

10/14/91

III. RULE-BY-RULE ANALYSIS AND STATEMENT OF NEED AND REASONABLENESS

7860.0010 DEFINITIONS.

This part contains 13 subparts used in the statute and throughout the rules. Some of these definitions are taken directly from the statute but have been expanded to address issues not addressed in the statutory definition. Some pertain to terms that are used throughout the rules but are not defined in the statute.

Subpart 1. **Scope.** The terms used in this chapter have the meaning given them in this part. Where not otherwise defined in this chapter terms have the meaning given them in Minnesota Statutes, sections 349.11 to 349.23.

This subpart is necessary to narrow the definitions needed in the rules by making reference to definitions contained in the statute. It is consistent with the requirement in Minnesota Statutes, section 14.07, subdivision 3(1), that all rules be in a form that minimizes duplication of statutory language.

Subp. 2. **Compensation.** "Compensation" means wages, salaries, and all other forms of remuneration for services rendered.

This term is not defined in the statute. Compensation can be deducted from gambling receipts as an allowable expense. Minnesota Statutes, section 349.168, provides for payment of compensation to gambling employees, addresses how much can be paid, how payment must be made, and what records must be kept.

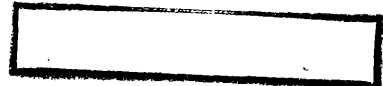
Subp. 3. **Fraternal organization.** "Fraternal organization" means a nonprofit organization which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members. The term does not include college and high school fraternities and sororities.

This term is not defined in the statute. It is, however, one of the terms used to define the term "organization" in Minnesota Statutes, section 349.12, subdivision 28. This is a clarification of that term.

Subp. 4. **Lawful gambling.** "Lawful gambling" is the operation, conduct, or sale of bingo, raffles, paddlewheels, tipboards, and pull-tabs. Lawful gambling does not include the conduct of a combination of any of the five activities listed in this subpart where the outcome of one of the activities is dependent on the outcome of one of the other activities. Lawful gambling does not include betting related to the outcome of an athletic event.

This term is defined in the statute. Minnesota Statutes, section 349.12, subdivision 24. The first sentence of this subpart duplicates the statutory language. The next two sentences clarify the statutory definition and are necessary to relieve continuing public confusion as to the lawfulness of combining the various types of lawful gambling. The limited scope of this definition is reasonable in light of the general scope of the Minnesota Legislative Commission to Review Administrative Rules.

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legislative prohibition of gambling contained in Minnesota Statutes, sections 609.75 to 609.762.

Subp. 5. **Leased premises.** "Leased premises" means a building or place of business, or a portion of a building or place of business not owned by a gambling organization, that is leased in its entirety by a gambling organization for the sole purpose of conducting lawful gambling.

This term is not defined in the statutes but is used throughout the statutes and the rules.

Subp. 6. **Master flare.** "Master flare" is used in conjunction with sealed groupings of up to 100 paddleticket cards. The master flare must describe the paddletickets in the group, have a list of all the paddleticket card numbers in that group, and have a state registration stamp affixed to it bearing the number of the first paddleticket card in the group.

This term is not defined in the statute. It is needed to describe the flare used in conjunction with a sealed grouping of up to 100 paddleticket cards. This definition is necessary to control the regulation of the games of paddlewheels. It eliminates the necessity of having the state registration stamp on each series of paddletickets, but provides for the requirement of the state registration on each master flare.

Subp. 7. **Net receipts.** "Net receipts" are gross receipts less prizes actually paid out.

This term is not defined in the statute. It is necessary to clarify that this is the amount upon which the ten percent tax is imposed. Pursuant to Minnesota Statutes, section 349.212, each organization must pay a tax of ten percent of the gross receipts from lawful gambling, less prizes actually paid out on all forms of lawful gambling other than pull-tabs placed into inventory after January 1, 1987, and tipboards placed into inventory June 30, 1988.

Subp. 8. **Other nonprofit organization.** "Other nonprofit organization" means one of the following:

A. an organization other than a fraternal, religious, or veterans organization, whose nonprofit status is evidenced by a current letter of exemption from the Internal Revenue Service recognizing it as a nonprofit organization exempt from payment of income taxes or which is incorporated as a nonprofit corporation and registered under Minnesota Statutes, chapter 317A, with the Minnesota secretary of state; or

B. an affiliate, subordinate, or chapter of a state-wide parent organization that meets the criteria of item A. This type of other nonprofit organization is recognized only for purposes of conducting lawful gambling pursuant to Minnesota Statutes, section 349.166.

This term is not defined in the statute. But the statute does provide that this type of organization may be licensed to conduct lawful gambling. This subpart specifically sets forth the requirements that must be met before a nonprofit organization may qualify for a gambling license. This subpart requires this

type of nonprofit organization to prove its nonprofit status by providing a current letter of exemption from the Internal Revenue Service exempting the organization from the payment of income taxes. The requirement of a current letter is reasonable because it allows the board to rely on the investigation and determination of the Internal Revenue Service with respect to the organization's nonprofit status. This requirement is also reasonable because it does not place additional burdens on the organizations, allowing the licensing process to be handled expeditiously and efficiently.

Subp. 9. Paddleticket. A "paddleticket" is a preprinted ticket on a paddleticket card that has printed on it a paddleticket card number and one or more numbers corresponding to the numbers on a paddlewheel.

This term is not defined in the statute. A paddleticket is used throughout the rules to regulate and control the conduct of lawful gambling using a paddlewheel.

Subp. 10. Paddleticket card. "Paddleticket card" means a card to which is attached paddletickets bearing all the numbers on a paddlewheel. A paddleticket card must have a stub attached that has preprinted on it a paddleticket card number, the cost per paddleticket, space for the date played, a facsimile of a state registration stamp which has the distributor's license number printed in place of the paddleticket card number, and a space in which the winning number is written.

This term is not defined in the statute. The term is used throughout the rules to regulate and control the conduct of lawful gambling using a paddlewheel.

Subp. 11. Paddleticket card number. "Paddleticket card number" means the unique number preprinted by the manufacturer on a paddleticket card and its paddletickets.

This term is not defined in the statute and is used throughout the rules to regulate and control the conduct of lawful gambling using a paddlewheel.

Subp. 12. Religious organization. "Religious organization" means a nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances.

This term is not defined in the statute. It is one of the terms used to define an "organization" in section 349.12, subdivision 28. This definition clarifies the scope of entities eligible to participate in lawful gambling. It is reasonable because it limits the scope in a manner consistent with the general legislative prohibition of gambling contained in Minnesota Statutes, sections 609.75 to 609.762.

Subp. 13. Veterans organization. "Veterans organization" means any congressionally chartered organization within this state, or any branch, lodge, or chapter of a nonprofit national or state organization within this

state, the membership of which consists of individuals who were members of the armed services or forces of the United States.

This term is not defined in the statute. It is also a term used in section 349.12, subdivision 28, to define an "organization." As with the terms "religious" and "fraternal" organizations, the scope is reasonably limited in light of Minnesota Statutes, sections 609.75 to 609.762.

7860.0020 LICENSED ORGANIZATION.

This chapter is necessary to provide the procedures by which the board is required to license organizations that are eligible to conduct lawful gambling. Minnesota Statutes, section 349.16, gives considerable discretion to the board in licensing organizations. The board has delegated that discretion to the director pursuant to its authority under Minnesota Statutes, section 349.151, subdivision 4(A)(11). The director is allowed to issue organization licenses under criteria established by the board. The rules outline the procedures for applying for a license and the circumstances under which the license will be granted or denied.

Subpart 1. License required. No person shall engage in the conduct of lawful gambling without having obtained a license under this part. An organization shall make application to the board to be licensed to conduct lawful gambling. All applications shall be considered by the director pursuant to the provisions of this part.

This subpart is necessary to clarify that the director will base the decision on granting or denying licenses based on the provisions of this part. This limits the discretion of the director.

Subp. 2. Licensing qualifications. In addition to the qualifications contained in Minnesota Statutes, section 349.16, subdivision 2, the director shall not issue a license to:

A. An organization that has not been licensed to conduct lawful gambling within the preceding 12 months if its current chief executive officer and individual who will be its gambling manager have not completed a gambling manager seminar.

B. An organization which has not established a permanent location within Minnesota where the gambling records required to be maintained by this chapter will be kept and which has not established a gambling bank account within Minnesota for each gambling premises.

C. An organization which has as an officer or member of its governing body who (i) within the last five years has been convicted in federal or state court of a felony or gross misdemeanor, (ii) has ever been convicted of a crime involving gambling, or (iii) has had a license issued by the board revoked for a violation of law or rule.

D. An organization whose conduct of lawful gambling is or would be inconsistent with Minnesota Statutes, sections 349.11 to 349.23, as indicated by (i) lack of financial responsibility, (ii) demonstrated lack of control of lawful gambling, or (iii) consent order requirements that have not been completed.

E. An organization that does not have a gambling manager who will be licensed by the board at the time the organization obtains its license.

F. An organization that will not obtain at least one premises permit at the time the organization obtains its license.

This subpart authorizes the denial of a license application under well-defined circumstances.

Items A and E are necessary to clarify the requirement set forth in Minnesota Statutes, section 349.16, subdivision 2(h), that an organization not be licensed unless it has a qualified gambling manager.

Item B clarifies the requirement in Minnesota Statutes, section 349.19, subdivision 2, that the licensed organization establish a separate bank account for each licensed premise. It also sets forth the requirement that a permanent location for all gambling records be established in Minnesota. These are necessary to preserve the records and provide the board with access to the records. These items are reasonable because the only addition to existing statutory requirements is that the licensed organization maintain a permanent location in Minnesota for its gambling records. It is not unduly burdensome to require an organization licensed under state law to keep important records available for state regulatory authorities.

Item C restates Minnesota Statutes, section 349.16, subdivision 2(e). It is necessary to restate it in rule so that an organization seeking licensing to conduct lawful gambling can have easy access to a complete list of the qualifications and requirements that must be met by an organization before it can be licensed.

Item D sets criteria for determining when a license will be denied based on the conclusion that issuing a license would be inconsistent with the purpose of sections 349.11 to 349.28.

Item F - An organization receives a license to conduct lawful gambling and a premises permit for each site at which it will conduct lawful gambling. This item is necessary to clarify that an application for licensing will not be accepted unless the applicant has identified at least one premises on which it will conduct lawful gambling.

Subp. 3. Contents of organization application. The application must contain the following information with respect to the applicant:

- A. the official, legal name of the organization and any other names used;
- B. the business address and telephone number of the organization;
- C. a Minnesota tax ID number, if any;
- D. the full names, titles, dates of birth, and business telephone numbers of the organization's chief executive officer, treasurer, and other members of the organization's governing body;
- E. the home address of the organization's chief executive officer;
- F. a designation of whether the organization is a fraternal, veterans, religious, or other nonprofit organization and the number of years the organization has been in existence;
- G. the name and home or business address of the gambling manager;
- H. the class of license for which application is made;

I. the number of active members in the organization;
J. the current status of the organization's license, if any;
K. a list of lawful purpose expenditures for which the organization proposes to expend net gambling funds;
L. a list of the organization's other sources of income and income activities;
M. the day and time of the regular meetings of the organization;
N. an acknowledgement that a membership list of the organization will be available within seven days after it is requested by the board;
O. an acknowledgement that the organization will file an appropriate license termination plan in the event the organization terminates lawful gambling; and
P. such additional information as is necessary to properly identify the applicant and to ensure compliance with Minnesota Statutes, sections 349.11 to 349.23.

Subpart 3 sets out the requirements of the board-provided form required by Minnesota Statutes, section 349.16, subdivision 4. The contents of the license application, together with the attachments to the application, are designed to provide the necessary information to determine if the applicant is eligible to be licensed to conduct lawful gambling.

Items A, B, C, D, E, and G are needed to conduct the background check required specifically by section 349.16(e) and generally to determine that the organization's conduct of lawful gambling is not inconsistent with Minnesota Statutes, sections 349.11 to 349.23. Items D and G are also necessary to ensure the board will be able to communicate with individuals responsible for the organization's conduct of lawful gambling.

Item F is needed to determine the class of license applied for, the type of lawful gambling the organization intends to conduct, and the fee that will be required for the premises permit(s).

Item H is necessary to provide the board with information as to what forms of lawful gambling the organization will be conducting.

Item I is necessary to determine that the organization has at least 15 active members as required by Minnesota Statutes, section 349.16, subdivision 2(c).

Item J is necessary to determine if the organization is seeking a license renewal or is seeking licensing for the first time.

Items K and L are needed to determine that the primary purpose of the organization is not to conduct lawful gambling. The board must have the information required by these items to determine what the organization does and how it spends its money.

Item M requires an organization to include in its application the date and time of the regular meeting of the organization. This is necessary because virtually all decisions involving the conduct of lawful gambling must be made by the organization at its regular meeting and must be included in the minutes of the regular meeting of the organization. This helps to ensure that the gambling is conducted and reviewed by the members of the organization, rather than by one or two individuals.

Item N requires the organization to agree to disclose to the board and/or the department of revenue the membership list of the organization. This requirement is necessary to ensure that the organization is comprised of a minimum of 15 active members as required by Minnesota Statutes, section 349.16. In addition, it allows the board to compare the membership with other organizations applying for licenses to ensure that an organization does not receive two licenses under different names. It is reasonable because it does not require the organization to do anything but document its membership to the board and department of revenue.

Item O requires the organization to agree to file an appropriate license termination plan in the event it ceases lawful gambling as required by Minnesota Statutes, section 349.19, subdivision 8. This helps to ensure that gambling profits will be spent only for lawful purposes. It does not pose any burden on the organization because it is only agreeing to do something it is already obligated by law to do.

Subp. 4. Attachments to application. The applicant must attach the following to the application:

- A. a copy of its internal control system on a form provided by the board;
- B. proof of Minnesota or Internal Revenue Service income tax exempt status or a current certificate of nonprofit status from the Minnesota secretary of state;
- C. a copy of a charter of the parent organization, if chartered;
- D. a compensation schedule identifying duties and rate of compensation for each duty in the conduct of lawful gambling on a form provided by the board;
- E. a registration form and current photograph for each employee receiving compensation for the conduct of lawful gambling;
- F. a statement listing the permanent location within Minnesota of the organization's gambling records and the bank(s) within Minnesota where the organization will maintain a separate gambling account for each gambling premises;
- G. a signed, notarized affidavit of the chief executive officer, treasurer, and members of the governing body of the organization on a form provided by the board;
- H. an original tax bond in the amount of \$15,000 in favor of the State of Minnesota, on a form provided by the board.

Subpart 4 sets out additional requirements of the board-provided form required by Minnesota Statutes, section 349.16, subdivision 4. As with the application, the attachments to the application are designed to provide the necessary information to determine if the applicant is eligible to be licensed to conduct lawful gambling. Subpart 5 specifically lists all attachments that are required to be submitted with the license application.

Item A is necessary to ensure that an organization has prepared the internal control form as required by Minnesota Rules, part 7860.0120, subpart 1, and to allow the board to determine after licensing whether the organization is complying with its internal controls.

Items B and C are necessary and reasonable to provide proof that the organization has met the requirements for nonprofit status. It is reasonable because it does not place additional burdens on the organization and allows for efficient processing of the license applications.

Item D is necessary to ensure that an organization has prepared a compensation schedule as required by Minnesota Statutes, section 349.168, subdivision 8, and to allow the board to determine, after licensing, whether the organization is complying with its compensation schedule. This is reasonable because it does not create an undue burden on the organization, but simply requires the organization to prepare a compensation schedule similar to that used by any business or organization.

Item E is reasonable and necessary because Minnesota Statutes require the board to register all employees involved in the conduct of lawful gambling who receive compensation.

Item F is reasonable and necessary because a condition of licensing is that an organization must have a gambling banking checking account for each license. This item also facilitates the regulatory duties of the board by identifying the location of accounts subject to regulatory oversight.

Item G is also reasonable and necessary because of the commitment from the chief executive officer to comply with all statutes and rules. This is also reasonable and necessary because of the commitment from the chief executive officer to comply with all statutes and rules.

Subp. 5. Changes in application information. If any information submitted in the application changes, the organization must notify the board within ten days of the change.

This rule is necessary to allow the board to be fully apprised of the organization's operation of the conduct of lawful gambling. The rule is reasonable because it does not provide an undue hardship on the organization but merely requires all information required to be submitted to the board be kept current.

Subp. 6. Fees. There is no application fee for an organization license.

This item is necessary to clarify that the fee is no longer attached to the license. This is a major change from prior procedures.

Subp. 7. Issuance and denial.

A. Issuance. The director may issue a license to any organization which submits the information required by subparts 3 and 4 of this part and is eligible to receive a license pursuant to Minnesota Statutes, section 349.16, and subpart 2 of this part. The license shall be issued at the same time as the gambling manager's license and any premises permits being renewed or applied for at the time the organization is applying for a license. All licenses issued by the director pursuant to this part shall be effective on the first day of a month.

B. Denial. The director shall deny the application of any organization ineligible to hold a license pursuant to Minnesota Statutes, section 349.16, or subpart 2 of this part.

C. Appeal of initial license denial. An organization that has never been licensed to conduct lawful gambling or an organization whose application for renewal of its license was submitted after the expiration of its license may appeal the denial of a license application by notifying the board within 15 days of the date it receives notice that its application has been denied. The appeal must be made in writing and must contain a complete copy of the application and a statement describing the reasons the license should not be denied.

The board may refer the appeal to the executive committee which shall review the appeal within ten days of receipt. The executive committee shall issue a written decision within ten days of its consideration of the appeal. If the committee reverses the director's decision, it shall instruct the director to issue a license to the organization effective the first day of the month following the committee's written decision. The executive committee's decision is a final agency decision.

Subpart 7 clearly sets out the procedures for issuance, denial, and appeal of denial of an initial license application. It details the time line requirements that must be met by the applicant, the agency, and the board. This subpart is necessary to provide the applicant with the information necessary to appeal a denial of an initial license application. It also sets out an appeal process that is consistent with the due process requirements of the United States and state constitutions.

