.

Subd. 9. **Election.** "Election" means a primary, special primary, general or special election.

Subd. 9a. **Election cycle.** "Election cycle" means the period from January 1 following a general election for an office to December 31 following the next general election for that office, except that "election cycle" for a special election means the period from the date the special election writ is issued to 60 days after the special election is held.

Subd. 10. **Campaign expenditure.** "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

An expenditure is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

Except as provided in clause (a), expenditure includes the dollar value of a donation in kind.

Expenditure does not include:

- (a) Noncampaign disbursements as defined in subdivision 10c;
- (b) Transfers as defined in subdivision 7a;
- (c) Services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, or political fund; or
- (d) The publishing or broadcasting of news items or editorial comments by the news media.

Subd. 10a. **Approved expenditure.** "Approved expenditure" means an expenditure made on behalf of a candidate by an entity other than the principal campaign committee of that candidate, which expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of that candidate, the candidate's principal campaign committee or the candidate's agent. An approved expenditure is a contribution to that candidate.

Subd. 10b. **Independent expenditure.** "Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate, which expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent. An independent expenditure is not a contribution to that candidate. An expenditure by a political party or political party unit, as defined in section [10A.275](#), subdivision 3, in a race where the political party has a candidate on the ballot is not an independent expenditure.

Subd. 10c. **Noncampaign disbursement.** "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, by a political committee, political fund, or principal campaign committee for any of the following purposes:

- (a) payment for accounting and legal services;
- (b) return of a contribution to the source;
- (c) repayment of a loan made to the political committee, political fund, or principal campaign committee by that committee or fund;
- (d) return of a public subsidy;
- (e) payment for food, beverages, entertainment, and facility rental for a fundraising event;
- (f) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;
- (g) a donation in kind given to the political committee, political fund, or principal campaign committee for purposes listed in clauses (e) and (f);
- (h) payment for food and beverages provided to campaign volunteers while they are engaged in campaign activities;
- (i) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities;
- (j) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses;
- (k) costs of child care for the candidate's children when campaigning;
- (l) fees paid to attend a campaign school;
- (m) costs of a postelection party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first;
- (n) interest on loans paid by a principal campaign committee on outstanding loans;
- (o) filing fees;
- (p) post-general election thank-you notes or advertisements in the news media;

(q) the cost of campaign material purchased to replace defective campaign material, if the defective material is destroyed without being used;

(r) transfers to a party unit as defined in section [10A.275](#), subdivision 3; and

(s) other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question.

The board shall determine whether an activity involves a noncampaign disbursement within the meaning of this subdivision.

Subd. 11. **Lobbyist.** (a) "Lobbyist" means an individual:

(1) engaged for pay or other consideration, or authorized to spend money by another individual, association, political subdivision, or public higher education system, who spends more than five hours in any month or more than \$250, not including the individual's own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; or

(2) who spends more than \$250, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

(b) "Lobbyist" does not include:

(1) a public official;

(2) an employee of the state, including an employee of any of the public higher education systems;

(3) an elected local official;

(4) a nonelected local official or an employee of a political subdivision acting in an official capacity, unless the nonelected official or employee of a political subdivision spends more than 50 hours in any month attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit other than the political subdivision employing the official or employee, by communicating or urging others to communicate with public or local officials, including time spent monitoring legislative or administrative action, or the official action of a metropolitan governmental unit, and related research, analysis, and compilation and dissemination of information relating to legislative or administrative policy in this state, or to the policies of metropolitan governmental units;

(5) a party or the party's representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(6) an individual while engaged in selling goods or services to be paid for by public funds;

(7) a news medium or its employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(8) a paid expert witness whose testimony is requested by the body before which the witness is appearing, but only to the extent of preparing or delivering testimony;

(9) a stockholder of a family farm corporation as defined in section [500.24](#), subdivision 2, who does not spend over \$250, excluding the stockholder's own travel expenses, in any year in communicating with public officials; or

(10) a party or the party's representative appearing to present a claim to the legislature and communicating to legislators only by the filing of a claim form and supporting documents and by appearing at public hearings on the claim.

Subd. 12. **Major political party.** "Major political party" means a major political party as defined in section [200.02](#), subdivision 7.

Subd. 13. **Minor political party.** "Minor political party" means any party other than a major political party:

(a) Under whose name in the last applicable general election a candidate filed for legislative office and received not less than ten percent of the vote for that office, or filed for statewide office; or

(b) Which files a petition with the secretary of state containing the names of 2,000 individuals registered to vote in Minnesota and declaring that the signers desire that the party be eligible to receive money from the state elections campaign fund in the same manner as a major political party.

For the purposes of this chapter, all individuals who are eligible to vote in areas where there is no permanent system of registration shall be considered registered voters.

Subd. 14. Repealed, 1976 c 307 s 35

Subd. 15. **Political committee.** "Political committee" means any association as defined in subdivision 3 whose major purpose is to influence the nomination or election of a candidate or to promote or defeat a ballot question.

"Political committee" includes a major political party as defined in subdivision 12, a minor political party as defined in subdivision 13, and any principal campaign committee formed pursuant to section [10A.19](#).

Subd. 16. **Political fund.** "Political fund" means any accumulation of dues or voluntary contributions by an association other than a political committee, which accumulation is collected or expended for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

Subd. 17. **Political party.** "Political party" means either a major political party or a minor political party.

Subd. 18. **Public official.** "Public official" means any:

- (a) member of the legislature;
- (b) constitutional officer in the executive branch and the officer's chief administrative deputy;
- (c) member, chief administrative officer or deputy chief administrative officer of a state board or commission which has at least one of the following powers: (i) the power to adopt, amend or repeal rules, or (ii) the power to adjudicate contested cases or appeals;
- (d) commissioner, deputy commissioner, or assistant commissioner of any state department as designated pursuant to section [15.01](#);
- (e) individual employed in the executive branch who is authorized to adopt, amend or repeal rules or adjudicate contested cases;
- (f) executive director of the state board of investment;
- (g) executive director of the Indian affairs intertribal board;
- (h) commissioner of the iron range resources and rehabilitation board;
- (i) commissioner of mediation services;
- (j) deputy of any official listed in clauses (e) to (i);
- (k) judge of the workers' compensation court of appeals;
- (l) administrative law judge or compensation judge in the state office of administrative hearings or referee in the department of economic security;
- (m) solicitor general or deputy, assistant or special assistant attorney general;
- (n) individual employed by the legislature as secretary of the senate, legislative auditor, chief clerk of the house, revisor of statutes, or researcher, legislative analyst, or attorney in the office of senate counsel and research or house research;
- (o) member, regional administrator, division director, general counsel, or operations manager of the metropolitan council;
- (p) the director of the racing commission, the director of the gambling control board, the director of the state lottery, and the deputy director of the state lottery;
- (q) director of the division of alcohol and gambling enforcement in the department of public safety;
- (r) member or executive director of the higher education facilities authority;
- (s) member of the board of directors or president of the Minnesota world trade center corporation; or
- (t) member or chief administrator of a metropolitan agency.

Subd. 19. **Office holder.** "Office holder" means an individual who holds any statewide or legislative office, except a federal office for which candidates are required to report under federal laws, state supreme court justice, and judges of the court of appeals or district court.

Subd. 20. **Advance of credit.** "Advance of credit" means any money owed for goods provided or services rendered. An advance of credit is an expenditure or a noncampaign disbursement in the year in which the goods or services are used or consumed. Advance of credit does not mean loan as defined in subdivision 21.

Subd. 21. **Loan.** "Loan" means an advance of money or anything of value made to a political committee, political fund, or principal campaign committee.

Subd. 22. **Financial institution.** "Financial institution" means a lending institution chartered by an agency of the federal government or regulated by the commissioner of commerce.

Subd. 23. **Ballot question.** "Ballot question" means a question or proposition which is placed on the ballot and which may be voted on by all voters of the state. "Promoting or defeating a ballot question" includes activities related to qualifying the question for placement on the ballot.

Subd. 24. **State committee.** "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the state level.

Subd. 25. **Local official.** "Local official" means a person who holds elective office in a political subdivision or who is appointed to or employed in a public position in a political subdivision in which the person has authority to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money.

Subd. 26. **Metropolitan governmental unit.** "Metropolitan governmental unit" means any of the seven counties in the metropolitan area as defined in section [473.121](#), subdivision 2, a regional railroad authority established by one or more of those counties under section [398A.03](#), a city with a population of over 50,000 located in the seven-county metropolitan area, the metropolitan council, a metropolitan agency as defined in section [473.121](#), subdivision 5a, the Minnesota state high school league, and Minnesota Technology, Inc.

Subd. 27. **Political subdivision.** "Political subdivision" means the metropolitan council, a metropolitan agency as defined in section [473.121](#), subdivision 5a, a municipality as defined in section [471.345](#), subdivision 1, the Minnesota state high school league, and Minnesota Technology, Inc.

Subd. 28. **Principal.** "Principal" means an individual or association that:

- (1) spends more than \$500 in the aggregate in any calendar year to engage a lobbyist, compensate a lobbyist, or authorize the expenditure of money by a lobbyist; or
- (2) is not included in clause (1) and spends a total of at least \$50,000 in any calendar year on efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units, as described in section [10A.04](#), subdivision 6.

Subd. 29. **Population.** "Population" means the population established by the most recent federal census, by a special census taken by the United States Bureau of the Census, by an estimate made by the metropolitan council, or by an estimate made by the state demographer under section [4A.02](#), whichever has the latest stated date of count or estimate.

HIST: 1974 c 470 s 1; 1975 c 271 s 6; 1976 c 307 s 1-4; 1978 c 463 s 1-18; 1979 c 59 s 1-3; 1980 c 509 s 1; 1980 c 587 art 2 s 1-7; 1980 c 607 art 14 s 45 subd 1; art 17 s 1-8; 1980 c 614 s 40; 1980 c 615 s 60; 1981 c 29 art 7 s 1; 1981 c 346 s 1; 1981 c 356 s 248; 1982 c 424 s 130; 1983 c 247 s 5,6; 1983 c 258 s 10; 1983 c 289 s 114 subd 1; 1984 c 619 s 11; 1984 c 640 s 32; 1984 c 654 art 3 s 13; 1984 c 655 art 1 s 92; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1Sp1986 c 3 art 1 s 2; 1987 c 186 s 15; 1988 c 686 art 1 s 40; 1989 c 209 art 1 s 1,2; 1989 c 334 art 6 s 1; 1990 c 562 art 8 s 2; 1990 c 608 art 1 s 1-5; art 3 s 1-3; 1991 c 233 s 109; 1991 c 322 s 19; 1991 c 349 s 1,2; 1993 c 13 art 1 s 1; 1993 c 318 art 2 s 1-4; 1994 c 483 s 1; 1994 c 628 art 3 s 2; 1995 c 189 s 8; 1995 c 202 art 1 s 25; 1996 c 277 s 1; 1997 c 129 art 2 s 15; 1997 c 202 art 2 s 63; 1998 c 254 art 2 s 3

Ethics, Fund Investments, Emergency Management, CHAPTER 11A INVESTMENT OF STATE AND PENSION ASSETS

11A.041 Report on postretirement investment fund investment performance and adjustment calculation.

The state board of investment shall annually report to the legislative commission on pensions and retirement, the house of representatives governmental operations and gaming committee, and the senate governmental operations and reform committee on the investment performance investment activities, and postretirement adjustment calculations of the Minnesota postretirement investment fund established under section [11A.18](#). The annual report must be filed before January 1. The contents of the report must include the reporting requirements specified by the legislative commission on pensions and retirement as part of the standards adopted by the commission under section [3.85](#), subdivision 10. The report also may include any additional information that the state board of investment determines is appropriate.

HIST: 1992 c 530 s 3; 1993 c 4 s 7

Data Practices, CHAPTER 13 GOVERNMENT DATA PRACTICES, LAWS CLASSIFYING GOVERNMENT DATA CODIFIED OUTSIDE CHAPTER 13

13.99 Other government data provisions.

Subdivision 1. **Provisions coded in other chapters.** The laws enumerated in this section are codified outside of this chapter and classify government data as other than public or place restrictions on access to government data. Except for records of the judiciary, the definitions and general provisions in sections [13.01](#) to [13.07](#) and the remedies and penalties provided in sections [13.08](#) and [13.09](#) also apply to data and records listed in this section and to other provisions of statute that provide access to government data and records or rights regarding government data similar to those established by section [13.04](#).

Subd. 2. Repealed, 1996 c 305 art 1 s 2

Subd. 3. **Legislative audit data.** Data relating to an audit performed under section [3.97](#) are classified under section [3.97](#), subdivision 11.

Subd. 3a. **State auditor data.** Data relating to an audit under chapter 6 are classified under section [6.715](#).

Subd. 4. **Campaign finance and public disclosure board information.** Disclosure by the campaign finance and public disclosure board of information about a complaint or investigation is governed by section [10A.02](#), subdivision 11.

Subd. 5. **Ethical practices investigation data.** The record of certain investigations conducted under chapter 10A is classified, and disposition of certain information is governed, by section [10A.02](#), subdivision 11a.

Subd. 5a. **Campaign finance and public disclosure board opinions.** A request for a campaign finance and public disclosure board advisory opinion and the opinion itself are classified under section [10A.02](#), subdivision 12.

Subd. 6. **Register of ownership of bonds or certificates.** Information in a register of ownership of state bonds or certificates is classified under section [16A.672](#), subdivision 11.

Subd. 6a. **State debt collection data.** Data on debtors received, collected, created, or maintained by the commissioner of finance are classified under section [16D.06](#).

Subd. 6b. **Agriculture best management practices loan program.** Data collected by the commissioner on applicants or borrowers for the agriculture best management practices loan program are governed by section [17.117](#).

Subd. 6c. **Aquaculture data.** Data on aquatic farming held by the pollution control agency is classified under section [17.498](#).

Subd. 6d. **Agricultural producer association and commodity handlers.** Access to data filed with the commissioner of agriculture by agricultural producer associations and agricultural commodity handlers is governed by section [17.694](#), subdivision 1.

Subd. 6e. **Agricultural commodities promotion council.** Financial information on producers of agricultural commodities that is provided to the agricultural commodities promotion council is governed by section [17.62](#).

Subd. 7. **Pesticide dealer and applicator records.** Records of pesticide dealers and applicators inspected or copied by the commissioner of agriculture are classified under sections [18B.37](#), subdivision 5, and [18B.38](#).

Subd. 7a. **Wholesale produce dealers.** Financial data submitted by a license applicant is classified under section [27.04](#), subdivision 2.

Subd. 7b. **Meat inspection data.** Access to information obtained by the commissioner of agriculture under the meat inspection law is governed by section [31A.27](#), subdivision 3.

Subd. 8. **Dairy reports to commissioner of agriculture.** Disclosure of information in reports about dairy production required to be filed with the commissioner of agriculture under section [32.19](#) is governed by that section.

Subd. 8a. **Dairy product data.** Financial and production information obtained by the commissioner of agriculture to administer chapter 32 are classified under section [32.71](#), subdivision 2.

Subd. 9. **Family farm security.** Data received or prepared by the commissioner of agriculture regarding family farm security loans are classified in section [41.63](#).

Subd. 10. **Rural finance authority.** Certain data received or prepared by the rural finance authority are classified pursuant to section [41B.211](#).

Subd. 11. **World trade center.** Certain data received or developed by the governing board of the Minnesota world trade center corporation are classified in section [44A.08](#).

Subd. 11a. **Certain data received by commissioner of commerce.** Certain data received because of the participation of the commissioner of commerce in various organizations are classified under section [45.012](#).

Subd. 11b. **Bank incorporators data.** Financial data on individuals submitted by incorporators proposing to organize a bank are classified under section [46.041](#), subdivision 1.

Subd. 12. **Commerce department data on financial institutions.** The disclosure by the commissioner of commerce of facts and information obtained in the course of examining financial institutions and in relation to complaints filed with the commissioner is governed by section [46.07](#), subdivisions 2 and 3.

Subd. 12a. **Electronic financial terminal data.** Information obtained by the commissioner of commerce in the course of verifying electronic financial terminal equipment is classified under section [47.66](#).

Subd. 13. Repealed, 1997 c 157 s 72

Subd. 13a. **Licensed currency exchanges.** Financial information in annual reports submitted to the commissioner of commerce by currency exchanges is classified in section [53A.081](#), subdivision 4.

Subd. 14. **Examination of insurance companies.** Information obtained by the commissioner of commerce in the course of supervising or examining insurance companies is classified under section [60A.03](#), subdivision 9. An examination report of a domestic or foreign insurance company prepared by the commissioner is classified pursuant to section [60A.031](#), subdivision 4.

Subd. 14a. **Surplus lines insurer data.** Reports and recommendations on the financial condition of eligible surplus lines insurers submitted to the commissioner of commerce are classified under section [60A.208](#), subdivision 7.

Subd. 14b. **Material transaction reports.** Reports required to be filed by insurers regarding certain material transactions are classified under section [60A.135](#), subdivision 4.

Subd. 14c. **Risk-based capital data.** Risk-based capital reports and related reports, data, and orders maintained by the commissioner of commerce are classified under section [60A.67](#).

Subd. 15. **Insurance company information.** Data received by the department of commerce under section [60A.93](#) are classified as provided by that section.

Subd. 15a. **Viatical settlements data.** Viatical settlements data provided to the commissioner of commerce are classified under section [60A.968](#), subdivision 2.

Subd. 16. **Proceeding and records in summary proceedings against insurers.** Access to proceedings and records of summary proceedings by the commissioner of commerce against insurers and judicial review of such proceedings is governed by section [60B.14](#), subdivisions 1, 2, and 3.

Subd. 17. **Insurance Guaranty Association.** The commissioner may share data with the board of the Minnesota Insurance Guaranty Association as provided by section [60C.14](#), subdivision 2.

Subd. 17a. **HMO financial statements.** Unaudited financial statements submitted to the commissioner by a health maintenance organization are classified under section [62D.08](#), subdivision 6.

Subd. 17b. **Insurer financial condition data.** Recommendations on the financial condition of an insurer submitted to the commissioner of commerce by the insurance guaranty association are classified under section [60C.15](#).

Subd. 18. **Various insurance data.** Disclosure of information obtained by the commissioner of commerce under section [60D.18](#), [60D.19](#), or [60D.20](#) is governed by section [60D.22](#).

Subd. 18a. **Insurer supervision data.** Data on insurers supervised by the commissioner of commerce under chapter 60G are classified under section [60G.03](#), subdivision 1.

Subd. 18b. **Insurance agent termination.** Access to data on insurance agent terminations held by the commissioner of commerce is governed by section [60K.10](#).

Subd. 18c. **Association data.** Certain data submitted to the commissioner of commerce by a life and health guaranty association are classified under section [61B.28](#), subdivision 2.

Subd. 18d. **Solicitor or agent data.** Data relating to suspension or revocation of a solicitor's or agent's license are classified under section [62C.17](#), subdivision 4.

Subd. 19. **HMO examinations.** Data obtained by the commissioner of health in the course of an examination of the affairs of a health maintenance organization are classified under section [62D.14](#), subdivisions 1 and 4.

Subd. 19a. **Health technology data.** Data obtained by the health technology advisory committee about a specific technology are classified under section [62J.152](#), subdivision 7.

Subd. 19b. **Provider conflicts of interest.** Certain data in transition plans submitted by providers to comply with section [62J.23](#), subdivision 2, on conflicts of interest are classified under that section.

Subd. 19c. **Health data and research initiatives.** Data collected by the commissioner of health for data and research initiatives are classified under section [62J.321](#), subdivision 5. Data collected for purposes of sections [62J.301](#) to [62J.42](#) that identify patients or providers are classified under section [62J.321](#), subdivision 5.

Subd. 19d. **Health carrier data.** Data received by the commissioner from health carriers under chapter 62L are classified under section [62L.10](#), subdivision 3.

Subd. 19e. **Small employer reinsurance association data.** Patient identifying data held by the reinsurance association are classified under section [62L.16](#), subdivision 6.

Subd. 19f. **Legal service plan solicitor or agent data.** Information contained in a request by a legal service plan for termination of a solicitor's or agent's license is classified under section [62G.20](#), subdivision 3.

Subd. 19g. Repealed, 1998 c 254 art 1 s 3

Subd. 19h. **Health care cost containment.** Data required to be submitted under health care cost containment provisions are classified by sections [62J.321](#), subdivision 5, and [62J.452](#), subdivision 2.

Subd. 19i. **Health data institute.** Health data institute data are classified under section [62J.452](#), subdivision 2.

Subd. 19j. **Essential community provider.** Data on applications for designation as an essential community provider are classified under section [62Q.19](#), subdivision 2.

Subd. 19k. **Preferred provider agreements.** The terms and conditions of certain preferred provider agreements are classified in section [62E.13](#), subdivision 11.

Subd. 19l. **Minnesota risk adjustment association.** Data privacy issues concerning the Minnesota risk adjustment association are governed by section [62Q.03](#), subdivision 9.

Subd. 19m. **Data held by office of health care consumer assistance, advocacy, and information.** Consumer complaint data collected or maintained by the office of health care consumer assistance, advocacy, and information under sections [62J.77](#) and [62J.80](#) are classified under section [62J.79](#), subdivision 4.

Subd. 20. **Auto theft data.** The sharing of data on auto thefts between law enforcement and prosecutors and insurers is governed by section [65B.82](#).

Subd. 20a. **Insurance contract data.** Certain insurance contract data held by the commissioner of commerce are classified under section [72A.20](#), subdivision 15.

Subd. 20b. **Health claims appeals.** Documents that are part of an appeal from denial of health care coverage for experimental treatment are classified under section [72A.327](#).

Subd. 20c. **Self-insurers advisory committee.** Data received by the self-insurers' advisory committee from the commissioner is classified under section [79A.02](#), subdivision 2.

Subd. 21. **Self-insurers' security fund.** Disclosure of certain data received by the self-insurers' security is governed by section [79A.09](#), subdivision 4.

Subd. 21a. **Mineral data.** Data submitted in applying for a permit for mineral deposit evaluation and as a result of exploration are classified under section [103I.605](#), subdivisions 2 and 4.

Subd. 21b. **Transfer station data.** Data received by a county or district from a transfer station under section [115A.84](#), subdivision 5, are classified under that section.

Subd. 21c. **Customer lists.** Customer lists provided to counties or cities by solid waste collectors are classified under section [115A.93](#), subdivision 5.

Subd. 21d. Repealed, 1997 c 7 art 1 s 1

Subd. 21e. **Exclusion of waste materials.** Data included in a document submitted by a transfer station under section [115A.84](#), subdivision 5, is classified under that subdivision.

Subd. 22. **Environmental response.** Certain data obtained by the pollution control agency from a person who may be responsible for a release are classified in section [115B.17](#), subdivision 5.

Subd. 23. **Hazardous waste generators.** Data exchanged between the pollution control agency and the department of revenue under sections [115B.24](#) and [116.075](#), subdivision 2, are classified under section [115B.24](#), subdivision 5.

Subd. 24. **Solid waste records.** (a) Records of solid waste facilities received, inspected, or copied by a county pursuant to section [115A.882](#) are classified pursuant to section [115A.882](#), subdivision 3.

(b) Customer lists provided to counties or cities by solid waste collectors are classified under section [115A.93](#).

Subd. 24a. Repealed, 1997 c 7 art 1 s 2

Subd. 24b. **Petroleum tank release.** Certain data in connection with a petroleum tank release are classified under section [115C.03](#), subdivision 8.

Subd. 24c. **Toxic pollution prevention plans.** Toxic pollution prevention plans are classified under section [115D.09](#).

Subd. 25. **Hazardous waste generators.** Information provided by hazardous waste generators under section [473.151](#) and for which confidentiality is claimed is governed by section [116.075](#), subdivision 2.

Subd. 26. **Pollution control agency tests.** Trade secret information made available by applicants for certain projects of the pollution control agency is classified under section [116.54](#).

Subd. 27. **Low-level radioactive waste.** Certain data given to the pollution control agency by persons who generate, transport, or dispose of low-level radioactive waste are classified under section [116C.840](#).

Subd. 27a. **Minnesota Technology, Inc.** Data on a tape of a closed board meeting of Minnesota Technology, Inc. are classified under section [116O.03](#), subdivision 6. Certain data disclosed to the board or employees of Minnesota Technology, Inc. are classified under section [116O.03](#), subdivision 7.

Subd. 27b. **Airlines data.** Specified data about an airline submitted in connection with state financing of certain aircraft maintenance facilities are classified under section [116R.02](#), subdivision 3.

Subd. 27c. **Minnesota Business Finance, Inc.** Various data held by Minnesota Business Finance, Inc. are classified under section [116S.02](#), subdivision 8.

Subd. 27d. **Learning readiness program.** Data on a child participating in a learning readiness program are classified under section [124D.15](#), subdivision 9.

Subd. 27e. **Developmental screening.** Data collected in early childhood developmental screening programs are classified under section [121A.18](#).

Subd. 27f. **Teacher license reporting.** Data on certain teacher discharges and resignations reported under section [122A.20](#) are classified under that section.

Subd. 28. **Student financial aid.** Data collected and used by the higher education services office on applicants for financial assistance are classified under section [136A.162](#).

Subd. 28a. **Higher education services office.** Financial records submitted by schools registering with the higher education services office are classified under section [136A.64](#).

Subd. 28b. **Nursing home residents.** Access to certain data on assessments of care and services to nursing home residents is governed by section [144.0721](#), subdivision 2.

Subd. 29. **Restrictions on access to archives records.** Limitations on access to records transferred to the state archives are provided in section [138.17](#), subdivision 1c.

Subd. 29a. **Parents' social security number; birth certificate.** Parents' social security numbers provided for a child's birth certificate are classified under section [144.215](#), subdivision 4.

Subd. 29b. **Public health studies.** Data held by the commissioner of health in connection with public health studies are classified under section [144.053](#).

Subd. 29c. **Rural hospital grants.** Financial data on individual hospitals under the rural hospital grant program are classified under section [144.147](#), subdivision 5.

Subd. 30. **Foundling registration.** The report of the finding of an infant of unknown parentage is classified under section [144.216](#), subdivision 2.

Subd. 31. **New certificate of birth.** In circumstances in which a new certificate of birth may be issued under section [144.218](#), the original certificate of birth is classified as provided in that section.

Subd. 31a. **Vital records.** Physical access to vital records is governed by section [144.225](#), subdivision 1.

Subd. 32. **Birth certificate of child of unmarried parents.** Access to the birth certificate of a child whose parents were not married to each other when the child was conceived or born is governed by sections [144.225](#), subdivision 2, and [257.73](#).

Subd. 33. **Human leukocyte antigen type registry.** Data identifying a person and the person's human leukocyte antigen type which is maintained by a government entity are classified under section [144.336](#), subdivision 1.

Subd. 34. **Health threat procedures.** Data in a health directive issued by the commissioner of health or a board of health are classified in section [144.4186](#).

Subd. 35. **Certain health inspections.** Disclosure of certain data received by the commissioner of health under sections [144.50](#) to [144.56](#) is governed by section [144.58](#).

Subd. 35a. **Public hospital meetings.** Data from a closed meeting of a public hospital are classified under section [144.581](#), subdivision 5.

Subd. 35b. **Epidemiologic data.** Epidemiologic data that identify individuals are classified under section [144.6581](#).

Subd. 35c. **Traumatic injury data.** Data on individuals with a brain or spinal injury collected by the commissioner of health are classified under section [144.665](#).

Subd. 36. **Cancer surveillance system.** Data on individuals collected by the cancer surveillance system are classified pursuant to section [144.69](#).

Subd. 37. **Medical malpractice claims reports.** Reports of medical malpractice claims submitted by an insurer to the commissioner of health under section [144.693](#) are classified as provided in section [144.693](#), subdivision 1.

Subd. 38. **Health test results.** Health test results obtained under chapter 144 are classified under section [144.768](#).

Subd. 38a. **Ambulance service data.** Data required to be reported by ambulance services under section [144E.17](#), subdivision 1, are classified under that section.

Subd. 38b. **Lead exposure data.** Data on individuals exposed to lead in their residences are classified under sections [144.9502](#), subdivision 9, and [144.9504](#), subdivision 2.

Subd. 39. **Home care services.** Certain data from providers of home care services given to the commissioner of health are classified under sections [144A.46](#), subdivision 5, and [144A.47](#).

Subd. 39a. Repealed, 1996 c 305 art 1 s 6

Subd. 40. **Terminated pregnancies.** Disclosure of reports of terminated pregnancies made to the commissioner of health is governed by section [145.413](#), subdivision 1.

Subd. 41. **Review organization data.** Disclosure of data and information acquired by a review organization as defined in section [145.61](#), subdivision 5, is governed by section [145.64](#).

Subd. 42. **Family planning grants.** Information gathered under section [145.925](#) is classified under section [145.925](#), subdivision 6.

Subd. 42a. **Board of medical practice.** Data held by the board of medical practice in connection with disciplinary matters are classified under sections [147.01](#), subdivision 4, and [147.091](#), subdivision 6.

Subd. 42b. **Report of violations.** Certain reports of violations submitted to the board of medical practice are classified under section [147.121](#).

Subd. 43. **Physician investigation records.** Patient medical records provided to the board of medical practice under section [147.131](#) are classified under that section.

Subd. 44. **Record of physician disciplinary action.** The administrative record of any disciplinary action taken by the board of medical practice under sections [147.01](#) to [147.22](#) is sealed upon judicial review as provided in section [147.151](#). Certain data relating to sexual misconduct are classified under sections [147.092](#) and [147.01](#).

Subd. 45. **Chiropractic review records.** Data of the board of chiropractic examiners and the peer review committee are classified under sections [148.10](#), subdivision 1, and [148.106](#), subdivision 10.

Subd. 46. **Disciplinary action against nurses.** Data obtained under section [148.261](#), subdivision 5, by the board of nursing are classified under that subdivision.

Subd. 47. **Medical records obtained by board of nursing.** Medical records of a patient cared for by a nurse who is under review by the board of nursing are classified under sections [148.191](#), subdivision 2, and [148.265](#).

Subd. 48. **Records of nurse disciplinary action.** The administrative records of any disciplinary action taken by the board of nursing under sections [148.171](#) to [148.285](#) are sealed upon judicial review as provided in section [148.266](#).

Subd. 48a. **Licensee residence addresses.** Residence addresses of certain professional licensees are classified under section [148B.04](#), subdivision 6.

Subd. 49. **Client, licensee, and reporting of violations records obtained by boards on mental health and social work.** Client records obtained by a board conducting an investigation under chapter 148B are classified by section [148B.09](#). Certain licensing data and data in reports of violations under chapter 148B are classified by sections [148B.04](#) and [148B.08](#).

Subd. 50. **Records of social work disciplinary action.** The administrative records of disciplinary action taken by the board of social work are classified under section [148B.285](#).

Subd. 51. **Social work and mental health boards.** Certain data obtained by licensing boards under chapter 148B are classified under section [148B.175](#), subdivisions 2 and 5.

Subd. 52. **Records of unlicensed mental health practitioner disciplinary actions.** The administrative records of disciplinary action taken by the commissioner of health pursuant to sections [148B.60](#) to [148B.71](#) are sealed upon judicial review as provided in section [148B.65](#).

Subd. 52a. **Mortuary science data.** (a) Data on investigations and disciplinary actions by the commissioner of health are classified under section [149A.04](#), subdivision 5.

(b) Data on individuals in annual reports required of certain funeral establishments are classified under section [149A.97](#), subdivision 11.

Subd. 52b. **Unlicensed mental health practitioners.** Certain data in connection with the investigation of an unlicensed mental health practitioner are classified under section [148B.66](#), subdivision 2.

Subd. 53. **Board of dentistry.** Data obtained by the board of dentistry under section [150A.08](#), subdivision 6, are classified as provided in that subdivision. Data obtained under section [150A.081](#) are classified under that section.

Subd. 53a. **Controlled substance convictions.** Data on certain convictions for controlled substances offenses may be expunged under section [152.18](#), subdivision 3.

Subd. 53b. **Veterinary records.** Veterinary records on clients when a veterinarian is under investigation are classified under section [156.082](#). Records on the veterinarian are classified under section [156.125](#).

Subd. 54. **Motor vehicle registration.** Various data on motor vehicle registrations are classified under sections [168.345](#) and [168.346](#).

Subd. 54a. **Chemical use assessment.** A report of an assessment conducted in connection with a conviction for driving while intoxicated is classified under section [169.126](#), subdivision 2.

Subd. 54b. **Driver's license cancellations.** Access to data on individuals whose driver's licenses have been canceled is governed by section [171.043](#).

Subd. 55. **Driver's license photograph or image.** Photographs or electronically produced images taken by the commissioner of public safety for drivers' licenses are classified under section [171.07](#), subdivision 1a.

Subd. 56. **Driver's license address.** The residence address of certain individuals provided to the commissioner of public safety in drivers' license applications is classified under section [171.12](#), subdivision 7.

Subd. 56a. **Driver's license cancellation due to blindness.** Data on a visual examination performed for purposes of driver's license cancellation are classified under section [171.32](#), subdivision 3.

Subd. 57. **Accident report.** Release of accident reports provided to the department of public safety under section [169.09](#) is governed by section [169.09](#), subdivision 13.

Subd. 57a. **Special transportation service provider.** Certain data relating to alleged violations by special transportation service providers is governed under section [174.30](#), subdivision 9.

Subd. 57b. **Special transportation service; ambulance service.** Data relating to a person's physical condition or medical treatment gathered by the commissioner of transportation or the commissioner of health in an investigation of an alleged violation by a special transportation service provider, is governed by section [174.315](#).

Subd. 58. **Reporters to labor and industry.** Disclosure of the names of certain persons supplying information to the department of labor and industry is prohibited by sections [175.24](#) and [175.27](#).

Subd. 58a. **Workers' compensation medical data.** Access to medical data in connection with a workers' compensation claim is governed by section [176.138](#).

Subd. 58b. **Workers' compensation coverage.** Access to the identity of anyone reporting that an employer may not have workers' compensation insurance is governed by section [176.184](#), subdivision 5.

Subd. 59. **Report of death or injury to labor and industry.** Access to a report of worker injury or death during the course of employment filed by an employer under section [176.231](#) is governed by sections [176.231](#), subdivisions 8 and 9, and [176.234](#).

Subd. 59a. **Employee drug and alcohol tests.** Results of employee drug and alcohol tests are classified under section [181.954](#), subdivision 2.

Subd. 59b. **Identity of employees making complaints.** The disclosure of the identity of employees making certain complaints is governed by section [181.932](#), subdivision 2.

Subd. 60. **Occupational safety and health.** Certain data gathered or prepared by the commissioner of labor and industry as part of occupational safety and health inspections are classified under sections [182.659](#), subdivision 8, and [182.668](#), subdivision 2.

Subd. 61. **Employee drug and alcohol test results.** Test results and other information acquired in the drug and alcohol testing process, with respect to public sector employees and applicants, are classified by section [181.954](#), subdivision 2, and access to them is governed by section [181.954](#), subdivision 3.

Subd. 62. **Certain veterans benefits.** Access to files pertaining to claims for certain veterans benefits is governed by section [196.08](#).

Subd. 63. **Veterans service officers.** Data maintained by veterans service officers are classified under section [197.603](#).

Subd. 63a. **Registered voter lists.** Access to registered voter lists is governed by section [201.091](#).

Subd. 64. **Health licensing boards.** Data held by health licensing boards are classified under sections [214.10](#), subdivision 8, and [214.25](#), subdivision 1.

Subd. 64a. **Combined boards data.** Data held by licensing boards participating in a health professional services program are classified under sections [214.34](#) and [214.35](#).

Subd. 65. **Commissioner of public service.** Certain energy data maintained by the commissioner of public service are classified under section [216C.17](#), subdivision 4.

Subd. 65a. **Energy conservation investment loan.** Data contained in applications for energy conservation investment loans, including supporting technical documentation, is governed by section [216C.37](#), subdivisions 3a and 3b.

Subd. 65b. **Transporting hazardous material or waste; permit application.** Data submitted under section [221.0355](#), subdivision 9, and received by the commissioner of transportation on applications for permits to transport hazardous material or hazardous waste are classified under section [221.0355](#), subdivision 9.

Subd. 65c. **Rail carrier data.** Certain data submitted to the commissioner of transportation and the attorney general by acquiring and divesting rail carriers are classified under section [222.86](#), subdivision 3.

Subd. 65d. **Grain buyer licensee data.** Financial data submitted to the commissioner by grain buyer's license applicants are classified under section [223.17](#), subdivision 6.

Subd. 65e. **Predatory offenders.** Data provided under section [243.166](#), subdivision 7, are classified under that section.

Subd. 66. **Mental health records.** Disclosure of the names and addresses of persons receiving mental health services is governed by section [245.467](#), subdivision 6.

Subd. 67. **Children receiving mental health services.** Disclosure of identities of children receiving mental health services under sections [245.487](#) to [245.4887](#), and the identities of their families, is governed by section [245.4876](#), subdivision 7.

Subd. 68. **Mental health clinics and centers.** Data collected by mental health clinics and centers approved by the commissioner of human services are classified under section [245.69](#), subdivision 2.

Subd. 68a. **Ombudsman for mental health and retardation.** Access by the ombudsman for mental health and mental retardation to private data on individuals is provided under section [245.94](#), subdivision 1.

Subd. 69. **State hospital patients.** Contents of, and access to, records of state hospital patients required to be kept by the commissioner of human services are governed by section [246.13](#).

Subd. 70. **Chemical dependency service agreements.** Certain data received by the commissioner of human services from chemical dependency programs are classified under section [246.64](#), subdivision 4.

Subd. 71. Repealed, 1995 c 186 s 7

Subd. 72. **Prepetition screening.** Prepetition screening investigations for judicial commitments are classified as private under section [253B.07](#), subdivision 1, paragraph (b).

Subd. 73. **Subject of research; recipients of alcohol or drug abuse treatment.** Access to records of individuals who are the subject of research or who receive information, assessment, or treatment concerning alcohol or drug abuse is governed by section [254A.09](#).

Subd. 74. **Child mortality review panel.** Data practices of the commissioner of human services as part of the child mortality review panel are governed by section [256.01](#), subdivision 12.

Subd. 74a. **Technology assistance review panel.** Data maintained by the technology assistance review panel under section [256.9691](#), subdivision 6, are classified under that section.

Subd. 74b. **Medical assistance cost reports.** Medical records of medical assistance recipients obtained by the commissioner of human services for purposes of section [256B.27](#), subdivision 5, are classified under that section.

Subd. 74c. **Ombudsman on aging.** Data held by the ombudsman on aging are classified under section [256.9744](#).

Subd. 75. **Records of artificial insemination.** Access to records held by a court or other agency concerning artificial insemination performed on a married woman with her husband's consent is governed by section [257.56](#), subdivision 1.

Subd. 76. **Parentage action records.** Inspection of records in parentage actions held by the court, the commissioner of human services, or elsewhere is governed by section [257.70](#).

Subd. 76a. **Name changes of protected witnesses and victims.** Court records of name changes of participants in a witness and victim protection program are governed by section [259.10](#), subdivision 2.

Subd. 76b. **Fathers' adoption registry.** Data in the fathers' adoption registry are classified under section [259.52](#), subdivision 4.

Subd. 77. **Commissioner's records of adoption.** Records of adoption held by the commissioner of human services are classified, and access to them is governed by section [259.79](#), subdivisions 1 and 3.

Subd. 78. **Adoption records.** Various adoption records are classified under section [259.53](#), subdivision 1. Access to the original birth certificate of a person who has been adopted is governed by section [259.89](#).

Subd. 79. **Peace officers, court services, and corrections records of juveniles.** Inspection and maintenance of juvenile records held by police and the commissioner of corrections and disclosure to school officials of court services data on juveniles adjudicated delinquent are governed by section [260.161](#).

Subd. 79a. **Court records.** Court records of dispositions involving placement outside this state are classified under section [260.195](#), subdivision 6.

Subd. 80. **Commissioner of economic security.** Data maintained by the commissioner of economic security are classified under section [268.19](#).

Subd. 81. **Transitional housing data.** Certain data collected, used, or maintained by the recipient of a grant to provide transitional housing are classified under section [268.38](#), subdivision 9.

Subd. 81a. **Wage subsidy program.** Data on individuals collected under section [268.552](#), subdivision 7, are classified under that subdivision.

Subd. 81b. **Minnesota youth program.** Data on individuals under the Minnesota youth program are classified under section [268.561](#), subdivision 7.

Subd. 82. **Emergency jobs program.** Data maintained by the commissioner of economic security for the emergency jobs program are classified under section [268.673](#), subdivision 5.

Subd. 83. **Vocational rehabilitation data.** Disclosure of data obtained by the commissioner of economic security regarding the vocational rehabilitation of an injured or disabled employee is governed by section [268A.05](#).

Subd. 84. **Revenue Recapture Act.** Data maintained by the commissioner of revenue under the Revenue Recapture Act are classified under section [270A.11](#).

Subd. 85. **Tax data; classification and disclosure.** Classification and disclosure of tax data created, collected, or maintained by the department of revenue under chapter 290, 290A, 291, or 297A are governed by chapter 270B.

Subd. 85a. **Certificate of value.** Data in a real estate certificate of value filed with the county auditor is classified under section [272.115](#), subdivision 1.

Subd. 86. **Homestead applications.** The classification and disclosure of certain information collected to determine homestead classification is governed by section [273.124](#), subdivision 13.

Subd. 86a. **Political contribution refund.** Certain political contribution refund data in the revenue department are classified under section [290.06](#), subdivision 23.

Subd. 86b. **Gross earnings taxes.** Certain patient data provided to the department of revenue under chapter 295 are classified under section [295.57](#), subdivision 2.

Subd. 87. **Motor vehicle registrar data.** Disclosure of certain information obtained by motor vehicle registrars is governed by section [297B.12](#).

Subd. 88. **Marijuana and controlled substance tax information.** Disclosure of information obtained under chapter 297D is governed by section [297D.13](#), subdivisions 1 to 3.

Subd. 89. **Mineral rights filings.** Data filed pursuant to section [298.48](#) with the commissioner of revenue by owners or lessees of mineral rights are classified under section [298.48](#), subdivision 4.

Subd. 89a. **Criminal alert network.** Data on private sector members of the criminal alert network are classified under section [299A.61](#), subdivision 2.

Subd. 90. **Undercover buy fund.** Records relating to applications for grants under section [299C.065](#) are classified under section [299C.065](#), subdivision 4.

Subd. 90a. **Criminal justice information network.** Data collected by the criminal justice data communications network are classified under section [299C.46](#), subdivision 5.

Subd. 90b. **Criminal gang investigative data system.** Data in the criminal gang investigative data system are classified in section [299C.091](#).

Subd. 90c. **Arson investigative data system.** Data in the arson investigative data system are classified in section [299F.04](#), subdivision 3a.

Subd. 91. **Arson investigation.** Data maintained as part of arson investigations are governed by sections [299F.055](#) and [299F.056](#).

Subd. 91a. **Hazardous substance emergency.** Data collected by a fire department under sections [299F.091](#) to [299F.099](#) are classified under sections [299F.095](#) and [299F.096](#), subdivision 1.

Subd. 92. **Office of pipeline safety.** Data obtained by the director of the office of pipeline safety are classified under section [299J.13](#).

Subd. 92a. **Gambling enforcement investigative data.** Data provided to the director of the division of alcohol and gambling enforcement by a governmental entity located outside Minnesota for use in an authorized investigation, audit, or background check are governed by section [299L.03](#), subdivision 11.

Subd. 92b. **Data on videotape consumers.** Personally identifiable information on videotape consumers received by law enforcement agencies is classified under section [325I.02](#), subdivision 2.

Subd. 92c. **Sports bookmaking tax.** Disclosure of facts contained in a sports bookmaking tax return is prohibited by section [297E.03](#), subdivision 8.

Subd. 92d. **Lottery prize winner.** Certain data on a lottery prize winner are classified under section [349A.08](#), subdivision 9.

Subd. 92e. **Professional corporations or firms.** Access to records of a professional firm held by a licensing board under section [319B.11](#) is governed by that section.

Subd. 92f. **Private detective license.** Certain data on applicants for licensure as private detectives are classified under section [326.3382](#), subdivision 3.

Subd. 92g. **Lottery prize winner.** Certain data on lottery prize winners are classified under section [349A.08](#), subdivision 9.

Subd. 93. **Human rights conciliation efforts.** Disclosure of information concerning efforts in a particular case to resolve a charge through education conference, conciliation, and persuasion is governed by section [363.06](#), subdivision 6.

Subd. 94. **Human rights department investigative data.** Access to human rights department investigative data by persons other than department employees is governed by section [363.061](#).

Subd. 94a. **Property tax abatement.** Certain data in an application for property tax abatement are classified under section [375.192](#), subdivision 2.

Subd. 95. **Records of closed county board meetings.** Records of Hennepin county board meetings permitted to be closed under section [383B.217](#), subdivision 7, are classified under that subdivision.

Subd. 95a. **Medical examiner investigations.** Certain data on deceased persons collected or created by the Hennepin county medical examiner are classified under section [383B.225](#).

Subd. 96. **Inquest data.** Certain data collected or created in the course of a coroner's or medical examiner's inquest are classified under sections [390.11](#), subdivision 7, and [390.32](#), subdivision 6.

Subd. 96a. **Solid waste collector.** Data obtained in an audit of a solid waste collector under section [400.08](#), subdivision 4, are classified under that subdivision.

Subd. 96b. **911 emergency telephone service.** Public utility data and names, addresses, and telephone numbers provided to a 911 system under section [403.07](#), subdivisions 3 and 4, are classified under those subdivisions.

Subd. 96c. **Public facilities authority.** Financial information received or prepared by a public facilities authority are classified under section [446A.11](#), subdivision 11.

Subd. 96d. **Housing finance agency.** Financial information regarding a housing finance agency loan or grant recipient are classified under section [462A.065](#).

Subd. 97. Repealed, 1996 c 471 art 7 s 34

Subd. 97a. **Economic development data.** Access to preliminary information submitted to the commissioner of trade and economic development under sections [469.142](#) to [469.151](#) or sections [469.152](#) to [469.165](#) is limited under section [469.154](#), subdivision 2.

Subd. 97b. **Capital intensive public service proposals and negotiation documents.** Proposals received from vendors, and all government data received from vendors or generated by a municipality relating to negotiations with vendors, for capital intensive public services are classified under section [471A.03](#), subdivision 3.

Subd. 98. **Municipal self-insurer claims.** Disclosure of information about individual claims filed by the employees of a municipality which is a self-insurer is governed by section [471.617](#), subdivision 5.

Subd. 98a. **Arena acquisition.** Certain data in connection with a decision whether to acquire a sports arena are classified under section [473.598](#), subdivision 4.

Subd. 98b. **Metropolitan airports commission.** Certain airline data submitted to the metropolitan airports commission in connection with the issuance of revenue bonds are classified under section [473.6671](#), subdivision 3.

Subd. 99. **Metropolitan solid waste landfill fee.** Information obtained from the operator of a mixed municipal solid waste disposal facility under section [473.843](#) is classified under section [473.843](#), subdivision 4.

Subd. 100. **Municipal obligation register data.** Information contained in a register with respect to the ownership of certain municipal obligations is classified under section [475.55](#), subdivision 6.

Subd. 100a. **Child support attorneys.** Certain data provided by an applicant or recipient of child support enforcement services are classified under section [518.255](#).

Subd. 101. **Child custody proceedings.** Court records of child custody proceedings may be sealed as provided in section [518.168](#).

Subd. 101a. **Custody mediation.** Child custody or visitation mediation records are classified under section [518.619](#), subdivision 5.

Subd. 101b. **International will registration.** Information on the execution of international wills is classified under section [524.2-1010](#), subdivision 1.

Subd. 101c. **Domestic abuse petitioner's residence.** Court records on the location or residence of a petitioner in a domestic abuse proceeding are governed by section [518B.01](#), subdivision 3b.

Subd. 101d. **Child support parties.** Certain data regarding the location of parties in connection with child support proceedings are governed by sections [256.87](#), subdivision 8; [257.70](#); and [518.005](#), subdivision 5. Certain data regarding the suspension of licenses of persons owing child support are governed by section [518.551](#), subdivision 13a, and certain data on newly hired employees maintained by the public authority for support enforcement are governed by section [256.998](#).

Subd. 102. **Farmer-lender mediation.** Data on debtors and creditors under the Farmer-Lender Mediation Act are classified under section [583.29](#).

Subd. 103. **Sources of presentence investigation reports.** Disclosure of confidential sources in presentence investigation reports is governed by section [609.115](#), subdivision 4.

Subd. 104. **Use of motor vehicle to patronize prostitutes.** Use of a motor vehicle in the commission of an offense under section [609.324](#) is noted on the offender's driving records and the notation is classified pursuant to section [609.324](#), subdivision 5.

Subd. 105. **Sexual assault crime victims.** Data on sexual assault victims are governed by section [609.3471](#).

Subd. 105a. **Data for assessment of offenders.** Access to data for the purpose of a mental health assessment of a convicted harassment offender is governed by section [609.749](#), subdivision 6.

Subd. 106. **Financial disclosure for public defender services.** Disclosure of financial information provided by a defendant seeking public defender services is governed by section [611.17](#).

Subd. 107. **Crime victim notice of release.** Data on crime victims who request notice of an offender's release are classified under section [611A.06](#).

Subd. 107a. **Sex offender HIV tests.** Results of HIV tests of sex offenders under section [611A.19](#), subdivision 2, are classified under that section.

Subd. 108. **Battered women.** Data on battered women maintained by grantees for emergency shelter and support services for battered women are governed by section [611A.32](#), subdivision 5.

Subd. 109. **Crime victim claims for reparations.** Claims and supporting documents filed by crime victims seeking reparations are classified under section [611A.57](#), subdivision 6.

Subd. 110. **Crime victim ombudsman.** Data maintained by the crime victim ombudsman are classified under section [611A.74](#), subdivision 2.

Subd. 110a. **Child abuse videotapes.** Access to child abuse videotapes prepared as part of an investigation or evaluation is governed by sections [13.391](#) and [611A.90](#).

Subd. 111. **Reports of gunshot wounds.** Disclosure of the name of a person making a report under section [626.52](#), subdivision 2, is governed by section [626.53](#).

Subd. 112. **Child abuse report records.** Data contained in child abuse report records are classified under section [626.556](#).

Subd. 112a. **Reports of alcohol abuse.** Data on persons making reports under section [626.5563](#) are classified under section [626.5563](#), subdivision 5.

Subd. 113. **Vulnerable adult report records.** Data contained in vulnerable adult report records are classified under section [626.557](#), subdivision 12b.

Subd. 113a. **Child protection team.** Data acquired by a case consultation committee or subcommittee of a child protection team are classified by section [626.558](#), subdivision 3.

Subd. 114. **Peace officer discipline procedures.** Access by an officer under investigation to the investigating agency's investigative report on the officer is governed by section [626.89](#), subdivision 6.

Subd. 114a. **Domestic abuse police reports.** Police reports on domestic incidents are classified under section [629.341](#).

Subd. 115. **Health data institute data.** Data created, collected, received, maintained, or disseminated by the Minnesota health data institute established under section [62J.451](#) are classified under section [62J.452](#); access to and disclosure of such data are governed by section [62J.452](#).

HIST: 1991 c 106 s 6; 1992 c 511 art 7 s 1; 1992 c 569 s 4; 1993 c 13 art 1 s 12; 1993 c 65 s 1; 1993 c 177 s 1; 1993 c 240 s 1; 1993 c 326 art 2 s 1; 1993 c 345 art 3 s 18; 1993 c 351 s 20-22; 1994 c 483 s 1; 1994 c 589 s 1; 1994 c 616 s 1; 1994 c 618 art 1 s 17; art 2 s 9-64; 1994 c 632 art 2 s 10; art 3 s 17; 1994 c 636 art 4 s 4; 1995 c 142 s 1; 1995 c 155 s 1,2; 1995 c 186 s 8; 1995 c 212 art 3 s 59; 1995 c 229 art 4 s 3; 1995 c 234 art 5 s 1; 1995 c 259 art 1 s 27; art 4 s 4; art 5 s 1-51; 1996 c 305 art 1 s 3-5; 1996 c 334 s 1; 1996 c 408 art 9 s 1; 1996 c 415 s 1; 1996 c 440 art 1 s 18; art 2 s 1-14; 1996 c 471 art 7 s 1; 1997 c 7 art 1 s 3; 1997 c 22 art 2 s 1,8; 1997 c 66 s 79; 1997 c 129 art 2 s 15; 1997 c 193 s 1; 1997 c 199 s 14; 1997 c 202 art 2 s 63; 1997 c 203 art 6 s 2; 1997 c 215 s 1; 1997 c 218 s 1; 1997 c 239 art 8 s 1; 1Sp1997 c 3 s 8-18; 1998 c 273 s 1; 1998 c 361 s 1; 1998 c 367 art 11 s 2; 1998 c 371 s 6,7; 1998 c 373 s 1; 1998 c 382 art 2 s 1; 1998 c 397 art 11 s 3; 1998 c 407 art 2 s 1

State Agencies, CHAPTER 15 STATE AGENCIES IN GENERAL, CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD

15.50 Capitol area architectural and planning board.

Subdivision 1. **Purpose, members, officers.** (a) The legislature finds that the purposes of the board are to (1) preserve and enhance the dignity, beauty and architectural integrity of the capitol, the buildings immediately adjacent to it, the capitol grounds, and the capitol area; (2) protect, enhance, and increase the open spaces within the capitol area when deemed necessary and desirable for the improvement of the public enjoyment thereof; (3) develop proper approaches to the capitol area for pedestrian movement, the highway system, and mass transit system so that the area achieves its maximum importance and accessibility; and (4) establish a flexible framework for growth of the capitol buildings which will be in keeping with the spirit of the original design.

(b) The capitol area architectural and planning board, herein referred to as the board, consists of ten members. The lieutenant governor shall be a member of the board. Four members shall be appointed by the governor; three members, one of whom shall be a resident of the district planning council area containing the capitol area, shall be appointed by the mayor of the city of Saint Paul, with the advice and consent of the city council. The speaker of the house shall appoint a member of the house of representatives and the president of the senate shall appoint one senator to be members of the board. Each person appointed to the board shall qualify by taking the oath of office.

(c) The lieutenant governor is the chair of the board. The attorney general is the legal advisor to the board. The board may elect a vice-chair who may preside at meetings in the

absence of the lieutenant governor and such other officers as it may deem necessary to carry out its duties.

(d) The board shall select an executive secretary to serve the board. It may employ such other officers and employees as it may deem necessary all of whom shall be in the classified service of the state civil service. The board may contract for professional and other similar service on such terms as it may deem desirable.

Subd. 2. **Capitol area plan.** (a) The board shall prepare, prescribe, and from time to time, after a public hearing, amend a comprehensive use plan for the capitol area, called the area in this subdivision, which consists of that portion of the city of Saint Paul comprehended within the following boundaries: Beginning at the point of intersection of the center line of the Arch-Pennsylvania freeway and the center line of Marion Street, thence southerly along the center line of Marion Street extended to a point 50 feet south of the south line of Concordia Avenue, thence southeasterly along a line extending 50 feet from the south line of Concordia Avenue to a point 125 feet from the west line of John Ireland Boulevard, thence southwesterly along a line extending 125 feet from the west line of John Ireland Boulevard to the south line of Dayton Avenue, thence northeasterly from the south line of Dayton Avenue to the west line of John Ireland Boulevard, thence northeasterly to the center line of the intersection of Old Kellogg Boulevard and Summit Avenue, thence northeasterly along the center line of Summit Avenue to the center line of the new West Kellogg Boulevard, thence southerly along the east line of the new West Kellogg Boulevard, to the center line of West Seventh Street, thence northeasterly along the center line of West Seventh Street to the center line of the Fifth Street ramp, thence northwesterly along the center line of the Fifth Street ramp to the east line of the right-of-way of Interstate Highway 35-E, thence northeasterly along the east line of the right-of-way of Interstate Highway 35-E to the south line of the right-of-way of Interstate Highway 94, thence easterly along the south line of the right-of-way of Interstate Highway 94 to the west line of St. Peter Street, thence southerly to the south line of Exchange Street, thence easterly along the south line of Exchange Street to the west line of Cedar Street, thence northerly along the west line of Cedar Street to the center line of Tenth Street, thence northeasterly along the center line of Tenth Street to the center line of Minnesota Street, thence northwesterly along the center line of Minnesota Street to the center line of Eleventh Street, thence northeasterly along the center line of Eleventh Street to the center line of Jackson Street, thence northwesterly along the center line of Jackson Street to the center line of the Arch-Pennsylvania freeway extended, thence westerly along the center line of the Arch-Pennsylvania freeway extended and Marion Street to the point of origin. If construction of the labor interpretive center does not commence prior to December 31, 2000, at the site

recommended by the board, the boundaries of the capitol area revert to their configuration as of 1992.

Under the comprehensive plan, or a portion of it, the board may regulate, by means of zoning rules adopted under the Administrative Procedure Act, the kind, character, height, and location, of buildings and other structures constructed or used, the size of yards and open spaces, the percentage of lots that may be occupied, and the uses of land, buildings and other structures, within the area. To protect and enhance the dignity, beauty, and architectural integrity of the capitol area, the board is further empowered to include in its zoning rules design review procedures and standards with respect to any proposed construction activities in the capitol area significantly affecting the dignity, beauty, and architectural integrity of the area. No person may undertake these construction activities as defined in the board's rules in the capitol area without first submitting construction plans to the board, obtaining a zoning permit from the board, and receiving a written certification from the board specifying that the person has complied with all design review procedures and standards. Violation of the zoning rules is a misdemeanor. The board may, at its option, proceed to abate any violation by injunction. The board and the city of Saint Paul shall cooperate in assuring that the area adjacent to the capitol area is developed in a manner that is in keeping with the purpose of the board and the provisions of the comprehensive plan.

(b) The commissioner of administration shall act as a consultant to the board with regard to the physical structural needs of the state. The commissioner shall make studies and report the results to the board when it requests reports for its planning purpose.

(c) No public building, street, parking lot, or monument, or other construction may be built or altered on any public lands within the area unless the plans for the project conform to the comprehensive use plan as specified in paragraph (d) and to the requirement for competitive plans as specified in paragraph (e). No alteration substantially changing the external appearance of any existing public building approved in the comprehensive plan or the exterior or interior design of any proposed new public building the plans for which were secured by competition under paragraph (e) may be made without the prior consent of the board. The commissioner of administration shall consult with the board regarding internal changes having the effect of substantially altering the architecture of the interior of any proposed building.

(d) The comprehensive plan must show the existing land uses and recommend future uses including: areas for public taking and use; zoning for private land and criteria for development of

public land, including building areas, open spaces, monuments, and other memorials; vehicular and pedestrian circulation; utilities systems; vehicular storage; elements of landscape architecture. No substantial alteration or improvement may be made to public lands or buildings in the area without the written approval of the board.

(e) The board shall secure by competitions plans for any new public building. Plans for any comprehensive plan, landscaping scheme, street plan, or property acquisition that may be proposed, or for any proposed alteration of any existing public building, landscaping scheme or street plan may be secured by a similar competition. A competition must be conducted under rules prescribed by the board and may be of any type which meets the competition standards of the American Institute of Architects. Designs selected become the property of the state of Minnesota, and the board may award one or more premiums in each competition and may pay the costs and fees that may be required for its conduct. At the option of the board, plans for projects estimated to cost less than \$1,000,000 may be approved without competition provided the plans have been considered by the advisory committee described in paragraph (h). Plans for projects estimated to cost less than \$400,000 and for construction of streets need not be considered by the advisory committee if in conformity with the comprehensive plan.

(f) Notwithstanding paragraph (e), an architectural competition is not required for the design of any light rail transit station and alignment within the capitol area. The board and its advisory committee shall select a preliminary design for any transit station in the capitol area. Each stage of any station's design through working drawings must be reviewed by the board's advisory committee and approved by the board to ensure that the station's design is compatible with the comprehensive plan for the capitol area and the board's design criteria. The guideway and track design of any light rail transit alignment within the capitol area must also be reviewed by the board's advisory committee and approved by the board.

(g) Of the amount available for the light rail transit design, adequate funds must be available to the board for design framework studies and review of preliminary plans for light rail transit alignment and stations in the capitol area.

(h) The board may not adopt any plan under paragraph (e) unless it first receives the comments and criticism of an advisory committee of three persons, each of whom is either an architect or a planner, who have been selected and appointed as follows: one by the board of the arts, one by the board, and one by the Minnesota Society of the American Institute of Architects. Members of the committee may not be contestants under paragraph (e). The comments and criticism must be a

matter of public information. The committee shall advise the board on all architectural and planning matters. For that purpose, the committee must be kept currently informed concerning, and have access to, all data, including all plans, studies, reports and proposals, relating to the area as the data are developed or in the process of preparation, whether by the commissioner of administration, the commissioner of trade and economic development, the metropolitan council, the city of Saint Paul, or by any architect, planner, agency or organization, public or private, retained by the board or not retained and engaged in any work or planning relating to the area, and a copy of any data prepared by any public employee or agency must be filed with the board promptly upon completion.

The board may employ stenographic or technical help that may be reasonable to assist the committee to perform its duties.

When so directed by the board, the committee may serve as, and any member or members of the committee may serve on, the jury or as professional advisor for any architectural competition, and the board shall select the architectural advisor and jurors for any competition with the advice of the committee.

The city of Saint Paul shall advise the board.

(i) The comprehensive plan for the area must be developed and maintained in close cooperation with the commissioner of trade and economic development, the planning department and the council for the city of Saint Paul, and the board of the arts, and no plan or amendment of a plan may be effective without 90 days' notice to the planning department of the city of Saint Paul and the board of the arts and without a public hearing with opportunity for public testimony.

(j) The board and the commissioner of administration, jointly, shall prepare, prescribe, and from time to time revise standards and policies governing the repair, alteration, furnishing, appearance, and cleanliness of the public and ceremonial areas of the state capitol building. The board shall consult with and receive advice from the director of the Minnesota state historical society regarding the historic fidelity of plans for the capitol building. The standards and policies developed under this paragraph are binding upon the commissioner of administration. The provisions of chapter 14, including section [14.386](#), do not apply to this paragraph.

(k) The board in consultation with the commissioner of administration shall prepare and submit to the legislature and the governor no later than October 1 of each even-numbered year

a report on the status of implementation of the comprehensive plan together with a program for capital improvements and site development, and the commissioner of administration shall provide the necessary cost estimates for the program. The board shall report any changes to the comprehensive plan adopted by the board to the committee on governmental operations and gambling of the house of representatives and the committee on governmental operations and reform of the senate and upon request shall provide testimony concerning the changes. The board shall also provide testimony to the legislature on proposals for memorials in the capitol area as to their compatibility with the standards, policies, and objectives of the comprehensive plan.

(l) The state shall, by the attorney general upon the recommendation of the board and within appropriations available for that purpose, acquire by gift, purchase, or eminent domain proceedings any real property situated in the area described in this section, and it may also acquire an interest less than a fee simple interest in the property, if it finds that the property is needed for future expansion or beautification of the area.

(m) The board is the successor of the state veterans service building commission, and as such may adopt rules and may reenact the rules adopted by its predecessor under Laws 1945, chapter 315, and amendments to it.

(n) The board shall meet at the call of the chair and at such other times as it may prescribe.

(o) The commissioner of administration shall assign quarters in the state veterans service building to (1) the department of veterans affairs, of which a part that the commissioner of administration and commissioner of veterans affairs may mutually determine must be on the first floor above the ground, and (2) the American Legion, Veterans of Foreign Wars, Disabled American Veterans, Military Order of the Purple Heart, United Spanish War Veterans, and Veterans of World War I, and their auxiliaries, incorporated, or when incorporated, under the laws of the state, and (3) as space becomes available, to other state departments and agencies as the commissioner may deem desirable.

Subd. 2a. **Membership terms, compensation, removal, vacancies.** The membership terms, compensation, removal of members and filling of vacancies on the board shall be as provided in section [15.0575](#).

Subd. 3. **Administrative and planning expenses.** With

the exception of the administrative and planning expenses of the board for federally funded capital expenditures, the board's administrative and planning expenses shall be borne by the state. If federal money is available for capital expenditures, the board's administrative and planning expenses must be reimbursed to the state upon receipt of that money. State agencies and other public bodies considering capitol area projects shall consult with the board prior to developing plans for capital improvements or capital budget proposals for submission to the legislature and governor. These public agencies shall provide adequate funds for the board's review and planning purposes if the board determines its review and planning services are necessary. The expenses of the board for competition premiums, land acquisition or improvement or any other capital expenditures in or upon properties owned or to be owned by the state shall be borne by the state. The expenses of any other public body for such expenditures shall be borne by the body concerned. The city of Saint Paul may expend moneys currently in the city of Saint Paul Capitol Approach Improvement Fund established by Laws 1945, chapter 315, and acts amendatory thereof for capital improvements contained in the city's approved capital improvement budget. The budget is to be adopted in accordance with provisions contained in the city charter.

Subd. 4. Repealed, 1974 c 580 s 18

Subd. 5. Repealed, 1996 c 463 s 61

Subd. 6. **Land conveyances.** (a) The city of Saint Paul shall have the power to convey without compensation therefor to the state any property owned by it within the boundaries of the capitol area pursuant to the plan adopted by the board; and the state shall have the authority to transfer to the city of Saint Paul without compensation any property acquired by it for the purposes of Laws 1969, chapter 1150, which lies within the street lines of the streets to be established as a part of the city's portion of said plan.

(b) The tax-forfeited lands which are held by the state in trust for the several taxing subdivisions of the state and which are within the boundaries of the capitol area as fixed by the plan recommended to the governor by the governor's advisory committee or by the plan adopted by the board as provided in Laws 1969, chapter 1150, shall not, except as provided in this subdivision, be subject to sale or repurchase under any act, now in effect or hereafter enacted unless it shall be expressly provided in such act that the provisions of Laws 1969, chapter 1150, shall be superseded, modified or repealed.

The following procedure shall be used with respect to the

tax-forfeited lands within the boundaries of the capitol area:

(1) When the state gains custody of the tax-forfeited lands in the capitol area which are to be held in trust for taxing subdivisions of the state, the Ramsey county board of commissioners shall compile a list of these lands after the fee ownership has been recorded in the county recorder's office and submit the list to the board. The list shall include a property description of the tax-forfeited parcel and a listing of the buildings or structures thereon.

(2) Within 90 calendar days after receipt of the Ramsey county board of commissioners' list, the board, at its discretion, may: (i) direct the commissioner of revenue to release the tax-forfeited parcel from the trust for the taxing subdivision of the state, which action shall vest unencumbered title to the property in the name of the state; or (ii) authorize the parcel to be disposed of pursuant to chapter 282, provided that the parcel be thereafter utilized in accord with a portion or all of the standards, policies or guidelines in the board's comprehensive use plan. All conveyances of property under subclauses (i) and (ii) shall be subject to any restrictive easements which the board may determine to be necessary for implementation of the comprehensive plan. Any parcel which became tax-forfeited before February 28, 1982 shall be conveyed pursuant to this section without compensation.

(3) If the board fails to act within the prescribed 90-day period, the tax-forfeited parcel's disposition shall be governed by chapter 282.

(4) Unless and until the commissioner of revenue releases a tax-forfeited parcel from the trust for the taxing subdivision and during the aforementioned 90-day waiting period, the Ramsey county board of commissioners is authorized to maintain the parcel to minimize risks to persons and property contiguous to the parcel. If the parcel is conveyed from the trust to the state, the commissioner of administration shall assume these maintenance responsibilities.

(c) Repealed, 1974 c 435 art 6 s 1

(d) The commissioner of revenue shall, upon application by the board, release any lands referred to in clause (b) from the trust in favor of the taxing subdivisions of the state. Upon the execution of such release, the commissioner shall certify the fact of such release to the county auditor of Ramsey county. The forms of such release and certificate shall be prescribed by the attorney general.

(e) Neither any member of the board, nor any person employed or retained by the board shall have any financial interest, direct or indirect, in any business enterprise or activity, or in the construction or maintenance of facilities for such enterprise or activity, within the capitol area for which approval of the board is in any way required by law. Any person violating the provisions of this paragraph shall be guilty of a gross misdemeanor.

(f) At any time after acquiring a tax-forfeited parcel of property pursuant to the provisions of this subdivision, the board may direct the commissioner of administration to convey the parcel of property by quitclaim deed to the city of Saint Paul housing and redevelopment agency. The conveyance of property shall be without compensation and shall be subject to any restrictive easements which the board may determine to be necessary for implementation of the comprehensive plan.

Subd. 7. **Advertising.** No advertising devices may be erected after June 10, 1969, within the boundaries of the capitol area unless done so pursuant to reasonable rules of the board. "Advertising device" means any billboard, sign, poster, display or other device visible to and primarily intended to advertise or to attract, and shall include any structure erected primarily for use in connection with the display of any such device and all lighting or other attachments used in connection therewith. Advertising devices to advertise a business conducted on the premises where the advertising device is located may be permitted and erected in accordance with reasonable rules established by the board. Advertising devices which do not meet the requirements of the rules may be ordered by the board to be removed. The owner of the advertising device and the owner of the real property involved shall be paid just compensation for their interests affected.

Any person who shall violate the provisions of this section shall be guilty of a misdemeanor.