Subp. 8. Renewals.

A. Procedure. To renew a license at the end of a term, an organization must submit a complete renewal application on a form prescribed by the board to the board at least 75 days prior to the expiration of the organization's existing license. A renewal application is not complete until it contains the information required by subparts 3 and 4 above and a completed expense calculation on a form prescribed by the board.

Complete applications received by the board less than 75 days before the expiration of the applicant's existing license will be considered pursuant to the provisions of this part but, if the applicant is entitled to a renewed license, the license need not be renewed by the director until the first day of the month following the expiration of 75 days after the board has received the complete application. An organization shall not continue gambling after the expiration of its license unless and until it receives a renewed license.

B. Denial. An application for renewal of a license shall be denied if:

(1) the applicant is ineligible for a license pursuant to the provisions of Minnesota Statutes, section 349.16, subdivision 2, or subpart 2 of this part;

(2) the applicant has expended a greater portion of its gross profits from lawful gambling on allowable expenses than is permitted by Minnesota Statutes, section 349.15;

(3) the director determines that the organization applying for renewal is:

(i) not in compliance with a law or rule governing lawful gambling; or

(ii) delinquent in filing tax returns or paying taxes required by Minnesota Statutes, chapter 349; or

(4) it remains incomplete for more than 90 days after its initial submission.

C. Reapplication. An organization that has had its application denied pursuant to paragraph B above may reapply for renewal of its license once it has remedied that portion of its renewal application which resulted in the denial. In the case of a renewal application that has been denied because the organization has expended a greater portion of its gross profits from gambling on allowable expenses than is permitted by Minnesota Statutes, section 349.15, the organization may remedy the problem by transferring sufficient non-gambling funds into its gambling account to bring it into compliance with Minnesota Statutes, section 349.15. Nothing in this subpart shall prevent the board from pursuing disciplinary action against a licensee for violations of law or rule which warranted the denial of a renewal application but were subsequently remedied in a sufficient manner to allow renewal of the organization's license.

D. Appeals.

(1) **Late applications.** An organization that the director determines has failed to submit a complete renewal application at least 75 days prior to the expiration of its existing license may appeal that determination by filing a written request for a contested case hearing with the board prior to the expiration of the organization's existing license. The director shall schedule a contested case hearing before an administrative law judge pursuant to Minnesota Statutes, chapter 14. When possible, the hearing shall be held less than 30 days after the service of a Notice and Order for Hearing pursuant to Minnesota Rules, part 1400.5600, subpart 3. In any event, all practicable efforts shall be made to hold a hearing, receive the administrative law judge's recommendation, and make a final agency decision before the expiration of the licensee's existing license. The sole issue at the hearing shall be whether the applicant submitted a complete application at least 75 days prior to the expiration of the applicant's existing license.

(2) **Denials.** An organization whose renewal application has been denied may appeal that denial by requesting a contested case hearing pursuant to Minnesota Statutes, chapter 14. The request must be made in writing and received by the board no later than ten days after the organization receives the denial of its renewal application. Upon receipt of the request, the director shall schedule a contested case hearing before an administrative law judge pursuant to Minnesota Statutes, chapter 14. When possible, the hearing shall be held less than 30 days after the service of a Notice and Order for Hearing pursuant to Minnesota Rules, part 1400.5600, subpart 3. In any event, all practicable efforts shall be made to hold a hearing, receive the administrative law judge's recommendation, and make a final agency decision before the expiration of the organization's existing license.

Subpart 8 clearly sets out the procedures for issuance, denial, and appeal of denial of a renewal of a license to conduct lawful gambling. It details the time line requirements that must be met by the applicant, the agency, and the board. This subpart is necessary to provide the applicant with the information necessary to appeal a denial of a license renewal. It references the appropriate statutory authority on which the director must base his decision to issue or deny the license renewal.

Item A clearly sets forth the timetable an applicant must follow. This is necessary because the agency needs approximately 75 days to process the renewal application.

Item B clearly sets out the criteria upon which a denial of a license renewal will be based. It is reasonable because the criteria reflect the requirements of Minnesota Statutes, sections 349.11 to 349.23, and it limits the discretion of the director to deny license renewals.

Item C clearly sets forth the procedures by which an organization that has been denied renewal or its license may reapply for renewal. It also clearly sets forth the requirements which must be met by the organization before it may reapply. This is necessary to ensure the integrity of lawful gambling by ensuring that only organizations that meet the statutory and rule requirements are allowed to renew the lawful gambling licenses. It is reasonable because organizations are licensed under statutory restrictions and are aware of the restrictions and the requirements that must be followed to protect their ability to continue to be licensed.

Item D clearly sets forth the procedures by which an organization that has been determined to have made a late application for renewal of its license or has been denied a renewal of its license may appeal that decision. It complies with the due process requirements of the state and federal constitutions.

Subp. 9. License termination. If an organization voluntarily or involuntarily terminates all of its gambling activities, it shall submit a license termination plan to the board for approval on a form provided by the board. The plan shall be submitted within 15 days of the termination date of all gambling activities. The plan shall provide for the disposal of all registered gambling equipment in the organization's possession and for the distribution of profit carryover in its general gambling bank account. The board may require the organization to revise the plan if it does not meet with board approval. Board approval shall be based on the following criteria: (i) documentation accounting for the lawful expenditure of all remaining funds in the gambling account; and (ii) documentation of the return or disposal of all unused registered gambling equipment in the possession of the organization.

Subpart 9 sets out the requirement that a termination plan be submitted when an organization ceases lawful gambling and sets out the criteria by which the board will approve or deny the termination plan. Each licensed organization must submit to the board upon the termination of gambling a plan for the disposal of registered gambling equipment and for the distribution of profit carryover. This is necessary to ensure that an organization only expend gambling funds for certain allowable expenses and for lawful purposes as defined in the law once it has ceased gambling. The same is true for the disposal of registered gambling equipment. Submission of the plan provides some assurance to the board and the department of revenue that registered gambling equipment is disposed of properly and that profit carryover is not spent impermissibly. This is reasonable because it requires an organization to distribute gambling

profits and dispose of gambling equipment in a manner required by law, and inform the board of the manner in which these matters will be handled.

7860.0030 GAMBLING MANAGER.

Subpart 1. License required. No person shall act as a gambling manager without having obtained a license under this part. An individual shall make annual application to the board to be licensed as a gambling manager. All applications shall be considered by the director pursuant to the provisions of this part.

This subpart is necessary to clarify that the director will base the decision on granting or denying licenses based on the provisions of this part. This limits the discretion of the director.

Subp. 2. Licensing qualifications. In addition to the qualifications contained in Minnesota Statutes, section 349.167, the director shall not issue a gambling manager's license to:

- A. a member of the immediate family or an employee of a person from whom the organization leases a gambling premises;
- B. a person who is not an active member of the organization;
- C. a person who is the treasurer of the organization;
- D. a person who is the chief executive officer of the organization;
- E. a person who has not satisfactorily completed a course of instruction conducted by the board on the duties and responsibilities of the gambling manager, except that a gambling manager who replaces a previous gambling manager during the term of the organization's license may receive a license if the new gambling manager completes the training at the next available training session; or
- F. a person who is the gambling manager or an assistant gambling manager for another organization.

This subpart is needed to clearly set forth the criteria that will be used to deny a gambling manager's license application. The criteria listed in this part are based on statutory and rule requirements. These are needed because the gambling manager is responsible for the day-to-day operations of the conduct of the lawful gambling.

Item A is required by Minnesota Statutes, section 349.164, subdivision 2, and Minnesota Rules, part 7860.0060, subpart 3(h), which prohibit the lessor of a bingo hall from providing personnel to assist in the conduct of lawful gambling.

Item B restates the requirement in Minnesota Statutes, section 349.12, subdivision 19. It is necessary to restate this in rule so that an organization seeking licensing to conduct lawful gambling can have easy access to a complete list of the qualifications for licensing of gambling managers.

Items C and D are necessary to further protect the integrity of the conduct of lawful gambling. These requirements prevent the organization from having one or a limited number of individuals in complete control of the conduct of lawful gambling, the lawful gambling funds, and the organization's

funds. In such a situation, the likelihood of funds being misappropriated is increased.

Item E restates the requirement in Minnesota Statutes, section 349.167, subdivision 4. It is necessary to restate this in rule so that an individual seeking licensing as a gambling manager has easy access to a complete list of the qualifications for licensing of gambling managers.

Item F is necessary to protect the integrity of lawful gambling and to protect against the commercialization of lawful gambling. It is designed to ensure that an organization licensed to conduct lawful gambling maintains responsibility for the conduct of that gambling by preventing the employment of "professional" gambling managers.

Subp. 3. Nontransferable. A gambling manager's license is not transferable to another organization or an individual.

Subpart 3 is needed to clarify that a gambling manager's license is issued to an individual who is authorized to serve as a gambling manager for a specific organization. The gambling manager's license and the organization's license are granted in tandem. Since a person cannot obtain a gambling manager's license without being part of a licensed organization, the license must lapse when he or she leaves that organization. In addition, Minnesota Statutes, section 349.167, provides that an organization must provide or require that the individual serving as gambling manager provide a fidelity bond in favor of the organization and the state. This statutory requirement ties the gambling manager license specifically to the organization.

Subp. 4. Length of license. The gambling manager's license expires on the same date as the license of the organization which employs the gambling manager. If a licensed gambling manager discontinues employment with the licensed organization, the gambling manager's license expires on the date that the employment terminates.

Subpart 4 is needed to clarify that a gambling manager's license runs concurrently with the time period of the license of the organization pursuant to the reasoning behind subpart 3.

Subp. 5. Contents of gambling manager application. The application must contain the following information with respect to the applicant:

- A. the applicant's full name, date of birth, and social security number;
- B. the applicant's full home or business address and business telephone number;
- C. the date the applicant became a member of the organization;
- D. the name, address, and telephone number of the organization;
- E. the current status of the gambling manager's license and the dates of attendance at the gambling manager's seminar;
- F. the name of the insurance company and the bond number for the gambling manager's \$10,000 fidelity bond; and
- G. the signature of the gambling manager.

Subparts 5 and 6 set out the requirements of the license application. The items contained in these two subparts are necessary to allow the board to require submission of sufficient information to ensure that the stringent requirements of Minnesota Statutes, section 349.167, and Minnesota Rules, part 7860.0030, are met and so a background check can be completed before an application for a gambling manager's license is granted.

Subp. 6. Attachments to application. There must be attached to the gambling manager's application a signed, notarized affidavit on a form prescribed by the board stating that the applicant:

- A. has never been convicted of a felony;
- B. has not committed a violation of law or board rule within the past five years that resulted in the revocation of a license issued by the board;
- C. has never been convicted of a criminal violation involving fraud, theft, tax evasion, misrepresentation, or gambling;
- D. has never been convicted of assault, a criminal violation involving the use of a firearm, or making terroristic threats;
- E. agrees that suits and actions related to the gambling manager's license, or acts or omissions, may be commenced against the gambling manager; and
- F. authorizes the department of public safety to conduct a criminal background check.

This is needed to provide the requirement that the applicant for the gambling manager's license attest to his or her compliance with the law and attest to his or her lack of criminal convictions and to provide the board with a release to conduct a background check on the individual.

Subp. 7. Changes in application information. If any information submitted in the application changes, the board must be notified within ten days of the change.

This rule is necessary to allow the board to be fully apprised of the organization's operation of the conduct of lawful gambling and the individual status of the gambling manager's license. The rule is reasonable because it merely requires all information required to be submitted to the board be kept current.

Subp. 8. License fees.

- A. The fee for a gambling manager's license is \$100.
- B. License fees are not prorated, refundable, or transferable.

Item A restates the statutory requirement but it is necessary to include it in the rules to provide gambling manager applicants with easy access to the procedures and requirements that must be followed to obtain a gambling manager's license.

Item B is necessary to clarify that an applicant is licensed to act as a gambling manager for a specific organization. It is reasonable because an organization cannot be licensed to conduct

**lawful gambling unless it has a licensed gambling manager.
Minnesota Statutes, section 349.16(g).**

Subp. 9. **Gambling manager duties.** A gambling manager's duties include but are not limited to:

- A. determining the product to be purchased and put into play;
- B. reviewing and monitoring the conduct of games;
- C. supervising, hiring, firing, and disciplining all gambling employees;
- D. verifying all receipts and disbursements;
- E. verifying all inventory;
- F. supervising all licensing and reporting requirements;
- G. assuring that the licensed organization is in compliance with all laws and rules related to lawful gambling; and
- H. assuring that illegal gambling is not conducted at any premises where the organization is permitted to conduct lawful gambling.

This subpart describes the gambling manager's job. It is necessary to clarify which responsibilities are included in the gambling manager's duties. It is also necessary to prevent the commercialization of gambling by ensuring that organizations retain the responsibility for the conduct of lawful gambling. This responsibility is in part maintained through the gambling manager who is required by Minnesota Statutes, section 349.12, subdivision 19, to be an active member of the organization. Without this requirement, these responsibilities could be delegated to other individuals who are not licensed as gambling managers. It is reasonable because it does not burden the organization but merely requires the organization meet statutory requirements.

Subp. 10. **Issuance and denial.**

A. **Issuance.** The director may issue a gambling manager's license to any person who submits the information required by subparts 5 and 6 of this part and pays the \$100 fee pursuant to subpart 8 of this part if that person is eligible to receive a license pursuant to Minnesota Statutes, section 349.167, and subpart 2 of this part. The license shall be issued at the same time as the organization's license and any premises permits being renewed or applied for at the time the person is applying for a gambling manager's license. All licenses issued by the director pursuant to this part shall be effective on the first day of a month.

B. **Denial.** The director shall deny the application of any person ineligible to hold a license pursuant to Minnesota Statutes, section 349.167, or subpart 2 of this part.

C. **Appeal of initial license denial.** A person who has never been licensed as a gambling manager or a person whose application for renewal of a gambling manager's license was submitted after the expiration of the license may appeal the denial of a gambling manager's license by notifying the board within 15 days of the date she or he receives notice that the application has been denied. The appeal must be in writing and must contain a complete copy of the application and a statement describing the reasons the license should not be denied.

The board may refer the appeal to the executive committee which shall review the appeal within ten days of receipt. The executive committee shall issue a written decision within ten days of its consideration of the appeal.

If the committee reverses the director's decision, it shall instruct the director to issue a license to the organization effective the first day of the month following the committee's written decision. The executive committee's decision is a final agency decision.

Subpart 10 clearly sets out the procedures for issuance, denial, and appeal of denial of an initial gambling manager's license application. It details the time line requirements that must be met by the applicant, the agency, and the board. This subpart is necessary to provide the applicant with the information necessary to appeal a denial of an initial license application. It also sets out an appeal process that is consistent with the due process requirements of the United States and state constitutions.

Subp. 11. Renewals.

A. Procedure. To renew a license at the end of a term, a licensed gambling manager must submit a complete renewal application on a form prescribed by the board to the board at least 75 days prior to the expiration of the gambling manager's existing license. A renewal application is not complete until it contains the information required by subparts 5 and 6 of this part.

Complete applications received by the board less than 75 days before the expiration of the applicant's existing gambling manager's license will be considered pursuant to the provisions of this part but, if the applicant is entitled to a renewed license, the license need not be renewed by the director until the first day of the month following the expiration of 75 days after the board has received the complete application. A person may not continue acting as a gambling manager after the expiration of the person's license and until she or he has received a renewed license.

B. Denial. An application for renewal of a license shall be denied if:

(1) the applicant is ineligible for a license pursuant to the provisions of Minnesota Statutes, section 349.167, or subpart 2 of this part;

(2) the organization which employs the gambling manager is no longer licensed or is being denied a renewed license; or

(3) it remains incomplete for more than 90 days after its initial submission.

C. Reapplication. A gambling manager who has had an application denied pursuant to paragraph B above may reapply for renewal of the license once the portion of the renewal application which resulted in denial has been remedied. The reapplication must be accompanied by an additional fee pursuant to subpart 8 of this part. Nothing in this part shall prevent the board from pursuing disciplinary action against a licensee for violations of law or rule which warranted the denial of a renewal application but were subsequently remedied in a sufficient manner to allow renewal of the gambling manager's license.

D. Appeals.

(1) **Late applications.** A gambling manager whom the director determines has failed to submit a complete renewal application at least 75 days prior to the expiration of her or his existing license may appeal that determination by filing a written request for a contested case hearing with the board prior to the expiration of the gambling manager's existing license. The director shall schedule a contested case hearing before an administrative

law judge pursuant to Minnesota Statutes, chapter 14. When possible, the hearing shall be held less than 30 days after the service of a Notice and Order for Hearing pursuant to Minnesota Rules, part 1400.5600, subpart 3. In any event, all practicable efforts shall be made to hold a hearing, receive the administrative law judge's recommendation, and make a final agency decision before the expiration of the licensee's existing license. The sole issue at the hearing shall be whether the applicant submitted a complete application at least 75 days prior to the expiration of the applicant's existing license.

(2) **Denials.** A gambling manager whose renewal application has been denied may appeal that denial by requesting a contested case hearing pursuant to Minnesota Statutes, chapter 14. The request must be made in writing and received by the board no later than ten days after the gambling manager receives the denial of her or his renewal application. Upon receipt of the request, the director shall schedule a contested case hearing before an administrative law judge pursuant to Minnesota Statutes, chapter 14. When possible, the hearing shall be held less than 30 days after the service of a Notice and Order for Hearing pursuant to Minnesota Rules, part 1400.5600, subpart 3. In any event, all practicable efforts shall be made to hold a hearing, receive the administrative law judge's recommendation, and make a final agency decision before the expiration of the gambling manager's existing license.

Subpart 11 clearly sets out the procedures for issuance, denial, and appeal of denial of a renewal of a gambling manager's license. It details the time line requirements that must be met by the applicant, the agency, and the board. This subpart is necessary to provide the applicant with the information necessary to appeal a denial of a license renewal. It references the appropriate statutory authority on which the director must base his decision to issue or deny the license renewal.

Item A clearly sets forth the timetable an applicant must follow. This is necessary because the agency needs approximately 75 days to process the renewal application, including review of the application and conduct of background checks that are required by Minnesota Statutes, section 349.167, subdivision 2.

Item B clearly sets out the criteria upon which a denial of a license renewal will be based. It is reasonable because the criteria reflect the requirements of Minnesota Statutes, sections 349.11 to 349.23, and it limits the discretion of the director to deny license renewals.

Item C clearly sets forth the procedures by which an applicant that has been denied renewal or its license may reapply for renewal. It also clearly sets forth the requirements which must be met by the applicant before reapplying. This is necessary to ensure the integrity of lawful gambling by ensuring that only applicants that meet the statutory and rule requirements are allowed to renew the gambling manager licenses. It is reasonable because gambling managers are licensed under statutory restrictions and are aware of the restrictions and the requirements that must be followed to protect their ability to continue to be licensed.

Item D clearly sets forth the procedures by which an applicant that has been determined to have made a late application for renewal of its license or has been denied a

renewal of a license may appeal that decision. It complies with the due process requirements of the state and federal constitutions for the gambling manager under the requirements of Minnesota Statutes, chapter 14.

Subp. 12. Assistant gambling managers.

A. Definition. An assistant gambling manager is a person who performs a substantial number of the duties for which a gambling manager is responsible subpart 9 of this part.

B. Restrictions. An organization may employ one or more assistant gambling managers provided that:

(1) each assistant gambling manager is subject to the direct supervision and direction of the organization's licensed gambling manager;

(2) each assistant gambling manager is an active member or employee of the organization; and

(3) no assistant gambling manager participates in the conduct of lawful gambling for more than one organization.

C. Licensing. No license is required for an assistant gambling manager.

Subpart 12 is necessary to restrict the commercialization of lawful gambling by ensuring that the gambling manager licensing requirements are not circumvented by the use of assistant gambling managers who are not subject to the same regulatory oversight as a gambling manager. It is reasonable because it provides the licensed gambling manager with the opportunity to delegate some of the duties of that position while maintaining the responsibility for the proper conduct of the lawful gambling. It is reasonable to restrict the individual serving in the position of assistant gambling manager to employment by only one organization because this serves to help prevent commercialization of lawful gambling.

7860.0040 PREMISES PERMITS.

Subpart 1. Premises permit required. An organization may conduct lawful gambling only on premises it owns or leases. A permit shall be obtained for each premises where lawful gambling is to be conducted. All applications shall be considered by the director pursuant to the provisions of this part.

Minnesota Statutes, section 349.18, subdivision 1, provides that "an organization may conduct lawful gambling only on premises it owns or leases." This subpart is necessary to clarify that the director will base the decision on granting or denying permits based on the provisions of this part. This limits the discretion of the director.

Subp. 2. Length of permit. All premises permits expire on the expiration date of the organization's license. An organization may apply for additional premises permits at any time during the term of its license.

This subpart is necessary to clarify that all premises permits run concurrently with the term of the organization's license and that additional permits may be applied for during the

term of the license. It is reasonable because it allows licensed organizations flexibility to add additional premises during the term of the license and maintains administrative efficiency by ensuring all permits will expire on the same date.

Subp. 3. Contents of premises permit application. A premises permit application must include:

The contents of the application and the required attachments to the application are necessary to determine if the applicant is eligible for a premises permit.

- A. the legal name, business address, and telephone number of the organization;
- B. the name, title, home or business address, and business telephone number of the organization's chief executive officer;
- C. the name and home or business address of the organization's gambling manager;
- D. the class of premises permit, which must correspond to the organization's class of license;
- E. the current status of the premises permit;
- F. the name and street address of the proposed gambling premises;
- G. the city and county or township and county where the proposed gambling premises is located;
- H. the name and business or home address of the lessor;
- I. the name of the legal owner of the premises;
- J. the amount of monthly rent and/or rent per bingo occasion and the total square footage leased;
- K. the days and hours of each bingo occasion, if any;
- L. the address of any storage space for gambling equipment, if different than the leased premises;
- M. the bank name, address, and account number for the bank account into which gross receipts from gambling are deposited for the premises, and the name, title, and address of all persons authorized to make deposits into and withdrawals from the account;
- N. an authorization permitting the board to inspect the bank records of the gambling account for the premises;
- O. a statement providing consent to local law enforcement officers, the board or its agents, and the commissioners of revenue and public safety and their agents to enter the premises to inspect and enforce the law;
- P. an acknowledgement signed by the chief executive officer; and
- Q. an acknowledgement that the appropriate unit of government received the premises permit application.

Section 349.165 requires the board to prescribe a form for permit applications and mandates the minimum information that must be contained in an application for premises permits. The contents of the premises permits application together with the attachments to the application are designed to determine whether the premises permit should be granted.

Items A, B, C, F, G, H, and I are necessary to ensure requirements of Minnesota Statutes, section 349.165, are met and that the premises will qualify for a permit. The information required by these items is also necessary to ensure the board will be able to identify and communicate with individuals

responsible for the premises and the conduct of lawful gambling on those premises.

Item D is needed to determine the class of permit applied for, the type of lawful gambling the organization intends to conduct, and the fee that will be required for the premises permit.

Item E is necessary to determine if the organization is seeking a premises permit renewal or an initial premises permit.

Item J is necessary because organizations conducting bingo on leased premises are precluded by Minnesota Statutes, section 349.164, subdivision 7, from basing rent on the number of participants attending the bingo occasion or on a percentage of gross receipts or profits received by the organization.

Item K is necessary to verify the rent limit is not being exceeded.

Item L requires an organization to disclose on its license application the location of the organization's registered storage space for gambling equipment. It is necessary to alert the board and the department of revenue to the location of the storage space so that the organization's inventory may be easily examined to ensure compliance with the law. It is reasonable because all organizations are required to have registered storage space for gambling equipment. This item merely requires disclosure of the storage space to the board and department.

Item M requires that the organization disclose on its license application the name, address, and account number of all accounts into which gross receipts from gambling are deposited and the name and address of all persons authorized to sign checks and make deposits and withdrawals on those bank accounts. This is reasonable and necessary because a condition of licensing is a gambling checking account for each premise. This also is necessary to enable the board and the department of revenue to adequately investigate the expenditure of gross receipts from lawful gambling, and to ensure that the gambling organization is receiving the gross receipts from lawful gambling. This ensures that all persons authorized to sign checks and make deposits and withdrawals on the account are responsible members of the gambling organization. It is also reasonable because it merely requires the disclosure of information that the organization is required to maintain. Each organization is required to maintain a separate gambling account as well as maintain the name of all persons authorized to sign checks and make deposits and withdrawals on that account.

Items N, O, and P are reasonable and necessary because a condition of licensing is a gambling checking account for each permitted premises and because of the commitment from the chief executive officer to comply with all statutes and rules. Item P is necessary because it requires the signature of the chief executive officer acknowledging that the organization will comply with the requirement in items N and O.

Item Q is necessary because Minnesota Statutes, section 349.213, subdivision 2, requires that the board notify the city council of statutory or home rule cities or the county board and town board where premises will be located. The board may by rule require the organizations to notify the appropriate unit of

government at the time of application. It is reasonable to require the organization be responsible for the notification because it provides for efficient processing of the premises permit application and does not unduly burden the organization.

Subp. 4. Attachments to application. The following must be attached to the premises permit application:

A. A copy of the lease must be submitted. All leases must be on a form prescribed by the board and must contain at a minimum the following information:

- (1) the name, business address, and phone number of the lessor;**
- (2) the name, business address, and license number of the licensed organization;**
- (3) the name and street address of the leased premises;**
- (4) the term of the agreement, which must be one year;**
- (5) the type of gambling activity to be conducted;**
- (6) the monetary consideration, if any, expressed in terms of number of dollars per month or number of dollars per bingo occasion, whichever is applicable;**
- (7) the dimensions of the leased premises and the total number of square feet leased;**
- (8) the days and hours of each bingo occasion, if any;**
- (9) all obligations between the organization, its employees or agents, and the lessor and its employees or agent;**
- (10) an irrevocable consent from the lessor that:
 - (a) the board and its agents, the commissioners of revenue and public safety and their agents, and law enforcement personnel have access to the permitted premises at any reasonable time during the business hours of the lessor;**
 - (b) the organization has access to the permitted premises during any time reasonable and when necessary for the conduct of lawful gambling on the premises;**
 - (c) the owner of the premises or the lessor will not manage or participate in the conduct of gambling at the premises;**
 - (d) the lessor, the lessor's immediate family, and any agents or (gambling?) employees of the lessor will not participate as players in the conduct of lawful gambling on the premises;****
- (11) a clause that provides for the termination of the lease if the premises is the site where gambling, liquor, prostitution, or tax evasion violations have occurred;**
- (12) any other agreements between the organization and the lessor.**

B. A copy of the sketch of the floor plan with dimensions showing what portion is being leased and the total square footage.

C. A copy of the resolution from the local unit of government approving the premises permit.

Items A and B are needed to ensure that reporting will be uniform for all leasing issues. These items are reasonable because the information required by them are common categories as terms of a lease. This subpart specifically sets out the method by which the monetary consideration in the lease must be expressed.

Item A is also necessary to provide a uniform document for use by all organizations that conduct lawful gambling. It is reasonable because it eliminates the need for organizations to create lease forms and provides the board with standard documents to review to determine compliance with the law while providing sufficient flexibility for parties to the lease to add terms to the form.

The dimensions of the leased premises are needed by the board so that it can ensure that lawful gambling is only conducted within the confines of the leased premises. By specifying the dimensions of the leased premises, both the organization and the lessor are acknowledging their knowledge of the exact location where gambling is being conducted. Including the dimensions of the leased premises in the lease eliminates the potential for an organization to be erroneously accused of conducting gambling off the leased premises. Rent may be based on a cost per square foot. Therefore, in order to confirm the rent payment, the board must be aware of the square footage of the leased premises.

Subitem A(10) requires a lessor of gambling premises to agree to give regulatory officials access to inspect the licensed premises, and to agree that the lessee has access to the licensed premises during all times reasonable and necessary to conduct lawful gambling. This is necessary to ensure that regulatory officials are not denied the opportunity to inspect the licensed premises to ensure that the gambling is being conducted in accordance with the law. Without the consent, a lessor may attempt to bar access and inspection of the lawful gambling, and thereby preclude detection of unlawful practices.

Subitem (10)(c) is necessary to ensure that the organization conducting lawful gambling is solely responsible for the conduct of the lawful gambling on the leased premises. It prohibits the lessor from engaging in business activities on the leased premises as well as precludes the lessor from commingling the lessor's business activities with those of the licensed organization.

Subitem (10)(d) prohibits a lessor and certain employees from participating in lawful gambling at the leased premises. This is necessary to ensure the integrity of the game, both in reality and in perception, and to eliminate any ability for the lessor to gain any unfair advantage during the playing of the game by virtue of his or her position of financial power over the organization.

Subitem (11) is necessary because the licensing of an organization on a premises implies a certain standard of integrity. If that integrity or public health and welfare has been compromised by illegal gambling, liquor, prostitution, or tax violations, the lessor/owner should not be sheltered by the implied integrity a state license provides. This provides for termination of the lease if illegal activity takes place on the licensed premises. This is necessary to allow a legitimate organization to cease gambling on a premises where illegal activity takes place without suffering retribution from the lessor.

The board proposes to prohibit the direct or indirect placing of restrictions on the lessee as a condition of obtaining a lease to conduct gambling on the premises of the lessor. Unfortunately, incidents have occurred where lessors have imposed on lessees as a condition of obtaining the lease a requirement to purchase gambling equipment and services from a particular distributor of gambling equipment. It is crucial to the integrity of lawful gambling that the lessee not be required to purchase gambling supplies from a particular place or source, often at an inflated price, and that lessors have no voice in the conduct of lawful gambling on the leased premises. It is also crucial to the integrity of lawful gambling that the lessor be precluded from designating particular recipients of gambling proceeds. The lucrative nature of the gambling business, as well as the potential for abuse, requires such specific restrictions on the activities of the lessor of gambling premises.

Item C is necessary to ensure that the local unit of government has actually passed a resolution approving the premises permit.

Subp. 5. Changes in application information. If any information submitted in the application changes, the organization must notify the board and the local governing body in writing within ten days of the change.

This rule is necessary to allow the board to be fully apprised of the organization's operation of the conduct of lawful gambling. The rule is reasonable because it merely requires all information submitted to the board be kept current.

Subp. 6. Renegotiated leases. A lease that is renegotiated during the term of the premises permit must be furnished to the board at least ten days prior to the effective date of the lease.

This is necessary to allow the board to be fully apprised of any changes in the terms of the lease.

Subp. 7. Premises permit fees.

A. The fees for a premises permit are as follows:

(1) A class A permit (bingo, raffles, paddlewheels, tipboards, and pull-tabs) is \$200.

(2) A class B permit is \$125 (raffles, paddlewheels, tipboards, and pull-tabs).

(3) A class C permit is \$100 (bingo only).

(4) A class D permit is \$75 (raffles only).

B. Premises permit fees are not prorated, refundable, or transferable.

Item A restates the statutory requirements but it is necessary to include it in the rules to provide organizations with easy access to the procedures and requirements that must be followed to obtain a premises permit.

Item B is necessary because organizations are allowed to obtain premises permits during the term of the license and to discontinue lawful gambling at a permitted premises during the term of the license. It is reasonable because the administrative

cost of issuing the premises permit is not reduced because the term of the conduct of lawful gambling is less than one year.

Subp. 8. Local approval or denial.

A. The organization must take the premises permit application to the local unit of government and request that the local unit of government pass a resolution approving the premises permit application.

B. The resolution must have been adopted no more than 60 days before the date the application is received by the board.

C. The organization must attach a copy of the resolution approving the premises permit to the application when submitting the application to the board.

D. The director shall not issue a premises permit to an applicant that has been denied by the local unit of government.

Minnesota Statutes, section 349.213, requires local approval of premises permits before they can be issued by the board. This subpart sets forth the process for soliciting and receiving local approval. It clearly sets forth the time line that must be followed and the documentation that must be submitted to the board.

Subp. 9. Issuance and denial.

A. **Issuance.** The director shall issue a premises permit to any organization that submits the information required in subparts 3 and 4 of this part, pays the premises permit fee required by subpart 7 of this part, and obtains local approval in the manner required by subpart 8 of this part. All permits issued by the director pursuant to the provisions of this part shall be effective on the first day of a month. An organization which applies for a class A organization license may apply for class A, B, C, or D premises permits. An organization which applies for a class B organization license may apply for class B, C, or D premises permits. An organization which applies for a class C organization license may apply only for class C premises permits. An organization which applies for a class D organization license may apply only for class D premises permits.

B. **Denial.** Notwithstanding the provisions of paragraph A above, the director shall deny a premises permit application when:

(1) the applying organization does not have a licensed gambling manager or person who will be issued a gambling manager's license at the time the premises permit is issued;

(2) the applying organization does not have a license to conduct lawful gambling or will not have a license to conduct lawful gambling at the time the premises permit is issued; or

(3) the proposed site is a site where illegal gambling has occurred within the last 12 months or the lessor has been convicted of illegal gambling within the last 12 months.

C. **Appeal of initial premises permit denial.** An organization that has never obtained a premises permit for the proposed site or whose application for renewal of a premises permit was submitted after the expiration of its permit may appeal the denial of a permit application by notifying the board within ten days of the date it receives notice that its application has been denied. The appeal must be made in writing and must contain a complete copy of the application and a statement describing the reasons the permit should not be denied.

The board may refer the appeal to the executive committee which shall review the appeal within ten days of receipt. The executive committee shall issue a written decision within ten days of its consideration of the appeal. If the committee reverses the director's decision, it shall instruct the director to issue a premises permit to the organization effective the first day of the month following the committee's written decision. The executive committee's decision is a final agency decision.

Minnesota Statutes, section 349.165, gives the board discretion to deny premises permits.

Subpart 9 clearly sets out the procedures for issuance, denial, and appeal of denial of a premises permit application. It details the time line requirements that must be met by the applicant, the agency, and the board. This subpart is necessary to provide the applicant with the information necessary to appeal a denial of an initial premises permit application. It complies with the due process requirements of the state and federal constitutions.

Item B is necessary because it specifically sets forth criteria on which a premises permit will be denied thereby.

Subp. 10. Renewals.

A. Procedure. To renew a permit at the end of a term, an organization must submit a complete renewal application on a form prescribed by the board to the board at least 75 days prior to the expiration of the organization's existing permit. A renewal application is not complete until it contains the information required by subparts 3 and 4 of this part, the fee required by subpart 7 of this part, and local approval in the manner required by subpart 8 of this part.

Complete applications received by the board less than 75 days before the expiration of the applicant's existing permit will be considered pursuant to the provisions of this part but the permit need not be renewed by the director until the first day of the month following the expiration of 75 days after the board has received the complete application. An organization shall not conduct gambling at a site where an existing permit has expired unless and until it receives a renewed permit.

B. Issuance and denial. An application for renewal of a premises permit shall be considered in the same manner as an application for an initial permit pursuant to subpart 9 of this part. In addition, any application for renewal of a premises permit shall be denied if it remains incomplete for more than 90 days after its initial submission.

C. Reapplication. An organization that has had a premises permit renewal application denied pursuant to item B above may reapply for a renewal of its permit once it has remedied that portion of its renewal application which resulted in its denial. A reapplication must be accompanied by an additional fee as provided in subpart 7 and new local approval pursuant to subpart 8.