Subd. 8. Repealed, 1974 c 580 s 18

Subd. 9. **Capital budget requests.** For capital budget requests in the capitol area as defined in subdivision 2, paragraph (a), the commissioner of administration shall consult with the capitol area architectural and planning board regarding building sites and design standards.

Subd. 10. **Native vegetation planting.** As part of its comprehensive plan and adopted zoning rules, the board shall give priority to the planting of native trees and shrubs, or

native grasses wherever appropriate, within the capitol area.

HIST: Ex1967 c 13 s 13; 1969 c 399 s 1; 1969 c 1150 s 1-6; 1971 c 25 s 9,10; 1971 c 926 s 1-3; 1973 c 501 s 1; 1973 c 582 s 3; 1974 c 580 s 4-7; 1975 c 271 s 6; 1976 c 134 s 6,7; 1976 c 234 s 6; 1976 c 239 s 129,130; 1977 c 410 s 2; 1980 c 614 s 47,48; 1981 c 301 s 5; 1981 c 356 s 89,248; 1Sp1981 c 4 art 2 s 2; 1982 c 422 s 1; 1982 c 424 s 130; 1983 c 289 s 115 subd 1; 1983 c 305 s 11; 1985 c 248 s 70; 1Sp1985 c 13 s 90; 1Sp1985 c 15 s 31; 1986 c 444; 1987 c 312 art 1 s 26 subd 2; 1989 c 335 art 1 s 57; 1990 c 426 art 1 s 7,8; 1991 c 345 art 1 s 49,50; 1993 c 144 s 1; 1993 c 369 s 37; 1994 c 632 art 4 s 18; 1995 c 220 s 24; 1995 c 233 art 2 s 56; 1995 c 254 art 1 s 42; 1997 c 187 art 5 s 7

State Agencies, CHAPTER 15A PUBLIC OFFICERS AND EMPLOYEES; COMPENSATION AND ALLOWANCES

15A.0815 Salary limits for certain employees.

Subdivision 1. **Salary limits.** The governor or other appropriate appointing authority shall set the salary rates for positions listed in this section within the salary limits listed in subdivisions 2 to 4, subject to approval of the legislative coordinating commission and the legislature as provided by sections [3.855](#), [15A.081](#), subdivision 7b, and [43A.18](#), subdivision 5.

Subd. 2. **Group I salary limits.** The salaries for positions in this subdivision may not exceed 85 percent of the salary of the governor:

Commissioner of administration;

Commissioner of agriculture;

Commissioner of children, families, and learning;

Commissioner of commerce;

Commissioner of corrections;

Commissioner of economic security;

Commissioner of employee relations;

Commissioner of finance;

Commissioner of health;

Executive director, higher education services office;

Commissioner, housing finance agency;

Commissioner of human rights;

Commissioner of human services;

Executive director, state board of investment;

Commissioner of labor and industry;

Commissioner of natural resources;

Director of office of strategic and long-range planning;

Commissioner, pollution control agency;

Commissioner of public safety;

Commissioner, department of public service;

Commissioner of revenue;

Commissioner of trade and economic development;

Commissioner of transportation; and

Commissioner of veterans affairs.

Subd. 3. **Group II salary limits.** The salaries for positions in this subdivision may not exceed 75 percent of the salary of the governor:

Ombudsman for corrections;

Executive director of gambling control board;

Commissioner, iron range resources and rehabilitation board;

Commissioner, bureau of mediation services;

Ombudsman for mental health and retardation;

Chair, metropolitan council;

Executive director of pari-mutuel racing;

Executive director, public employees retirement association;

Commissioner, public utilities commission;

Executive director, state retirement system; and

Executive director, teachers retirement association.

Subd. 4. **Group III salary limits.** The salary for a position in this subdivision may not exceed 25 percent of the salary of the governor:

Chair, metropolitan airports commission.

HIST: 2Sp1997 c 3 s 5; 1998 c 351 s 1

Administration and Finance, CHAPTER 16B DEPARTMENT OF ADMINISTRATION, TRAVEL MANAGEMENT

16B.54 Central motor pool; establishment.

Subdivision 1. **Motor pools.** The commissioner shall manage a central motor pool of passenger motor vehicles and trucks used by state agencies with principal offices in the city of St. Paul and may provide for branch central motor pools at other places within the state. For purposes of this section, (1) "agencies" includes the Minnesota state colleges and universities, and (2) "truck" means a pickup or panel truck up to one ton carrying capacity.

Subd. 2. **Vehicles.** (a) **Acquisition from agency; appropriation.** The commissioner may direct an agency to make a transfer of a passenger motor vehicle or truck currently assigned to it. The transfer must be made to the commissioner for use in the central motor pool. The commissioner shall reimburse an agency whose motor vehicles have been paid for with funds dedicated by the constitution for a special purpose and which are assigned to the central motor pool. The amount of reimbursement for a motor vehicle is its average wholesale price as determined from the midwest edition of the National Automobile Dealers Association official used car guide.

(b) **Purchase.** To the extent that funds are available for the purpose, the commissioner may purchase or otherwise acquire additional passenger motor vehicles and trucks necessary for the central motor pool. The title to all motor vehicles assigned to or purchased or acquired for the central motor pool is in the name of the department of administration.

(c) **Transfer at agency request.** On the request of an agency, the commissioner may transfer to the central motor pool any passenger motor vehicle or truck for the purpose of disposing of it. The department or agency transferring the vehicle or truck must be paid for it from the motor pool revolving account established by this section in an amount equal to two-thirds of the average wholesale price of the vehicle or truck as determined from the midwest edition of the National Automobile Dealers Association official used car guide.

(d) **Vehicles; marking.** The commissioner shall provide for the uniform marking of all motor vehicles. Motor vehicle colors must be selected from the regular color chart provided by the manufacturer each year. The commissioner may further provide for the use of motor vehicles without marking by:

(1) the governor;

(2) the lieutenant governor;

(3) the division of criminal apprehension, the division of alcohol and gambling enforcement, and arson investigators of the division of fire marshal in the department of public safety;

(4) the financial institutions division of the department of commerce;

(5) the division of disease prevention and control of the department of health;

(6) the state lottery;

(7) criminal investigators of the department of revenue;

(8) state-owned community service facilities in the department of human services;

(9) the investigative staff of the department of economic security; and

(10) the office of the attorney general.

Subd. 3. **Responsible person; personnel.** The commissioner is responsible for the control, regulation, acquisition, operation, maintenance, repair, and disposal of all motor vehicles of the central motor pool. The commissioner may employ a director and other necessary classified employees for the operation of the central motor pool in accordance with chapter 43A.

Subd. 4. **Maintenance, repair, and storage; appropriation.** (a) **Maintenance, repair, storage.** The commissioner may contract with the head of an agency or another person operating facilities for the maintenance, repair, and storage of motor vehicles to provide for maintenance, repair, and storage of motor vehicles of the central motor pool.

(b) **Appropriation.** Money received by the head of an agency under a contract with the commissioner under this subdivision is annually appropriated to the agency for the same

purposes as money expended by the agency head for the operation of state-owned facilities for the maintenance, repair, and storage of motor pool vehicles.

Subd. 5. **Use of motor vehicles.** The motor vehicles in the central motor pool are for official state business only. An agency requiring the services of a motor vehicle shall request it from the central motor pool on either a temporary or permanent basis. No privately owned motor vehicle may be used for official state business except when authorized by the commissioner.

Subd. 6. **Schedule of charges.** An agency using the facilities of the central motor pool shall periodically reimburse the commissioner for the services, in accordance with the schedule of charges the commissioner establishes. This schedule of charges must be based on the costs incurred in operating the central motor pool, including reasonable overhead costs, vehicle depreciation, insurance for public liability and property damage, and other costs. The commissioner must retain records and reports and all schedules used as a basis for charging state agencies for the services furnished.

Subd. 7. **Exceptions.** This section does not apply to motor vehicles of the state patrol or the University of Minnesota, or to motor vehicles of any other agency which are specially equipped for the needs of that agency.

Subd. 8. **Motor pool revolving account.** (a) **Account established.** Money or reimbursements the commissioner receives from the operation of the central motor pool is deposited in the state treasury and credited to a motor pool revolving account. Money in the account is annually appropriated to the commissioner to carry out this section. The motor pool revolving account may be used to provide material transfer services to agencies.

(b) **Unobligated excess transferred.** When the unobligated amount of money in the state treasury credited to the motor pool revolving account exceeds the average monthly operating expense at the end of the fiscal year, the unobligated amount in excess of one month's operating expense must be transferred to the general fund in the state treasury.

HIST: 1984 c 544 s 59; 1Sp1985 c 13 s 126; 1986 c 444; 1989 c 277 art 1 s 1; 1989 c 334 art 6 s 4; 1990 c 506 art 2 s 14; 1990 c 572 s 8; 1991 c 233 s 109; 1992 c 486 s 1; 1994 c 483 s 1; 1996 c 269 s 1; 1996 c 398 s 20; 1997 c 129 art 2 s 1; 1997 c 206 s 6

State Employment, CHAPTER 43A DEPARTMENT OF EMPLOYEE RELATIONS

43A.34 Retirement.

Subdivision 1. **Mandatory retirement age.** Employees in the executive branch who are subject to the provisions of the Minnesota state retirement system or the teachers retirement association and who are serving as faculty members or administrators under a contract of unlimited terms or similar arrangement providing for unlimited tenure at an institution of higher education, as defined by United States Code, title 20, section 1141(a), as amended through December 31, 1986, must retire from employment by the state upon reaching the age of 70, except as provided in other law. Other employees in the executive branch who are subject to the provisions of the Minnesota state retirement system or the teachers retirement association, except as provided in subdivision 3 or 4, or as provided in section [354.44](#), subdivision 1a, are not subject to a mandatory retirement age provision.

Subd. 2. Repealed, 1987 c 186 s 16; 1987 c 284 art 2 s 9

Subd. 3. **Correctional personnel exempted.** Any employee of the state of Minnesota in a covered classification as defined in section [352.91](#), who is a member of the special retirement program for correctional personnel established pursuant to sections [352.90](#) to [352.95](#), may elect or be required to retire from employment in the covered correctional position upon reaching the age of 55 years.

A correctional employee occupying a position covered by provisions of section [352.91](#), desiring employment beyond the conditional mandatory retirement age shall, at least 30 days prior to the date of reaching the conditional mandatory retirement age of 55 years, and annually thereafter, request in writing to the employee's appointing authority authorization to continue in employment in the covered position. Upon receiving the request, the appointing authority shall have a medical examination made of the employee. If the results of the medical examination establish the mental and physical ability of the employee to continue the duties of employment, the employee shall be continued in employment for the following year. If the determination of the appointing authority based upon the results of the physical examination is adverse, the disposition of the matter shall be decided by the commissioner of corrections or, for employees of the Minnesota security hospital, the commissioner of human services. Based on the information provided, the decision of the applicable commissioner shall be made in writing and shall be final.

Subd. 4. **Officers exempted.** Notwithstanding any provision to the contrary, (a) conservation officers and crime bureau officers who were first employed on or after July 1, 1973, and who are members of the state patrol retirement fund by reason of their employment, and members of the Minnesota state patrol division and alcohol and gambling enforcement division of the department of public safety who are members of the state patrol retirement association by reason of their employment, shall not continue employment after attaining the age of 60 years, except for a fractional portion of one year that will enable the employee to complete the employee's next full year of allowable service as defined pursuant to section [352B.01](#), subdivision 3; and (b) conservation officers and crime bureau officers who were first employed and are members of the state patrol retirement fund by reason of their employment before July 1, 1973, shall not continue employment after attaining the age of 70 years.

HIST: 1981 c 37 s 2; 1981 c 210 s 34; 1982 c 578 art 3 s 1; 1984 c 654 art 5 s 58; 1986 c 444; 1987 c 186 s 12,13; 1987 c 284 art 2 s 1,2; 1990 c 570 art 1 s 1; 1997 c 129 art 2 s 2

* NOTE: Subdivision 1 was also amended by Laws 1987, chapter *186, section 11, to read as follows:

* "Subdivision 1. **Mandatory retirement age.** Employees *in the executive branch who are subject to the provisions of the *Minnesota state retirement system or the teacher's retirement *association and who are serving as faculty members or *administrators under a contract of unlimited terms or similar *arrangement providing for unlimited tenure at an institution of *higher education, as defined in section 1201(a) of the federal *Higher Education Act of 1965, as amended through January 1, *1987, must retire from employment by the state upon reaching the *age of 70, except as provided in other law. Other employees in *the executive branch who are subject to the provisions of the *Minnesota state retirement system or the teacher's retirement *association, except as provided in subdivision 3 or 4, or as *provided in section [354.44](#), subdivision 1a, shall not be subject *to a mandatory retirement age provision."

Banking, CHAPTER 53A CURRENCY EXCHANGES

53A.09 Powers; limitations; prohibitions.

Subdivision 1. **Deposits; escrow accounts.** A currency exchange may not accept money or currency for deposit, or act as bailee or agent for persons, firms, partnerships, associations, or corporations to hold money or currency in escrow for others for any purpose. However, a currency exchange may act as agent for the issuer of money orders or travelers' checks.

Subd. 2. **Gambling establishments.** A currency exchange located on the premises of a gambling establishment as defined in section [256.9831](#), subdivision 1, may not cash a warrant that bears a restrictive endorsement under section [256.9831](#), subdivision 3.

HIST: 1989 c 247 s 9; 1996 c 465 art 3 s 1

Insurance, CHAPTER 69 FIRE AND POLICE DEPARTMENT AID; RELIEF ASSOCIATIONS

69.011 Qualifying for state aid.

Subdivision 1. **Definitions.** Unless the language or context clearly indicates that a different meaning is intended, the following words and terms shall for the purposes of this chapter and chapters 423, 423A, 424 and 424A have the meanings ascribed to them:

(a) "Commissioner" means the commissioner of revenue.

(b) "Municipality" means any home rule charter or statutory city, organized town or park district subject to chapter 398, the University of Minnesota, and, for purposes of the fire state aid program only, an American Indian tribal government entity located within a federally recognized American Indian reservation, and, for purposes of the police state aid program only, the metropolitan airports commission, with respect to peace officers covered under chapter 422A, or the department of natural resources and the department of public safety with respect to peace officers covered under chapter 352B.

(c) "Minnesota Firetown Premium Report" means a form prescribed by the commissioner containing space for reporting by insurers of fire, lightning, sprinkler leakage and extended coverage premiums received upon risks located or to be performed in this state less return premiums and dividends.

(d) "Firetown" means the area serviced by any municipality having a qualified fire department or a qualified incorporated fire department having a subsidiary volunteer firefighters' relief association.

(e) "Market value" means latest available market value of all property in a taxing jurisdiction, whether the property is subject to taxation, or exempt from ad valorem taxation obtained from information which appears on abstracts filed with the commissioner of revenue or equalized by the state board of equalization.

(f) "Minnesota Aid to Police Premium Report" means a form prescribed by the commissioner for reporting by each fire and casualty insurer of all premiums received upon direct business received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, with reference to insurance written for insuring against the perils contained in auto insurance coverages as reported in the Minnesota business schedule of the annual financial statement which each insurer is required to file with the commissioner in accordance with the governing laws or rules less return premiums and dividends.

(g) "Peace officer" means any person:

(1) whose primary source of income derived from wages is from direct employment by a municipality or county as a law enforcement officer on a full-time basis of not less than 30 hours per week;

(2) who has been employed for a minimum of six months prior to December 31 preceding the date of the current year's certification under subdivision 2, clause (b);

(3) who is sworn to enforce the general criminal laws of the state and local ordinances;

(4) who is licensed by the peace officers standards and training board and is authorized to arrest with a warrant; and

(5) who is a member of a local police relief association to which section [69.77](#) applies, the state patrol retirement plan, the public employees police and fire fund, or the Minneapolis employees retirement fund.

(h) "Full-time equivalent number of peace officers providing contract service" means the integral or fractional number of peace officers which would be necessary to provide the contract service if all peace

officers providing service were employed on a full-time basis as defined by the employing unit and the municipality receiving the contract service.

(i) "Retirement benefits other than a service pension" means any disbursement authorized under section [424A.05](#), subdivision 3, clauses (2), (3), and (4).

(j) "Municipal clerk, municipal clerk-treasurer, or county auditor" means the person who was elected or appointed to the specified position or, in the absence of the person, another person who is designated by the applicable governing body. In a park district the clerk is the secretary of the board of park district commissioners. In the case of the University of Minnesota, the clerk is that official designated by the board of regents. For the metropolitan airports commission, the clerk is the person designated by the commission. For the department of natural resources or the department of public safety, the clerk is the respective commissioner.

Subd. 2. Qualification for fire or police state aid. (a) In order to qualify to receive fire state aid, on or before March 15 annually, in conjunction with the financial report required pursuant to section [69.051](#), the clerk of each municipality having a duly organized fire department as provided in subdivision 4, or the secretary of each independent nonprofit firefighting corporation having a subsidiary incorporated firefighters' relief association whichever is applicable, and the fire chief, shall jointly certify the existence of the municipal fire department or of the independent nonprofit firefighting corporation, whichever is applicable, which meets the minimum qualification requirements set forth in this subdivision, and the fire personnel and equipment of the municipal fire department or the independent nonprofit firefighting corporation as of the preceding December 31. Certification shall be made to the commissioner on a form prescribed by the commissioner and shall include any other facts the commissioner may require. The certification shall be made to the commissioner in duplicate. Each copy of the certificate shall be duly executed and deemed an original. The commissioner shall forward one copy to the auditor of the county wherein the fire department is located and retain one copy.

(b) On or before March 15 annually the clerk of each municipality having a duly organized police department and having a duly incorporated relief association shall certify that fact to the county auditor of the county where the police department is located and to the commissioner on a form prescribed by the commissioner together with the other facts the commissioner or auditor may require.

Except as provided in subdivision 2b, on or before March 15 annually, the clerk of each municipality and the auditor of each county employing one or more peace officers as defined in subdivision 1, clause (g), shall certify the number of such peace officers to the commissioner on forms prescribed by the commissioner. Credit for officers employed less than a full year shall be apportioned. Each full month of employment of a qualifying officer during the calendar year shall entitle the employing municipality or county to credit for 1/12 of the payment for employment of a peace officer for the entire year. For purposes of sections 69.011 to [69.051](#), employment of a peace officer shall commence when the peace officer is entered on the payroll of the respective municipal police department or county sheriff's department. No peace officer shall be included in the certification of the number of peace officers by more than one municipality or county for the same month.

Subd. 2a. Metropolitan airports commission. The metropolitan airports commission shall apply for all police state aid that it is eligible to receive on behalf of employees covered under chapter 422A.

Subd. 2b. Departments of natural resources and public safety. (a) On or before July 1, 1997, the commissioner of natural resources shall certify one-half of the number of peace officers as defined in subdivision 1, clause (g), employed by the enforcement division during calendar year 1996 and the commissioner of public safety shall certify one-half of the number of peace officers as defined in subdivision 1, clause (g), employed by the bureau of criminal apprehension, the gambling enforcement division, and the state patrol division during calendar year 1996.

(b) On or before March 15, 1998, the commissioner of natural resources shall certify seven-tenths of the number of peace officers as defined in subdivision 1, clause (g), employed by the enforcement division and the commissioner of public safety shall certify seven-tenths of the number of peace officers as defined in subdivision 1, clause (g), employed by the bureau of criminal apprehension, the gambling enforcement division, and the state patrol division.

(c) On or before March 15, 1999, and annually on or before March 15 thereafter, the commissioner of natural resources shall certify the number of peace officers as defined in subdivision 1, clause (g), employed by the enforcement division and the commissioner of public safety shall certify the number of peace officers as defined in subdivision 1, clause (g), employed by the bureau of criminal apprehension, the gambling enforcement division, and the state patrol division.

(d) The certification must be on a form prescribed by the commissioner. Peace officers certified under this paragraph must be included in the total certifications under subdivision 2.

Subd. 3. **Failure to file certificate deemed waiver.** If a certification required by this section is not filed with the commissioner by the due date prescribed by this section, the commissioner shall notify the municipality or the nonprofit fire fighting corporation that a portion or all of its current year aid will be forfeited if the certification is not received within ten days. The amount of aid forfeited is equal to the amount of state police aid or state fire aid determined for the municipality or fire fighting corporation for the current year, multiplied by five percent for each week or fraction of a week that this certification is late. The penalty will be computed beginning ten days after the postmark date of the commissioner's notification as required under this subdivision. All forfeited aid amounts revert to the general fund in the state treasury. Failure to receive the certificate form cannot be used as a defense for not filing.

Subd. 4. **Qualification for state aid.** Any municipality in this state having for more than one year an organized fire department and officially established by the governing body of the municipality or an independent nonprofit fire fighting corporation created under the nonprofit corporation act of this state and operating exclusively for fire fighting purposes and providing retirement and relief benefits to its members or having a separate subsidiary incorporated firefighter's relief and pension association providing retirement and relief benefits may qualify to receive state aid if it meets the following minimum requirements or equivalent as determined by the state fire marshal by July 1, 1972:

- (a) Ten paid or volunteer firefighters including a fire chief and assistant fire chief, and
- (b) Regular scheduled meetings and frequent drills including instructions in fire fighting tactics and in the use, care, and operation of all fire apparatus and equipment, and
- (c) A motorized fire truck equipped with a motorized pump, 250 gallon or larger water tank, 300 feet of one inch or larger fire hose in two lines with combination spray and straight stream nozzles, five-gallon hand pumps--tank extinguisher or equivalent, dry chemical extinguisher or equivalent, ladders, extension ladders, pike poles, crow bars, axes, lanterns, fire coats, helmets, boots, and
- (d) Apparatus suitably housed in a building of good construction with facilities for care of hose and equipment, and
- (e) A reliable and adequate method of receiving fire alarms by telephone or with electric siren and suitable means of sounding an alarm, and
- (f) If response is to be provided outside the corporate limits of the municipality wherein the fire department is located, the municipality has another piece of motorized apparatus to make the response, and
- (g) Other requirements the commissioner establishes by rule.

Subd. 5. **Fire departments to be inspected by state fire marshal.** It shall be the duty of the state fire marshal or an appointed deputy or designated assistants to inspect, or cause to be inspected, at the time other public buildings are inspected, the fire department of any municipality or nonprofit fire fighting corporations in this state; and, for that purpose, the fire marshal or any of the fire marshal's deputies or designated assistants shall have the right to enter or have access thereto at any reasonable hour. When upon inspection, it is found that the fire department inspected does not conform to the requirements of subdivision 4 the fire marshal shall make a report of the fact and the commissioner shall disqualify the municipality or nonprofit firefighting corporation from participation in the state aid apportionment provided for in this chapter and chapter 424.

HIST: 1969 c 1001 s 2; 1971 c 695 s 1; Ex1971 c 6 s 1-3; 1973 c 123 art 5 s 7; 1973 c 582 s 3; 1976 c 315 s 1-3; 1977 c 429 s 4,5,6,3; 1981 c 68 s 3,4; 1981 c 224 s 19,274; 1982 c 424 s 14; 1982 c 460 s 1; 1983 c 101 s 1; 1983 c 113 s 1; 1984 c 592 s 64; 1985 c 248 s 70; 1985 c 261 s 1; 1986 c 359 s 4,5; 1986 c 444; 1Sp1986 c 3 art 1 s 11; 1987 c 268 art 2 s 19,20; 1988 c 719 art 5 s 84; 1989 c 277 art 1 s 3; 1989 c 329 art 13 s 20; 1991 c 291 art 13 s 1,2; 1992 c 596 s 1,2; 1994 c 498 s 1; 1997 c 233 art 1 s 6-8

Game and Fish, CHAPTER 97C FISHING, FISHING HABITAT

97C.081 Fishing contests.

Subdivision 1. **Restrictions.** A person may not conduct a fishing contest on waters except as provided in this section.

Subd. 2. **Contests without a permit.** A person may conduct a fishing contest with entry fees of \$10, or less, per person and total prizes valued at \$2,000, or less, without a permit from the commissioner.

Subd. 3. **Contests authorized by commissioner.** The commissioner may, by rule or permit, allow fishing contests with entry fees over \$10 per person or total prizes valued at more than \$2,000.

If entry fees are over \$25 per person, or total prizes are valued at more than \$25,000, and if the applicant has either:

(1) not previously conducted a fishing contest requiring a permit under this subdivision; or

(2) ever failed to make required prize awards in a fishing contest conducted by the applicant, the commissioner may require the applicant to furnish the commissioner evidence of financial responsibility in the form of a surety bond or bank letter of credit in the amount of \$25,000. Permits must be issued without a fee and if the commissioner does not deny the permit within 14 days, excluding holidays, after receipt of an application, the permit is granted.

Subd. 4. **Restrictions.** The commissioner may by rule establish restrictions on fishing contests to protect fish and fish habitat and for the safety of contest participants.

Subd. 5. **Ice fishing contest in conjunction with raffle.** An organization that is permitted under this section and licensed by the lawful gambling control board to conduct raffles may conduct a raffle in conjunction with an ice fishing contest. The organization may sell a combined ticket for a single price for the ice fishing contest and raffle, provided that the combined ticket states in at least eight-point type the amount of the price that applies to the ice fishing contest and the amount that applies to the raffle. All other provisions of sections [349.11](#) to [349.23](#) apply to the raffle.

HIST: 1986 c 386 art 3 s 17; 1991 c 259 s 23; 1993 c 231 s 49-51; 1993 c 269 s 25; 1Sp1995 c 1 s 33

Sports, CHAPTER 240 PARI-MUTUEL HORSE RACING

240.01 Definitions.

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

Subd. 2. **Horse racing.** "Horse racing" is any form of horse racing in which horses carry a rider or pull a sulky.

Subd. 3. **Person.** "Person" is an individual, firm, association, partnership, corporation, trustee, or legal representative, and any licensee, participant, or patron.

Subd. 4. **Commission.** "Commission" is the Minnesota racing commission.

Subd. 5. **Pari-mutuel betting.** "Pari-mutuel betting" is the system of betting on horse races where those who bet on horses that finish in the position or positions for which bets are taken share in the total amounts bet, less deductions required or permitted by law.

Subd. 6. **Breakage.** "Breakage" is the odd cents of all money to be distributed based on each dollar bet exceeding a sum equal to the next lowest multiple of ten.

Subd. 7. **Straight pools and bets.** "Straight pool" is a licensed pari-mutuel pool in which each ticket represents a bet to win, place, or show. A "straight bet" is a bet in a straight pool.

Subd. 8. **Multiple pools and bets.** "Multiple pool" is a licensed pari-mutuel pool other than a straight pool. A "multiple bet" is a bet in a multiple pool.

Subd. 9. **Licensed racetrack.** "Licensed racetrack" is a racetrack at which horse racing is conducted on the premises and which holds a class A or class D license issued by the commission.

Subd. 10. **Racing day.** "Racing day" is a day assigned by the commission on which live racing is conducted.

Subd. 11. **Racing meeting.** "Racing meeting" is a series of days in which racing days are not separated by more than five nonracing days.

Subd. 12. **Average daily handle.** "Average daily handle" means the total amount bet in all pari-mutuel pools at a licensed racetrack during the racing meeting divided by the number of days that horse racing was conducted at the racetrack during the racing meeting.

Subd. 13. Repealed, 1991 c 336 art 1 s 33

Subd. 14. Repealed, 1993 c 13 art 1 s 5

Subd. 15. Repealed, 1991 c 233 s 110

Subd. 16. **Horseperson.** "Horseperson" means a person who is currently licensed by the commission as an owner or lessee, or a trainer.

Subd. 17. Repealed, 1995 c 261 s 26

Subd. 18. **On-track pari-mutuel betting.** "On-track pari-mutuel betting" means wagering conducted at a licensed racetrack.

Subd. 19. **Simulcasting.** "Simulcasting" means the televised display, for pari-mutuel wagering purposes, of one or more horse races conducted at another location wherein the televised display occurs simultaneously with the race being televised.

Subd. 20. Repealed, 1995 c 261 s 26

Subd. 21. Repealed, 1995 c 261 s 26

Subd. 22. **Racing season.** "Racing season" means that portion of the calendar year starting at the beginning of the day of the first live horse race conducted by the licensee and concluding at the end of the day of the last live horse race conducted by the licensee in any year.

For purposes of this chapter, the racing season begins before the first Saturday in May and continues for not less than 25 consecutive weeks.

Subd. 23. **Full racing card.** "Full racing card" means three or more races that are: (1) part of a horse racing program being conducted at a racetrack; and (2) being simulcast or telereace simulcast at a licensed racetrack.

HIST: 1983 c 214 s 1; 1985 c 212 s 1; 1988 c 696 s 1; 1989 c 141 s 1,2; 1989 c 334 art 1 s 1,2; 1991 c 336 art 1 s 1-10; 1995 c 261 s 1,2

240.011 Appointment of director.

The governor shall appoint the director of the Minnesota racing commission, who serves in the unclassified service at the governor's pleasure. The director must be a person qualified by experience in the administration and regulation of pari-mutuel racing to discharge the duties of the director. The governor must select a director from a list of one or more names submitted by the Minnesota racing commission.
HIST: 1989 c 334 art 1 s 3; 1993 c 13 art 1 s 2,5

240.02 Racing commission.

Subdivision 1. **Commission.** A Minnesota racing commission is established with the powers and duties specified in this section. The commission consists of nine members appointed by the governor with the advice and consent of the senate. Not more than five of the members may belong to the same political party. The governor shall designate the chair of the commission. Appointments by the governor are for terms of six years. An appointment to fill a vacancy in an unexpired term is for the remainder of the term and is with the advice and consent of the senate.

Subd. 2. **Qualifications.** A member of the commission must have been a resident of Minnesota for at least five years before appointment, and must have a background and experience as would qualify for membership on the commission. A member must, before taking a place on the commission, file a bond in the principal sum of \$100,000 payable to the state, conditioned upon the faithful performance of duties. No commissioner, nor any member of the commissioner's immediate family residing in the same household, may hold a license issued by the commission or have a direct or indirect financial interest in a corporation,

partnership, or association which holds a license issued by the commission.

Subd. 3. **Compensation.** The compensation of commission members for each day spent on commission activities, when authorized by the commission, shall be the same as compensation provided for other members of boards and commissions under section [15.0575](#), subdivision 3, plus expenses in the same manner and amount as provided in the commissioner's plan adopted according to section [43A.18](#), subdivision 2.

Subd. 4. **Removal; vacancies.** The removal of commission members is as provided in section [15.0575](#).

Subd. 5. **Actions.** The commission may sue and be sued in its own name but no action may be brought against the commission or any of its members for actions taken in good faith in the performance of their duties. Suits and actions may be commenced against the commission or any of its members in any court of competent jurisdiction in this state by service, in the manner provided in Minnesota rules of court, of any summons, process, or pleadings authorized by the laws of this state. The attorney general is the legal counsel for the commission.

Subd. 6. **Annual report.** The commission shall on February 15 of each year submit a report to the governor and legislature on its activities, organizational structure, receipts and disbursements, and recommendations for changes in the laws relating to racing and pari-mutuel betting.

Subd. 7. **Audit.** The legislative auditor shall audit or the commission may contract for an audit of the books and accounts of the commission annually or as often as the legislative auditor's funds and personnel permit. The commission shall pay the total cost of the audit. All collections received for the audits must be deposited in the general fund.

HIST: 1983 c 214 s 2; 1985 c 211 s 1; 1985 c 212 s 2; 1986 c 444; 1989 c 334 art 1 s 4,5; 1991 c 233 s 88-90; 1991 c 336 art 2 s 2; 1994 c 465 art 3 s 53

240.03 Commission powers and duties.

The commission has the following powers and duties:

- (1) to regulate horse racing in Minnesota to ensure that it is conducted in the public interest;
- (2) to issue licenses as provided in this chapter;

- (3) to enforce all laws and rules governing horse racing;
 - (4) to collect and distribute all taxes provided for in this chapter;
 - (5) to conduct necessary investigations and inquiries and compel the submission of information, documents, and records it deems necessary to carry out its duties;
 - (6) to supervise the conduct of pari-mutuel betting on horse racing;
 - (7) to employ and supervise personnel under this chapter;
 - (8) to determine the number of racing days to be held in the state and at each licensed racetrack; and
 - (9) to take all necessary steps to ensure the integrity of racing in Minnesota.
- HIST: 1983 c 214 s 3; 1985 c 212 s 3; 1991 c 336 art 1 s 11

240.04 Employees.

Subdivision 1. **Director; duties.** The director shall perform the following duties:

(a) take and preserve records of all proceedings before the commission, maintain its books, documents, and records, and make them available for public inspection as the commission directs;

(b) if so designated by the commission, act as a hearing officer in hearings which need not be conducted under the Administrative Procedure Act to conduct hearings, receive testimony and exhibits, and certify the record of proceedings to the commission;

(c) act as the commission's chief personnel officer and supervise the employment, conduct, duties, and discipline of commission employees; and

(d) perform other duties as directed by the commission.

Subd. 1a. **Deputy director.** The commission may appoint a deputy director who serves in the unclassified service at the commission's pleasure.

Subd. 2. **Director of pari-mutuels.** The commission may employ a director of pari-mutuels who serves in the unclassified service at the commission's pleasure. The director of pari-mutuels shall perform the following duties:

(a) supervise all forms of pari-mutuel betting on horse racing in the state;

(b) inspect all machinery;

(c) make reports on pari-mutuel betting as the commission directs;

(d) subject to commission approval, appoint assistants to perform duties the commission designates; and

(e) perform other duties as directed by the commission.

If no director of pari-mutuels is appointed the duties of that office are assigned to the executive director. The commission may contract with outside services or personnel to assist the executive director in the performance of these duties.

Subd. 3. Director of racing security. The commission may appoint a director of racing security to serve in the unclassified service at the commission's pleasure. The director of racing security shall enforce all laws and commission rules relating to the security and integrity of racing. The director of racing security and all other persons designated by the commission as security officers have free and open access to all areas of all facilities the commission licenses and may search without a search warrant any part of a licensed racetrack and the person of any licensee of the commission on the premises. The director of racing security may order a licensee to take, at the licensee's expense, security measures necessary to protect the integrity of racing, but the order may be appealed to the commission. Nothing in this chapter prohibits law enforcement authorities and agents from entering, in the performance of their duties, a premises licensed under Laws 1983, chapter 214.

If no director of racing security is appointed the duties of that office are assigned to the executive director. The commission may contract with outside services or personnel to assist the executive director in the performance of these duties.

Subd. 4. Veterinarian. The commission may appoint a veterinarian who must be a doctor of veterinary medicine and who serves at its pleasure in the unclassified service. The veterinarian shall, while employed by the commission, perform the following duties:

(a) supervise the formulation, administration, and evaluation of all medical tests the commission's rules require or authorize;

(b) advise the commission on all aspects of veterinary medicine relating to its powers and duties; and

(c) supervise all personnel involved in medical testing, subject to the supervision of the executive director.

If no veterinarian is appointed, the duties of that office may be assigned to the executive director. The commission may contract with outside personnel to assist the executive director in the performance of these duties.

The commission may require that a licensee reimburse it for the costs of services provided by assistant veterinarians.

Subd. 5. **Other employees.** Subject to applicable laws, the commission shall employ and assign duties to other officers, employees, and agents as it deems necessary to discharge its functions.

Subd. 6. **Compensation.** The compensation of all commission employees shall be as provided in chapter 43A.

Subd. 7. **Assistance.** The commission and director may request assistance from any department or agency of the state in fulfilling its duties, and shall make appropriate reimbursement for all such assistance.

HIST: 1983 c 214 s 4; 1985 c 212 s 4; 1Sp1985 c 10 s 83; 1986 c 444; 1989 c 334 art 1 s 6,7

240.05 Licenses; classes.

Subdivision 1. **Classes.** The commission may issue four classes of licenses:

(a) class A licenses, for the ownership and operation of a racetrack with horse racing on which pari-mutuel betting is conducted;

(b) class B licenses, for the sponsorship and management of horse racing on which pari-mutuel betting is conducted;

(c) class C licenses, for the privilege of engaging in certain occupations related to horse racing; and

(d) class D licenses, for the conduct of pari-mutuel horse racing by county agricultural societies or associations.

No person may engage in any of the above activities without first having obtained the appropriate license from the commission.

Subd. 2. **Forms.** All application forms for licenses must contain a statement to the effect that by accepting a license from the commission a licensee consents to having property or person subject to inspection at any time by the director of racing security or by security officers designated by the commission.

Subd. 3. **Policy.** It is the intent of the legislature that authority granted by law to the commission to issue licenses not be construed as requiring the commission to issue any license.

HIST: 1983 c 214 s 5; 1985 c 212 s 5; 1986 c 444; 1991 c 336 art 1 s 12; 1994 c 633 art 1 s 1

240.06 Racetrack licenses.

Subdivision 1. **Application.** The commission may issue one or more class A licenses, but not more than one to any one person. An application for a class A license must be on a form the commission prescribes and must be accompanied by detailed plans and specifications of the track, buildings, fences, and other improvements. The application must contain:

- (a) the name and address of the applicant and, if it is a corporation, the names of all officers, directors, and shareholders of the corporation and any of its holding corporations;
- (b) if required by the commission, the names of any person or persons holding directly, indirectly, or beneficially an interest of any kind in the applicant or any of its holding corporations, whether the interest is financial, administrative, policy making, or supervisory;
- (c) a statement of the assets and liabilities of the applicant;
- (d) an affidavit executed by the applicant setting forth that no officer, director, or other person with a present or future direct or indirect financial or management interest in the racetrack, to the best of the applicant's knowledge:
 - (1) is in default in the payment of an obligation or debt to the state under this chapter;
 - (2) has ever been convicted of a felony in a state or federal court or has a state or federal felony charge pending;
 - (3) is or has been connected with or engaged in any illegal business;
 - (4) has ever been found guilty of fraud or misrepresentation in connection with racing or breeding;
 - (5) has ever been found guilty of a violation of a law or rule relating to horse racing, pari-mutuel betting or any other form of gambling which is a serious violation as defined by the commission's rules; or

(6) has ever knowingly violated a rule or order of the commission or a law of Minnesota relating to racing;

(e) an irrevocable consent statement, to be signed by the applicant, which states that suits and actions relating to the subject matter of the application or acts or omissions arising from it may be commenced against the applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleadings authorized by the laws of this state. If any summons, process, or pleadings is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the commission; and

(f) an affirmative action plan establishing goals and timetables consistent with the Minnesota Human Rights Act, chapter 363, and in conformity with the goals established by the commission by rule.

Subd. 2. Hearings. Before granting a class A license the commission shall conduct one or more public hearings in the area where the racetrack is or will be located. The commission shall also request comments on the application from the city council or town board of the city or town where the track is or will be located, or from the county board if it is to be located outside a city or town and from the appropriate regional development commission or the metropolitan council, as the case may be.

Subd. 3. Investigation. Before granting a class A license the commission shall conduct, or request the division of alcohol and gambling enforcement to conduct, a comprehensive background and financial investigation of the applicant and sources of financing. The commission may charge an applicant an investigation fee to cover the cost of the investigation, and shall from this fee reimburse the division of alcohol and gambling enforcement for its share of the cost of the investigation. The commission has access to all criminal history data compiled by the division of alcohol and gambling enforcement on class A licensees and applicants.

Subd. 4. License issuance. If after considering the information received at the hearing or hearings and the comments requested under subdivision 2, the commission determines that the license will not adversely affect the public health, welfare, and safety, that the racetrack will be operated in accordance with all applicable laws and rules, that the license will not create a competitive situation that will adversely affect racing and the public interest, and that the applicant is financially able to operate a licensed racetrack, it may issue a class A license to the applicant. The license is effective until revoked or suspended by the commission or relinquished by the licensee.

Subd. 5. Prohibited locations. A class A license may not be issued to any location where the operation of a racetrack is prohibited by a valid local zoning ordinance. Not more than one class A license may be issued by the commission within the seven-county metropolitan area.

Subd. 5a. Additional license; metropolitan area. Notwithstanding subdivision 5, the commission may issue one additional class A license within the seven-county metropolitan area, provided that the additional license may only be issued for a facility:

- (1) located more than 20 miles from any other racetrack in existence on January 1, 1987;
- (2) containing a track no larger than five-eighths of a mile in circumference;
- (3) used exclusively for standardbred racing;
- (4) not owned or operated by a governmental entity or a nonprofit organization; and
- (5) that has a current road or highway system adequate to facilitate present and future vehicular traffic expeditiously to and from the facility.

The consideration of clause (5) shall prevail when two competing licensees are relatively equal regarding other considerations mandated by law or rule.

An application for an additional class A license within the seven-county metropolitan area may not delay or adversely affect an application for a class A license for a facility to be located outside the seven-county metropolitan area.

Subd. 6. Changes in ownership or management. If a change in the officers, directors, shareholders, or other persons with a present or future direct or indirect financial or management interest in the licensee, or a change of ownership of more than five percent of the licensee's shares is made after the application is filed or the license issued, the applicant or licensee must notify the commission of the changes within five days of their occurrence and provide the affidavit required by subdivision 1, clause (d).

Subd. 7. License suspension and revocation. The commission:

- (1) may revoke a class A license for (i) a violation of law, order, or rule which in the commission's opinion adversely affects the integrity of horse racing in Minnesota, or for an intentional false statement made in a license application, or (ii) a willful failure to pay any money required to be paid by Laws 1983, chapter 214, and

(2) may revoke a class A license for failure to perform material covenants or representations made in a license application; and
(3) shall revoke a class A license if live racing has not been conducted on at least 50 racing days assigned by the commission during any period of 12 consecutive months, unless the commission authorizes a shorter period because of circumstances beyond the licensee's control.

The commission may suspend a class A license for up to one year for a violation of law, order, or rule which in the commission's opinion adversely affects the integrity of horse racing in Minnesota, and may suspend a class A license indefinitely if it determines that the licensee has as an officer, director, shareholder, or other person with a direct, indirect, or beneficial interest a person who is in the commission's opinion inimical to the integrity of horse racing in Minnesota or who cannot be certified under subdivision 1, clause (d).

A license revocation or suspension under this subdivision is a contested case under sections [14.57](#) to [14.69](#) of the Administrative Procedure Act, and is in addition to criminal penalties imposed for a violation of law or rule.

Subd. 8. **Work areas.** A class A licensee must provide at no cost to the commission suitable work areas for commission members, officers, employees, and agents, including agents of the division of alcohol and gambling enforcement, who are directed or requested by the commission to supervise and control racing at the licensed racetrack.

HIST: 1983 c 214 s 6; 1984 c 654 art 3 s 80; 1985 c 212 s 6; 1987 c 68 s 1; 1987 c 384 art 2 s 1; 1989 c 334 art 1 s 8,9; 1991 c 233 s 91; 1991 c 330 s 1; 1991 c 336 art 1 s 13; 1994 c 633 art 1 s 2; 1997 c 129 art 2 s 15

240.07 Racing licenses.

Subdivision 1. **Application.** The commission may issue one or more class B licenses for the sponsorship and management of horse racing at licensed racetracks. An application for a class B license must be on a form the commission prescribes, and must be accompanied by a bond in the principal amount of \$500,000 payable to the state of Minnesota conditioned on the licensee's payment of all fees, taxes, and other money due and payable under Laws 1983, chapter 214, including horse owner's purses and payouts on winning pari-mutuel tickets.

The application must contain:

(a) the name and address of the applicant and, if it is a corporation or association, the names of all officers, directors, and shareholders, including those of any of its holding companies;

(b) if required by the commission, the names of any person or persons holding, directly, indirectly, or beneficially, an interest of any kind in the applicant or any of its holding companies, whether the interest is financial, administrative, policy making, or supervisory;

(c) a statement of the assets and liabilities of the applicant;

(d) an affidavit of the type described in section [240.06](#), subdivision 1, clause (d);

(e) an irrevocable consent statement, to be signed by the applicant, which states that suits and actions relating to the subject matter of the application or acts or omissions arising from it may be commenced against the applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleadings authorized by the laws of this state. If any summons, process, or pleadings is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the commission; and

(f) an affirmative action plan establishing goals and timetables consistent with the Minnesota Human Rights Act, chapter 363, and in conformity with the goals established by the commission by rule.

Subd. 2. **Hearings; investigations.** Before granting an initial class B license the commission shall hold at least one public hearing on the license. Comprehensive investigations must be conducted and their costs paid in the manner prescribed by section [240.06](#), subdivision 3. The commission has access to all criminal history data compiled by the division of alcohol and gambling enforcement on class B licensees and applicants.

Subd. 3. **License issuance.** If after considering the information received from the hearing and investigations, the commission determines that the applicant will conduct horse racing in accordance with all applicable laws and rules, will not adversely affect the public health, welfare, and safety, that the license will not create a competitive situation that will adversely affect racing and the public interest and that the applicant is fit to sponsor and manage racing, the commission may issue a class B license. The license is for a period of one year.

Subd. 4. **Renewal.** On making the same determination as in subdivision 3, the commission may renew a class B license without a hearing unless it determines a hearing to be necessary.

Subd. 5. **Changes in ownership.** If a change in the

officers, directors, or other persons with a direct or indirect financial or management interest in the licensee, or a change of ownership of more than five percent of the licensee's shares is made after the initial application or license issuance, the applicant or licensee must notify the commission of the changes within five days of their occurrence and provide the affidavit required in subdivision 1.

Subd. 6. License suspension and revocation.

Suspension, revocation, and refusal to renew a class B license is as provided in section [240.06](#), subdivision 7. A license suspension or revocation or a refusal to renew a class B license, is a contested case under section [14.57](#) to [14.69](#) of the Administrative Procedure Act, and is in addition to criminal penalties imposed for a violation of law or rule.

Subd. 7. Multiple licenses. A person may simultaneously hold one class A and one class B license.

HIST: 1983 c 214 s 7; 1987 c 384 art 2 s 1; 1989 c 334 art 1 s 10; 1991 c 330 s 2; 1997 c 129 art 2 s 15

240.08 Occupation licenses.

Subdivision 1. Authority. The commission may issue class C occupational licenses to persons who wish to be employed in horse racing where pari-mutuel betting is conducted as:

- (a) horse owners or lessees;
- (b) jockeys or drivers;
- (c) exercise riders;
- (d) grooms;
- (e) trainers and their assistants;
- (f) pari-mutuel personnel;

(g) security officers;

(h) other occupations the commission by rule determines require licensing to ensure the integrity of horse racing in Minnesota.

Subd. 2. **Application.** An application for a class C license must be on a form the commission prescribes and must be accompanied by an affidavit of qualification that the applicant:

(a) is not in default in the payment of an obligation or debt to the state under Laws 1983, chapter 214;

(b) has never been convicted of a felony in a state or federal court and does not have a state or federal felony charge pending;

(c) is not and never has been connected with or engaged in an illegal business;

(d) has never been found guilty of fraud or misrepresentation in connection with racing or breeding;

(e) has never been found guilty of a violation of law or rule relating to horse racing, pari-mutuel betting or any other form of gambling which is a serious violation as defined by the commission's rules; and

(f) has never knowingly violated a rule or order of the commission or a law of Minnesota relating to racing.

The application must also contain an irrevocable consent statement, to be signed by the applicant, which states that suits and actions relating to the subject matter of the application or acts or omissions arising from it may be commenced against the applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleading authorized by the laws of this state. If any summons, process, or pleading is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the commission.

Subd. 3. **Investigations.** The commission shall investigate each applicant for a class C license to the extent it deems necessary, and may request the assistance of and may reimburse the division of alcohol and gambling enforcement in investigating applicants. The commission may by rule require that an applicant be fingerprinted or furnish the applicant's fingerprints. Investigations must be conducted and their costs paid in the manner prescribed by section [240.06](#), subdivision 3. The commission may cooperate with national and international organizations and agencies in conducting investigations. The commission may by rule provide for examining the qualifications of an applicant for the license being applied for. The commission has access to all criminal history data compiled by the division of alcohol and gambling enforcement on class C applicants and licensees.

Subd. 4. **License issuance and renewal.** If the commission determines that the applicant is qualified for the occupation for which licensing is sought and will not adversely affect the public health, welfare, and safety or the integrity of racing in Minnesota, it may issue a class C license to the applicant. If it makes a similar finding for a renewal of a class C license it may renew the license. Class C licenses are effective for one year.

Subd. 5. **Revocation and suspension.** The commission may revoke a class C license for a violation of law or rule which in the commission's opinion adversely affects the integrity of horse racing in Minnesota, or for an intentional false statement made in a license application.

The commission may suspend a class C license for up to one year for a violation of law, order or rule.

The commission may delegate to its designated agents the authority to impose suspensions of class C licenses, and the suspension may be appealed to the commission according to its rules.

A license revocation or suspension for more than 90 days is a contested case under sections [14.57](#) to [14.69](#) of the Administrative Procedure Act and is in addition to criminal penalties imposed for a violation of law or rule. The commission may summarily suspend a license for more than 90 days prior to a contested case hearing where it is necessary to ensure the integrity of racing. A contested case hearing must be held within 20 days of the summary suspension and the administrative law judge's report must be issued within 20 days from the close of the hearing record. In all cases involving summary suspension the commission must issue its final decision within 30 days from receipt of the report of the administrative

law judge and subsequent exceptions and argument under section [14.61](#).

HIST: 1983 c 214 s 8; 1984 c 655 art 1 s 35; 1985 c 212 s 7,8; 1986 c 444; 1987 c 69 s 1; 1989 c 334 art 1 s 11; 1997 c 129 art 2 s 15

240.09 County fair licenses.

Subdivision 1. **Application.** The commission may issue class D licenses to county agricultural societies or associations incorporated under chapter 38 or nonprofit corporations organized under chapter 317A in existence and operating fairs on April 21, 1951, to conduct and manage, on their own fairgrounds, horse racing on which pari-mutuel betting is conducted. An application for a class D license must be on a form the commission prescribes and must be accompanied by a certified copy of a resolution of the county board of the county where racing is to be conducted stating that it has reviewed the license application and does not object to it. An application for a class D license must be accompanied by detailed plans and specifications of the track, buildings, fences, and other improvements.

Subd. 2. **Occupational licenses.** A person who participates in the management or conduct of horse racing or pari-mutuel betting for a county fair holding a class D license who is in an occupation listed in section [240.08](#), subdivision 1, or the rules of the commission must have a class C license from the commission except for active members, as defined in section [349.12](#), of nonprofit organizations who act without compensation as concession workers.

Subd. 3. **Hearing.** Before granting an initial class D license, the commission must hold at least one public hearing in the county where the license is to be issued, and if the racetrack to be licensed is within a city, it must also request comments on the application from the city council.

Subd. 3a. **Investigation.** Before granting a class D license the director shall conduct, or request the division of alcohol and gambling enforcement to conduct, a comprehensive background and financial investigation of the applicant and the sources of financing. The director may charge an applicant an investigation fee to cover the cost of the investigation, and shall from this fee reimburse the division of alcohol and gambling enforcement for its share of the cost of the investigation. The director has access to all criminal history data compiled by the division of alcohol and gambling enforcement on class A licensees and applicants.

Subd. 4. **Issuance.** If after considering the information received at the hearing or hearings and considering the comments requested under subdivision 3, the commission determines that the license will not adversely affect the public health, welfare, and safety and that the racing to be licensed will be conducted in accordance with all applicable laws and rules, it may issue a class D license to the applicant. The license is for a period of one year.

Subd. 5. **Renewal.** On making the same determination as in subdivision 4, the commission may renew a class D license without a hearing unless it determines a hearing is necessary.

Subd. 6. **Revocation and suspension.** Revocation and suspension of class D licenses, and refusals to renew class D licenses, are as provided in section [240.06](#), subdivision 7. A license suspension or revocation or a refusal to renew a class D license is a contested case under sections [14.57](#) to [14.69](#) of the Administrative Procedure Act and is in addition to criminal penalties imposed for a violation of law or rule.

HIST: 1983 c 214 s 9; 1983 c 216 art 2 s 17 subd 1; 1985 c 212 s 9-11; 1989 c 304 s 137; 1991 c 336 art 2 s 3; 1994 c 633 art 1 s 3; 1997 c 129 art 2 s 15

240.10 License fees.

The fee for a class A license is \$10,000 per year. The fee for a class B license is \$100 for each assigned racing day on which racing is actually conducted, and \$50 for each day on which simulcasting is authorized and actually takes place. The fee for a class D license is \$50 for each assigned racing day on which racing is actually conducted. Fees imposed on class B and class D licenses must be paid to the commission at a time and in a manner as provided by rule of the commission.

The commission shall by rule establish an annual license fee for each occupation it licenses under section [240.08](#) but no annual fee for a class C license may exceed \$100.

License fee payments received must be paid by the commission to the state treasurer for deposit in the general fund.

HIST: 1983 c 214 s 10; 1989 c 141 s 3; 1991 c 336 art 1 s 15; 1995 c 261 s 3

240.11 Licenses nontransferable.

A license issued under this chapter may not be transferred.

HIST: 1983 c 214 s 11; 1991 c 336 art 1 s 16

240.12 License agreements.

The commission may enter into agreements with comparable bodies in other racing jurisdictions for the mutual recognition of occupational licenses issued by each body. The commission may by rule provide for and may charge a fee for the registration of each license issued in another jurisdiction.

HIST: 1983 c 214 s 12

240.13 Pari-mutuel betting.

Subdivision 1. **Authorized.** (a) Class B and class D licenses give the licensees authority to conduct pari-mutuel betting on the results of races run at the licensed racetrack, and on other races as authorized by the commission under this section.

(b) A class B or class D license gives the licensee the authority to transmit and receive telecasts and conduct pari-mutuel betting on the results of horse races run at its class A facility, and of other horse races run at other locations, as authorized by the commission. The class B or class D licensee may present racing programs separately or concurrently.

(c) Subject to the approval of the commission the types of betting, takeout, and distribution of winnings on pari-mutuel pools on simulcast races at a class B or class D facility are those in effect at the sending

racetrack. Pari-mutuel pools may be commingled with pools at the sending racetrack, for the purposes of determining odds and payout prices, via the totalizator computer at the class A facility.

(d) The commission may not authorize a class B licensee to conduct simulcasting or telerece simulcasting unless 125 days of live racing, consisting of not less than eight live races on each racing day, have been conducted at the class A facility within the preceding 12 months. The number of live racing days required may be adjusted by agreement between the licensee and the horsepersons' organization representing the majority of horsepersons racing the breed racing the majority of races at the licensee's class A facility during the preceding 12 months. The number of live racing days required must be reduced by one day for each assigned racing day that the licensee is unable to conduct live racing due to natural occurrences or catastrophes beyond its control.

(e) The commission may authorize no more than five class D licensees to conduct simulcasting in any year. Simulcasting may be conducted at each class D licensee's facility:

- (1) only on races conducted at another class D facility during a county fair day at that facility; and
- (2) only on standardbred races.

A class D licensee may not conduct simulcasting for wagering purposes unless the licensee has a written contract, permitting the simulcasting, with a horseperson's organization representing the standardbred industry the breed being simulcast under authority of the class D license.

Subd. 2. Requirements. (a) A licensee conducting pari-mutuel betting must provide at the licensed track:

- (1) the necessary equipment for issuing pari-mutuel tickets; and
 - (2) mechanical or electronic equipment for displaying information the commission requires. All mechanical or electronic devices must be approved by the commission before being used.
- (b) A licensee conducting pari-mutuel betting must post prominently at each point of sale of pari-mutuel tickets, in a manner approved by the commissioner of human services, the toll-free telephone number established by the commissioner of human services in connection with the compulsive gambling program established under section [245.98](#).

Subd. 3. Types of betting. The commission shall by rule designate those types of pari-mutuel pools which are permitted at licensed racetracks, and no licensee may conduct any type of pari-mutuel pool which has not been so designated.

Subd. 4. Takeout; distribution of winnings. A licensee conducting pari-mutuel betting must deduct from a straight pari-mutuel pool, before payments to holders of winning tickets, an amount equal to not more than 17 percent of the total money in that pool. The licensee must deduct from a multiple pari-mutuel pool, before payments to the holders of winning tickets, an amount equal to not more than 23 percent of the total money in that pool. The remaining money in each pool must be distributed among the holders of winning tickets in a manner the commission by rule prescribes for each type of pool. Breakage must be computed on the basis of payoffs rounded down to the next lowest increment of 10 cents, with a minimum payoff of \$1.10 on a \$1 ticket, except that the licensee may reduce the minimum payoff to \$1.05 on a \$1 ticket if there is not a sufficient amount in a pool to make a minimum payoff of \$1.10.

Subd. 5. Purses. (a) From the amounts deducted from all pari-mutuel pools by a licensee, an amount equal to not less than the following percentages of all money in all pools must be set aside by the licensee and used for purses for races conducted by the licensee, provided that a licensee may agree by contract with an organization representing a majority of the horsepersons racing the breed involved to set aside amounts in addition to the following percentages:

- (1) for live races conducted at a class A facility, and for races that are part of full racing card simulcasting that takes place within the time period of the live races, 8.4 percent;
- (2) for simulcasts conducted during the racing season other than as provided for in clause (1), 50 percent of the takeout remaining after deduction for taxes on pari-mutuel pools, payment to the breeders fund, and payment to the sending out-of-state racetrack for receipt of the signal; and
- (3) for simulcasts conducted outside of the racing season, 25 percent of the takeout remaining after deduction for the state pari-mutuel tax, payment to the breeders fund, payment to the sending out-of-state racetrack for receipt of the signal and, before January 1, 2005, a further deduction of eight percent of all money in all pools. In the event that wagering on simulcasts outside of the racing season exceeds \$125 million in any calendar year, the amount set aside for purses by this formula is increased to 30 percent on amounts between \$125,000,000 and \$150,000,000 wagered; 40 percent on amounts between \$150,000,000 and \$175,000,000 wagered; and 50 percent on amounts in excess of \$175,000,000 wagered. In lieu of the eight percent deduction, a deduction as agreed to between the licensee and the horsepersons' organization

representing the majority of horsepersons racing at the licensee's class A facility during the preceding 12 months, is allowed after December 31, 2004.

The commission may by rule provide for the administration and enforcement of this subdivision. The deductions for payment to the sending out-of-state racetrack must be actual, except that when there exists any overlap of ownership, control, or interest between the sending out-of-state racetrack and the receiving licensee, the deduction must not be greater than three percent unless agreed to between the licensee and the horsepersons' organization representing the majority of horsepersons racing the breed racing the majority of races during the existing racing meeting or, if outside of the racing season, during the most recent racing meeting.

In lieu of the amount the licensee must pay to the commission for deposit in the Minnesota breeders fund under section [240.15](#), subdivision 1, the licensee shall pay 5-1/2 percent of the takeout from all pari-mutuel pools generated by wagering at the licensee's facility on full racing card simulcasts of races not conducted in this state.

(b) From the money set aside for purses, the licensee shall pay to the horseperson's organization representing the majority of the horsepersons racing the breed involved and contracting with the licensee with respect to purses and the conduct of the racing meetings and providing representation, benevolent programs, benefits, and services for horsepersons and their on-track employees, an amount, sufficient to perform these services, as may be determined by agreement by the licensee and the horseperson's organization. The amount paid may be deducted only from the money set aside for purses to be paid in races for the breed represented by the horseperson's organization. With respect to racing meetings where more than one breed is racing, the licensee may contract independently with the horseperson's organization representing each breed racing.

(c) Notwithstanding sections [325D.49](#) to [325D.66](#), a horseperson's organization representing the majority of the horsepersons racing a breed at a meeting, and the members thereof, may agree to withhold horses during a meeting.

(d) Money set aside for purses from wagering, during the racing season, on simulcasts must be used for purses for live races conducted at the licensee's class A facility during the same racing season, over and above the 8.4 percent purse requirement or any higher requirement to which the parties agree, for races conducted in this state. Money set aside for purses from wagering, outside of the racing season, on simulcasts must be for purses for live races conducted at the licensee's class A facility during the next racing season, over and above the 8.4 percent purse requirement or any higher requirement to which the parties agree, for races conducted in this state.

(e) Money set aside for purses from wagering on simulcasts must be used for purses for live races involving the same breed involved in the simulcast except that money set aside for purses and payments to the breeders fund from wagering on full racing card simulcasts of races not conducted in this state, occurring during a live mixed meet, must be allotted to the purses and breeders fund for each breed participating in the mixed meet in the same proportion that the number of live races run by each breed bears to the total number of live races conducted during the period of the mixed meet.

(f) The allocation of money set aside for purses to particular racing meets may be adjusted, relative to overpayments and underpayments, by contract between the licensee and the horsepersons' organization representing the majority of horsepersons racing the breed involved at the licensee's facility.

(g) Subject to the provisions of this chapter, money set aside from pari-mutuel pools for purses must be for the breed involved in the race that generated the pool, except that if the breed involved in the race generating the pari-mutuel pool is not racing in the current racing meeting, or has not raced within the preceding 12 months at the licensee's class A facility, money set aside for purses may be distributed proportionately to those breeds that have run during the preceding 12 months or paid to the commission and used for purses or to promote racing for the breed involved in the race generating the pari-mutuel pool, or both, in a manner prescribed by the commission.

(h) This subdivision does not apply to a class D licensee.

Subd. 6. Simulcasting. (a) The commission may permit an authorized licensee to conduct simulcasting at the licensee's facility on any day authorized by the commission. All simulcasts must comply with the Interstate Horse Racing Act of 1978, United States Code, title 15, sections 3001 to 3007.

(b) The commission may not authorize any day for simulcasting at a class A facility during the racing season, and a licensee may not be allowed to transmit out-of-state telecasts of races the licensee conducts, unless the licensee has obtained the approval of the horsepersons' organization representing the majority of the horsepersons racing the breed involved at the licensed racetrack during the preceding 12 months.

(c) The licensee may pay fees and costs to an entity transmitting a telecast of a race to the licensee for purposes of conducting pari-mutuel wagering on the race. The licensee may deduct fees and costs related to the receipt of televised transmissions from a pari-mutuel pool on the televised race, provided that one-half of any amount recouped in this manner must be added to the amounts required to be set aside for purses.

(d) With the approval of the commission and subject to the provisions of this subdivision, a licensee may transmit telecasts of races it conducts, for wagering purposes, to locations outside the state, and the commission may allow this to be done on a commingled pool basis.

(e) Except as otherwise provided in this section, simulcasting may be conducted on a separate pool basis or, with the approval of the commission, on a commingled pool basis. All provisions of law governing pari-mutuel betting apply to simulcasting except as otherwise provided in this subdivision or in the commission's rules. If pools are commingled, wagering at the licensed facility must be on equipment electronically linked with the equipment at the licensee's class A facility or with the sending racetrack via the totalizator computer at the licensee's class A facility. Subject to the approval of the commission, the types of betting, takeout, and distribution of winnings on commingled pari-mutuel pools are those in effect at the sending racetrack. Breakage for pari-mutuel pools on a televised race must be calculated in accordance with the law or rules governing the sending racetrack for these pools, and must be distributed in a manner agreed to between the licensee and the sending racetrack. Notwithstanding subdivision 7 and section [240.15](#), subdivision 5, the commission may approve procedures governing the definition and disposition of unclaimed tickets that are consistent with the law and rules governing unclaimed tickets at the sending racetrack. For the purposes of this section, "sending racetrack" is either the racetrack outside of this state where the horse race is conducted or, with the consent of the racetrack, an alternative facility that serves as the racetrack for the purpose of commingling pools.

(f) If there is more than one class B licensee conducting racing within the seven-county metropolitan area, simulcasting may be conducted only on races run by a breed that ran at the licensee's class A facility within the 12 months preceding the event.

Subd. 6a. Repealed, 1991 c 336 art 1 s 33

Subd. 7. **Time limit for payments.** The licensee must pay off on an uncashed ticket presented for payment within 90 days of the end of the racing meeting during which it was issued. A ticket not presented for payment within that period is an unredeemed ticket and shall be reported to the commission as provided in section [240.15](#), subdivision 5.

Subd. 8. **Prohibited acts.** A licensee may not accept a bet or a pari-mutuel ticket for payment from any person under the age of 18 years. It is an affirmative defense to a charge under this paragraph for the licensee to prove by a preponderance of the evidence that the licensee, reasonably and in good faith, relied upon representation of proof of age described in section [340A.503](#), subdivision 6, in accepting the bet or pari-mutuel ticket for payment.

Subd. 9. **Transmission to Indian lands; pooling of bets.** A licensed racetrack may, with the approval of the horsepersons' organization representing the majority of horsepersons racing the breed involved, transmit telecasts of races the licensee conducts to sites on Indian lands of tribes who are lawfully conducting pari-mutuel wagering authorized by a tribal-state compact entered into pursuant to the Indian Gaming Regulatory Act, Public Law Number 100-497, or through litigation, arbitration, or mediation relative to that act. Nothing in this subdivision shall be construed to indicate that state policy or law permits or encourages the transmission of telecasts to sites on Indian lands. With prior approval of the commission, a licensed racetrack transmitting telecasts of races it conducts, to sites on Indian lands within or outside of Minnesota or to other locations outside the state, may commingle the amounts bet at the receiving entity with the pools at the sending licensed racetrack.

HIST: 1983 c 214 s 13; 1985 c 212 s 12,13; 1986 c 444; 1987 c 327 s 1; 1988 c 696 s 2-4; 1989 c 141 s 4-7; 1989 c 334 art 1 s 12; 1991 c 336 art 1 s 17-23; art 2 s 4; 1992 c 513 art 3 s 46,47; 1994 c 633 art 1 s 4-9

Subdivision 1. **Assignment of racing days.** The commission shall assign racing days to each racetrack licensee authorized to conduct racing with pari-mutuel betting, and a licensee may conduct racing with pari-mutuel betting only on a racing day assigned by the commission. The assignment of racing days and times of racing to a facility licensed under section [240.06](#), subdivision 5a, may not prevent the commission from assigning to a racetrack in existence on January 1, 1987, the same or overlapping days or times. The commission may not assign non-standard-bred racing days for a racetrack licensed under section [240.06](#), subdivision 5a. The commission may assign racing days for up to three years beyond the year in which the assignment is made. Assignments of racing days in any year must be made by December 31 of the previous year, except that days may be assigned after that date to a licensee whose license is issued after that date.

Subd. 1a. Repealed, 1991 c 336 art 1 s 33

Subd. 2. **Hearing.** A public hearing is required before the commission may:

- (a) make an assignment of racing days;
- (b) revise the assignment during the year; or
- (c) assign racing days to a licensee whose license is issued after the initial assignment.

The commission may without a hearing assign one additional racing day to a licensee for each originally assigned racing day during the same racing meeting on which racing was not conducted for reasons beyond the licensee's control.

Subd. 3. **County fair racing days.** The commission may assign to a class D licensee the following racing days:

- (1) those racing days, not to exceed ten racing days, that coincide with the days on which the licensee's county fair is running; and
- (2) additional racing days.

Subd. 4. **Rescinding of racing days.** The commission may, after a public hearing, rescind one or more racing days

assigned to a licensee if it determines that the licensee has not met or will not meet the terms of the license. A day or days so rescinded may be reassigned to another licensee.

HIST: 1983 c 214 s 14; 1985 c 208 s 1; 1985 c 212 s 14; 1986 c 444; 1987 c 68 s 2; 1989 c 141 s 8; 1992 c 513 art 3 s 48

240.15 Payments to state.

Subdivision 1. **Taxes imposed.** (a) There is imposed a tax at the rate of six percent of the amount in excess of \$12,000,000 annually withheld from all pari-mutuel pools by the licensee, including breakage and amounts withheld under section [240.13](#), subdivision 4. For the purpose of this subdivision, "annually" is the period from July 1 to June 30 of the next year.

In addition to the above tax, the licensee must designate and pay to the commission a tax of one percent of the total amount bet on each racing day, for deposit in the Minnesota breeders fund.

The taxes imposed by this clause must be paid from the amounts permitted to be withheld by a licensee under section [240.13](#), subdivision 4.

(b) The commission may impose an admissions tax of not more than ten cents on each paid admission at a licensed racetrack on a racing day if:

(1) the tax is requested by a local unit of government within whose borders the track is located;

(2) a public hearing is held on the request; and

(3) the commission finds that the local unit of government requesting the tax is in need of its revenue to meet extraordinary expenses caused by the racetrack.

Subd. 2. **Payment.** The licensee must remit the tax to the commission or its representative within seven days of the day on which it was collected. The payments must be accompanied by a detailed statement of the remittance on a form the

commission prescribes. The commission may by rule provide for the direct deposit of required payments in the commission's account in a financial institution within the state and for determining the time of applicability of different tax rates under subdivision 1.

Subd. 3. **Tax exclusive.** The tax imposed by subdivision 1 is in lieu of any tax or license fee, other than taxes on real property, imposed by a political subdivision and in lieu of any other sales or excise tax imposed by the state on pari-mutuel pools or pari-mutuel ticket sales.

Subd. 4. **Reports.** Within 100 days of the end of each calendar year a licensee subject to the tax imposed by subdivision 1 must file with the commission a certified financial report disclosing receipts from all sources during the racing meeting and expenses and disbursements. The financial report must be prepared by an independent certified public accountant in accordance with generally accepted auditing standards.

Subd. 5. **Unredeemed tickets.** (a) Notwithstanding any provision to the contrary in chapter 345, unredeemed pari-mutuel tickets shall not be considered unclaimed funds and shall be handled in accordance with the provisions of this subdivision.