D. Appeals.

(1) Late applications. An organization that the board determines has failed to submit a complete renewal application at least 75 days prior to the expiration of its existing premises permit may appeal that determination by filing a written request for a contested case hearing with the board no later than 30 days prior to the expiration of the organization's existing premises permit. The director shall schedule a contested case hearing before an administrative law judge pursuant to Minnesota Statutes,

chapter 14. When possible, the hearing shall be held less than 30 days after the service of a Notice and Order for Hearing pursuant to Minnesota Rules, part 1400.5600, subpart 3. In any event, all practicable efforts shall be made to hold a hearing, receive the administrative law judge's recommendation, and make a final agency decision before the expiration of the licensee's existing premises permit. The sole issue at the hearing shall be whether the applicant submitted a complete application at least 75 days prior to the expiration of the applicant's existing premises permit.

(2) **Denials.** An organization whose renewal application has been denied may appeal that denial by requesting a contested case hearing pursuant to Minnesota Statutes, chapter 14. The request must be made in writing and received by the board no later than ten days after the organization receives the denial of its renewal application. Upon receipt of the request, the director shall schedule a contested case hearing before an administrative law judge pursuant to Minnesota Statutes, chapter 14. When possible, the hearing shall be held less than 30 days after the service of a Notice and Order for Hearing pursuant to Minnesota Rules, part 1400.5600, subpart 3. In any event, all practicable efforts shall be made to hold a hearing, receive the administrative law judge's recommendation, and make a final agency decision before the expiration of the organization's existing premises permit.

Subpart 10 clearly sets out the procedures for issuance, denial, and appeal of denial of a renewal of a premises permit. It details the time line requirements that must be met by the applicant, the agency, and the board. This subpart is necessary to provide the applicant with the information necessary to appeal a denial of a premises permit renewal. It references the appropriate statutory authority on which the director must base his decision to issue or deny the license renewal.

Item A clearly sets forth the timetable an applicant must follow. This is necessary because the agency needs approximately 75 days to process the renewal application.

Item B clearly sets out the criteria upon which a denial of a premises permit renewal will be based. It is reasonable because the criteria reflect the requirements of Minnesota Statutes, sections 349.11 to 349.23, and it limits the discretion of the director to deny premises permit renewals.

Item C clearly sets forth the procedures by which an organization that has been denied renewal of its premises permit may reapply for renewal. It also clearly sets forth the requirements which must be met by the organization before it may reapply. This is necessary to ensure that the integrity of lawful gambling is protected by ensuring that only organizations that meet the statutory and rule requirements are allowed to renew premises permits. It is reasonable because organizations are licensed under statutory restrictions and are responsible for knowing the restrictions and the requirements that must be followed to protect their ability to continue to conduct lawful gambling at a specific premises.

Item D clearly sets forth the procedures by which an organization that has been determined to have made a late application for renewal of its premises permit or has been denied a renewal of its premises permit may appeal that decision. It

provides sufficient due process to comply with the state and federal constitutions.

7860.0050 ILLEGAL GAMBLING.

Subpart 1. **Prohibition.** Illegal gambling may not be conducted at a premises where a licensed organization has been permitted to conduct lawful gambling.

Subp. 2. **Discipline.** The board shall suspend an organization's premises permit for a period of one year for any violation of this part. The board may suspend or revoke an organization's license if the organization or its agents participated in the illegal gambling prohibited by subpart 1.

Part 7860.0050 prohibits the granting of a license to any organization that proposes to conduct lawful gambling on premises where illegal gambling has occurred within the most recent 12-month period. This is necessary to ensure the integrity of the gambling operation conducted on the leased premises, and to ensure that the lessor has not engaged in recent illegal activity which negatively reflects on the integrity of the licensed organization. The rule is reasonable because it does not prohibit an organization from obtaining a license to conduct gambling. It merely prohibits the organization from conducting gambling at a premises which has been the site of illegal gambling. The organization may obtain a license to conduct gambling at another site, so long as that other site has not also been the site of illegal gambling.

This also has the effect of deterring lessors, primarily bar owners, from engaging in or allowing illegal gambling to take place on the premises. The lessor receives a benefit from having licensed gambling on its premises. Lawful gambling can increase the patronage of the lessor's establishment. Precluding lawful gambling on premises where illegal gambling has occurred has the effect of discouraging illegal gambling on the same premises.

Finally, the rule is designed to preserve the integrity of lawful gambling. The legislature has made it clear that it wants a "bright line" to be drawn between illegal gambling and lawful gambling. Hence, persons convicted of illegal gambling are not allowed to be licensed as gambling managers. Nor are distributors or manufacturers able to obtain a license if they have persons in certain positions who have been convicted of illegal gambling. This rule is necessary to maintain the integrity sought by the legislature by painting the "bright line" between illegal gambling and lawful gambling, thereby minimizing the likelihood that evils of illegal gambling will contaminate a lawful gambling operation.

7860.0060 CONDUCT OF LAWFUL GAMBLING.

Subpart 1. **General restrictions.**

A. No person under the age of 18 may conduct or participate in the playing the games of pull-tabs, tipboards, or paddlewheels.

B. All playing of lawful gambling must be on a cash basis, in advance of any play. Traveler's checks and money orders are acceptable.

C. The conduct of lawful gambling, including the redemption of prizes related to lawful gambling, shall occur exclusively on the permitted premises.

D. At each permitted premises, the organization shall have:

- (1) a current inventory list of gambling equipment;
- (2) a sketch with dimensions of the leased premises available for review;
- (3) a clear, physical separation or a tangible divider between the organization's gambling equipment and the lessor's business equipment; and
- (4) the invoices or true and correct copies of the invoices for the purchase of all gambling equipment at the premises.

Item A sets forth the requirement that no one under the age of 18 may participate in the games of paddlewheel, tipboards, or pull-tabs. This is necessary to ensure that individuals under the age of majority do not engage in gambling consistent with other legislative prohibitions related to age. Bingo and raffles have been exempted because it is the common practice at the present time for organizations consisting of individuals under the age of 18 to conduct raffles and for many organizations conducting bingo to permit persons under the age of 18 to participate in bingo games.

Item B in part restates the statutory requirement that all playing must be on a cash basis, but adds a clarifying statement that traveler's checks and money orders are also acceptable. This is necessary to avoid confusion on the part of licensed organizations as to the meaning of the legislative prohibition against checks. It is reasonable because, unlike personal checks, traveler's checks and money orders cannot be overdrawn. Hence, there is less danger that play will be encouraged despite a lack of financial ability by the player.

Item C makes it clear that the conduct of lawful gambling, including the redemption of prizes, must take place only on the permitted premises. This is consistent with the other statutory and rule requirements that confine gambling to specific locations to allow for an equal regulatory oversight.

Item D is necessary to ensure that only registered gambling equipment is located on the leased premises and that the dimensions of the leased premises are available to the players, the public, and regulatory and law enforcement officials. It is also necessary to ensure that no overlap exists between the leased premises and the other portions of the lessor's property. It helps to eliminate commingling of functions between the organization conducting gambling and the lessor conducting business. It is therefore necessary and reasonable.

Subp. 2. Restrictions for gambling on leased premises.

A. An organization shall not enter into a lease agreement which imposes implicit or explicit restrictions on the organization with respect to providers of gambling-related equipment and services or in the use of net profits for lawful purposes.

B. An organization may not pay rent to itself for the conduct of gambling on premises which is owned by the organization or its affiliates.

C. No amount may be paid by an organization to a lessor based on the number of participants attending a bingo occasion or on the gross receipts or profit received by the organization.

D. The amount of rent an organization may pay for the conduct of lawful gambling may not exceed:

(1) For all forms of lawful gambling \$24 per square foot per month, not to exceed \$600 per month.

(2) For bingo and all other gambling activities which occur during that bingo occasion, \$200 for leased premises of not more than 6,000 square feet, \$300 for leased premises of not more than 12,000 square feet, and \$400 for leased premises of more than 12,000 square feet.

(3) An organization may not use non-gambling funds to directly or indirectly supplement rent above the amounts provided in this subpart.

E. An organization shall not permit the lessor's business activities to be conducted on the leased premises.

F. An organization shall not permit the lessor, the lessor's immediate family, or the lessor's employees to participate as players in the conduct of lawful gambling on the leased premises.

G. Gambling employees of a licensed organization may not participate as players in any lawful gambling at the leased premises.

H. An organization may not employ as a gambling manager the lessor, a member of the lessor's family, or an employee of the lessor.

I. If the organization is a sublessee, the restrictions also apply to the sublessee.

This subpart sets forth general restrictions for leased premises. Items A through D relate to rent restrictions. The rent limits are necessary to ensure that the lessor receives adequate compensation for the lease of a portion of the premises for the conduct of lawful gambling, while at the same time eliminating the opportunity for a windfall to the lessor as a result of the lawful gambling. Lawful gambling is intended to provide financial resources to support lawful purposes. Lawful gambling is not designed to create a lucrative financial business for private landlords and bar owners. In setting the rent limits, the board has balanced the needs of the lessor against the needs of the organization whose purpose is to provide funds for lawful purposes. The limits imposed by these requirements are necessary and reasonable because they balance the compensation for the lessor with the purpose of providing funds for lawful purpose donations.

In addition, the rent limits "level the playing field" for large and small organizations by preventing the small organizations from being squeezed out of the market by organizations able to pay large amounts in rent. This is consistent with the legislature's mandate that commercialization of gambling be avoided.

Items F and G eliminate any appearance of improper involvement by those closest to the operation of the lawful gambling and protects the integrity of the game. They may still participate at other premises.

Items E and H address the requirement that there must be a separation between the operations of an organization conducting lawful gambling and a property owner leasing a site to that

organization. It makes it clear that the owner of the site may not engage in any of the lawful gambling upon that site. These rules are necessary to keep the responsibilities of the lessor of the site and the gambling operation distinct consistent with the legislative mandate to preserve the integrity of lawful gambling.

Subp. 3. Posting of flare. The odds, house percentages, or number of tickets must be displayed on the flare accompanying each deal of pull-tabs, tipboards, or the master flare for a group of up to 100 paddleticket cards.

Subpart 3 is necessary to provide the player with information as to the possibility of winning when participating in one of these forms of lawful gambling.

Subp. 4. Posting of information. A licensed organization must prominently post the following information at the permitted premises:

- A. The name of the licensed organization.
- B. The license number of the licensed organization and the premises permit number.
- C. The expiration date of the premises permit.
- D. The notice of compulsive gambling information which must at a minimum include the telephone number for the Minnesota hotline for compulsive gambling.
- E. The house rules governing the conduct of gambling at the premises.

The sign on which this information is posted shall be adequately lighted, legible, and must be at least 18 inches by 24 inches in size.

Subpart 4 clarifies the statutory requirement that organizations prominently post the rules of play and the odds and/or house percentages on each form of lawful gambling conducted by the organization. This is a statutory requirement. See Minnesota Statutes, section 349.151, subdivisions 5 and 7.

Items A through C are necessary to ensure that a player can identify the organization that is conducting the lawful gambling.

Item D is necessary to help provide information on compulsive gambling to those whose may need it.

Item E is reasonable and necessary to require an organization to post the rules of any game requiring that a person pay a fee to participate. The posting of the rules also ensures that the organization follows those rules and alerts any player to a deviation from the rules.

Subp. 5. Advertising. Any promotional material, sign, or advertising of lawful gambling must identify the licensed organization permitted to conduct gambling at the premises, its license number, and the premises permit number for the premises.

This subpart is necessary to clarify that advertising, while not prohibited, is not among the statutorily allowed expenses that may be taken as an allowable expense (see Minnesota Rules, part 7860.0120, subpart 5(2)(a)). It also is necessary to ensure that advertising material can be clearly attributed to a specific organization.

Subp. 6. **Storage of equipment.** Gambling equipment may be stored on the leased premises. The gambling equipment must be stored in an area that is under the control of the organization.

Subpart 6 expands on the statutory requirements regarding storage of equipment. Organizations conducting gambling may store gambling equipment on the leased premises provided that the storage is done in a manner which ensures that the gambling equipment remains under control of the licensed organization.

Subp. 7. **Exchange of gambling equipment prohibited.** A licensed organization may not exchange, sell, or otherwise provide gambling equipment, with the exception of a bingo ball selection device, to any other organization.

This statutory provision is contained in the distributor section of the statute. It is restated in this subpart so that licensed organizations who may miss the statutory provision are made aware of the requirement. It is necessary to provide for the efficient regulation including review of the organization's conduct of lawful gambling, payment of taxes, and use of lawful gambling proceeds. Bingo ball selection devices are excepted from this restriction because they are a piece of equipment which is used repeatedly. Bingo ball selection devices are not like other gambling equipment such as pull-tabs, tipboards, and bingo cards and sheets which must be accounted for to determine gross receipts.

7860.0070 BINGO.

Subpart 1. **Restrictions.**

A. An organization may not allow an employee who works during a bingo occasion to play in a bingo game conducted by that organization during that bingo occasion.

B. An employee who works during a bingo occasion may not have direct contact with his or her immediate family members involving the play of bingo during the bingo occasion. "Immediate family" is defined as consisting of the employee's spouse, child, parent, brother, or sister.

C. For purposes of this subpart, the term "employee" includes a volunteer.

Subpart 1 prohibits employees or volunteers from playing a bingo game or from having contact with family members who are playing a bingo game during the bingo occasion during which they are working. This is necessary to alleviate any possibility of collusion or the appearance of any collusion.

Subp. 2. **Bingo equipment to be used.** The conduct of bingo must include the following items:

A. A machine or other device from which balls are withdrawn.

B. A set of 75 balls bearing the numbers 1 through 75 and the letters B, I, N, G, O. The 75 balls must be available for inspection by the players before a bingo occasion begins to determine that all are present and in operating condition. Each numbered ball must be equal in size, weight, shape, balance and all other characteristics that control their selection,

must be free from any defects, and be present in the receptacle before each game begins.

Subpart 2 lists the bingo equipment to be used in conducting the game of bingo. This is necessary to standardize the equipment and to make it plain that equipment must be designed so that it will result in a fair game.

Subp. 3. Numbering of cards. Each set of disposable bingo cards or sheets must be consecutively numbered from the first card to the last card, or from the first sheet of cards to the last sheet of cards, or be consecutively numbered through the set. Each card or sheet must have printed on its face both its individual card or sheet number, and the series and individual face number of the card number assigned by the manufacturer to that set of disposable bingo cards.

Subpart 3 is needed to provide a means by which regulators can determine the exact number of disposable bingo cards or sheets that were paid for and played during a bingo occasion. Regulators can match the total receipts to sales invoices. This is reasonable because it is based on the printing process and standards currently in use by manufacturers of bingo paper and does not place an additional burden on the industry.

Subp. 4. Cards that are not preprinted but are completed by the player. Bingo cards must contain five horizontal rows of spaces with each row except the central one containing five figures. The central row must have four figures with the word "free" marked in the center space. The remaining spaces must be of uniform color and size.

This subpart sets forth the format of bingo cards in use throughout the State of Minnesota. A substantial number of questions have arisen regarding the use of bingo cards which are not pre-printed but are filled in by the player at the bingo occasion. This is consistent with the definition of a bingo card as contained in Minnesota Statutes, section 349.12, subdivision 4. That statute requires a bingo card to contain 25 spaces with the center space in the middle row having the word "free" printed on it. In any bingo game, the particular arrangement of numbers on the bingo card must be clearly described and announced to the players immediately before each game is begun. In the absence of the announcement, any combination of five spaces in a row, vertically, horizontally, or diagonally, could be used to win the bingo game. If the spaces on the bingo card are not uniform in color and size, then the card would not be an acceptable bingo card, and would not conform to the rules of the game. This rule is needed and reasonable to eliminate a substantial amount of confusion with respect to the format of bingo cards.

Subp. 5. Manner of conducting bingo. A bingo game must be conducted in the following manner:

A. The organization shall post a notice on the site containing the house rules governing the conduct of bingo, including the method and procedure for prompt payment and collection of money for the cards or sheets sold.

B. If an organization has duplicate hard cards in play, the organization shall conspicuously post that fact or notify all players prior to their purchase of cards for a game or number of games that will have duplicate bingo cards in play.

C. An organization shall not reserve any bingo cards or sheets for use by players except braille cards for use by legally blind players.

D. Legally blind players may use personal braille cards when an organization does not provide these cards. The organization may inspect, and reject, any personal braille card.

E. Bingo cards or sheets must be sold and paid for on the premises immediately prior to the start of a specified game or specified number of games.

F. Two or more sets of disposable bingo cards or sheets may not be used at the same time if they have identical faces.

G. The particular arrangement of numbers required to be covered in order to win the bingo game must be clearly described and announced to the players immediately before each game is begun.

H. Immediately following the drawing of each ball in a bingo game, the caller shall display the letter and number on the ball to the players.

I. The letter and number on the ball must be called out prior to the drawing of the next ball.

J. After the letter and number are called, the corresponding letter and number on the flashboard, if any, must be lit for player viewing.

K. A bingo prize may not be determined other than by the matching of letters and numbers on a bingo card or sheet with the letters and numbers called by the organization.

L. A player shall not separate a disposable bingo card or sheet when there are two or more cards on one sheet.

M. A player shall not play more bingo cards or sheets than he or she has purchased or received in free plays.

N. A winner is determined when a specified pattern of called numbers appears on a card or sheet.

O. If there are multiple winners on the last called number, the following shall apply:

(1) If the designated prize consists of cash, the total amount of the prize must be divided equally between or among the verified winners. The organization has the option of rounding fractional dollars to the higher dollar.

(2) If the designated prize consists of an item other than cash and the designated prize cannot be divided, the organization shall award substitute prizes to each verified winner. The substitute prizes shall be of equal value.

P. When a bingo player declares a winning combination of letters and numbers on the card, cards or sheets for a game with a prize of \$100 or more, the serial number of the winning card or sheet number shall be stated aloud by an organization employee. Every winning card or sheet shall be verified by an organization employee and at least one neutral player.

Q. A prize receipt form prescribed by the board must be completed for a winning prize of \$100 or more. The prize receipt form must include the following information:

(1) the winner's name, address, and driver's license number, including state of license registration, unless the winner does not have a driver's license, in which case the winner's full name and full address from another form of picture identification;

- (2) the series number of the winning card or sheet;
- (3) the date and the amount of the prize won; and
- (4) the name of the gambling premises.

R. Upon a bingo player declaring a winning bingo, the next ball out of the machine must be removed from the machine prior to shutting the machine off and must be the next ball to be called in the event the declared winning bingo is not valid.

S. One or more checkers are required for each bingo occasion. The checker or checkers must record on a form prescribed by the board the number of cards or sheets played in each game, the registration or card or sheet number of each winning card or sheet, and the prizes awarded to the recorded cards or sheets. Each checker must certify that the figures are correct to the best of the checker's knowledge.

T. No person shall engage in any act, practice, or course of operation that would affect the integrity or adversely affect the outcome of any bingo game.

Subpart 5 indicates some general and specific rules under which the game of bingo must be played. The rules are designed to give good accountability and produce a fairly conducted bingo game.

Item O sets forth the procedure to be followed if there are multiple winners. This is necessary so that there is a uniform procedure to handle multiple winners and also so that the division of prizes will be fair.

Subp. 6. **Gross receipts compared and discrepancies reported.** The gross receipts of each bingo occasion must be compared to the checkers' records by an employee of the organization who did not sell cards or sheets for the occasion. If a discrepancy of more than \$20 is found between the gross receipts as reported by the checkers and the gross receipts determined by totaling the cash receipts, a copy of the comparison must be provided to the board within five days of the bingo occasion.

This is necessary to protect the integrity of the conduct of bingo. It provides for an accurate accounting of bingo receipts and provides cross-checking of the amount of cash collected by each bingo worker.

Subp. 7. **General bingo records.** For each bingo occasion, the following records must be kept for a period of three and one-half years:

- A. the total number of players in attendance;
- B. the total amount wagered;
- C. the total prizes, including cash and market value of non-cash prizes, awarded;
- D. a copy of the schedule of games and their prizes;
- E. the number and price of cards or sheets sold, by type;
- F. the inventory of disposable bingo cards purchased by the organization; and
- G. for any bingo game with a prize valued at \$100 or more, a prize receipt as provided in subpart 5, item Q, of this part.

This is necessary and reasonable to ensure accountability of revenue-generating gambling equipment. The same principle is applied in the accounting of deals of pull-tabs, deals of

tipboards, paddlewheel tickets, and raffle tickets. In each case, the total cash collected and the amount paid out on each of the winning items produce the actual gross receipts; the actual gross receipts less the actual prizes paid to winners produces the actual net profit. That amount is basis for the tax obligation for that bingo occasion. This item requires an organization maintain records of the inventory of disposable bingo cards purchased by that organization. The requirement is necessary to allow the organization to arrive at the amount of gambling tax due by the organization.

This subpart sets out several general records that must be kept by the organizations to record their bingo activity. Specific records are not detailed in the rules so that each organization may design a recordkeeping system that gives the information required in subpart 7 but is designed to satisfy the requirements of the activity and volume done by a particular organization.

These particular records, being general in nature, are easily retainable and accounted for by the organization. The board believes that, as a minimum, this information must be gathered to provide the board with information that statistically could show a deviation from an established pattern of bingo activity by an organization. It provides the board with a basis for judging whether the reported bingo activity approximates what it should, based upon statistical analysis and historical experience.

7860.0080 PULL-TABS.

Subpart 1. Restrictions.

A. Pull-tabs must not be dispensed from any coin-operated or mechanical dispensing device.

B. A gambling employee of an organization shall not purchase pull-tabs at the site of the employee's place of employment. For purposes of this subpart, the term "employee" includes a volunteer.

C. An organization may not change the flare or use a flare that it receives in an altered or defaced condition. A pull-tab deal may not be placed out for play when the value of the prizes or the cost of the pull-tabs differs from the flare.

D. The pull-tab seller shall not assist players in the opening of purchased pull-tabs.

Subpart 1 sets out some restrictions on the conduct of pull-tabs. These are necessary to protect the integrity of the game.

Item A is necessary because the board is not prepared to regulate these devices.

Item B is necessary to alleviate any possibility or appearance of collusion.

Item C is necessary so that the integrity of the flare remains intact. The information on the flare is necessary as a control item; if the flare is defaced or altered, the integrity is lost.

Subp. 2. Operation of pull-tab game. The following rules shall apply to the game of pull-tabs:

A. An organization may not purchase deals of pull-tabs that have the same game serial number, or obtain, possess, or allow upon a site a deal of pull-tabs or portion thereof with the same serial number and color trim combinations as any other deal of pull-tabs or portion thereof in its possession. This does not prevent an organization from retaining upon the site pull-tabs remaining from a deal removed from play for the purposes of complying with state statute or rule if the organization:

(1) has defaced each pull-tab removed and retained immediately upon removal of the pull-tabs from play;

(2) has made a written record of the game serial number, color trim, and the number of pull-tabs remaining in the deal immediately upon removing the deal from play; and

(3) the written record is maintained upon the site while the deal is in play, and available on demand, for a period of three and one-half years once the deal is removed from play.

B. No organization shall place a deal of pull-tabs in play unless the game serial number of the deal of pull-tabs corresponds to the game serial number written on the state registration stamp. If the game serial number does not correspond to the number written on the registration stamp, the organization shall return the deal of pull-tabs to the distributor. The registration stamp must not be altered or removed from the flare.

C. No deal of pull-tabs may be placed out for play in the original package, box, or other container in which it was received. When a deal of pull-tabs is received in two or more packages, boxes, or other containers, all of the pull-tabs from the respective packages, boxes, or other containers must be placed out for play at the same time. The entire deal of pull-tabs must be dumped into the container and mixed.

D. An organization shall not put into play any pull-tab that has been marked, defaced, altered, tampered with or otherwise operated in a manner which tends to deceive the public or affects the chances of winning or losing.

E. No deal of pull-tabs may be placed out for play unless the cost to the player for each pull-tab is clearly posted on the flare.

F. Each pull-tab must be sold for the single ticket price indicated on the flare and no pull-tab may be provided to a player free of charge or for any other consideration. This item does not apply to the winning of a free play.

G. The organization must clearly identify the play of pull-tabs as a single deal or a commingled deal.

H. House rules governing the sale of pull-tabs must be posted in such a manner that players have access to the house rules before buying any pull-tabs. The method used to post major winners as required by Minnesota Statutes, section 349.172, must be explained in the house rules. The list of major winners must be conspicuously displayed in the immediate vicinity of the pull-tab game.

I. An organization may not pay a player any prize unless the player redeems an actual winning pull-tab. A prize payout must not be made to any player for a lost, marked, defaced, or altered pull-tab.

J. An organization may not pay a player a prize when the winning pull-tab has left the site where the deal is in play.

K. The pull-tab seller shall deface each winning pull-tab which is redeemed.

L. The prize receipt form must be completed as set forth in subpart 6, item C, of this part.

M. At each permitted premises the organization shall maintain a copy of the distributor's invoice for each pull-tab deal in play and for each

pull-tab deal on the premises and shall make the invoices available for inspection by the board and its agents and the commissioners of revenue and public safety and their agents.

Subpart 2 indicates some general and specific rules under which the game of pull-tabs must be played. The rules are necessary to control the game of pull-tabs. They are designed to give good accountability and produce a fairly conducted game.

Item A - the organization may not possess two games with the same serial numbering and color trim. This is a control feature to prevent the playing of several pull-tab games on one state registration stamp.

Item B requires that the pull-tab game's serial number and the game's serial number written on the state registration stamp correspond. This is a critical control feature that shows the tax has been paid on that particular game.

Item C requires that the deals of pull-tabs may not be played in the same container in which they were received from the distributor. This is necessary to break up any pattern of winners that may have been established during packaging.

Items E and F are necessary to enable the organization to determine what is called the "ideal gross" and "ideal net" for the pull-tab deal. The ideal gross and ideal net are part of the calculation used to determine the amount of tax due on the pull-tab sale. Unless all pull-tabs are sold at the same price, the calculation of the ideal gross and ideal net is not accurate. The amount of tax due on the pull-tab sale is also inaccurate. The sale of pull-tabs in "bulk" skews the tax calculation, as well as provides an unfair advantage of winning to the buyer of multiple pull-tabs that the buyer of a single pull-tab may not have.

Items D, G, and H are necessary to ensure the player can determine the odds of winning and the rules of the game.

Item I is necessary to ensure that counterfeit tickets are not brought into the premises and presented as winners. If organizations pay off because of winners that have been lost and not redeemed, there will be no winning ticket kept in the records of the pull-tabs activity to verify that an actual winning ticket has been paid.

Items K and L are necessary as control measures on the payment of winners.

Subp. 3. Single deals. The following apply to single deals of pull-tabs:

A. The flare, with the state registration stamp affixed, for the deal of pull-tabs in play shall be affixed to the receptacle containing the entire deal of pull-tabs.

B. Separate cash banks must be maintained for each deal.

The flare with the state registration stamp attached must be visible so that enforcement officers can be assured that the game of pull-tabs in play has been registered according to state law.

Subp. 4. Commingled deals. The following apply to commingled deals of pull-tabs:

A. Two or more single deals of pull-tabs may be commingled in one receptacle subject to the following:

- (1) the deals must be identical as to a particular type of game and as to the number of pull-tabs per game;
- (2) each deal must have a separate flare displaying the state registration stamp and manufacturer's serial number; and
- (3) the flares must be identical as to the price per ticket, the amount of prizes, and the denominations of prizes.

B. The flares of all the deals in play must be affixed to the receptacle containing the pull-tabs.

C. Commingled deals must be removed from play at the end of each month for the purpose of reporting the result of the games in the same month's tax return. Commingled deals may be returned to play once the information required has been determined.

D. The board may prohibit an organization from commingling deals of pull-tabs if it determines that the organization has excessive or abnormal cash shortages.

Subpart 4 relates to commingled deals. This is a method of play where several single games are mixed in a common container to make one large game.

Item A sets forth certain control items before this method may be used. These items are necessary to maintain and assure the integrity of the game.

Item B requires, as a control method, that the flares with the state registration stamp and manufacturer's serial numbers are visible to the players so that any investigators may be assured that the deals of pull-tabs have been registered according to state law.

Item C requires that the deals must be removed at a minimum of at least once a month. This is necessary so that adequate recordkeeping may be maintained. If the commingled deals were permitted to run continuously for many months, there would be no recordkeeping possible to determine the accuracy of the games. The longer a commingled deal is in play, the risk of any cash short increases and the accountability of which jar operator(s) are responsible decreases. If a commingled deal was to be permitted to be played beyond one month, any problem related to that commingled deal would go undetected and the organization would be unable to remedy the problem until it was too late and the problem was out of hand.

Item D allows the board to determine that commingled deals may not be used if abnormal cash shortages result. After pull-tabs have been played in this state and records have been submitted, over a period of time the board will be able to determine what constitutes an abnormal cash shortage. The facts to make the judgment as to normal cash shortages are not available at this time.

Subp. 5. Pull-tab prize and cost per ticket limitations. Prizes and bets must be limited, awarded, and controlled in the following manner:

A. The maximum value of a prize for a winning pull-tab must not exceed \$250. If two or more winning combinations are possible, including the last sale prize on a single pull-tab, the total value of all winning combinations must not exceed \$250.

B. Each pull-tab shall not be sold for more than \$2.

C. All prizes must be awarded in cash, merchandise, or in free plays as designated on the flare.

(1) All merchandise prizes must be displayed in full view in the immediate vicinity of the pull-tab game.

(2) When a winner of a merchandise prize is determined, the organization shall remove that prize from any display and award it to the winner immediately.

D. An organization may not substitute cash for merchandise prizes which have been won.

E. When any player wins a cash prize of \$50 or more or receives a cash prize for redeeming the last ticket sold in a pull-tab game for which the distributor has modified the flare to contain a last sale value of \$20 or more, the organization shall record the win as set forth in subpart 6, item C, of this part.

This subpart provides a reasonable control on prizes and further helps organizations in maintaining solid accounting information.

Item C requires that the prize be cash, merchandise, or free plays, and that, if the prize is merchandise, the merchandise be displayed and immediately removed from display when won. This is necessary so that players will not believe that they are playing for merchandise prizes that actually are not available.

Subp. 6. Records. An organization shall maintain the following information for a period of three and one-half years.

A. All records, reports, and receipts relating to a deal of pull-tabs in play must be retained at the gambling premises and thereafter retained by the organization and made available on demand to the board.

B. For each deal of pull-tabs the flare, with the state registration stamp affixed, and all winning, unopened, and unsold pull-tabs segregated by game serial number. Commingled deals of pull-tabs are not required to be segregated by game serial number. The organization shall not open any unsold or defective pull-tabs.

C. All completed prize receipt forms for any winning pull-tab valued at \$50 or more or for any prize for redeeming the last ticket sold in a pull-tab game for which the distributor has modified the flare to contain a last sale value of \$20 or more. A prize receipt form prescribed by the board shall include at a minimum the following information:

(1) The pull-tab seller must legibly print in ink on the receipt the following:

- (a) The name of the gambling premises.
- (b) The registration stamp number and the game serial number of the deal of pull-tabs from which the prize was won.
- (c) The name of the game of that deal of pull-tabs.
- (d) The date the prize was won.
- (e) The value of the prize won.
- (f) The winner's name and driver's license number including state of license registration, unless the winner does not have a driver's license, in which case the winner's full name and full address obtained from a picture identification.

(2) The receipt must be legibly signed in ink by the pull-tab seller paying the winner.

D. Organizations must complete a detailed monthly report in a standard format approved by the commissioner of revenue for each deal of pull-tabs removed from play during that month (schedule B), as required by part 7860.0120, subpart 3, item D. The report must contain the following information:

- (1) the premises permit number and name of the premises;
- (2) the month and year the report is prepared;
- (3) the name of the preparer;
- (4) the name of each deal of pull-tabs and the number of pull-tabs in the deal;
- (5) the state registration stamp number;
- (6) the game serial number;
- (7) the date put into play;
- (8) the date removed from play;
- (9) the cost of each pull-tab;
- (10) the ideal gross receipts;
- (11) the ideal prizes which includes last sale;
- (12) the dollar amount of unsold and defective pull-tabs;
- (13) the actual gross receipts;
- (14) the actual prizes, including cash and merchandise;
- (15) the net receipts;
- (16) the actual cash profit or loss resulting from each deal of pull-tabs removed from play; and
- (17) the cash long or short stated numerically.

E. Reports must provide sufficient detail to determine the actual net receipts, actual cash profit, and the cash long and short for each deal of pull-tabs.

Subpart 6 sets out several general records that must be kept by the organization to record its pull-tab activity. It sets forth necessary procedures to be followed and records to be kept so that the board may adequately review organizations' operations and the organizations may adequately analyze their activities.

Items A through C provide that the records only have to be kept by the organizations and be available for the board's review should it become necessary.

Item C requires that when a cash prize of over \$50 is awarded, the organization must make a record of the win. This is necessary to establish an actual payee for prizes of that amount and also to assist law enforcement in detecting individuals who may be passing counterfeit pull-tabs.

Items D and E are necessary to provide the board and the commissioner of revenue with adequate documentation to inspect the conduct of lawful gambling. The information is necessary to allow the board or commissioner to determine whether or not the pull-tabs were illegally purchased or whether or not the pull-tabs were legally in play at the particular premises. Because of the importance of maintaining the integrity of lawful gambling, the method of regulation imposed by this item is clearly necessary and reasonable.

Subp. 7. Disposal of pull-tabs. The organization may dispose of played deals of pull-tabs when the retention period of three and one-half years expires, unless the organization is notified to retain the pull-tabs because

an audit, compliance review, or investigation is being conducted. The disposal must result in complete destruction such as shredding or burning.

Subpart 7 provides clear direction to the organization on the disposal of played deals of pull-tabs.

7860.0090 TIPBOARDS.

Subpart 1. Restrictions.

A. No gambling employee of an organization shall purchase tipboards at the site of the employee's place of employment. For purposes of this subpart, the term "employee" includes a volunteer.

B. No organization shall sell or put out for play any tipboard which does not have the tipboard tickets for that tipboard attached to it.

C. An organization may not purchase tipboards that have the same game serial number, or obtain, possess, or allow upon a site a tipboard or portion thereof with the same serial number as any other tipboard or portion thereof in its possession.

D. Each tipboard must have a serial number with the same serial number on each ticket attached to the tipboard.

E. An organization may not change the serial number written on the state registration stamp by the distributor or the manufacturer.

F. An organization shall not pay a player unless the player redeems an actual winning tipboard ticket. A prize may not be paid out to any player for a lost, marked, defaced, or altered ticket.

G. A tipboard may not be played unless the flare for that tipboard is posted in the area of the permitted premises where the tipboard tickets are offered for sale.

H. An organization shall not modify the designation of prizes printed on the tipboard or use a tipboard that is altered or defaced. The prize awarded must be the prize printed on the tipboard.

Subpart 1 sets forth general restrictions relating to the conduct of the game of tipboards. These are security measures designed to preserve the integrity of the game and the accuracy of the reporting of both distributors and organizations.

Item A is necessary so that only actual winners are paid, and to protect against counterfeit winners.

Item C prohibits duplicate serial number tipboards on the site. This is again a security measure so that only games registered may be played.

Items D and E deal with the use of the state registration stamp. It is vital to the security and integrity of the game. The use of the registration stamp is necessary so that the inspectors and investigators may determine that there are no unauthorized tipboards in play.

Items G and H are necessary to provide the player with enough information to determine odds of winning and the rules of the conduct of the game.

Subp. 2. Operation of tipboards. The following apply to the game of tipboards:

A. All tipboard tickets must be placed out for play at the same time.

B. The tipboard must have printed on it the cost per ticket, the value of the prize(s) for the winning ticket(s), the number of prizes, the seal prize and consolation, prize or prizes, and the number of total tickets.