(b) Any person claiming to be entitled to the proceeds of any unredeemed ticket may within one year after the conclusion of each race meet file with the licensee a verified claim for such proceeds on such form as the licensee prescribes along with the pari-mutuel ticket. Unless the claimant satisfactorily establishes the right to the proceeds, the claim shall be rejected. If the claim is allowed, the licensee shall pay the proceeds without interest to the claimant.

Subd. 6. **Disposition of proceeds.** The commission shall distribute all money received under this section, and all money received from license fees and fines it collects, as follows: all money designated for deposit in the Minnesota breeders fund must be paid into that fund for distribution under section [240.18](#) except that all money generated by full racing card simulcasts must be distributed as provided in section [240.18](#), subdivisions 2, paragraph (d), clauses (1), (2), and (3); and 3. Revenue from an admissions tax imposed under subdivision 1 must be paid to the local unit of government at whose request it was imposed, at times and in a manner the commission determines. All other revenues received under this section by the commission, and all license fees, fines, and other revenue it receives, must be paid to the state treasurer for deposit in the general fund.

HIST: 1983 c 214 s 15; 1985 c 212 s 15,16; 1988 c 696 s 5-9; 1991 c 336 art 1 s 24; 1992 c 513 art 3 s 49; 1994 c 633 art 1 s 10; 1996 c 467 s 1,2; 1998 c 389 art 13 s 1,2

240.155 Reimbursement accounts and procedures.

Subdivision 1. **Reimbursement account credit.** Money received by the commission as reimbursement for the costs of services provided by assistant veterinarians, stewards, and medical testing of horses must be deposited in the state treasury and credited to a racing reimbursement account, except as provided under subdivision 2. Receipts are appropriated to the commission to pay the costs of providing the services.

Subd. 2. **General fund credit.** Money received by the commission as reimbursement for the compensation of a steward who is an employee of the commission for which a general fund appropriation has been made must be credited to the general fund.

HIST: 1Sp1985 c 10 s 84; 1991 c 233 s 92; 1995 c 254 art 1 s 73

240.16 Stewards.

Subdivision 1. **Powers and duties.** All horse races run at a licensed racetrack must be presided over by a board of three stewards, who must be appointees of the commission or persons approved by it. The commission shall designate one steward as chair. At least two stewards for all races either shall be employees of the commission who shall serve in the unclassified service, or shall be under contract with the commission to serve as stewards. The commission may delegate the following duties and powers to a board of stewards:

- (a) to ensure that races are run in accordance with the commission's rules;
- (b) to supervise the conduct of racing to ensure the integrity of the sport;
- (c) to settle disputes arising from the running of horse races, and to certify official results;
- (d) to impose on licensees, for violation of law or commission rules, fines not exceeding \$2,000 and license suspensions not exceeding 90 days;
- (e) to recommend to the commission where warranted penalties in excess of those in clause (d);
- (f) to otherwise enforce the laws and rules of racing; and
- (g) to perform other duties and have other powers assigned by the commission.

Subd. 1a. **Simulcast.** All simulcasts are subject to the regulation of the commission. The commission may assign an official to preside over these activities and, if so assigned, the official has the powers and duties provided by rule.

Subd. 2. **Appeals; hearings.** A ruling of a board of stewards may be appealed to the commission or be reviewed by it on its own initiative. The commission may provide for appeals to be heard by less than a quorum of the commission. A hearing on a penalty imposed by a board of stewards must be granted on request.

Subd. 3. **Procedural powers.** A board of stewards has the authority to administer oaths, issue subpoenas, order the production of documents and other evidence, and regulate the course of hearings before it, according to the commission's rules. Hearings held by a board of stewards are not subject to the provisions of the Administrative Procedure Act except those provisions which the commission by rule makes applicable.

Subd. 4. **Rules.** In addition to rules under subdivision 3, the commission may promulgate rules governing the qualifications, appointment, approval, authority, removal, and compensation of stewards.

Subd. 5. **Costs.** The commission may require that a licensee reimburse it for the costs of providing a state-paid steward or stewards to supervise racing at the licensee's racetrack.

Subd. 6. **Compensation.** The total compensation of stewards who are employees of the commission must be commensurate with the compensation of stewards who are not commission employees.

HIST: 1983 c 214 s 16; 1985 c 212 s 17,18; 1985 c 248 s 39; 1986 c 444; 1987 c 69 s 2; 1989 c 141 s 9; 1991 c 336 art 1 s 25; 1994 c 633 art 1 s 11

240.17 Local option.

Subdivision 1. **Cities.** An issuance of a class A license for a location in a city is not effective until it has been approved by a majority vote of the city council. Failure to act on a license within 30 days of its referral to a city council by the commission constitutes approval.

Subd. 2. **Towns.** An issuance of a class A license for a location in a town is not effective until it has been approved by a majority vote of the town board. Failure to act on a license within 30 days of its referral to the town board by the commission constitutes approval.

Subd. 3. **Unorganized territory.** An issuance of a class A license for a location in unorganized territory is not effective until it has been approved by a majority vote of the county board. Failure to act on a license within 30 days of its referral to the county board by the commission constitutes approval.

HIST: 1983 c 214 s 17

240.18 Breeders' fund.

Subdivision 1. **Establishment; apportionment.** The commission shall establish a Minnesota breeders' fund with the

money paid to it under section [240.15](#), subdivision 1. The commission, after paying the current costs of administering the fund, shall apportion the remaining net proceeds into categories corresponding with the various breeds of horses which are racing at licensed Minnesota racetracks in proportion to each category's contribution to the fund and distribute the available net proceeds in each category as provided in this section.

Subd. 2. Thoroughbred and quarterhorse categories.

(a) With respect to available money apportioned in the thoroughbred and quarterhorse categories, 20 percent must be expended as follows:

(1) at least one-half in the form of grants, contracts, or expenditures for equine research and related education at the University of Minnesota school of veterinary medicine; and

(2) the balance in the form of grants, contracts, or expenditures for one or more of the following:

(i) additional equine research and related education;

(ii) substance abuse programs for licensed personnel at racetracks in this state; and

(iii) promotion and public information regarding industry and commission activities; racehorse breeding, ownership, and management; and development and expansion of economic benefits from racing.

(b) As a condition of a grant, contract, or expenditure under paragraph (a), the commission shall require an annual report from the recipient on the use of the funds to the commission, the chair of the house of representatives committee on general legislation, veterans affairs, and gaming, and the chair of the senate committee on gaming regulation.

(c) The commission shall include in its annual report a summary of each grant, contract, or expenditure under paragraph (a), clause (2), and a description of how the commission has coordinated activities among recipients to ensure the most efficient and effective use of funds.

(d) After deducting the amount for paragraph (a), the balance of the available proceeds in each category may be expended by the commission to:

(1) supplement purses for races held exclusively for Minnesota-bred or Minnesota-foaled horses, and supplement purses for Minnesota-bred or Minnesota-foaled horses racing in nonrestricted races in that category;

(2) pay breeders' or owners' awards to the breeders or owners of Minnesota-bred horses in that category which win money at licensed racetracks in the state; and

(3) provide other financial incentives to encourage the horse breeding industry in Minnesota.

Subd. 3. **Standardbred category.** (a) With respect to the available money apportioned in the standardbred category, 20 percent must be expended as follows:

(1) one-half of that amount to supplement purses for standardbreds at non-pari-mutuel racetracks in the state;

(2) one-fourth of that amount for the development of non-pari-mutuel standardbred tracks in the state; and

(3) one-fourth of that amount as grants for equine research and related education at public institutions of post-secondary learning in the state.

(b) After deducting the amount for paragraph (a), the balance of the available proceeds in the standardbred category must be expended by the commission to:

(1) supplement purses for races held exclusively for Minnesota-bred and Minnesota-foaled standardbreds;

(2) pay breeders or owners awards to the breeders or owners of Minnesota-bred standardbreds which win money at licensed racetracks in the state; and

(3) provide other financial incentives to encourage the horse breeding industry in Minnesota.

Subd. 3a. **Other categories.** Available money apportioned to breeds other than breeds contained in subdivisions 2 and 3 must be distributed as financial incentives to encourage horse racing and horse breeding for such breeds.

Subd. 4. **Rules; advisory committees.** The commission shall adopt rules governing the distribution of the fund. The commission may establish advisory committees to advise it on the distribution of money under this section, provided that the members of an advisory committee shall serve without compensation.

HIST: 1983 c 214 s 18; 1984 c 502 art 14 s 2; 1985 c 212 s 19; 1988 c 696 s 10; 1991 c 336 art 2 s 5; 1992 c 513 art 3 s 50

240.19 Contracts.

The commission shall by rule require that all contracts entered into by a class A, class B, or class D licensee for the provision of goods or services, including concessions contracts, be subject to commission approval. The rules must require that the contract include an affirmative action plan establishing goals and timetables consistent with the Minnesota Human Rights Act, chapter 363. The rules may also establish goals to provide economic opportunity for disadvantaged and emerging small businesses, racial minorities, women, and disabled individuals. The commission may require a contract holder to submit to it documents and records the commission deems necessary to evaluate the contract.

HIST: 1983 c 214 s 19; 1991 c 330 s 3; 1991 c 336 art 1 s 26; 1995 c 261 s 4

240.20 Appeals.

Appeals from a decision of the commission must be made in the manner prescribed by sections [14.63](#) to [14.68](#).

HIST: 1983 c 214 s 20

240.21 Right of inspection.

The commission and its representatives, including representatives of the division of alcohol and gambling enforcement, have the right to inspect the licensed premises of a licensee and to examine the licensee's books and other records at any time without a search warrant.

HIST: 1983 c 214 s 21; 1986 c 444; 1989 c 334 art 1 s 13; 1997 c 129 art 2 s 15

240.22 Fines.

The commission shall by rule establish a graduated schedule of civil fines for violations of laws related to horse racing or of the commission's rules. The schedule must include minimum and maximum fines for each violation and be based on and reflect the culpability, frequency and severity of the violator's actions. The commission may impose a fine from this schedule on a licensee for a violation of those rules or laws relating to horse racing. The fine is in addition to any criminal penalty imposed for the same violation. Fines imposed by the commission must be paid to the commission and forwarded to the state treasurer for deposit in the general fund. A fine in excess of \$2,000 is a contested case under the Administrative Procedure Act.

HIST: 1983 c 214 s 22; 1985 c 212 s 20; 1987 c 69 s 3

240.23 Rulemaking authority.

The commission has the authority, in addition to all other rulemaking authority granted elsewhere in this chapter to promulgate rules governing:

(a) the conduct of horse races held at licensed racetracks in Minnesota, including but not limited to the rules of racing, standards of entry, operation of claiming races, filing and handling of objections, carrying of weights, and declaration of official results;

(b) wire communications between the premises of a licensed racetrack and any place outside the premises;

(c) information on horse races which is sold on the premises of a licensed racetrack;

(d) liability insurance which it may require of all class A, class B, and class D licensees;

(e) the auditing of the books and records of a licensee by an auditor employed or appointed by the commission;

(f) emergency action plans maintained by licensed racetracks and their periodic review;

(g) safety, security, and sanitation of stabling facilities at licensed racetracks;

(h) entry fees and other funds received by a licensee in the course of conducting racing which the commission determines must be placed in escrow accounts;

(i) affirmative action in employment and contracting by class A, class B, and class D licensees; and

(j) any other aspect of horse racing or pari-mutuel betting which in its opinion affects the integrity of racing or the public health, welfare, or safety.

Rules of the commission are subject to chapter 14, the Administrative Procedure Act.

HIST: 1983 c 214 s 23; 1991 c 330 s 4; 1991 c 336 art 1 s 27; 1995 c 261 s 5

240.24 Medication.

Subdivision 1. **Rules.** The commission shall make and enforce rules governing medication and medical testing for horses running at licensed racetracks. The rules must provide that no medication, as the commission defines that term by rule, may be administered to a horse within 48 hours of a race it runs

at a licensed racetrack. The rules must also provide that no horse participating in a race shall carry in its body any substance foreign to the natural horse. The commission shall by rule establish the qualifications for laboratories used by it as testing laboratories to enforce its rules under this section.

Subd. 2. **Exception.** Notwithstanding subdivision 1, the commission by rule shall allow the use of: (1) topical external applications that do not contain anesthetics or steroids; (2) food additives; (3) Furosemide or other pulmonary hemostatic agents if the agents are administered under the visual supervision of the veterinarian or a designee of the veterinarian employed by the commission; and (4) nonsteroidal anti-inflammatory drugs, provided that the test sample does not contain more than three micrograms of the substance or metabolites thereof per milliliter of blood plasma. For purposes of this clause, "test sample" means any bodily substance including blood, urine, saliva, or other substance as directed by the commission, taken from a horse under the supervision of the commission veterinarian and in such manner as prescribed by the commission for the purpose of analysis.

Subd. 3. **Fees.** The commission shall establish by rule a fee or schedule of fees to recover the costs of medical testing of horses running at racetracks licensed by the commission. Fees charged for the testing of horses shall cover the cost of the medical testing laboratory. Fee receipts shall be deposited in the state treasury and credited to the racing reimbursement account.

HIST: 1983 c 214 s 24; 1985 c 211 s 2; 1985 c 212 s 21; 1Sp1985 c 10 s 85; 1987 c 69 s 4,5; 1991 c 336 art 2 s 6; 1995 c 254 art 1 s 74; 1996 c 305 art 2 s 43

240.25 Prohibited acts.

Subdivision 1. **Illegal bets.** No person may place or accept a bet as defined in section [609.75](#) on or off the premises of a licensed racetrack other than a bet made with an approved pari-mutuel system.

Subd. 2. **Off-track bets.** No person shall:

(1) for a fee, directly or indirectly, accept anything of value from another to be transmitted or delivered for wager in

any licensed pari-mutuel system of wagering on horse races, or for a fee deliver anything of value which has been received outside of the enclosure of a licensed racetrack holding a race meet licensed under this chapter, to be placed as wagers in the pari-mutuel system of wagering on horse racing within the enclosure or facility; or

(2) give anything of value to be transmitted or delivered for wager in any licensed pari-mutuel system of wagering on horse races to another who charges a fee, directly or indirectly, for the transmission or delivery.

Subd. 3. **Influencing races.** No person may influence or attempt to influence a horse race by:

(a) making threats;

(b) offering anything of value to a person involved in the conduct of a race in return for that person's committing an illegal act or failing to perform a duty; or

(c) conniving with or seeking or having an understanding or agreement with a person involved in the conduct of a race to commit an illegal act or to fail to perform a duty.

Subd. 4. **Tampering with horses.** No person may:

(a) on the premises of a licensed racetrack use, possess, or knowingly assist another person in using a battery or buzzer, electrical or mechanical, or other device or appliance, which can be used to affect a horse's racing condition or performance, other than an ordinary whip;

(b) affect or attempt to affect the racing condition or performance of a horse at a race or workout through the use of a drug or medication in violation of the commission's rules; or

(c) use any method, injurious or otherwise, to affect a horse's racing condition or performance at a race or workout in violation of the commission's rules.

Subd. 5. **Reporting of information.** A person licensed by the commission who has information regarding a violation of any provision of this section must report that information promptly to the commission or an agent of the commission.

Subd. 6. **False statement.** No person may knowingly make a false statement in a document or application required to be submitted to the commission or in a sworn statement to or testimony before the commission.

Subd. 7. **Altered tickets.** No person may knowingly offer for payment any pari-mutuel ticket which has been altered or any counterfeit or forged pari-mutuel ticket.

Subd. 8. **Age under 18.** A person under the age of 18 may not place a bet or present a pari-mutuel ticket for payment with an approved pari-mutuel system.

HIST: 1983 c 214 s 25; 1983 c 216 art 2 s 17 subd 2; 1985 c 212 s 22,23; 1986 c 444; 1986 c 467 s 1; 1991 c 336 art 1 s 28; 1994 c 633 art 1 s 12,13

240.26 Penalties.

Subdivision 1. **Felonies.** A violation of the prohibition against accepting a bet in section [240.25](#), subdivision 1, a violation of section [240.25](#), subdivision 2, clause (1), and a violation of section [240.25](#), subdivisions 3, 4, and 7 is a felony.

Subd. 2. **Gross misdemeanors.** A violation of the prohibition against placing a bet in section [240.25](#), subdivision 1, a violation of section [240.25](#), subdivision 2, clause (2), and a violation of section [240.25](#), subdivisions 5 and 6, is a gross misdemeanor.

Subd. 3. **Misdemeanors.** A violation of any other provision of this chapter or of a rule or order of the commission for which another penalty is not provided is a misdemeanor.

Subd. 4. **Prosecution by attorney general.** Notwithstanding section [388.051](#), subdivision 1, paragraph (c), the attorney general has primary jurisdiction to prosecute felony violations of section [240.25](#), subdivisions 2, 3, 4, and 7, and felony violations of section [240.25](#), subdivision 1, when the bet was allegedly accepted on the premises of a licensed racetrack.

HIST: 1983 c 214 s 26; 1985 c 211 s 3; 1986 c 467 s 2,3; 1994 c 633 art 1 s 14

240.27 Exclusion of certain persons.

Subdivision 1. **Persons excluded.** The commission may exclude from any and all licensed racetracks in the state a person who:

- (a) has been convicted of a felony under the laws of any state or the United States;
- (b) has had a license suspended, revoked, or denied by the commission or by the racing authority of any other jurisdiction; or
- (c) is determined by the commission, on the basis of evidence presented to it, to be a threat to the integrity of racing in Minnesota.

Subd. 2. **Hearing; appeal.** An order to exclude a person from any or all licensed racetracks in the state must be made by the commission at a public hearing of which the person to be excluded must have at least five days' notice. If present at the hearing, the person must be permitted to show cause why the exclusion should not be ordered. An appeal of the order may be made in the same manner as other appeals under section [240.20](#).

Subd. 3. **Notice to racetracks.** Upon issuing an order excluding a person from any or all licensed racetracks, the commission shall send a copy of the order to the excluded person and to all racetracks or teleracing facilities named in it, along with other information as it deems necessary to permit compliance with the order.

Subd. 4. **Prohibitions.** It is a gross misdemeanor for a person named in an exclusion order to enter, attempt to enter, or be on the premises of a racetrack named in the order while it is in effect, and for a person licensed to conduct racing or operate a racetrack knowingly to permit an excluded person to enter or be on the premises.

Subd. 5. **Exclusions by racetrack.** The holder of a license to conduct racing may eject and exclude from its premises any licensee or any other person who is in violation of any state law or commission rule or order or who is a threat to racing integrity or the public safety. A person so excluded from racetrack premises may appeal the exclusion to the commission and must be given a public hearing on the appeal upon request. At the hearing the person must be given the opportunity to show cause why the exclusion should not have been ordered. If the commission after the hearing finds that the integrity of racing and the public safety do not justify the exclusion, it shall order the racetrack making the exclusion to reinstate or readmit the person. An appeal of a commission order upholding the exclusion is governed by section [240.20](#).

HIST: 1983 c 214 s 27; 1986 c 444; 1991 c 336 art 1 s 29; 1994 c 633 art 1 s 15; 1995 c 261 s 6-9

240.28 Conflict of interest.

Subdivision 1. **Financial interest.** No person may serve on or be employed by the commission who has an interest in any corporation, association, or partnership which holds a license from the commission or which holds a contract to supply goods or services to a licensee or at a licensed racetrack, including concessions contracts. No member or employee of the commission may own, wholly or in part, or have an interest in a horse which races at a licensed racetrack in Minnesota. No member or employee of the commission may have a financial interest in or be employed in a profession or business which conflicts with the performance of duties as a member or employee.

Subd. 2. **Betting.** No member or employee of the commission may bet or cause a bet to be made on a race at a licensed racetrack while serving on or being employed by the commission. No person appointed or approved by the director as a steward may bet or cause a bet to be made at a licensed racetrack during a racing meeting at which the person is serving as a steward. The commission shall by rule prescribe such restrictions on betting by its licensees as it deems necessary to protect the integrity of racing.

Subd. 3. **Violation.** A violation of subdivisions 1 and 2 is grounds for removal from the commission or termination of employment. A bet made directly or indirectly by a licensee in violation of a rule made by the commission under subdivision 2 is grounds for suspension or revocation of the license.

HIST: 1983 c 214 s 28; 1986 c 444; 1989 c 334 art 1 s 14; 1991 c 233 s 93; 1991 c 336 art 1 s 30; 1994 c 633 art 1 s 16

240.29 Required races.

Each holder of a class B or D license must declare and schedule, on each racing day it conducts, at least one race which is limited to horses which are Minnesota-bred or Minnesota-foaled.

If there is not a sufficient number of such horses entered in the declared race to make up an adequate slate of entries, another similarly restricted race may be substituted.

The commission shall by rule define "Minnesota-bred," "Minnesota-foaled," and "Minnesota-owned."

HIST: 1983 c 214 s 29; 1985 c 212 s 24; 1989 c 141 s 10; 1991 c 336 art 1 s 31

Public Welfare and Related Activities, CHAPTER 245 DEPARTMENT OF HUMAN SERVICES, OMBUDSMAN FOR MENTAL HEALTH AND MENTAL RETARDATION

245.98 Compulsive gambling treatment program.

Subdivision 1. **Definition.** For the purposes of this section, "compulsive gambler" means a person who is chronically and progressively preoccupied with gambling and with the urge to gamble to the extent that the gambling behavior compromises, disrupts, or damages personal, family, or vocational pursuits.

Subd. 2. **Program.** The commissioner of human services shall establish a program for the treatment of compulsive gamblers. The commissioner may contract with an entity with expertise regarding the treatment of compulsive gambling to operate the program. The program may include the establishment of a statewide toll-free number, resource library, public education programs; regional in-service training programs and conferences for health care professionals, educators, treatment providers, employee assistance programs, and criminal justice representatives; and the establishment of certification standards for programs and service providers. The commissioner may enter into agreements with other entities and may employ or contract with consultants to facilitate the provision of these services or the training of individuals to qualify them to provide these services. The program may also include inpatient and outpatient treatment and rehabilitation services and research studies. The research studies must include baseline and prevalence studies for adolescents and adults to identify those at the highest risk. The program must be approved by the commissioner before it is established.

Subd. 2a. **Assessment of certain offenders.** The commissioner shall adopt by rule criteria to be used in conducting compulsive gambling assessments of offenders under section [609.115](#), subdivision 9. The commissioner shall also adopt by rule standards to qualify a person to: (1) assess offenders for compulsive gambling treatment; and (2) provide treatment indicated in a compulsive gambling assessment. The rules must specify the circumstances in which, in the absence of an independent assessor, the assessment may be performed by a person with a direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider.

Subd. 3. Repealed, 1995 c 207 art 11 s 12

Subd. 4. **Contribution by tribal gaming.** The commissioner of human services is authorized to enter into an agreement with the governing body of any Indian tribe located within the boundaries of the state of Minnesota that conducts either class II or class III gambling, as defined in section 4 of the Indian Gaming Regulatory Act, Public Law Number 100-497, and future amendments to it, for the purpose of obtaining funding for compulsive gambling programs from the Indian tribe. Prior to entering into any agreement with an Indian tribe under this section, the commissioner shall consult with and obtain the approval of the governor or governor's designated representatives authorized to negotiate a tribal-state compact regulating the conduct of class III gambling on Indian lands of a tribe requesting negotiations. Contributions collected under this subdivision are appropriated to the commissioner of human services for the compulsive gambling treatment program under this section.

Subd. 5. **Standards.** The commissioner shall create standards for treatment and provider qualifications for the treatment component of the compulsive gambling program.

HIST: 1989 c 334 art 7 s 1; 1991 c 336 art 2 s 7; 1993 c 146 art 3 s 7; 1995 c 86 s 1; 1997 c 203 art 9 s 3

Public Welfare and Related Activities, CHAPTER 256 HUMAN SERVICES

256.9831 Benefits; gambling establishments.

Subdivision 1. **Definition.** For purposes of this section, "gambling establishment" means a bingo hall licensed under section [349.164](#), a racetrack licensed under section [240.06](#) or [240.09](#), a casino operated under a tribal-state compact under section [3.9221](#), or any other establishment that receives at least 50 percent of its gross revenue from the conduct of gambling.

Subd. 2. **Financial transaction cards.** The commissioner shall take all actions necessary to ensure that no person may obtain benefits under chapter 256 or 256D through the use of a financial transaction card, as defined in section [609.821](#), subdivision 1, paragraph (a), at a terminal located in or attached to a gambling establishment.

Subd. 3. **Warrants.** The commissioner shall take all actions necessary to ensure that warrants issued to pay benefits under chapter 256 or 256D bear a restrictive endorsement that prevents their being cashed in a gambling establishment.

HIST: 1996 c 465 art 3 s 27

Taxation, Supervision, Data Practices, CHAPTER 270B TAX DATA, CLASSIFICATION AND DISCLOSURE

270.60 Tax refund agreements with Indians.

Subdivision 1. **Taxes paid by Indians.** The commissioner of revenue is authorized to enter into a tax refund agreement with the governing body of any federally recognized Indian reservation in Minnesota. The agreement may provide for a mutually agreed upon amount as a refund to the governing body of any sales or excise tax paid by the total resident Indian

population on or adjacent to a reservation into the state treasury, or for an amount which measures the economic value of an agreement by the tribal government to pay the equivalent of the state sales tax on items included in the sales tax base but exempt on the reservation, notwithstanding any other law which limits the refundment of taxes. The total resident Indian population on or adjacent to a reservation shall be defined according to the United States Department of the Interior, Bureau of Indian Affairs, as determined and stated in its Report on Service Population and Labor Force.

Subd. 2. Sales, use, and excise taxes. (a) The commissioner of revenue is authorized to enter into a tax agreement with the governing body of any federally recognized Indian reservation in Minnesota, that provides for the state and the tribal government to share sales, use, and excise tax revenues generated from on reservation activities of non-Indians and off reservation activities of members of the reservation. Every agreement entered into pursuant to this subdivision must require the commissioner of revenue to collect all state and tribal taxes covered by the agreement.

(b) The commissioner of revenue is authorized to collect any tribal taxes imposed pursuant to any agreement entered into pursuant to this subdivision and to make payments authorized by the agreement to the tribal government from the funds collected.

(c) The commissioner shall pay to the tribal government its share of the taxes collected pursuant to the agreement, as indicated in the agreement, and grant the taxpayer a credit for the taxpayer's share of the amount paid to the tribal government against the taxpayer's Minnesota tax.

Subd. 3. Appropriation. There is annually appropriated from the general fund to the commissioner of revenue the amounts necessary to make the refunds provided in this section.

Subd. 4. Payments to counties. (a) The commissioner shall pay to a county in which an Indian gaming casino is located ten percent of the state share of all taxes generated from activities on reservations and collected under a tax agreement under this section with the tribal government for the reservation located in the county. If the tribe has casinos located in more than one county, the payment must be divided equally among the counties in which the casinos are located.

(b) A county is a qualified county under this subdivision if one of the following conditions is met:

(1) the county's per capita income is less than 80 percent of the state per capita personal income, based on the most recent estimates made by the United States Bureau of Economic Analysis; or

(2) 30 percent or more of the total market value of real property in the county is exempt from ad valorem taxation.

(c) The commissioner shall make the payments required under this subdivision by February 28 of the year following the year the taxes are collected.

(d) An amount sufficient to make the payments authorized by this subdivision, not to exceed \$1,100,000 in any fiscal year, is annually appropriated from the general fund to the commissioner. If the authorized payments exceed the amount of the appropriation, the commissioner shall first proportionately reduce the payments to counties other than qualified counties so that the total amount equals the appropriation. If the authorized payments to qualified counties also exceed the amount of the appropriation, the commissioner shall then proportionately reduce the rate so that the total amount to be paid to qualified counties equals the appropriation.

HIST: 1977 c 203 s 9; 1983 c 342 art 6 s 1; 1989 c 277 art 1 s 7; 1991 c 291 art 9 s 5; 1994 c 510 art 3 s 1,2; 1997 c 231 art 16 s 6; 1Sp1997 c 5 s 37; 1998 c 389 art 16 s 11

270B.07 License clearance.

Subdivision 1. **Disclosure to licensing authorities.**

The commissioner may disclose return information with respect to returns filed under Minnesota tax laws to licensing authorities of the state or political subdivisions of the state to the extent necessary to enforce the license clearance programs under sections [60K.12](#), [82.27](#), [147.091](#), [148.10](#), [150A.08](#), and [270.72](#).

Subd. 2. **Disclosure to court and board of professional responsibility.** The commissioner may disclose return information to the Minnesota Supreme Court and the board of professional responsibility regarding the amount of an uncontested delinquent tax due under the Minnesota tax law or the failure to file a tax return due under Minnesota tax laws by an attorney admitted to practice law in this state under chapter

481.

Subd. 3. **Extent of disclosure.** Data that may be disclosed under this section are limited to the name, address, amount of delinquency, and whether a return has been filed by an applicant for a license, licensee, or attorney.

Subd. 4. **Disclosure to gambling control board.** The commissioner may disclose return information for the purpose of and to the extent necessary to administer section [349.155](#), subdivision 3.

Subd. 5. **Inquiries related to applications for liquor licenses.** The commissioner may disclose and certify to a requesting county or municipality whether or not an applicant for a license to be issued under section [340A.403](#) or sections [340A.404](#) to [340A.406](#) is liable for state or local taxes or assessments that were not paid when they became due. The commissioner shall not disclose or certify that the license applicant is liable for unpaid state or local taxes or assessments if an administrative or court action which questions the amount or validity of the unpaid taxes or assessments has been commenced, or if the appeal period to contest the taxes or assessments has not yet expired.

HIST: 1989 c 184 art 1 s 7; 1989 c 334 art 2 s 49; 1990 c 480 art 10 s 7; 1992 c 564 art 3 s 28; 1996 c 305 art 1 s 59

Property Taxes, CHAPTER 273 TAXES; LISTING, ASSESSMENT

273.13 Classification of property.

Subdivision 1. **How classified.** All real and personal property subject to a general property tax and not subject to any gross earnings or other in-lieu tax is hereby classified for purposes of taxation as provided by this section.

Subd. 2. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 2a. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 3. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 4. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 5. Repealed, Ex1971 c 31 art 22 s 5

Subd. 5a. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 6. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 6a. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 7. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 7a. Repealed, 1988 c 719 art 5 s 81

Subd. 7b. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 7c. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 7d. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 8. Repealed, Ex1967 c 32 art 4 s 3

Subd. 8a. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 9. Repealed, 1988 c 719 art 5 s 81

Subd. 10. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 11. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 12. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 13. Repealed, 1974 c 313 s 1

Subd. 14. Repealed, 1984 c 593 s 46

Subd. 14a. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 15. Repealed, Ex1971 c 31 art 36 s 2

Subd. 15a. Repealed, 1988 c 719 art 5 s 81

Subd. 15b. Repealed, 1983 c 342 art 2 s 30

Subd. 16. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 17. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 17a. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 17b. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 17c. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 17d. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 18. Repealed, 1983 c 222 s 45

Subd. 19. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 20. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 21. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 21a. **Class rate.** In this section, wherever the "class rate" of a class of property is specified without qualification as to whether it is the property's "net class rate" or its "gross class rate," the "net class rate" and "gross class rate" of that property are the same as its "class rate."

Subd. 21b. **Tax capacity.** (a) Gross tax capacity means the product of the appropriate gross class rates in this section and market values.

(b) Net tax capacity means the product of the appropriate net class rates in this section and market values.

Subd. 22. **Class 1.** (a) Except as provided in subdivision 23, real estate which is residential and used for homestead purposes is class 1. The market value of class 1a property must be determined based upon the value of the house, garage, and land.

The first \$75,000 of market value of class 1a property has a net class rate of one percent of its market value; and the market value of class 1a property that exceeds \$75,000 has a class rate of 1.7 percent of its market value.

(b) Class 1b property includes homestead real estate or homestead manufactured homes used for the purposes of a homestead by

(1) any blind person, or the blind person and the blind person's spouse; or

(2) any person, hereinafter referred to as "veteran," who:

(i) served in the active military or naval service of the United States; and

(ii) is entitled to compensation under the laws and regulations of the United States for permanent and total service-connected disability due to the loss, or loss of use, by reason of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of both lower extremities, such as to preclude motion without the aid of braces, crutches, canes, or a wheelchair; and

(iii) has acquired a special housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, or the surviving spouse of the deceased veteran for as long as the surviving spouse retains the special housing unit as a homestead; or

(3) any person who:

(i) is permanently and totally disabled and

(ii) receives 90 percent or more of total income from

(A) aid from any state as a result of that disability; or

(B) supplemental security income for the disabled; or

(C) workers' compensation based on a finding of total and permanent disability; or

(D) social security disability, including the amount of a disability insurance benefit which is converted to an old age insurance benefit and any subsequent cost of living increases; or

(E) aid under the federal Railroad Retirement Act of 1937, United States Code Annotated, title 45, section 228b(a)5; or

(F) a pension from any local government retirement fund located in the state of Minnesota as a result of that disability; or

(G) pension, annuity, or other income paid as a result of that disability from a private pension or disability plan, including employer, employee, union, and insurance plans and

(iii) has household income as defined in section [290A.03](#), subdivision 5, of \$50,000 or less; or

(4) any person who is permanently and totally disabled and whose household income as defined in section [290A.03](#), subdivision 5, is 275 percent or less of the federal poverty level.

Property is classified and assessed under clause (4) only if the government agency or income-providing source certifies, upon the request of the homestead occupant, that the homestead occupant satisfies the disability requirements of this paragraph.

Property is classified and assessed pursuant to clause (1) only if the commissioner of economic security certifies to the assessor that the homestead occupant satisfies the requirements of this paragraph.

Permanently and totally disabled for the purpose of this subdivision means a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income. The first \$32,000 market value of class 1b property has a net class rate of .45 percent of its market value. The remaining market value of class 1b property has a net class rate using the rates for class 1 or class 2a property, whichever is appropriate, of similar market value.

(c) Class 1c property is commercial use real property that abuts a lakeshore line and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner, which includes a dwelling occupied as a homestead by a shareholder of a corporation that owns the resort or a partner in a partnership that owns the resort, even if the title to the homestead is held by the corporation or partnership. For purposes of this clause, property is devoted to a commercial purpose on a specific day if any portion of the property, excluding the portion used exclusively as a homestead, is used for residential occupancy and a fee is charged for residential occupancy. Class 1c property has a class rate of one percent of total market value with the following limitation: the area of the property must not exceed 100 feet of lakeshore footage for each cabin or campsite located on the property up to a total of 800 feet and 500 feet in depth, measured away from the lakeshore. If any portion of the class 1c resort property is classified as class 4c under subdivision 25, the entire property must meet the requirements of subdivision 25, paragraph (d), clause (1), to qualify for class 1c treatment under this paragraph.

(d) Class 1d property includes structures that meet all of the following criteria:

(1) the structure is located on property that is classified as agricultural property under section 273.13, subdivision 23;

(2) the structure is occupied exclusively by seasonal farm workers during the time when they work on that farm, and the occupants are not charged rent for the privilege of occupying the property, provided that use of the structure for storage of farm equipment and produce does not disqualify the property from classification under this paragraph;

(3) the structure meets all applicable health and safety requirements for the appropriate season; and

(4) the structure is not salable as residential property because it does not comply with local ordinances relating to location in relation to streets or roads.

The market value of class 1d property has the same class rates as class 1a property under paragraph (a).

Subd. 23. **Class 2.** (a) Class 2a property is agricultural land including any improvements that is homesteaded. The market value of the house and garage and immediately surrounding one acre of land has the same class rates as class 1a property under subdivision 22. The value of the remaining land including improvements up to \$115,000 has a net class rate of 0.35 percent of market value. The remaining value of class 2a property over \$115,000 of market value that does not exceed 320 acres has a net class rate of 0.8 percent of market value. The remaining property over \$115,000 market value in excess of 320 acres has a class rate of 1.25 percent of market value.

(b) Class 2b property is (1) real estate, rural in character and used exclusively for growing trees for timber, lumber, and wood and wood products; (2) real estate that is not improved with a structure and is used exclusively for growing trees for timber, lumber, and wood and wood products, if the owner has participated or is participating in a cost-sharing program for afforestation, reforestation, or timber stand improvement on that particular property, administered or coordinated by the commissioner of natural resources; (3) real estate that is nonhomestead agricultural land; or (4) a landing area or public access area of a privately owned public use airport. Class 2b property has a net class rate of 1.25 percent of market value.

(c) Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes. "Agricultural purposes" as used in this section means the raising or cultivation of agricultural products or enrollment in the Reinvest in Minnesota program under sections [103F.501](#) to [103F.535](#) or the federal Conservation Reserve Program as contained in Public Law Number 99-198. Contiguous acreage on the same parcel, or contiguous acreage on an immediately adjacent parcel under the same ownership, may also qualify as agricultural land, but only if it is pasture, timber, waste, unusable wild land, or land included in state or federal farm programs. Agricultural classification for property shall be determined excluding the house, garage, and immediately surrounding one acre of land, and shall not be based upon the market value of any residential structures on the parcel or contiguous parcels under the same ownership.

(d) Real estate, excluding the house, garage, and immediately surrounding one acre of land, of less than ten acres which is exclusively and intensively used for raising or cultivating agricultural products, shall be considered as agricultural land.

Land shall be classified as agricultural even if all or a portion of the agricultural use of that property is the leasing to, or use by another person for agricultural purposes.

Classification under this subdivision is not determinative for qualifying under section [273.111](#).

The property classification under this section supersedes, for property tax purposes only, any locally administered agricultural policies or land use restrictions that define minimum or maximum farm acreage.

(e) The term "agricultural products" as used in this subdivision includes production for sale of:

(1) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock described in sections [18.44](#) to [18.61](#), fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;

(2) fish bred for sale and consumption if the fish breeding occurs on land zoned for agricultural use;

(3) the commercial boarding of horses if the boarding is done in conjunction with raising or cultivating agricultural products as defined in clause (1);

(4) property which is owned and operated by nonprofit organizations used for equestrian activities, excluding racing; and

(5) game birds and waterfowl bred and raised for use on a shooting preserve licensed under section [97A.115](#).

(f) If a parcel used for agricultural purposes is also used for commercial or industrial purposes, including but not limited to:

(1) wholesale and retail sales;

(2) processing of raw agricultural products or other goods;

(3) warehousing or storage of processed goods; and

(4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3),

the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use. The grading, sorting, and packaging of raw agricultural products for first sale is considered an agricultural purpose. A greenhouse or other building where horticultural or nursery products are grown that is also used for the conduct of retail sales must be classified as agricultural if it is primarily used for the growing of horticultural or nursery products from seed, cuttings, or roots and occasionally as a showroom for the retail sale of those products. Use of a greenhouse or building only for the display of already grown horticultural or nursery products does not qualify as an agricultural purpose.

The assessor shall determine and list separately on the records the market value of the homestead dwelling and the one acre of land on which that dwelling is located. If any farm buildings or structures are located on this homesteaded acre of land, their market value shall not be included in this separate determination.

(g) To qualify for classification under paragraph (b), clause (4), a privately owned public use airport must be licensed as a public airport under section [360.018](#). For purposes of paragraph (b), clause (4), "landing area" means that part of a privately owned public use airport properly cleared, regularly maintained, and made available to the public for use by aircraft and includes runways, taxiways, aprons, and sites upon which are situated landing or navigational aids. A landing area also includes land underlying both the primary surface and the approach surfaces that comply with all of the following:

(i) the land is properly cleared and regularly maintained for the primary purposes of the landing, taking off, and taxiing of aircraft; but that portion of the land that contains facilities for servicing, repair, or maintenance of aircraft is not included as a landing area;

(ii) the land is part of the airport property; and

(iii) the land is not used for commercial or residential purposes.

The land contained in a landing area under paragraph (b), clause (4), must be described and certified by the commissioner of transportation. The certification is effective until it is modified, or until the airport or landing area no longer meets the requirements of paragraph (b), clause (4). For purposes of paragraph (b), clause (4), "public access area" means property used as an aircraft parking ramp, apron, or storage hangar, or an arrival and departure building in connection with the airport.

Subd. 24. **Class 3.** (a) Commercial and industrial property and utility real and personal property, except class 5 property as identified in subdivision 31, clause (1), is class 3a. Each parcel has a class rate of 2.45 percent of the first tier of market value, and 3.5 percent of the remaining market value, except that in the case of contiguous parcels of commercial and industrial property owned by the same person or entity, only the value equal to the first-tier value of the contiguous parcels qualifies for the reduced class rate. For the purposes of this subdivision, the first tier means the first \$150,000 of market value. In the case of utility property owned by one person or entity, only one parcel in each county has a reduced class rate on the first tier of market value.

For purposes of this paragraph, parcels are considered to be contiguous even if they are separated from each other by a road, street, vacant lot, waterway, or other similar intervening type of property.

(b) Employment property defined in section [469.166](#), during the period provided in section [469.170](#), shall constitute class 3b and has a class rate of 2.3 percent of the first \$50,000 of market value and 3.5 percent of the remainder, except that for employment property located in a border city enterprise zone designated pursuant to section [469.168](#), subdivision 4, paragraph (c), the class rate of the first tier of market value and the class rate of the remainder is determined under paragraph (a), unless the governing body of the city designated as an enterprise zone determines that a specific parcel shall be assessed pursuant to the first clause of this sentence. The governing body may provide for assessment under the first clause of the preceding sentence only for property which is located in an area which has been designated by the governing body for the receipt of tax reductions authorized by section [469.171](#), subdivision 1.

(c) Structures which are (i) located on property classified as class 3a, (ii) constructed under an initial building permit issued after January 2, 1996, (iii) located in a transit zone as defined under section [473.3915](#), subdivision 3, (iv) located within the boundaries of a school district, and (v) not primarily used for retail or transient lodging purposes, shall have a class rate equal to 85 percent of the class rate of the second tier of the commercial property rate under paragraph (a) on any portion of the market value that does not qualify for the first tier class rate under paragraph (a). As used in item (v), a structure is primarily used for retail or transient lodging purposes if over 50 percent of its square footage is used for those purposes. A class rate equal to 85 percent of the class rate of the second tier of the commercial property class rate under paragraph (a) shall also apply to improvements to existing structures that meet the requirements of items (i) to (v) if the improvements are constructed under an initial building permit issued after January 2, 1996, even if the remainder of the structure was constructed prior to January 2, 1996. For the purposes of this paragraph, a structure shall be considered to be located in a transit zone if any portion of the structure lies within the zone. If any property once eligible for treatment under this paragraph ceases to remain eligible due to revisions in transit zone boundaries, the property shall continue to receive treatment under this paragraph for a period of three years.

Subd. 25. **Class 4.** (a) Class 4a is residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more. Class 4a also includes hospitals licensed under sections [144.50](#) to [144.56](#), other than hospitals exempt under section [272.02](#), and contiguous property used for hospital purposes, without regard to whether the property has been platted or subdivided. Class 4a property in a city with a population of 5,000 or less, that is (1) located outside of the metropolitan area, as defined in section [473.121](#), subdivision 2, or outside any county contiguous to the metropolitan area, and (2) whose city boundary is at least 15 miles from the boundary of any city with a population greater than 5,000 has a class rate of 2.15 percent of market value. All other class 4a property has a class rate of 2.5 percent of market value. For purposes of this paragraph, population has the same meaning given in section [477A.011](#), subdivision 3.

(b) Class 4b includes:

- (1) residential real estate containing less than four units that does not qualify as class 4bb, other than seasonal residential, and recreational;
- (2) manufactured homes not classified under any other provision;
- (3) a dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b) containing two or three units;

(4) unimproved property that is classified residential as determined under subdivision 33.

Class 4b property has a class rate of 1.7 percent of market value.

(c) Class 4bb includes:

(1) nonhomestead residential real estate containing one unit, other than seasonal residential, and recreational; and

(2) a single family dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b).

Class 4bb has a class rate of 1.25 percent on the first \$75,000 of market value and a class rate of 1.7 percent of its market value that exceeds \$75,000.

Property that has been classified as seasonal recreational residential property at any time during which it has been owned by the current owner or spouse of the current owner does not qualify for class 4bb.

(d) Class 4c property includes:

(1) except as provided in subdivision 22, paragraph (c), real property devoted to temporary and seasonal residential occupancy for recreation purposes, including real property devoted to temporary and seasonal residential occupancy for recreation purposes and not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment. For purposes of this clause, property is devoted to a commercial purpose on a specific day if any portion of the property is used for residential occupancy, and a fee is charged for residential occupancy. In order for a property to be classified as class 4c, seasonal recreational residential for commercial purposes, at least 40 percent of the annual gross lodging receipts related to the property must be from business conducted during 90 consecutive days and either (i) at least 60 percent of all paid bookings by lodging guests during the year must be for periods of at least two consecutive nights; or (ii) at least 20 percent of the annual gross receipts must be from charges for rental of fish houses, boats and motors, snowmobiles, downhill or cross-country ski equipment, or charges for marina services, launch services, and guide services, or the sale of bait and fishing tackle. For purposes of this determination, a paid booking of five or more nights shall be counted as two bookings. Class 4c also includes commercial use real property used exclusively for recreational purposes in conjunction with class 4c property devoted to temporary and seasonal residential occupancy for recreational purposes, up to a total of two acres, provided the property is not devoted to commercial recreational use for more than 250 days in the year preceding the year of assessment and is located within two miles of the class 4c property with which it is used. Class 4c property classified in this clause also includes the remainder of class 1c resorts provided that the entire property including that portion of the property classified as class 1c also meets the requirements for class 4c under this clause; otherwise the entire property is classified as class 3. Owners of real property devoted to temporary and seasonal residential occupancy for recreation purposes and all or a portion of which was devoted to commercial purposes for not more than 250 days in the year preceding the year of assessment desiring classification as class 1c or 4c, must submit a declaration to the assessor designating the cabins or units occupied for 250 days or less in the year preceding the year of assessment by January 15 of the assessment year. Those cabins or units and a proportionate share of the land on which they are located will be designated class 1c or 4c as otherwise provided. The remainder of the cabins or units and a proportionate share of the land on which they are located will be designated as class 3a. The owner of property desiring designation as class 1c or 4c property must provide guest registers or other records demonstrating that the units for which class 1c or 4c designation is sought were not occupied for more than 250 days in the year preceding the assessment if so requested. The portion of a property operated as a (1) restaurant, (2) bar, (3) gift shop, and (4) other nonresidential facility operated on a commercial basis not directly related to temporary and seasonal residential occupancy for recreation purposes shall not qualify for class 1c or 4c;

(2) qualified property used as a golf course if:

(i) it is open to the public on a daily fee basis. It may charge membership fees or dues, but a membership fee may not be required in order to use the property for golfing, and its green fees for golfing must be comparable to green fees typically charged by municipal courses; and

(ii) it meets the requirements of section [273.112](#), subdivision 3, paragraph (d).

A structure used as a clubhouse, restaurant, or place of refreshment in conjunction with the golf course is classified as class 3a property.

(3) real property up to a maximum of one acre of land owned by a nonprofit community service oriented organization; provided that the property is not used for a revenue-producing activity for more than six days in the calendar year preceding the year of assessment and the property is not used for residential purposes on either a temporary or permanent basis. For purposes of this clause, a "nonprofit community service

oriented organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, fraternal, civic, or educational purposes, and which is exempt from federal income taxation pursuant to section 501(c)(3), (10), or (19) of the Internal Revenue Code of 1986, as amended through December 31, 1990. For purposes of this clause, "revenue-producing activities" shall include but not be limited to property or that portion of the property that is used as an on-sale intoxicating liquor or 3.2 percent malt liquor establishment licensed under chapter 340A, a restaurant open to the public, bowling alley, a retail store, gambling conducted by organizations licensed under chapter 349, an insurance business, or office or other space leased or rented to a lessee who conducts a for-profit enterprise on the premises. Any portion of the property which is used for revenue-producing activities for more than six days in the calendar year preceding the year of assessment shall be assessed as class 3a. The use of the property for social events open exclusively to members and their guests for periods of less than 24 hours, when an admission is not charged nor any revenues are received by the organization shall not be considered a revenue-producing activity;

(4) post-secondary student housing of not more than one acre of land that is owned by a nonprofit corporation organized under chapter 317A and is used exclusively by a student cooperative, sorority, or fraternity for on-campus housing or housing located within two miles of the border of a college campus;

(5) manufactured home parks as defined in section [327.14](#), subdivision 3; and

(6) real property that is actively and exclusively devoted to indoor fitness, health, social, recreational, and related uses, is owned and operated by a not-for-profit corporation, and is located within the metropolitan area as defined in section [473.121](#), subdivision 2.

Class 4c property has a class rate of 1.8 percent of market value, except that (i) for each parcel of seasonal residential recreational property not used for commercial purposes the first \$75,000 of market value has a class rate of 1.25 percent, and the market value that exceeds \$75,000 has a class rate of 2.2 percent, (ii) manufactured home parks assessed under clause (5) have a class rate of two percent, and (iii) property described in paragraph (d), clause (4), has the same class rate as the rate applicable to the first tier of class 4bb nonhomestead residential real estate under paragraph (c).

(e) Class 4d property is qualifying low-income rental housing certified to the assessor by the housing finance agency under sections [273.126](#) and [462A.071](#). Class 4d includes land in proportion to the total market value of the building that is qualifying low-income rental housing. For all properties qualifying as class 4d, the market value determined by the assessor must be based on the normal approach to value using normal unrestricted rents.

Class 4d property has a class rate of one percent of market value.

(f) Class 4e property consists of the residential portion of any structure located within a city that was converted from nonresidential use to residential use, provided that:

(1) the structure had formerly been used as a warehouse;

(2) the structure was originally constructed prior to 1940;

(3) the conversion was done after December 31, 1995, but before January 1, 2003; and

(4) the conversion involved an investment of at least \$25,000 per residential unit.

Class 4e property has a class rate of 2.3 percent, provided that a structure is eligible for class 4e classification only in the 12 assessment years immediately following the conversion.

Subd. 25a. **Elderly assisted living facility property.** "Elderly assisted living facility property" means residential real estate containing more than one unit held for use by the tenants or lessees as a residence for periods of 30 days or more, along with community rooms, lounges, activity rooms, and related facilities, designed to meet the housing, health, and financial security needs of the elderly. The real estate may be owned by an individual, partnership, limited partnership, for-profit corporation or nonprofit corporation exempt from federal income taxation under United States Code, title 26, section 501(c)(3) or related sections.

An admission or initiation fee may be required of tenants. Monthly charges may include charges for the residential unit, meals, housekeeping, utilities, social programs, a health care alert system, or any combination of them. On-site health care may be provided by in-house staff or an outside health care provider.

The assessor shall classify elderly assisted living facility property, depending upon the property's ownership, occupancy, and use. The applicable class rates shall apply based on its classification, if taxable.

Subd. 26. Repealed, 1987 c 268 art 6 s 53

Subd. 27. Repealed, 1987 c 268 art 6 s 53

Subd. 28. Repealed, 1987 c 268 art 6 s 53

Subd. 29. Repealed, 1987 c 268 art 6 s 53

Subd. 30. Repealed, 1988 c 719 art 5 s 81

Subd. 31. **Class 5.** Class 5 property includes:

(1) tools, implements, and machinery of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings, which are fixtures;

(2) unmined iron ore and low-grade iron-bearing formations as defined in section [273.14](#); and

(3) all other property not otherwise classified.

Class 5 property has a class rate of 3.5 percent of market value.

Subd. 32. Repealed, 1998 c 389 art 2 s 21

Subd. 33. **Classification of unimproved property.** (a) All real property that is not improved with a structure must be classified according to its current use.

(b) Real property that is not improved with a structure and for which there is no identifiable current use must be classified according to its highest and best use permitted under the local zoning ordinance. If the ordinance permits more than one use, the land must be classified according to the highest and best use permitted under the ordinance. If no such ordinance exists, the assessor shall consider the most likely potential use of the unimproved land based upon the use made of surrounding land or land in proximity to the unimproved land.

HIST: (1993) 1913 c 483 s 1; 1923 c 140; 1933 c 132; 1933 c 359; 1937 c 365 s 1; Ex1937 c 86 s 1; 1939 c 48; 1941 c 436; 1941 c 437; 1941 c 438; 1943 c 172 s 1; 1943 c 648 s 1; 1945 c 274 s 1; 1945 c 527 s 1; 1947 c 537 s 1; 1949 c 723 s 1; 1951 c 510 s 1; 1951 c 585 s 1; 1953 c 358 s 1,2; 1953 c 400 s 1; 1953 c 747 s 1,2; 1955 c 751 s 1,2; 1957 c 866 s 1; 1957 c 959 s 1; 1959 c 40 s 1; 1959 c 338 s 1; 1959 c 541 s 1; 1959 c 562 s 3; Ex1959 c 70 art 1 s 2; 1961 c 243 s 1; 1961 c 322 s 1; 1961 c 340 s 3; 1961 c 475 s 1; 1961 c 710 s 1; 1963 c 426 s 1; 1965 c 259 s 1; 1967 c 606 s 1; Ex1967 c 32 art 1 s 2-4, art 4 s 1, art 9 s 1,2; 1969 c 251 s 1; 1969 c 399 s 4,9; 1969 c 407 s 1; 1969 c 417 s 1; 1969 c 422 s 1,2; 1969 c 709 s 4,5; 1969 c 760 s 1; 1969 c 763 s 1; 1969 c 965 s 2; 1969 c 1126 s 2; 1969 c 1128 s 1,2; 1969 c 1132 s 1; 1969 c 1137 s 1; 1971 c 226 s 1; 1971 c 427 s 3-12,16,17; 1971 c 747 s 1; 1971 c 791 s 1; 1971 c 797 s 3,4; Ex1971 c 31 art 9 s 1; Ex1971 c 31 art 22 s 1,2,4,6,7,8; Ex1971 c 31 art 36 s 1; 1973 c 355 s 1,2; 1973 c 456 s 1; 1973 c 492 s 14; 1973 c 582 s 3; 1973 c 590 s 1; 1973 c 650 art 14 s 1,2; 1973 c 650 art 20 s 3; 1973 c 650 art 24 s 3; 1973 c 774 s 1; 1974 c 545 s 3; 1974 c 556 s 16; 1975 c 46 s 3; 1975 c 339 s 9; 1975 c 359 s 23; 1975 c 376 s 1; 1975 c 395 s 1; 1975 c 437 art 1 s 25,27,28; 1976 c 2 s 96,159-161,170; 1976 c 181 s 2; 1976 c 245 s 1; 1977 c 319 s 1,2; 1977 c 347 s 43,44; 1977 c 423 art 3 s 5-8; 1978 c 767 s 7-11; 1979 c 303 art 2 s 11-17; art 10 s 5; 1979 c 334 art 1 s 25; 1980 c 437 s 5; 1980 c 562 s 1; 1980 c 607 art 2 s 7-15; art 4 s 4; 1981 c 188 s 1; 1981 c 356 s 248; 1981 c 365 s 9; 1Sp1981 c 1 art 2 s 7-11; art 5 s 2; 1Sp1981 c 3 s 1; 1Sp1981 c 4 art 2 s 27; 2Sp1981 c 1 s 6; 3Sp1981 c 1 art 1 s 2; 1982 c 523 art 6 s 1; art 14 s 1; art 23 s 2; 1982 c 642 s 9; 1983 c 216 art 1 s 43,44; 1983 c 222 s 11-13; 1983 c 342 art 2 s 9-18; art 8 s 1; 1984 c 502 art 3 s 9-14; art 7 s 1,2; 1984 c 522 s 2; 1984 c 593 s 22-28; 1984 c 654 art 5 s 58; 1985 c 248 s 70; 1985 c 300 s 6; 1Sp1985 c 14 art 3 s 5-12; art 4 s 45-56; 1986 c 444; 1Sp1986 c 1 art 4 s 18-21; 1987 c 268 art 5 s 4; art 6 s 18,20-23; 1987 c 291 s 208-209; 1987 c 384 art 1 s 25; 1988 c 719 art 5 s 13-19; 1989 c 277 art 2 s 28,29; 1989 c 304 s 137; 1Sp1989 c 1 art 2 s 1-8,11; 1990 c 480 art 7 s 7; 1990 c 604 art 3 s 16-19; 1991 c 249 s 31; 1991 c 291 art 1 s 20-25; 1992 c 363 art 1 s 12; 1992 c 511 art 2 s 17,18; art 4 s 4,5; 1993 c 224 art 1 s 27; 1993 c 375 art 3 s 16; art 5 s 23-26; 1994 c 416 art 1 s 18,19; 1994 c 483 s 1; 1994 c 587 art 5 s 10,11; 1995 c 264 art 3 s 9,10; 1996 c 471 art 3 s 10-12; 1997 c 231 art 1 s 6-10; art 2 s 20,21; 3Sp1997 c 3 s 28; 1998 c 254 art 1 s 74; 1998 c 389 art 2 s 8-12

Various State Taxes, Administration, CHAPTER 290 INCOME AND FRANCHISE TAXES

290.05 Exempt individuals, organizations, estates, trusts.

Subdivision 1. **Exempt entities.** The following corporations, individuals, estates, trusts, and organizations shall be exempted from taxation under this chapter, provided that every such person or corporation claiming exemption under this chapter, in whole or in part, must establish to the satisfaction of the commissioner the taxable status of any income or activity:

(a) corporations, individuals, estates, and trusts engaged in the business of mining or producing iron ore and other ores the mining or production of which is subject to the occupation tax imposed by section [298.01](#); but if any such corporation, individual, estate, or trust engages in any other business or activity or has income from any property not used in such business it shall be subject to this tax computed on the net income from such property or such other business or activity. Royalty shall not be considered as income from the business of mining or producing iron ore within the meaning of this section;

(b) the United States of America, the state of Minnesota or any political subdivision of either agencies or instrumentalities, whether engaged in the discharge of governmental or proprietary functions;

(c) any insurance company that is domiciled in a state or country other than Minnesota that imposes retaliatory taxes, fines, deposits, penalties, licenses, or fees and that does not grant, on a reciprocal basis, exemption from such retaliatory taxes to insurance companies or their agents domiciled in Minnesota. "Retaliatory taxes" means taxes imposed on insurance companies organized in another state or country that result from the fact that an insurance company organized in the taxing jurisdiction and doing business in the other jurisdiction is subject to taxes, fines, deposits, penalties, licenses, or fees in an amount exceeding that imposed by the taxing jurisdiction upon an insurance company organized in the other state or country and doing business to the same extent in the taxing jurisdiction; and

(d) town and farmers' mutual insurance companies and mutual property and casualty insurance companies, other than those (1) writing life insurance or (2) whose total assets on December 31, 1989, exceeded \$1,600,000,000.

Subd. 2. Entities taxable unless exempt under subchapter F of Internal Revenue Code. Except as provided in subdivisions 1 and 3, organizations, including specifically nonprofit health service plan corporations, as defined in chapter 62C, are subject to taxation under this chapter unless they are exempt from income taxation pursuant to Subchapter F of the Internal Revenue Code.

Subd. 3. Taxes imposed on exempt entities. (a) An organization exempt from taxation under subdivision 2 shall, nevertheless, be subject to tax under this chapter to the extent provided in the following provisions of the Internal Revenue Code:

(i) section 527 (dealing with political organizations);

(ii) section 528 (dealing with certain homeowners associations);

(iii) sections 511 to 515 (dealing with unrelated business income);

(iv) section 521 (dealing with farmers' cooperatives); and

(v) section 6033(e)(2) (dealing with lobbying expense); but notwithstanding this subdivision, shall be considered an organization exempt from income tax for the purposes of any law which refers to organizations exempt from income taxes.

(b) The tax shall be imposed on the taxable income of political organizations or homeowner associations or the unrelated business taxable income, as defined in section 512 of the Internal Revenue Code, of organizations defined in section 511 of the Internal Revenue Code, provided that the tax is not imposed on: (1) advertising revenues from a newspaper published by an organization described in section 501(c)(4) of the Internal Revenue Code; or

(2) revenues from lawful gambling authorized under chapter 349 that are expended for purposes that qualify for the deduction for charitable contributions under section 170 of the Internal Revenue Code, disregarding the limitation under section 170(b)(2), but only to the extent the contributions are not deductible in computing federal taxable income.

The tax shall be at the corporate rates. The tax shall only be imposed on income and deductions assignable to this state under sections [290.17](#) to [290.20](#). To the extent deducted in computing federal taxable income, the deductions contained in section [290.21](#) shall not be allowed in computing Minnesota taxable net income.

(c) The tax shall be imposed on organizations subject to federal tax under section 6033(e)(2) of the Internal Revenue Code, in an amount equal to the corporate tax rate multiplied by the amount of lobbying expenses taxed under section 6033(e)(2) which are attributable to lobbying the Minnesota state government.

Subd. 4. Notification to commissioner of federal action. (a) If the Internal Revenue Service revokes, cancels or suspends, in whole or part, the exempt status of any corporation, individual, estate, trust or organization, or if the amount of gross income, deductions, credits, items of tax preference or taxable income is changed or corrected by either the taxpayer or the Internal Revenue Service, or if the taxpayer consents to any extension of time for assessment of federal income taxes, the corporation, individual, estate, trust or organization shall notify the commissioner in writing of the action within 90 days after that date.

(b) The periods of limitations contained in section [289A.42](#), subdivision 2, apply when there has been any action referred to in paragraph (a), notwithstanding any period of limitations to the contrary.

Subd. 5. Repealed, 1990 c 480 art 1 s 45

Subd. 6. Repealed, 1994 c 587 art 1 s 25

Subd. 7. Repealed, 1989 c 184 art 1 s 20

Subd. 8. **Authority to revoke exemption for failure to comply with federal law.** The commissioner may examine or investigate an entity claiming exemption under this section and subpart F of the Internal Revenue Code. The commissioner may revoke the exemption under this section for violations of federal law that would permit the commissioner of internal revenue or the secretary of the treasury to revoke the exemption under federal law, regardless of whether such action has been taken under federal law. A revocation under this subdivision is subject to administrative review under section [289A.65](#).

HIST: (2394-5) 1933 c 405 s 5; Ex1937 c 49 s 5; 1939 c 446 s 1,2; 1941 c 109 s 1; 1941 c 550 s 2; 1943 c 643 s 1; 1943 c 656 s 27; 1947 c 635 s 3; 1953 c 647 s 1; 1965 c 596 s 1; 1967 c 671 s 1; 1971 c 769 s 2; 1971 c 802 s 1; 1973 c 123 art 2 s 1 subd 2; 1973 c 123 art 5 s 7; 1973 c 582 s 3; 1973 c 711 s 3; 1975 c 349 s 29; 1977 c 376 s 13; 1980 c 607 art 1 s 32; 1981 c 343 s 2; 1Sp1981 c 4 art 1 s 133; 1982 c 523 art 1 s 6,7; art 40 s 14; 1983 c 207 s 7,43; 1983 c 342 art 1 s 43; 1984 c 514 art 1 s 8; art 2 s 8; 1985 c 229 s 1; 1Sp1985 c 14 art 1 s 14; art 21 s 49; 1Sp1986 c 1 art 1 s 9; 1987 c 268 art 1 s 28,29,126; 1988 c 719 art 3 s 12; 1989 c 28 s 25; 1989 c 209 art 2 s 32; 1Sp1989 c 1 art 10 s 10-12; 1990 c 480 art 1 s 28; 1990 c 604 art 2 s 3,16; 1991 c 291 art 6 s 46; art 7 s 9; 1992 c 511 art 6 s 12,19; art 7 s 13; 1994 c 587 art 1 s 10,11; 1995 c 186 s 57

290.17 Gross income, allocation to state.

Subdivision 1. **Scope of allocation rules.** (a) The income of resident individuals is not subject to allocation outside this state. The allocation rules apply to nonresident individuals, estates, trusts, nonresident partners of partnerships, nonresident shareholders of corporations treated as "S" corporations under section [290.9725](#), and all corporations not having such an election in effect. If a partnership or corporation would not otherwise be subject to the allocation rules, but conducts a trade or business that is part of a unitary business involving another legal entity that is subject to the allocation rules, the partnership or corporation is subject to the allocation rules.

(b) Expenses, losses, and other deductions (referred to collectively in this paragraph as "deductions") must be allocated along with the item or class of gross income to which they are definitely related for purposes of assignment under this section or apportionment under section [290.191](#), [290.20](#), [290.35](#), or [290.36](#). Deductions not definitely related to any item or class of gross income are assigned to the taxpayer's domicile.

(c) In the case of an individual who is a resident for only part of a taxable year, the individual's income, gains, losses, and deductions from the distributive share of a partnership, S

corporation, trust, or estate are not subject to allocation outside this state to the extent of the distributive share multiplied by a ratio, the numerator of which is the number of days the individual was a resident of this state during the tax year of the partnership, S corporation, trust, or estate, and the denominator of which is the number of days in the taxable year of the partnership, S corporation, trust, or estate.

Subd. 1a. Repealed, 1987 c 268 art 1 s 127

Subd. 2. **Income not derived from conduct of a trade or business.** The income of a taxpayer subject to the allocation rules that is not derived from the conduct of a trade or business must be assigned in accordance with paragraphs (a) to (f):

(a)(1) Subject to paragraphs (a)(2) and (a)(3), income from labor or personal or professional services is assigned to this state if, and to the extent that, the labor or services are performed within it; all other income from such sources is treated as income from sources without this state.

Severance pay shall be considered income from labor or personal or professional services.

(2) In the case of an individual who is a nonresident of Minnesota and who is an athlete or entertainer, income from compensation for labor or personal services performed within this state shall be determined in the following manner:

(i) The amount of income to be assigned to Minnesota for an individual who is a nonresident salaried athletic team employee shall be determined by using a fraction in which the denominator contains the total number of days in which the individual is under a duty to perform for the employer, and the numerator is the total number of those days spent in Minnesota. For purposes of this paragraph, off-season training activities, unless conducted at the team's facilities as part of a team imposed program, are not included in the total number of duty days. Bonuses earned as a result of play during the regular season or for participation in championship, play-off, or all-star games must be allocated under the formula. Signing bonuses are not subject to allocation under the formula if they are not conditional on playing any games for the team, are payable separately from any other compensation, and are nonrefundable; and

(ii) The amount of income to be assigned to Minnesota for an individual who is a nonresident, and who is an athlete or

entertainer not listed in clause (i), for that person's athletic or entertainment performance in Minnesota shall be determined by assigning to this state all income from performances or athletic contests in this state.

(3) For purposes of this section, amounts received by a nonresident as "retirement income" as defined in section (b)(1) of the State Income Taxation of Pension Income Act, Public Law Number 104-95, are not considered income derived from carrying on a trade or business or from performing personal or professional services in Minnesota, and are not taxable under this chapter.

(b) Income or gains from tangible property located in this state that is not employed in the business of the recipient of the income or gains must be assigned to this state.

(c) Income or gains from intangible personal property not employed in the business of the recipient of the income or gains must be assigned to this state if the recipient of the income or gains is a resident of this state or is a resident trust or estate.

Gain on the sale of a partnership interest is allocable to this state in the ratio of the original cost of partnership tangible property in this state to the original cost of partnership tangible property everywhere, determined at the time of the sale. If more than 50 percent of the value of the partnership's assets consists of intangibles, gain or loss from the sale of the partnership interest is allocated to this state in accordance with the sales factor of the partnership for its first full tax period immediately preceding the tax period of the partnership during which the partnership interest was sold.

Gain on the sale of goodwill or income from a covenant not to compete that is connected with a business operating all or partially in Minnesota is allocated to this state to the extent that the income from the business in the year preceding the year of sale was assignable to Minnesota under subdivision 3.

When an employer pays an employee for a covenant not to compete, the income allocated to this state is in the ratio of the employee's service in Minnesota in the calendar year preceding leaving the employment of the employer over the total services performed by the employee for the employer in that year.

(d) Income from winnings on Minnesota pari-mutuel betting tickets, the Minnesota state lottery, and lawful gambling as defined in section [349.12](#), subdivision 24, conducted within the

boundaries of the state of Minnesota shall be assigned to this state.

(e) All items of gross income not covered in paragraphs (a) to (d) and not part of the taxpayer's income from a trade or business shall be assigned to the taxpayer's domicile.

Subd. 3. Trade or business income; general rule.

Income derived from carrying on a trade or business must be assigned to this state if the trade or business is conducted wholly within this state, assigned outside this state if conducted wholly without this state and apportioned between this state and other states and countries under this subdivision if conducted partly within and partly without this state. For purposes of determining whether a trade or business is carried on exclusively within or without this state:

(a) A trade or business physically located exclusively within this state is nevertheless carried on partly within and partly without this state if any of the principles set forth in section [290.191](#) for the allocation of sales or receipts within or without this state when applied to the taxpayer's situation result in the allocation of any sales or receipts without this state.

(b) A trade or business physically located exclusively without this state is nevertheless carried on partly within and partly without this state if any of the principles set forth in section [290.191](#) for the allocation of sales or receipts within or without this state when applied to the taxpayer's situation result in the allocation of any sales or receipts without this state. The jurisdiction to tax such a business under this chapter must be determined in accordance with sections [290.014](#) and [290.015](#).

Subd. 4. Unitary business principle. (a) If a trade or business conducted wholly within this state or partly within and partly without this state is part of a unitary business, the entire income of the unitary business is subject to apportionment pursuant to section [290.191](#). Notwithstanding subdivision 2, paragraph (c), none of the income of a unitary business is considered to be derived from any particular source and none may be allocated to a particular place except as provided by the applicable apportionment formula. The provisions of this subdivision do not apply to farm income subject to subdivision 5, paragraph (a), business income subject to subdivision 5, paragraph (b) or (c), income of an insurance company determined under section [290.35](#), or income of an investment company determined under section [290.36](#).

(b) The term "unitary business" means business activities or operations which are of mutual benefit, dependent upon, or contributory to one another, individually or as a group. The term may be applied within a single legal entity or between multiple entities and without regard to whether each entity is a corporation, a partnership or a trust.

(c) Unity is presumed whenever there is unity of ownership, operation, and use, evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction, but the absence of these centralized activities will not necessarily evidence a nonunitary business.

(d) Where a business operation conducted in Minnesota is owned by a business entity that carries on business activity outside the state different in kind from that conducted within this state, and the other business is conducted entirely outside the state, it is presumed that the two business operations are unitary in nature, interrelated, connected, and interdependent unless it can be shown to the contrary.

(e) Unity of ownership is not deemed to exist when a corporation is involved unless that corporation is a member of a group of two or more business entities and more than 50 percent of the voting stock of each member of the group is directly or indirectly owned by a common owner or by common owners, either corporate or noncorporate, or by one or more of the member corporations of the group. For this purpose, the term "voting stock" shall include membership interests of mutual insurance holding companies formed under section [60A.077](#).

(f) The net income and apportionment factors under section [290.191](#) or [290.20](#) of foreign corporations and other foreign entities which are part of a unitary business shall not be included in the net income or the apportionment factors of the unitary business. A foreign corporation or other foreign entity which is required to file a return under this chapter shall file on a separate return basis. The net income and apportionment factors under section [290.191](#) or [290.20](#) of foreign operating corporations shall not be included in the net income or the apportionment factors of the unitary business except as provided in paragraph (g).

(g) The adjusted net income of a foreign operating corporation shall be deemed to be paid as a dividend on the last day of its taxable year to each shareholder thereof, in proportion to each shareholder's ownership, with which such corporation is engaged in a unitary business. Such deemed dividend shall be treated as a dividend under section [290.21](#), subdivision 4.

Dividends actually paid by a foreign operating corporation to a corporate shareholder which is a member of the same unitary business as the foreign operating corporation shall be eliminated from the net income of the unitary business in preparing a combined report for the unitary business. The adjusted net income of a foreign operating corporation shall be its net income adjusted as follows:

(1) any taxes paid or accrued to a foreign country, the commonwealth of Puerto Rico, or a United States possession or political subdivision of any of the foregoing shall be a deduction; and

(2) the subtraction from federal taxable income for payments received from foreign corporations or foreign operating corporations under section [290.01](#), subdivision 19d, clause (11), shall not be allowed.

If a foreign operating corporation incurs a net loss, neither income nor deduction from that corporation shall be included in determining the net income of the unitary business.

(h) For purposes of determining the net income of a unitary business and the factors to be used in the apportionment of net income pursuant to section [290.191](#) or [290.20](#), there must be included only the income and apportionment factors of domestic corporations or other domestic entities other than foreign operating corporations that are determined to be part of the unitary business pursuant to this subdivision, notwithstanding that foreign corporations or other foreign entities might be included in the unitary business.

(i) Deductions for expenses, interest, or taxes otherwise allowable under this chapter that are connected with or allocable against dividends, deemed dividends described in paragraph (g), or royalties, fees, or other like income described in section [290.01](#), subdivision 19d, clause (11), shall not be disallowed.

(j) Each corporation or other entity that is part of a unitary business must file combined reports as the commissioner determines. On the reports, all intercompany transactions between entities included pursuant to paragraph (h) must be eliminated and the entire net income of the unitary business determined in accordance with this subdivision is apportioned among the entities by using each entity's Minnesota factors for apportionment purposes in the numerators of the apportionment formula and the total factors for apportionment purposes of all

entities included pursuant to paragraph (h) in the denominators of the apportionment formula.

(k) If a corporation has been divested from a unitary business and is included in a combined report for a fractional part of the common accounting period of the combined report:

(1) its income includable in the combined report is its income incurred for that part of the year determined by proration or separate accounting; and

(2) its sales, property, and payroll included in the apportionment formula must be prorated or accounted for separately.

Subd. 5. **Special rule.** Notwithstanding subdivisions 3 and 4, all income from the operation of an athletic team when the visiting team does not share in the gate receipts is assigned to the state in which the team's operation is based.

Subd. 6. **Nonbusiness income.** For a trade or business for which allocation of income within and without this state is required, if the taxpayer has any income not connected with the trade or business carried on partly within and partly without this state that income must be allocated under subdivision 2. Intangible property is employed in a trade or business if the owner of the property holds it as a means of furthering the trade or business.

Subd. 7. Repealed, 1991 c 291 art 7 s 26

HIST: (2394-23) 1933 c 405 s 23; Ex1937 c 49 s 17; 1949 c 734 s 8; 1971 c 152 s 1; 1971 c 730 s 1; 1973 c 650 art 7 s 1; 1977 c 423 art 1 s 11; 1977 c 429 s 63; 1978 c 767 s 18; 1979 c 303 art 1 s 18,19; 1980 c 512 s 6; 1980 c 607 art 1 s 20,21,32; 1981 c 60 s 27; 1981 c 178 s 59; 1Sp1981 c 1 art 9 s 7; 1982 c 523 art 28 s 2; art 40 s 14; 3Sp1981 c 2 art 3 s 13; 1983 c 15 s 17; 1983 c 207 s 18,43; 1983 c 342 art 1 s 24,43; 1984 c 514 art 1 s 8; art 2 s 22-24; 1984 c 655 art 1 s 50; 1Sp1985 c 14 art 21 s 31; 1986 c 444; 1Sp1986 c 1 art 1 s 9; art 2 s 2; 1987 c 268 art 1 s 73; 1988 c 719 art 1 s 12; art 2 s 30; art 3 s 12; 1989 c 28 s 16,17,25; 1989 c 334 art 2 s 51; 1Sp1989 c 1 art 10 s 25,26; 1990 c 480 art 5 s 2,3; 1990 c 604 art 2 s 16; 1991 c 291 art 6 s 32,33,46; art 7 s 16; 1992 c 511 art 6 s 19; 1993 c 375 art 8 s 14; 1994 c 416 art 2 s 4; 1994 c 587 art 1 s 24; 1996 c 471 art 1 s 8; 1997 c 31 art 1 s 16; 1997 c 84 art 2 s 3; 1997 c 231 art 6 s 15; art 15 s 16

Excise and Sales Taxes, CHAPTER 297A GENERAL SALES TAX AND DISTRIBUTION

297A.01 Definitions.

Subdivision 1. The following words, terms, and phrases when used in this chapter shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning.

Subd. 2. "Person" includes any individual, partner, officer, director, firm, partnership, joint venture, limited liability company, association, cooperative, social club, fraternal organization, municipal or private corporation whether organized for profit or not, estate, trusts, business trusts, receiver, trustee, syndicate, the United States, the state of Minnesota, any political subdivision of Minnesota, or any other group or combination acting as a unit, and the plural as well as the singular number. As used in the preceding sentence, the term "person" includes, but is not limited to, directors and officers of corporations, governors and managers of a limited liability company, or members of partnerships who, either individually or jointly with others, have the control, supervision or responsibility of filing returns and making payment of the amount of tax imposed by this chapter. "Person" shall also include any agent or consignee of any individual or organization enumerated in this subdivision.

Subd. 3. A "sale" and a "purchase" includes, but is not limited to, each of the following transactions:

(a) Any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, and the leasing of or the granting of a license to use or consume tangible personal property other than manufactured homes used for residential purposes for a continuous period of 30 days or more, for a consideration in money or by exchange or barter;

(b) The production, fabrication, printing, or processing of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, printing, or processing;

(c) The furnishing, preparing, or serving for a consideration of food, meals, or drinks. "Sale" or "purchase" does not include:

(1) meals or drinks served to patients, inmates, or persons residing at hospitals, sanitariums, nursing homes, senior citizens homes, and correctional, detention, and detoxification facilities;

(2) meals or drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to the handicapped and their spouses by governmental agencies, nonprofit organizations, agencies, or churches or pursuant to any program funded in whole or part through 42 USCA sections 3001 through 3045, wherever delivered, prepared or served; or

(3) meals and lunches served at public and private schools, universities, or colleges.

Notwithstanding section [297A.25](#), subdivision 2, taxable food or meals include, but are not limited to, the following:

(i) food or drinks sold by the retailer for immediate consumption on the retailer's premises. Food and drinks sold within a building or grounds which require an admission charge for entrance are presumed to be sold for consumption on the premises;

(ii) food or drinks prepared by the retailer for immediate consumption either on or off the retailer's premises. For purposes of this subdivision, "food or drinks prepared for immediate consumption" includes any food product upon which an act of preparation including, but not limited to, cooking, mixing, sandwich making, blending, heating, or pouring has been performed by the retailer so the food product may be immediately consumed by the purchaser;

(iii) ice cream, ice milk, frozen yogurt products, or frozen novelties sold in single or individual servings including cones, sundaes, and snow cones. For purposes of this subdivision, "single or individual servings" does not include products when sold in bulk containers or bulk packaging;

(iv) soft drinks and other beverages including all carbonated and noncarbonated beverages or drinks sold in liquid form except beverages or drinks which contain milk or milk products, beverages or drinks containing 15 or more percent fruit juice, and noncarbonated and noneffervescent bottled water sold in individual containers of one-half gallon or more in size;

(v) gum, candy, and candy products, except when sold for fundraising purposes by a nonprofit organization that provides educational and social activities primarily for young people 18 years of age and under;

(vi) ice;

(vii) all food sold from vending machines;

(viii) all food for immediate consumption sold from concession stands and vehicles;

- (ix) party trays;
- (x) all meals and single servings of packaged snack food sold in restaurants and bars; and
- (xi) bakery products:

(A) prepared by the retailer for consumption on the retailer's premises;

(B) sold at a place that charges admission;

(C) sold from vending machines; or

(D) sold in single or individual servings from concession stands, vehicles, bars, and restaurants. For purposes of this subdivision, "single or individual servings" does not include products when sold in bulk containers or bulk packaging.

For purposes of this subdivision, "premises" means the total space and facilities, including buildings, grounds, and parking lots that are made available or that are available for use by the retailer or customer for the purpose of sale or consumption of prepared food and drinks. The premises of a caterer is the place where the catered food or drinks are served;

(d) The granting of the privilege of admission to places of amusement, recreational areas, or athletic events, except a world championship football game sponsored by the national football league, and the privilege of having access to and the use of amusement devices, tanning facilities, reducing salons, steam baths, turkish baths, health clubs, and spas or athletic facilities;

(e) The furnishing for a consideration of lodging and related services by a hotel, rooming house, tourist court, motel or trailer camp and of the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more;

(f) The furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state, or local exchange telephone service, intrastate toll service, and interstate toll service, if that service originates from and is charged to a telephone located in this state. Telephone service does not include services purchased with prepaid telephone calling cards. Telephone service includes paging services and private communication service, as defined in United States Code, title 26, section 4252(d), as amended through December 31, 1991, except for private communication service purchased by an agent acting on behalf of the state lottery. The furnishing for a consideration of access to telephone services by a hotel to its guests is a sale under this clause. Sales by municipal corporations in a proprietary capacity are included in the provisions of this clause. The furnishing of water and sewer services for residential use shall not be considered a sale. The sale of natural gas to be used as a fuel in vehicles propelled by natural gas shall not be considered a sale for the purposes of this section;

(g) The furnishing for a consideration of cable television services, including charges for basic service, charges for premium service, and any other charges for any other pay-per-view, monthly, or similar television services;

(h) The furnishing for a consideration of parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter;

(i) The furnishing for a consideration of services listed in this paragraph:

(i) laundry and dry cleaning services including cleaning, pressing, repairing, altering, and storing clothes, linen services and supply, cleaning and blocking hats, and carpet, drapery, upholstery, and industrial cleaning. Laundry and dry cleaning services do not include services provided by coin operated facilities operated by the customer;

(ii) motor vehicle washing, waxing, and cleaning services, including services provided by coin-operated facilities operated by the customer, and rustproofing, undercoating, and towing of motor vehicles;

(iii) building and residential cleaning, maintenance, and disinfecting and exterminating services;

(iv) detective services, security services, burglar, fire alarm, and armored car services; but not including services performed within the jurisdiction they serve by off-duty licensed peace officers as defined in section [626.84](#), subdivision 1, or services provided by a nonprofit organization for monitoring and electronic surveillance of persons placed on in-home detention pursuant to court order or under the direction of the Minnesota department of corrections;

(v) pet grooming services;

(vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting and maintenance; tree, bush, and shrub pruning, bracing, spraying, and surgery; indoor plant care; tree, bush, shrub and stump removal; and tree trimming for public utility lines. Services performed under a construction contract for the installation of shrubbery, plants, sod, trees, bushes, and similar items are not taxable;

(vii) massages, except when provided by a licensed health care facility or professional or upon written referral from a licensed health care facility or professional for treatment of illness, injury, or disease; and

(viii) the furnishing for consideration of lodging, board and care services for animals in kennels and other similar arrangements, but excluding veterinary and horse boarding services.

The services listed in this paragraph are taxable under section [297A.02](#) if the service is performed wholly within Minnesota or if the service is performed partly within and partly without Minnesota and the greater proportion of the service is performed in Minnesota, based on the cost of performance. In applying the provisions of this chapter, the terms "tangible personal property" and "sales at retail" include taxable services and the provision of taxable services, unless specifically provided otherwise. Services performed by an employee for an employer are not taxable under this paragraph. Services performed by a partnership or association for another partnership or association are not taxable under this paragraph if one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity. Services performed between members of an affiliated group of corporations are not taxable. For purposes of this section, "affiliated group of corporations" includes those entities that would be classified as a member of an affiliated group under United States Code, title 26, section 1504, as amended through December 31, 1987, and who are eligible to file a consolidated tax return for federal income tax purposes; (j) A "sale" and a "purchase" includes the transfer of computer software, meaning information and directions that dictate the function performed by data processing equipment. A "sale" and a "purchase" does not include the design, development, writing, translation, fabrication, lease, or transfer for a consideration of title or possession of a custom computer program; and

(k) The granting of membership in a club, association, or other organization if:

- (1) the club, association, or other organization makes available for the use of its members sports and athletic facilities (without regard to whether a separate charge is assessed for use of the facilities); and
- (2) use of the sports and athletic facilities is not made available to the general public on the same basis as it is made available to members.

Granting of membership includes both one-time initiation fees and periodic membership dues. Sports and athletic facilities include golf courses, tennis, racquetball, handball and squash courts, basketball and volleyball facilities, running tracks, exercise equipment, swimming pools, and other similar athletic or sports facilities. The provisions of this paragraph do not apply to camps or other recreation facilities owned and operated by an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1992, for educational and social activities for young people primarily age 18 and under.

Subd. 4. (a) A "retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business.

(b) Property utilized by the owner only by leasing such property to others or by holding it in an effort to so lease it, and which is put to no use by the owner other than resale after such lease or effort to lease, shall be considered property purchased for resale.

(c) Master computer software programs that are purchased and used to make copies for sale or lease are considered property purchased for resale.

(d) Sales of building materials, supplies and equipment to owners, contractors, subcontractors or builders for the erection of buildings or the alteration, repair or improvement of real property are "retail sales" or "sales at retail" in whatever quantity sold and whether or not for purpose of resale in the form of real property or otherwise.

(e) A sale of carpeting, linoleum, or other similar floor covering which includes installation of the carpeting, linoleum, or other similar floor covering is a contract for the improvement of real property.

(f) A sale of shrubbery, plants, sod, trees, and similar items that includes installation of the shrubbery, plants, sod, trees, and similar items is a contract for the improvement of real property.

(g) Aircraft and parts for the repair thereof purchased by a nonprofit, incorporated flying club or association utilized solely by the corporation by leasing such aircraft to shareholders of the corporation shall be considered property purchased for resale. The leasing of the aircraft to the shareholders by the flying club or association shall be considered a sale. Leasing of aircraft utilized by a lessee for the purpose of leasing to others, whether or not the lessee also utilizes the aircraft for flight instruction where no separate charge is made for aircraft rental or for charter service, shall be considered a purchase for resale; provided, however, that a proportionate share of the lease payment reflecting use for flight instruction or charter service is subject to tax pursuant to section [297A.14](#).

(h) Tangible personal property that is awarded as prizes shall not be considered property purchased for resale.

(i) Tangible personal property that is utilized or employed in the furnishing or providing of services under section 297A.01, subdivision 3, paragraph (d), or in conducting lawful gambling under chapter 349 or the state lottery under chapter 349A, including property given as promotional items, shall not be considered property purchased for resale. Machines, equipment, or devices that are used to furnish, provide, or dispense goods or services, including coin-operated devices, shall not be considered property purchased for resale.

Subd. 5. "Storage" includes any keeping or retention in Minnesota for any purpose except sale in the regular course of business or subsequent use solely outside Minnesota of tangible personal property.

Subd. 6. "Use" includes the exercise of any right or power over tangible personal property, or tickets or admissions to places of amusement or athletic events, purchased from a retailer incident to the ownership of any interest in that property, except that it does not include the sale of that property in the regular course of business.

"Use" includes the consumption of printed materials which are consumed in the creation of nontaxable advertising that is distributed, either directly or indirectly, within Minnesota.

Subd. 7. "Storage" and "use" do not include the keeping or retaining in a public warehouse of tangible personal property or tickets or admissions to places of amusement or athletic events when shipped or brought into Minnesota by common carrier, for the purpose of subsequently being transported outside Minnesota and thereafter used solely outside Minnesota, except in the course of interstate commerce.

Subd. 8. "Sales price" means the total consideration valued in money, for a retail sale whether paid in money or otherwise, excluding therefrom any amount allowed as credit for tangible personal property taken in trade for resale, without deduction for the cost of the property sold, cost of materials used, labor or service cost, interest, or discount allowed after the sale is consummated, the cost of transportation incurred prior to the time of sale, any amount for which credit is given to the purchaser by the seller, or any other expense whatsoever. A deduction may be made for charges of up to 15 percent in lieu of tips, if the consideration for such charges is separately stated. No deduction shall be allowed for charges for services that are part of a sale. Except as otherwise provided in this subdivision, a deduction may also be made for interest, financing, or carrying charges, charges for labor or services used in installing or applying the property sold or transportation charges if the transportation occurs after the retail sale of the property only if the consideration for such charges is separately stated. "Sales price," for purposes of sales of ready-mixed concrete sold from a ready-mixed concrete truck, includes any transportation, delivery, or other service charges, and no deduction is allowed for those charges, whether or not the charges are separately stated. There shall not be included in "sales price" cash discounts allowed and taken on sales or the amount refunded either in cash or in credit for property returned by purchasers.

Subd. 9. "Gross receipts" means the total amount received, in money or otherwise, for all sales at retail as measured by the sales price. Gross receipts from sales may, at the option of the taxpayer, be reported on the cash basis as the consideration is received or on the accrual basis as sales are made.

Subd. 10. "Retailer" includes every person engaged in making sales at retail as herein defined.

Subd. 11. "Tangible personal property" means corporeal personal property of any kind whatsoever, including property which is to become real property as a result of incorporation, attachment, or installation following its acquisition.

Personal property does not include:

- (a) large ponderous machinery and equipment used in a business or production activity which at common law would be considered to be real property;
- (b) property which is subject to an ad valorem property tax;
- (c) property described in section [272.02](#), subdivision 1, clause (8), paragraphs (a) to (d);
- (d) property described in section [272.03](#), subdivision 2, clauses (3) and (5).

Tangible personal property includes computer software, whether contained on tape, discs, cards, or other devices. Tangible personal property also includes prepaid telephone calling cards. For purposes of this chapter, "prepaid telephone calling card" means any card or other similar arrangement, including prepaid authorization numbers, which permit its holder to obtain telephone services and pay for such services in advance.

Subd. 12. "Commissioner" means the commissioner of revenue of the state of Minnesota.

Subd. 13. "Agricultural production," as used in section [297A.25](#), subdivision 9, includes, but is not limited to, horticulture; floriculture; raising of pets, fur bearing animals, research animals, farmed cervidae, as defined in section [17.451](#), subdivision 2, llamas, as defined in section [17.455](#), subdivision 2, ratitae, as defined in section [17.453](#), subdivision 3, and horses.

Subd. 14. "Handicapped" means a permanent and total disability as defined in section [273.13](#), subdivision 22.

Subd. 15. "Farm machinery" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in the production for sale, but not including the processing, of livestock, dairy animals, dairy products, poultry and poultry products, fruits, vegetables, forage, grains and bees and apiary products. "Farm machinery" includes:

- (1) machinery for the preparation, seeding or cultivation of soil for growing agricultural crops and sod, harvesting and threshing of agricultural products, harvesting or mowing of sod, and certain machinery for dairy, livestock and poultry farms;
- (2) barn cleaners, milking systems, grain dryers, automatic feeding systems and similar installations, whether or not the equipment is installed by the seller and becomes part of the real property;
- (3) irrigation equipment sold for exclusively agricultural use, including pumps, pipe fittings, valves, sprinklers and other equipment necessary to the operation of an irrigation system when sold as part of an irrigation system, whether or not the equipment is installed by the seller and becomes part of the real property;
- (4) logging equipment, including chain saws used for commercial logging;
- (5) fencing used for the containment of farmed cervidae, as defined in section [17.451](#), subdivision 2;
- (6) primary and backup generator units used to generate electricity for the purpose of operating farm machinery, as defined in this subdivision, or providing light or space heating necessary for the production of livestock, dairy animals, dairy products, or poultry and poultry products; and
- (7) aquaculture production equipment as defined in subdivision 19.

Repair or replacement parts for farm machinery shall not be included in the definition of farm machinery. Tools, shop equipment, grain bins, feed bunks, fencing material except fencing material covered by clause (5), communication equipment and other farm supplies shall not be considered to be farm machinery.

"Farm machinery" does not include motor vehicles taxed under chapter 297B, snowmobiles, snow blowers, lawn mowers except those used in the production of sod for sale, garden-type tractors or garden tillers and the repair and replacement parts for those vehicles and machines.

Subd. 16. **Capital equipment.** (a) Capital equipment means machinery and equipment purchased or leased for use in this state and used by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail and for electronically transmitting results retrieved by a customer of an on-line computerized data retrieval system.

(b) Capital equipment includes all machinery and equipment that is essential to the integrated production process. Capital equipment includes, but is not limited to:

- (1) machinery and equipment used or required to operate, control, or regulate the production equipment;
- (2) machinery and equipment used for research and development, design, quality control, and testing activities;
- (3) environmental control devices that are used to maintain conditions such as temperature, humidity, light, or air pressure when those conditions are essential to and are part of the production process;
- (4) materials and supplies necessary to construct and install machinery or equipment;
- (5) repair and replacement parts, including accessories, whether purchased as spare parts, repair parts, or as upgrades or modifications to machinery or equipment;
- (6) materials used for foundations that support machinery or equipment;
- (7) materials used to construct and install special purpose buildings used in the production process; or
- (8) ready-mixed concrete trucks in which the ready-mixed concrete is mixed as part of the delivery process.

(c) Capital equipment does not include the following:

- (1) motor vehicles taxed under chapter 297B;
- (2) machinery or equipment used to receive or store raw materials;
- (3) building materials;
- (4) machinery or equipment used for nonproduction purposes, including, but not limited to, the following: machinery and equipment used for plant security, fire prevention, first aid, and hospital stations; machinery and equipment used in support operations or for administrative purposes; machinery and equipment used solely for pollution control, prevention, or abatement; and machinery and equipment used in plant cleaning, disposal of scrap and waste, plant communications, space heating, lighting, or safety;
- (5) "farm machinery" as defined by subdivision 15, and "aquaculture production equipment" as defined by subdivision 19; or

(6) any other item that is not essential to the integrated process of manufacturing, fabricating, mining, or refining.

(d) For purposes of this subdivision:

(1) "Equipment" means independent devices or tools separate from machinery but essential to an integrated production process, including computers and software, used in operating, controlling, or regulating machinery and equipment; and any subunit or assembly comprising a component of any machinery or accessory or attachment parts of machinery, such as tools, dies, jigs, patterns, and molds.

(2) "Fabricating" means to make, build, create, produce, or assemble components or property to work in a new or different manner.

(3) "Machinery" means mechanical, electronic, or electrical devices, including computers and software, that are purchased or constructed to be used for the activities set forth in paragraph (a), beginning with the removal of raw materials from inventory through the completion of the product, including packaging of the product.

(4) "Manufacturing" means an operation or series of operations where raw materials are changed in form, composition, or condition by machinery and equipment and which results in the production of a new article of tangible personal property. For purposes of this subdivision, "manufacturing" includes the generation of electricity or steam to be sold at retail.

(5) "Mining" means the extraction of minerals, ores, stone, and peat.

(6) "On-line data retrieval system" means a system whose cumulation of information is equally available and accessible to all its customers.

(7) "Pollution control equipment" means machinery and equipment used to eliminate, prevent, or reduce pollution resulting from an activity described in paragraph (a).

(8) "Primarily" means machinery and equipment used 50 percent or more of the time in an activity described in paragraph (a).

(9) "Refining" means the process of converting a natural resource to a product, including the treatment of water to be sold at retail.

(e) For purposes of this subdivision the requirement that the machinery or equipment "must be used by the purchaser or lessee" means that the person who purchases or leases the machinery or equipment must be the one who uses it for the qualifying purpose. When a contractor buys and installs machinery or equipment as part of an improvement to real property, only the contractor is considered the purchaser.

Subd. 17. Special tooling. Special tooling means tools, dies, jigs, patterns, gauges and other special tools which have value and use only for the buyer and for the use for which it is made. An item has use or value only to the buyer if the item is not standard enough to be stocked or ordered from a catalog or other sales literature, but must be produced in accordance with special requirements peculiar to the buyer and not common to someone else whose conditions for possible use of the material are reasonably similar to the buyer's.

Subd. 18. Custom computer program. "Custom computer program" means a computer program prepared to the special order of the customer, either in the form of written procedures or in the form of storage media on which, or in which, the program is recorded, or any required documentation or manuals designed to facilitate the use of the custom computer program transferred. It includes those services represented by separately stated charges for modifications to an existing prewritten program that are prepared to the special order of the customer. It does not include a "canned" or prewritten computer program that is held or existing for general or repeated sale or lease, even if the prewritten or "canned" program was initially developed on a custom basis or for in-house use. Modification to an existing prewritten program to meet the customer's needs is custom computer programming only to the extent of the modification. For purposes of this subdivision:

(1) "Storage media" includes punched cards, tapes, discs, diskettes, or drums on which computer programs may be embodied or stored;

(2) "Computer" does not include tape-controlled automatic drilling, milling, or other manufacturing machinery or equipment; and

(3) "Computer program" means the complete plan for the solution of a problem, such as the complete sequence of automatic data processing equipment instructions necessary to solve a problem and includes both systems and application programs and subdivisions, such as assemblers, compilers, routines, generators, and utility programs.

Subd. 19. Aquaculture production equipment. "Aquaculture production equipment" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in

aquaculture production. Aquaculture production equipment includes: augers and blowers, automatic feed systems, manual feeding equipment, shockers, gill nets, trap nets, seines, box traps, round nets and traps, net pens, dip nets, net washers, floating net supports, floating access walkways, net supports and walkways, growing tanks, holding tanks, troughs, raceways, transport tanks, egg taking equipment, egg hatcheries, egg incubators, egg baskets and troughs, egg graders, egg counting equipment, fish counting equipment, fish graders, fish pumps and loaders, fish elevators, air blowers, air compressors, oxygen generators, oxygen regulators, diffusers and injectors, air supply equipment, oxygenation columns, water coolers and heaters, heat exchangers, water filter systems, water purification systems, waste collection equipment, feed mills, portable scales, feed grinders, feed mixers, feed carts and trucks, power feed wagons, fertilizer spreaders, fertilizer tanks, forage collection equipment, land levelers, loaders, post hole diggers, disc, harrow, plow, and water diversion devices. Repair or replacement parts for aquaculture production equipment shall not be included in the definition of aquaculture production equipment.

Subd. 20. Repealed, 1997 c 231 art 7 s 46

Subd. 21. Repealed, 1997 c 231 art 13 s 20

Subd. 22. **Leasing.** "Leasing" includes all transfers of possession of tangible personal property or the use thereof by the lessee for a consideration when title remains with the lessor at the end of the lease. If a contract designated as a lease binds the lessee for a fixed term and the lessee is to obtain title at the end of the term of the agreement or has the option at that time to purchase the property for a nominal amount, the contract is regarded as a sale and not as a lease. For purposes of this chapter, a lease of tangible personal property is a series of transactions that impose upon the lessee multiple payment obligations. A taxable transaction is considered to have occurred when an obligation to make a lease payment becomes due under the terms of the agreement or trade practices of the lessor. For purposes of this subdivision, "nominal amount" means an amount so small, slight, or negligible that it is not economically significant and bears no relation to the real value of the item being purchased.

HIST: Ex1967 c 32 art 13 s 1; 1969 c 62 s 1,2; 1969 c 571 s 1,2; 1969 c 634 s 1; Ex1971 c 31 art 1 s 1; 1973 c 36 s 1; 1973 c 582 s 3; 1975 c 312 s 1,2; 1975 c 397 s 1; 1977 c 363 s 1; 1979 c 303 art 9 s 1; 1980 c 607 art 5 s 1; 1Sp1981 c 1 art 4 s 1,2; 1982 c 523 art 34 s 1; 1982 c 641 art 2 s 4; 3Sp1982 c 1 art 6 s 1; 1983 c 327 s 1,2; 1984 c 502 art 6 s 1-3; 1984 c 655 art 1 s 53; 1985 c 83 s 1; 1Sp1985 c 14 art 2 s 6; art 4 s 90; 1987 c 268 art 4 s 1-6; 1987 c 400 s 52; 1988 c 719 art 10 s 1; 1Sp1989 c 1 art 12 s 2; art 19 s 3; 1990 c 480 art 4 s 3,4; 1990 c 604 art 6 s 1,2; 1991 c 291 art 8 s 7-10; 1991 c 309 s 14; 1993 c 137 s 10; 1993 c 375 art 1 s 4; art 8 s 14; art 9 s 22-25; 1994 c 416 art 3 s 1; 1994 c 510 art 3 s 9; 1994 c 587 art 2 s 2,3; 1995 c 264 art 2 s 22,23; art 17 s 2; 1997 c 31 art 2 s 6; 1997 c 84 art 3 s 3; 1997 c 231 art 7 s 4-8; art 13 s 2; 1998 c 300 art 2 s 2,3; 1998 c 389 art 8 s 1-3

* NOTE: The amendment to subdivision 15 by Laws 1998, *chapter 389, article 8, section 2, is effective for sales made *after June 30, 2000. Laws 1998, chapter 389, article 8, section *48.

297A.256 Exemptions for certain nonprofit groups.

Subdivision 1. **Fundraising sales by nonprofit groups.**

Notwithstanding the provisions of this chapter, the following sales made by a "nonprofit organization" are exempt from the sales and use tax.

(a)(1) All sales made by an organization for fundraising purposes if that organization exists solely for the purpose of providing educational or social activities for young people primarily age 18 and under. This exemption shall apply only if the gross annual sales receipts of the organization from fundraising do not exceed \$10,000.

(2) A club, association, or other organization of elementary or secondary school students organized for the purpose of carrying on sports, educational, or other extracurricular activities is a separate organization from the school district or school for purposes of applying the \$10,000 limit. This paragraph does not apply if the sales are derived from admission charges or from activities for which the money must be deposited with the school district treasurer under section [123B.49](#), subdivision 2, or be recorded in the same manner as other revenues or expenditures of the school district under section [123B.49](#), subdivision 4.

(b) All sales made by an organization for fundraising purposes if that organization is a senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation and other nonprofit purposes and no part of the net earnings inure to the benefit of any private shareholders. This exemption shall apply only if the gross annual sales receipts of the organization from fundraising do not exceed \$10,000.

(c) The gross receipts from the sales of tangible personal property at, admission charges for, and sales of food, meals, or drinks at fundraising events sponsored by a nonprofit organization when the entire proceeds, except for the necessary expenses therewith, will be used solely and exclusively for charitable, religious, or educational purposes. This exemption does not apply to admission charges for events involving bingo or other gambling activities or to charges for use of amusement devices involving bingo or other gambling activities. For purposes of this paragraph, a "nonprofit organization" means any unit of government, corporation, society, association, foundation, or institution organized and operated for charitable, religious, educational, civic, fraternal, senior citizens' or veterans' purposes, no part of the net earnings of which inures to the benefit of a private individual.

If the profits are not used solely and exclusively for charitable, religious, or educational purposes, the entire gross receipts are subject to tax.

Each nonprofit organization shall keep a separate accounting record, including receipts and disbursements from each fundraising event. All deductions from gross receipts must be documented with receipts and other records. If records are not maintained as required, the entire gross receipts are subject to tax.

The exemption provided by this paragraph does not apply to any sale made by or in the name of a nonprofit corporation as

the active or passive agent of a person that is not a nonprofit corporation.

The exemption for fundraising events under this paragraph is limited to no more than 24 days a year. Fundraising events conducted on premises leased for more than five days but less than 30 days do not qualify for this exemption.

(d) The gross receipts from the sale or use of tickets or admissions to a golf tournament held in Minnesota are exempt if the beneficiary of the tournament's net proceeds qualifies as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code, as amended through December 31, 1994, including a tournament conducted on premises leased or occupied for more than four days.

Subd. 2. **Statewide amateur athletic games.** Notwithstanding section [297A.01](#), subdivision 3, or any other provision of this chapter, the gross receipts from the following sales made to or by a nonprofit corporation designated by the Minnesota amateur sports commission to conduct a series of statewide amateur athletic games and related events, workshops, and clinics are exempt:

(1) sales of tangible personal property to or the storage, use, or other consumption of tangible personal property by the nonprofit corporation; and

(2) sales of tangible personal property, admission charges, and sales of food, meals, and drinks by the nonprofit corporation at fundraising events, athletic events, or athletic facilities.

HIST: 1Sp1985 c 14 art 2 s 10; 1987 c 268 art 4 s 18; 1988 c 719 art 10 s 16; 1994 c 587 art 2 s 14; 1996 c 471 art 2 s 22; 1997 c 31 art 2 s 46; 1998 c 389 art 8 s 19; 1998 c 397 art 11 s 3

Excise and Sales Taxes, CHAPTER 297E GAMBLING TAXES

297E.01 Definitions.

Subdivision 1. **Scope.** Unless otherwise defined in this chapter, or unless the context clearly indicates otherwise, the terms used in this chapter have the meaning given them in chapter 349. The definitions in this section are for tax administration purposes and apply to this chapter.

Subd. 2. **Bingo.** For purposes of this chapter "bingo" means the game of bingo as defined in section [349.12](#), subdivision 4, and as conducted under chapter 349, and any other game that is substantially the same as or similar to that game, including but not limited to a game where:

- (1) players pay compensation for a game sheet, card, or paper that has spaces arranged on it in columns and rows containing printed numbers or figures, or that has spaces in which players are allowed to place their own numbers or figures, or for an electronic, mechanical, or other facsimile of such sheets, cards, or paper;
- (2) numbers or figures are randomly selected for comparison with the numbers or figures on each game sheet, card, paper, or facsimile;
- (3) game winners are those who have a game sheet, card, paper, or facsimile with some or all of the randomly selected numbers or figures displayed thereon, in the same pattern or arrangement that has been previously designated or understood to be a winning pattern or arrangement for the game; and
- (4) game winners receive or are eligible to receive a prize such as money, property, or other reward or benefit.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of revenue or a person to whom the commissioner has delegated functions.

Subd. 4. **Contraband.** For purposes of this chapter, "contraband" means all of the items listed in section [349.2125](#), and all pull-tab or tipboard deals or portions of deals on which the tax imposed under section [297E.02](#) has not been paid.

Subd. 5. **Distributor.** "Distributor" means a distributor as defined in section [349.12](#), subdivision 11, or a person who markets, sells, or provides gambling product to a person or entity for resale or use at the retail level.

Subd. 6. **Fiscal year.** "Fiscal year" means the period from July 1 to June 30.

Subd. 7. **Gambling product.** "Gambling product" means bingo cards, paper, or sheets; pull-tabs; tipboards; paddletickets and paddleticket cards; raffle tickets; or any other ticket, card, board, placard, device, or token that represents a chance, for which consideration is paid, to win a prize.

Subd. 8. **Gross receipts.** "Gross receipts" means all receipts derived from lawful gambling activity including, but not limited to, the following items:

- (1) gross sales of bingo hard cards and paper sheets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;
- (2) the ideal gross of pull-tab and tipboard deals or games less the value of unsold and defective tickets and before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;
- (3) gross sales of raffle tickets and paddle tickets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;
- (4) admission, commission, cover, or other charges imposed on participants in lawful gambling activity as a condition for or cost of participation; and
- (5) interest, dividends, annuities, profit from transactions, or other income derived from the accumulation or use of gambling proceeds.

Gross receipts does not include proceeds from rental under section [349.164](#) or [349.18](#), subdivision 3.

Subd. 9. **Ideal gross.** "Ideal gross" means the total amount of receipts that would be received if every individual ticket in the pull-tab or tipboard deal was sold at its face value. In the calculation of ideal gross and prizes, a free play ticket shall be valued at face value.

Subd. 10. **Manufacturer.** "Manufacturer" means a manufacturer as defined in section [349.12](#), subdivision 26, or a person or entity who:

- (1) assembles from raw materials, or from subparts or other components, a completed item of gambling product for resale, use, or receipt in Minnesota; or
- (2) sells, furnishes, ships, or imports completed gambling product from outside Minnesota for resale, use, receipt, or storage in Minnesota; or
- (3) being within the state, assembles, produces, or otherwise creates gambling products.

Subd. 11. **Prize.** "Prize" means a thing of value, other than a free play, offered or awarded to the winner of a gambling game.

Subd. 12. **Pull-tab.** "Pull-tab" is a pull-tab as defined in section [349.12](#), subdivision 32, or any other gambling ticket or device that is substantially the same as or similar to such a pull-tab, including but not limited to, a ticket or card that:

- (1) has one or more concealed numbers, figures, or symbols, or combination thereof, printed on it;
- (2) may be used in games where the player knows in advance, or can determine in advance, what the predesignated winning numbers, figures, symbols, or combinations are; and
- (3) may be played by revealing the concealed ticket information and comparing that information with the predesignated winning numbers, figures, symbols, or combinations in order to determine a winner.

Subd. 13. **Raffle.** "Raffle" means a raffle as defined in section [349.12](#), subdivision 33, and any other game that is played in a manner substantially similar to the play of such a raffle, including but not limited to raffles in which compensation is paid for the chance to win a thing of value, the chance is evidenced by a ticket, card, token, or equivalent item, and the winner is selected by random drawing.

Subd. 14. **Retail level.** "Retail level" means an activity where gambling product is sold to players or participants in gambling games and where the players or participants give consideration for a chance to win a prize.

Subd. 15. **Taxpayer.** "Taxpayer" means a person subject to or liable for a tax imposed by this chapter, a person required to file reports or returns with the commissioner under this chapter, a person required to keep or retain records under this chapter, or a person required by this chapter to obtain or hold a permit.

Subd. 16. **Ticket.** "Ticket" means a valid token, card, or other tangible voucher, other than bingo cards, sheets, or paper, that grants the holder a chance or chances to participate in a game of gambling.

Subd. 17. **Tipboard.** "Tipboard" means a tipboard as defined in section [349.12](#), subdivision 34, and any game that is substantially the same as or similar to the game of tipboards authorized under chapter 349, including but not limited to any of the following games:

(1) a game that consists of one or more boards, placards, or other devices in which (i) the board, placard, or other device has been marked off into a grid or columns in which each section represents a chance to win a prize, (ii) participants pay a consideration to select a section or sections, (iii) all or some of the winning numbers, figures, symbols, or other winning criteria for the game are concealed or otherwise not known by the player at the time the player obtains a chance in the game, and (iv) the numbers, figures, symbols, or other criteria for winning the game are later revealed for comparison with the information on the board, placard, or other device in order to determine a winner;

(2) a game that consists of one or more boards, placards, or other devices that (i) have tickets attached to or otherwise associated with them, and that have one or more concealed numbers, figures, or combination thereof on the tickets; (ii) participants pay a consideration to obtain the tickets, (iii) all or some of the winning numbers, figures, symbols, or other winning criteria for the game are concealed or otherwise not known by the player at the time the player obtains a chance in the game, and (iv) the numbers, figures, symbols, or other criteria for winning the game are later revealed for comparison with the information on the game tickets in order to determine a winner; or

(3) a game that consists of a deal or set of tickets that (i) have one or more concealed numbers, figures, or symbols, or combination thereof, on the tickets, (ii) participants pay a consideration to obtain the tickets, (iii) all or some of the winning numbers, figures, symbols, or combination thereof, are concealed or otherwise not known to the player at the time the player obtains the ticket, and (iv) the tickets are used in games where the numbers, figures, symbols, or other winning criteria are later revealed for comparison with the information on the game tickets in order to determine a winner.

"Tipboards" includes any game otherwise described in this subdivision in which the winning chances are determined in whole or in part by the outcome of one or more sporting events. "Tipboard" does not include boards, placards, tickets, or other devices lawfully used in connection with the operation of the state lottery under chapter 349A or the lawful conduct of pari-mutuel betting on horse racing under chapter 240.

Subd. 18. **Other words.** Unless specifically defined in this chapter, or unless the context clearly indicates otherwise, the words used in this chapter have the meanings given them in chapter 349.

HIST: 1994 c 633 art 2 s 1

297E.01 Definitions.

Subdivision 1. **Scope.** Unless otherwise defined in this chapter, or unless the context clearly indicates otherwise, the terms used in this chapter have the meaning given them in chapter 349. The definitions in this section are for tax administration purposes and apply to this chapter.

Subd. 2. **Bingo.** For purposes of this chapter "bingo" means the game of bingo as defined in section [349.12](#), subdivision 4, and as conducted under chapter 349, and any other game that is substantially the same as or similar to that game, including but not limited to a game where:

(1) players pay compensation for a game sheet, card, or paper that has spaces arranged on it in columns and rows containing printed numbers or figures, or that has spaces in which players are allowed to place their own numbers or figures, or for an electronic, mechanical, or other facsimile of such sheets, cards, or paper;

(2) numbers or figures are randomly selected for comparison with the numbers or figures on each game sheet, card, paper, or facsimile;

(3) game winners are those who have a game sheet, card, paper, or facsimile with some or all of the randomly selected numbers or figures displayed thereon, in the same pattern or arrangement that has been previously designated or understood to be a winning pattern or arrangement for the game; and

(4) game winners receive or are eligible to receive a prize such as money, property, or other reward or benefit.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of revenue or a person to whom the commissioner has delegated functions.

Subd. 4. **Contraband.** For purposes of this chapter, "contraband" means all of the items listed in section [349.2125](#), and all pull-tab or tipboard deals or portions of deals on which the tax imposed under section [297E.02](#) has not been paid.

Subd. 5. **Distributor.** "Distributor" means a distributor as defined in section [349.12](#), subdivision 11, or a person who markets, sells, or provides gambling product to a person or entity for resale or use at the retail level.

Subd. 6. **Fiscal year.** "Fiscal year" means the period from July 1 to June 30.

Subd. 7. **Gambling product.** "Gambling product" means bingo cards, paper, or sheets; pull-tabs; tipboards;

paddletickets and paddleticket cards; raffle tickets; or any other ticket, card, board, placard, device, or token that represents a chance, for which consideration is paid, to win a prize.

Subd. 8. **Gross receipts.** "Gross receipts" means all receipts derived from lawful gambling activity including, but not limited to, the following items:

(1) gross sales of bingo hard cards and paper sheets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(2) the ideal gross of pull-tab and tipboard deals or games less the value of unsold and defective tickets and before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(3) gross sales of raffle tickets and paddle tickets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(4) admission, commission, cover, or other charges imposed on participants in lawful gambling activity as a condition for or cost of participation; and

(5) interest, dividends, annuities, profit from transactions, or other income derived from the accumulation or use of gambling proceeds.

Gross receipts does not include proceeds from rental under section [349.164](#) or [349.18](#), subdivision 3.

Subd. 9. **Ideal gross.** "Ideal gross" means the total amount of receipts that would be received if every individual ticket in the pull-tab or tipboard deal was sold at its face value. In the calculation of ideal gross and prizes, a free play ticket shall be valued at face value.

Subd. 10. **Manufacturer.** "Manufacturer" means a manufacturer as defined in section [349.12](#), subdivision 26, or a person or entity who:

(1) assembles from raw materials, or from subparts or other components, a completed item of gambling product for resale, use, or receipt in Minnesota; or

(2) sells, furnishes, ships, or imports completed gambling product from outside Minnesota for resale, use, receipt, or storage in Minnesota; or

(3) being within the state, assembles, produces, or otherwise creates gambling products.

Subd. 11. **Prize.** "Prize" means a thing of value, other than a free play, offered or awarded to the winner of a gambling game.

Subd. 12. **Pull-tab.** "Pull-tab" is a pull-tab as defined in section [349.12](#), subdivision 32, or any other gambling ticket or device that is substantially the same as or similar to such a pull-tab, including but not limited to, a ticket or card that:

(1) has one or more concealed numbers, figures, or symbols, or combination thereof, printed on it;

(2) may be used in games where the player knows in advance, or can determine in advance, what the predesignated winning numbers, figures, symbols, or combinations are; and

(3) may be played by revealing the concealed ticket information and comparing that information with the predesignated winning numbers, figures, symbols, or combinations in order to determine a winner.

Subd. 13. **Raffle.** "Raffle" means a raffle as defined in section [349.12](#), subdivision 33, and any other game that is played in a manner substantially similar to the play of such a raffle, including but not limited to raffles in which compensation is paid for the chance to win a thing of value, the chance is evidenced by a ticket, card, token, or equivalent item, and the winner is selected by random drawing.

Subd. 14. **Retail level.** "Retail level" means an activity where gambling product is sold to players or participants in gambling games and where the players or participants give consideration for a chance to win a prize.

Subd. 15. **Taxpayer.** "Taxpayer" means a person subject to or liable for a tax imposed by this chapter, a person required to file reports or returns with the commissioner under

this chapter, a person required to keep or retain records under this chapter, or a person required by this chapter to obtain or hold a permit.

Subd. 16. **Ticket.** "Ticket" means a valid token, card, or other tangible voucher, other than bingo cards, sheets, or paper, that grants the holder a chance or chances to participate in a game of gambling.

Subd. 17. **Tipboard.** "Tipboard" means a tipboard as defined in section [349.12](#), subdivision 34, and any game that is substantially the same as or similar to the game of tipboards authorized under chapter 349, including but not limited to any of the following games:

(1) a game that consists of one or more boards, placards, or other devices in which (i) the board, placard, or other device has been marked off into a grid or columns in which each section represents a chance to win a prize, (ii) participants pay a consideration to select a section or sections, (iii) all or some of the winning numbers, figures, symbols, or other winning criteria for the game are concealed or otherwise not known by the player at the time the player obtains a chance in the game, and (iv) the numbers, figures, symbols, or other criteria for winning the game are later revealed for comparison with the information on the board, placard, or other device in order to determine a winner;

(2) a game that consists of one or more boards, placards, or other devices that (i) have tickets attached to or otherwise associated with them, and that have one or more concealed numbers, figures, or combination thereof on the tickets; (ii) participants pay a consideration to obtain the tickets, (iii) all or some of the winning numbers, figures, symbols, or other winning criteria for the game are concealed or otherwise not known by the player at the time the player obtains a chance in the game, and (iv) the numbers, figures, symbols, or other criteria for winning the game are later revealed for comparison with the information on the game tickets in order to determine a winner; or

(3) a game that consists of a deal or set of tickets that (i) have one or more concealed numbers, figures, or symbols, or combination thereof, on the tickets, (ii) participants pay a consideration to obtain the tickets, (iii) all or some of the winning numbers, figures, symbols, or combination thereof, are concealed or otherwise not known to the player at the time the player obtains the ticket, and (iv) the tickets are used in games where the numbers, figures, symbols, or other winning criteria are later revealed for comparison with the information on the game tickets in order to determine a winner.

"Tipboards" includes any game otherwise described in this subdivision in which the winning chances are determined in whole or in part by the outcome of one or more sporting events. "Tipboard" does not include boards, placards, tickets, or other devices lawfully used in connection with the operation of the state lottery under chapter 349A or the lawful conduct of pari-mutuel betting on horse racing under chapter 240.

Subd. 18. **Other words.** Unless specifically defined in this chapter, or unless the context clearly indicates otherwise, the words used in this chapter have the meanings given them in chapter 349.

HIST: 1994 c 633 art 2 s 1

297E.01 Definitions.

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(1) players pay compensation for a game sheet, card, or paper that has spaces arranged on it in columns and rows containing printed numbers or figures, or that has spaces in which players are allowed to place their own numbers or figures, or for an electronic, mechanical, or other facsimile of such sheets, cards, or paper;

(2) numbers or figures are randomly selected for comparison with the numbers or figures on each game sheet, card, paper, or facsimile;

(3) game winners are those who have a game sheet, card,

paper, or facsimile with some or all of the randomly selected numbers or figures displayed thereon, in the same pattern or arrangement that has been previously designated or understood to be a winning pattern or arrangement for the game; and

(4) game winners receive or are eligible to receive a prize such as money, property, or other reward or benefit.

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Subd. 4. **Contraband.** For purposes of this chapter, "contraband" means all of the items listed in section [349.2125](#), and all pull-tab or tipboard deals or portions of deals on which the tax imposed under section [297E.02](#) has not been paid.

Subd. 5. **Distributor.** "Distributor" means a distributor as defined in section [349.12](#), subdivision 11, or a person who markets, sells, or provides gambling product to a person or entity for resale or use at the retail level.

Subd. 6. **Fiscal year.** "Fiscal year" means the period from July 1 to June 30.

Subd. 7. **Gambling product.** "Gambling product" means bingo cards, paper, or sheets; pull-tabs; tipboards; paddletickets and paddleticket cards; raffle tickets; or any other ticket, card, board, placard, device, or token that represents a chance, for which consideration is paid, to win a prize.

Subd. 8. **Gross receipts.** "Gross receipts" means all receipts derived from lawful gambling activity including, but not limited to, the following items:

(1) gross sales of bingo hard cards and paper sheets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(2) the ideal gross of pull-tab and tipboard deals or games less the value of unsold and defective tickets and before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(3) gross sales of raffle tickets and paddle tickets before

reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(4) admission, commission, cover, or other charges imposed on participants in lawful gambling activity as a condition for or cost of participation; and

(5) interest, dividends, annuities, profit from transactions, or other income derived from the accumulation or use of gambling proceeds.

Gross receipts does not include proceeds from rental under section [349.164](#) or [349.18](#), subdivision 3.

Subd. 9. **Ideal gross.** "Ideal gross" means the total amount of receipts that would be received if every individual ticket in the pull-tab or tipboard deal was sold at its face value. In the calculation of ideal gross and prizes, a free play ticket shall be valued at face value.

Subd. 10. **Manufacturer.** "Manufacturer" means a manufacturer as defined in section [349.12](#), subdivision 26, or a person or entity who:

(1) assembles from raw materials, or from subparts or other components, a completed item of gambling product for resale, use, or receipt in Minnesota; or

(2) sells, furnishes, ships, or imports completed gambling product from outside Minnesota for resale, use, receipt, or storage in Minnesota; or

(3) being within the state, assembles, produces, or otherwise creates gambling products.

Subd. 11. **Prize.** "Prize" means a thing of value, other than a free play, offered or awarded to the winner of a gambling game.

Subd. 12. **Pull-tab.** "Pull-tab" is a pull-tab as defined in section [349.12](#), subdivision 32, or any other gambling ticket or device that is substantially the same as or similar to such a pull-tab, including but not limited to, a ticket or card that:

(1) has one or more concealed numbers, figures, or symbols, or combination thereof, printed on it;

(2) may be used in games where the player knows in advance, or can determine in advance, what the predesignated winning numbers, figures, symbols, or combinations are; and

(3) may be played by revealing the concealed ticket information and comparing that information with the predesignated winning numbers, figures, symbols, or combinations in order to determine a winner.

Subd. 13. **Raffle.** "Raffle" means a raffle as defined in section [349.12](#), subdivision 33, and any other game that is played in a manner substantially similar to the play of such a raffle, including but not limited to raffles in which compensation is paid for the chance to win a thing of value, the chance is evidenced by a ticket, card, token, or equivalent item, and the winner is selected by random drawing.

Subd. 14. **Retail level.** "Retail level" means an activity where gambling product is sold to players or participants in gambling games and where the players or participants give consideration for a chance to win a prize.

Subd. 15. **Taxpayer.** "Taxpayer" means a person subject to or liable for a tax imposed by this chapter, a person required to file reports or returns with the commissioner under this chapter, a person required to keep or retain records under this chapter, or a person required by this chapter to obtain or hold a permit.

Subd. 16. **Ticket.** "Ticket" means a valid token, card, or other tangible voucher, other than bingo cards, sheets, or paper, that grants the holder a chance or chances to participate in a game of gambling.

Subd. 17. **Tipboard.** "Tipboard" means a tipboard as defined in section [349.12](#), subdivision 34, and any game that is substantially the same as or similar to the game of tipboards authorized under chapter 349, including but not limited to any of the following games:

(1) a game that consists of one or more boards, placards, or other devices in which (i) the board, placard, or other device has been marked off into a grid or columns in which each section represents a chance to win a prize, (ii) participants pay a consideration to select a section or sections, (iii) all

or some of the winning numbers, figures, symbols, or other winning criteria for the game are concealed or otherwise not known by the player at the time the player obtains a chance in the game, and (iv) the numbers, figures, symbols, or other criteria for winning the game are later revealed for comparison with the information on the board, placard, or other device in order to determine a winner;

(2) a game that consists of one or more boards, placards, or other devices that (i) have tickets attached to or otherwise associated with them, and that have one or more concealed numbers, figures, or combination thereof on the tickets; (ii) participants pay a consideration to obtain the tickets, (iii) all or some of the winning numbers, figures, symbols, or other winning criteria for the game are concealed or otherwise not known by the player at the time the player obtains a chance in the game, and (iv) the numbers, figures, symbols, or other criteria for winning the game are later revealed for comparison with the information on the game tickets in order to determine a winner; or

(3) a game that consists of a deal or set of tickets that (i) have one or more concealed numbers, figures, or symbols, or combination thereof, on the tickets, (ii) participants pay a consideration to obtain the tickets, (iii) all or some of the winning numbers, figures, symbols, or combination thereof, are concealed or otherwise not known to the player at the time the player obtains the ticket, and (iv) the tickets are used in games where the numbers, figures, symbols, or other winning criteria are later revealed for comparison with the information on the game tickets in order to determine a winner.

"Tipboards" includes any game otherwise described in this subdivision in which the winning chances are determined in whole or in part by the outcome of one or more sporting events.

"Tipboard" does not include boards, placards, tickets, or other devices lawfully used in connection with the operation of the state lottery under chapter 349A or the lawful conduct of pari-mutuel betting on horse racing under chapter 240.

Subd. 18. **Other words.** Unless specifically defined in this chapter, or unless the context clearly indicates otherwise, the words used in this chapter have the meanings given them in chapter 349.

HIST: 1994 c 633 art 2 s 1

297E.031 Gambling tax permit.

Subdivision 1. **Application and issuance.** A distributor who sells gambling products under this chapter must file an application with the commissioner, on a form prescribed by the commissioner, for a gambling tax permit and identification number. The commissioner, when satisfied that the applicant meets all applicable requirements under this chapter and chapter 349, shall issue the applicant a permit and number. A permit is not assignable and is valid only for the distributor in whose name it is issued.

Subd. 2. **Suspension; revocation.** (a) If a distributor fails to comply with this chapter or a rule of the commissioner, or if a license issued under chapter 349 is revoked or suspended, the commissioner, after giving notice, may for reasonable cause revoke or suspend a permit held by a distributor. A notice must be sent to the distributor at least 15 days before the proposed suspension or revocation is to take effect. The notice must give the reason for the proposed suspension or revocation and must require the distributor to show cause why the proposed action should not be taken. The notice may be served personally or by mail. (b) The notice must inform the distributor of the right to a contested case hearing. If a request in writing is made to the commissioner within 14 days of the date of the notice, the commissioner shall defer action on the suspension or revocation and shall refer the case to the office of administrative hearings for the scheduling of a contested case hearing. The distributor must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the distributor.

(c) The commissioner shall issue a final order following receipt of the recommendation of the administrative law judge.

(d) Under section [271.06](#), subdivision 1, an appeal to the tax court may be taken from the commissioner's order of revocation or suspension. The commissioner may not issue a new permit after revocation except upon application accompanied by reasonable evidence of the intention of the applicant to comply with all applicable laws and rules.

HIST: 1994 c 633 art 2 s 4; 1995 c 264 art 17 s 6

297E.04 Manufacturer's reports and records.

Subdivision 1. **Reports of sales.** A manufacturer who sells gambling product for use or resale in this state, or for receipt by a person or entity in this state, shall file with the commissioner, on a form prescribed by the commissioner, a report of gambling product sold to any person in the state, including the established governing body of an Indian tribe recognized by the United States Department of the Interior. The report must be filed monthly on or before the 20th day of the month succeeding the month in which the sale was made. The commissioner may require that the report be submitted via magnetic media or electronic data transfer. The commissioner may inspect the premises, books, records, and inventory of a manufacturer without notice during the normal business hours of the manufacturer. A person violating this section is guilty of a misdemeanor.

Subd. 2. **Bar codes.** The flare of each pull-tab and tipboard game must be imprinted by the manufacturer with a bar code that provides all information prescribed by the commissioner. The commissioner must require that the bar code include the serial number of the game. A manufacturer must also affix to the outside of the box containing these games a bar code providing all information prescribed by the commissioner. The commissioner may also prescribe additional bar coding requirements.

No person may alter the bar code that appears on the outside of a box containing a deal of pull-tabs and tipboards. Possession of a box containing a deal of pull-tabs and tipboards that has a bar code different from the bar code of the deal inside the box is prima facie evidence that the possessor has altered the bar code on the box.

Subd. 3. **Paddleticket card master flares.** Each sealed grouping of 100 or fewer paddleticket cards must have its own individual master flare. The manufacturer of the paddleticket cards must affix to or imprint at the bottom of each master flare a bar code that provides:

- (1) the name of the manufacturer;
- (2) the first paddleticket card number in the group;
- (3) the number of paddletickets attached to each paddleticket card in the group; and
- (4) all other information required by the commissioner.

HIST: 1994 c 633 art 2 s 5; 1997 c 155 s 1

297E.05 Distributor reports and records.

Subdivision 1. **Business records.** A distributor shall keep at each place of business complete and accurate records for that place of business, including itemized invoices of gambling product held, purchased, manufactured, or brought in or caused to be brought in from without this state, and of all sales of gambling product. The records must show the names and addresses of purchasers, the inventory at the close of each period for which a return is required of all gambling product on hand, and other pertinent papers and documents relating to the purchase, sale, or disposition of gambling product. Books, records, itemized invoices, and other papers and documents required by this section must be kept for a period of at least 3-1/2 years after the date of the documents, or the date of the entries appearing in the records, unless the commissioner of revenue authorizes in writing their destruction or disposal at an earlier date.

Subd. 2. **Sales records.** A distributor must maintain a record of all gambling product that it sells. The record must include:

- (1) the identity of the person from whom the distributor purchased the product;
- (2) the registration number of the product;
- (3) the name, address, and license or exempt permit number of the organization or person to which the sale was made;
- (4) the date of the sale;
- (5) the name of the person who ordered the product;
- (6) the name of the person who received the product;
- (7) the type of product;
- (8) the serial number of the product;

(9) the name, form number, or other identifying information for each game; and

(10) in the case of bingo hard cards or sheets sold on and after January 1, 1991, the individual number of each card or sheet.

Subd. 3. **Invoices.** A distributor shall give with each sale of gambling product an itemized invoice showing the distributor's name and address, the purchaser's name and address, the date of the sale, description of the deals, including the ideal gross from every deal of pull-tabs and every deal of tipboards.

Subd. 4. **Reports.** A distributor shall report monthly to the commissioner, on a form the commissioner prescribes, its sales of each type of gambling product. This report must be filed monthly on or before the 20th day of the month succeeding the month in which the sale was made. The commissioner may require that a distributor submit the monthly report and invoices required in this subdivision via magnetic media or electronic data transfer.

Subd. 5. **Certified physical inventory.** The commissioner may, upon request, require a distributor to furnish a certified physical inventory of all gambling product in stock. The inventory must contain the information required by the commissioner.

HIST: 1994 c 633 art 2 s 6

297E.06 Organization reports and records.

Subdivision 1. **Reports.** An organization must file with the commissioner, on a form prescribed by the commissioner, a report showing all gambling activity conducted by that organization for each month. Gambling activity includes all gross receipts, prizes, all gambling taxes owed or paid to the commissioner, all gambling expenses, and all lawful purpose and board-approved expenditures. The report must be filed with the commissioner on or before the 20th day of the month following the month in which the gambling activity takes place. The commissioner may require that the reports be filed via magnetic media or electronic data transfer.

Subd. 2. **Business records.** An organization shall maintain records supporting the gambling activity reported to the commissioner. Records include, but are not limited to, the following items:

(1) all winning and unsold tickets, cards, or stubs for pull-tab, tipboard, paddlewheel, and raffle games;

(2) all reports and statements, including checker's records, for each bingo occasion;

(3) all cash journals and ledgers, deposit slips, register tapes, and bank statements supporting gambling activity receipts;

(4) all invoices that represent purchases of gambling product;

(5) all canceled checks, check recorders, journals and ledgers, vouchers, invoices, bank statements, and other documents supporting gambling activity expenditures; and

(6) all organizational meeting minutes.

All records required to be kept by this section must be preserved by the organization for at least 3-1/2 years and may be inspected by the commissioner of revenue at any reasonable time without notice or a search warrant.

Subd. 3. **Accounts.** All gambling activity transactions must be segregated from all other revenues and expenditures made by the conducting organization.

Subd. 4. **Annual audit.** (a) An organization licensed under chapter 349 with gross receipts from lawful gambling of more than \$250,000 in any year must have an annual financial audit of its lawful gambling activities and funds for that year. An organization licensed under chapter 349 with gross receipts from lawful gambling of more than \$50,000 but not more than \$250,000 in any year must have an annual financial review of its lawful gambling activities and funds for that year. Audits and financial reviews under this subdivision must be performed by an independent accountant licensed by the state of Minnesota.

(b) The commissioner of revenue shall prescribe standards for audits and financial review required under this subdivision. The standards may vary based on the gross receipts of the organization. The standards must incorporate and be consistent with standards prescribed by the American institute of certified public accountants. A complete, true, and correct copy of the audit report must be filed as prescribed by the commissioner.

HIST: 1994 c 633 art 2 s 7

297E.07 Inspection rights.

At any reasonable time, without notice and without a search warrant, the commissioner may enter a place of business of a manufacturer, distributor, or organization; any site from which pull-tabs or tipboards or other gambling equipment or gambling product are being manufactured, stored, or sold; or any site at which lawful gambling is being conducted, and inspect the premises, books, records, and other documents required to be kept under this chapter to determine whether or not this chapter is being fully complied with. If the commissioner is denied free access to or is hindered or interfered with in making an inspection of the place of business, books, or records, the permit of the distributor may be revoked by the commissioner, and the license of the manufacturer, the distributor, or the organization may be revoked by the board.

HIST: 1994 c 633 art 2 s 8

297E.12 Civil penalties.

Subdivision 1. **Penalty for failure to pay tax.** If a tax is not paid within the time specified for payment, a penalty is added to the amount required to be shown as tax. The penalty is five percent of the unpaid tax if the failure is for not more than 30 days, with an additional penalty of five percent of the amount of tax remaining unpaid during each additional 30 days or fraction of 30 days during which the failure continues, not exceeding 15 percent in the aggregate.

If the taxpayer has not filed a return, for purposes of this subdivision the time specified for payment is the final date a return should have been filed.

Subd. 2. **Penalty for failure to make and file return.** If a taxpayer fails to make and file a return within the time prescribed or an extension, a penalty is added to the tax. The penalty is five percent of the amount of tax not paid on or before the date prescribed for payment of the tax.

Subd. 3. **Combined penalties.** When penalties are imposed under subdivisions 1 and 2, except for the minimum penalty under subdivision 2, the penalties imposed under both subdivisions combined must not exceed 38 percent.

Subd. 4. **Penalty for intentional disregard of law or rules.** If part of an additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there is added to the tax an amount equal to ten percent of the additional assessment.

Subd. 5. **Penalty for false or fraudulent return; evasion.** If a person files a false or fraudulent return, or attempts in any manner to evade or defeat a tax or payment of tax, there is imposed on the person a penalty equal to 50 percent of the tax found due for the period to which the return related, less amounts paid by the person on the basis of the false or fraudulent return.

Subd. 6. **Penalty for repeated failures to file returns or pay taxes.** If there is a pattern by a person of repeated failures to timely file returns or timely pay taxes, and written notice is given that a penalty will be imposed if such failures continue, a penalty of 25 percent of the amount of tax not timely paid as a result of each such subsequent failure is added to the tax. The penalty can be abated under the abatement authority in section [270.07](#), subdivisions 1, paragraph (e), and 6.

Subd. 7. **Penalty for sales after revocation, suspension, or expiration.** A distributor who engages in, or whose representative engages in, the offering for sale, sale, transport, delivery, or furnishing of gambling equipment to a person, firm, or organization, after the distributor's license or permit has been revoked or suspended, or has expired, and until such license or permit has been reinstated or renewed, is liable for a penalty of \$1,000 for each day the distributor continues to engage in the activity. This subdivision does not apply to the transport of gambling equipment for the purpose of returning the equipment to a licensed manufacturer.

Subd. 8. **Payment of penalties.** The penalties imposed by this section must be collected and paid in the same manner as taxes.

Subd. 9. **Penalties are additional.** The civil penalties imposed by this section are in addition to the criminal penalties imposed by this chapter.

Subd. 10. **Order payments credited.** All payments received may be credited first to the oldest liability not secured by a judgment or lien in the discretion of the commissioner of revenue, but in all cases must be credited first to penalties, next to interest, and then to the tax due.

HIST: 1994 c 633 art 2 s 13; 1995 c 264 art 13 s 20

297E.13 Tax-related criminal penalties.

Subdivision 1. **Penalty for failure to file or pay.**

(a) A person required to file a return, report, or other document with the commissioner, who knowingly fails to file it when required, is guilty of a gross misdemeanor. A person required to file a return, report, or other document who willfully attempts to evade or defeat a tax by failing to file it when required is guilty of a felony.

(b) A person required to pay or to collect and remit a tax, who knowingly fails to do so when required, is guilty of a gross misdemeanor. A person required to pay or to collect and remit a tax, who willfully attempts to evade or defeat a tax law by failing to do so when required is guilty of a felony.

Subd. 2. False or fraudulent returns; penalties. (a)

A person required to file a return, report, or other document with the commissioner, who delivers to the commissioner a return, report, or other document known by the person to be fraudulent or false concerning a material matter is guilty of a felony.

(b) A person who knowingly aids or assists in, or advises in the preparation or presentation of a return, report, or other document that is fraudulent or false concerning a material matter, whether or not the falsity or fraud committed is with the knowledge or consent of the person authorized or required to present the return, report, or other document, is guilty of a felony.

Subd. 3. False information. A person is guilty of a felony if the person:

(1) is required by section [297E.05](#) to keep records or to make returns, and falsifies or fails to keep the records or falsifies or fails to make the returns; or

(2) knowingly submits materially false information in any report, document, or other communication submitted to the commissioner in connection with lawful gambling or with this chapter.

Subd. 4. Sales without permit; violations. (a) A person who engages in the business of selling gambling product in Minnesota without the licenses or permits required under this chapter or chapter 349, or an officer of a corporation who so engages in the sales, is guilty of a gross misdemeanor.

(b) A person selling gambling product in Minnesota after revocation of a license or permit under this chapter or chapter 349, when the commissioner or the board has not issued a new license or permit, is guilty of a felony.

Subd. 5. Untaxed gambling equipment. It is a gross misdemeanor for a person to possess gambling equipment for resale in this state that has not been stamped or bar-coded in accordance with this chapter and chapter 349 and upon which the taxes imposed by chapter 297A or section [297E.02](#), subdivision 4, have not been paid. The director of alcohol and gambling enforcement or the commissioner or the designated inspectors and employees of the director or commissioner may seize in the name of the state of Minnesota any unregistered or untaxed gambling equipment.

Subd. 6. **Criminal penalties.** (a) Criminal penalties imposed by this section are in addition to civil penalties imposed by this chapter.

(b) A person who violates a provision of this chapter for which another penalty is not provided is guilty of a misdemeanor.

(c) A person who violates a provision of this chapter for which another penalty is not provided is guilty of a gross misdemeanor if the violation occurs within five years after a previous conviction under a provision of this chapter.