C. House rules governing the conduct of the sale of tipboards must be posted in such a manner that the players have access to the house rules before buying a tipboard ticket.

D. At each permitted premises a copy of the distributor's invoice for each tipboard deal in play and for each tipboard on the premises shall be available for inspection by the board and its agents and the commissioners of revenue and public safety and their agents.

E. A tipboard may not be put out for play unless the flare for the tipboard has a state registration stamp which has been affixed to it by a licensed distributor or a licensed manufacturer.

F. A tipboard may not be put out for play unless the serial number on the individual flare for that tipboard matches the serial number printed on the tipboard and the tipboard tickets. If the serial numbers do not correspond, the organization shall return the tipboard to the distributor.

Subpart 2 sets forth general rules relating to the game of tipboards. These are security measures designed to preserve the integrity of the game and the accuracy of the reporting of both distributors and organizations.

Item A is necessary because the odds for any game are based on the chances of choosing a ticket out of the entire tipboard deal. Therefore, failure to place the entire tipboard deal out for play skews the odds and places the player in an unfair position.

Items B and C are necessary to ensure that the persons participating in a tipboard deal know the number of tipboards placed out for sale, and therefore know the odds of winning that particular game.

Items D through F are control features to ensure that only one game is played per registration stamp and so that the game can be reviewed by regulators.

Subp. 3. Tipboard prize and cost per ticket limitations. The cost per ticket and the value of the prizes must be as follows:

A. Each tipboard ticket may not be sold for more than \$2.

B. Each tipboard ticket must be sold for the single ticket price indicated on the flare and no tipboard ticket may be provided to a player free of charge or for any other consideration.

C. A prize or any combination of prizes may not have a value exceeding \$500. The winner is determined by removing the seal on the tipboard.

D. A prize must be awarded in cash, merchandise, or free plays as indicated on the tipboard and the flare.

(1) All merchandise prizes must be displayed in full view in the immediate vicinity of the tipboard game.

(2) When a winner of a merchandise prize is determined, the organization shall immediately remove the prize from any display and award it to the winner.

E. An organization may not substitute cash for merchandise prizes which may have been won.

This subpart provides a reasonable control on prizes and further helps organizations in maintaining solid accounting information.

Item D requires that the prize be cash, merchandise, or free plays, and that the merchandise be displayed and immediately removed from display when won. This is necessary so that players will not believe that they are playing for merchandise prizes that actually are not available.

Subp. 4. Records. At each permitted premises the organization shall maintain a copy of the distributor's invoice for each tipboard in play and for each tipboard on the premises and shall make the invoices available for inspection by the board and its agents and the commissioners of revenue and public safety and their agents. Information pertaining to the sale of tipboards must be recorded in the same manner as for pull-tabs, as set forth in part 7860.0080, subpart 6.

This is necessary to allow the board or the commissioner of revenue, or their agents, to adequately inspect the licensed premises to determine if the tipboards were legally purchased by the organization and if the organization is complying with all rules related to lawful gambling. The rule is also necessary to monitor the internal controls of the organization to determine whether or not the inventory is maintained appropriately, and the organization has adequate control over the tipboards stored on the premises. This is also necessary so that the reviewers for the board may have adequate records to review during a review to verify the reporting of the organization.

Subp. 5. Disposal of played tipboards. All played tipboards and the accompanying flare with the state registration stamp affixed must be retained for three and one-half years following the end of the month in which the tipboard was played and reported. The organization may dispose of played tipboards when the retention period expires, unless the organization is notified to retain the tipboards because an audit, compliance review, or investigation is being conducted. The disposal must result in complete destruction, such as by shredding or burning.

Subpart 5 sets forth the requirement that all tipboards and the accompanying flare must be retained for three and one-half years. It also provides clear direction to the organization as to the requirements for their disposal.

7860.0100 PADDLEWHEELS.

Subpart 1. Restrictions. No gambling employee of an organization shall purchase paddletickets at the site of the employee's place of employment. For purposes of this subpart, the term "employee" includes a volunteer.

Subpart 1 is necessary to avoid any possibility or appearance of collusion.

Subp. 2. Manner of conducting paddlewheels. The following apply to the game of paddlewheels.

A. The playing of paddlewheels must always be played using paddletickets.

B. Each paddleticket card must have a paddleticket card number preprinted on the stub and on each individual ticket. Each paddleticket card must have a different number. An organization may not have two paddleticket cards with the same number in its possession at the same time.

C. Each paddleticket stub must have a facsimile of the registration stamp imprinted on the stub. The facsimile must bear the license number of the distributor who sells the paddleticket card.

D. All the paddletickets on a paddleticket card must be sold prior to the spinning of the wheel. A new paddleticket card must be sold for every spin of the wheel.

E. Each sealed grouping of up to 100 paddleticket cards must have a state registration stamp affixed to the master flare accompanying the group with the paddleticket card numbers written in by the distributor on the space provided on the master flare. No paddleticket card will be played unless the master flare for that card is posted in a conspicuous place in the immediate area of the permitted premises where the paddlewheel being played is located.

An organization may not use paddletickets:

(1) that do not have a state registration stamp affixed to the master flare accompanying the group;

(2) when the paddleticket card number written on the master flare differs from the actual paddleticket card number preprinted on the tickets;

(3) when the paddleticket card number preprinted on the stub does not match the paddleticket card number preprinted on the individual tickets; and

(4) that are not attached to the paddleticket card.

F. The organization must post house rules on the play of paddlewheels. The wheel must make at least four revolutions before stopping at the winning number. If four revolutions are not made, a non-spin must be declared and the wheel must be spun again.

Subpart 2 describes the manner in which paddlewheels may be played. The statute does not describe the actual conduct of the game so it is necessary to provide a uniform method of conducting the game so that players can be treated fairly and regulators can maintain integrity in the game and ensure that appropriate profits are being withheld for lawful purpose expenditure.

Item B is necessary to provide any measure of control to the paddlewheel game. The series of paddletickets each have a series number and organizations again must employ the same basic uses of this series of paddletickets as with pull-tabs and tipboards.

Item D is necessary to ensure the regulators can accurately determine the total number of tickets sold.

Item E requires the use of registration stamps on a master flare which would also list the series numbers of each series of paddletickets. This serves as further controls which are necessary for the accurate reporting of paddlewheel activity.

Item F is more specific on the posting of rules. Four revolutions of the wheel are necessary before a winner may be determined. The authorities in Nevada have determined that at least four revolutions are necessary to prevent manipulation of the wheel.

Subp. 3. Paddlewheel prize and cost per ticket limitations. The value of the prizes and the amount of bets are limited as follows:

- A. Bets may not exceed \$2 per paddleticket.
- B. Prizes may not exceed \$500 in value.

This is another provision that ensures uniformity in the conduct of the game. This provision imposes prize limits which are the same as for tipboards to ensure that the conduct of the game is not excessively commercialized.

Subp. 4. Retention of played paddletickets. All paddleticket stubs and the accompanying master flare with the state registration stamp affixed must be retained for a period of three and one-half years.

Requires that paddleticket stubs that accompany a master flare with the state registration stamp affixed be retained for three and one-half years. This is necessary so that there will be records to back up the reporting by the organizations making verification by regulatory officials possible.

Subp. 5. Records. The use of paddletickets must be recorded in the same manner as for pull-tabs, as set forth in part 7860.0080, subpart 6.

This requires the organization to record paddleticket activity by the use of general records. It sets forth necessary procedures to be followed and records to be kept so that the board may adequately audit organizations and organizations may adequately analyze their activities.

7860.0110 RAFFLES.

Subpart 1. Manner of conducting raffles. The following shall apply to the conduct of raffles:

- A. A raffle ticket shall constitute an equal chance to win.
- B. A person may not be required to purchase more than one ticket, or to pay for anything other than the ticket, in order to enter a raffle.
- C. A person may not be required to be present at a raffle drawing in order to be eligible for the prize drawing.
- D. Each ticket seller shall return to the organization the stubs or other detachable section of all tickets sold prior to the drawing.
- E. No tickets may be sold after the first drawing.
- F. Prior to drawing, the organization shall place each stub or other detachable section of each ticket sold into a receptacle from which the winning tickets are to be drawn.
- G. The receptacle must be designed so that each ticket placed in it has an equal chance to be drawn.

Subpart 1 sets forth certain limitations and requirements for the use of raffle tickets. As with paddlewheels, the statute does not describe the actual conduct of the game so it is necessary to provide a uniform method of conducting the game so that players can be treated fairly and regulators may maintain integrity in the game and ensure that appropriate profits are being withheld for lawful purpose expenditures. These are basic

requirements, such as requiring consecutively numbered tickets and all the return of ticket stubs prior to the drawing.

Subp. 2. **Raffle prizes.** An organization conducting a raffle in which real or personal property prizes are to be awarded shall have paid for in full or otherwise become the owner, without lien or interest of others, of all the real or personal property prior to the drawing at which the winners of the prizes are to be determined.

Subpart 2 requires that all prizes be owned by the organization prior to the drawing. This is necessary to prevent situations in which organizations may attempt to raffle property to which they do not have clear title at the time of the drawing. This will help avoid situations of organizations not awarding prizes that have been won.

Subp. 3. **Raffle ticket requirements.**

A. Raffle tickets shall have a detachable section and be consecutively numbered. The detachable section of the ticket must bear a duplicate number corresponding to the number on the ticket and shall contain the purchaser's name, complete address, and telephone number. Both parts must be imprinted with sequential numbers commencing with the number "1" through the maximum number of tickets to be sold. The following information must be printed upon each ticket:

- (1) the date and time of the drawing;
- (2) the location of the drawing;
- (3) the name of the organization conducting the raffle;
- (4) the license number, if any, or exemption number;
- (5) the price of the ticket; and
- (6) the prize or prizes to be awarded.

B. A log book must be maintained which at a minimum includes the following:

- (1) the name of the organization;
- (2) the total number of tickets printed;
- (3) the price per ticket;
- (4) the date of the raffle drawing;
- (5) the names and telephone numbers of all persons to whom tickets were given to be sold;
- (6) the number of tickets given to each person for sale;
- (7) the consecutive numbers of the tickets given to each person for sale;
- (8) the number of tickets each person sold;
- (9) the number of tickets each person returned unsold;
- (10) the actual gross proceeds reported by each person to whom tickets were given to be sold;
- (11) the actual cash received from each person to whom tickets were given to be sold; and
- (12) the cash long or short reported by each person to whom tickets were given to be sold.

Subpart 3 sets forth requirements for raffle tickets that are necessary to protect the integrity of this activity and to ensure that adequate records are kept as a control and for review purposes.

Item A requires certain information be printed on the raffle tickets. This basically discloses the time, date, place of drawing, price of the ticket, and prizes to be won. This is necessary so that individuals buying raffle tickets are aware not only of the prizes but also of the time and location of the drawing.

Subp. 4. Prize and cost per ticket limitations. Prizes and cost per ticket for a raffle may not exceed the following limits:

A. Total prizes for all raffles conducted by a licensed organization may not exceed a total value of \$100,000 per organization in a calendar year, for exempted organizations may not exceed a total of \$50,000 in a calendar year for all lawful gambling prizes, and for excluded organizations may not exceed \$750 a year.

B. Cash prizes may not exceed \$12,000, which may be awarded:

(1) as the total amount of cash prizes for a single raffle;

or

(2) as the total amount of prizes for several complete raffles, the drawings for which are conducted on the same day.

C. Real and personal property prizes must be valued at actual market value or suggested market value, whichever is less.

D. Cash is defined for purposes of this subpart as currency, coinage, and negotiable instruments.

E. Each ticket must be sold for the same price and no ticket may be provided free of charge or for any other consideration.

This subpart provides a reasonable control on prizes and further helps organizations in maintaining solid accounting information.

Subp. 5. Prizes must be awarded. All raffle prizes must be awarded on the date indicated on the raffle ticket unless a different date is approved by the board. The board shall extend the date for the drawing if:

A. weather has caused a postponement of the event at which the drawing was to occur; or

B. not enough tickets were sold to cover the cost of the prizes, and an extension will make a material difference. The fact that a desired level of profit will not be attained is not a basis for an extension of the date of the drawing.

Subpart 5 is necessary to maintain the integrity of this activity. It is reasonable because it only requires the organization award the prizes on a date certain. It also allows flexibility for extenuating circumstances with board approval.

Subp. 6. Records. An organization shall maintain the following records for a period of three and one-half years:

A. the total amount of proceeds received from a raffle;

B. all allowable expenses deducted from the net receipts of a raffle;

C. the winning ticket stubs; and

D. the log book showing to whom the tickets were given to be sold.

Subpart 6 relates to the records of a raffle. These are general requirements and are necessary for the accurate recordkeeping and reviewing of raffle activity. With the exception of the log book, they have remained general so that the organizations may tailor their specific records to the size of their raffle.

7860.0120 ORGANIZATION OPERATIONS, ACCOUNTS, AND REPORTS.

This rule sets forth the general types of controls which must be established and records which must be kept by the organizations conducting lawful gambling. The information required is necessary so that the board may conduct reviews on the gambling activities of the organization and review the purposes to which the organization expended the lawful gambling profits.

Subpart 1. System of internal accounting and administrative controls required.

A. Internal controls. Each organization must establish, implement, and have available for review a written system of internal accounting and administrative controls relative to its lawful gambling operations, which includes procedures for:

- (1) inventory acquisition and control;
- (2) gaming operations control;
- (3) fund control and records; and
- (4) accounting and monthly reports.

The board may require that the organization revise its internal accounting and administrative control system if it is not sufficient to protect the integrity of the lawful gambling operation or does not meet accounting control system objectives of item B or the administrative control objectives of item C. Failure to respond to the board's notice that the organization must revise its internal accounting and administrative control system may result in the board taking disciplinary action.

B. Accounting control system objectives. The system of accounting control for the gambling operations must provide a description of the procedures and records so that the following objectives will be met:

- (1) that transactions are made with management's authorization;
- (2) that gambling revenue transactions are recorded as necessary to record gambling revenue and properly maintain accountability for assets;
- (3) that access to assets is only permitted with management's authorization; and
- (4) that the recorded gambling funds and equipment are monitored on an on-going basis and discrepancies are resolved.

C. The system of administrative control relative to gambling operations must include a complete plan of organization that will provide appropriate segregation of functional responsibilities and sound practices to be followed in the performance of these duties by competent and qualified personnel. The plan of organization must include a diagram and a narrative which describe the interrelationship of functions and the division of responsibilities upon which the system of internal control of the gambling operations is based.

D. Changes in internal and administrative controls. Changes in internal controls must be submitted to the board ten days prior to their effective date.

Subpart 1 requires that each organization establish and have available for review a written system of internal accounting and administrative control for its gambling operations. This subpart also requires that the organization must have available for review by the board a copy of its internal accounting and administrative control systems and that the board may require that the organization revise its internal accounting and administrative controls if certain objectives are not met. This subpart is necessary because the experience has shown that most organizations' troubles concerning lawful gambling are caused because of a lack of any set accounting procedures or lack of adequate internal controls. This subpart imposes a duty on the organizations to come up with a set of internal accounting and administrative controls. It is reasonable because the internal accounting and administrative control are vital parts of any gambling operation. Large sums of money are handled in gambling operations which require that strict attention be paid to the accounting and controls concerning the monies and equipment. In addition, accounting and administrative controls minimize the likelihood of any one individual embezzling money from the gambling operation.

Item A is reasonable and necessary to satisfy statutory requirements and to provide accountability. It articulates what standards must be met, and what will happen to an organization if it does not meet these standards.

Item B of this part sets forth the objectives of this system of accounting. These are stated in a general manner so that each organization may tailor its system to its own operation. It is necessary to establish certain guidelines so that the organization will have a general outline to follow in establishing its control. It is reasonable because each organization, depending upon the volume and frequency of its gambling, will have different requirements for its control system. The objectives stated are the general objectives of any internal control system as prescribed by the American Institute of Certified Public Accountants.

Item C relates to the administrative controls relative to gambling operations and is needed so that the organization does establish a system tailored to its organization. The diagrammatic description will enable the organization and the board to see, at a glance, the internal security level and the degree of segregation of functional responsibilities.

Item D requires that any changes in this system be submitted to the board ten days prior to the effective date of the change. This will give the board an opportunity to review the proposed change to see if it meets the objectives set forth in this part.

Subp. 2. Method of accounting.

A. Cash basis method. Gross receipts must be determined using the cash basis method.

B. Exceptions to cash basis method. Allowable expenses must be determined using the cash basis method, except:

(1) Deals of pull-tabs, paddletickets and tipboards must be determined on the accrual basis.

(2) The tax imposed by Minnesota Statutes, section 349.212 must be deducted on the accrual basis.

Subpart 2 requires that all organizations determine their gross receipts on a cash basis. The expenses will be determined on a cash basis except for those supplies including deals of pull-tabs, paddletickets, and tipboards which are usually purchased in quantity and held over between reporting periods. These items will be expensed on an accrual basis. The tax imposed also will be deducted on the accrual basis. This subpart is necessary so that the organizations have a uniform system of accounting.

The cash basis recognizes gross receipts when they actually are received and expenses when they actually are paid. The accrual basis recognizes gross receipts when they are earned and expenses when they are used (regardless of when purchased, received, or paid.) Supplies and deals are of such a material expense item that unless they are accounted for on an accrual basis, a distortion of the results of gambling activity will occur, either intentionally or unintentionally. The ten percent gambling tax must be accounted for on an accrual basis to represent the true and accurate net profit that is available for lawful purposes.

Subp. 3. Records and reports required.

A. Accounting records. Each organization shall maintain complete, accurate, and legible general accounting records with detailed supporting subsidiary records sufficient to furnish information regarding all gambling transactions. The monthly accounting records must be sufficient to adequately reflect gross receipts, prizes, net receipts, expenses, and all other accounting transactions.