(d) A person who in any manner violates a provision of this chapter to evade a tax imposed by this chapter, or who aids and abets the evasion of a tax, or hinders or interferes with a seizing authority when a seizure is made as provided by section [297E.16](#) is guilty of a gross misdemeanor.

(e) This section does not preclude civil or criminal action under other applicable law or preclude any agency of government from investigating or prosecuting violations of this chapter or chapter 349. County attorneys have primary responsibility for prosecuting violations of this chapter, but the attorney general may prosecute a violation of this chapter.

Subd. 7. **Statute of limitations.** Notwithstanding section [628.26](#), or other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a criminal offense named in this section, in the proper court within six years after the offense is committed.

HIST: 1994 c 633 art 2 s 14; 1995 c 264 art 17 s 7; 1997 c 129 art 2 s 15

297E.16 Contraband.

Subdivision 1. **Seizure.** Contraband may be seized by the commissioner or by any sheriff or other police officer, hereinafter referred to as the "seizing authority," with or without process, and is subject to forfeiture as provided in subdivisions 2 and 3.

Subd. 2. Inventory; judicial determination; appeal; disposition of seized property. Within ten days after the seizure of alleged contraband, the person making the seizure shall make available an inventory of the property seized to the person from whom the property was seized, if known, and file a copy with the commissioner or the director of alcohol and gambling enforcement. Within ten days after the date of service of the inventory, the person from whom the property was seized or any person claiming an interest in the property may file with the seizing authority a demand for judicial determination of whether the property was lawfully subject to seizure and forfeiture. Within 60 days after the date of filing of the demand, the seizing authority must bring an action in the district court of the county where seizure was made to determine the issue of forfeiture. The action must be brought in the name of the state and be prosecuted by the county attorney or by the attorney general. The court shall hear the action without a jury and determine the issues of fact and law involved. If a judgment of forfeiture is entered, the seizing authority may, unless the judgment is stayed pending an appeal, either (1) cause the forfeited property to be destroyed; or (2) cause it to be sold at a public auction as provided by law.

If demand for judicial determination is made and no action is commenced by the seizing authority as provided in this subdivision, the property must be released by the seizing authority and delivered to the person entitled to it. If no demand is made, the property seized is considered forfeited to the seizing authority by operation of law and may be disposed of by the seizing authority as provided where there has been a judgment of forfeiture. When the seizing authority is satisfied that a person from whom property is seized was acting in good faith and without intent to evade the tax imposed by section [297E.02](#), the seizing authority shall release the property seized without further legal proceedings.

Subd. 3. Disposal. (a) The property described in section [349.2125](#), subdivision 1, clauses (4) and (5), must be confiscated after conviction of the person from whom it was seized, upon compliance with the following procedure: the seizing authority shall file with the court a separate complaint against the property, describing it and charging its use in the specific violation, and specifying substantially the time and place of the unlawful use. A copy of the complaint must be served upon the defendant or person in charge of the property at the time of seizure, if any. If the person arrested is acquitted, the court shall dismiss the complaint against the property and order it returned to the persons legally entitled to it. Upon conviction of the person arrested, the court shall issue an order directed to any person known or believed to have any right, title or interest in, or lien upon, any of the property, and to persons unknown claiming any right, title, interest, or lien in it, describing the property and (1) stating

that it was seized and that a complaint against it, charging the specified violation, has been filed with the court, (2) requiring the persons to file with the court administrator their answer to the complaint, setting forth any claim they may have to any right or title to, interest in, or lien upon the property, within 30 days after the service of the order, and (3) notifying them in substance that if they fail to file their answer within the time, the property will be ordered sold by the seizing authority. The court shall cause the order to be served upon any person known or believed to have any right, title, interest, or lien as in the case of a summons in a civil action, and upon unknown persons by publication, as provided for service of summons in a civil action. If no answer is filed within the time prescribed, the court shall, upon affidavit by the court administrator, setting forth the fact, order the property sold by the seizing authority. Seventy percent of the proceeds of the sale of forfeited property, after payment of seizure, storage, forfeiture, and sale expenses, must be forwarded to the seizing authority for deposit as a supplement to its operating fund or similar fund for official use, and 20 percent must be forwarded to the county attorney or other prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes. The remaining ten percent of the proceeds must be forwarded within 60 days after resolution of the forfeiture to the department of human services to fund programs for the treatment of compulsive gamblers. If an answer is filed within the time provided, the court shall fix a time for a hearing, which must not be less than ten nor more than 30 days after the time for filing an answer expires. At the time fixed for hearing, unless continued for cause, the matter must be heard and determined by the court, without a jury, as in other civil actions.

(b) If the court finds that the property, or any part of it, was used in the violation specified in the complaint, it shall order the unlawfully used property sold as provided by law, unless the owner shows to the satisfaction of the court that the owner had no notice or knowledge or reason to believe that the property was used or intended to be used in the violation. The officer making a sale, after deducting the expense of keeping the property, the fee for seizure, and the costs of the sale, shall pay all liens according to their priority, which are established at the hearing as being bona fide and as existing without the lienor having any notice or knowledge that the property was being used or was intended to be used for or in connection with the violation specified in the order of the court, and shall pay the balance of the proceeds to the seizing authority for official use and sharing in the manner provided in paragraph (a). A sale under this section frees the property sold from all liens on it. Appeal from the order of the district court is available as in other civil cases. At any time after seizure of the articles specified in this subdivision, and before the hearing provided for, the property must be returned to the owner or person having a legal right to its possession, upon execution of a good and valid bond to the

state, with corporate surety, in the sum of at least \$100 and not more than double the value of the property seized, to be approved by the court in which the case is triable, or a judge of it, conditioned to abide any order and the judgment of the court, and to pay the full value of the property at the time of the seizure. The seizing authority may dismiss the proceedings outlined in this subdivision when the seizing authority considers it to be in the public interest to do so.

HIST: 1994 c 633 art 2 s 17; 1997 c 129 art 2 s 15

Public Safety, CHAPTER 299A DEPARTMENT OF PUBLIC SAFETY, LIQUOR CONTROL

299A.02 Commissioners of public safety and revenue; liquor control functions.

Subdivision 1. **Conflict of interest.** No employee of the department of public safety or the department of revenue having any responsibility for the administration or enforcement of chapter 297C or 340A shall have a direct or indirect interest, except through ownership or investment in pension or mutual funds, in the manufacture, transportation or sale of intoxicating liquor or any malt or vinous beverages, intoxicating, nonintoxicating, or commercial or industrial alcohol. The commissioner of public safety or the commissioner of revenue may remove an employee in the unclassified civil service for any intentional violation of any provision of chapter 297C or 340A. Intentional violation of a provision of chapter 297C or 340A by a classified employee of one of the departments may be grounds for removal of that employee pursuant to section [43A.33](#).

Subd. 2. **General powers.** The commissioner shall administer and enforce the provisions of chapters 297C and 340A through the director of alcohol and gambling enforcement, except for those provisions thereof for which administration and enforcement are reserved to the commissioner of revenue.

Subd. 3. **Reports; rules.** The commissioner shall have power to require periodic factual reports from all licensed importers, manufacturers, wholesalers and retailers of intoxicating liquors and to make all reasonable rules to effect the object of chapters 297C and 340A. The rules shall include provisions for assuring the purity of intoxicating liquors and the true statement of its contents and proper labeling thereof with regard to all forms of sale. No rule may require the use of new containers in aging whiskey. No rule may require

cordials or liqueurs to contain in excess of 2-1/2 percent by weight of sugar or dextrose or both.

Subd. 4. **Subpoena.** In all matters relating to official duties, the commissioner shall have the powers possessed by courts of law to issue subpoenas and cause them to be served and enforced. All public officials, and their respective deputies and employees, and all individuals, partnerships, firms, corporations, incorporated and unincorporated associations, and others who manufacture, transport, or sell intoxicating liquor, or are connected therewith in any manner, shall at all times attend and answer under oath the commissioner's lawful inquiries, produce and exhibit such books, accounts, documents and property as the commissioner may desire to inspect, and in all things aid the commissioner in the performance of the commissioner's duties.

HIST: 1976 c 5 s 2; 1977 c 407 s 1; 1981 c 210 s 54; 1985 c 305 art 12 s 2; 1986 c 444; 1987 c 381 s 1; 1987 c 383 s 15; 1997 c 129 art 2 s 3-5

Public Safety, CHAPTER 299C BUREAU OF CRIMINAL APPREHENSION

299C.065 Undercover buy fund; witness and victim protection.

Subdivision 1. **Grants.** The commissioner of public safety shall make grants to local officials for the following purposes:

- (1) the cooperative investigation of cross jurisdictional criminal activity relating to the possession and sale of controlled substances;
- (2) receiving or selling stolen goods;
- (3) participating in gambling activities in violation of section [609.76](#);
- (4) violations of section [609.322](#) or any other state or federal law prohibiting the recruitment, transportation, or use of juveniles for purposes of prostitution;
- (5) for partial reimbursement of local costs associated with unanticipated, intensive, long-term, multijurisdictional criminal investigations that exhaust available local resources, except that the commissioner may not reimburse the costs of a local investigation involving a child who is reported to be missing and endangered unless the law enforcement agency complies with section [299C.53](#) and the agency's own investigative policy; and
- (6) for partial reimbursement of local costs associated with criminal investigations into the activities of violent criminal gangs and gang members.

Subd. 1a. **Witness and victim protection fund.** A witness and victim protection fund is created under the administration of the commissioner of public safety. The commissioner may make grants to local officials to provide for the relocation or other protection of a victim, witness, or potential witness who is involved in a criminal prosecution and who the commissioner has reason to believe is or is likely to be the target of a violent crime or a violation of section [609.498](#) or [609.713](#), in connection with that prosecution. The awarding of grants under this subdivision is not limited to the crimes and investigations described in subdivision 1. The commissioner may award grants for any of the following actions in connection with the protection of a witness or victim under this subdivision:

- (1) to provide suitable documents to enable the person to establish a new identity or otherwise protect the person;
- (2) to provide housing for the person;

- (3) to provide for the transportation of household furniture and other personal property to the person's new residence;
- (4) to provide the person with a payment to meet basic living expenses for a time period the commissioner deems necessary;
- (5) to assist the person in obtaining employment; and
- (6) to provide other services necessary to assist the person in becoming self-sustaining.

Subd. 2. **Application for grant.** A county sheriff or the chief administrative officer of a municipal police department may apply to the commissioner of public safety for a grant for any of the purposes described in subdivision 1 or 1a, on forms and pursuant to procedures developed by the superintendent. For grants under subdivision 1, the application shall describe the type of intended criminal investigation, an estimate of the amount of money required, and any other information the superintendent deems necessary.

Subd. 3. **Investigation report.** A report shall be made to the commissioner at the conclusion of an investigation for which a grant was made under subdivision 1 stating: (1) the number of persons arrested, (2) the nature of charges filed against them, (3) the nature and value of controlled substances or contraband purchased or seized, (4) the amount of money paid to informants during the investigation, and (5) a separate accounting of the amount of money spent for expenses, other than "buy money," of bureau and local law enforcement personnel during the investigation. The commissioner shall prepare and submit to the chairs of the committees in the senate and house of representatives with jurisdiction over criminal justice policy by January 1 of each even-numbered year a report of investigations receiving grants under subdivision 1.

Subd. 3a. **Accounting report.** The head of a law enforcement agency that receives a grant under subdivision 1a shall file a report with the commissioner at the conclusion of the case detailing the specific purposes for which the money was spent. The commissioner shall prepare and submit to the chairs of the committees in the senate and house of representatives with jurisdiction over criminal justice policy by January 1 of each even-numbered year a summary report of witness assistance services provided under this section.

Subd. 4. **Data classification.** An application to the commissioner for money is a confidential record. Information within investigative files that identifies or could reasonably be used to ascertain the identity of assisted witnesses, sources, or undercover investigators is a confidential record. A report at the conclusion of an investigation is a public record, except that information in a report pertaining to the identity or location of an assisted witness is private data.

HIST: 1979 c 333 s 96; 1985 c 126 s 1; 1991 c 279 s 20; 1993 c 326 art 12 s 6; 1994 c 636 art 4 s 17; 1995 c 226 art 4 s 8,9; art 7 s 2; 1997 c 239 art 2 s 1; 1998 c 367 art 2 s 32

Public Safety, CHAPTER 299L GAMBLING ENFORCEMENT

299L.01 Division of alcohol and gambling enforcement.

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

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

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

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

enforcement.

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

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

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

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

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

Subd. 2. **Established; consolidation with liquor control.** Effective October 1, 1996, the duties and powers of the division of gambling enforcement are transferred to the division of alcohol and gambling enforcement in the department of public safety, under the control and supervision of a director appointed by the commissioner and serving at the commissioner's pleasure in the unclassified service. The director must be a person who is licensed or eligible to be licensed as a peace officer under sections [626.84](#) to [626.863](#).

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

Subd. 4. **Conflict of interest.** (a) The director and any person employed by the division may not have a direct or indirect financial interest in:

(1) a class A or B licensee of the racing commission;

(2) a lottery retailer under contract with the state lottery;

(3) a person who is under a lottery procurement contract with the state lottery;

(4) a bingo hall, manufacturer, or distributor licensed under chapter 349; or

(5) a manufacturer or distributor licensed under this chapter.

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

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

299L.02 Duties of division of alcohol and gambling enforcement.

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

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

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

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

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

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

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

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

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

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

Subd. 5. **Background checks.** In any background check required to be conducted by the division under this chapter, chapter 240, 349, 349A, or section [3.9221](#), the director may, or shall when required by law, require that fingerprints be taken and the director may forward the fingerprints to the Federal Bureau of

Investigation for the conducting of a national criminal history check. The director may charge a fee for fingerprint recording and investigation under section [3.9221](#).

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

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

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

Subd. 7. **Revolving account.** The director shall deposit in a separate account in the state treasury all money received from Indian tribal governments for charges for investigations and background checks under compacts negotiated under section [3.9221](#). Money in the account is appropriated to the director for the purpose of carrying out the director's powers and duties under those compacts.

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

299L.03 Powers of director.

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

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

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

(3) records required to be maintained under chapter 240, 297E, 349, or 349A are prepared or retained;

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

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

(6) gambling devices are manufactured, distributed, or

tested, including places of storage under section [299L.07](#).

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

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

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

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

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

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

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

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

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

Subd. 7. **Other powers.** Nothing in this chapter limits the authority of the division to exercise any other power specified under chapter 240, 340A, 349, or 349A.

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

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

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

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

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

(1) the data are subject to discovery in a legal proceeding; and

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

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

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

HIST: 1989 c 334 art 5 s 3; 1990 c 590 art 1 s 1,2; 1991 c 199 art 2 s 1; 1991 c 233 s 109; 1993 c 351 s 36; 1994 c 633 art 4 s 5-8; 1995 c 233 art 2 s 56; 1995 c 261 s 11; 1997 c 129 art 2 s 10-12

299L.05 Gambling violations; restrictions on further activity.

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

HIST: 1989 c 334 art 5 s 5; 1995 c 186 s 62; 1995 c 261 s 12

299L.06 Jurisdiction.

In any investigation or other enforcement activity where there is probable cause to believe that a criminal violation relating to gambling has occurred, except a violation relating only to taxation, the division rather than any other state department, agency, or office shall be the primary investigation entity where enforcement rests.

HIST: 1990 c 590 art 1 s 3

299L.07 Gambling devices.

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

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

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

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

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

Subd. 2a. **Restrictions.** (a) A manufacturer licensed

under this section may sell, offer to sell, lease, or rent, in whole or in part, a gambling device only to a distributor licensed under this section.

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

(1) the governing body of a federally recognized Indian tribe that is authorized to operate the gambling device under a tribal state compact under the Indian Gaming Regulatory Act, Public Law Number 100-497, and future amendments to it;

(2) a person for use in the person's dwelling for display or amusement purposes in a manner that does not afford players an opportunity to obtain anything of value.

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

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

Subd. 3. **License issuance.** The commissioner may issue a license under this section if the commissioner determines that the applicant will conduct the business in a manner that will not adversely affect the public health, welfare, and safety or be detrimental to the effective regulation and control of gambling.

Subd. 4. **Application.** An application for a license under this section must be on a form prescribed by the commissioner and must, at a minimum, contain:

(1) the name and address of the applicant and, if it is a corporation, the names of all officers, directors, and shareholders with a financial interest of five percent or more;

(2) the names and addresses of any holding corporation, subsidiary, or affiliate of the applicant, without regard to whether the holding corporation, subsidiary, or affiliate does business in Minnesota; and

(3) if the applicant does not maintain a Minnesota office, an irrevocable consent statement signed by the applicant, stating that suits and actions relating to the subject matter of the application or acts of omissions arising from it may be commenced against the applicant in a court of competent jurisdiction in this state by service on the secretary of state of any summons, process, or pleadings authorized by the laws of this state. If any summons, process, or pleading is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown on the application.

Subd. 5. **Investigation.** Before a license under this section is granted, the director may conduct a background and financial investigation of the applicant, including the applicant's sources of financing. The director may, or shall when required by law, require that fingerprints be taken and the director may forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The director may charge an investigation fee to cover the cost of the investigation.

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

(b) For a person who distributes 100 or fewer used gambling devices per year, the fee is \$1,500. For a person who distributes more than 100 used gambling devices per year, the fee is \$2,000.

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

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

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

Subd. 8. **License actions.** (a) The commissioner may not issue or renew a license under this chapter, and shall revoke a license under this chapter, if the applicant or licensee, or a director, officer, partner, governor, person in a supervisory or management position of the applicant or licensee,

an employee eligible to make sales on behalf of the applicant or licensee, or direct or indirect holder of more than a five percent financial interest in the applicant or licensee:

(1) has ever been convicted of a felony, or of a crime involving gambling;

(2) has ever been convicted of (i) assault, (ii) a criminal violation involving the use of a firearm, or (iii) making terroristic threats;

(3) is or has ever connected with or engaged in an illegal business;

(4) owes \$500 or more in delinquent taxes as defined in section [270.72](#);

(5) had a sales and use tax permit revoked by the commissioner of revenue within the past two years;

(6) after demand, has not filed tax returns required by the commissioner of revenue; or

(7) had a license or permit revoked or denied by another jurisdiction for a violation of law or rule relating to gambling.

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

(b) The commissioner may by order deny, suspend, revoke, refuse to renew a license or premises permit, or censure a licensee or applicant, if the commissioner finds that the order is in the public interest and that the applicant or licensee, or a director, officer, partner, person in a supervisory or management position of the applicant or licensee, or an employee eligible to make sales on behalf of the applicant or licensee:

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

(2) has filed an application for a license that is

incomplete in any material respect, or contains a statement that, in light of the circumstances under which it was made, is false, misleading, fraudulent, or a misrepresentation;

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

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

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

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

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

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

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

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

Subd. 8b. **Show cause orders.** (a) If the commissioner

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

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

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

Subd. 8c. **Applications; renewals.** (a) When it appears to the commissioner that a license application or renewal should be denied under subdivision 8, the commissioner must promptly give to the applicant a written notice of the denial. The notice must state the grounds for the denial and give reasonable notice of the rights of the applicant to request a hearing. A hearing must be held not later than 30 days after the request for the hearing is received by the commissioner, unless the applicant and the commissioner agree that the hearing may be held at a later date. If no hearing is requested within 30 days of the service of the notice, the denial becomes final. All hearings under this subdivision must be conducted in accordance with sections [14.57](#) to [14.69](#) of the Administrative Procedure Act.

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

Subd. 8d. **Actions against lapsed license.** If a

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

Subd. 8e. Notification of actions taken by other state.

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

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

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

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

HIST: 1991 c 336 art 2 s 9; 1994 c 633 art 4 s 9; 1995 c 186 s 63; 1995 c 261 s 13-18; 1996 c 305 art 1 s 68

299L.08 Temporary possession; permit.

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

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

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

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

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

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

HIST: 1995 c 261 s 19

Corporations, CHAPTER 309 SOCIAL AND CHARITABLE ORGANIZATIONS

309.515 Exemptions.

Subdivision 1. Subject to the provisions of subdivisions 2 and 3, sections [309.52](#) and [309.53](#) shall not apply to any of the following:

(a) Charitable organizations:

(1) which did not receive total contributions in excess of \$25,000, exclusive of the direct cost of prizes given to the public by the charitable organization in connection with lawful gambling conducted in compliance with chapter 349, from the public within or without this state during the accounting year last ended, and

(2) which do not plan to receive total contributions in excess of such amount from the public within or without this state during any accounting year, and

(3) whose functions and activities, including fund raising, are performed wholly by persons who are unpaid for their services, and

(4) none of whose assets or income inure to the benefit of or are paid to any officer.

For purposes of this chapter, a charitable organization shall be deemed to receive in addition to contributions solicited from the public by it, the contributions solicited from the public by any other person and transferred to it. Any organization constituted for a charitable purpose receiving an allocation from a community chest, united fund or similar organization shall be deemed to have solicited that allocation from the public.

(b) A religious society or organization which is exempt from filing a federal annual information return pursuant to Internal Revenue Code, section 6033(a)(2)(A)(i) and (iii), and Internal Revenue Code, section 6033(a)(2)(C)(i).

(c) Any educational institution which is under the general supervision of the state board of education, the board of trustees of the Minnesota state colleges and universities, or the University of Minnesota or any educational institution which is accredited by the University of Minnesota or the North Central association of colleges and secondary schools, or by any other national or regional accrediting association.

(d) A fraternal, patriotic, social, educational, alumni, professional, trade or learned society which limits solicitation of contributions to persons who have a right to vote as a member. The term "member" shall not include those persons who are granted a membership upon making a contribution as the result of a solicitation.

(e) A charitable organization soliciting contributions for any person specified by name at the time of the solicitation if all of the contributions received are transferred to the person named with no restrictions on the person's expenditure of it and with no deductions whatsoever.

(f) A private foundation, as defined in section 509(a) of the Internal Revenue Code of 1954, which did not solicit contributions from more than 100 persons during the accounting year last ended.

Subd. 2. Where any such group or association or person soliciting for the benefit of such group or association described in subdivision 1, clauses (a) and (d), employs a professional fund raiser to solicit or assist in the solicitation of contributions, sections [309.52](#) and [309.53](#) shall apply and such group or association or person shall file a registration statement as provided in section [309.52](#) and an annual report as provided in section [309.53](#).

Subd. 3. Repealed, 1987 c 336 s 47

HIST: 1973 c 349 s 2; 1973 c 762 s 5; 1975 c 321 s 2; 1978 c 601 s 5; 1983 c 284 s 17; 1985 c 248 s 70; 1986 c 444; 1987 c 336 s 28; 1989 c 151 s 1; 1996 c 395 s 18

Corporations, CHAPTER 309 SOCIAL AND CHARITABLE ORGANIZATIONS

309.52 Registration requirement.

Subdivision 1. No charitable organization, except as otherwise provided in section [309.515](#), shall solicit contributions from persons in this state by any means whatsoever unless, prior to any solicitation, there shall be on file with the attorney general upon forms provided by the attorney general, a registration statement containing, without limitation, the following information:

- (a) Legally established name.
- (b) Name or names under which it solicits contributions.
- (c) Form of organization.
- (d) Date and place of organization.
- (e) Address of principal office in this state, or, if none, the name and address of the person having custody of books and records within this state.
- (f) Names and addresses of, and total annual compensation paid to, officers, directors, trustees, and chief executive officer.
- (g) Federal and state tax exempt status.
- (h) Denial at any time by any governmental agency or court of the right to solicit contributions.
- (i) Date on which accounting year of the charitable organization ends.
- (j) General purposes for which organized.
- (k) General purposes for which contributions to be solicited will be used.
- (l) Methods by which solicitation will be made.

(m) Copies of contracts between charitable organization and professional fund raisers relating to financial compensation or profit to be derived by the professional fund raisers. Where any such contract is executed after filing of the registration statement, a copy thereof shall be filed within seven days of the date of execution.

(n) Board, group or individual having final discretion as to the distribution and use of contributions received.

(o) The amount of total contributions received during the accounting year last ended.

(p) Such other information as the attorney general may by rule or order require to promote fairness of the solicitation and to assure full and fair disclosure of all material information to the attorney general.

Subd. 1a. A charitable organization whose total contributions received during any accounting year are in excess of \$25,000, exclusive of the direct cost of prizes given to the public by the charitable organization in connection with lawful gambling conducted in compliance with chapter 349, shall file a registration statement with the attorney general within 30 days after the date on which the organization's total contributions exceeded \$25,000, exclusive of the direct cost of prizes given to the public by the charitable organization in connection with lawful gambling conducted in compliance with chapter 349. The registration shall exist unless revoked by a court of competent jurisdiction, or the attorney general, or as provided in subdivision 7. This subdivision shall not apply to a charitable organization which had filed a registration statement pursuant to this section for the accounting year last ended or to organizations described in section [309.515](#), subdivision 1.

Subd. 2. The registration statement filed by a charitable organization shall include a registration fee of \$25 and a financial statement of the organization's operation for its most recent 12 months period immediately preceding the filing of the first registration statement.

Subd. 3. The registration statement shall be executed by any two duly constituted officers of the charitable organization who shall acknowledge that it was executed pursuant to resolution of the board of directors or trustees, or if there be no such board, then by its managing group which has approved the content of the registration statement, and shall certify that the board of directors or trustees, or if there be no such

board, its managing group, have assumed, and will continue to assume responsibility for determining matters of policy and have supervised, and will continue to supervise the finances of the charitable organization.

Subd. 4. Where any chapter, branch, area office or similar affiliate of a charitable organization is supervised and controlled by a parent organization located within or outside the state, the affiliate may file a registration statement on behalf of the parent organization in addition to or as part of its own registration statement, or the parent organization may file a registration statement on behalf of the affiliate in addition to or as part of its own registration statement.

Subd. 5. Repealed, 1978 c 601 s 29

Subd. 6. Repealed, 1978 c 601 s 29

Subd. 7. In no event shall the registration of a charitable organization continue in effect after the date such organization should have filed, but has failed to file an annual report, including the payment of all required fees, in accordance with the requirements of section [309.53](#), and such organization, if in default under such section, shall not be eligible to file a new registration statement until it shall have filed the required annual report with the attorney general.

Subd. 8. Repealed, 1978 c 601 s 29

Subd. 9. A charitable organization that is organized and operated primarily for the purpose of offering and paying rewards for information leading to the apprehension or conviction of criminal suspects and that satisfies subdivision 10 shall not be required to include in its registration statement the information described in subdivision 1, clauses (f) and (o), or the financial statement described in subdivision 2, and notwithstanding subdivision 3, its registration statement may be executed by the mayor, city manager, or chief of police of the municipality, if any, with which the organization is primarily associated.

Subd. 10. Subdivision 9 applies to an organization whose financial statement described in subdivision 2 has been audited and reported on by a certified public accountant and made available with the accountant's report for inspection by its members and by the mayor, city manager, or chief of police of the municipality, if any, with which the organization is primarily associated, and whose registration statement contains a certificate of compliance with this subdivision.

HIST: 1961 c 309 s 3; 1969 c 112 s 3-6; 1969 c 1129 art 4 s 4; 1973 c 762 s 6; 1976 c 239 s 90; 1978 c 601 s 6,7; 1982 c 585 s 1,2; 1987 c 336 s 29,30,46; 1992 c 503 s 1; 1995 c 235 s 2,3

309.53 Annual report.

Subdivision 1. Every charitable organization that is required to file or that files a registration statement pursuant to section [309.52](#) shall file an annual report with the attorney general upon forms provided by the attorney general or on forms identical thereto on or before June 30 of each year if its books are kept on a calendar year basis, or within six months after the close of its fiscal year if its books are kept on a fiscal year basis. For cause shown the attorney general may extend the time for filing the annual report for a period not to exceed three months.

Subd. 1a. Repealed, 1995 c 235 s 17

Subd. 2. Such annual report shall include a financial statement covering the immediately preceding 12-month period of operation, shall be executed by any two duly constituted officers of the charitable organization, and shall be executed pursuant to resolution of the board of directors or trustees, or if there be no such board, then by its managing group which has approved the content of the annual report. Except as provided in section [309.55](#), subdivision 1, the annual report shall also include a copy of all tax or information returns, including all schedules and amendments, submitted by the charitable organization to the Internal Revenue Service for the period covered by the annual report except any schedules of contributors to the organization.

A charitable organization which files the annual report required under this subdivision with the attorney general is not required to file the tax return with the commissioner of revenue. An organization which fails to file the annual report on or before the date required or allowed under this section shall pay a late fee of \$50. This late fee shall be in addition to all other fees, costs, and penalties which may be imposed pursuant to this section or section [309.57](#).

Subd. 3. The financial statement shall include a balance sheet, statement of income and expense, and statement of functional expenses, shall be consistent with forms furnished by the attorney general, and shall be prepared in accordance with generally accepted accounting principles so as to make a full disclosure of the following, including necessary allocations between each item and the basis of such allocations:

- (a) total receipts and total income from all sources;
- (b) cost of management and general;
- (c) program services;
- (d) cost of fund raising;
- (e) cost of public education;
- (f) funds or properties transferred out of state, with explanation as to recipient and purpose;
- (g) total net amount disbursed or dedicated within this state, broken down into total amounts disbursed or dedicated for each major purpose, charitable or otherwise;
- (h) names of professional fund raisers used during the accounting year and the financial compensation and profit resulting to each professional fund raiser; and
- (i) a list of the five highest paid directors, officers, and employees of the organization and its related organizations, as that term is defined by section [317A.011](#), subdivision 18, that receive total compensation of more than \$50,000, together with the total compensation paid to each. Total compensation shall include salaries, fees, bonuses, fringe benefits, severance payments, and deferred compensation paid by the charitable organization and all related organizations as that term is defined by section [317A.011](#), subdivision 18.

Unless otherwise required by this subdivision, the financial statement need not be certified.

A financial statement of a charitable organization which has received total revenue in excess of \$350,000 for the 12 months of operation covered by the statement shall be accompanied by an audited financial statement prepared in accordance with generally accepted accounting principles that has been examined by an independent certified public accountant for the purpose of expressing an opinion. In preparing the audit

the certified public accountant shall take into consideration capital, endowment or other reserve funds, if any, controlled by the charitable organization.

Subd. 3a. The federal tax return may be filed in lieu of other financial statements if it is prepared in accordance with generally accepted accounting principles and meets the requirements for financial statements set forth in subdivisions 2, 3, and 4.

Subd. 4. Where a registration statement has been filed by a parent organization or affiliate as provided in section [309.52](#), subdivision 4, the registered parent organization may file the annual report required under this section on behalf of the chapter, branch, area office, similar affiliate, or person in addition to or as part of its own report or the registered affiliate may file the annual report required under this section on behalf of the parent organization in addition to or as part of its own report. The accounting information required under this section shall be set forth separately and not in consolidated form with respect to every chapter, branch, area office, similar affiliate, or person within the state which raises or expends more than \$25,000, exclusive of the direct cost of prizes given to the public by the charitable organization in connection with lawful gambling conducted in compliance with chapter 349. The attorney general may permit any chapter, branch, area office, similar affiliate, or person to file a consolidated statement with any other chapter, branch, area office, similar affiliate, or person or parent organization if the interests of the charitable beneficiaries will not be prejudiced thereby and separate accounting information is not required for proper supervision.

Subd. 5. Repealed, 1978 c 601 s 29

Subd. 6. A charitable organization that is organized and operated primarily for the purpose of offering and paying rewards for information leading to the apprehension or conviction of criminal suspects and that satisfies subdivision 7 shall not be required to include in its annual report the financial statement described in subdivisions 2 and 3, and notwithstanding subdivision 2, its annual report may be executed by the mayor, city manager, or chief of police of the municipality, if any, with which the organization is primarily associated.

Subd. 7. Subdivision 6 applies to an organization whose financial statement described in subdivisions 2 and 3 has been audited and reported on by a certified public accountant and made available with the accountant's report for inspection by its members and by the mayor, city manager, or chief of police of the municipality, if any, with which the organization is primarily associated, and whose annual report contains a certificate of compliance with this subdivision.

Subd. 8. A reregistration fee of \$25 shall be paid by every charitable organization submitting the annual report required by this section.

HIST: 1961 c 309 s 4; Ex1967 c 49 s 2; 1969 c 112 s 7-10; 1969 c 1129 art 4 s 4; 1973 c 762 s 7; 1978 c 601 s 8-10; 1981 c 148 s 1; 1982 c 585 s 3,4; 1983 c 284 s 18,19; 1983 c 289 s 114 subd 1; 1983 c 301 s 184,185; 1984 c 655 art 1 s 92; 1987 c 336 s 31-34,46; 1994 c 465 art 1 s 37; 1995 c 235 s 4-7; 1996 c 384 s 3

Trade Regulations, Consumer Protection, CHAPTER 325E REGULATION OF TRADE PRACTICES, DECEPTIVE TRADE PRACTICES

325E.42 Deceptive trade practices; gambling advertising and marketing claims.

Subdivision 1. **Regulation.** All advertising or marketing materials relating to the conduct of any form of legal gambling in Minnesota, including informational or promotional materials, must:

- (1) be sufficiently clear to prevent deception; and

(2) not overstate expressly, or by implication, the attributes or benefits of participating in legal gambling.

Subd. 2. **Attorney general's actions.** The attorney general may bring an action against any person violating this section in accordance with section [8.31](#), except that no private action is permitted to redress or correct a violation of this section.

Subd. 3. **Advertising media excluded.** This section applies to actions of the owner, publisher, agent, or employee of newspapers, magazines, other printed matter, or radio or television stations or other advertising media used for the publication or dissemination of an advertisement or marketing materials, only if the owner, publisher, agent, or employee has been personally served with a certified copy of a court order or consent judgment or agreement prohibiting the publication of particular gambling advertising or marketing materials and thereafter publishes such materials.

HIST: 1994 c 633 art 8 s 2

Trade Regulations, Consumer Protection, CHAPTER 325F CONSUMER PROTECTION; PRODUCTS AND SALES, PRIZES

325F.755 Prize notices and solicitations.

Subdivision 1. **Definitions.** For purposes of this section, the following terms in this subdivision have the meanings given them.

(a) "Prize" means a gift, award, or other item or service of value that is offered or awarded to a participant in a real or purported contest, competition, sweepstakes, puzzle, drawing, scheme, plan, or other selection process.

(b) "Retail value" of a prize means:

(1) a price at which the sponsor can substantiate that a substantial number of the prizes have been sold to the public in Minnesota in the preceding year; or

(2) if the sponsor is unable to satisfy the requirement in

clause (1), then no more than 1.5 times the amount the sponsor paid for the prize in a bona fide purchase from an unaffiliated seller.

(c) "Sponsor" means a corporation, partnership, limited liability company, sole proprietorship, or natural person that requires a person in Minnesota to pay the sponsor money as a condition of awarding the person a prize, or as a condition of allowing the person to receive, use, compete for, or obtain information about a prize, or that creates the reasonable impression that such a payment is required.

Subd. 2. **Disclosures required.** (a) No sponsor shall require a person in Minnesota to pay the sponsor money as a condition of awarding the person a prize, or as a condition of allowing the person to receive, use, compete for, or obtain information about a prize, nor shall a sponsor use any solicitation that creates the reasonable impression that a payment is required, unless the person has first received a written prize notice containing the information required in paragraphs (b) and (c).

(b) A written prize notice must contain each of the following:

(1) the true name or names of the sponsor and the address of the sponsor's actual principal place of business;

(2) the retail value of each prize the person receiving the notice has been selected to receive or may be eligible to receive;

(3) a statement of the person's odds of receiving each prize identified in the notice;

(4) any requirement that the person pay shipping or handling fees or any other charges to obtain or use a prize, including the nature and amount of the charges;

(5) if receipt of the prize is subject to a restriction, a statement that a restriction applies, and a description of the restriction;

(6) any limitations on eligibility; and

(7) if a sponsor represents that the person is a "winner,"

is a "finalist," has been "specially selected," is in "first place," or is otherwise among a limited group of persons with an enhanced likelihood of receiving a prize, the written prize notice must contain a statement of the maximum number of persons in the group or purported group with this enhanced likelihood of receiving a prize.

(c) The information required by paragraph (b) must be presented in the following form:

(1) the retail value and the statement of odds required under paragraph (b), clauses (2) and (3), must be stated in immediate proximity to each identification of a prize on the written notice, and must be in the same size and boldness of type as the reference to the prize;

(2) the statement of odds must include, for each prize, the total number of prizes to be given away and the total number of written prize notices to be distributed. The number of prizes and written prize notices must be stated in Arabic numerals. The statement of odds must be in the following form:

"..... (number of prizes) out of notices distributed.";

(3) if a person is required to pay shipping or handling fees or any other charges to obtain a prize, to be eligible to obtain a prize, or participate in a contest, the following statement must appear in immediate proximity to each listing of the prize in the written prize notice, in not less than ten-point boldface type: "YOU MUST PAY \$..... TO RECEIVE THIS ITEM" or "YOU MUST PAY \$..... TO COMPETE FOR THIS ITEM," whichever is applicable; and

(4) a statement required under paragraph (b), clause (7), must appear in immediate proximity to each representation that the person is among a group of persons with an enhanced likelihood of receiving a prize, and must be in the same size and boldness of type as the representation.

Subd. 3. **Prize award required.** A sponsor who represents to a person that the person has been awarded a prize shall, not later than 30 days after making the representation, provide the person with the prize, or with a voucher, certificate, or other document giving the person the unconditional right to receive the prize, or shall provide the person with either of the following items selected by the person:

(1) any other prize listed in the written prize notice that is available and that is of equal or greater value; or

(2) the retail value of the prize, as stated in the written notice, in the form of cash, a money order, or a certified check.

Subd. 4. **Advertising media exempt.** Nothing in this section creates liability for acts by the publisher, owner, agent, or employee of a newspaper, periodical, radio station, television station, cable television system, or other advertising medium arising out of the publication or dissemination of a solicitation, notice, or promotion governed by this section, unless the publisher, owner, agent, or employee had knowledge that the solicitation, notice, or promotion violated the requirements of this section, or had a financial interest in the solicitation, notice, or promotion.

Subd. 5. **Exemptions.** This section does not apply to solicitations or representations, in connection with (1) the sale or purchase of books, recordings, videocassettes, periodicals, and similar goods through a membership group or club which is regulated by the Federal Trade Commission pursuant to Code of Federal Regulations, title 16, part 425.1, concerning use of negative option plans by sellers in commerce; (2) the sale or purchase of goods ordered through a contractual plan or arrangement such as a continuity plan, subscription arrangement, or a single sale or purchase series arrangement under which the seller ships goods to a consumer who has consented in advance to receive the goods and after the receipt of the goods is given the opportunity to examine the goods and to receive a full refund of charges for the goods upon return of the goods undamaged; or (3) sales by a catalog seller. For purposes of this section "catalog seller" shall mean any entity (and its subsidiaries) or person at least 50 percent of whose annual revenues are derived from the sale of products sold in connection with the distribution of catalogs of at least 24 pages, which contain written descriptions or illustrations and sale prices for each item of merchandise and which are distributed in more than one state with a total annual distribution of at least 250,000.

Subd. 6. **Exemptions for regulated activities.** This section does not apply to advertising permitted and regulated under chapter 82A, concerning membership camping practices; advertising permitted and regulated under chapter 83, concerning subdivided lands and interests in subdivided lands; pari-mutuel betting on horse racing permitted and regulated under chapter 240; lawful gambling permitted and regulated under chapter 349; or the state lottery created and regulated under chapter 349A.

Subd. 7. **Violations.** (a) Nothing in this section

shall be construed to permit an activity otherwise prohibited by law.

(b) A violation of this section is also a violation of sections [325F.68](#) to [325F.71](#) and is subject to section [8.31](#).

(c) Whoever intentionally violates this section may be fined not more than \$10,000 or imprisoned for not more than two years, or both. It is evidence of intent if the violation occurs after the office of the attorney general has notified a person by certified mail that the person is in violation of this section.

(d) A person suffering pecuniary loss because of an intentional violation of this section may bring an action in any court of competent jurisdiction and shall recover costs, reasonable attorney fees, and the greater of: (1) \$500; or (2) twice the amount of the pecuniary loss.

(e) The relief provided in this section is in addition to remedies or penalties otherwise available against the same conduct under common law or other statutes of this state.

HIST: 1993 c 178 s 1; 1994 c 465 art 1 s 38

Trade Regulations, Consumer Protection, CHAPTER 325J PAWNBROKER REGULATION

325J.10 Pawnshop location.

No pawnshop shall be located within ten driving miles of any gambling casino. No pawnshop, lawfully operating as of April 2, 1996, shall be required to relocate or close as a result of this section.

HIST: 1996 c 404 s 11

Police Regulations, CHAPTER 340A LIQUOR, DEPARTMENT OF PUBLIC SAFETY

340A.201 Liquor control authority.

Subdivision 1. **1976 successor.** The commissioner of public safety is the successor to the commissioner of liquor control with respect to the powers and duties vested in the latter as of February 6, 1976, except for those powers and duties transferred to the commissioner of revenue. Any proceeding, court action, prosecution, or other business undertaken or commenced as of February 6, 1976, by the commissioner of liquor control is assigned to the commissioners of public safety and revenue as appropriate and may be completed by them.

Subd. 2. **Delegation; 1996 consolidation; division director.** Effective October 1, 1996, the duties and powers vested previously in the commissioner of public safety and delegated to the department's division of liquor control are delegated and transferred to, and consolidated with, the division of alcohol and gambling

enforcement of the department of public safety, under the supervision of a director appointed by the commissioner and serving in the unclassified service at the pleasure of the commissioner.
HIST: 1985 c 305 art 4 s 1; 1987 c 152 art 1 s 1; 1997 c 129 art 2 s 13

Police Regulations, CHAPTER 340A LIQUOR, RETAIL LICENSES

340A.410 License restrictions; general.

Subdivision 1. **Counties; town consent.** A county may not issue a retail license to sell any alcoholic beverage within an organized town unless the governing body of the town has consented to the issuance of the license.

Subd. 2. **Counties; recommendation and review of applicants.** (1) No county may issue or renew a retail license to sell any alcoholic beverage until the county board has received a written recommendation from the sheriff and county attorney stating that to the best of their knowledge that the applicant is eligible to be licensed under section [340A.402](#). A copy of the statements must be given to the town board if a town's consent is required for issuance of the license under subdivision 3.

(2) The county board shall consider the recommendations of the sheriff and county attorney, the character and reputation of the applicant, and the nature and location of the business prior to issuance of any license.

Subd. 3. **License extension; death of licensee.** In the case of the death of a retail licensee to sell alcoholic beverages, the personal representative is authorized to continue operation of the business for not more than 90 days after the death of the licensee.

Subd. 4. **License posting.** A retail license to sell alcoholic beverages must be posted in a conspicuous place in the premises for which it is used.

Subd. 4a. Repealed, 1996 c 418 s 18

Subd. 4b. **Notice posting.** (a) A premises licensed for the retail sale of alcoholic beverages and a municipal liquor store must post and maintain in a conspicuous place within the licensed premises clearly visible to consumers: one sign 14-1/2 inches wide by 8 inches high as designed by the

commissioners of health and public safety, which incorporates the following information:

(1) the penalties of driving while under the influence of alcohol;

(2) penalties for serving alcoholic beverages to a person who is obviously intoxicated or under 21 years of age; and

(3) a warning statement regarding drinking alcohol while pregnant.

(b) The commissioners of health and public safety shall design a sign that complies with this subdivision and shall make the sign available for reproduction. A retail licensee or municipal liquor store may not modify the sign design but may modify the color.

Subd. 5. **Gambling prohibited.** (a) No retail establishment licensed to sell alcoholic beverages may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice or any gambling device as defined in section [349.30](#), or permit gambling therein except as provided in this subdivision.

(b) Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized by (1) chapter 349, (2) a tribal ordinance in conformity with the Indian Gaming Regulatory Act, Public Law Number 100-497, or (3) a tribal-state compact authorized under section [3.9221](#).

(c) Lottery tickets may be purchased and sold within the licensed premises as authorized by the director of the lottery under chapter 349A.

Subd. 6. **Racial discrimination; clubs.** No retail license to sell alcoholic beverages may be issued or renewed by a municipality or county to a club which discriminates against members or applicants for membership or guests of members on the basis of race.

Subd. 7. **License limited to space specified.** A licensing authority may issue a retail alcoholic beverage license only for a space that is compact and contiguous. A retail alcoholic beverage license is only effective for the licensed premises specified in the approved license application.

Subd. 8. **Copy of summons.** Every application for the issuance or renewal of intoxicating or 3.2 percent malt liquor licenses must include a copy of each summons received by the applicant under section [340A.802](#) during the preceding year.

Subd. 9. **Coin-operated devices.** Coin-operated amusement devices may not be made available in establishments licensed solely for the off-sale of intoxicating liquor or municipal stores which sell only at off-sale. An establishment holding a combination on-sale and off-sale license or a municipal liquor store which sells at on-sale and off-sale which makes coin-operated devices available shall keep such devices to the greatest extent practicable in that area of the establishment where on-sales are made.

Subd. 10. **Temporary licenses; restrictions.** (a) A municipality may not issue more than three four-day, four three-day, six two-day, or 12 one-day temporary licenses, in any combination not to exceed 12 days per year, under section [340A.404](#), subdivision 10, for the sale of alcoholic beverages to any one organization or registered political committee, or for any one location, within a 12-month period.

(b) A municipality may not issue more than one temporary license under section [340A.404](#), subdivision 10, for the sale of alcoholic beverages to any one organization or registered political committee, or for any one location, within any 30-day period unless the licenses are issued in connection with an event officially designated a community festival by the municipality.

This restriction does not apply to a municipality with a population of 5,000 or fewer people.

(c) A municipality that issues separate temporary wine and liquor licenses may separately apply the limitations contained in paragraphs (a) and (b) to the issuance of such licenses to any one organization or registered political committee, or for any one location.

HIST: 1985 c 305 art 6 s 10; 1Sp1986 c 3 art 1 s 39; 1987 c 152 art 1 s 1; 1987 c 381 s 4; 1989 c 334 art 6 s 5; 1991 c 178 s 1; 1991 c 249 s 12; 1993 c 350 s 10; 1994 c 611 s 21; 1995 c 42 s 2; 1996 c 323 s 1,4; 1996 c 418 s 8; 1998 c 364 s 5

340A.410 License restrictions; general.

Subdivision 1. **Counties; town consent.** A county may not issue a retail license to sell any alcoholic beverage within an organized town unless the governing body of the town has consented to the issuance of the license.

Subd. 2. **Counties; recommendation and review of applicants.** (1) No county may issue or renew a retail license to sell any alcoholic beverage until the county board has received a written recommendation from the sheriff and county attorney stating that to the best of their knowledge that the applicant is eligible to be licensed under section [340A.402](#). A copy of the statements must be given to the town board if a town's consent is required for issuance of the license under subdivision 3.

(2) The county board shall consider the recommendations of the sheriff and county attorney, the character and reputation of the applicant, and the nature and location of the business prior to issuance of any license.

Subd. 3. **License extension; death of licensee.** In the case of the death of a retail licensee to sell alcoholic beverages, the personal representative is authorized to continue operation of the business for not more than 90 days after the death of the licensee.

Subd. 4. **License posting.** A retail license to sell alcoholic beverages must be posted in a conspicuous place in the premises for which it is used.

Subd. 4a. Repealed, 1996 c 418 s 18

Subd. 4b. **Notice posting.** (a) A premises licensed for the retail sale of alcoholic beverages and a municipal liquor store must post and maintain in a conspicuous place within the licensed premises clearly visible to consumers: one sign 14-1/2 inches wide by 8 inches high as designed by the commissioners of health and public safety, which incorporates the following information:

(1) the penalties of driving while under the influence of alcohol;

(2) penalties for serving alcoholic beverages to a person

who is obviously intoxicated or under 21 years of age; and

(3) a warning statement regarding drinking alcohol while pregnant.

(b) The commissioners of health and public safety shall design a sign that complies with this subdivision and shall make the sign available for reproduction. A retail licensee or municipal liquor store may not modify the sign design but may modify the color.

Subd. 5. **Gambling prohibited.** (a) No retail establishment licensed to sell alcoholic beverages may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice or any gambling device as defined in section [349.30](#), or permit gambling therein except as provided in this subdivision.

(b) Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized by (1) chapter 349, (2) a tribal ordinance in conformity with the Indian Gaming Regulatory Act, Public Law Number 100-497, or (3) a tribal-state compact authorized under section [3.9221](#).

(c) Lottery tickets may be purchased and sold within the licensed premises as authorized by the director of the lottery under chapter 349A.

Subd. 6. **Racial discrimination; clubs.** No retail license to sell alcoholic beverages may be issued or renewed by a municipality or county to a club which discriminates against members or applicants for membership or guests of members on the basis of race.

Subd. 7. **License limited to space specified.** A licensing authority may issue a retail alcoholic beverage license only for a space that is compact and contiguous. A retail alcoholic beverage license is only effective for the licensed premises specified in the approved license application.

Subd. 8. **Copy of summons.** Every application for the issuance or renewal of intoxicating or 3.2 percent malt liquor licenses must include a copy of each summons received by the applicant under section [340A.802](#) during the preceding year.

Subd. 9. **Coin-operated devices.** Coin-operated

amusement devices may not be made available in establishments licensed solely for the off-sale of intoxicating liquor or municipal stores which sell only at off-sale. An establishment holding a combination on-sale and off-sale license or a municipal liquor store which sells at on-sale and off-sale which makes coin-operated devices available shall keep such devices to the greatest extent practicable in that area of the establishment where on-sales are made.

Subd. 10. **Temporary licenses; restrictions.** (a) A municipality may not issue more than three four-day, four three-day, six two-day, or 12 one-day temporary licenses, in any combination not to exceed 12 days per year, under section [340A.404](#), subdivision 10, for the sale of alcoholic beverages to any one organization or registered political committee, or for any one location, within a 12-month period.

(b) A municipality may not issue more than one temporary license under section [340A.404](#), subdivision 10, for the sale of alcoholic beverages to any one organization or registered political committee, or for any one location, within any 30-day period unless the licenses are issued in connection with an event officially designated a community festival by the municipality.

This restriction does not apply to a municipality with a population of 5,000 or fewer people.

(c) A municipality that issues separate temporary wine and liquor licenses may separately apply the limitations contained in paragraphs (a) and (b) to the issuance of such licenses to any one organization or registered political committee, or for any one location.

HIST: 1985 c 305 art 6 s 10; 1Sp1986 c 3 art 1 s 39; 1987 c 152 art 1 s 1; 1987 c 381 s 4; 1989 c 334 art 6 s 5; 1991 c 178 s 1; 1991 c 249 s 12; 1993 c 350 s 10; 1994 c 611 s 21; 1995 c 42 s 2; 1996 c 323 s 1,4; 1996 c 418 s 8; 1998 c 364 s 5

340A.415 License revocation or suspension; civil penalty.

On a finding that the license or permit holder has (1) sold alcoholic beverages to another retail licensee for the purpose of resale, (2) purchased alcoholic beverages from another retail licensee for the purpose of resale, (3) conducted or permitted

the conduct of gambling on the licensed premises in violation of the law, (4) failed to remove or dispose of alcoholic beverages when ordered by the commissioner to do so under section [340A.508](#), subdivision 3, or (5) failed to comply with an applicable statute, rule, or ordinance relating to alcoholic beverages, the commissioner or the authority issuing a retail license or permit under this chapter may revoke the license or permit, suspend the license or permit for up to 60 days, impose a civil penalty of up to \$2,000 for each violation, or impose any combination of these sanctions. No suspension or revocation takes effect until the license or permit holder has been given an opportunity for a hearing under sections [14.57](#) to [14.69](#) of the Administrative Procedure Act. This section does not require a political subdivision to conduct the hearing before an employee of the office of administrative hearings. Imposition of a penalty or suspension by either the issuing authority or the commissioner does not preclude imposition of an additional penalty or suspension by the other so long as the total penalty or suspension does not exceed the stated maximum.

HIST: 1985 c 248 s 70; 1985 c 305 art 6 s 15; 1985 c 309 s 11; 1Sp1985 c 16 art 2 s 3 subd 1; 1Sp1986 c 3 art 1 s 42; 1987 c 152 art 1 s 1; 1987 c 310 s 12; 1988 c 534 s 2; 1991 c 249 s 19; 1993 c 350 s 11; 1994 c 611 s 23

Police Regulations, LIQUOR, MUNICIPAL LIQUOR STORES

340A.604 Suspension of operation.

A court shall notify the commissioner in writing within ten days whenever a municipal officer or employee has been convicted of any of the following offenses committed in a municipal liquor store:

- (1) selling alcoholic beverages to persons or at times prohibited by law;
 - (2) selling alcoholic beverages for resale;
 - (3) selling alcoholic beverages on which state taxes have not been paid; or
 - (4) violating the provisions of section [340A.410](#), subdivision 5, relating to gambling and gambling devices.
- On receiving the notice of conviction the commissioner may suspend for up to 30 days the operation of the municipal liquor store where the offense occurred. The commissioner must notify in writing the municipality operating the store of the effective dates of the suspension. An appeal of the suspension is a contested case under sections [14.57](#) to [14.69](#) of the Administrative Procedure Act.

HIST: 1985 c 305 art 8 s 4; 1987 c 152 art 1 s 1; 1991 c 249 s 26

Gaming, CHAPTER 349 LAWFUL GAMBLING AND GAMBLING DEVICES

349.11 Purpose.

The purpose of sections 349.11 to [349.22](#) is to regulate lawful gambling to prevent its commercialization, to insure integrity of operations, and to provide for the use of net

profits only for lawful purposes.

HIST: 1976 c 261 s 1; 1Sp1981 c 4 art 1 s 162; 1984 c 502 art 12 s 2; 1989 c 334 art 2 s 1

349.12 Definitions.

Subdivision 1. As used in sections [349.11](#) to [349.23](#) the terms in this section have the meanings given them.

Subd. 2. **Active member.** "Active member" means a member who has paid all dues to the organization, who is 18 years of age or older, who has equal voting rights with all other members, who has equal opportunity to be an elected officer, who has equal right and responsibilities of attendance at the regularly scheduled meetings of the organization, whose name and membership origination date appear with the member's knowledge and consent on a list of members of the organization, and who has been a member of the organization for at least six months.

Subd. 3. **Affiliate.** "Affiliate" is any person or entity directly or indirectly controlling, controlled by, or under common control or ownership with a licensee of the board or any officer or director of a licensee of the board.

Subd. 3a. **Allowable expense.** "Allowable expense" means the percentage of the total cost incurred by the organization in the purchase of any good, service, or other item which corresponds to the proportion of the total actual use of the good, service, or other item that is directly related to conduct of lawful gambling. Allowable expense includes the advertising of the conduct of lawful gambling, provided that the amount expended does not exceed five percent of the annual gross profits of the organization or \$5,000 per year per organization, whichever is less. The board may adopt rules to regulate the content of the advertising to ensure that the content is consistent with the public welfare.

Subd. 4. **Bingo.** "Bingo" means a game where each player has a bingo hard card or bingo paper sheet, for which a consideration has been paid, and played in accordance with this chapter and with rules of the board for the conduct of bingo.

Subd. 5. **Bingo occasion.** "Bingo occasion" means a single gathering or session at which a series of one or more successive bingo games is played.

Subd. 6. **Board.** "Board" is the gambling control board.

Subd. 7. **Capital assets.** "Capital assets" means property, real or personal, except gambling equipment, with an expected useful life of at least one year.

Subd. 8. **Checker.** "Checker" means a person who records the number of bingo hard cards purchased and played during each game and records the prizes awarded to the recorded hard cards, but does not collect the payment for the hard cards.

Subd. 9. **Deal.** "Deal" means each separate package, or series of packages, consisting of one game of pull-tabs or tipboards with the same serial number.

Subd. 10. **Director.** "Director" is the director of the gambling control board.

Subd. 11. **Distributor.** "Distributor" is a person who sells gambling equipment for use within the state to licensed organizations, or to organizations conducting excluded or exempt activities under section [349.166](#).

Subd. 12. Repealed, 1991 c 233 s 110

Subd. 13. **Face value.** "Face value" means the price per ticket printed on the ticket or the flare.

Subd. 14. **Fiscal year.** "Fiscal year 1990" means the period from October 1, 1989, to June 30, 1990. For all subsequent times, "fiscal year" means the period from July 1 to June 30.

Subd. 15. **501(c)(3) organization.** "501(c)(3) organization" is an organization exempt from the payment of federal income taxes under section 501(c)(3) of the Internal Revenue Code.

Subd. 15a. **Festival organization.** "Festival

organization" is an organization conducting a community festival that is exempt from the payment of federal income taxes under section 501(c)(4) of the Internal Revenue Code.

Subd. 16. **Flare.** "Flare" is the posted display, with registration stamp affixed or bar code imprinted or affixed, that sets forth the rules of a particular game of pull-tabs or tipboards and that is associated with a specific deal of pull-tabs or grouping of tipboards.

Subd. 17. **Free play.** "Free play" means a winning ticket that is labeled as a free play or its equivalent.

Subd. 18. **Gambling equipment.** "Gambling equipment" means: bingo hard cards or paper sheets, devices for selecting bingo numbers, pull-tabs, jar tickets, paddlewheels, paddlewheel tables, paddletickets, paddleticket cards, tipboards, tipboard tickets, and pull-tab dispensing devices.

Subd. 19. **Gambling manager.** "Gambling manager" means a person who has been an active member of the organization for at least two years and has been designated by the organization to supervise lawful gambling conducted by it.

Subd. 20. **Gross profit.** "Gross profit" means the gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for prizes.

Subd. 21. **Gross receipts.** "Gross receipts" means all receipts derived from lawful gambling activity including, but not limited to, the following items:

(1) gross sales of bingo hard cards and paper sheets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(2) the ideal gross of pull-tab and tipboard deals or games less the value of unsold and defective tickets and before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(3) gross sales of raffle tickets and paddletickets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(4) admission, commission, cover, or other charges imposed

on participants in lawful gambling activity as a condition for or cost of participation; and

(5) interest, dividends, annuities, profit from transactions, or other income derived from the accumulation or use of gambling proceeds.

Gross receipts does not include proceeds from rental under section [349.164](#) or [349.18](#), subdivision 3.

Subd. 22. **Ideal gross.** "Ideal gross" means the total amount of receipts that would be received if every individual ticket in the pull-tab or tipboard deal was sold at its face value. In the calculation of ideal gross and prizes, a free play ticket shall be valued at face value.

Subd. 23. **Ideal net.** "Ideal net" means the pull-tab or tipboard deal's ideal gross, as defined under subdivision 22, less the total predetermined prize amounts available to be paid out. When the prize is not entirely a monetary one, the ideal net is 50 percent of the ideal gross.

Subd. 24. "Lawful gambling" is the operation, conduct or sale of bingo, raffles, paddlewheels, tipboards, and pull-tabs.

Subd. 25. **Lawful purpose.** (a) "Lawful purpose" means one or more of the following:

(1) any expenditure by or contribution to a 501(c)(3) or festival organization, as defined in subdivision 15a, provided that the organization and expenditure or contribution are in conformity with standards prescribed by the board under section [349.154](#), which standards must apply to both types of organizations in the same manner and to the same extent;

(2) a contribution to an individual or family suffering from poverty, homelessness, or physical or mental disability, which is used to relieve the effects of that poverty, homelessness, or disability;

(3) a contribution to an individual for treatment for delayed posttraumatic stress syndrome or a contribution to a program recognized by the Minnesota department of human services for the education, prevention, or treatment of compulsive gambling;

(4) a contribution to or expenditure on a public or private nonprofit educational institution registered with or accredited by this state or any other state;

(5) a contribution to a scholarship fund for defraying the cost of education to individuals where the funds are awarded through an open and fair selection process;

(6) activities by an organization or a government entity which recognize humanitarian or military service to the United States, the state of Minnesota, or a community, subject to rules of the board, provided that the rules must not include mileage reimbursements in the computation of the per occasion reimbursement limit and must impose no aggregate annual limit on the amount of reasonable and necessary expenditures made to support:

(i) members of a military marching or color guard unit for activities conducted within the state; or

(ii) members of an organization solely for services performed by the members at funeral services;

(7) recreational, community, and athletic facilities and activities intended primarily for persons under age 21, provided that such facilities and activities do not discriminate on the basis of gender and the organization complies with section [349.154](#);

(8) payment of local taxes authorized under this chapter, taxes imposed by the United States on receipts from lawful gambling, the taxes imposed by section [297E.02](#), subdivisions 1, 4, 5, and 6, and the tax imposed on unrelated business income by section [290.05](#), subdivision 3;

(9) payment of real estate taxes and assessments on permitted gambling premises wholly owned by the licensed organization paying the taxes, not to exceed:

(i) for premises used for bingo, the amount that an organization may expend under board rules on rent for bingo; and

(ii) \$35,000 per year for premises used for other forms of lawful gambling;

(10) a contribution to the United States, this state or any

of its political subdivisions, or any agency or instrumentality thereof other than a direct contribution to a law enforcement or prosecutorial agency;

(11) a contribution to or expenditure by a nonprofit organization which is a church or body of communicants gathered in common membership for mutual support and edification in piety, worship, or religious observances;

(12) payment of one-half of the reasonable costs of an audit required in section [297E.06](#), subdivision 4;

(13) a contribution to or expenditure on a wildlife management project that benefits the public at-large, provided that the state agency with authority over that wildlife management project approves the project before the contribution or expenditure is made;

(14) expenditures, approved by the commissioner of natural resources, by an organization for grooming and maintaining snowmobile trails that are (1) grant-in-aid trails established under section [85.019](#), or (2) other trails open to public use, including purchase or lease of equipment for this purpose; or

(15) conducting nutritional programs, food shelves, and congregate dining programs primarily for persons who are age 62 or older or disabled.

(b) Notwithstanding paragraph (a), "lawful purpose" does not include:

(1) any expenditure made or incurred for the purpose of influencing the nomination or election of a candidate for public office or for the purpose of promoting or defeating a ballot question;

(2) any activity intended to influence an election or a governmental decision-making process;

(3) the erection, acquisition, improvement, expansion, repair, or maintenance of real property or capital assets owned or leased by an organization, unless the board has first specifically authorized the expenditures after finding that (i) the real property or capital assets will be used exclusively for one or more of the purposes in paragraph (a); (ii) with respect to expenditures for repair or maintenance only, that the property is or will be used extensively as a meeting place or

event location by other nonprofit organizations or community or service groups and that no rental fee is charged for the use; (iii) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building, a building owned by the organization and destroyed or made uninhabitable by fire or natural disaster, provided that the expenditure may be only for that part of the replacement cost not reimbursed by insurance; (iv) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building a building owned by the organization that was acquired from the organization by eminent domain or sold by the organization to a purchaser that the organization reasonably believed would otherwise have acquired the building by eminent domain, provided that the expenditure may be only for that part of the replacement cost that exceeds the compensation received by the organization for the building being replaced; or (v) with respect to an expenditure to bring an existing building into compliance with the Americans with Disabilities Act under item (ii), an organization has the option to apply the amount of the board-approved expenditure to the erection or acquisition of a replacement building that is in compliance with the Americans with Disabilities Act;

(4) an expenditure by an organization which is a contribution to a parent organization, foundation, or affiliate of the contributing organization, if the parent organization, foundation, or affiliate has provided to the contributing organization within one year of the contribution any money, grants, property, or other thing of value;

(5) a contribution by a licensed organization to another licensed organization unless the board has specifically authorized the contribution. The board must authorize such a contribution when requested to do so by the contributing organization unless it makes an affirmative finding that the contribution will not be used by the recipient organization for one or more of the purposes in paragraph (a); or

(6) a contribution to a statutory or home rule charter city, county, or town by a licensed organization with the knowledge that the governmental unit intends to use the contribution for a pension or retirement fund.

Subd. 26. **Manufacturer.** "Manufacturer" means a person or entity who assembles from raw materials or subparts a completed piece of gambling equipment, and who sells or furnishes the equipment for resale or for use in the state. The term includes a person who converts, modifies, adds to, or removes parts or a portion from an item, device, or assembly to

further its promotion, sale, or use as gambling equipment in this state. A person only adding or modifying promotional flares to advise the public of the prizes available, the rules of play, and the consideration required is not a manufacturer.

Subd. 26a. **Master flare.** "Master flare" is the posted display, with registration stamp affixed or bar code imprinted or affixed, that is used in conjunction with sealed groupings of 100 or fewer sequentially numbered paddleticket cards.

Subd. 27. **Net profit.** "Net profit" means gross profit less reasonable sums actually expended for allowable expenses.

Subd. 28. **Organization.** "Organization" means any fraternal, religious, veterans, or other nonprofit organization.

Subd. 28a. **Paddleticket.** "Paddleticket" means a preprinted ticket that can be used to place wagers on the spin of a paddlewheel.

Subd. 28b. **Paddleticket card.** "Paddleticket card" means a card to which detachable paddletickets are attached.

Subd. 28c. **Paddleticket card number.** "Paddleticket card number" means the unique serial number preprinted by the manufacturer on the stub of a paddleticket card and the paddletickets attached to the card.

Subd. 29. "Paddlewheel" means a wheel marked off into sections containing one or more numbers, and which, after being turned or spun, uses a pointer or marker to indicate winning chances.

Subd. 30. **Person.** "Person" is an individual, organization, firm, association, partnership, limited liability company, corporation, trustee, or legal representative.

Subd. 30a. **Profit carryover.** "Profit carryover" means cumulative net profit less cumulative lawful purpose expenditures.

Subd. 31. **Promotional ticket.** A pull-tab or tipboard ticket with the words "no purchase necessary" and "for promotional use only" and for which no consideration is given is

a promotional ticket.

Subd. 32. **Pull-tab.** "Pull-tab" means a single folded or banded ticket or a multi-ply card with perforated break-open tabs, the face of which is initially covered to conceal one or more numbers or symbols, where one or more of each set of tickets or cards has been designated in advance as a winner.

Subd. 32a. **Pull-tab dispensing device.** "Pull-tab dispensing device" means a mechanical device that dispenses paper pull-tabs and has no additional function as an amusement or gambling device.

Subd. 33. **Raffle** means a game in which a participant buys a ticket for a chance at a prize with the winner determined by a random drawing to take place at a location and date printed upon the ticket.

Subd. 34. **Tipboard.** "Tipboard" means a board, placard or other device containing a seal that conceals the winning number or symbol, and that serves as the game flare for a tipboard game.

Subd. 35. **Tipboard ticket.** "Tipboard ticket" is a single folded or banded ticket, or multi-ply card, the face of which is initially covered or otherwise hidden from view to conceal a number, symbol, or set of symbols, some of which have been designated in advance and at random as prize winners.

HIST: 1976 c 261 s 2; 1984 c 502 art 12 s 3; 1986 c 444; 1986 c 467 s 4-6; 1987 c 327 s 2-5; 1988 c 596 s 1; 1988 c 719 art 9 s 1-3; 1989 c 203 s 1; 1989 c 334 art 2 s 2-15,51; 1Sp1989 c 1 art 13 s 1-6; 1990 c 590 art 1 s 4-9; 1991 c 199 art 2 s 1; 1991 c 233 s 100; 1991 c 336 art 2 s 10-12; 1993 c 244 art 5 s 1; 1994 c 633 art 2 s 19; art 5 s 1-20; 1995 c 186 s 68; 1995 c 261 s 20,21; 1995 c 264 art 9 s 9; 1997 c 155 s 2,3; 1998 c 322 s 1

349.13 Lawful gambling.

Lawful gambling is not a lottery or gambling within the meaning of sections [609.75](#) to [609.76](#) if it is conducted under this chapter. A pull-tab dispensing device permitted by board rule is not a gambling device within the meaning of sections [609.75](#) to [609.76](#) and chapter 299L.

HIST: 1976 c 261 s 3; 1984 c 502 art 12 s 4; 1994 c 633 art 5 s 21

349.15 Use of gross profits.

Subdivision 1. **Expenditure restrictions.** Gross profits from lawful gambling may be expended only for lawful purposes or allowable expenses as authorized by the membership of the conducting organization at a monthly meeting of the organization's membership. Provided that no more than 65 percent of the gross profit less the tax imposed under section [297E.02](#), subdivision 1, from bingo, and no more than 55 percent of the gross profit from other forms of lawful gambling, may be expended for allowable expenses related to lawful gambling.

Subd. 2. **Cash shortages.** In computing gross profit to determine maximum amounts which may be expended for allowable expenses under subdivision 1, an organization may not reduce its gross receipts by any cash shortages. An organization may report cash shortages to the board only as an allowable expense. An organization may not report cash shortages in any reporting period that in total exceed the following percentages of the organization's gross receipts from lawful gambling for that period: until August 1, 1995, four-tenths of one percent; and on and after August 1, 1995, three-tenths of one percent.

Subd. 3. **Refunds and credits.** For purposes of this section "gross profit" does not include any refund or credit received under section [297E.02](#), subdivision 4, paragraph (d).

HIST: 1976 c 261 s 5; 1984 c 502 art 12 s 6; 1986 c 467 s 7; 1Sp1986 c 3 art 2 s 16; 1987 c 327 s 7; 1989 c 203 s 2; 1989 c 334 art 2 s 16; 1Sp1989 c 1 art 13 s 7; 1990 c 590 art 1 s 10; 1991 c 336 art 2 s 13; 1994 c 633 art 2 s 19; art 5 s 22; 1996 c 471 art 13 s 16; 1997 c 155 s 4

349.151 Gambling control board.

Subdivision 1. **Board created.** The gambling control board is created with the powers and duties established by subdivision 4.

Subd. 2. **Membership.** (a) On and after July 1, 1991, the board consists of seven members, as follows: (1) those members appointed by the governor before July 1, 1991, whose terms expire June 30, 1992, June 30, 1993, and June 30, 1994; (2) one member appointed by the governor for a term expiring June 30, 1994; (3) one member appointed by the commissioner of public safety for a term expiring June 30, 1995; and (4) one member appointed by the attorney general for a term expiring June 30, 1995.

(b) All appointments under this subdivision are with the advice and consent of the senate.

(c) After expiration of the initial terms, appointments are for four years.

(d) The board shall select one of its members to serve as chair. No more than three members appointed by the governor under this subdivision may belong to the same political party.

Subd. 3. Repealed, 1989 c 334 art 2 s 52

Subd. 3a. **Compensation.** The compensation of board members is as provided in section [15.0575](#), subdivision 3.

Subd. 4. **Powers and duties.** (a) The board has the following powers and duties:

- (1) to regulate lawful gambling to ensure it is conducted in the public interest;
- (2) to issue licenses to organizations, distributors, bingo halls, manufacturers, and gambling managers;
- (3) to collect and deposit license, permit, and registration fees due under this chapter;
- (4) to receive reports required by this chapter and inspect all premises, records, books, and other documents of organizations, distributors, manufacturers, and bingo halls to insure compliance with all applicable laws and rules;
- (5) to make rules authorized by this chapter;
- (6) to register gambling equipment and issue registration stamps;
- (7) to provide by rule for the mandatory posting by organizations conducting lawful gambling of rules of play and the odds and/or house percentage on each form of lawful gambling;
- (8) to report annually to the governor and legislature on its activities and on recommended changes in the laws governing gambling;
- (9) to impose civil penalties of not more than \$500 per violation on organizations, distributors, employees eligible to make sales on behalf of a distributor, manufacturers, bingo halls, and gambling managers for failure to comply with any provision of this chapter or any rule or order of the board;
- (10) to issue premises permits to organizations licensed to conduct lawful gambling;
- (11) to delegate to the director the authority to issue or deny license and premises permit applications and renewals under criteria established by the board;

(12) to suspend or revoke licenses and premises permits of organizations, distributors, manufacturers, bingo halls, or gambling managers as provided in this chapter;

(13) to register employees of organizations licensed to conduct lawful gambling;

(14) to require fingerprints from persons determined by board rule to be subject to fingerprinting;

(15) to delegate to a compliance review group of the board the authority to investigate alleged violations, issue consent orders, and initiate contested cases on behalf of the board;

(16) to order organizations, distributors, manufacturers, bingo halls, and gambling managers to take corrective actions; and

(17) to take all necessary steps to ensure the integrity of and public confidence in lawful gambling.

(b) The board, or director if authorized to act on behalf of the board, may by citation assess any organization, distributor, employee eligible to make sales on behalf of a distributor, manufacturer, bingo hall licensee, or gambling manager a civil penalty of not more than \$500 per violation for a failure to comply with any provision of this chapter or any rule adopted or order issued by the board. Any organization, distributor, bingo hall licensee, gambling manager, or manufacturer assessed a civil penalty under this paragraph may request a hearing before the board. Appeals of citations imposing a civil penalty are not subject to the provisions of the Administrative Procedure Act.

(c) All fees and penalties received by the board must be deposited in the general fund.

Subd. 4a. Repealed, 1990 c 590 art 1 s 55

Subd. 4a. **Paddlewheel rules.** The board shall promulgate rules governing paddlewheels before July 1, 1992. The rules must provide for operation procedures, internal control standards, posted information, records, and reports.

Subd. 4b. **Pull-tab sales from dispensing devices.** (a) The board may by rule authorize but not require the use of pull-tab dispensing devices.

(b) Rules adopted under paragraph (a):

(1) must limit the number of pull-tab dispensing devices on any permitted premises to three;

(2) must limit the use of pull-tab dispensing devices to a permitted premises which is (i) a licensed premises for on-sales of intoxicating liquor or 3.2 percent malt beverages or (ii) a licensed bingo hall that allows gambling only by persons 18 years or older; and

(3) must prohibit the use of pull-tab dispensing devices at any licensed premises where pull-tabs are sold other than through a pull-tab dispensing device by an employee of the organization who is also the lessor or an employee of the lessor.

(c) The director may charge a manufacturer a fee of up to \$5,000 per pull-tab dispensing device to cover the costs of services provided by an independent testing laboratory to perform testing and analysis of pull-tab dispensing devices. The director shall deposit in a separate account in the state treasury all money the director receives as reimbursement for the costs of services provided by independent testing laboratories that have entered into contracts with the state to perform testing and analysis of pull-tab dispensing devices. Money in the account is appropriated to the director to pay the costs of services under those contracts.

Subd. 5. MS 1988 Repealed, 1989 c 334 art 2 s 52

Subd. 5. **Attorney general.** The attorney general is the attorney for the board.

Subd. 6. Renumbered subd 5

Subd. 7. **Orders.** The board may order any person subject to its jurisdiction who has violated this chapter or a board rule or order to take appropriate action to correct the violation.

Subd. 8. **Criminal history.** The board may request the director of alcohol and gambling enforcement to assist in investigating the background of an applicant for a license under this chapter, and the director of alcohol and gambling enforcement may bill the license applicant for the cost thereof. The board has access to all criminal history data compiled by the division of alcohol and gambling enforcement on licensees and applicants.

Subd. 9. **Response to requests.** An applicant, licensee, or other person subject to the board's jurisdiction must:

(1) comply with requests for information or documents, or other requests, from the board or director within the time specified in the request or, if no time is specified, within 30 days of the date the board or director mails the request; and

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

Subd. 10. **Production of evidence.** For the purpose of any investigation, inspection, compliance review, audit, or proceeding under this chapter, the board or director may (1) administer oaths and affirmations, (2)

subpoena witnesses and compel their attendance, (3) take evidence, and (4) require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the board or director determines are relevant or material to the inquiry.

Subd. 11. **Court orders.** In the event of a refusal to appear by, or refusal to obey a subpoena issued to, any person under this chapter, the district court may on application of the board or director issue to the person an order directing the person to appear before the board or director, and to produce documentary evidence if so ordered or to give evidence relating to the matter under investigation or in question. Failure to obey such an order may be punished by the court as contempt of court.

Subd. 12. **Access.** The board or director has free access during normal business hours to the offices and places of business of licensees or organizations conducting excluded or exempt gambling, and to all books, accounts, papers, records, files, safes, and vaults maintained in the places of business or required to be maintained.

Subd. 13. **Rulemaking.** In addition to any authority to adopt rules specifically authorized under this chapter, the board may adopt, amend, or repeal rules under chapter 14, when necessary or proper in discharging the board's powers and duties.

HIST: 1984 c 502 art 12 s 7; 1984 c 640 s 32; 1986 c 444; 1986 c 467 s 8,9; 1987 c 327 s 8,9; 1989 c 334 art 2 s 17; 1990 c 590 art 1 s 11,12; 1991 c 233 s 101; 1991 c 336 art 2 s 14,15; 1993 c 13 art 1 s 3; 1994 c 465 art 3 s 33; 1994 c 633 art 5 s 23-31; 1995 c 233 art 2 s 56; 1995 c 254 art 1 s 78; 1996 c 467 s 3; 1997 c 129 art 2 s 15

349.152 Director.

Subdivision 1. **Appointed.** The governor shall appoint, with the advice and consent of the senate, a director from a list of one or more persons submitted by the board. The director serves in the unclassified service at the pleasure of the governor.

Subd. 2. **Duties of the director.** The director has the following duties:

- (1) to carry out gambling policy established by the board;
- (2) to employ and supervise personnel of the board;
- (3) to advise and make recommendations to the board on rules;
- (4) to issue licenses and premises permits as authorized by the board;
- (5) to issue cease and desist orders;

(6) to make recommendations to the board on license issuance, denial, censure, suspension and revocation, civil penalties, and corrective action the board imposes;

(7) to ensure that board rules, policy, and decisions are adequately and accurately conveyed to the board's licensees;

(8) to conduct investigations, inspections, compliance reviews, and audits under this chapter; and

(9) to issue subpoenas to compel the attendance of witnesses and the production of documents, books, records, and other evidence relating to an investigation, compliance review, or audit the director is authorized to conduct.

Subd. 3. Cease and desist orders. (a) Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any board rule or order the director may issue and cause to be served upon the person an order requiring the person to cease and desist from violations of this chapter or board rule or order. The order must give reasonable notice of the rights of the person to request a hearing and must state the reason for the entry of the order. Unless otherwise agreed between the parties, a hearing shall be held not later than seven days after the request for the hearing is received by the board after which and within 20 days after the receipt of the administrative law judge's report and subsequent exceptions and argument the board shall issue an order vacating the cease and desist order, modifying it, or making it permanent as the facts require. If no hearing is requested within 30 days of the service of the order, the order becomes final and remains in effect until modified or vacated by the board or director. All hearings shall be conducted in accordance with the provisions of chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against the person upon consideration of the cease and desist order, the allegations of which may be deemed to be true.

(b) Whenever it appears to the board that any person has engaged or is about to engage in any act or practice that violates this chapter or any board rule or order, the board may bring an action in the district court in the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter or any board rule or order and may refer the matter to the attorney general. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted. The court may not require the board to post a bond.

Subd. 4. **Executive assistant.** The director may appoint an executive assistant to the director, who is in the unclassified service.

HIST: 1989 c 334 art 2 s 18; 1990 c 590 art 1 s 13-15; 1994 c 633 art 5 s 32,33

349.153 Conflict of interest.

(a) A person may not serve on the board, be the director, or be an employee of the board who has an interest in any corporation, association, limited liability company, or partnership that is licensed by the board as a distributor, manufacturer, or a bingo hall under section [349.164](#).

(b) A member of the board, the director, or an employee of the board may not accept employment with, receive compensation directly or indirectly from, or enter into a contractual relationship with an organization that conducts lawful gambling, a distributor, a bingo hall or a manufacturer while employed with or a member of the board or within one year after terminating employment with or leaving the board.

(c) A distributor, bingo hall, manufacturer, or organization licensed to conduct lawful gambling may not hire a former employee, director, or member of the gambling control board for one year after the employee, director, or member has terminated employment with or left the gambling control board.

HIST: 1989 c 334 art 2 s 19; 1991 c 233 s 109; 1994 c 633 art 5 s 34

349.154 Expenditure of net profits from lawful gambling.

Subdivision 1. **Standards for certain organizations.**
The board shall by rule prescribe standards that must be met by any licensed organization that is a 501(c)(3) organization. The

standards must provide:

(1) operating standards for the organization, including a maximum percentage or percentages of the organization's total expenditures that may be expended for the organization's administration and operation; and

(2) standards for any expenditure by the organization of net profits from lawful gambling, including a requirement that the expenditure be related to the primary purpose of the organization.

Subd. 2. **Net profit reports.** (a) Each licensed organization must report monthly to the board on a form prescribed by the board each expenditure and contribution of net profits from lawful gambling. The reports must provide for each expenditure or contribution:

(1) the name, address, and telephone number of the recipient of the expenditure or contribution;

(2) the date the contribution was approved by the organization;

(3) the date, amount, and check number or electronic transfer confirmation number of the expenditure or contribution;

(4) a brief description of how the expenditure or contribution meets one or more of the purposes in section [349.12](#), subdivision 25; and

(5) in the case of expenditures authorized under section [349.12](#), subdivision 25, paragraph (a), clause (7), whether the expenditure is for a facility or activity that primarily benefits male or female participants.

(b) The board shall make available to the commissioners of revenue and public safety copies of reports received under this subdivision and requested by them.

(c) The report required under this subdivision must provide for a separate accounting for all expenditures made from the reporting organization's tax refund or credit authorized under section [297E.02](#), subdivision 4, paragraph (d).

Subd. 3. Repealed, 1991 c 336 art 2 s 53

Subd. 3a. **Expenditures for recreational, community, and athletic programs.** An organization that makes a greater percentage of its lawful purpose expenditures under section [349.12](#), subdivision 25, paragraph (a), clause (7), on facilities or activities for one gender rather than another may not deny a reasonable request for funding of a facility or activity for the underrepresented gender if the request is for funding for a facility or activity that is a lawful purpose under that clause. An applicant for funding for a facility or activity for an underrepresented gender who believes that an application for funding was denied in violation of this subdivision may file a complaint with the board. The board shall prescribe a form for the complaint and shall furnish a copy of the form to any requester. The board shall investigate each complaint filed and, if the board finds that the organization against which the complaint was filed has violated this subdivision, shall issue an order directing the organization to take such corrective action as the board deems necessary to bring the organization into compliance with this subdivision.

HIST: 1989 c 334 art 2 s 51; 1990 c 590 art 1 s 16; 1991 c 336 art 2 s 16; 1994 c 633 art 5 s 35; 1996 c 471 art 13 s 17; 1997 c 231 art 7 s 33; 1998 c 322 s 2

349.155 Licenses; license actions.

Subdivision 1. **Forms.** All applications for a license must be on a form prescribed by the board. In the case of applications by an organization the board may require the organization to submit a copy of its articles of incorporation and other documents the board deems necessary.

Subd. 2. **Investigation fee.** In addition to initial and renewal application fees, the board may charge license and renewal applicants a fee to cover the costs of background investigations conducted under this chapter.

Subd. 3. **Mandatory disqualifications.** (a) In the case of licenses for manufacturers, distributors, bingo halls, and gambling managers, the board may not issue or renew a license under this chapter, and shall revoke a license under this chapter, if the applicant or licensee, or a director, officer, partner, governor, person in a supervisory or

management position of the applicant or licensee, or an employee eligible to make sales on behalf of the applicant or licensee:

(1) has ever been convicted of a felony or a crime involving gambling;

(2) has ever been convicted of (i) assault, (ii) a criminal violation involving the use of a firearm, or (iii) making terroristic threats;

(3) is or has ever been connected with or engaged in an illegal business;

(4) owes \$500 or more in delinquent taxes as defined in section [270.72](#);

(5) had a sales and use tax permit revoked by the commissioner of revenue within the past two years; or

(6) after demand, has not filed tax returns required by the commissioner of revenue. The board may deny or refuse to renew a license under this chapter, and may revoke a license under this chapter, if any of the conditions in this paragraph are applicable to an affiliate or direct or indirect holder of more than a five percent financial interest in the applicant or licensee.

(b) In the case of licenses for organizations, the board may not issue or renew a license under this chapter, and shall revoke a license under this chapter, if the organization, or an officer or member of the governing body of the organization:

(1) has been convicted of a felony or gross misdemeanor within the five years before the issuance or renewal of the license;

(2) has ever been convicted of a crime involving gambling;
or

(3) has had a license issued by the board or director permanently revoked for violation of law or board rule.

Subd. 4. License revocation, suspension, denial; censure. The board may by order (i) deny, suspend, revoke, or refuse to renew a license or premises permit, or (ii) censure a

licensee or applicant, if it finds that the order is in the public interest and that the applicant or licensee, or a director, officer, partner, governor, person in a supervisory or management position of the applicant or licensee, an employee eligible to make sales on behalf of the applicant or licensee, or direct or indirect holder of more than a five percent financial interest in the applicant or licensee:

(1) has violated or failed to comply with any provision of this chapter or chapter 297E or 299L, or any rule adopted or order issued thereunder;

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

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

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

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

(6) has had a gambling-related license revoked or suspended, or has paid or been required to pay a monetary penalty of \$2,500 or more, by a gambling regulator in another state or jurisdiction;

(7) has been the subject of any of the following actions by the director of alcohol and gambling enforcement or commissioner of public safety: (i) had a license under chapter 299L denied, suspended, or revoked, (ii) been censured, reprimanded, has paid or been required to pay a monetary penalty or fine, or (iii) has been the subject of any other discipline by the director or commissioner; or

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

(9) based on past activities or criminal record poses a threat to the public interest or to the effective regulation and

control of gambling, or creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gambling or the carrying on of the business and financial arrangements incidental to the conduct of gambling.

Subd. 4a. **Illegal gambling.** The board may not deny, suspend, revoke, or refuse to renew an organization's premises permit because illegal gambling occurred at the site for which the premises permit was issued, unless the board determines that: (1) the organization knowingly participated in the illegal gambling; or (2) the organization or any of its agents knew or reasonably should have known of the illegal gambling and the organization did not notify the lessor of the premises, in writing and with specificity, that illegal gambling was being conducted on the premises and requesting that the lessor take appropriate action.

Subd. 5. **Contested case.** When the board, or director if the director is authorized to act on behalf of the board, determines that a license should be revoked, suspended or a licensee be censured under subdivision 3 or 4, or a civil penalty be imposed or a person be required to take corrective action, the board or director shall issue an order initiating a contested case hearing. Hearings under this subdivision must be conducted in accordance with chapter 14.

Subd. 6. **Notice of denial.** When the board, or director if authorized to act on behalf of the board, determines that a license or premises permit application or renewal should be denied under subdivision 3 or 4, the board or director shall promptly give a written notice to the licensee or applicant stating ground for the action and giving reasonable notice of the rights of the licensee or applicant to request a hearing. A hearing must be held not later than 30 days after the board receives the request for the hearing, unless the licensee or applicant and the board agree on a later date. If no hearing is requested within 30 days of the service of the notice, the denial becomes final. Hearings under this subdivision must be conducted in accordance with chapter 14. After the hearing the board may enter an order making such disposition as the facts require. If the applicant fails to appear at the hearing after having been notified of it under this subdivision, the applicant is considered in default and the proceeding may be determined against the person on consideration of the written notice of denial, the allegations of which may be considered to be true. All fees accompanying the license or renewal application are considered earned and are not refundable.

Subd. 7. **Lapsed licenses.** If a license lapses, or is surrendered, withdrawn, terminated, or otherwise becomes ineffective, the board may (1) institute a proceeding under this

section within two years after the last date on which the license was effective, (2) enter a revocation or suspension order as of the date on which the license was effective, (3) impose a civil penalty as provided under section [349.151](#), subdivision 4, or (4) order corrective action as provided in section [349.151](#), subdivision 7.

Subd. 8. **Actions in another state.** A licensee under this chapter must notify the board within 30 days of the action whenever any of the actions listed in subdivision 4, clause (6), have been taken against the licensee in another state or jurisdiction.

HIST: 1994 c 633 art 5 s 36; 1997 c 129 art 2 s 15; 1997 c 155 s 5

349.16 Organization licenses.

Subdivision 1. **License required.** An organization may conduct lawful gambling if it has a license to conduct lawful gambling and complies with this chapter.

Subd. 1a. Repealed by amendment, 1990 c 590 art 1 s 17

Subd. 2. **Issuance of gambling licenses.** (a) Licenses authorizing organizations to conduct lawful gambling may be issued by the board to organizations meeting the qualifications in paragraphs (b) to (h) if the board determines that the license is consistent with the purpose of sections [349.11](#) to [349.22](#).

(b) The organization must have been in existence for the most recent three years preceding the license application as a registered Minnesota nonprofit corporation or as an organization designated as exempt from the payment of income taxes by the Internal Revenue Code.

(c) The organization at the time of licensing must have at least 15 active members.

(d) The organization must not be in existence solely for the purpose of conducting gambling.

(e) The organization has identified in its license application the lawful purposes on which it proposes to expend net profits from lawful gambling.

(f) The organization has identified on its license application a gambling manager and certifies that the manager is qualified under this chapter.

(g) The organization must not, in the opinion of the board after consultation with the commissioner of revenue, be seeking licensing primarily for the purpose of evading or reducing the tax imposed by section [297E.02](#), subdivision 6.

Subd. 3. **Term of license.** Licenses issued under this section are valid for two years.

Subd. 4. Repealed, 1994 c 633 art 5 s 99

Subd. 5. Repealed, 1994 c 633 art 5 s 99

Subd. 6. **License classifications.** The board may issue four classes of organization licenses: a class A license authorizing all forms of lawful gambling; a class B license authorizing all forms of lawful gambling except bingo; a class C license authorizing bingo only, or bingo and pull-tabs if the gross receipts for any combination of bingo and pull-tabs does not exceed \$50,000 per year; and a class D license authorizing raffles only. The board shall not charge a fee for an organization license.

Subd. 7. **Purchase of gambling equipment.** An organization may purchase gambling equipment only from a person licensed as a distributor.

Subd. 8. **Local investigation fee.** A statutory or home rule charter city or county notified under section [349.213](#), subdivision 2, may assess an investigation fee on organizations or bingo halls applying for or renewing a premises permit or a bingo hall license. An investigation fee may not exceed the following limits:

(1) for cities of the first class, \$500;

- (2) for cities of the second class, \$250;
- (3) for all other cities, \$100; and
- (4) for counties, \$375.

Subd. 9. **License renewals; notice.** The board may not deny or delay the renewal of a license under this section, a premises permit, or a gambling manager's license under section [349.167](#) because of the licensee's failure to submit a complete application by a specified date before the expiration of the license or permit, unless the board has first (1) sent the applicant by registered mail a written notice of the incomplete application, and (2) given the applicant at least five business days from the date of receipt of the notice to submit a complete application, or the information necessary to complete the application.

Subd. 10. **License renewal to merged fire relief associations.** A new relief association formed from the merger of the relief associations of two separate city fire departments, mandated under Laws 1995, chapter 262, article 11, may apply for a license renewal under this section. The board shall consider the application as a license renewal of one of the relief associations that is a licensed organization and was merged to form the new relief association.

HIST: 1976 c 261 s 6; 1984 c 502 art 12 s 8; 1986 c 467 s 10,11; 1989 c 334 art 2 s 20,21; 1Sp1989 c 1 art 13 s 8; 1990 c 590 art 1 s 17; 1991 c 336 art 2 s 17; 1994 c 633 art 2 s 19; art 5 s 37-41; 1997 c 155 s 6

349.161 Distributor licenses.

Subdivision 1. **Prohibited acts; licenses required.** No person may:

- (1) sell, offer for sale, or furnish gambling equipment for use within the state other than for lawful gambling exempt or excluded from licensing, except to an organization licensed for lawful gambling;
- (2) sell, offer for sale, or furnish gambling equipment for use within the state without having obtained a distributor license under this section;
- (3) sell, offer for sale, or furnish gambling equipment for use within the state that is not purchased or obtained from a manufacturer or distributor licensed under this chapter; or
- (4) sell, offer for sale, or furnish gambling equipment for use within the state that has the same serial number as another item of gambling equipment of the same type sold or offered for sale or furnished for use in the state by that distributor.

Subd. 2. **License application.** The board may issue licenses for the sale of gambling equipment to persons who meet the qualifications of this section if the board determines that a license is consistent with the purpose of sections [349.11](#) to [349.22](#). Applications must be on a form the board prescribes.

Subd. 3. Repealed, 1994 c 633 art 5 s 99

Subd. 4. **Fees.** The annual fee for a distributor's license is \$3,500.

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

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

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

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

(e) No distributor or any representative, agent, affiliate, or employee of a distributor may alter or modify any gambling equipment, except to add a "last ticket sold" prize sticker.

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

(g) No distributor may purchase gambling equipment for resale to a person for use within the state from any person not licensed as a manufacturer under section [349.163](#).

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

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

Subd. 6. Repealed, 1994 c 633 art 5 s 99

Subd. 7. Repealed, 1994 c 633 art 5 s 99

Subd. 8. **Employees of distributors.** Licensed distributors shall provide the board upon request with the names and home addresses of all employees. Each distributor and employee of a distributor must have in their possession a picture identification card approved by the board. No person other than an employee of a licensed distributor shall make any sales on behalf of a licensed distributor.

HIST: 1984 c 502 art 12 s 9; 1986 c 467 s 12,13; 1987 c 327 s 10-12; 1989 c 334 art 2 s 22; 1Sp1989 c 1 art 13 s 9; 1990 c 590 art 1 s 18; 1992 c 513 art 4 s 36; 1994 c 633 art 5 s 42,43

349.162 Equipment registered.

Subdivision 1. **Stamp required.** (a) A distributor may not sell, transfer, furnish, or otherwise provide to a person, and no person may purchase, borrow, accept, or acquire from a distributor gambling equipment for use within the state unless the equipment has been registered with the board and has a registration stamp affixed, except for gambling equipment not stamped by the manufacturer pursuant to section [349.163](#), subdivision 5 or 8. The board shall charge a fee of five cents for each stamp. Each stamp must bear a registration number assigned by the board. A distributor or manufacturer is entitled to a refund for unused registration stamps and replacement for registration stamps which are defective or canceled by the distributor or manufacturer.

(b) A manufacturer must return all unused registration stamps in its possession to the board by February 1, 1995. No manufacturer may possess unaffixed registration stamps after February 1, 1995.

(c) After February 1, 1996, no person may possess any unplayed pull-tab or tipboard deals with a registration stamp affixed to the flare or any unplayed paddleticket cards with a registration stamp affixed to the master flare. This paragraph does not apply to unplayed pull-tab or tipboard deals with a registration stamp affixed to the flare, or to unplayed paddleticket cards with a registration stamp affixed to the master flare, if the deals or cards are identified on a list of existing inventory submitted by a licensed organization or a licensed distributor, in a format prescribed by the commissioner of revenue, to the commissioner of revenue on or before February 1, 1996. Gambling equipment kept in violation of this paragraph

is contraband under section [349.2125](#).

Subd. 2. **Records required.** A distributor must maintain a record of all gambling equipment which it sells to organizations. The record must include:

- (1) the identity of the person from whom the distributor purchased the equipment;
- (2) the registration number of the equipment;
- (3) the name, address, and license or exempt permit number of the organization to which the sale was made;
- (4) the date of the sale;
- (5) the name of the person who ordered the equipment;
- (6) the name of the person who received the equipment;
- (7) the type of equipment;
- (8) the serial number of the equipment;
- (9) the name, form number, or other identifying information for each game; and
- (10) in the case of bingo hard cards or paper sheets sold on and after January 1, 1991, the individual number of each card or sheet.

The invoice for each sale must be retained for at least 3-1/2 years after the sale is completed and a copy of each invoice is to be delivered to the board in the manner and time prescribed by the board. For purposes of this section, a sale is completed when the gambling equipment is physically delivered to the purchaser.

Each distributor must report monthly to the board, in a form the board prescribes, its sales of each type of gambling equipment. Employees of the board and the division of alcohol and gambling enforcement may inspect the business premises, books, records, and other documents of a distributor at any

reasonable time without notice and without a search warrant.

The board may require that a distributor submit the monthly report and invoices required in this subdivision via magnetic media or electronic data transfer.

Subd. 3. **Exemption.** For purposes of this section, bingo cards or sheets need not be stamped.

Subd. 4. **Prohibition.** (a) No person other than a licensed distributor or licensed manufacturer may possess unaffixed registration stamps.

(b) Unless otherwise provided in this chapter, no person may possess gambling equipment that has not been stamped and registered.

(c) On and after January 1, 1991, no distributor may:

(1) sell a bingo hard card or paper sheet that does not bear an individual number; or

(2) sell a package of bingo paper sheets that does not contain bingo paper sheets in numerical order.

Subd. 5. **Sales from facilities.** (a) All gambling equipment purchased or possessed by a licensed distributor for resale to any person for use in Minnesota must, prior to the equipment's resale, be unloaded into a storage facility located in Minnesota which the distributor owns or leases; and which has been registered, in advance and in writing, with the division of alcohol and gambling enforcement as a storage facility of the distributor. All unregistered gambling equipment and all unaffixed registration stamps owned by, or in the possession of, a licensed distributor in the state of Minnesota shall be stored at a storage facility which has been registered with the division of alcohol and gambling enforcement. No gambling equipment may be moved from the facility unless the gambling equipment has been first registered with the board, except for gambling equipment not stamped by the manufacturer pursuant to section [349.163](#), subdivision 5 or 8.

(b) Notwithstanding section [349.163](#), subdivisions 5, 6, and 8, a licensed manufacturer may ship into Minnesota approved or unapproved gambling equipment if the licensed manufacturer ships the gambling equipment to a Minnesota storage facility that is:

(1) owned or leased by the licensed manufacturer; and (2)

registered, in advance and in writing, with the division of alcohol and gambling enforcement as a manufacturer's storage facility. No gambling equipment may be shipped into Minnesota to the manufacturer's registered storage facility unless the shipment of the gambling equipment is reported to the department of revenue in a manner prescribed by the department. No gambling equipment may be moved from the storage facility unless the gambling equipment is sold to a licensed distributor and is otherwise in conformity with this chapter, is shipped to an out-of-state site and the shipment is reported to the department of revenue in a manner prescribed by the department, or is otherwise sold and shipped as permitted by board rule.

(c) All storage facilities owned, leased, used, or operated by a licensed distributor or manufacturer may be entered upon and inspected by the employees of the division of alcohol and gambling enforcement, the division of alcohol and gambling enforcement director's authorized representatives, employees of the gambling control board or its authorized representatives, employees of the department of revenue, or authorized representatives of the director of the division of special taxes of the department of revenue during reasonable and regular business hours. Obstruction of, or failure to permit, entry and inspection is cause for revocation or suspension of a manufacturer's or distributor's licenses and permits issued under this chapter.

(d) Unregistered gambling equipment and unaffixed registration stamps found at any location in Minnesota other than the manufacturing plant of a licensed manufacturer or a registered storage facility are contraband under section [349.2125](#). This paragraph does not apply:

(1) to unregistered gambling equipment being transported in interstate commerce between locations outside this state, if the interstate shipment is verified by a bill of lading or other valid shipping document; and

(2) to gambling equipment not stamped by the manufacturer pursuant to section [349.163](#), subdivision 5 or 8.

Subd. 6. Removal of equipment from inventory.

Authorized employees of the board, the division of alcohol and gambling enforcement of the department of public safety, and the commissioner of revenue may remove gambling equipment from the inventories of distributors and organizations and test that equipment to determine its compliance with all applicable laws and rules. A distributor or organization may return to the manufacturer thereof any gambling equipment which is determined to be in violation of law or rule. The cost to an organization of gambling equipment removed from inventory under this

paragraph and found to be in compliance with all applicable law and rules is an allowable expense under section [349.15](#).

HIST: 1984 c 502 art 12 s 10; 1986 c 467 s 14; 1987 c 327 s 13,14; 1989 c 334 art 2 s 23; 1990 c 590 art 1 s 19; 1991 c 233 s 109; 1994 c 633 art 5 s 44-47; 1995 c 261 s 22; 1997 c 129 art 2 s 15

349.163 Licensing of manufacturers.

Subdivision 1. **License required.** No manufacturer of gambling equipment may sell any gambling equipment to any person for use or resale within the state, unless the manufacturer has a current and valid license issued by the board under this section and has satisfied other criteria prescribed by the board by rule.

A manufacturer licensed under this section may not also be directly or indirectly licensed as a distributor under section [349.161](#) unless the manufacturer (1) does not manufacture any gambling equipment other than paddlewheels, and (2) was licensed as both a manufacturer and distributor on May 1, 1990.

Subd. 1a. Repealed, 1994 c 633 art 5 s 99

Subd. 1b. **Applications; information.** An applicant for a manufacturer's license must list on the license application the names and addresses of all subsidiaries, affiliates, and branches in which the applicant has any form of ownership or control, in whole or in part, without regard to whether the subsidiary, affiliate, or branch does business in Minnesota.

Subd. 2. **License; fee.** A license under this section is valid for one year. The annual fee for the license is \$5,000.

Subd. 2a. Repealed, 1994 c 633 art 5 s 99

Subd. 3. **Prohibited sales.** (a) A manufacturer may not:

(1) sell gambling equipment for use or resale within the state to any person not licensed as a distributor unless the manufacturer is also a licensed distributor; or

(2) sell gambling equipment to a distributor in this state that has the same serial number as another item of gambling equipment of the same type that is sold by that manufacturer for use or resale in this state.

(b) A manufacturer, affiliate of a manufacturer, or person acting as a representative or agent of a manufacturer may not provide a lessor of gambling premises or an appointed official any compensation, gift, gratuity, premium, contribution, or other thing of value.

(c) A manufacturer may not sell or otherwise provide a pull-tab or tipboard deal with the symbol required by subdivision 5, paragraph (h), imprinted on the flare to any person other than a licensed distributor unless the manufacturer first renders the symbol permanently invisible.

Subd. 4. **Inspection of manufacturers.** Employees of the board and the division of alcohol and gambling enforcement may inspect the books, records, inventory, and business premises of a licensed manufacturer without notice during the normal business hours of the manufacturer. The board may charge a manufacturer for the actual cost of conducting scheduled or unscheduled inspections of the manufacturer's facilities, where the amount charged to the manufacturer for such inspections in any year does not exceed \$7,500. The board shall deposit in a separate account in the state treasury all money received as reimbursement for the costs of inspections. Until July 1, 1999, money in the account is appropriated to the board to pay the costs of the inspections.

Subd. 5. **Pull-tab and tipboard flares.** (a) A manufacturer may not ship or cause to be shipped into this state or sell for use or resale in this state any deal of pull-tabs or tipboards that does not have its own individual flare as required for that deal by this subdivision and rule of the board. A person other than a manufacturer may not manufacture, alter, modify, or otherwise change a flare for a deal of pull-tabs or tipboards except as allowed by this chapter or board rules.

(b) A manufacturer must comply with either paragraphs (c) to (g) or (f) to (j) with respect to pull-tabs and tipboards sold by the manufacturer before January 1, 1995, for use or resale in Minnesota or shipped into or caused to be shipped into Minnesota by the manufacturer before January 1, 1995. A

manufacturer must comply with paragraphs (f) to (j) with respect to pull-tabs and tipboards sold by the manufacturer on and after January 1, 1995, for use or resale in Minnesota or shipped into or caused to be shipped into Minnesota by the manufacturer on and after January 1, 1995. Paragraphs (c) to (e) expire January 1, 1995.

(c) The flare of each deal of pull-tabs and tipboards sold by a manufacturer for use or resale in Minnesota must have the Minnesota gambling stamp affixed. The flare, with the stamp affixed, must be placed inside the wrapping of the deal which the flare describes.

(d) Each pull-tab and tipboard flare must bear the following statement printed in letters large enough to be clearly legible:

"Pull-tab (or tipboard) purchasers -- This pull-tab (or tipboard) game is not legal in Minnesota unless:

-- a Minnesota gambling stamp is affixed to this sheet, and

-- the serial number handwritten on the gambling stamp is the same as the serial number printed on this sheet and on the pull-tab (or tipboard) ticket you have purchased."

(e) The flare of each pull-tab and tipboard game must bear the serial number of the game, printed in numbers at least one-half inch high and must be imprinted with the following:

(1) the name of the game;

(2) the name of the manufacturer;

(3) the number of tickets in the deal; and

(4) other information the board by rule requires.

(f) The flare of each pull-tab and tipboard game must have affixed to or imprinted at the bottom a bar code that provides all information required by the commissioner of revenue under section [297E.04](#), subdivision 2.

The serial number included in the bar code must be the same as

the serial number of the tickets included in the deal. A manufacturer who manufactures a deal of pull-tabs must affix to the outside of the box containing that game the same bar code that is affixed to or imprinted at the bottom of a flare for that deal.

(g) No person may alter the bar code that appears on the outside of a box containing a deal of pull-tabs and tipboards. Possession of a box containing a deal of pull-tabs and tipboards that has a bar code different from the bar code of the deal inside the box is prima facie evidence that the possessor has altered the bar code on the box.

(h) The flare of each deal of pull-tabs and tipboards sold by a manufacturer for use or resale in Minnesota must have imprinted on it a symbol that is at least one inch high and one inch wide consisting of an outline of the geographic boundaries of Minnesota with the letters "MN" inside the outline. The flare must be placed inside the wrapping of the deal which the flare describes.

(i) Each pull-tab and tipboard flare must bear the following statement printed in letters large enough to be clearly legible:

"Pull-tab (or tipboard) purchasers -- This pull-tab (or tipboard) game is not legal in Minnesota unless:

-- an outline of Minnesota with letters "MN" inside it is imprinted on this sheet, and

-- the serial number imprinted on the bar code at the bottom of this sheet is the same as the serial number on the pull-tab (or tipboard) ticket you have purchased."

(j) The flare of each pull-tab and tipboard game must have the serial number of the game imprinted on the bar code at the bottom of the flare in numerals at least one-half inch high.

Subd. 6. **Samples of gambling equipment.** The board shall require each licensed manufacturer to submit to the board one or more samples of each item of gambling equipment the manufacturer manufactures for use or resale in this state. The board shall inspect and test all the equipment it deems necessary to determine the equipment's compliance with law and board rules. Samples required under this subdivision must be approved by the board before the equipment being sampled is shipped into or sold for use or resale in this state. The board

may request the assistance of the commissioner of public safety and the director of the state lottery board in performing the tests.

Subd. 6a. **Paddlewheel moratorium.** The board must not approve new types of paddlewheel equipment for sale in this state until July 1, 1993. This subdivision applies to new types of paddlewheel equipment, samples of which are submitted to the board after March 15, 1991.

Subd. 7. **Recycled paper.** The board may, after January 1, 1991, by rule require that all pull-tabs sold in Minnesota be manufactured using recycled paper.

Subd. 8. **Paddleticket card master flares.** Each sealed grouping of 100 or fewer paddleticket cards must have its own individual master flare. The manufacturer must affix to or imprint at the bottom of the master flare a bar code that provides all information required by the commissioner of revenue under section [297E.04](#), subdivision 3.

HIST: 1986 c 467 s 15; 1989 c 334 art 2 s 24; 1Sp1989 c 1 art 13 s 10; 1990 c 590 art 1 s 20; 1991 c 233 s 109; 1991 c 336 art 2 s 18; 1992 c 513 art 4 s 37; 1994 c 633 art 5 s 48-52; 1995 c 264 art 17 s 9; 1997 c 129 art 2 s 15; 1997 c 155 s 7; 1997 c 202 art 2 s 45

349.164 Bingo hall licenses.

Subdivision 1. **License required.** No person may lease a facility to more than one organization to conduct bingo without a current and valid bingo hall license under this section.

Subd. 2. **License application.** The board may issue a bingo hall license to persons who meet the qualifications of this section if the board determines that a license is consistent with the purpose of sections [349.11](#) to [349.22](#). Applications must be on a form the board prescribes. The board may not issue or renew a bingo hall license unless the conditions of section [349.213](#), subdivision 2, have been satisfied.

Subd. 3. Repealed, 1994 c 633 art 5 s 99

Subd. 4. **Fees.** The annual fee for a bingo hall license is \$2,500.

Subd. 5. Repealed, 1994 c 633 art 5 s 99

Subd. 6. **Prohibited acts.** No bingo hall licensee, person holding a financial or managerial interest in a bingo hall, or affiliate thereof may:

(1) be a licensed distributor or licensed manufacturer or affiliate of the distributor or manufacturer under section [349.161](#) or [349.163](#) or a wholesale distributor of alcoholic beverages;

(2) provide any staff to conduct or assist in the conduct of bingo or any other form of lawful gambling on the premises;

(3) acquire, provide inventory control for, or report the use of any gambling equipment used by an organization that conducts lawful gambling on the premises;

(4) provide accounting services to an organization conducting lawful gambling on the premises;

(5) solicit, suggest, encourage, or make any expenditures of gross receipts of an organization from lawful gambling;

(6) charge any fee to a person without which the person could not play a bingo game or participate in another form of lawful gambling on the premises;

(7) provide assistance or participate in the conduct of lawful gambling on the premises; or

(8) permit more than 21 bingo occasions to be conducted on the premises in any week.

Subd. 7. MS 1988 Renumbered in part subd 6

Subd. 7. **Leases.** All of the remuneration to be received from the organization for the conduct of lawful

gambling must be stated in the lease. No amount may be paid by the organization or received by the bingo hall licensee based on the number of participants attending the bingo occasion or participating in lawful gambling on the premises, or based on the gross receipts or profit received by the organization. All provisions of section [349.18](#) apply to lawful gambling conducted in bingo halls.

Subd. 8. MS 1988 Renumbered subd 7

Subd. 8. MS 1992 Repealed, 1994 c 633 art 5 s 99

Subd. 9. Renumbered subd 8

Subd. 10. **Records.** A bingo hall licensee must maintain and preserve for at least 3-1/2 years records of all remuneration it receives from organizations conducting lawful gambling.

HIST: 1988 c 596 s 2; 1989 c 334 art 2 s 25; 1990 c 590 art 1 s 21; 1994 c 633 art 5 s 53-55

349.1641 Licenses; summary suspension.

The board may (1) summarily suspend the license of an organization that is more than three months late in filing a tax return or in paying a tax required under chapter 297E and may keep the suspension in effect until all required returns are filed and required taxes are paid; and (2) summarily suspend for not more than 90 days any license issued by the board or director for what the board determines are actions detrimental to the integrity of lawful gambling in Minnesota. The board must notify the licensee at least 14 days before suspending the license under this section. If a license is summarily suspended under this section, a contested case hearing on the merits must be held within 20 days of the issuance of the order of suspension, unless the parties agree to a later hearing date. The administrative law judge's report must be issued within 20 days after the close of the hearing record. In all cases involving summary suspension, the board must issue its final decision within 30 days after receipt of the report of the administrative law judge and subsequent exceptions and argument under section [14.61](#). When an organization's license is suspended under this section, the board shall within three days notify all municipalities in which the organization's gambling premises are located and all licensed distributors in the state.

HIST: 1990 c 590 art 1 s 22; 1994 c 633 art 5 s 56

349.165 Premises permits.

Subdivision 1. **Premises permit required; application.**

A licensed organization may not conduct lawful gambling at

any site unless it has first obtained from the board a premises permit for the site. The board shall prescribe a form for permit applications, and each application for a permit must be submitted on a separate form. A premises permit issued by the board is valid for two years. The board may by rule limit the number of premises permits that may be issued to an organization.

Subd. 2. **Contents of application.** An application for a premises permit must contain:

(1) the name and address of the applying organization and of the organization's gambling manager;

(2) a description of the site for which the permit is sought, including its address and, where applicable, its placement within another premises or establishment;

(3) if the site is leased, the name and address of the lessor and information about the lease the board requires, including all rents and other charges for the use of the site; and

(4) other information the board deems necessary to carry out its purposes.

An organization holding a premises permit must notify the board in writing within ten days whenever any material change is made in the above information.

Subd. 3. **Fees.** The board may issue four classes of premises permits corresponding to the classes of licenses authorized under section [349.16](#), subdivision 6. The fee for each class of permit is:

(1) \$400 for a class A permit;

(2) \$250 for a class B permit;

(3) \$200 for a class C permit; and

(4) \$150 for a class D permit.

Subd. 4. **Identification of premises.** No organization may seek or accept assistance from a manufacturer or

distributor, or a representative, agent, affiliate, or employee of a manufacturer or distributor, in identifying potential locations for gambling conducted by the organization.

HIST: 1990 c 590 art 1 s 23; 1991 c 336 art 2 s 19,20

349.166 Exclusions; exemptions.

Subdivision 1. **Exclusions.** (a) Bingo may be conducted without a license and without complying with sections [349.168](#), subdivisions 1 and 2; [349.17](#), subdivisions 1, 4, and 5; [349.18](#), subdivision 1; and [349.19](#), if it is conducted:

(1) by an organization in connection with a county fair, the state fair, or a civic celebration and is not conducted for more than 12 consecutive days and is limited to no more than four separate applications for activities applied for and approved in a calendar year; or

(2) by an organization that conducts four or fewer bingo occasions in a calendar year.

An organization that holds a license to conduct lawful gambling under this chapter may not conduct bingo under this subdivision.

(b) Bingo may be conducted within a nursing home or a senior citizen housing project or by a senior citizen organization without compliance with sections [349.11](#) to [349.15](#) and [349.153](#) to [349.213](#) if the prizes for a single bingo game do not exceed \$10, total prizes awarded at a single bingo occasion do not exceed \$200, no more than two bingo occasions are held by the organization or at the facility each week, only members of the organization or residents of the nursing home or housing project are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, a manager is appointed to supervise the bingo, and the manager registers with the board. The gross receipts from bingo conducted under the limitations of this subdivision are exempt from taxation under chapter 297A.

(c) Raffles may be conducted by an organization without a license and without complying with sections [349.154](#) to [349.165](#) and [349.167](#) to [349.213](#) if the value of all raffle prizes awarded by the organization in a calendar year does not exceed \$750.

(d) The organization must maintain all required records of excluded gambling activity for 3-1/2 years.

Subd. 2. **Exemptions.** (a) Lawful gambling may be conducted by an organization without a license and without complying with sections [349.168](#), subdivisions 1 and 2; [349.17](#), subdivisions 4 and 5; [349.18](#), subdivision 1; and [349.19](#) if:

(1) the organization conducts lawful gambling on five or fewer days in a calendar year;

(2) the organization does not award more than \$50,000 in prizes for lawful gambling in a calendar year;

(3) the organization pays a fee of \$25 to the board, notifies the board in writing not less than 30 days before each lawful gambling occasion of the date and location of the occasion, or 60 days for an occasion held in the case of a city of the first class, the types of lawful gambling to be conducted, the prizes to be awarded, and receives an exemption identification number;

(4) the organization notifies the local government unit 30 days before the lawful gambling occasion, or 60 days for an occasion held in a city of the first class;

(5) the organization purchases all gambling equipment and supplies from a licensed distributor; and

(6) the organization reports to the board, on a single-page form prescribed by the board, within 30 days of each gambling occasion, the gross receipts, prizes, expenses, expenditures of net profits from the occasion, and the identification of the licensed distributor from whom all gambling equipment was purchased.

(b) If the organization fails to file a timely report as required by paragraph (a), clause (3) or (6), the board shall not issue any authorization, license, or permit to the organization to conduct lawful gambling on an exempt, excluded, or licensed basis until the report has been filed.

(c) Merchandise prizes must be valued at their fair market value.

(d) Unused pull-tab and tipboard deals must be returned to the distributor within seven working days after the end of the lawful gambling occasion. The distributor must accept and pay a refund for all returns of unopened and undamaged deals returned under this paragraph.

(e) An organization that is exempt from taxation on purchases of pull-tabs and tipboards under section [297E.02](#), subdivision 4, paragraph (b), clause (4), must return to the distributor any tipboard or pull-tab deal no part of which is used at the lawful gambling occasion for which it was purchased by the organization.

(f) The organization must maintain all required records of exempt gambling activity for 3-1/2 years.

Subd. 3. **Raffles; certain organizations.** Sections [349.168](#), subdivision 4; and [349.211](#), subdivision 3, and the membership requirements of section [349.16](#), subdivision 2, paragraph (c), do not apply to raffles conducted by an organization that directly or under contract to the state or a political subdivision delivers health or social services and that is a 501(c)(3) organization if the prizes awarded in the raffles are real or personal property donated by an individual, firm, or other organization. The person who accounts for the gross receipts, expenses, and profits of the raffles may be the same person who accounts for other funds of the organization.

Subd. 4. Repealed, 1994 c 633 art 2 s 21

HIST: 1989 c 334 art 2 s 51; 1990 c 590 art 1 s 24; 1991 c 199 art 2 s 1; 1994 c 633 art 2 s 19; art 5 s 57-59; 1996 c 467 s 4,5

349.165 Premises permits.

Subdivision 1. **Premises permit required; application.** A licensed organization may not conduct lawful gambling at any site unless it has first obtained from the board a premises permit for the site. The board shall prescribe a form for permit applications, and each application for a permit must be submitted on a separate form. A premises permit issued by the board is valid for two years. The board may by rule limit the number of premises permits that may be issued to an organization.

Subd. 2. **Contents of application.** An application for a premises permit must contain:

- (1) the name and address of the applying organization and of the organization's gambling manager;
- (2) a description of the site for which the permit is sought, including its address and, where applicable, its placement within another premises or establishment;
- (3) if the site is leased, the name and address of the lessor and information about the lease the board requires, including all rents and other charges for the use of the site; and
- (4) other information the board deems necessary to carry out its purposes.

An organization holding a premises permit must notify the board in writing within ten days whenever any material change is made in the above information.

Subd. 3. **Fees.** The board may issue four classes of premises permits corresponding to the classes of licenses authorized under section [349.16](#), subdivision 6. The fee for each class of permit is:

- (1) \$400 for a class A permit;
- (2) \$250 for a class B permit;
- (3) \$200 for a class C permit; and
- (4) \$150 for a class D permit.

Subd. 4. **Identification of premises.** No organization may seek or accept assistance from a manufacturer or distributor, or a representative, agent, affiliate, or employee of a manufacturer or distributor, in identifying potential locations for gambling conducted by the organization.

HIST: 1990 c 590 art 1 s 23; 1991 c 336 art 2 s 19,20

349.166 Exclusions; exemptions.

Subdivision 1. **Exclusions.** (a) Bingo may be conducted without a license and without complying with sections [349.168](#), subdivisions 1 and 2; [349.17](#), subdivisions 1, 4, and 5; [349.18](#), subdivision 1; and [349.19](#), if it is conducted:

- (1) by an organization in connection with a county fair,

the state fair, or a civic celebration and is not conducted for more than 12 consecutive days and is limited to no more than four separate applications for activities applied for and approved in a calendar year; or

(2) by an organization that conducts four or fewer bingo occasions in a calendar year.

An organization that holds a license to conduct lawful gambling under this chapter may not conduct bingo under this subdivision.

(b) Bingo may be conducted within a nursing home or a senior citizen housing project or by a senior citizen organization without compliance with sections [349.11](#) to [349.15](#) and [349.153](#) to [349.213](#) if the prizes for a single bingo game do not exceed \$10, total prizes awarded at a single bingo occasion do not exceed \$200, no more than two bingo occasions are held by the organization or at the facility each week, only members of the organization or residents of the nursing home or housing project are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, a manager is appointed to supervise the bingo, and the manager registers with the board. The gross receipts from bingo conducted under the limitations of this subdivision are exempt from taxation under chapter 297A.

(c) Raffles may be conducted by an organization without a license and without complying with sections [349.154](#) to [349.165](#) and [349.167](#) to [349.213](#) if the value of all raffle prizes awarded by the organization in a calendar year does not exceed \$750.

(d) The organization must maintain all required records of excluded gambling activity for 3-1/2 years.

Subd. 2. **Exemptions.** (a) Lawful gambling may be conducted by an organization without a license and without complying with sections [349.168](#), subdivisions 1 and 2; [349.17](#), subdivisions 4 and 5; [349.18](#), subdivision 1; and [349.19](#) if:

(1) the organization conducts lawful gambling on five or fewer days in a calendar year;

(2) the organization does not award more than \$50,000 in prizes for lawful gambling in a calendar year;

(3) the organization pays a fee of \$25 to the board,

notifies the board in writing not less than 30 days before each lawful gambling occasion of the date and location of the occasion, or 60 days for an occasion held in the case of a city of the first class, the types of lawful gambling to be conducted, the prizes to be awarded, and receives an exemption identification number;

(4) the organization notifies the local government unit 30 days before the lawful gambling occasion, or 60 days for an occasion held in a city of the first class;

(5) the organization purchases all gambling equipment and supplies from a licensed distributor; and

(6) the organization reports to the board, on a single-page form prescribed by the board, within 30 days of each gambling occasion, the gross receipts, prizes, expenses, expenditures of net profits from the occasion, and the identification of the licensed distributor from whom all gambling equipment was purchased.

(b) If the organization fails to file a timely report as required by paragraph (a), clause (3) or (6), the board shall not issue any authorization, license, or permit to the organization to conduct lawful gambling on an exempt, excluded, or licensed basis until the report has been filed.

(c) Merchandise prizes must be valued at their fair market value.

(d) Unused pull-tab and tipboard deals must be returned to the distributor within seven working days after the end of the lawful gambling occasion. The distributor must accept and pay a refund for all returns of unopened and undamaged deals returned under this paragraph.

(e) An organization that is exempt from taxation on purchases of pull-tabs and tipboards under section [297E.02](#), subdivision 4, paragraph (b), clause (4), must return to the distributor any tipboard or pull-tab deal no part of which is used at the lawful gambling occasion for which it was purchased by the organization.

(f) The organization must maintain all required records of exempt gambling activity for 3-1/2 years.

Subd. 3. Raffles; certain organizations. Sections

[349.168](#), subdivision 4; and [349.211](#), subdivision 3, and the membership requirements of section [349.16](#), subdivision 2, paragraph (c), do not apply to raffles conducted by an organization that directly or under contract to the state or a political subdivision delivers health or social services and that is a 501(c)(3) organization if the prizes awarded in the raffles are real or personal property donated by an individual, firm, or other organization. The person who accounts for the gross receipts, expenses, and profits of the raffles may be the same person who accounts for other funds of the organization.

Subd. 4. Repealed, 1994 c 633 art 2 s 21

HIST: 1989 c 334 art 2 s 51; 1990 c 590 art 1 s 24; 1991 c 199 art 2 s 1; 1994 c 633 art 2 s 19; art 5 s 57-59; 1996 c 467 s 4,5

349.167 Gambling managers.

Subdivision 1. **Gambling manager required.** (a) All lawful gambling conducted by a licensed organization must be under the supervision of a gambling manager. A gambling manager designated by an organization to supervise lawful gambling is responsible for the gross receipts of the organization and for its conduct in compliance with all laws and rules. A person designated as a gambling manager shall maintain a fidelity bond in the sum of \$10,000 in favor of the organization conditioned on the faithful performance of the manager's duties. The terms of the bond must provide that notice be given to the board in writing not less than 30 days before its cancellation.

(b) A person may not act as a gambling manager for more than one organization.

(c) An organization may not conduct lawful gambling without having a gambling manager.

(d) An organization may not have more than one gambling manager at any time.

Subd. 2. **Gambling managers; licenses.** A person may not serve as a gambling manager for an organization unless the person possesses a valid gambling manager's license issued by the board. In addition to the disqualifications in section

[349.155](#), subdivision 3, the board may not issue a gambling manager's license to a person applying for the license who:

(1) has not complied with subdivision 4, clause (1);

(2) within the five years before the date of the license application, has committed a violation of law or board rule that resulted in the revocation of a license issued by the board;

(3) has ever been convicted of a criminal violation involving fraud, theft, tax evasion, misrepresentation, or gambling; or

(4) has engaged in conduct the board determines is contrary to the public health, welfare, or safety or the integrity of lawful gambling.

A gambling manager's license runs concurrent with the organization's license unless the gambling manager's license is suspended or revoked. The fee for a gambling manager's license is \$200. During the second year of an organization's license the license fee for a new gambling manager is \$100.

Subd. 3. Repealed, 1994 c 633 art 5 s 99

Subd. 4. **Training of gambling managers.** The board shall by rule require all persons licensed as gambling managers to receive periodic training in laws and rules governing lawful gambling. The rules must contain the following requirements:

(1) each gambling manager must receive training before being issued a new license, except that in the case of the death, disability, or termination of a gambling manager, a replacement gambling manager must receive the training within 90 days of being issued a license;

(2) each gambling manager applying for a renewal of a license must have received continuing education training, as required by board rule, each year of the two-year license period; and

(3) the training required by this subdivision may be provided by a person authorized by the board to provide the training. Before authorizing a person to provide training, the board must determine that:

(i) the provider and all of the provider's personnel conducting the training are qualified to do so;

(ii) the curriculum to be used fully and accurately covers all elements of lawful gambling law and rules that the board determines are necessary for a gambling manager to know and understand;

(iii) the fee to be charged for participants in the training sessions is fair and reasonable; and

(iv) the training provider has an adequate system for documenting completion of training.

The rules may provide for differing training requirements for gambling managers based on the class of license held by the gambling manager's organization.

The board or the director may provide the training required by this subdivision using employees of the board.

Subd. 5. Repealed, 1994 c 633 art 5 s 99

Subd. 6. **Recruitment of gambling managers.** No organization may seek or accept assistance from a manufacturer or distributor, or a representative, agent, affiliate, or employee of a manufacturer or distributor, in identifying or recruiting candidates to become a gambling manager for the organization.

Subd. 7. **Gambling manager examination.** (a) By January 1, 1996, each gambling manager must pass an examination prepared and administered by the board that tests the gambling manager's knowledge of the responsibilities of gambling managers and of gambling procedures, laws, and rules. The board shall revoke the license of any gambling manager who has not passed the examination by January 1, 1996.

(b) On and after January 1, 1996, each applicant for a new gambling manager's license must pass the examination provided for in paragraph (a) before being issued the license. In the case of the death, disability, or termination of a gambling manager, a replacement gambling manager must pass the examination within 90 days of being issued a gambling manager's license. The board shall revoke the replacement gambling manager's license if the replacement gambling manager fails to

pass the examination as required in this paragraph.

HIST: 1990 c 590 art 1 s 25; 1991 c 233 s 109; 1991 c 336 art 2 s 21-23; 1994 c 633 art 5 s 60-63

349.168 Gambling employees.

Subdivision 1. **Registration of employees.** A person may not receive compensation for participating in the conduct of lawful gambling as an employee of a licensed organization unless the person has first registered with the board on a form the board prescribes. The form must require each registrant to provide: (1) the person's name, address, and social security number; (2) a current photograph; (3) the name, address, and license number of the employing organization; and (4) a listing of all employment in the conduct of lawful gambling within the previous three years, including the name and address of each employing organization and the circumstances under which the employment was terminated.

Subd. 2. **Identification of employees.** The board shall issue to each person registering under subdivision 1 a registration number and identification card which must include the employee's photograph. Each person receiving compensation for the conduct of lawful gambling must wear the identification card provided by the board at all times while conducting the lawful gambling.

Subd. 3. Repealed, 1996 c 467 s 9

Subd. 4. **Amounts paid.** The amounts of compensation that may be paid under this section may be provided for in a schedule of compensation adopted by the board by rule. In adopting a schedule, the board must consider the nature of the participation and the types of lawful gambling participated in.

Subd. 5. **Compensation records.** An organization paying compensation to persons who participate in the conduct of lawful gambling must maintain a compensation record. The record must be retained for at least two years after the month in which the compensation is paid. The record must itemize each payment made to each recipient of compensation and must include the amount and the full name, address, and membership status of each recipient.

Subd. 6. **Compensation paid by check or electronic transfer.** Compensation paid by an organization in connection with lawful gambling must either be: (1) in the form of a check drawn on the organization's gambling account, as specified in section [349.19](#), and paid directly to the person being compensated; (2) transferred electronically from the organization's gambling account, as specified in section [349.19](#), subdivision 3, directly to the employee's bank account; or (3) transferred electronically to and from the account of a payroll processing firm for payment to the employee's account and for the payment of local, state, and federal withholding taxes, provided that the payroll processing firm is (i) currently registered with and meets the criteria of the department of revenue as a third-party bulk filer under section [290.92](#), subdivision 30, (ii) is able to provide proof of a third-party audit and an annual report and statement of financial condition, (iii) is able to provide evidence of a fidelity bond, and (iv) can provide proof of having been in business as a third-party bulk filer for the most recent three years.

Subd. 7. **Penalty.** (a) An organization that makes payment of compensation, or causes compensation to be made, that violates subdivision 4 must be assessed a civil penalty not to exceed \$1,000 for each violation of subdivision 4. A second violation within 12 months of notification by the board to the organization of the first violation must result in suspension of the organization's gambling license for a period of three months, in addition to any civil penalty assessed. A third violation within 12 months of the board's notification to the organization of the second violation must result in revocation of the organization's gambling license in addition to any civil penalty assessed.

(b) Upon each violation, the director shall notify the organization in writing of its violation and of the penalties under this subdivision for future violations. Notification is effective upon mailing.

(c) For purposes of this subdivision, a violation consists of a payroll period or compensation date that includes payments made in violation of subdivision 4.

Subd. 8. **Percentage of gross profit paid.** A licensed organization may pay a percentage of the gross profit from raffle ticket sales to a nonprofit organization that sells raffle tickets for the licensed organization.

Subd. 9. **Compensation report.** A licensed organization must submit to the board once each year, on a form

the board prescribes, a compensation report that specifies for the year being reported: (1) each job category for which the organization pays compensation, (2) each compensation rate paid in each job category, and (3) the number of employees being paid each compensation rate during the year.

HIST: 1990 c 590 art 1 s 26; 1994 c 633 art 5 s 64-66; 1998 c 322 s 3

349.169 Filing of prices.

Subdivision 1. **Filing required.** All manufacturers and distributors must file with the director, not later than the first day of each month, the prices at which the manufacturer or distributor will sell all gambling equipment in that month. The filing must be on a form the director prescribes. Prices filed must include all charges the manufacturer or distributor makes for each item of gambling equipment sold, including all volume discounts, exclusive of transportation costs. All filings are effective on the first day of the month for which they are filed, except that a manufacturer or distributor may amend a filed price within five days of filing it and may file a price any time during a month for gambling equipment not previously included on that month's filed pricing report, but may not later amend the price during the month.

Subd. 2. **Copies.** The director shall provide copies of price filings to any person requesting them and may charge a reasonable fee for the copies. Any person may examine price filings in the board office at no cost, and the director shall make the filings available for that purpose.

Subd. 3. **Sales at filed prices.** No manufacturer may sell to a distributor, and no distributor may sell to an organization, any gambling equipment for any price other than a price the manufacturer or distributor has filed with the director under subdivision 1, exclusive of transportation costs.

HIST: 1990 c 590 art 1 s 27; 1991 c 233 s 109; 1994 c 633 art 5 s 67

349.17 Conduct of bingo.

Subdivision 1. **Bingo occasions.** Not more than ten bingo occasions each week may be conducted by an organization. At least 15 bingo games must be held at each occasion and a bingo occasion must continue for at least 1-1/2 hours but not more than four consecutive hours.

Subd. 2. **Bingo.** During any bingo occasion conducted by an organization, the organization is directly responsible for the:

(1) staffing of the bingo occasion;

(2) conducting of lawful gambling during the bingo occasion;

(3) acquiring, storage, inventory control, and reporting of all gambling equipment used by the organization;

(4) receipt, accounting, and all expenditures of gross receipts from lawful gambling; and

(5) preparation of the bingo packets.

Subd. 2a. Distributor license exemption for lessor.

As part of a lease agreement on a leased bingo premises, the lessor may furnish bingo equipment without being a licensed distributor. For purposes of this section, "furnish" does not include the right to sell or offer for sale.

Subd. 3. Each bingo winner must be determined and every prize shall be awarded and delivered the same day on which the bingo occasion is conducted.

Subd. 4. Checkers. One or more checkers must be engaged for each bingo occasion when bingo is conducted using bingo hard cards. The checker or checkers must record, on a form the board provides, the number of hard cards played in each game and the prizes awarded to recorded hard cards. The form must provide for the inclusion of the face number of each winning hard card and must include a checker's certification that the figures recorded are correct to the best of the checker's knowledge.

Subd. 5. Bingo cards and sheets. (a) The board shall by rule require that all licensed organizations: (1) conduct bingo only using liquid daubers on bingo paper sheets that bear an individual number recorded by the distributor; and (2) use each bingo paper sheet for no more than one bingo occasion. In lieu of the requirements of clause (2), a licensed organization may electronically record the sale of each bingo hard card or paper sheet at each bingo occasion using an electronic recording system approved by the board.

(b) The requirements of paragraph (a) shall only apply to a licensed organization that received gross receipts from bingo in excess of \$150,000 in the organization's last fiscal year.

Subd. 6. Conduct of bingo. (a) Each bingo hard card and paper sheets must have five horizontal rows of spaces with each row except one having five numbers. The center row must have four numbers and the center space marked "free." Each column must have one of the letters B-I-N-G-O in order at the

top. Bingo paper sheets may also have numbers that are not preprinted but are filled in by players.

(b) A game of bingo begins with the first letter and number called. Each player must cover or mark with a liquid dauber the numbers when bingo balls, similarly numbered, are randomly drawn, announced, and displayed to the players, either manually or with a flashboard and monitor. The game is won when a player has covered or marked a previously designated arrangement of numbers on the card or sheet and declared bingo. The game is completed when a winning card or sheet is verified and a prize awarded.

HIST: 1976 c 261 s 7; 1979 c 166 s 1; 1984 c 502 art 12 s 11; 1986 c 467 s 16; 1987 c 327 s 15,16; 1988 c 596 s 3,4; 1989 c 334 art 2 s 26; 1990 c 590 art 1 s 28; 1991 c 336 art 2 s 24; 1994 c 633 art 5 s 68-71; 1995 c 186 s 69; 1995 c 261 s 23

349.172 Pull-tabs; information required to be posted.

Subdivision 1. **Board may require certain posting.** The board may issue an order requiring an organization selling pull-tabs to post major pull-tab prizes and the names of major prize winners if the board has reasonable grounds to believe that the organization, or a person receiving compensation from the organization for participating in the sale of pull-tabs, has been or is providing information to a player or players that provides an unfair advantage related to the potential winnings from pull-tabs. The board must notify the organization at least 14 days before the order becomes effective. The notice to the organization must describe the organization's right to a hearing under subdivision 3.

Subd. 2. **Posting; requirements.** The information required to be posted under subdivision 1 must be posted prominently at the point of sale of the pull-tabs. An easily legible pull-tab flare that lists prizes in the deal for that flare, and on which prizes are marked off as they are awarded, satisfies the requirements of this section that major prizes be posted, provided that a separate flare is posted for each deal of pull-tabs. An organization must post or mark off each major prize and post the name of the prize winner immediately on awarding the prize.

Subd. 3. **Appeal.** An organization to which the board issues an order under subdivision 1 may request a contested case hearing on the order. The hearing must be held within 20 days of the effective date of the order, and the report by the administrative law judge must be issued within 20 days after the close of the hearing record. The board must issue its final decision within 30 days after receipt of the report of the administrative law judge and subsequent exceptions and arguments under section [14.61](#).

Subd. 4. **Major prizes.** For purposes of this section, a "major prize" in a deal of pull-tabs is a prize of at least 50 times the face value of any pull-tab in the deal.

Subd. 5. **Compulsive gambling hotline number.** An organization conducting lawful gambling must post at each point of sale a sign containing the toll-free telephone number established by the commissioner of human services in connection with the compulsive gambling program established under section [245.98](#). The sign must be kept in easily legible form and repair by the owner, lessee, or person having control thereof, and must either:

- (1) be approved by the commissioner; or
- (2) have lettering at least three-quarters of an inch in height, of block letter design.

Subd. 6. **Voluntary posting.** Nothing in this section limits the right of an organization voluntarily to post the names of winners of lawful gambling prizes.

HIST: 1990 c 590 art 1 s 29; 1991 c 336 art 2 s 25

349.18 Premises used for gambling.

Subdivision 1. **Lease or ownership required.** (a) An organization may conduct lawful gambling only on premises it owns or leases. Leases must be on a form prescribed by the board. Except for leases entered into before August 1, 1994, the term of the lease may not begin before the effective date of the premises permit and must expire on the same day that the premises permit expires. Copies of all leases must be made available to employees of the board and the division of alcohol and gambling enforcement on request. A lease may not provide for payments determined directly or indirectly by the receipts or profits from lawful gambling. The board may prescribe by rule limits on the amount of rent which an organization may pay to a lessor for premises leased for lawful gambling provided that no rule of the board may prescribe a limit of less than \$1,000 per month on rent paid for premises used for lawful gambling other than bingo. Any rule adopted by the board limiting the amount of rent to be paid may only be effective for leases entered into, or renewed, after the effective date of the rule.

(b) No person, distributor, manufacturer, lessor, or organization other than the licensed organization leasing the space may conduct any activity other than the sale or serving of food and beverages on the leased premises during times when lawful gambling is being conducted on the premises.

(c) At a site where the leased premises consists of an area on or behind a bar at which alcoholic beverages are sold and employees of the lessor are employed by the organization as pull-tab sellers at the site, pull-tabs and tipboard tickets may be sold and redeemed by those employees at any place on or behind the bar, but the tipboards and receptacles for pull-tabs and cash drawers for lawful gambling receipts must be maintained only within the leased premises.

(d) Employees of a lessor may participate in lawful gambling on the premises provided (1) if pull-tabs or tipboards are sold, the organization voluntarily posts, or is required to post, the major prizes as specified in section [349.172](#); and (2) any employee of the lessor participating in lawful gambling is not a gambling employee for the organization conducting lawful gambling on the premises.

(e) A gambling employee may purchase pull-tabs at the site

of the employee's place of employment provided:

(1) the organization voluntarily posts, or is required to post, the major prizes for pull-tab or tipboard games as specified in section [349.172](#); and

(2) the employee is not involved in the sale of pull-tabs at that site.

Subd. 1a. Storage of gambling equipment. (a) Gambling equipment owned by or in the possession of an organization must be kept at a permitted premises owned or leased by the organization, or at other storage sites within the state that the organization has notified the board are being used as gambling equipment storage sites. At each storage site or permitted premises, the organization must have the invoices or true and correct copies of the invoices for the purchase of all gambling equipment at the site or premises. Gambling equipment owned by an organization may not be kept at a distributor's office, warehouse, storage unit, or other place of the distributor's business.

(b) Gambling equipment, other than devices for selecting bingo numbers, owned by an organization must be secured and kept separate from gambling equipment owned by other persons, organizations, distributors, or manufacturers.