B. Monthly report to members. A monthly report must be made to the members of the organization. The monthly report must contain the following information:

(1) the gross receipts from each form of lawful gambling conducted;

(2) the cost of all prizes paid out for each form of lawful gambling conducted;

(3) full details on all expenses related to each form of lawful gambling conducted;

(4) records that show in detail how the profit from gambling activity was expended for lawful purpose;

(5) detailed records of gambling equipment purchases, which include type, quantity, unit cost, and from whom purchased;

(6) a physical inventory taken at the end of each month, which includes a list of all games, the registration stamp number, serial number, name of game and cost for each game (any games in play are considered in inventory); and

(7) a bank reconciliation done each month, which lists outstanding checks, deposits in transit, and beginning and ending book balances for the month which correspond to the profit carryover.

C. Reports filed with the board monthly. The following information must be filed with the board monthly on forms prescribed by the board or quarterly in the case of a licensed organization that does not report more than \$1,000 in gross receipts from lawful gambling in any calendar quarter.

- (1) Record of Lawful Purpose Expenditures (schedule C);
- (2) Record of Board Approved Expenditures (schedule D); and
- (3) The acknowledgement and recipient forms completed for each lawful purpose expenditure included on the appropriate C and/or D schedules.

The reports required by this item are due on or before the 20th day of the month following the close of the month in which the activity being reported took place.

D. Reports filed with the department of revenue monthly. The following tax return and schedules must be filed with the department of revenue monthly on forms prescribed by the commissioner of revenue:

- (1) Monthly Lawful Gambling Activity Summary and Tax Return (Form G-1);
 - (a) Unpaid liabilities. The unpaid liabilities of the licensee on allowable expenses shall be reported to the commissioner of revenue on its monthly gambling tax return.
 - (b) Three signatures required on tax returns. The gambling manager and the chief executive officer of the organization, or their respective designees, and the person who completed the tax return must sign the tax return. The organization shall inform the commissioner of revenue in writing of the identity of the designees.
- (2) Summary of Receipts and Expenses Per Site (schedule A);
- (3) Summary of Games Played and Receipts Per Game (schedule B); and
- (4) Combined Receipts Tax Schedule (schedule E).

E. Fund loss report. When an organization has a fund loss by questionable means of its inventory or cash, the organization may apply to the board, on a form prescribed by the board, for an adjustment of its gambling banking checking account. The organization shall file a fund loss report with the department of revenue, which will make a recommendation to the board. The fund loss report must include the following:

(1) A local law enforcement report which was filed within ten days of the discovery of the loss. If a report was not filed with the local law enforcement agency within ten days of the discovery of the loss, the request for adjustment will not be considered.

(2) A completed fund loss report which includes the following information:

- (a) the name and address of the organization;
- (b) the license number, premises permit numbers, and effective date;
- (c) a description of the loss, including amount, date, location, and a summary of how the loss occurred, including if a safe was broken into or stolen;
- (d) a description of how the loss was verified (using schedule B if necessary);
- (e) internal controls and personnel changes that have been made to prevent future losses;
- (f) when the organization received the funds; and
- (g) signatures of the chief executive officer and the gambling manager.

(3) Fund losses not approved. All fund losses by questionable means must be reimbursed to the gambling banking checking account from non-gambling funds, unless an adjustment to the gambling account is approved by the board.

F. Federal income tax exemption forms. Each licensed organization that files with the United States Department of the Treasury any forms that are required for organizations exempt from the payment of income tax shall retain a copy of those forms for three and one-half years, and make them available to the board or the department of revenue upon request.

Subpart 3 clearly sets forth what records and reports the licensed organizations are required to maintain. These records and reports are necessary to ensure accountability to the organizations' memberships and to the board and the commissioner of revenue. The requirements of this subpart are reasonable because, where possible, they are general enough to allow the organization flexibility. The specific requirements are reasonable because they only require sufficient information to provide an accurate accounting of the gambling activity.

Item A sets forth the general requirement of this part. It also clearly sets forth the minimum standards of information that must be maintained.

Item B is necessary because each organization is to report to its members monthly on the conduct of gambling. This rule makes certain that that report includes all pertinent information and is properly recorded as part of the organization minutes.

Item C is necessary because the compliance with section 349.15 and percent of profit for all expenditures is a condition of renewal, the organization and the board can only get an accurate picture of compliance if all financial data is available.

Item D is necessary because the signature on the reports are confirmation of the accuracy and truth of the reports, and the identity of the designee is a control factor for the organization. The rules provide the designees and informing the board of the designees is comparable to informing the board of the gambling manager and the chief executive officer. It is necessary to require the person who completed the tax return to sign the tax return and therefore to hold that person to some accountability for the information supplied on the tax return. This provision is necessary and reasonable because it comports with all other provisions of the tax law which require the tax preparer to sign the tax returns. This is also necessary to adequately inform the board of those authorized to sign the tax return and to allow the board to examine tax returns to determine if the appropriate and authorized persons have signed.

Item E - The burden for maintaining proper control of the gambling funds remains with the organization. However, there are shortages in gambling funds which are beyond the control of the organization. The licensed organization should not be expected to assume responsibility for a loss which was out of their control. If the loss is a criminal violation, law enforcement will handle the matter. If the loss is administrative, the board will handle the matter. This provides a mechanism to allow an organization to make accounting adjustments to its gambling

account when gambling proceeds are lost through no fault of the organization. The method established in this subpart allows an organization to adjust its gambling account if the shortage of funds is due to theft or other criminal conduct. This subpart is necessary to eliminate the need for the organization to reimburse its gambling account for the lost funds. This is reasonable because it requires sufficient proof of theft or other criminal conduct, or proof that the loss was due to reasons beyond the control of the organization, before the board will allow any accounting adjustment to the gambling account of the organization. The language also requires the organization to establish new internal controls if necessary to prevent a loss from recurring in the future, and requires a change in staffing to prevent the recurrence of the loss if necessary. Finally, this requires the repayment to the gambling account of any money recovered as a result of an investigation or as a result of an insurance payment. This provision is necessary to ensure that the organization does not obtain a windfall due to the recovery of the lost proceeds, and that the gambling bank account is accurate.

Item F allows access to any federal income tax exemption forms filed by an organization with the Department of Treasury. It requires that the organization retain these forms for a period of three and one-half years. Minnesota Statutes gives the board this authority.

Subp. 4. Bank accounts.

A. Separate accounts. Each organization must maintain a separate gambling bank account at a financial institution, located within Minnesota, for each gambling premises.

(1) All expenditures of gambling funds must be made from the separate premises gambling bank account, except in case of expenditures previously approved by the organization's membership for emergencies. For the purposes of this item, "emergencies" is defined as a financial obligation due and payable which if not met would require the organization to cease gambling.

(2) Gambling funds may not be transferred to the organization's general bank accounts for any expenditures without board approval.

(3) Non-gambling funds may not be deposited in the gambling bank account unless required by the board.

(4) All checks for expenditures from the gambling bank account must contain two signatures of active members of the organization. The treasurer of the organization may not sign the checks.

(5) Interest income from gambling proceeds must be included in gross receipts.

(6) Each organization shall furnish to the board on a form prescribed by the board an "Authorization to Inspect Bank Records," which shall authorize the board and its agents, and the commissioners of revenue and public safety and their agents, to inspect the bank records of the organization's gambling bank account(s).

B. Deposits of gambling receipts.

(1) Deposit tickets showing receipts from deals of pull-tabs, tipboards, and paddlewheels must contain the state registration stamp number, the amount of actual cash profit for each game, and the permit number of the premises.

(2) Deposit tickets showing receipts from bingo occasions must contain the date of each separate bingo occasion, the amount of actual cash profit generated by each occasion, and the permit number of the premises.

(3) Deposit tickets showing receipts from raffles must contain the date of the raffle, actual cash profit from the sale of raffle tickets, and the permit number of the premises.

Subpart 4 is necessary and reasonable because of the need for a paper trail of receipts and disbursements. This subpart requires that a separate checking account be maintained at a financial institution for each permitted premise. It is based on Minnesota Statutes. The separate account for each premises is reasonable because it prevents a mixing of funds from separate premises into one particular account. This is necessary to provide the auditors of the board with a clear audit track for the funds earned and expense paid by the organization.

Item A requires that the interest income of this account be included in gross receipts. This is reasonable because any interest in this account would be interest earned on funds from lawful gambling. Money earned from the lawful gambling must be used for lawful purposes.

Subp. 5. Expenditures.

A. Expenditures authorized by organization. All expenditures of gambling funds must be authorized by the members of the organization at a regular meeting of the organization and recorded in the minutes of that meeting prior to the expenditures being made. Copies of the authorization must be sent to the board upon request.

B. Allowable expenses.

(1) Except as provided in this subpart, an organization may expend gambling gross profits for necessary expenses directly related to the conduct of lawful gambling, provided the total percentage does not exceed the percentages specified in Minnesota Statutes, section 349.15, and this subpart.

(2) An organization may not spend gambling gross profits for:

(a) Advertising.

(b) More than one-third of the annual premium on a policy of liability insurance procured by the organization as it relates directly to the conduct of lawful gambling may be taken as an allowable expense. The amount of the annual premium payment must be reported on a form prescribed by the board and submitted with the organization's monthly tax report to the department of revenue.

(c) Legal fees or damages that relate to the conduct of lawful gambling incurred in defending the organization against the board, the attorney general, the United States attorney, the commissioner of revenue, or a county or city attorney.

(3) Percentage of profit to be used for allowable expenses.

(a) Not more than 60 percent of the gross profit, less the tax imposed by Minnesota Statutes, section 349.212, subdivision 1, from bingo, and not more than 50 percent of the gross profit, less the tax imposed by Minnesota Statutes, section 349.212, subdivision 6, may be expended for allowable expenses related to lawful gambling.

(b) Compliance with the maximum percentage of profits expended for allowable expenses must be determined on an annual basis for the organization as a whole. Compliance is not determined by each premises.

C. Lawful purpose expenditures include one or more of the following:

(1) A contribution to an organization which:

(a) is classified as tax exempt under 26 U.S.C. sec. 501(c)(3);

(b) spends at least 70 percent of its gross revenue on programs related to its primary purpose and 30 percent or less on administration and operation expenses;

(c) does not exist primarily for the purpose of receiving and distributing gambling profits;

(d) does not have more than 49 percent of its membership in common with the contributing organization; and

(e) does not have an officer, director, or other person in a managerial position who is also an officer, director, or management person in the contributing organization.

(2) An expenditure by a licensed organization which is classified as tax exempt under 26 U.S.C. sec. 501(c)(3) if that expenditure is directly related to the primary purpose of the organization.

(3) A contribution to an individual or family to relieve the effects of poverty, homelessness, or physical or mental disability.

(4) A contribution to an individual for treatment of delayed post-traumatic stress syndrome if the individual has documentation that she or he has been diagnosed by a licensed medical doctor as suffering from post-traumatic stress syndrome.

(5) A contribution to a recognized program for the treatment of compulsive gambling on behalf of an individual who is a compulsive gambler. For purposes of this item, a recognized program is a program which has:

(a) qualified health and addictions treatment personnel as recognized by a state or national licensing body; or

(b) met the minimum standards set forth by the National Council on Problem Gambling Certification Board and the Minnesota Council on Compulsive Gambling.

(6) A contribution to or an expenditure on a public or private nonprofit educational institution registered with or accredited in Minnesota or any other state.

(7) A contribution to a scholarship fund for defraying the cost of education to individuals, provided:

(a) the funds are awarded through an open and fair selection process that does not discriminate based on race or gender;

(b) the scholarship is not limited to members of the organization or their immediate families;

(c) the criteria for the selection process is communicated to all participants and to all members of the organization; and

(d) the names of the individuals awarded scholarships are communicated to all members of the sponsoring organization.

(8) A contribution to an organization or governmental entity for the cost of activities recognizing humanitarian or military service to the United States, the State of Minnesota, or a community provided:

(a) the contribution is not used by or intended for the personal benefit of any individual member of the organization; and

(b) the contribution, if made to a unit of government, must be acknowledged on a form provided by the board showing the request from the unit of government to expend gambling funds and attached to the monthly schedule C report.

(9) A contribution for recreational, community, and athletic facilities and activities intended primarily for the use of persons under the age of 21, if the following conditions have been met:

(a) the facilities and activities do not discriminate on the basis of gender and the opportunity to participate reflects each gender's demonstrated interest in the activity;

(b) equal opportunity is provided for:
(i) the provision of equipment and supplies;
(ii) the scheduling of activities, including games and practice times;
(iii) the supply and assignment of coaches or other adult supervisors;
(iv) the provision and availability of support facilities; and

(v) demonstrated interest in the activity;
(c) for purposes of this item, "primarily" must be demonstrated by written documentation that programs for persons under the age of 21 are given priority scheduling consideration;

(d) educational institutions or other entities are excepted from the above requirements as identified in the Higher Education Act amendments of 1976, United States Code, title 20, section 1681; and

(e) the board is notified 15 days prior to the expenditure of the gambling funds for the erection, acquisition, improvement, or expansion of real property or capital assets which will be used for recreational, community, or athletic facilities.

(10) Local gambling taxes paid to a statutory or home rule city or county, provided the tax does not exceed three percent of the gross receipts less prizes actually paid out by the organization at the permitted premises.

(11) Taxes imposed by the United States on receipts from lawful gambling, but not including the federal tax stamp required for gambling employees.

(12) Taxes imposed by Minnesota Statutes, section 349.212, subdivisions 1 and 4.

(13) Taxes imposed on unrelated business income by Minnesota Statutes, section 290.05, subdivision 3.

(14) Real estate taxes and assessments on permitted gambling premises wholly owned by the licensed organization, provided the expenditure does not exceed:

(a) for organizations which conduct pull-tabs, tipboards, raffles, and/or paddlewheels, \$600 per month, or \$24 per square foot, whichever is less, up to \$7,200 per year;

(b) for organizations which conduct bingo, \$200 for premises of not more than 6,000 square feet, \$300 for owned bingo premises of not more than 12,000 feet, and \$400 for premises of more than 12,000 square feet times the number of bingo occasions conducted in a calendar year, based on the space actually used for bingo.

(15) A contribution to the United States, the state of Minnesota or any of its political subdivisions, or any agency or instrumentality thereof, provided:

(a) that for a contribution to a unit of government, the contribution is documented by a form prescribed by the board showing the request from a unit of government to expend gambling funds; and

(b) that for expenditures involving environmental projects, the contribution is documented by a form prescribed by the board and

attached to the monthly schedule C showing prior review by the department of natural resources.

(16) A contribution to, or expenditure by, a nonprofit organization, church, or body of communicants gathered in common membership for mutual support and edification in piety, worship, or religious observances.

(17) Repair or maintenance of real property or capital assets when 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 no rental fee is charged for the use, provided:

(a) "extensively" must be demonstrated by written documentation that the facility has been used free of charge by at least one group as described above;

(b) a board-prescribed form is completed; and

(c) approval of the board is obtained prior to the expenditure.

(18) The erection or acquisition of a comparable building to replace a building owned by the organization which was destroyed or made uninhabitable by fire or natural disaster, provided the expenditure, mortgage payment, or other debt service payment is only for that part of the replacement cost not reimbursed by insurance and the building was insured at least at replacement cost value, and:

(a) a board-prescribed form is completed;

(b) board approval is obtained;

(c) the replacement structure:

(i) is used for the same or similar purpose(s) as the original building;

(ii) has essentially the same square footage as the original building; and

(d) the following may be included:

(i) additional costs for building code requirements enacted by the local unit of government after the original building was built; and

(ii) additional costs for landscaping and parking lot code requirements enacted by the local unit of government after the original building was built.

(19) The erection or acquisition of a comparable building to replace a building owned by the organization taken by eminent domain or sold under the threat of eminent domain, provided the expenditure, mortgage payment, or other debt service payment is only for that part of the replacement cost that exceeds the compensation received by the organization for the building being replaced, and:

(a) a board-provided form is completed;

(b) approval of the board is obtained;

(c) the replacement structure:

(i) is used for the same purpose(s) as the original building;

(ii) has the same square footage;

(iii) cost is substantially the same as the value of the original building except for additional costs for building code requirements enacted by the local unit of government after the original building was built and additional costs for landscaping and parking lot code requirements enacted by the local unit of government after the original building was built.

D. Lawful purpose expenditures do not include the following:

(1) an expenditure made or incurred for the purpose of influencing the nomination or election of a candidate for public office;

(2) a contribution for promoting or defeating a ballot question;

(3) a contribution for any activity intended to influence an election or a governmental decision-making process;

(4) a direct contribution to a law enforcement or prosecutorial agency.

E. A contribution by a licensed organization to a parent organization, foundation, or affiliate of the contributing licensed organization is allowed under the following conditions: the contributing licensed organization must submit a written statement that the parent organization, foundation, or affiliate has not provided to the contributing licensed organization a contribution of any money, grants, property, or other thing of value within one year of the contribution.

F. Restrictions on lawful purpose expenditures. A licensed organization may not contribute gross gambling profits to another licensed organization unless:

(1) the contributing organization receives the prior approval of the board;

(2) a board-prescribed form is completed; and

(3) the contributing organization demonstrates that the contribution meets one or more of the lawful purposes identified in item C and that the contribution is not for the purpose of avoiding taxes or circumventing the restrictions placed on lawful purpose expenditures by item C.

Subpart 5 restates and consolidates the requirements of several statutory sections, including section 349.15, use of gross profit; section 349.19, records; and section 349.12(25), lawful purpose definitions. This is necessary to avoid confusion by licensed organizations as to how lawful gambling proceeds are to be expended. Subpart 5 also sets forth various procedural requirements organizations must follow when making lawful purpose expenditures.