(c) Paddlewheels must be covered or disabled when not in use by the organization in the conduct of lawful gambling.

(d) Gambling equipment kept in violation of this subdivision is contraband under section [349.2125](#).

(e) An organization may transport gambling equipment it owns or possesses between approved gambling equipment storage sites and to and from licensed distributors, if the invoices or true and correct copies of the invoices for the organization's acquisition of the gambling equipment accompany the gambling equipment at all times and are available for inspection.

Subd. 2. Exceptions. (a) An organization may conduct raffles on a premise it does not own or lease.

(b) An organization may, with the permission of the board, conduct bingo on premises it does not own or lease for up to 12 consecutive days in a calendar year, in connection with a county fair, the state fair, or a civic celebration.

(c) A licensed organization may, after compliance with section [349.213](#), conduct lawful gambling on premises other than the organization's permitted premises for one day per year for not more than 12 hours that day. A lease for that time period for the exempted premises must accompany the request to the board.

Subd. 3. **Proceeds from rental.** Rental proceeds from premises owned by an organization and leased to one or more other organizations for the purposes of conducting lawful gambling shall not be reported as gambling proceeds under this chapter.

Subd. 4. **Prohibition.** (a) An organization may not pay rent to itself or to any of its affiliates for use of space for conducting lawful gambling.

(b) An organization may not pay rent for space for conducting lawful gambling from any account or fund other than the organization's separate gambling account.

Subd. 5. **Certain agreements prohibited.** An organization may not enter into or be a party to a lending agreement under which any of the organization's receipts from lawful gambling are pledged as collateral for a loan.

HIST: 1976 c 261 s 8; 1984 c 502 art 12 s 12; 1986 c 467 s 18; 1987 c 327 s 17,18; 1989 c 334 art 2 s 27,28; 1990 c 590 art 1 s 31; 1991 c 233 s 109; 1991 c 336 art 2 s 26,27; 1994 c 633 art 5 s 74-76; 1996 c 467 s 6; 1997 c 129 art 2 s 15; 1998 c 322 s 4

349.19 Records and reports.

Subdivision 1. **Required record of receipts.** A licensed organization must keep a record of each occasion on which it conducts gambling, including each bingo occasion and each day on which other forms of lawful gambling are conducted. The record must include gross receipts, quantities of free plays if any, expenses, prizes, and gross profit. The board may by rule provide for the methods by which expenses are documented. In the case of bingo, gross receipts must be compared to the checkers' records for the occasion by a person who did not sell

cards for the occasion. Separate records must be kept for bingo and all other forms of lawful gambling.

Subd. 2. **Accounts.** Gross receipts from lawful gambling by each organization must be segregated from all other revenues of the conducting organization and placed in a separate account. All expenditures for expenses, taxes, and lawful purposes must be made from the separate account except (1) in the case of expenditures previously approved by the organization's membership for emergencies as defined by board rule, or (2) as provided in subdivision 2a. The name and address of the bank, the account number for the separate account, and the names of organization members authorized as signatories on the separate account must be provided to the board when the application is submitted. Changes in the information must be submitted to the board at least ten days before the change is made. Gambling receipts must be deposited into the gambling bank account within four business days of completion of the bingo occasion, deal, or game from which they are received. A deal of pull-tabs is considered complete when either the last pull-tab of the deal is sold or the organization does not continue the play of the deal during the next scheduled period of time in which the organization will conduct pull-tabs. A tipboard game is considered complete when the seal on the game flare is uncovered. Deposit records must be sufficient to allow determination of deposits made from each bingo occasion, deal, or game at each permitted premises. The person who accounts for gambling gross receipts and profits may not be the same person who accounts for other revenues of the organization.

Subd. 2a. **Tax refund or credit.** (a) Each organization that receives a refund or credit under section [297E.02](#), subdivision 4, paragraph (d), must within four business days of receiving a refund under that paragraph deposit the refund in the organization's gambling account.

(b) In addition, each organization must annually calculate 5.26 percent of the sum of the amount of tax it paid under:

(1) section [297E.02](#), subdivision 1, on gross receipts, less prizes paid, after August 1, 1998; and

(2) section [297E.02](#), subdivision 6, on combined receipts received after August 1, 1998.

(c) The calculated amount must be reported to the board on a form prescribed by the board by March 20 of the year after the calendar year for which the calculated amount is made. The calculated amount must be filed as part of the organization's

report of expenditure of profits from lawful gambling required under section 349.19, subdivision 5.

(d) The organization may expend the tax refund or credit issued under section [297E.02](#), subdivision 4, paragraph (d), plus the amount calculated under paragraph (b), only for lawful purposes, other than lawful purposes described in section [349.12](#), subdivision 25, paragraph (a), clauses (8), (9), and (12). Amounts subject to this paragraph must be spent for qualifying lawful purposes no later than one year after the refund or credit is received or the tax savings calculated under paragraph (b).

Subd. 3. **Expenditures.** (a) All expenditures of gross profits from lawful gambling must be itemized as to payee, purpose, amount, and date of payment, and must be in compliance with section [349.154](#). Authorization of the expenditures must be recorded in the monthly meeting minutes of the licensed organization. Checks for expenditures of gross profits must be signed by at least two persons authorized by board rules to sign the checks. Expenditures of gross profits from lawful gambling for local, state, and federal taxes as identified in section [349.12](#), subdivision 25, paragraph (a), clause (8), may be: (1) transferred electronically from the organization's gambling account directly to bank accounts identified by local, state, or federal agencies if the organization's gambling account monthly bank statement specifically identifies the payee by name, the amount transferred, the account number of the account into which the funds were transferred, and the date of the transaction; or (2) transferred electronically to and from the account of a payroll processing firm that meets the criteria for such a firm established under section [349.168](#), subdivision 6. Expenditures of gross profits from lawful gambling as authorized by section [349.15](#), subdivision 1, for utility payments may be transferred electronically from the organization's gambling account directly to bank accounts identified by the utility vendor if the organization's gambling account monthly bank statement specifically identifies the payee by name, the amount transferred, the account number of the account into which the funds were transferred, and the date of the transaction. Electronic payments of local, state, and federal taxes and utility payments are permitted only if they have been authorized by the membership, the organization maintains supporting documentation, and the expenditures can be verified.

(b) Expenditures authorized by the board according to section [349.12](#), subdivision 25, paragraph (b), clause (3), must be 51 percent completed within two years of the date of board approval. "Fifty-one percent completed" means that the work completed must represent at least 51 percent of the value of the project as documented by the contractor or vendor. An organization that fails to comply with this paragraph shall reapply to the board for approval of the project.

Subd. 4. **Discrepancies.** If at a bingo occasion a discrepancy of more than \$20 is found between the gross receipts as reported by the checkers and the gross receipts determined by adding the cash receipts, the discrepancy must be reported to the board within five days of the bingo occasion.

Subd. 5. **Reports.** A licensed organization must report to the board and to its membership monthly, or quarterly in the case of a class C licensee or licensed organization which does not report more than \$1,000 in gross receipts from lawful gambling in any calendar quarter, on its gross receipts, expenses, profits, and expenditure of profits from lawful gambling. The report must include a reconciliation of the organization's profit carryover with its cash balance on hand. If the organization conducts both bingo and other forms of lawful gambling, the figures for both must be reported separately. In addition, a licensed organization must report to the board monthly on its purchases of gambling equipment and must include the type, quantity, and dollar amount from each supplier separately. The reports must be on a form the board prescribes. Submission of the report required by section [349.154](#) satisfies the requirement for reporting monthly to the board on expenditure of net profits.

Subd. 6. **Preservation of records.** Records required to be kept by this section must be preserved by a licensed organization for at least 3-1/2 years and may be inspected by the commissioner of revenue, the board, or the commissioner of public safety at any reasonable time without notice or a search warrant.

Subd. 7. **Tax records.** The board may by rule require each licensed organization to provide copies of forms it files with the United States Department of the Treasury which are required for organizations exempt from income tax.

Subd. 8. **Termination plan.** Upon termination of a license for any reason, a licensed organization must notify the board in writing within 30 calendar days of the license termination date of its plan for disposal of gambling equipment and distribution of remaining gambling proceeds. Before implementation, a plan must be approved by the board as provided in board rule. The board may accept or reject a plan and order submission of a new plan or amend a proposed plan. The board may specify a time for submission of new or amended plans or for completion of an accepted plan.

Subd. 9. **Annual audit; filing requirement.** An organization licensed under this chapter must have an annual

financial audit or financial review when required by section [297E.06](#), subdivision 4.

Subd. 9a. **Records.** An organization licensed under this chapter must maintain records that account for the assets, liabilities, and fund balance of the organization. The records must also account for the revenues, taxes, prize payouts, expenses, and lawful purpose expenditures of the organization. The records must include a perpetual inventory of games purchased but not yet played and games in play.

Subd. 9b. **Accounting manual.** The board must prepare and distribute to each organization licensed under this chapter a manual designed to facilitate compliance with section 349.19, subdivision 9a. The manual must include a clear description of the processes needed to maintain the records required in section 349.19, subdivision 9a. The board may contract for preparation of the manual.

Subd. 10. **Pull-tab records.** (a) The board shall by rule require a licensed organization to require each winner of a pull-tab prize of \$50 or more to present identification in the form of a driver's license, Minnesota identification card, or other identification the board deems sufficient to allow the identification and tracing of the winner. The rule must require the organization to retain winning pull-tabs of \$50 or more, and the identification of the winner of the pull-tab, for 3-1/2 years.

(b) An organization must maintain separate cash banks for each deal of pull-tabs unless (1) two or more deals are commingled in a single receptacle, or (2) the organization uses a cash register, of a type approved by the board, which records all sales of pull-tabs by separate deals. The board shall (1) by rule adopt minimum technical standards for cash registers that may be used by organizations, and shall approve for use by organizations any cash register that meets the standards, and (2) before allowing an organization to use a cash register that commingles receipts from several different pull-tab games in play, adopt rules that define how cash registers may be used and that establish a procedure for organizations to reconcile all pull-tab games in play at the end of each month.

Subd. 11. **Information made part of organization minutes.** A licensed organization which receives a copy of a written audit under subdivision 9, or an audit or compliance report prepared by an agency of the state, must place the audit report or compliance report in the minutes of the next meeting of the organization following receipt of the report. Copies of such minutes must be made available to all members of the organization upon request.

HIST: 1976 c 261 s 9; 1984 c 502 art 12 s 13; 1986 c 467 s 19,20; 1987 c 327 s 19; 1988 c 596 s 5; 1989 c 334 art 2 s 29-33; 1Sp1989 c 1 art 13 s 11; 1990 c 590 art 1 s 32; 1991 c 336 art 2 s 28-32; 1993 c 13 art 1 s 4; 1994 c 633 art 5 s 77-81; 1996 c 467 s 7; 1996 c 471 art 13 s 18,19; 1997 c 7 art 1 s 128; 1997 c 231 art 7 s 34; 1998 c 322 s 5; 1998 c 389 art 13 s 6

349.191 Sales on credit.

Subdivision 1. **Credit restriction.** A manufacturer may not offer or extend to a distributor, and a distributor may not offer or extend to an organization, credit for a period of more than 30 days for the sale of any gambling equipment. No right of action exists for the collection of any claim based on credit prohibited by this subdivision. The 30-day period allowed by this subdivision begins with the day immediately following the day of invoice and includes all successive days, including Sundays and holidays, to and including the 30th successive day.

Subd. 1a. **Credit and sales to delinquent organizations.**

(a) If a distributor does not receive payment in full from an organization within 35 days of the delivery of gambling equipment, the distributor must notify the board in writing of the delinquency.

(b) If a distributor who has notified the board under paragraph (a) has not received payment in full from the organization within 60 days of the notification under paragraph (a), the distributor must notify the board of the continuing delinquency.

(c) On receipt of a notice under paragraph (a), the board shall order all distributors that until further notice from the board, they may sell gambling equipment to the delinquent organizations only on a cash basis with no credit extended. On receipt of a notice under paragraph (b), the board shall order all distributors not to sell any gambling equipment to the delinquent organization.

(d) No distributor may extend credit or sell gambling equipment to an organization in violation of an order under

paragraph (c) until the board has authorized such credit or sale.

Subd. 1b. Credit and sales to delinquent distributors.

(a) If a manufacturer does not receive payment in full from a distributor within 35 days of the delivery of gambling equipment, the manufacturer must notify the board in writing of the delinquency.

(b) If a manufacturer who has notified the board under paragraph (a) has not received payment in full from the distributor within 60 days of the notification under paragraph (a), the manufacturer must notify the board of the continuing delinquency.

(c) On receipt of a notice under paragraph (a), the board shall order all manufacturers that until further notice from the board, they may sell gambling equipment to the delinquent distributor only on a cash basis with no credit extended. On receipt of a notice under paragraph (b), the board shall order all manufacturers not to sell any gambling equipment to the delinquent distributor.

(d) No manufacturer may extend credit or sell gambling equipment to a distributor in violation of an order under paragraph (c) until the board has authorized such credit or sale.

Subd. 2. Invoices. All invoices prepared by a manufacturer or distributor and presented as part of a credit transaction for the purchase of gambling equipment must clearly bear the words "Notice: State Law Prohibits the Extension of Credit For This Sale For More Than 30 Days."

Subd. 3. Rules. Any rule of the board which requires a manufacturer to report to the board any distributor who is delinquent in payment for gambling equipment must provide that a distributor is subject to the rule if the distributor is more than 30 days delinquent in payment to a manufacturer.

Subd. 4. Credit; postdated checks. For purposes of this section, "credit" includes acceptance by a manufacturer or distributor of a postdated check in payment for gambling equipment.

HIST: 1990 c 590 art 1 s 33; 1994 c 633 art 5 s 82-85; 1995 c 261 s 24; 1997 c 231 art 7 s 35

349.211 Prize limits.

Subdivision 1. **Bingo.** Except as provided in subdivision 2, prizes for a single bingo game may not exceed \$200 except prizes for a cover-all game, which may exceed \$200 if the aggregate value of all cover-all prizes in a bingo occasion does not exceed \$1,000. Total prizes awarded at a bingo occasion may not exceed \$2,500, unless a cover-all game is played in which case the limit is \$3,500. A prize may be determined based on the value of the bingo packet sold to the player. For purposes of this subdivision, a cover-all game is one in which a player must cover all spaces except a single free space to win.

Subd. 2. **Progressive bingo games.** A prize of up to \$2,000 may be awarded for a progressive bingo game, including a cover-all game. The prize for a progressive bingo game may start at \$300 and be increased by up to \$100 for each occasion during which the progressive bingo game is played. A consolation prize of up to \$100 for a progressive bingo game may be awarded in each occasion during which the progressive bingo game is played and the accumulated prize is not won. The total amount awarded in progressive bingo game prizes in any calendar year may not exceed \$36,000.

Subd. 2a. **Pull-tab prizes.** The maximum prize which may be awarded for any single pull-tab is \$500. An organization may not sell any pull-tab for more than \$2.

Subd. 2b. **Paddlewheel prizes.** The maximum cash prize which may be awarded for a paddleticket is \$70. An organization may not sell any paddleticket for more than \$2.

Subd. 3. **Other gambling.** The board by rule shall establish a schedule of prize limits for all other forms of gambling consistent with the purposes set out in section [349.11](#). The schedule may include daily and annual prize limits and prize limits for each game, raffle or operation of a gambling device.

Subd. 4. **Prize value.** Merchandise prizes must be valued at their fair market value. For purposes of sections [349.11](#) to [349.22](#) "prizes" do not include free plays awarded.

2 s 33; 1994 c 633 art 5 s 86-88; 1995 c 261 s 25; 1997 c 155 s 8,9

349.2123 Certified physical inventory.

The board may, upon request, require a distributor to furnish a certified physical inventory of all gambling equipment in stock. The inventory must contain the information required by the board.

HIST: 1987 c 268 art 15 s 12; 1988 c 719 art 9 s 13; 1990 c 590 art 1 s 36; 1994 c 633 art 3 s 2

349.2124 Sales to Indian tribes.

A distributor may set aside that part of the distributor's stock necessary for the conduct of business in making sales to the established governing body of any Indian tribe recognized by the United States Department of Interior. A distributor shall, when shipping or delivering any stock to an Indian tribal organization, make a true duplicate invoice showing the complete details of the sale or delivery and shall keep the duplicate.

HIST: 1987 c 268 art 15 s 13

349.2125 Contraband.

Subdivision 1. **Contraband defined.** The following are contraband:

(1) all pull-tab or tipboard deals or paddleticket cards not stamped or bar coded in accordance with this chapter or chapter 297E;

(2) all pull-tab or tipboard deals in the possession of any unlicensed person, firm, or organization, whether stamped or unstamped;

(3) any container used for the storage and display of any contraband pull-tab or tipboard deals as defined in clauses (1) and (2);

(4) all currency, checks, and other things of value used for pull-tab or tipboard transactions not expressly permitted under this chapter, and any cash drawer, cash register, or any other container used for illegal pull-tab or tipboard transactions including its contents;

(5) any device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes, and boats used, with the knowledge of the owner or of a person operating with the consent of the owner, for the storage or transportation of more than five pull-tab or tipboard deals that are contraband under this subdivision. When pull-tabs and tipboards are being transported in the course of interstate commerce between locations outside this state, the pull-tab and tipboard deals are not contraband, notwithstanding the provisions of clauses (1) and (12);

(6) any unaffixed registration stamps except as provided in section [349.162](#), subdivision 4;

(7) any prize used or offered in a game utilizing contraband as defined in this subdivision;

(8) any altered, modified, or counterfeit pull-tab or tipboard ticket;

(9) any unregistered gambling equipment except as permitted by this chapter;

(10) any gambling equipment kept in violation of section [349.18](#);

(11) any gambling equipment not in conformity with law or board rule;

(12) any pull-tab or tipboard deal in the possession of a person other than a licensed distributor or licensed manufacturer for which the person, upon demand of a licensed

peace officer or authorized agent of the commissioner of revenue or director of alcohol and gambling enforcement, does not immediately produce for inspection the invoice or a true and correct copy of the invoice for the acquisition of the deal from a licensed distributor; and

(13) any pull-tab or tipboard deals or portions of deals on which the tax imposed under chapter 297E has not been paid.

Subd. 2. **Seizure.** Property made contraband by subdivision 1 may be seized by the commissioner of revenue or the director of alcohol and gambling enforcement or their authorized agents or by any sheriff or other police officer, hereinafter referred to as the seizing authority, with or without process, and shall be subject to forfeiture as provided in subdivisions 3 and 4.

Subd. 3. **Inventory; judicial determination; appeal; disposition of seized property.** Within ten days after the seizure of any alleged contraband, the person making the seizure shall make available an inventory of the property seized to the person from whom the property was seized, if known, and file a copy with the commissioner of revenue or the director of alcohol and gambling enforcement. Within ten days after the date of service of the inventory, the person from whom the property was seized or any person claiming an interest in the property may file with the seizing authority a demand for judicial determination of whether the property was lawfully subject to seizure and forfeiture. Within 60 days after the date of filing of the demand, the seizing authority must bring an action in the district court of the county where seizure was made to determine the issue of forfeiture. The action must be brought in the name of the state and be prosecuted by the county attorney or by the attorney general. The court shall hear the action without a jury and determine the issues of fact and laws involved. When a judgment of forfeiture is entered, the seizing authority may, unless the judgment is stayed pending an appeal, either (1) cause the forfeited property to be destroyed; or (2) cause it to be sold at a public auction as provided by law.

If demand for judicial determination is made and no action is commenced by the seizing authority as provided in this subdivision, the property must be released by the seizing authority and delivered to the person entitled to it. If no demand is made, the property seized is considered forfeited to the seizing authority by operation of law and may be disposed of by the seizing authority as provided where there has been a judgment of forfeiture. When the seizing authority is satisfied that a person from whom property is seized was acting in good faith and without intent to evade a tax imposed by chapter 297E, the seizing authority shall release the property seized without further legal proceedings.

Subd. 4. **Disposal.** (a) The property described in subdivision 1, clauses (4) and (5), must be confiscated after conviction of the person from whom it was seized, upon compliance with the following procedure: the seizing authority shall file with the court a separate complaint against the property, describing it and charging its use in the specific violation, and specifying substantially the time and place of the unlawful use. A copy of the complaint must be served upon the defendant or person in charge of the property at the time of seizure, if any. If the person arrested is acquitted, the court shall dismiss the complaint against the property and order it returned to the persons legally entitled to it. Upon conviction of the person arrested, the court shall issue an order directed to any person known or believed to have any right, title or interest in, or lien upon, any of the property, and to persons unknown claiming any right, title, interest, or lien in it, describing the property and (1) stating that it was seized and that a complaint against it, charging the specified violation, has been filed with the court, (2) requiring the persons to file with the court administrator their answer to the complaint, setting forth any claim they may have to any right or title to, interest in, or lien upon the property, within 30 days after the service of the order, and (3) notifying them in substance that if they fail to file their answer within the time, the property will be ordered sold by the seizing authority. The court shall cause the order to be served upon any person known or believed to have any right, title, interest, or lien as in the case of a summons in a civil action, and upon unknown persons by publication, as provided for service of summons in a civil action. If no answer is filed within the time prescribed, the court shall, upon affidavit by the court administrator, setting forth the fact, order the property sold by the seizing authority. Seventy percent of the proceeds of the sale of forfeited property, after payment of seizure, storage, forfeiture and sale expenses, must be forwarded to the seizing authority for deposit as a supplement to its operating fund or similar fund for official use, and 20 percent must be forwarded to the county attorney or other prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes. The remaining ten percent of the proceeds must be forwarded within 60 days after resolution of the forfeiture to the department of human services to fund programs for the treatment of compulsive gamblers. If answer is filed within the time provided, the court shall fix a time for a hearing, which shall be not less than ten nor more than 30 days after the time for filing answer expires. At the time fixed for hearing, unless continued for cause, the matter shall be heard and determined by the court, without a jury, as in other civil actions.

(b) If the court finds that the property, or any part of it, was used in the violation specified in the complaint, it shall order the property unlawfully used, sold as provided by

law, unless the owner shows to the satisfaction of the court that the owner had no notice or knowledge or reason to believe that the property was used or intended to be used in the violation. The officer making a sale, after deducting the expense of keeping the property, the fee for seizure, and the costs of the sale, shall pay all liens according to their priority, which are established at the hearing as being bona fide and as existing without the lienor having any notice or knowledge that the property was being used or was intended to be used for or in connection with the violation specified in the order of the court, and shall pay the balance of the proceeds to the seizing authority for official use and sharing in the manner provided in paragraph (a). A sale under this section shall free the property sold from any and all liens on it. Appeal from the order of the district court will lie as in other civil cases. At any time after seizure of the articles specified in this subdivision, and before the hearing provided for, the property must be returned to the owner or person having a legal right to its possession, upon execution of a good and valid bond to the state, with corporate surety, in the sum of not less than \$100 and not more than double the value of the property seized, to be approved by the court in which the case is triable, or a judge of it, conditioned to abide any order and the judgment of the court, and to pay the full value of the property at the time of the seizure. The seizing authority may dismiss the proceedings outlined in this subdivision when the seizing authority considers it to be in the public interest to do so.

HIST: 1988 c 719 art 9 s 14; 1989 c 334 art 2 s 40-42; 1990 c 590 art 2 s 1-3; 1994 c 633 art 5 s 89,90; 1997 c 129 art 2 s 15

349.2125 Contraband.

Subdivision 1. **Contraband defined.** The following are contraband:

- (1) all pull-tab or tipboard deals or paddleticket cards not stamped or bar coded in accordance with this chapter or chapter 297E;
- (2) all pull-tab or tipboard deals in the possession of any unlicensed person, firm, or organization, whether stamped or unstamped;
- (3) any container used for the storage and display of any

contraband pull-tab or tipboard deals as defined in clauses (1) and (2);

(4) all currency, checks, and other things of value used for pull-tab or tipboard transactions not expressly permitted under this chapter, and any cash drawer, cash register, or any other container used for illegal pull-tab or tipboard transactions including its contents;

(5) any device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes, and boats used, with the knowledge of the owner or of a person operating with the consent of the owner, for the storage or transportation of more than five pull-tab or tipboard deals that are contraband under this subdivision. When pull-tabs and tipboards are being transported in the course of interstate commerce between locations outside this state, the pull-tab and tipboard deals are not contraband, notwithstanding the provisions of clauses (1) and (12);

(6) any unaffixed registration stamps except as provided in section [349.162](#), subdivision 4;

(7) any prize used or offered in a game utilizing contraband as defined in this subdivision;

(8) any altered, modified, or counterfeit pull-tab or tipboard ticket;

(9) any unregistered gambling equipment except as permitted by this chapter;

(10) any gambling equipment kept in violation of section [349.18](#);

(11) any gambling equipment not in conformity with law or board rule;

(12) any pull-tab or tipboard deal in the possession of a person other than a licensed distributor or licensed manufacturer for which the person, upon demand of a licensed peace officer or authorized agent of the commissioner of revenue or director of alcohol and gambling enforcement, does not immediately produce for inspection the invoice or a true and correct copy of the invoice for the acquisition of the deal from a licensed distributor; and

(13) any pull-tab or tipboard deals or portions of deals on which the tax imposed under chapter 297E has not been paid.

Subd. 2. **Seizure.** Property made contraband by subdivision 1 may be seized by the commissioner of revenue or the director of alcohol and gambling enforcement or their authorized agents or by any sheriff or other police officer, hereinafter referred to as the seizing authority, with or without process, and shall be subject to forfeiture as provided in subdivisions 3 and 4.

Subd. 3. **Inventory; judicial determination; appeal; disposition of seized property.** Within ten days after the seizure of any alleged contraband, the person making the seizure shall make available an inventory of the property seized to the person from whom the property was seized, if known, and file a copy with the commissioner of revenue or the director of alcohol and gambling enforcement. Within ten days after the date of service of the inventory, the person from whom the property was seized or any person claiming an interest in the property may file with the seizing authority a demand for judicial determination of whether the property was lawfully subject to seizure and forfeiture. Within 60 days after the date of filing of the demand, the seizing authority must bring an action in the district court of the county where seizure was made to determine the issue of forfeiture. The action must be brought in the name of the state and be prosecuted by the county attorney or by the attorney general. The court shall hear the action without a jury and determine the issues of fact and laws involved. When a judgment of forfeiture is entered, the seizing authority may, unless the judgment is stayed pending an appeal, either (1) cause the forfeited property to be destroyed; or (2) cause it to be sold at a public auction as provided by law.

If demand for judicial determination is made and no action is commenced by the seizing authority as provided in this subdivision, the property must be released by the seizing authority and delivered to the person entitled to it. If no demand is made, the property seized is considered forfeited to the seizing authority by operation of law and may be disposed of by the seizing authority as provided where there has been a judgment of forfeiture. When the seizing authority is satisfied that a person from whom property is seized was acting in good faith and without intent to evade a tax imposed by chapter 297E, the seizing authority shall release the property seized without further legal proceedings.

Subd. 4. **Disposal.** (a) The property described in subdivision 1, clauses (4) and (5), must be confiscated after conviction of the person from whom it was seized, upon compliance with the following procedure: the seizing authority

shall file with the court a separate complaint against the property, describing it and charging its use in the specific violation, and specifying substantially the time and place of the unlawful use. A copy of the complaint must be served upon the defendant or person in charge of the property at the time of seizure, if any. If the person arrested is acquitted, the court shall dismiss the complaint against the property and order it returned to the persons legally entitled to it. Upon conviction of the person arrested, the court shall issue an order directed to any person known or believed to have any right, title or interest in, or lien upon, any of the property, and to persons unknown claiming any right, title, interest, or lien in it, describing the property and (1) stating that it was seized and that a complaint against it, charging the specified violation, has been filed with the court, (2) requiring the persons to file with the court administrator their answer to the complaint, setting forth any claim they may have to any right or title to, interest in, or lien upon the property, within 30 days after the service of the order, and (3) notifying them in substance that if they fail to file their answer within the time, the property will be ordered sold by the seizing authority. The court shall cause the order to be served upon any person known or believed to have any right, title, interest, or lien as in the case of a summons in a civil action, and upon unknown persons by publication, as provided for service of summons in a civil action. If no answer is filed within the time prescribed, the court shall, upon affidavit by the court administrator, setting forth the fact, order the property sold by the seizing authority. Seventy percent of the proceeds of the sale of forfeited property, after payment of seizure, storage, forfeiture and sale expenses, must be forwarded to the seizing authority for deposit as a supplement to its operating fund or similar fund for official use, and 20 percent must be forwarded to the county attorney or other prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes. The remaining ten percent of the proceeds must be forwarded within 60 days after resolution of the forfeiture to the department of human services to fund programs for the treatment of compulsive gamblers. If answer is filed within the time provided, the court shall fix a time for a hearing, which shall be not less than ten nor more than 30 days after the time for filing answer expires. At the time fixed for hearing, unless continued for cause, the matter shall be heard and determined by the court, without a jury, as in other civil actions.

(b) If the court finds that the property, or any part of it, was used in the violation specified in the complaint, it shall order the property unlawfully used, sold as provided by law, unless the owner shows to the satisfaction of the court that the owner had no notice or knowledge or reason to believe that the property was used or intended to be used in the violation. The officer making a sale, after deducting the expense of keeping the property, the fee for seizure, and the costs of the sale, shall pay all liens according to their

priority, which are established at the hearing as being bona fide and as existing without the lienor having any notice or knowledge that the property was being used or was intended to be used for or in connection with the violation specified in the order of the court, and shall pay the balance of the proceeds to the seizing authority for official use and sharing in the manner provided in paragraph (a). A sale under this section shall free the property sold from any and all liens on it. Appeal from the order of the district court will lie as in other civil cases. At any time after seizure of the articles specified in this subdivision, and before the hearing provided for, the property must be returned to the owner or person having a legal right to its possession, upon execution of a good and valid bond to the state, with corporate surety, in the sum of not less than \$100 and not more than double the value of the property seized, to be approved by the court in which the case is triable, or a judge of it, conditioned to abide any order and the judgment of the court, and to pay the full value of the property at the time of the seizure. The seizing authority may dismiss the proceedings outlined in this subdivision when the seizing authority considers it to be in the public interest to do so.

HIST: 1988 c 719 art 9 s 14; 1989 c 334 art 2 s 40-42; 1990 c 590 art 2 s 1-3; 1994 c 633 art 5 s 89,90; 1997 c 129 art 2 s 15

349.213 Local authority.

Subdivision 1. **Local regulation.** (a) A statutory or home rule city or county has the authority to adopt more stringent regulation of lawful gambling within its jurisdiction, including the prohibition of lawful gambling, and may require a permit for the conduct of gambling exempt from licensing under section [349.166](#). The fee for a permit issued under this subdivision may not exceed \$100. The authority granted by this subdivision does not include the authority to require a license or permit to conduct gambling by organizations or sales by distributors licensed by the board. The authority granted by this subdivision does not include the authority to require an organization to make specific expenditures of more than ten percent from its net profits derived from lawful gambling. For the purposes of this subdivision, net profits are gross profits less amounts expended for allowable expenses and paid in taxes assessed on lawful gambling. A statutory or home rule charter city or a county may not require an organization conducting lawful gambling within its jurisdiction to make an expenditure to the city or county as a condition to operate within that city or county, except as authorized under section [349.16](#), subdivision 8, or [297E.02](#); provided, however, that an ordinance

requirement that such organizations must contribute ten percent of their net profits derived from lawful gambling conducted at premises within the city's or county's jurisdiction to a fund administered and regulated by the responsible local unit of government without cost to such fund, for disbursement by the responsible local unit of government of the receipts for (i) lawful purposes, or (ii) police, fire, and other emergency or public safety-related services, equipment, and training, excluding pension obligations, is not considered an expenditure to the city or county nor a tax under section [297E.02](#), and is valid and lawful. A city or county making expenditures authorized under this paragraph must by March 15 of each year file a report with the board, on a form the board prescribes, that lists all such revenues collected and expenditures for the previous calendar year.

(b) A statutory or home rule city or county may by ordinance require that a licensed organization conducting lawful gambling within its jurisdiction expend all or a portion of its expenditures for lawful purposes on lawful purposes conducted or located within the city's or county's trade area. Such an ordinance must be limited to lawful purpose expenditures of gross profits derived from lawful gambling conducted at premises within the city's or county's jurisdiction, must define the city's or county's trade area, and must specify the percentage of lawful purpose expenditures which must be expended within the trade area. A trade area defined by a city under this subdivision must include each city contiguous to the defining city.

(c) A more stringent regulation or prohibition of lawful gambling adopted by a political subdivision under this subdivision must apply equally to all forms of lawful gambling within the jurisdiction of the political subdivision, except a political subdivision may prohibit the use of paddlewheels.

Subd. 2. **Local approval.** Before issuing or renewing a premises permit or bingo hall license, the board must notify the city council of the statutory or home rule city in which the organization's premises or the bingo hall is located or, if the premises or hall is located outside a city, the county board of the county and the town board of the town where the premises or hall is located. The board may require organizations or bingo halls to notify the appropriate local government at the time of application. This required notification is sufficient to constitute the notice required by this subdivision. The board may not issue or renew a premises permit or bingo hall license unless the organization submits a resolution from the city council or county board approving the premises permit or bingo hall license. The resolution must have been adopted within 60 days of the date of application for the new or renewed permit or license.

Subd. 3. **Local gambling tax.** A statutory or home rule charter city that has one or more licensed organizations operating lawful gambling, and a county that has one or more licensed organizations outside incorporated areas operating lawful gambling, may impose a local gambling tax on each licensed organization within the city's or county's jurisdiction. The tax may be imposed only if the amount to be received by the city or county is necessary to cover the costs incurred by the city or county to regulate lawful gambling. The tax imposed by this subdivision may not exceed three percent of the gross receipts of a licensed organization from all lawful gambling less prizes actually paid out by the organization. A city or county may not use money collected under this subdivision for any purpose other than to regulate lawful gambling. A tax imposed under this subdivision is in lieu of all other local taxes and local investigation fees on lawful gambling. A city or county that imposes a tax under this subdivision shall annually, by March 15, file a report with the board in a form prescribed by the board showing (1) the amount of revenue produced by the tax during the preceding calendar year, and (2) the use of the proceeds of the tax.

HIST: 1984 c 502 art 12 s 18; 1986 c 467 s 25; 1987 c 327 s 21; 1988 c 705 s 1; 1989 c 209 art 1 s 35; 1989 c 334 art 2 s 44,45; 1989 c 335 art 1 s 220; 1990 c 590 art 1 s 37; 1991 c 199 art 2 s 1; 1991 c 336 art 2 s 34; 1994 c 633 art 2 s 19; art 5 s 96; 1994 c 633 art 2 s 2; 1995 c 264 art 17 s 11; 1998 c 322 s 6

349.30 Definitions.

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

Subd. 2. "Gambling device" has the meaning given it in section [609.75](#), subdivision 4.

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

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

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

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

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

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

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

HIST: 1947 c 586 s 1; 1973 c 123 art 5 s 7; 1981 c 204 s 9; 1986 c 444; 1990 c 590 art 1 s 38

349.31 Gambling device; possession of.

Subdivision 1. **Intentional possession; willful keeping.** The intentional possession or willful keeping of a gambling device on a licensed premises is cause for the suspension or revocation of any license under which the licensed business is carried on upon the premises where the gambling device is found, provided that possession of gambling equipment as defined in section [349.12](#), subdivision 18, which is used for lawful gambling authorized by this chapter, and the manufacture of gambling devices for use in jurisdictions where use of the gambling device is legal as provided for by section [349.40](#) shall not be cause for revocation of a license.

Subd. 2. **Suspension and revocation of licenses.** All licenses under which any licensed business is permitted to be carried on upon the licensed premises shall be suspended or revoked if the intentional possession or willful keeping of any such gambling devices upon the licensed premises is established,

notwithstanding that it may not be made to appear that such devices have actually been used or operated for the purpose of gambling.

HIST: 1947 c 586 s 2; 1978 c 507 s 1; 1981 c 126 s 1; 1981 c 204 s 10; 1984 c 502 art 12 s 21; 1986 c 467 s 28; 1989 c 334 art 2 s 51; 1990 c 590 art 1 s 39; 1993 c 13 art 1 s 37

349.32 Issuing authority to suspend or revoke.

The proceedings for suspension or revocation are held before the issuing authority, which has the power to suspend or revoke the license or licenses involved, as hereinafter provided.

HIST: 1947 c 586 s 3; 1990 c 590 art 1 s 40

349.33 Peace officers to observe and inspect premises.

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

HIST: 1947 c 586 s 4; 1986 c 444

349.34 Proceedings before issuing authority; order to show cause.

If an issuing authority, on receipt of information from a peace officer described in section [349.33](#), is of the opinion that cause exists for the suspension or revocation of a license, the authority shall issue an order to show cause directed to the licensee of the premises, stating the ground upon which the proceeding is based and requiring the licensee to appear and show cause at a time and place, within the county in which the licensed premises are located, not less than ten days after the date of the order, why the license should not be suspended or

revoked. That order to show cause shall be served upon the licensee in the manner prescribed by law for the service of summons in a civil action, or by certified mail, not less than eight days before the date fixed for the hearing thereof. A copy of the order shall forthwith be mailed to the owner of the premises, as shown by the records in the office of the county recorder, at the owner's last known post office address. A copy of the order shall at the same time be mailed to any other issuing authority, of which the authority issuing the order to show cause has knowledge, by which other license to that licensee may have been issued, and any such other authority may participate in the suspension or revocation proceedings after notifying the licensee and the officer or authority holding the hearing of its intention so to do on or before the date of hearing, and after the hearing take such action as it could have taken had it instituted the suspension or revocation proceedings in the first instance.

HIST: 1947 c 586 s 5; 1976 c 181 s 2; 1978 c 674 s 60; 1986 c 444; 1990 c 590 art 1 s 41

349.35 Revocation of license.

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

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

HIST: 1947 c 586 s 6; 1986 c 444; 1990 c 590 art 1 s 42

349.36 Duties of county attorney or attorney general.

The county attorney of the county in which the hearing is held, the city attorney if the issuing authority is the city, or the attorney general shall attend the hearing, interrogate the witnesses, advise the issuing authority, and appear for the issuing authority on any appeal taken pursuant to the provisions of section [349.39](#).

HIST: 1947 c 586 s 7; 1986 c 444; 1990 c 590 art 1 s 43; 1990 c 594 art 1 s 71

349.37 Witnesses.

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

HIST: 1947 c 586 s 8

349.38 Property owners liability.

When a license is suspended or revoked under the provisions of sections [349.30](#) to [349.39](#), the owner of the premises upon which any licensed business has been operated shall not be penalized by reason thereof unless it is established that the owner had knowledge of the existence of the gambling devices resulting in license suspension or revocation.

HIST: 1947 c 586 s 9; 1986 c 444; 1990 c 590 art 1 s 44

349.39 Appeal to district court; stay; continuance under bond; hearing upon one year limitation on premises.

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

HIST: 1947 c 586 s 10; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1990 c 590 art 1 s 45

349.40 Gambling devices; manufacture for use in other states.

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

HIST: 1981 c 126 s 2

349.61 Repeal; termination of licenses.

Subdivision 1. **Repeal.** Section [299L.03](#), subdivision 9, and sections [349.50](#); [349.501](#); [349.502](#); [349.51](#); [349.52](#); [349.53](#); [349.54](#); [349.55](#); [349.56](#); [349.57](#); [349.58](#); [349.59](#); and [349.60](#) are repealed January 1, 1992. All licenses issued under sections [349.51](#) and [349.52](#) in effect on that date expire on that date. The commissioner of finance shall on that date transfer all money in the video gaming license account to the general fund.

Subd. 2. **Not to affect certain compacts.** Nothing in subdivision 1 is intended to affect the validity of any compact entered into before or after August 1, 1990, between the state and the governing body of an Indian tribe that governs the conduct of any form of gambling on Indian lands.

HIST: 1990 c 590 art 1 s 48

Gaming, CHAPTER 349A STATE LOTTERY

349A.01 Definitions.

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

Subd. 2. Repealed, 1995 c 254 art 1 s 97

Subd. 3. Repealed, 1991 c 233 s 110

Subd. 4. Repealed, 1991 c 233 s 110

Subd. 5. **Director.** "Director" is the director of the state lottery.

Subd. 6. Repealed, 1991 c 233 s 110

Subd. 7. **Gross receipts.** "Gross receipts" means all money received from the sale of lottery tickets less amounts transmitted to the commissioner of revenue under section [297A.259](#).

Subd. 8. **Gross revenue.** "Gross revenue" means gross receipts from the sale of lottery tickets, fees, or other money received by the director, and interest earned on money in the lottery fund.

Subd. 9. **Lottery.** "Lottery" is the state lottery.

Subd. 10. **Lottery procurement contract.** "Lottery procurement contract" means a contract to provide lottery products, computer hardware and software used to monitor sales of lottery tickets, and lottery tickets. "Lottery procurement contract" does not include a contract to provide an annuity or prize payment agreement or materials, supplies, equipment, or services common to the ordinary operation of a state agency.

Subd. 11. **Lottery retailer.** "Lottery retailer" means a person with whom the director has contracted to sell lottery tickets to the public.

Subd. 12. **Lottery ticket or ticket.** "Lottery ticket" or "ticket" means any tangible evidence issued by the lottery to prove participation in a lottery game.

Subd. 13. **Lottery vendor or vendor.** "Lottery vendor" or "vendor" means a person who has entered into a contract to provide equipment, supplies, or services for the lottery. A lottery vendor does not include a lottery retailer.

HIST: 1989 c 334 art 3 s 1; 1991 c 233 s 102,103,109

349A.02 State lottery.

Subdivision 1. **Director.** A state lottery is established under the supervision and control of the director of the state lottery appointed by the governor with the advice and consent of the senate. The director must be qualified by experience and training in the operation of a lottery to supervise the lottery. The director serves in the unclassified service. The annual salary rate authorized for the director is equal to 85 percent of the salary rate prescribed for the governor.

Subd. 2. **Removal.** (a) The director may be removed from that position only by the governor after notice and a hearing if requested, only for:

(1) violating section [349A.11](#);

(2) malfeasance, nonfeasance, or misfeasance as defined in section [351.14](#), subdivisions 2, 3, and 4; or

(3) failure to perform adequately the duties of the director.

(b) For the purposes of this subdivision, adequate performance of the director may be determined by:

(1) gross revenue from the sale of lottery tickets;

(2) efficiency of the administration of lottery operations;

(3) public confidence in the integrity of the lottery; and

(4) compliance with advertising requirements in section [349A.09](#).

A hearing under this subdivision must be conducted by the governor.

Subd. 3. **Powers and duties.** In operating the lottery

the director shall exercise the following powers and duties:

- (1) adopt rules and game procedures;
- (2) issue lottery retailer contracts and rule on appeals of decisions relating to those contracts;
- (3) enter into lottery procurement contracts for the provision of goods and services to the lottery;
- (4) employ personnel as are required to operate the lottery;
- (5) enter into written agreements with one or more government-authorized lotteries, or with an organization created and controlled by those lotteries, for the operation, marketing, and promotion of a joint lottery;
- (6) adopt and publish advertising and promotional materials consistent with section [349A.09](#); and
- (7) take all necessary steps to ensure the integrity of, and public confidence in, the state lottery.

Subd. 4. **Employees.** The director may appoint other personnel as necessary to operate the state lottery in accordance with chapter 43A. At least one position in the lottery must be an attorney position and the director shall employ in that position an attorney to perform legal services for the lottery.

Subd. 5. **Incentive plan.** Subject to the provisions of section [43A.18](#), subdivision 1, the director may develop and implement a plan for making incentive payments to employees of the lottery whose primary responsibilities are in marketing.

Subd. 6. **Employees; background checks.** The director shall conduct background checks, or request the director of alcohol and gambling enforcement to conduct background checks, on all prospective employees who are finalists, and shall require that all employees of the lottery be fingerprinted. No person may be employed by the lottery who has been convicted of a felony or a crime involving fraud or misrepresentation within five years of starting employment with the lottery, or has ever been convicted of a gambling-related offense. The director has access to all criminal history data compiled by the division of

alcohol and gambling enforcement on employees and prospective employees of the lottery. The director may employ necessary persons pending the completion of a background check.

Subd. 7. **Assistance.** (a) The director may request any other department or agency of the state, including the division of alcohol and gambling enforcement, to provide reasonable assistance to the director in carrying out the director's duties. All provision of services to the director from another state agency, must be by agreement made between the director and the agency. An agreement must include provisions specifying the duration of the services, the assignment of personnel of other agencies to provide the services, the determination of the cost of the services, and the transfer, from the lottery operations account to the agency, of funds sufficient to pay the costs of the services.

(b) The director may enter into agreements with the commissioner of finance for the purpose of making payroll and other financial transactions.

Subd. 8. Repealed, 1995 c 254 art 1 s 97

HIST: 1989 c 334 art 3 s 2; 1990 c 590 art 1 s 49; 1991 c 233 s 104,109; 1991 c 238 art 1 s 15; 1991 c 336 art 2 s 35; 1992 c 567 art 3 s 5; 1993 c 146 art 3 s 8; 1995 c 254 art 1 s 79; 1996 c 305 art 1 s 74; 1997 c 129 art 2 s 15; 2Sp1997 c 3 s 15

349A.04 Lottery game procedures.

The director may adopt game procedures governing the following elements of the lottery:

- (1) lottery games;
- (2) ticket prices;
- (3) number and size of prizes;
- (4) methods of selecting winning tickets; and
- (5) frequency and method of drawings.

The adoption of lottery game procedures is not subject to chapter 14.

HIST: 1989 c 334 art 3 s 4; 1995 c 254 art 1 s 81

349A.05 Rules.

The director may adopt rules under chapter 14 governing the following elements of the lottery:

- (1) the number and types of lottery retailers' locations;
- (2) qualifications of lottery retailers and application procedures for lottery retailer contracts;
- (3) investigation of lottery retailer applicants;
- (4) appeal procedures for denial, suspension, or cancellation of lottery retailer contracts;
- (5) compensation of lottery retailers;
- (6) accounting for and deposit of lottery revenues by lottery retailers;

- (7) procedures for issuing lottery procurement contracts and for the investigation of bidders on those contracts;
 - (8) payment of prizes;
 - (9) procedures needed to ensure the integrity and security of the lottery; and
 - (10) other rules the director considers necessary for the efficient operation and administration of the lottery.
- HIST: 1989 c 334 art 3 s 5; 1995 c 233 art 2 s 56; 1995 c 254 art 1 s 82

349A.06 Lottery retailers.

Subdivision 1. **Contracts.** The director shall sell tickets for the lottery through lottery retailers with whom the director contracts. Contracts under this section are not subject to the provisions of sections [16C.03](#), [16C.05](#), [16C.06](#), [16C.08](#), [16C.09](#), and [16C.10](#), and are valid for a period of one year. The director may permit a retailer to sell tickets at more than one business location under a contract entered into under this section.

Subd. 1a. **Sales at airport.** The metropolitan airports commission shall permit the sale of lottery tickets at the Minneapolis-St. Paul International Airport in at least each concourse of the Lindbergh terminal, or at other locations mutually agreed to by the director and the commission. The director shall issue a contract to a nonprofit organization to operate an independent kiosk to sell lottery tickets at the airport.

Subd. 2. **Qualifications.** (a) The director may not contract with a retailer who:

- (1) is under the age of 18;
- (2) is in business solely as a seller of lottery tickets;
- (3) owes \$500 or more in delinquent taxes as defined in section [270.72](#);
- (4) has been convicted within the previous five years of a felony or gross misdemeanor, any crime involving fraud or misrepresentation, or a gambling-related offense;
- (5) is a member of the immediate family, residing in the same household, as the director or any employee of the lottery;

(6) in the director's judgment does not have the financial stability or responsibility to act as a lottery retailer, or whose contracting as a lottery retailer would adversely affect the public health, welfare, and safety, or endanger the security and integrity of the lottery; or

(7) is a currency exchange, as defined in section [53A.01](#).

A contract entered into before August 1, 1990, which violates clause (7) may continue in effect until its expiration but may not be renewed.

(b) An organization, firm, partnership, or corporation that has a stockholder who owns more than five percent of the business or the stock of the corporation, an officer, or director, that does not meet the requirements of paragraph (a), clause (4), is not eligible to be a lottery retailer under this section.

(c) The restrictions under paragraph (a), clause (4), do not apply to an organization, partnership, or corporation if the director determines that the organization, partnership, or firm has terminated its relationship with the individual whose actions directly contributed to the disqualification under this subdivision.

Subd. 3. **Bond.** The director may require that a lottery retailer post a bond, securities, or an irrevocable letter of credit, in an amount as the director deems necessary, to protect the financial interests of the state. If securities are deposited or an irrevocable letter of credit filed, the securities or letter of credit must be of a type or in the form provided under section [349A.07](#), subdivision 5, paragraphs (b) and (c).

Subd. 4. **Criminal history.** The director may request the director of alcohol and gambling enforcement to investigate all applicants for lottery retailer contracts to determine their compliance with the requirements of subdivision 2. The director may issue a temporary contract, valid for not more than 90 days, to an applicant pending the completion of the investigation or a final determination of qualifications under this section. The director has access to all criminal history data compiled by the director of alcohol and gambling enforcement on any person (1) holding or applying for a retailer contract, (2) any person holding a lottery vendor contract or who has submitted a bid on such a contract, and (3) any person applying for employment with the lottery.

Subd. 5. **Restrictions on lottery retailers.** (a) A lottery retailer may sell lottery tickets only on the premises described in the contract.

(b) A lottery retailer must prominently display a certificate issued by the director on the premises where lottery tickets will be sold.

(c) A lottery retailer must keep a complete set of books of account, correspondence, and all other records necessary to show fully the retailer's lottery transactions, and make them available for inspection by employees of the lottery at all times during business hours. The director may require a lottery retailer to furnish information as the director deems necessary to carry out the purposes of this chapter, and may require an audit to be made of the books of account and records. The director may select an auditor to perform the audit and may require the retailer to pay the cost of the audit. The auditor has the same right of access to the books of account, correspondence, and other records as is given to employees of the lottery.

(d) A contract issued under this section may not be transferred or assigned.

(e) The director shall require that lottery tickets may be sold by retailers only for cash.

(f) A lottery retailer must prominently post at the point of sale of lottery tickets, in a manner approved by the commissioner of human services, the toll-free telephone number established by the commissioner of human services in connection with the compulsive gambling program established under section [245.98](#).

Subd. 6. **Retention by retailers.** The director may by rule provide for:

(1) amounts which a lottery retailer may retain from gross receipts from the sale of lottery tickets in order to pay prizes to holders of winning tickets; and

(2) amounts which a lottery retailer may retain from gross receipts from the sale of lottery tickets as a commission.

Subd. 7. **Retailer rental payments.** If a lottery retailer's rental payments for the business premises are contractually computed, in whole or in part, on the basis of a percentage of retail sales, and the computation of retail sales is not explicitly defined to include the sale of lottery tickets, the compensation retained by the sales agent for the sale of lottery tickets shall be considered the amount of the retail sale for purposes of computing the rental payments.

Subd. 8. **Proceeds of sales.** All proceeds from the sale of lottery tickets received by a lottery retailer constitute a trust fund until paid to the director. The lottery retailer is personally liable for all proceeds.

Subd. 9. **Fee.** The director may charge a nonrefundable application fee to a person applying for a lottery retailer contract, in an amount sufficient to cover the costs of making the investigation required under subdivision 4. The fee collected under this subdivision must be deposited in the lottery fund.

Subd. 10. **Local licenses.** No political subdivision may require a local license to operate as a lottery retailer or impose a tax or fee on the business of operating as a lottery retailer.

Subd. 11. **Cancellation, suspension, and refusal to renew contracts or locations.** (a) The director shall cancel the contract of any lottery retailer or prohibit a lottery retailer from selling lottery tickets at a business location who:

(1) has been convicted of a felony or gross misdemeanor;

(2) has committed fraud, misrepresentation, or deceit;

(3) has provided false or misleading information to the lottery; or

(4) has acted in a manner prejudicial to public confidence in the integrity of the lottery.

(b) The director may cancel, suspend, or refuse to renew the contract of any lottery retailer or prohibit a lottery retailer from selling lottery tickets at a business location who:

(1) changes business location;

(2) fails to account for lottery tickets received or the proceeds from tickets sold;

(3) fails to remit funds to the director in accordance with the director's rules;

(4) violates a law or a rule or order of the director;

(5) fails to comply with any of the terms in the lottery retailer's contract;

(6) fails to file a bond, securities, or a letter of credit as required under subdivision 3;

(7) in the opinion of the director fails to maintain a sufficient sales volume to justify continuation as a lottery retailer; or

(8) has violated section [340A.503](#), subdivision 2, clause (1), two or more times within a two-year period.

(c) The director may also cancel, suspend, or refuse to renew a lottery retailer's contract or prohibit a lottery retailer from selling lottery tickets at a business location if there is a material change in any of the factors considered by the director under subdivision 2.

(d) A contract cancellation, suspension, refusal to renew, or prohibiting a lottery retailer from selling lottery tickets at a business location under this subdivision is a contested case under sections [14.57](#) to [14.69](#) and is in addition to any criminal penalties provided for a violation of law or rule.

(e) The director may temporarily suspend a contract or temporarily prohibit a lottery retailer from selling lottery tickets at a business location without notice for any of the reasons specified in this subdivision provided that a hearing is conducted within seven days after a request for a hearing is made by a lottery retailer. Within 20 days after receiving the administrative law judge's report, the director shall issue an order vacating the temporary suspension or prohibition or making any other appropriate order. If no hearing is requested within 30 days of the temporary suspension or prohibition taking effect, the suspension or prohibition becomes permanent unless the director vacates or modifies the order.

Subd. 12. **Retailer bonus.** The director may adopt a plan whereby eligible lottery retailers will receive a bonus payment, in addition to commissions or incentives earned for the sale of lottery tickets, if total lottery sales for a fiscal year increase when compared to the total lottery sales for the previous fiscal year. The bonus payment shall be no more than ten percent of any increase in total lottery sale, which shall be paid to active lottery retailers at the end of a fiscal year on the basis of each lottery retailer's market share.

HIST: 1989 c 334 art 3 s 6; 1990 c 590 art 1 s 50,51; 1991 c 233 s 109; 1991 c 336 art 2 s 36-38; 1994 c 633 art 6 s 1; 1995 c 254 art 1 s 83; 1996 c 288 s 1-3; 1997 c 129 art 2 s 15; 1998 c 366 s 70; 1998 c 386 art 2 s 83

349A.07 Vendor contracts.

Subdivision 1. **Contracts authorized.** The director may enter into lottery procurement contracts for the purchase, lease, or lease-purchase of the goods or services. In entering into a lottery procurement contract, the director shall utilize an open bid process and shall take into account the particularly sensitive nature of the state lottery and shall consider the competence, quality of product, experience, and timely performance of each potential vendor in order to promote and ensure security, honesty, fairness, and integrity in the operation and administration of the lottery. The director shall also consider the extent to which a bidder for a contract for printing preprinted lottery tickets would utilize employees and facilities within Minnesota in fulfilling the contract.

Subd. 2. **Investigation of potential vendors.** The director shall request the director of the division of alcohol and gambling enforcement to investigate the background, financial responsibility, security, and integrity of any person who submits a bid, proposal, or offer as part of a lottery procurement contract issuance by the director. The director may require the person making the bid, proposal, or offer to pay for the cost of the investigation. Any fee collected under this subdivision must be deposited into the lottery fund. At the time of submitting any bid, proposal, or offer, the bidder shall disclose to the director the information the director considers necessary to carry out the purposes of this section. The director has access to all criminal history data compiled by the division of alcohol and gambling enforcement on all vendors and

potential vendors who have submitted a bid to the lottery.

Subd. 3. Persons ineligible for contract. (a) The director may not enter into a lottery procurement contract with an applicant that has been convicted of a felony within the last ten years, has been convicted of a gross misdemeanor or gambling-related misdemeanor within the last five years, or has been found guilty of any crime involving fraud or misrepresentation within the last five years.

(b) The director may not enter into a lottery procurement contract with an applicant that has (1) a person who owns more than five percent of the stock in the applicant that does not meet the requirements of this subdivision, or (2) a partner, officer, or director that does not meet the requirements of this subdivision.

(c) The restrictions under this subdivision do not apply to an applicant for a lottery procurement contract if the director determines that the applicant has terminated its relationship with the individuals whose actions directly contributed to the disqualification of the applicant under this subdivision.

Subd. 4. Conflict of interest. The director may not enter into a lottery procurement contract with a person to supply goods or services if that person has an ownership interest in an entity that had supplied consultation services under a contract to the lottery regarding the request for proposal pertaining to those particular goods or services.

Subd. 5. Bond. (a) The director shall require securities to be deposited, or a performance bond or a letter of credit to be executed by the person or corporation that is awarded a lottery procurement contract in an amount as determined by the director.

(b) Any securities deposited with the director under this subdivision must be interest-bearing and limited to:

(1) certificates of deposit issued by a solvent bank or savings association organized and existing under the laws of this state or under the laws of the United States and having its principal place of business in this state;

(2) United States bonds, notes, and bills, for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest; and

(3) general obligation bonds of any political subdivision of this state, or corporate bonds of a corporation that is not an affiliate or subsidiary of the vendor, if the general obligation bonds or corporate bonds are rated in one of the four highest classifications by an established nationally recognized investment rating service.

(c) Any letter of credit executed under this subdivision must provide that:

(1) nothing more than a demand for payment is necessary for payment and is not conditional on the delivery of any other documents or materials;

(2) the letter of credit is irrevocable and cannot be modified or revoked without the consent of the director;

(3) the letter of credit cannot expire without notice from the issuer and the notice must occur at least 60 days before the expiration date of the letter of credit;

(4) the letter of credit is issued by a bank which is a member of the federal reserve system which has a long-term debt rating by a recognized national rating agency of investment grade or better, if no long-term debt rating is available, the financial institution must have investment grade financial characteristics;

(5) the letter of credit is unconditional, is not conditional upon reimbursement to the bank or the bank's ability to perfect any lien or security interest, and does not contain references to any other agreement, document, or entity; and

(6) the letter of credit designates the director as beneficiary.

Subd. 6. **Exemptions.** Lottery procurement contracts entered into by the director are not subject to the provisions of section [16C.03](#), [16C.05](#), [16C.06](#), [16C.08](#), [16C.09](#), or [16C.10](#), provided that the director must utilize an open and competitive bid process, and as nearly as practicable follow the procedures of chapters 16B and 16C governing contracts, consistent with the provisions of this section.

Subd. 7. **Assignment.** A lottery procurement contract entered into under this section may not be assigned without the

specific written approval of the director.

HIST: 1989 c 334 art 3 s 7; 1991 c 233 s 109; 1997 c 129 art 2 s 15; 1998 c 386 art 2 s 84

349A.08 Lottery prizes.

Subdivision 1. **Agreement by players.** A person who buys a lottery ticket agrees to be bound by the rules applicable to the particular lottery game for which the ticket is purchased. The player acknowledges that the determination of whether a ticket is a valid winning ticket is subject to the rules of the director, claims procedures established by the director for that game, and any confidential or public validation tests established by the director for that game.

Subd. 2. **Prizes not assignable.** A prize in the state lottery is not assignable except as provided in subdivision 3 and except that:

(1) if a prize winner dies before the prize is paid, the director shall pay the prize to the prize winner's estate; and

(2) the director may pay a prize to a person other than the winner of that prize under an appropriate court order.

Subd. 3. **Prizes won by persons under age 18.** The following provisions govern the payment of a lottery prize to a person under age 18:

(1) if the prize is less than \$5,000, the director may give a draft, payable to the order of the person under age 18, to the person's parents, custodial parent if one parent has custody, guardian, or other adult member of the person's family; and

(2) if the prize is \$5,000 or more, the director shall deposit the prize with the district court and section [540.08](#) applies to the investment and distribution of the money.

Subd. 4. **Discharge of liability.** The payment of a prize by the director discharges the director and the state of all liability for the prize.

Subd. 5. **Payment; unclaimed prizes.** A prize in the state lottery must be claimed by the winner within one year of the date of the drawing at which the prize was awarded or the last day sales were authorized for a game where a prize was determined in a manner other than by means of a drawing. If a valid claim is not made for a prize payable directly by the lottery by the end of this period, the prize money is considered unclaimed and the winner of the prize shall have no further claim to the prize. A prize won by a person who purchased the winning ticket in violation of section [349A.12](#), subdivision 1, or won by a person ineligible to be awarded a prize under subdivision 7 must be treated as an unclaimed prize under this section. The director shall transfer 70 percent of all unclaimed prize money at the end of each fiscal year from the lottery cash flow account as follows: of the 70 percent, 40 percent must be transferred to the Minnesota environment and natural resources trust fund and 60 percent must be transferred to the general fund. The remaining 30 percent of the unclaimed prize money must be added by the director to prize pools of subsequent lottery games.

Subd. 6. **Installment payments.** If the director decides to pay all or part of a prize in the form of installments over a period of years, the director shall provide for the payment of all installments by:

(1) entering into a contract with a financially responsible person or firm or by purchasing an annuity to provide for the payment of the installments; or

(2) establishing and maintaining as a separate and independent fund outside the state treasury a reserve account with sufficient funds for the payment of the installments as they become due.

Subd. 7. **Payments prohibited.** (a) No prize may be paid to the director or an employee of the lottery, or a member of their families residing in the same household of the member, director, or employee. No prize may be paid to an officer or employee of a vendor which at the time the game or drawing was being conducted was involved with providing goods or services to the lottery under a lottery procurement contract.

(b) No prize may be paid for a stolen, altered, or fraudulent ticket.

Subd. 8. **Withholding of delinquent state taxes or other debts.** The director shall report the name, address, and social security number of each winner of a lottery prize of \$600 or more to the department of revenue to determine whether the person who has won the prize is delinquent in payment of state taxes or owes a debt as defined in section [270A.03](#), subdivision 5. If the person is delinquent in payment of state taxes or owes a debt as defined in section [270A.03](#), subdivision 5, the director shall withhold the delinquent amount from the person's prize for remittance to the department of revenue for payment of the delinquent taxes or distribution to a claimant agency in accordance with chapter 270A. Section [270A.10](#) applies to the priority of claims.

Subd. 9. **Privacy.** The phone number and street address of a winner of a lottery prize is private data on individuals under chapter 13.

HIST: 1989 c 334 art 3 s 8; 1991 c 233 s 109; 1991 c 336 art 2 s 39; 1993 c 340 s 17; 1995 c 254 art 1 s 84,85

349A.09 Lottery advertising.

Subdivision 1. **Odds; required information.** The director shall include on each brochure, pamphlet, booklet, or other similar material the director publishes to promote or explain any lottery game, a prominent and clear statement of the approximate odds of winning each prize offered in that lottery game. Each lottery retailer must post prominently at or near the point of ticket sale a notice or notices printed and provided by the director of the approximate odds of winning each prize in each game for which the lottery retailer sells tickets.

Subd. 2. **Content of advertising.** (a) Advertising and promotional materials for the lottery adopted or published by the director must be consistent with the dignity of the state and may only:

(1) present information on how lottery games are played, prizes offered, where and how tickets may be purchased, when drawings are held, and odds on the games advertised;

(2) identify state programs supported by lottery net revenues;

(3) present the lottery as a form of entertainment; or

(4) state the winning numbers or identity of winners of lottery prizes.

(b) The director may not adopt or publish any advertising for the lottery which:

(1) presents directly or indirectly any lottery game as a potential means of relieving any person's financial difficulties;

(2) is specifically targeted with the intent to exploit a person, a specific group or economic class of people, or a religious holiday by use of a religious theme or symbol;

(3) presents the purchase of a lottery ticket as a financial investment or a way to achieve financial security;

(4) uses the name or picture of a current elected state official to promote a lottery game;

(5) exhorts the public to bet by directly or indirectly misrepresenting a person's chance of winning a prize; or

(6) denigrates a person who does not buy a lottery ticket or unduly praises a person who does buy a ticket.

Subd. 3. **Prizes; required information.** The director must include, in any publication or print advertising which refers to a prize which is or may be paid in installments, a statement to the effect that the prize will be or may be paid in installments.

HIST: 1989 c 334 art 3 s 9; 1991 c 336 art 2 s 40

349A.10 Lottery funds.

Subdivision 1. **State lottery fund.** The director shall establish a lottery fund outside the state treasury, consisting of the gross revenues of the lottery and all other money credited or transferred to it by law, except for money set aside and deposited in the lottery prize fund under subdivision 2.

Subd. 2. **Deposit in prize fund.** (a) The director shall establish a lottery prize fund outside the state treasury. The fund consists of all money deposited in it under this subdivision and all interest earned thereon.

(b) The director shall deposit in the lottery prize fund, from gross receipts from the sale of lottery tickets, an amount sufficient to pay lottery prizes from the lottery prize fund according to the following provisions:

(1) for games which require on-line terminal connections, the prizes paid in any fiscal year must be at least 45 percent of gross receipts from those games in that fiscal year;

(2) for games which do not require on-line terminal connections, the prizes paid in any fiscal year must be at least the following percentages of gross receipts from those games:

(i) 50 percent through fiscal year 1991;

(ii) 55 percent from July 1, 1991, to June 30, 1992; and

(iii) 60 percent thereafter.

Subd. 3. Lottery operations. (a) The director shall establish a lottery operations account in the lottery fund. The director shall pay all costs of operating the lottery, including payroll costs or amounts transferred to the state treasury for payroll costs, but not including lottery prizes, from the lottery operating account. The director shall credit to the lottery operations account amounts sufficient to pay the operating costs of the lottery.

(b) Except as provided in paragraph (e), the director may not credit in any fiscal year thereafter amounts to the lottery operations account which when totaled exceed 15 percent of gross revenue to the lottery fund in that fiscal year. In computing total amounts credited to the lottery operations account under this paragraph the director shall disregard amounts transferred to or retained by lottery retailers as sales commissions or other compensation.

(c) The director of the lottery may not expend after July 1, 1991, more than 2-3/4 percent of gross revenues in a fiscal year for contracts for the preparation, publication, and placement of advertising.

(d) Except as the director determines, the lottery is not subject to chapter 16A relating to budgeting, payroll, and the purchase of goods and services.

(e) In addition to the amounts credited to the lottery operations account under paragraph (b), the director is authorized, if necessary, to meet the current obligations of the lottery and to credit up to 25 percent of an amount equal to the average annual amount which was authorized to be credited to the lottery operations account for the previous three fiscal years but was not needed to meet the obligations of the lottery.

Subd. 4. Deposit of receipts. (a) The director may require lottery retailers to:

(1) deposit in a separate account to the credit of the lottery fund, in banks designated by the director, all money received by the lottery retailer from the sale of lottery tickets, less money retained as the lottery retailer's commission and for payment of prizes;

(2) file with the director reports of the lottery retailer's receipts and transactions in ticket sales in a form that the director prescribes; and

(3) allow money deposited by the lottery retailer from the sale of lottery tickets to be transferred to the lottery through electronic fund transfer.

(b) The director may make arrangements for any person, including a financial institution, to perform functions, activities, or services in connection with the receipt and distribution of lottery revenues.

(c) A lottery retailer who fails to pay any money due to the director within the time prescribed by the director shall pay interest on the amount owed at the rate determined by rule.

Subd. 5. Deposit of net proceeds. Within 30 days after the end of each month, the director shall deposit in the state treasury the net proceeds of the lottery, which is the balance in the lottery fund after transfers to the lottery prize fund and credits to the lottery operations account. Of the net proceeds, 40 percent must be credited to the Minnesota environment and natural resources trust fund, and the remainder must be credited to the special revenue fund created in section [16A.67](#), subdivision 3. Money credited to the special revenue fund must be transferred to the debt service fund established in section [16A.67](#), subdivision 4, at the times and in the amounts determined by the commissioner of finance to be necessary to provide for the payment and security of bonds issued pursuant to section [16A.67](#). On or before the tenth day of each month, any money in the special revenue fund not required to be transferred to the debt service fund must be transferred to the general fund.

Subd. 6. Budget appearance. The director shall appear at least once each fiscal year before the senate and house of representatives committees having jurisdiction over gambling policy to present and explain the lottery's budget and spending plans for the next fiscal year.

Subd. 7. Transfer of cash balances. (a) A lottery cash flow account is created in the special revenue fund in the state treasury. At the end of each week the director shall deposit in the lottery cash flow account from the lottery fund and the lottery prize fund all amounts that the director determines are not required for immediate use in the lottery fund or the lottery prize fund. The commissioner of finance shall credit to the lottery cash flow account interest on all money deposited in the lottery cash flow account under this subdivision.

(b) The director shall notify the commissioner of finance whenever the director determines that money transferred under paragraph (a) is required for the immediate use of the lottery fund or the lottery prize fund. Upon receiving the notification the commissioner shall transfer the amount identified in the notification. Amounts necessary to make immediate payment for expenses or prizes from the lottery fund or the prize fund are appropriated from the lottery cash flow account to the director.

(c) The director shall notify the commissioner of finance 30 days after each month as to the amount of the net proceeds that must be transferred under subdivision 5, and the director shall notify the commissioner of finance 20 days after each month as to the amount that must be transferred under section [297A.259](#), and as necessary the director shall notify the commissioner of other amounts required by law to be transferred.

HIST: 1989 c 334 art 3 s 10; 1990 c 610 art 1 s 52; 1991 c 233 s 106,109; 1991 c 336 art 2 s 41; 1992 c 513 art 3 s 70; 1993 c 369 s 126; 1994 c 633 art 6 s 2; 1995 c 254 art 1 s 86; 1995 c 264 art 6 s 6; 1998 c 366 s 71

Retirement, CHAPTER 352B STATE TROOPERS, RETIREMENT

352B.01 Definitions.

Subdivision 1. **Scope.** In this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Member.** "Member" means:

(a) persons referred to and employed after June 30, 1943, under Laws 1929, chapter 355, as amended or supplemented, currently employed by the state, whose salaries or compensation is paid out of state funds;

(b) a conservation officer employed under section [97A.201](#), currently employed by the state, whose salary or compensation is paid out of state funds;

(c) a crime bureau officer who was employed by the crime bureau and was a member of the highway patrolmen's retirement fund on July 1, 1978, whether or not that person has the power of arrest by warrant after that date, or who is employed as police personnel, with powers of arrest by warrant under section [299C.04](#), and who is currently employed by the state, and whose salary or compensation is paid out of state funds;

(d) a person who is employed by the state in the department of public safety in a data processing management position with salary or compensation paid from state funds, who was a crime bureau officer covered by the state patrol retirement plan on August 15, 1987, and who was initially hired in the data processing management position within the department during

September 1987, or January 1988, with membership continuing for the duration of the person's employment in that position, whether or not the person has the power of arrest by warrant after August 15, 1987; and

(e) public safety employees defined as peace officers in section [626.84](#), subdivision 1, paragraph (c), and employed with the division of alcohol and gambling enforcement under section [299L.01](#).

Subd. 2a. Repealed, 1993 c 307 art 7 s 1

Subd. 3. **Allowable services.** "Allowable service" means:

(a) for members defined in subdivision 2, clause (a), service for which payments have been made to the state patrol retirement fund, and

(b) for members defined in subdivision 2, clauses (b) and (c), service for which payments have been made to the state patrol retirement fund, service for which payments were made to the state police officers retirement fund after June 30, 1961, and all prior service which was credited to a member for service on or before June 30, 1961.

Allowable service also includes any period of absence from duty by a member who, by reason of injury incurred in the performance of duty, is temporarily disabled and for which disability the state is liable under the workers' compensation law, until the date authorized by the executive director for commencement of payment of a disability benefit or return to employment.

Subd. 4. **Department head.** "Department head" means the head of any department, institution, or branch of the state service that directly pays salaries from state funds to a member who prepares, approves, and submits salary abstracts of employees to the commissioner of finance and state treasurer.

Subd. 5. Repealed, 1975 c 368 s 51

Subd. 6. **Accumulated deductions.** "Accumulated deductions" means the total sums deducted from the salary of a member and the total amount of assessments paid by a member in place of deductions, and credited to the member's individual account, without interest.

Subd. 7. **Fund.** "Fund" means the state patrol retirement fund.

Subd. 8. Repealed, 1983 c 128 s 36

Subd. 9. **Surviving spouse.** "Surviving spouse" means a member's or former member's legally married spouse who resided with the member or former member at the time of death and was married to the member or former member, for a period of at least one year, during or before the time of membership.

Subd. 10. **Dependent child.** "Dependent child" means a natural or adopted unmarried child of a deceased member under the age of 18 years, including any child of the member conceived during the lifetime of the member and born after the death of the member.

Subd. 11. **Average monthly salary.** "Average monthly salary" means the average of the highest monthly salaries for five years of service as a member. Average monthly salary must be based upon all allowable service if this service is less than five years. It does not include any amounts of severance pay or any reduced salary paid during the period the person is entitled to workers' compensation benefit payments for temporary disability. A member on leave of absence receiving temporary workers' compensation payments and a reduced salary or no salary from the employer who is entitled to allowable service credit for the period of absence may make payment to the fund for the difference between salary received, if any, and the salary the member would normally receive if not on leave of absence during the period. The member shall pay an amount equal to the member and employer contribution rate under section [352B.02](#), subdivisions 1b and 1c, on the differential salary amount for the period of the leave of absence. The employing department, at its option, may pay the employer amount on behalf of the member. Payment made under this subdivision must include interest at the rate of 8.5 percent per year, and must be completed within one year of the return from the leave of absence.

HIST: 1943 c 637 s 12; 1973 c 178 s 1; 1973 c 492 s 14; 1977 c 429 s 14; 1978 c 720 s 4; 1979 c 262 s 1; 1981 c 37 s 2; 1981 c 224 s 274; 1983 c 128 s 17-19; 1986 c 386 art 4 s 26; 1986 c 444; 1987 c 229 art 7 s 1; 1987 c 259 s 21; 1989 c 319 art 13 s 24; 1990 c 570 art 1 s 3; 1993 c 307 art 2 s 11; art 3 s 5; 1997 c 129 art 2 s 15

Subdivision 1. **Due dates.** (a) Proposed administrative legislation recommended by or on behalf of the Minnesota state retirement system, the public employees retirement association, the teachers retirement association, the Minneapolis employees retirement fund, or a first class city teachers retirement fund association must be presented to the legislative commission on pensions and retirement, the governmental operations and reform committee of the senate, and the governmental operations and gaming committee of the house of representatives on or before October 1 of each year in order for the proposed administrative legislation to be acted upon during the upcoming legislative session. The executive director or the deputy executive director of the legislative commission on pensions and retirement shall provide written comments on the proposed provisions to the public pension plans by November 15 of each year.

(b) Proposed administrative legislation recommended by or on behalf of a public employee pension plan or system under paragraph (a) must address provisions:

- (1) authorizing allowable service credit for leaves of absence and related circumstances;
- (2) governing offsets or deductions from the amount of disability benefits;
- (3) authorizing the purchase of allowable service credit for prior uncredited periods;
- (4) governing subsequent employment earnings by reemployed annuitants; and
- (5) authorizing retroactive effect for retirement annuity or benefit applications.

(c) Where possible and desirable, taking into account the differences among the public pension plans in existing law and the unique characteristics of the individual public pension fund memberships, uniform provisions relating to paragraph (b) for all applicable public pension plans must be presented for consideration during the legislative session. Supporting documentation setting forth the policy rationale for each set of uniform provisions must accompany the proposed administrative legislation.

Subd. 2. Repealed, 1997 c 233 art 1 s 78

HIST: 1994 c 528 art 1 s 13

Towns, CHAPTER 368 TOWNS; SPECIAL PROVISIONS

368.01 Powers of certain metropolitan area towns.

Subdivision 1. **Towns described.** A town that has platted portions where 1,200 or more people reside or a town that has a platted area within 20 miles of the city hall of a city of the first class having over 200,000 population shall have the powers enumerated in this section. Its town board may adopt, amend, or repeal ordinances and rules for the purposes enumerated.

Subd. 1a. **Certain other towns.** A town with a population of 1,000 or more that does not qualify under subdivision 1, shall have the enumerated powers upon an affirmative vote of its electors at the annual town meeting. The population must be established by the most recent federal decennial census, special census as provided in section [368.015](#), or population estimate by the state demographer made according to section [4A.02](#), whichever has the latest stated date of count or estimate.

Subd. 2. **Buildings.** The town board may construct or acquire structures needed for town purposes, and control, protect, and insure public buildings, property, and records.

Subd. 3. **Streets; sewers; sidewalks; public grounds.**
The town board may:

(1) lay out, open, change, widen or extend streets, alleys, parks, squares, and other public ways and grounds and grade, pave, repair, control, and maintain them;

(2) establish and maintain drains, canals, and sewers;

(3) alter, widen or straighten water courses; and

(4) lay, repair, or otherwise improve or discontinue sidewalks, paths and crosswalks.

It may by ordinance regulate the use of streets and other public grounds to prevent encumbrances or obstructions, and require the owners or occupants of buildings and the owners of vacant lots to remove snow, ice, dirt, or rubbish from the adjacent sidewalks. In default of compliance it may remove the encumbrances, obstructions, or substances and assess the cost against the property as a special assessment.

Subd. 4. **Parks; trees.** The town board may provide for, and by ordinance regulate, the setting out and protection of trees, shrubs, and flowers in the town or upon its property.

Subd. 5. **Cemeteries.** The town board may acquire by purchase, gift, devise, condemnation or otherwise, hold and manage cemetery grounds, enclose, lay out and ornament them and sell and convey lots in them. It may by ordinance regulate cemeteries and the disposal of dead bodies.

Subd. 6. **Waterworks.** The town board may provide and by ordinance regulate the use of wells, cisterns, reservoirs, waterworks and other means of water supply.

Subd. 7. **Tourist camps; parking facilities.** The town board may acquire, improve and operate, and by ordinance regulate tourist camps and automobile parking facilities.

Subd. 8. **Hospitals.** The town board may provide hospitals. The town board of a town operating a municipal hospital may by ordinance establish a hospital board with powers and duties to manage and operate the hospital that the town board confers on it. The town board may, by vote of all its

members, abolish the hospital board. The hospital board shall consist of five members, each appointed by the town board for a term of five years. Terms of the first members shall be arranged so that the term of one member expires each year. A vacancy shall be filled for the unexpired term. A member may be removed by the town board for cause after a hearing.

Subd. 9. **Fire prevention.** The town board may establish a fire department, appoint its officers and members and prescribe their duties, and provide fire apparatus. It may adopt ordinances to prevent, control or extinguish fires.

Subd. 10. **Naming and numbering streets.** The town board may by ordinance name or rename town streets and public places and number or renumber its lots and blocks, or part of them. It may make and record a consolidated plat of the town.

Subd. 11. **Transient commerce.** The town board may by ordinance restrain or license and regulate auctioneers, transient merchants and dealers, hawkers, peddlers, solicitors, and canvassers.

Subd. 12. **Taxis, haulers, car renters.** The town board may by ordinance license and regulate baggage wagons, dray drivers, taxicabs, and automobile rental agencies and liverys.

Subd. 13. **Animals.** The town board may by ordinance regulate the keeping of animals, restrain their running at large, authorize their impounding and sale or summary destruction, establish pounds, and license and regulate riding academies.

Subd. 14. **Health.** (a) The town board may by ordinance:

(1) prohibit or regulate slaughterhouses;

(2) prevent the bringing, depositing, or leaving within the town of any unwholesome substance or deposit of solid waste within the town not otherwise authorized by law;

(3) require the owners or occupants of lands to remove unwholesome substances or the unauthorized deposit of solid waste and, if not removed, provide for their removal at the expense of the owner or occupant, which expense shall be a lien upon the property and may be collected as a special assessment;

(4) provide for or regulate the disposal of sewage, garbage, and other refuse; and

(5) provide for the cleaning of, and removal of obstructions from waters in the town and prevent their obstruction or pollution.

(b) The town board may establish a board of health under section [145A.07](#), subdivision 2, with all the powers of a board of health under the general laws.

Subd. 15. **Nuisances.** The town board may by ordinance define nuisances and provide for their prevention or abatement.

Subd. 16. **Amusements.** The town board may by ordinance:

(1) prevent or license and regulate the exhibition of circuses, theatrical performances, amusements, or shows of any kind, and the keeping of billiard tables and bowling alleys;

(2) prohibit gambling and gambling devices; and

(3) license, regulate or prohibit devices commonly used for gambling purposes.

Subd. 17. Repealed, 1984 c 562 s 48

Subd. 18. **Regulation of buildings.** The town board may by ordinance regulate the construction of buildings.

Subd. 19. **General welfare.** The town board may provide for the government and good order of the town, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of residence, trade, and commerce, and the promotion of health, safety, order, convenience, and the general welfare by ordinances consistent with the constitution and laws of the United States and this state as it deems expedient.

Subd. 20. **Departments; boards.** The town board may create departments and advisory boards and appoint town officers, employees, and agents as deemed necessary for the proper management and operation of town affairs. It may

prescribe the duties and compensation of all officers, appointive and elective, employees, and agents, if not otherwise prescribed by law. It may require any officer or employee to furnish a bond conditioned for the faithful exercise of duties and the proper application of, and payment upon demand of, all money officially received by the officer or employee. Unless otherwise prescribed by law, it shall fix the amount of the bonds. The bonds furnished by the clerk and treasurer shall be corporate surety bonds. It may provide for the payment from town funds of the premium on the official bond of any town officer or employee. It may, except as otherwise provided, remove any appointive officer or employee when in its judgment the public welfare will be promoted by the removal. This provision does not modify the laws relating to veterans preference or to members of a town police or fire civil service commission or public utilities commission.

Subd. 21. **Enactment of ordinances.** Every ordinance shall be enacted by a majority vote of all the members of the town board unless a larger number is required by law. It shall be signed by the chair of the town board, attested by the clerk and published once in a qualified newspaper having general circulation within the town. If the town board determines that publication of the title and a summary of an ordinance would clearly inform the public of the intent and effect of the ordinance, the town board may by a two-thirds vote of its members, or a four-fifths vote in a town having a five-member board, direct that only the title of the ordinance and a summary be published with notice that a printed copy of the ordinance is available for inspection by any person during regular office hours of the town clerk and at any other location which the town board designates. A copy of the entire text of the ordinance shall be posted in the community library, if there is one, or if not, in any other public location which the town board designates. Before the publication of the title and summary the town board shall approve the text of the summary and determine that it clearly informs the public of the intent and effect of the ordinance. Publishing the title and summary shall fulfill all legal publication requirements as completely as if the entire ordinance is published. The text of the summary shall be published in a body type no smaller than eight-point type. Proof of the publication shall be attached to and filed with the ordinance. Every ordinance shall be recorded in the ordinance book within 20 days after publication of the ordinance or its title and summary. All ordinances shall be suitably entitled and shall be substantially in the style: "The Town Board of Supervisors of ordains:".

Subd. 22. **Penalties.** The town board may declare that the violation of any ordinance is a penal offense and prescribe penalties for it. No penalty shall exceed that provided by law for a misdemeanor, but the costs of prosecution may be added.

Subd. 23. Financing purchase of certain equipment.

The town board may issue certificates of indebtedness within debt limits to purchase fire or police equipment or ambulance equipment or street construction or maintenance equipment. The certificates shall be payable in not more than five years and be issued on terms and in the manner as the board may determine. If the amount of the certificates to be issued to finance a purchase exceeds 0.24177 percent of the market value of the town, excluding money and credits, they shall not be issued for at least ten days after publication in the official newspaper of a town board resolution determining to issue them. If before the end of that time, a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular town election is filed with the clerk, the certificates shall not be issued until the proposition of their issuance has been approved by a majority of the votes cast on the question at a regular or special election. A tax levy shall be made for the payment of the principal and interest on the certificates as in the case of bonds.

Subd. 24. Parks; parkways; recreational facilities.

A town may establish, improve, ornament, maintain and manage parks, parkways, and recreational facilities and by ordinance protect and regulate their use.

Subd. 25. Vacation of streets. The town board may by resolution vacate all or part of any street, alley, public grounds or public way on its own motion or on petition of a majority of the owners of land abutting the street, alley, public grounds, public way, or part to be vacated. When there has been no petition, the resolution may be adopted only by a vote of four-fifths of all members of the board of supervisors. No such vacation shall be made unless it appears in the interest of the public to do so after a hearing preceded by two weeks' published and posted notice. The board shall cause written notice of the hearing to be mailed to each property owner affected by the proposed vacation at least ten days before the hearing. The notice must contain, at minimum, a copy of the petition or proposed resolution as well as the time, place, and date of the hearing. In addition, if the street, alley, public grounds, public way, or any part of it, terminates at or abuts upon any public water, no vacation shall be made unless written notice of the petition or proposed resolution is served by certified mail upon the commissioner of natural resources at least 30 days before the hearing on the matter. The notice to the commissioner of natural resources is for notification purposes only and does not create a right of intervention by the commissioner. After a resolution of vacation is adopted, the clerk shall prepare a notice of completion of the proceedings which shall contain the name of the town, an identification of the vacation, a statement of the time of completion thereof and a description of the real estate and lands affected. The notice shall be presented to the county auditor who shall enter it in

the transfer records and note upon the instrument, over the auditor's official signature, the words "entered in the transfer record." The notice shall then be filed with the county recorder. Failure to file the notice shall not invalidate the vacation proceedings.

Subd. 26. **Fines and penalties.** All fines, forfeitures, and penalties recovered for violation of a statute or ordinance to which the town is entitled by law shall be paid into the town treasury. Every court or officer receiving money for a violation, shall return it under oath in accordance with law, and be entitled to duplicate receipts for the amounts paid. One of the receipts shall be filed with the town clerk.

Subd. 27. **Right of eminent domain.** A town that has special powers under this section may acquire private property within or without its limits by eminent domain for any purpose for which it is authorized by law to take or hold property by purchase or gift. It may also acquire by eminent domain a right-of-way for sewerage or drainage purposes and an outlet for sewerage or drainage within or without its limits. The procedure shall be that prescribed by chapter 117.

Subd. 28. Repealed, 1984 c 562 s 48

Subd. 29. **Savings clause.** This section shall not be construed to repeal or rescind the powers of any town provided by other law.

Subd. 30. **Notice to auditor, secretary of state; filing.** The town clerk of each town exercising special powers under this section shall so notify in writing the county auditor of the county in which the town is located and the secretary of state. The written notice shall be filed by the county auditor and the secretary of state as a public record.

Subd. 31. **Continuing authority to exercise powers.** If a town exercises a power under this section it may continue to exercise the power notwithstanding any later change in population.

HIST: (1003, 1004) 1907 c 193 s 1; 1907 c 397 s 1; 1949 c 722 s 1; 1953 c 462 s 1; 1959 c 686 s 14; Ex1959 c 75 s 1,2; 1961 c 46 s 1; 1963 c 257 s 1; 1965 c 574 s 1; 1971 c 24 s 46; 1973 c 48 s 1; 1973 c 123 art 5 s 7; 1976 c 181 s 2; 1976 c 239 s 112; 1981 c 219 s 2; 1982 c 507 s 3-6; 1983 c 359 s 53; 1984 c 562 s 39-43; 1985 c 65 s 2; 1986 c 444; 1987 c 309 s 24; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 20 s 23; 1990 c 401 art 2 s 1; 1990 c 433 s 1; 1990 c 480 art 9 s 9; 1991

Cities, Organization, CHAPTER 412 STATUTORY CITIES, COUNCIL

412.221 Specific powers of the council.

Subdivision 1. **Books; stationery; printing.** The council shall have power to procure the books to be kept by the officers, and such furniture, property, stationery, printing and office supplies as are necessary for city purposes.

Subd. 2. **Contracts.** The council shall have power to make such contracts as may be deemed necessary or desirable to make effective any power possessed by the council. The city may purchase personal property through a conditional sales contract and real property through a contract for deed under which contracts the seller is confined to the remedy of recovery of the property in case of nonpayment of all or part of the purchase price, which shall be payable over a period of not to exceed five years. When the contract price of property to be purchased by contract for deed or conditional sales contract exceeds 0.24177 percent of the market value of the city, the city may not enter into such a contract for at least ten days after publication in the official newspaper of a council resolution determining to purchase property by such a contract; and, if before the end of that time a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular city election is filed with the clerk, the city may not enter into such a contract until the proposition has been approved by a majority of the votes cast on the question at a regular or special election.

Subd. 3. **Buildings.** The council shall have power to construct or acquire structures needed for city purposes, to control, protect, and insure the public buildings, property, and records.

Subd. 4. Repealed, 1963 c 798 s 16

Subd. 5. **Actions at law.** The council shall have power to provide for the prosecution or defense of actions or proceedings at law in which the city may be interested and it may employ counsel for the purpose.

Subd. 6. **Streets; sewers; sidewalks; public grounds.** The council shall have power to lay out, open, change, widen or extend streets, alleys, parks, squares, and other public ways and grounds and to grade, pave, repair, control, and maintain the same; to establish and maintain drains, canals, and sewers; to alter, widen or straighten water courses; to lay, repair, or otherwise improve or discontinue sidewalks, paths and crosswalks. It shall have power by ordinance to regulate the use of streets and other public grounds, to prevent encumbrances or obstructions, and to require the owners or occupants of buildings and the owners of vacant lots to remove any snow, ice, dirt, or rubbish from the sidewalks adjacent thereto and in default thereof to cause such encumbrances, obstructions, or substances to be removed and the cost to be assessed against the property as a special assessment.

Subd. 7. **Lighting streets.** The council shall have power to provide for lighting the streets, buildings, or grounds by gas, electricity or other means, and to contract with anyone engaged in the business of furnishing gas or electric service for the supply of such service to the city and its inhabitants.

Subd. 8. **Parks, trees.** The council shall have power to provide for, and by ordinance regulate, the setting out and protection of trees, shrubs, and flowers in the city or upon its property.

Subd. 9. **Cemeteries.** The council shall have power to acquire by purchase, gift, devise, condemnation or otherwise, hold and manage cemetery grounds, to enclose, lay out and ornament such grounds and sell and convey lots therein. It may by ordinance regulate cemeteries and the disposal of dead bodies.

Subd. 10. **Markets.** The council shall have power to establish markets, provide public scales, and appoint a weighmaster. It may by ordinance regulate markets and the use of scales and restrain sales in streets.

Subd. 11. **Waterworks.** The council shall have power to provide and by ordinance regulate the use of wells, cisterns, reservoirs, waterworks and other means of water supply.

Subd. 12. **Harbors, docks.** The council shall have power to establish harbor and dock limits and by ordinance regulate the location, construction and use of piers, docks, wharves, and boat houses on navigable waters and fix rates of wharfage. The council may construct and maintain public docks and warehouses and by ordinance regulate their use.

Subd. 13. **Ferries.** The council shall have power to acquire and operate ferries across any river flowing through or by the city.

Subd. 14. **Tourist camps; parking facilities.** The council shall have power to acquire, improve and operate, and by ordinance regulate tourist camps and automobile parking facilities.

Subd. 15. **Music.** The council shall have power to provide free musical entertainment.

Subd. 16. **Hospitals.** The council shall have power to provide hospitals. The council of any city operating a municipal hospital may by ordinance establish a hospital board with such powers and duties of hospital management and operation as the council confers upon it; and the council may, by vote of all five members, abolish any board so established. The board shall consist of five members, each appointed by the mayor with the consent of the council for a term of five years. Terms of the first members shall be so arranged that the term of one member expires each year. Any vacancy shall be filled for the unexpired portion of the term in which it occurs. Any member may be removed by the mayor with the consent of the council for cause after a hearing.

The council may by ordinance authorize the hospital board to establish a separate fund in the city treasury into which all of its revenues shall be deposited. The hospital board shall, in the same manner as the council under section [412.271](#), subdivision 1, and to the same extent, audit claims to be paid from the fund. The secretary of the board shall draw an order upon the treasurer for the proper amount allowed by the board. Upon counter signature by the president of the board and presentation, orders shall be paid by the treasurer.

Subd. 17. **Fire prevention.** The council shall have power to establish a fire department, appoint its officers and members and prescribe their duties, and provide fire apparatus. It shall have power to adopt such ordinances as are reasonable and expedient to prevent, control or extinguish fires.

Subd. 18. **Street names, numbers.** The council shall have power by ordinance to name or rename the streets and public places of the city and to number or renumber the lots and blocks of the city, or any part thereof. It may make and record a consolidated plat of the city.

Subd. 19. **Transient commerce.** The council shall have power by ordinance to restrain or license and regulate auctioneers, transient merchants and dealers, hawkers, peddlers, solicitors, and canvassers.

Subd. 20. **Taxis, haulers, car renters.** The council shall have power by ordinance to license and regulate baggage wagons, dray drivers, taxicabs, and automobile rental agencies and liveries.

Subd. 21. **Animals.** The council shall have power by ordinance to regulate the keeping of animals, to restrain their running at large, to authorize their impounding and sale or summary destruction, and to establish pounds, and to license and regulate riding academies.

Subd. 22. **Health.** (a) The council shall have power by ordinance:

(1) to prohibit or regulate slaughterhouses;

(2) to prevent the bringing, depositing, or leaving within the city of any unwholesome substance or deposit of solid waste within the city not otherwise authorized by law, to require the owners or occupants of lands to remove unwholesome substances or the unauthorized deposit of solid waste and if it is not removed to provide for its removal at the expense of the owner or occupant, which expense shall be a lien upon the property and may be collected as a special assessment;

(3) to provide for or regulate the disposal of sewage, garbage, and other refuse; and

(4) to provide for the cleaning of, and removal of obstructions from, any waters in the city and to prevent their obstruction or pollution.

(b) The council may also seek civil penalties and damages from persons responsible for unauthorized deposit of solid waste under section [115A.99](#), which, if unpaid, may be imposed as a lien on property owned by the responsible persons and collected as a special assessment.

(c) The council may establish a board of health as defined in section [145A.02](#), subdivision 2, with all the powers of such boards under the general laws.

Subd. 23. **Nuisances.** The council shall have power by ordinance to define nuisances and provide for their prevention or abatement.

Subd. 24. **Noise and disorder.** The council shall have power by ordinance to regulate and prevent noise or other disorder.

Subd. 25. **Amusements.** The council shall have power by ordinance to prevent or license and regulate the exhibition of circuses, theatrical performances, amusements, or shows of any kind, and the keeping of billiard tables and bowling alleys, to prohibit gambling and gambling devices, and to license, regulate or prohibit devices commonly used for gambling purposes.

Subd. 26. **Vice.** The council shall have power by ordinance to restrain and punish vagrants, prostitutes, and persons guilty of lewd conduct.

Subd. 27. **Dances.** The council shall have power by ordinance to license and regulate the operation of public dance halls and the conduct of public dances.

Subd. 28. **Regulation of buildings.** The council shall have power by ordinance to regulate the construction of buildings.

Subd. 29. Repealed, 1965 c 670 s 14

Subd. 30. **Restaurants.** The council shall have power by ordinance to license and regulate restaurants and public eating houses, except that a restaurant or delicatessen in a grocery store is subject only to regulation under chapter 28A.

Subd. 31. **Sewer and water connections.** The council shall have power by ordinance to require the owner of any property abutting on or adjacent to any street in which sewer and water mains have been laid to install a toilet in any dwelling or commercial establishment upon such property and connect it with the sewer and water mains and in default thereof to provide for the installation of such toilet and charging the cost against the property as a special assessment.

Subd. 32. **General welfare.** The council shall have power to provide for the government and good order of the city, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of residence, trade, and commerce, and the promotion of health, safety, order, convenience, and the general welfare by such ordinances not inconsistent with the constitution and laws of the United States or of this state as it shall deem expedient.

Subd. 33. **Advisory elections in certain cases.** When the council has sole authority to decide whether the city should join a special district or similar independent governmental body having taxing powers within the city, the council shall have authority to submit to the voters at a regular or special election the question of whether the municipality should join such a body. The results of the election on the question so submitted shall be advisory to the council only and shall have no binding effect upon its decision to join or withdraw from the special district or similar independent body.

Subd. 34. **Decorations.** The council shall have the power to provide decorations, signs, plaques and attached accessories for public streets, buildings and parks.

HIST: 1949 c 119 s 29; 1955 c 270 s 1; 1961 c 230 s 2, 3; 1967 c 289 s 7; 1973 c 35 s 69; 1973 c 123 art 2 s 1 subd 2; 1975 c 30 s 1; 1986 c 444; 1987 c 309 s 24; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 20 s 26; 1990 c 480 art 9 s 17; 1990 c 493 s 1; 1991 c 52 s 5; 1994 c 412 s 5

Local Economic Development, CHAPTER 469 ECONOMIC DEVELOPMENT, TARGETED NEIGHBORHOOD REVITALIZATION PROGRAMS

469.305 Enterprise zone credits.

Subdivision 1. **Incentive grants.** (a) An incentive grant is available to businesses located in an enterprise zone that meet the conditions of this section. Each city designated as an enterprise zone is allocated \$3,000,000 to be used to provide grants under this section for the duration of the program. Each city of the second class designated as an economically depressed area by the United States Department of Commerce is allocated \$300,000 to be used to provide grants under this section for the duration of the program. For fiscal year 1998 and subsequent years, the proration in section [469.31](#) shall continue to apply until the amount designated in this subdivision is expended. For the allocation in fiscal year 1998 and subsequent years, the commissioner may use up to 15 percent of the allocation to the city of Minneapolis for a grant to the city of Minneapolis and up to 15 percent of the allocation to the city of St. Paul for a grant to the city of St. Paul, for administration of the program or employment services provided to the employers and employees involved in the incentive grant

program under this section.

(b) The incentive grant is in an amount equal to 20 percent of the wages paid to an employee, not to exceed \$5,000 per employee per calendar year. The incentive grant is available to an employer for a zone resident employed in the zone at full-time wage levels of not less than 110 percent of the federal poverty level for a family of four, as determined by the United States Department of Agriculture. The incentive grant is not available to workers employed in construction or employees of financial institutions, gambling enterprises, public utilities, sports, fitness, and health facilities, or racetracks. The employee must be employed at that rate at the time the business applies for a grant, and must have been employed for at least one year at the business. A grant may be provided only for new jobs; for purposes of this section, a "new job" is a job that did not exist in Minnesota before May 6, 1994. The incentive grant authority is available for the five calendar years after the application has been approved to the extent the allocation to the city remains available to fund the grants, and if the city certifies to the commissioner on an annual basis that the business is in compliance with the plan to recruit, hire, train, and retain zone residents. The employer may designate an organization that provides employment services to receive all or a portion of the employer's incentive grant.

Subd. 2. Repealed, 1995 c 256 s 33

Subd. 3. **Review and analysis.** The city must submit the incentive grant proposal to the commissioner for approval. The proposal shall include a plan to recruit, hire, train, and retain zone residents. The proposal shall be approved unless the commissioner finds that the proposal is not in conformity with the provisions of sections [469.301](#) to [469.308](#).

If the city submits the incentive grant proposal to the commissioner before the expiration of the zone designation under section [469.302](#), subdivision 2, the authority of the commissioner to approve the proposal continues until the commissioner acts on the proposal.

HIST: 1994 c 587 art 12 s 16; 1995 c 256 s 10,11; 1997 c 200 art 1 s 73

469.309 Rural job creation grants.

Subdivision 1. **Job creation grants.** The commissioner of trade and economic development may approve an incentive grant for an eligible business beginning with calendar year 1995. The maximum grant is \$5,000 per eligible employee. The actual grant is based on the following schedule:

\$2,000 for each eligible employee with wages greater than or equal to 170 percent and less than 200 percent of the minimum wage;

\$3,000 for each eligible employee with wages greater than or equal to 200 percent and less than 250 percent of the minimum wage;

\$4,000 for each eligible employee with wages greater than or equal to 250 percent and less than 300 percent of the minimum wage; and

\$5,000 for each eligible employee with wages greater than or equal to 300 percent of the minimum wage.

The total grant for an employer is equal to the actual grant multiplied by the number of employees eligible for that grant. For purposes of this section "minimum wage" means the minimum wage that is required by federal law. An eligible business may apply for a rural job creation grant only once for each new job.

Subd. 2. **Eligible business.** An employer eligible for a job creation incentive grant under this section must (1) be located outside the metropolitan area as defined under section [473.121](#), (2) create at least ten qualifying new jobs in a two-year period, and (3) consist of a for-profit business. For the purposes of this section, a "qualifying new job" is a job that did not exist in Minnesota before May 6, 1994.

Subd. 3. **Eligible employee.** To be eligible for a grant, the employee must be employed full time by an eligible business at a wage level of not less than 170 percent of the minimum wage at the time the eligible business applies for the grant and must have been employed there at that wage level for a minimum of 12 months. The grant applies only to new jobs created at the eligible business after May 6, 1994.

Subd. 4. **Restrictions.** The incentive grants provided by this section do not apply to racetracks, financial institutions, gambling enterprises, public utilities, or sports, fitness, and health facilities. An employer is not eligible for an incentive grant if the commissioner determines that the position held by the employee for which the business is seeking a grant was transferred from an enterprise conducted by substantially the same business enterprise at another site in the state.

HIST: 1994 c 587 art 12 s 20; 1995 c 256 s 14

Municipalities, CHAPTER 471 MUNICIPAL RIGHTS, POWERS, DUTIES, ECONOMIC DEVELOPMENT LOAN REPAYMENT

471.6151 Contributions from lawful gambling organizations.

Contributions of receipts derived from lawful gambling to a statutory or home rule charter city, county, or town made by an organization licensed to conduct lawful gambling under chapter 349 may not be used for the benefit of a pension or retirement fund.

HIST: 1993 c 244 art 5 s 2

Judicial Procedure, Distric Court, CHAPTER 541 LIMITATION OF TIME, COMMENCING ACTIONS

541.20 Recovery of money lost.

Every person who, by playing at cards, dice, or other game, or by betting on the hands or sides of such as are gambling, shall lose to any person so playing or betting any sum of money or any goods, and pays or delivers the same, or any part thereof, to the winner, may sue for and recover such money by a civil action, before any court of competent jurisdiction. For purposes of this section, gambling shall not include pari-mutuel wagering conducted under a license issued pursuant to chapter 240, purchase or sale of tickets in the state lottery, or gambling authorized under chapters 349 and 349A.

HIST: (10217) RL s 4967; 1985 c 212 s 25; 1989 c 334 art 6 s 6

541.21 Commitments for gambling debt void.

Every note, bill, bond, mortgage, or other security or conveyance in which the whole or any part of the consideration shall be for any money or goods won by gambling or playing at cards, dice, or any other game whatever, or by betting on the sides or hands of any person gambling, or for reimbursing or repaying any money knowingly lent or advanced at the time and place of such gambling or betting, or lent and advanced for any gambling or betting to any persons so gambling or betting, shall be void and of no effect as between the parties to the same, and as to all persons except such as hold or claim under them in good faith, without notice of the illegality of the consideration of such contract or conveyance. The provisions of this section shall not apply to: (1) pari-mutuel wagering conducted under a license issued pursuant to chapter 240; (2) purchase of tickets in the state lottery under chapter 349A; (3) gaming activities conducted pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq.; or (4) lawful gambling activities permitted under chapter 349.

HIST: (10218) RL s 4968; 1985 c 212 s 26; 1989 c 334 art 6 s 7; 1992 c 565 art 3 s 71; 1994 c 633 art 5 s 97

Crimes, Criminals, CHAPTER 609 CRIMINAL CODE, SENTENCES

609.115 Presentence investigation.

Subdivision 1. **Presentence investigation.** (a) When a defendant has been convicted of a misdemeanor or gross misdemeanor, the court may, and when the defendant has been convicted of a felony, the court shall, before sentence is imposed, cause a presentence investigation and written report to be made to the court concerning the defendant's individual characteristics, circumstances, needs, potentialities, criminal record and social history, the circumstances of the offense and the harm caused by it to others and to the community. At the request of the prosecutor in a gross misdemeanor case, the court shall order that a presentence investigation and report be prepared. The investigation shall be made by a probation officer of the court, if there is one; otherwise it shall be

made by the commissioner of corrections. The officer conducting the presentence or predispositional investigation shall make reasonable and good faith efforts to contact and provide the victim with the information required under section [611A.037](#), subdivision 2. Presentence investigations shall be conducted and summary hearings held upon reports and upon the sentence to be imposed upon the defendant in accordance with this section, section [244.10](#), and the Rules of Criminal Procedure.

(b) When the crime is a violation of sections [609.561](#) to [609.563](#), [609.5641](#), or [609.576](#) and involves a fire, the report shall include a description of the financial and physical harm the offense has had on the public safety personnel who responded to the fire. For purposes of this paragraph, "public safety personnel" means the state fire marshal; employees of the division of the state fire marshal; firefighters, regardless of whether the firefighters receive any remuneration for providing services; peace officers, as defined in section [626.05](#), subdivision 2; individuals providing emergency management services; and individuals providing emergency medical services.

(c) When the crime is a felony violation of chapter 152 involving the sale or distribution of a controlled substance, the report shall include a description of any adverse social or economic effects the offense has had on persons who reside in the neighborhood where the offense was committed.

(d) The report shall also include the information relating to crime victims required under section [611A.037](#), subdivision 1. If the court directs, the report shall include an estimate of the prospects of the defendant's rehabilitation and recommendations as to the sentence which should be imposed. In misdemeanor cases the report may be oral.

(e) When a defendant has been convicted of a felony, and before sentencing, the court shall cause a sentencing worksheet to be completed to facilitate the application of the Minnesota sentencing guidelines. The worksheet shall be submitted as part of the presentence investigation report.

(f) When a person is convicted of a felony for which the sentencing guidelines presume that the defendant will be committed to the commissioner of corrections under an executed sentence and no motion for a sentencing departure has been made by counsel, the court may, when there is no space available in the local correctional facility, commit the defendant to the custody of the commissioner of corrections, pending completion of the presentence investigation and report. When a defendant is convicted of a felony for which the sentencing guidelines do not presume that the defendant will be committed to the commissioner of corrections, or for which the sentencing

guidelines presume commitment to the commissioner but counsel has moved for a sentencing departure, the court may commit the defendant to the commissioner with the consent of the commissioner, pending completion of the presentence investigation and report. The county of commitment shall return the defendant to the court when the court so orders.

Subd. 1a. **Contents of worksheet.** The supreme court shall promulgate rules uniformly applicable to all district courts for the form and contents of sentencing worksheets. These rules shall be promulgated by and effective on January 2, 1982.

Subd. 1b. Repealed, 1987 c 331 s 13

Subd. 1c. Repealed, 1987 c 331 s 13

Subd. 2. **Life imprisonment report.** If the defendant has been convicted of a crime for which a mandatory sentence of life imprisonment is provided by law, the probation officer of the court, if there is one, otherwise the commissioner of corrections, shall forthwith make a postsentence investigation and make a written report as provided by subdivision 1.

Subd. 3. **Law enforcement agency disclosure requirements.** All law enforcement agencies shall make available to the probation officer or the commissioner of corrections the criminal record and other relevant information relating to the defendant which they may have, when requested for the purposes of subdivisions 1 and 2.

Subd. 4. **Confidential sources of information.** Any report made pursuant to subdivision 1 shall be, if written, provided to counsel for all parties before sentence. The written report shall not disclose confidential sources of information unless the court otherwise directs. On the request of the prosecuting attorney or the defendant's attorney a summary hearing in chambers shall be held on any matter brought in issue, but confidential sources of information shall not be disclosed unless the court otherwise directs. If the presentence report is given orally the defendant or the defendant's attorney shall be permitted to hear the report.

Subd. 5. **Report to commissioner.** If the defendant is sentenced to the commissioner of corrections, a copy of any report made pursuant to this section and not made by the commissioner shall accompany the commitment.

Subd. 6. **Report disclosure prohibited.** Except as provided in subdivisions 4 and 5 or as otherwise directed by the court any report made pursuant to this section shall not be disclosed.

Subd. 7. **Stay of imposition of sentence.** If imposition of sentence is stayed by reason of an appeal taken or to be taken, the presentence investigation provided for in this section shall not be made until such stay has expired or has otherwise been terminated.

Subd. 8. **Chemical use assessment required.** (a) If a person is convicted of a felony, the probation officer shall determine in the report prepared under subdivision 1 whether or not alcohol or drug use was a contributing factor to the commission of the offense. If so, the report shall contain the results of a chemical use assessment conducted in accordance with this subdivision. The probation officer shall make an appointment for the defendant to undergo the chemical use assessment if so indicated.

(b) The chemical use assessment report must include a recommended level of care for the defendant in accordance with the criteria contained in rules adopted by the commissioner of human services under section [254A.03](#), subdivision 3. The assessment must be conducted by an assessor qualified under rules adopted by the commissioner of human services under section [254A.03](#), subdivision 3. An assessor providing a chemical use assessment may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the probation officer may use the services of an assessor authorized to perform assessments for the county social services agency under a variance granted under rules adopted by the commissioner of human services under section [254A.03](#), subdivision 3.

Subd. 9. **Compulsive gambling assessment required.** (a) If a person is convicted of theft under section [609.52](#), embezzlement of public funds under section [609.54](#), or forgery under section [609.625](#), [609.63](#), or [609.631](#), the probation officer shall determine in the report prepared under subdivision 1 whether or not compulsive gambling contributed to the commission of the offense. If so, the report shall contain the results of a compulsive gambling assessment conducted in accordance with this subdivision. The probation officer shall make an appointment for the offender to undergo the assessment if so indicated.

(b) The compulsive gambling assessment report must include a recommended level of treatment for the offender if the

assessor concludes that the offender is in need of compulsive gambling treatment. The assessment must be conducted by an assessor qualified under section [245.98](#), subdivision 2a, to perform these assessments or to provide compulsive gambling treatment. An assessor providing a compulsive gambling assessment may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the probation officer may use the services of an assessor with a financial interest or referral relationship as authorized under rules adopted by the commissioner of human services under section [245.98](#), subdivision 2a.

(c) The commissioner of human services shall reimburse the assessor for the costs associated with a compulsive gambling assessment at a rate established by the commissioner up to a maximum of \$100 for each assessment. The commissioner shall reimburse these costs after receiving written verification from the probation officer that the assessment was performed and found acceptable.

HIST: 1963 c 753 art 1 s 609.115; 1978 c 723 art 2 s 3; 1979 c 233 s 23,24; 1981 c 312 s 1,2; 1983 c 262 art 2 s 3-5; 1986 c 444; 1987 c 331 s 8; 1988 c 669 s 1; 1989 c 117 s 1; 1990 c 602 art 8 s 1; 1991 c 279 s 26; 1991 c 336 art 2 s 42; 1993 c 339 s 23; 1994 c 636 art 6 s 25; 1997 c 239 art 8 s 30; 1998 c 407 art 8 s 7

Crimes, Criminals, CHAPTER 609 CRIMINAL CODE, GAMBLING

609.33 Disorderly house.

Subdivision 1. **Definition.** For the purpose of this section, "disorderly house" means a building, dwelling, place, establishment, or premises in which actions or conduct habitually occur in violation of laws relating to:

- (1) the sale of intoxicating liquor or 3.2 percent malt liquor;
- (2) gambling;
- (3) prostitution as defined in section [609.321](#), subdivision 9, or acts relating to prostitution; or
- (4) the sale or possession of controlled substances as defined in section [152.01](#), subdivision 4.

Subd. 2. **Prohibiting owning or operating a disorderly house.** No person may own, lease, operate, manage, maintain, or conduct a disorderly house, or invite or attempt to invite others to visit or remain in the disorderly house. A violation of this subdivision is a gross misdemeanor.

Subd. 3. **Mandatory minimum penalties.** (a) If a person is convicted of a first violation of subdivision 2, in addition to any sentence of imprisonment authorized by subdivision 2 which the court may impose, the court shall impose a fine of not less than \$300 nor more than \$3,000.

(b) If a person is convicted of a second violation of subdivision 2, in addition to any sentence of imprisonment authorized by subdivision 2 which the court may impose, the court shall impose a fine of not less than \$500 nor more than \$3,000.

(c) If a person is convicted of a third or subsequent violation of subdivision 2, in addition to any sentence of imprisonment authorized by subdivision 2 which the court may impose, the court shall impose a fine of not less than \$1,000 nor more than \$3,000.

Subd. 4. **Evidence.** Evidence of unlawful sales of intoxicating liquor or 3.2 percent malt liquor, of unlawful possession or sale of controlled substances, of prostitution or acts relating to prostitution, or of gambling or acts relating to gambling, is prima facie evidence of the existence of a disorderly house. Evidence of sales of intoxicating liquor or 3.2 percent malt liquor between the hours of 1:00 a.m. and 8:00 a.m., while a person is within a disorderly house, is prima facie evidence that the person knew it to be a disorderly house.

Subd. 5. **Local regulation.** Subdivisions 1 to 4 do not prohibit or restrict a local governmental unit from imposing more restrictive provisions.

Subd. 6. **Pretrial release.** When a person is charged under this section with owning or leasing a disorderly house, the court may require as a condition of pretrial release that the defendant bring an unlawful detainer action against a lessee who has violated the covenant not to allow drugs established by section [504.181](#).

HIST: 1967 c 507 s 10; 1984 c 628 art 3 s 11; 1985 c 277 s 1; 1989 c 77 s 1; 1991 c 193 s 3; 1991 c 249 s 31

609.75 Gambling; definitions.

Subdivision 1. **Lottery.** (a) A lottery is a plan which provides for the distribution of money, property or other reward or benefit to persons selected by chance from among participants some or all of whom have given a consideration for the chance of being selected. A participant's payment for use of a 900 telephone number or another means of communication that results in payment to the sponsor of the plan constitutes consideration under this paragraph.

(b) An in-package chance promotion is not a lottery if all of the following are met:

(1) participation is available, free and without purchase of the package, from the retailer or by mail or toll-free telephone request to the sponsor for entry or for a game piece;

(2) the label of the promotional package and any related advertising clearly states any method of participation and the scheduled termination date of the promotion;

(3) the sponsor on request provides a retailer with a supply of entry forms or game pieces adequate to permit free participation in the promotion by the retailer's customers;

(4) the sponsor does not misrepresent a participant's chances of winning any prize;

(5) the sponsor randomly distributes all game pieces and maintains records of random distribution for at least one year

after the termination date of the promotion;

(6) all prizes are randomly awarded if game pieces are not used in the promotion; and

(7) the sponsor provides on request of a state agency a record of the names and addresses of all winners of prizes valued at \$100 or more, if the request is made within one year after the termination date of the promotion.

(c) Except as provided by section [349.40](#), acts in this state in furtherance of a lottery conducted outside of this state are included notwithstanding its validity where conducted.

(d) The distribution of property, or other reward or benefit by an employer to persons selected by chance from among participants who have made a contribution through a payroll or pension deduction campaign to a registered combined charitable organization, within the meaning of section [309.501](#), as a precondition to the chance of being selected, is not a lottery if:

(1) all of the persons eligible to be selected are employed by or retirees of the employer;

(2) the cost of the property or other reward or benefit distributed and all costs associated with the distribution are borne by the employer; and

(3) the total amount actually expended by the employer to obtain the property or other rewards or benefits distributed by the employer during the calendar year does not exceed \$500.

Subd. 2. **Bet.** A bet is a bargain whereby the parties mutually agree to a gain or loss by one to the other of specified money, property or benefit dependent upon chance although the chance is accompanied by some element of skill.

Subd. 3. **What are not bets.** The following are not bets:

(1) A contract to insure, indemnify, guarantee or otherwise compensate another for a harm or loss sustained, even though the loss depends upon chance.

(2) A contract for the purchase or sale at a future date of securities or other commodities.

(3) Offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength, endurance, or quality or to the bona fide owners of animals or other property entered in such a contest.

(4) The game of bingo when conducted in compliance with sections [349.11](#) to [349.23](#).

(5) A private social bet not part of or incidental to organized, commercialized, or systematic gambling.

(6) The operation of equipment or the conduct of a raffle under sections [349.11](#) to [349.22](#), by an organization licensed by the gambling control board or an organization exempt from licensing under section [349.166](#).

(7) Pari-mutuel betting on horse racing when the betting is conducted under chapter 240.

(8) The purchase and sale of state lottery tickets under chapter 349A.

Subd. 4. **Gambling device.** A gambling device is a contrivance which for a consideration affords the player an opportunity to obtain something of value, other than free plays, automatically from the machine or otherwise, the award of which is determined principally by chance. "Gambling device" also includes a video game of chance, as defined in subdivision 8.

Subd. 5. **Gambling place.** A gambling place is a location or structure, stationary or movable, or any part thereof, wherein, as one of its uses, betting is permitted or promoted, a lottery is conducted or assisted or a gambling device is operated.

Subd. 6. **Bucket shop.** A bucket shop is a place wherein the operator is engaged in making bets in the form of purchases or sales on public exchanges of securities, commodities or other personal property for future delivery to be settled at prices dependent on the chance of those prevailing at the public exchanges without a bona fide purchase or sale being in fact made on a board of trade or exchange.

Subd. 7. **Sports bookmaking.** Sports bookmaking is the activity of intentionally receiving, recording or forwarding within any 30-day period more than five bets, or offers to bet, that total more than \$2,500 on any one or more sporting events.

Subd. 8. **Video game of chance.** A video game of chance is a game or device that simulates one or more games commonly referred to as poker, blackjack, craps, hi-lo, roulette, or other common gambling forms, though not offering any type of pecuniary award or gain to players. The term also includes any video game having one or more of the following characteristics:

(1) it is primarily a game of chance, and has no substantial elements of skill involved;

(2) it awards game credits or replays and contains a meter or device that records unplayed credits or replays.

Subd. 9. **900 telephone number.** A 900 telephone number is a ten-digit number, the first three numbers of which are from 900 to 999.

HIST: 1963 c 753 art 1 s 609.75; 1971 c 947 s 1; 1976 c 2 s 152; 1976 c 239 s 126; 1976 c 261 s 14; 1978 c 507 s 4,5; 1981 c 126 s 3; 1983 c 214 s 34-36; 1983 c 216 art 2 s 17 subd 3; 1984 c 502 art 12 s 22; 1985 c 126 s 2; 1986 c 467 s 29; 1988 c 705 s 2; 1989 c 334 art 6 s 8; 1990 c 590 art 1 s 52; 1991 c 199 art 2 s 1; 1991 c 336 art 2 s 43-46

609.755 Acts of or relating to gambling.

Whoever does any of the following is guilty of a misdemeanor:

(1) makes a bet;

(2) sells or transfers a chance to participate in a lottery;

(3) disseminates information about a lottery, except a lottery conducted by an adjoining state, with intent to encourage participation therein;

(4) permits a structure or location owned or occupied by the actor or under the actor's control to be used as a gambling place; or

(5) except where authorized by statute, possesses a gambling device.

Clause (5) does not prohibit possession of a gambling device in a person's dwelling for amusement purposes in a manner that does not afford players an opportunity to obtain anything of value.

HIST: 1963 c 753 art 1 s 609.755; 1971 c 23 s 76; 1986 c 444; 1991 c 336 art 2 s 47; 1994 c 633 art 4 s 10

609.76 Other acts relating to gambling.

Subdivision 1. **Gross misdemeanors.** Whoever does any of the following may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both:

- (1) maintains or operates a gambling place or operates a bucket shop;
- (2) intentionally participates in the income of a gambling place or bucket shop;
- (3) conducts a lottery, or, with intent to conduct a lottery, possesses facilities for doing so;
- (4) sets up for use for the purpose of gambling, or collects the proceeds of, any gambling device or bucket shop;
- (5) except as provided in section [299L.07](#), manufactures, sells, offers for sale, or otherwise provides, in whole or any part thereof, any gambling device including those defined in section [349.30](#), subdivision 2;
- (6) with intent that it be so used, manufactures, sells, or offers for sale any facility for conducting a lottery, except as provided by section [349.40](#); or
- (7) receives, records, or forwards bets or offers to bet or, with intent to receive, record, or forward bets or offers to bet, possesses facilities to do so.

Subd. 2. **Felony gambling.** Whoever engages in sports bookmaking is guilty of a felony.

HIST: 1963 c 753 art 1 s 609.76; 1981 c 126 s 4; 1983 c 214 s 37; 1984 c 628 art 3 s 11; 1989 c 334 art 6 s 9; 1990 c 590 art 2 s 17; 1991 c 336 art 2 s 48

609.761 Operations permitted.

Subdivision 1. **Lawful gambling.** Notwithstanding sections [609.755](#) and [609.76](#), an organization may conduct lawful gambling as defined in section [349.12](#), if authorized under chapter 349, and a person may manufacture, sell, or offer for sale a gambling device to an organization authorized under

chapter 349 to conduct lawful gambling, and pari-mutuel betting on horse racing may be conducted under chapter 240.

Subd. 2. **State lottery.** Sections [609.755](#) and [609.76](#) do not prohibit the operation of the state lottery or the sale, possession, or purchase of tickets for the state lottery under chapter 349A.

Subd. 3. **Social skill game.** Sections [609.755](#) and [609.76](#) do not prohibit tournaments or contests that satisfy all of the following requirements:

(1) the tournament or contest consists of the card games of chance commonly known as cribbage, skat, sheephead, bridge, euchre, pinochle, gin, 500, smear, or whist;

(2) the tournament or contest does not provide any direct financial benefit to the promoter or organizer; and

(3) the sum of all prizes awarded for each tournament or contest does not exceed \$200.

HIST: 1978 c 507 s 6; 1983 c 214 s 38; 1984 c 502 art 12 s 23; 1986 c 467 s 30; 1989 c 334 art 6 s 10; 1997 c 155 s 10

609.762 Forfeiture of gambling devices, prizes and proceeds.

Subdivision 1. **Forfeiture.** The following are subject to forfeiture:

- (a) Devices used or intended for use, including those defined in section [349.30](#), subdivision 2, as a gambling device, except as authorized in sections [349.11](#) to [349.23](#) and [349.40](#);
- (b) All moneys, materials, and other property used or intended for use as payment to participate in gambling or a prize or receipt for gambling;
- (c) Books, records, and research products and materials, including formulas, microfilm, tapes, and data used or intended for use in gambling; and
- (d) Property used or intended to be used to illegally influence the outcome of a horse race.

Subd. 2. **Seizure.** Property subject to forfeiture under subdivision 1 may be seized by any law enforcement agency upon process issued by any court having jurisdiction over the property. Seizure without process may be made if:

- (a) the seizure is incident to an arrest or a search under a search warrant;
- (b) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding; or
- (c) the law enforcement agency has probable cause to believe that the property was used or is intended to be used in a gambling violation and the delay occasioned by the necessity to obtain process would result in the removal, loss, or destruction of the property.

Subd. 3. **Not subject to replevin.** Property taken or detained under subdivision 2 is not subject to a replevin action, but is considered to be in the custody of the law enforcement agency subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings.

Subd. 4. **Procedures.** Property must be forfeited after a conviction for a gambling violation according to the following procedure:

- (a) a separate complaint must be filed against the property describing it, charging its use in the specified violation, and specifying the time and place of its unlawful use;
- (b) if the person charged with a gambling offense is acquitted, the court shall dismiss the complaint and order the property returned to the persons legally entitled to it; and
- (c) if after conviction the court finds the property, or any part of it, was used in violation as specified in the complaint, it shall order that the property be sold or retained by the law enforcement agency for official use. Proceeds from the sale of forfeited property may be retained for official use and shared equally between the law enforcement agency investigating the offense involved in the forfeiture and the prosecuting agency that prosecuted the offense involved in the forfeiture and handled the forfeiture proceedings.

Subd. 5. **Exception.** Property may not be seized or forfeited under this section if the owner shows to the satisfaction of the court that the owner had no notice or knowledge or reason to believe that the property was used or intended to be used in violation of this section.

HIST: 1983 c 214 s 39; 1986 c 444

Crimes, Criminals, CHAPTER 617 ABORTION; OBSCENITY; HOUSES OF ILL-FAME, PUBLIC NUISANCES

617.80 Definitions.

Subdivision 1. **Generally.** The definitions in this section apply to sections 617.80 to [617.87](#).

Subd. 2. **Building.** "Building" means a structure suitable for human shelter, a commercial structure that is maintained for business activities that involve human occupation, any portion of the structure, or the land surrounding the structure. If the building is a multiunit dwelling, a hotel or motel, or a commercial or office building, the term "building," for purposes of sections 617.80 to [617.87](#), means only the portion of the building within or outside the structure in which a nuisance is maintained or permitted, such as a dwelling unit, room, suite of rooms, office, common area, storage area, garage, or parking area.

Subd. 3. **Movable property.** "Movable property" means furniture and fixtures.

Subd. 4. **Prostitution.** "Prostitution" or "prostitution-related activity" means conduct that would violate sections [609.321](#) to [609.324](#).

Subd. 5. **Gambling.** "Gambling" or "gambling-related activity" means conduct that would violate sections [609.75](#) to [609.762](#).

Subd. 6. Repealed, 1997 c 100 s 5

Subd. 7. **Owner.** "Owner" for purposes of sections 617.80 to [617.87](#) means the person in whose name the building or affected portion is recorded with the county auditor for taxation purposes.

Subd. 8. **Interested party.** "Interested party," for purposes of sections 617.80 to [617.87](#), means any known lessee or tenant of a building or affected portion of a building; any known agent of an owner, lessee, or tenant; or any other person who maintains or permits a nuisance and is known to the city attorney, county attorney, or attorney general.

Subd. 9. **Prosecuting attorney.** "Prosecuting attorney" means the attorney general, county attorney, city attorney, or attorney serving the jurisdiction where the nuisance is located.

HIST: 1987 c 283 s 1; 1991 c 193 s 5; 1995 c 244 s 26-30

Crimes, Criminals, CHAPTER 617 ABORTION; OBSCENITY; HOUSES OF ILL-FAMEE, PUBLIC NUISANCES

617.81 Nuisance; acts constituting; injunction; notice.

Subdivision 1. **Injunction.** In order to obtain a temporary injunction under section [617.82](#) or a permanent injunction or order of abatement under section [617.83](#), the provisions of sections [617.80](#) to [617.87](#) must be followed.

Subd. 2. **Acts constituting a nuisance.** (a) For purposes of sections [617.80](#) to [617.87](#), a public nuisance exists upon proof of two or more separate behavioral incidents of one or more of the following, committed within the previous 12 months within the building:

(1) prostitution or prostitution-related activity committed within the building;

(2) gambling or gambling-related activity committed within the building;

(3) maintaining a public nuisance in violation of section [609.74](#), clause (1) or (3);

(4) permitting a public nuisance in violation of section [609.745](#);

(5) unlawful sale, possession, storage, delivery, giving, manufacture, cultivation, or use of controlled substances committed within the building;

(6) unlicensed sales of alcoholic beverages committed within the building in violation of section [340A.401](#);

(7) unlawful sales or gifts of alcoholic beverages by an unlicensed person committed within the building in violation of section [340A.503](#), subdivision 2, clause (1);

(8) unlawful use or possession of a firearm in violation of section [609.66](#), subdivision 1a, [609.67](#), or [624.713](#), committed within the building; or

(9) violation by a commercial enterprise of local or state business licensing regulations, ordinances, or statutes prohibiting the maintenance of a public nuisance as defined in section [609.74](#) or the control of a public nuisance as defined in section [609.745](#).

(b) If the building contains more than one rental unit, two

or more behavioral incidents must consist of conduct:

(1) anywhere in the building by the same tenant or lessee, or persons acting in conjunction with or under the control of the same tenant or lessee;

(2) by any persons within the same rental unit while occupied by the same tenant or lessee or within two or more rental units while occupied by the same tenant or lessee; or

(3) by the owner of the building or persons acting in conjunction with or under the control of the owner.

(c) Proof of a nuisance exists if each of the elements of the conduct constituting the nuisance is established by clear and convincing evidence.

Subd. 2a. Repealed, 1995 c 244 s 42

Subd. 3. Repealed, 1995 c 244 s 42

Subd. 4. **Notice.** (a) If a prosecuting attorney has reason to believe that a nuisance is maintained or permitted in the jurisdiction the prosecuting attorney serves, and intends to seek abatement of the nuisance, the prosecuting attorney shall provide the written notice described in paragraph (b), by personal service or certified mail, return receipt requested, to the owner and all interested parties known to the prosecuting attorney.

(b) The written notice must:

(1) state that a nuisance as defined in subdivision 2 is maintained or permitted in the building and must specify the kind or kinds of nuisance being maintained or permitted;

(2) summarize the evidence that a nuisance is maintained or permitted in the building, including the dates on which nuisance-related activities are alleged to have occurred;

(3) inform the recipient that failure to abate the conduct constituting the nuisance or to otherwise resolve the matter with the prosecuting attorney within 30 days of service of the notice may result in the filing of a complaint for relief in district court that could, among other remedies, result in

enjoining the use of the building for any purpose for one year or, in the case of a tenant, could result in cancellation of the lease; and

(4) inform the owner of the options available under section [617.85](#).

HIST: 1987 c 283 s 2; 1989 c 112 s 1; 1991 c 193 s 6-8; 1995 c 244 s 31,32; 1996 c 322 s 1; 1997 c 100 s 1; 1997 c 122 s 1

Crimes, Criminals, CHAPTER 624 CIRMES, OTHER PROVISIONS, MISCELLANEOUS

624.65 Itinerant carnivals.

Subdivision 1. **Prohibited.** Itinerant carnivals, as defined in subdivision 2, are hereby declared to be a public nuisance and are prohibited.

Subd. 2. **Itinerant carnival.** An itinerant carnival, within the meaning and for the purposes of this section, is any itinerant carnival, show, act, or exhibition, or any other carnival, show, act, or exhibition, which is held in the open or indoors or upon or within any public or private grounds of the state, or of any incorporated municipality thereof at which congregates and assembles, with or without payment of an admission fee, a promiscuous gathering of people, as spectators or otherwise, and at which lewd or obscene features are a part, or at which any gambling concessions are given or games of chance practiced, or in or about which actors or other persons connected therewith are engaged in immoral pursuits, or at which attractions are exhibited which affect the health or morals of the community.

Subd. 3. **Penalties.** Any person who shall participate in allowing or conducting any itinerant carnival herein prohibited shall be guilty of a misdemeanor and shall be punishable by a fine of not less than \$50 nor exceeding \$100 or by imprisonment in the county jail or the city workhouse for not less than 30 days nor more than three months.

HIST: (10242,10243,10244) 1923 c 428 s 1-3

Criminal Proceedure, CHAPTER 626 TRAINING; INVESTIGATION, APPREHENSION; REPORTS, SEARCH WARRANTS

626.04 Property; seizure, keeping, and disposal.

When any officer seizes, with or without warrant, any property or thing, it shall be safely kept by direction of the court as long as necessary for the purpose of being produced as evidence on any trial. After the trial the property or thing shall, unless otherwise subject to lawful detention, be returned to its owner or any other person entitled to possess it. Any property or thing seized may be destroyed or otherwise disposed of under the direction of the court. Any money found in gambling devices when seized shall be paid into the county treasury. If the gambling devices are seized by a police officer of a municipality, the money shall be paid into the treasury of the municipality.

HIST: (10540) RL s 5199; 1929 c 177; 1963 c 849 s 16; 1983 c 359 s 111

626.05 Definitions.

Subdivision 1. **Search warrant.** A search warrant is an order in writing, in the name of the state, signed by a court other than a court exercising probate jurisdiction, directed to a peace officer, commanding the peace officer to make a search as authorized by law and hold any item seized, subject to the order of a court.

Subd. 2. **Peace officer.** The term "peace officer," as used in sections [626.04](#) to [626.17](#), means a person who is licensed as a peace officer in accordance with section [626.84](#), subdivision 1, and who serves as a sheriff, deputy sheriff, police officer, constable, conservation officer, agent of the bureau of criminal apprehension, agent of the division of alcohol and gambling enforcement, University of Minnesota peace officer, or state patrol trooper as authorized by section [299D.03](#).

Subd. 3. **Crime.** The term "crime" as used in sections [626.04](#) to [626.17](#) includes (1) those offenses defined as crimes in section [609.02](#), subdivision 1, and (2) all violations of municipal ordinances for which a misdemeanor sentence may be imposed.

HIST: 1963 c 849 s 3; 1976 c 2 s 154; 1977 c 82 s 4; 1979 c 258 s 21; 1983 c 359 s 112; 1986 c 444; 1988 c 447 s 1; 1989 c 334 art 6 s 11; 1990 c 502 s 7; 1993 c 326 art 7 s 13; 1995 c 189 s 8; 1996 c 277 s 1; 1997 c 129 art 2 s 15

626.13 Service; persons making.

A search warrant may in all cases be served anywhere within the issuing judge's county by any of the officers mentioned in its directions, but by no other person, except in aid of the officer on the officer's requiring it, the officer being present and acting in its execution. If the warrant is to be served by an agent of the bureau of criminal apprehension, an agent of the division of alcohol and gambling enforcement, a state patrol trooper, or a conservation officer, the agent, state patrol trooper, or conservation officer shall notify the chief of police of an organized full-time police department of the municipality or, if there is no such local chief of police, the sheriff or a deputy sheriff of the county in which service is to be made prior to execution.

HIST: 1963 c 849 s 11; 1979 c 258 s 23; 1986 c 444; 1989 c 334 art 6 s 12; 1990 c 502 s 8; 1993 c 326 art 7 s 14; 1995 c 226 art 2 s 33; 1995 c 244 s 37; 1997 c 129 art 2 s 15

626.84 Definitions and scope.

Subdivision 1. **Definitions.** For purposes of sections 626.84 to [626.863](#), the following terms have the meanings given them:

(a) "Board" means the board of peace officer standards and training.

(b) "Director" means the executive director of the board.

(c) "Peace officer" means an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota state patrol, agents of the division of alcohol and gambling enforcement, state conservation officers, and metropolitan transit police officers.

(d) "Constable" has the meaning assigned to it in section [367.40](#).

(e) "Deputy constable" has the meaning assigned to it in section [367.40](#).

(f) "Part-time peace officer" means an individual licensed by the board whose services are utilized by law enforcement agencies no more than an average of 20 hours per week, not including time spent on call when no call to active duty is received, calculated on an annual basis, who has either full powers of arrest or authorization to carry a firearm while on active duty. The term shall apply even though the individual receives no compensation for time spent on active duty, and shall apply irrespective of the title conferred upon the individual by any law enforcement agency. The limitation on the average number of hours in which the services of a part-time peace officer may be utilized shall not apply to a part-time

peace officer who has formally notified the board pursuant to rules adopted by the board of the part-time peace officer's intention to pursue the specialized training for part-time peace officers who desire to become peace officers pursuant to sections [626.843](#), subdivision 1, clause (g), and [626.845](#), subdivision 1, clause (g).

(g) "Reserve officer" means an individual whose services are utilized by a law enforcement agency to provide supplementary assistance at special events, traffic or crowd control, and administrative or clerical assistance. A reserve officer's duties do not include enforcement of the general criminal laws of the state, and the officer does not have full powers of arrest or authorization to carry a firearm on duty.

(h) "Law enforcement agency" means a unit of state or local government that is authorized by law to grant full powers of arrest and to charge a person with the duties of preventing and detecting crime and enforcing the general criminal laws of the state.

(i) "Professional peace officer education" means a post-secondary degree program, or a nondegree program for persons who already have a college degree, that is offered by a college or university in Minnesota, designed for persons seeking licensure as a peace officer, and approved by the board.

Subd. 2. **Scope.** Notwithstanding sections [12.03](#), subdivision 4, [12.25](#), or any other law to the contrary, no individual employed or acting as an agent of any political subdivision shall be authorized to carry a firearm when on duty unless the individual has been licensed under sections 626.84 to [626.863](#). Nothing herein shall be construed as requiring licensure of a security guard as that term is defined in section [626.88](#), subdivision 1, clause (c).

HIST: 1977 c 433 s 1; 1978 c 681 s 8; 1979 c 282 s 1; 1980 c 578 s 2; 1981 c 37 s 2; 1981 c 310 s 1; 1986 c 444; 1987 c 334 s 4; 1989 c 334 art 6 s 13; 1991 c 356 art 6 s 1; 1997 c 129 art 2 s 15; 1997 c 149 s 4

Criminal Procedure, CHAPTER 626A PRIVACY OF COMMUNICATIONS

626A.05 Authorization for interception of wire or oral communications.

Subdivision 1. **Application for warrant.** The attorney

general or a county attorney of any county may make application as provided in section [626A.06](#), to a judge of the district court, of the court of appeals, or of the supreme court for a warrant authorizing or approving the interception of wire, electronic, or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made. No court commissioner shall issue a warrant under this chapter.

Subd. 2. Offenses for which interception of wire or oral communication may be authorized. A warrant authorizing interception of wire, electronic, or oral communications by investigative or law enforcement officers may only be issued when the interception may provide evidence of the commission of, or of an attempt or conspiracy to commit, any of the following offenses:

(1) a felony offense involving murder, manslaughter, assault in the first, second, and third degrees, aggravated robbery, kidnapping, criminal sexual conduct in the first, second, and third degrees, prostitution, bribery, perjury, escape from custody, theft, receiving stolen property, embezzlement, burglary in the first, second, and third degrees, forgery, aggravated forgery, check forgery, or financial transaction card fraud, as punishable under sections [609.185](#), [609.19](#), [609.195](#), [609.20](#), [609.221](#), [609.222](#), [609.223](#), [609.2231](#), [609.245](#), [609.25](#), [609.321](#) to [609.324](#), [609.342](#), [609.343](#), [609.344](#), [609.42](#), [609.48](#), [609.485](#), subdivision 4, paragraph (a), clause (1), [609.52](#), [609.53](#), [609.54](#), [609.582](#), [609.625](#), [609.63](#), [609.631](#), [609.821](#), and [609.825](#);

(2) an offense relating to gambling or controlled substances, as punishable under section [609.76](#) or chapter 152; or

(3) an offense relating to restraint of trade defined in section [325D.53](#), subdivision 1 or 2, as punishable under section [325D.56](#), subdivision 2.

HIST: 1969 c 953 s 5; 1971 c 24 s 56; 1973 c 704 s 1; 1976 c 253 s 1; 1979 c 255 s 8; 1982 c 613 s 6; 1987 c 217 s 3; 1987 c 329 s 17; 1987 c 384 art 2 s 112; 1988 c 577 s 21,22,62; 1989 c 336 art 2 s 8; 1991 c 199 art 2 s 1; 1993 c 326 art 7 s 15; 1994 c 636 art 2 s 63