Item A combines a restatement of the requirement found in section 349.15(a) that all expenditures of gross profits must be authorized at a regular meeting of the organization and the requirement of section 349.19(5) that organizations must report to its membership monthly on its expenditures of profits from lawful gambling. This item is reasonable because the only additional burden it places on organizations is that the documentation authorization for expenditures by the membership be made available to the board at its request. It is necessary for regulatory purposes that the board have access to the authorization records.

Item B is necessary because the board is directed by Minnesota Statutes, section 349.15(b) to provide by rule for the administration of Minnesota Statutes, section 349.15, use of gross profits, including specifying allowable expense. Item B sets forth that organizations may, within statutory percentage limitations, expend lawful gambling proceeds for necessary expenses directly related to the conduct of lawful gambling. This is reasonable because it allows the organizations flexibility to budget for various expenses and does not limit

expenditures to a specific list of items. Item B(2) and (3) list specific statutory and rule restrictions on the use of gross profits for allowable expenses.

Item C restates all of section 349.12(25), adds clarification to section 349.12(25) where needed, and includes procedural information where needed. This clearly sets forth for organizations a complete list of lawful purpose expenditures. Items C(1) and C(2) are necessary because Minnesota Statutes, section 349.1541, requires the board to by rule prescribe standards that must be met by any licensed organization that is a 501(c)(3), including a maximum percentage that may be spent for the organization's administration and operation and standards for any expenditure by the organization including that the expenditure be related to the primary purpose of the organization.

Item C(1) clearly sets forth the standards for the 501(c)(3). The standards in C(1)(a) and C(1)(b) are reasonable because these are standards that 501(c)(3)'s must already meet. Items C(1)(c) and C(1)(d) clarify that lawful purpose expenditures must be directly related to the purpose of the organizations. By definition, a 501(c)(3) must exist for purposes other than to conduct gambling. Items C(1)(c) and C(1)(d) are reasonable because they relate to the need to ensure that a 501(c)(3) is not formed for the sole purpose of receiving and controlling lawful gambling proceeds.

Item C(2) sets forth that an expenditure by a licensed organization which is classified as tax exempt under federal law must be directly related to the primary purpose of that organization to be qualified as a lawful purpose expenditure. This is necessary to avoid confusion on what expenditures licensed 501(c)(3)'s may make from gambling receipts.

Item C(3) restates statutory language. See Minnesota Statutes, section 349.12, subdivision 25(a)(2). Item C(6) restates statutory language. See Minnesota Statutes, section 349.12, subdivision 25(a)(4). Items C(10), C(11), C(12), and C(13) restate statutory language. See Minnesota Statutes, section 349.12, subdivision 25(a)(8). Item C(14) restates statutory language. See Minnesota Statutes, section 349.12, subdivision 25(a)(9). It is necessary to include these to provide a complete list of lawful purpose expenditures which is easily accessible to licensed organization.

Item C(4) restates statutory language from Minnesota Statutes, section 349.12, subdivision 25(a)(3), and clarifies the statutory language by adding the requirement that the individual must have been diagnosed by a licensed medical doctor as suffering from post-traumatic stress syndrome.

Item C(5) restates statutory language from Minnesota Statutes, section 349.12, subdivision 25(a)(3), and further clarifies that definition by adding criteria defining the recognized compulsive gambling treatment program.

Item C(7) restates statutory language from Minnesota Statutes, section 349.12, subdivision 25(a)(5), and clarifies that language by the addition of criteria by which it would be determined that the administration of the scholarship fund was fair and open.

Item C(8) restates statutory language from Minnesota Statutes, section 349.12, subdivision 25(a)(6). It also clarifies that the contribution cannot be intended for an individual member of the organization and adds procedural information. It clearly sets forth that, when a contribution is for a local unit of government, a licensed organization must complete a form provided the board showing that a request has been made for the contribution and must attach that form to the monthly Schedule C report.

Item C(9) restates statutory language from Minnesota Statutes, section 349.12, subdivision 25(a)(7). It also adds procedural information for the licensed organization clarifying that the board must be notified 15 days prior to the expenditure of the gambling funds for the erection, acquisition, improvement, or expansion of real property or capital assets which will be used for recreational, community, or athletic facilities. It also is needed to avoid confusion as to the interpretation of "primarily used." The board has determined that "primarily used" must be demonstrated by written documentation, that the facility has been used at least by one group as described above free of charge.

Item C(15) restates statutory language from Minnesota Statutes, section 349.12, subdivision 25(a)(10). In addition, it clearly sets forth procedural requirements for documentation of this contribution.

Item C(17) restates statutory language from Minnesota Statutes, section 349.12, subdivision 25(b)(3). In addition, it clearly sets forth what procedural requirements must be met by the organization prior to the expenditure. It also is needed to avoid confusion as to the interpretation of "extensively used." The board has determined that "extensively used" must be demonstrated by written documentation, that the facility has been used at least by one group as described above free of charge.

Items C(18) and C(19) restate statutory language from Minnesota Statutes, section 349.12, subdivision 25(b)(3). In addition, this item sets forth procedural requirements and defines the criteria upon which board approval will be based.

Item D restates statutory language listing expenditures that are specifically excluded from lawful purpose qualification. This item is needed so that a complete listing can be easily available for licensed organizations.

Item E restates statutory language from Minnesota Statutes, section 349.12, subdivision 25(b)(5), and adds procedural requirements for board approval.

Item F restates statutory language from Minnesota Statutes, section 349.12, subdivision 25(b)(5), and sets the procedure that must be used to provide the board with documentation to support that the construction qualifies as a lawful purpose expenditures.

Subp. 6. Annual audit required. All organizations licensed to conduct lawful gambling shall have an annual audit of their lawful gambling activities, books, and accounts conducted by an independent certified public accountant or independent licensed public accountant or his or her firm who is in good standing with the Minnesota board of accountancy. The licensed organization must

submit the annual audited financial report to the board on or before the end of the sixth month following the organization's fiscal year.

A. Required information. The annual audited financial report shall contain, in conformity with accounting practices required by the gambling control board, the financial condition of the organization as of the end of the most recent fiscal year and the results of its operations for the year then ended and contain the following information:

- (1) a written narrative report of the accountant;
- (2) a balance sheet reporting assets, liabilities, and

surplus;

- (3) a statement of gain or loss from operations;

(4) any notes to financial statements, as required by generally accepted accounting principles, and an analysis of any unallowable expenditures reimbursed by the licensed organization; and

(5) supplementary information, which includes any additional information that the gambling control board may require to be disclosed.

B. Qualifications of accountant. The board shall not accept any audit required by subpart 6 unless the audit is performed by an independent certified public accountant or independent licensed public accountant in good standing with the Minnesota state board of accountancy and licensed to practice in the state of Minnesota.

C. General accounting records; report on procedures and internal controls. A licensed organization shall file with the board a report of the study and evaluation conducted by the accountant regarding the accounting procedures of the licensed organization and its system of internal control, including any remedial action taken or proposed, filed within 60 days after the filing of the annual audited financial report.

The report concerning the organization's system of internal control shall be in the form prescribed by generally accepted auditing standards.

D. Definition of accountant's work papers. Work papers are the records kept by the independent certified public accountant or independent licensed public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the examination of the financial statements of a licensed organization.

Work papers include but are not limited to:

- (1) work programs;
- (2) analyses;
- (3) memoranda;
- (4) letters of confirmation and representation;
- (5) management letters;
- (6) abstracts of company documents; and
- (7) schedules or commentaries prepared or obtained by the

accountant in the course of the audit of the financial statements of a licensed organization which support the accountant's opinion.

E. Availability of accountant's work papers. Each licensed organization required to file an annual audited financial report shall require the accountant, through the licensed organization, to make available upon request of the board the work papers prepared in the conduct of the audit.

F. Maintenance of accountant's work papers. The licensed organization shall require that the accountant retain the audit work papers for a period of not less than three and a half years after the period reported upon. In the conduct of periodic reviews by the board, photocopies of pertinent audit work papers may be made and retained by the board.

Minnesota Statutes, section 349.19, subdivision 9, requires that organizations must have annual financial audits of lawful gambling activities and funds performed by an independent auditor licensed by the State of Minnesota or an independent accountant who has had prior approval of the board. It also requires the board to, by rule, prescribe standards for the audit. Subpart 6 is necessary to comply with the requirements of Minnesota Statutes, section 349.19, subdivision 9.

Item A sets forth the requirements for the annual audit, including the fiscal term to be covered by the audit, and the minimum information that must be included. This is reasonable because it is based on established accounting practices.

Item B is reasonable because it sets forth the minimum statutory requirements and clarifies that the independent certified accountant or independent licensed public accountant must be in good standing with the Minnesota State Board of Accountancy and licensed to practice in Minnesota.

Item C is reasonable because it provides the board with the information generated by the audit and doesn't further burden the organizations.

Item D is reasonable because it is based on standard accounting principles.

Item E is reasonable because the information is information that would normally be kept on file by the auditor.

Item F is needed because the department of revenue has set three and one-half years as the time period in which the department of revenue investigation would be renewed.

7860.0130 EXCLUDED BINGO AND RAFFLES.

Subpart 1. Registration. An organization that conducts excluded bingo or raffles as allowed by Minnesota Statutes, section 349.166, must register with the board prior to the conduct of the lawful gambling, and, for bingo conducted pursuant to Minnesota Statutes, section 349.166, subdivision 1(a)(1) or (2), must obtain prior approval of the local governing body of the township, city, or county in which the bingo will be conducted. The registration must be on a form prescribed by the board, which must include the following information:

- A. the name and address of the organization;
 - B. the name of the person in charge of the bingo occasion and/or raffles and that person's phone number;
 - C. the type of organization (fraternal, veterans, religious, or other nonprofit);
 - D. the number of bingo occasions conducted by the organization in the present calendar year;
 - E. whether the bingo occasion is to be held in connection with a county fair, the state fair, or a civic celebration, and if so, the number of consecutive days bingo will be played;
 - F. the dates of the raffle drawing, if any;
 - G. the total market value of the raffle prizes;
 - H. the signature of the organization's chief executive officer;
- and
- I. the local government approval form.

The state excludes certain bingo occasions and raffles from licensing. This subpart requires mere registration of those activities with the board. This is basically a reporting requirement and is necessary so that the board may determine if the bingo occasion or raffle is indeed excluded from licensing. Without such a reporting method, there is virtually no way to determine if the unlicensed bingo activity is excluded from licensing. The information required in items A through I is basic information and is designed to determine whether the organization is eligible to conduct excluded bingo or raffles.

Subp. 2. Restrictions.

A. An organization may not conduct excluded bingo if it has been licensed to conduct lawful gambling in the current calendar year.

B. The organization conducting lawful gambling must comply with Minnesota Statutes, section 349.166.

Subpart 2 clarifies that organizations are restricted from conducting gambling as both a licensed and an excluded organization within the same calendar year. This is necessary because specific requirements and conditions apply to each form of gambling. An organization excluded from licensing must comply with specific statutory requirements. An organization licensed to conduct gambling must comply with different statutory provisions. Because certain restrictions apply to excluded organizations that do not apply to licensed organizations, and vice versa it is impossible for a single organization to effectively differentiate between licensed status and excluded status. The rule also clarifies that an organization is precluded from holding licensed and excluded status within the same calendar year. It is reasonable because it does not preclude an organization from engaging in lawful gambling, but merely restricts the conditions under which the organization may conduct the gambling.

7860.0140 EXEMPTED LAWFUL GAMBLING.

Subpart 1. Registration required. An organization that conducts exempted lawful gambling must submit an application to the board at least 30 days before the gambling activity is to be conducted. The application fee for each activity is \$25. The application must be on a form prescribed by the board and must contain at a minimum the following information:

- A. the name and address of the organization;
- B. the current or previous license number or exempt number, if any;
- C. the name and telephone number of the chief executive officer;
- D. the name and telephone number of the treasurer;
- E. the type of organization (fraternal, veterans, religious, or other nonprofit);
- F. the dates of activity;
- G. the types of lawful gambling to be conducted;
- H. the name, address, including city or township, and county where the activity will be conducted; and
- I. completed local government notification form.

The state also exempts certain lawful gambling activities from licensing. This subpart merely requires registration of those activities with the board. This is basically a reporting requirement and is necessary so that the board may determine if the organization is indeed exempt from licensing. Without such a reporting method, there is virtually no way to determine if the unlicensed bingo activity is exempt from licensing. The information required is basic information and is designed to determine whether the organization is exempt.

Subp. 2. Required attachment. The applicant must attach to the application form proof of nonprofit status and, if the organization is an "other nonprofit organization," proof of compliance with part 7860.0010, subpart 8.

Subpart 2 is needed to set forth for the organizations the documentation that must be submitted to the board.

Subp. 3. Financial report required. The organization must complete and file with the board the financial report portion of the exemption application within 30 days of the lawful gambling activity.

This report is necessary to determine that the lawful gambling profits are being used for lawful purposes.

Subp. 4. Restrictions.

A. An organization conducting exempted lawful gambling must comply with Minnesota Statutes, section 349.166, subdivision 2.

B. An organization that is licensed may not receive an exemption permit during the same calendar year it has a license.

Like subpart 2 of part 7860.0130, subpart 4 clarifies that organizations are restricted from conducting gambling as both a licensed and an exempt organization within the same calendar year. The proposed rule is necessary because specific requirements and conditions apply to each form of gambling. An organization exempt from licensing must comply with specific statutory requirements. An organization licensed to conduct gambling must comply with different statutory provisions. Because certain restrictions apply to exempt organizations that do not apply to licensed organizations, and vice versa it is impossible for a single organization to effectively differentiate between licensed status and exempt status. An organization is precluded from holding licensed and exempt status within the same calendar year. The proposed amendment is reasonable because it does not preclude an organization from engaging in lawful gambling, but merely restricts the conditions under which the organization may conduct the gambling.

7860.0150 TECHNICAL ASSISTANCE REQUIREMENTS.

Subpart 1. Gambling managers. Gambling managers are required to satisfactorily complete a gambling managers seminar conducted by the board.

This subpart is necessary to clarify that all gambling managers must complete a course of instruction on the duties and responsibilities of a gambling manager as required by Minnesota Statutes, section 349.161, subdivision 4.

Subp. 2. **Additional training.** The board may require the gambling manager of a licensed organization to attend additional seminars conducted or approved by the board.

This subpart is necessary to clarify that the board may require additional training of a gambling manager.

7861.0010 BINGO HALL LICENSES.

Subpart 1. **Definitions.** The definitions contained in Minnesota Rules, part 7860.0010, are hereby incorporated by reference.

Subp. 2. **License required.** No person, including a licensed organization and a local unit of government, may lease a facility to more than one organization to conduct bingo without having obtained a bingo hall license. A person may obtain a bingo hall license by making an application to the board. All applications shall be considered by the board pursuant to the provisions of this part.

This subpart requires any person who leases a facility to more than one licensed organization to conduct bingo to obtain a bingo hall license. This is needed and reasonable because it conforms the rule to Minnesota Statutes, section 349.164. This subpart is necessary to clarify that the director will base the decision to grant or deny licenses based on the provisions of this part. This limits the discretion of the director.

Subp. 3. **Qualifications.** A bingo hall license shall not be issued to a person, organization, corporation, firm, or partnership that is not the legal owner of the bingo hall or which has as an officer, director, or other person in a supervisory or managerial position a person who:

- A. has ever been convicted of a felony;
- B. has ever been convicted of a crime involving gambling;
- C. has ever been convicted of (1) assault, (2) a crime involving the use of a firearm, or (3) terrorist threats;
- D. owes delinquent taxes in excess of \$500;
- E. after demand, has failed to file tax returns required by the commissioner of revenue.

Subpart 3 restates statutory language to include it in rules and it is necessary to provide applicants with a complete list of criteria on which license denials will be based.

Subp. 4. **Restrictions.** No bingo hall licensee, person holding a financial or managerial interest in a bingo hall, or affiliate thereof may:

- A. be a licensed distributor or manufacturer of lawful gambling equipment or an affiliate of such a distributor or manufacturer;
- B. be a wholesale distributor of alcoholic beverages;
- C. provide any staff to conduct or assist in the conduct of bingo or any other form of lawful gambling on the premises;

- D. acquire gambling equipment for use by an organization conducting lawful gambling on the premises;
- E. provide storage for or inventory control of gambling equipment used by an organization conducting lawful gambling on the premises;
- F. prepare any reports required by part 7860.0120, subpart D, for an organization conducting lawful gambling on the premises; ..
- G. provide accounting services to an organization conducting lawful gambling on the premises;
- H. solicit, suggest, encourage, or make any expenditure of an organization's gross receipts from lawful gambling;
- I. charge any fee without which a person could not play bingo or participate in another form of lawful gambling on the premises;
- J. provide assistance or participate in the conduct of lawful gambling on the premises; or
- K. permit more than 21 bingo occasions to be conducted on the premises in any week.

Subpart 4 is necessary and reasonable because it conforms the rule to the prohibitions contained in Minnesota Statutes, section 349.164, subdivision 6. It restates the restrictions contained in Minnesota Statutes, section 349.164, subdivision 6, with respect to the activities of the bingo hall lessor/owner. This is necessary to provide an easily accessible and complete list of the restrictions on an applicant for a bingo hall license.

Subp. 5. Length of license. All bingo hall licenses expire one year from the effective date of the license.

Subpart 5 is necessary to clarify the exact term of the license.

Subp. 6. Contents of application. The application must be on a form prescribed by the board and must contain at a minimum the following information:

- A. the name of the bingo hall;
- B. the telephone number of the bingo hall;
- C. the county where the bingo hall is located;
- D. the street address of the bingo hall;
- E. the mailing address of the bingo hall if different than the street address;
- F. the name of the township or city and county in which the bingo hall is located;
- G. the name and telephone number of the legal owner(s) of the bingo hall;
- H. if the bingo hall is owned by an organization, a corporation, a firm, or a partnership, a list of the officers, partners, directors, managers, and supervisors;
- I. the legal nature of the applicant (corporation, partnership, or sole proprietorship) and the applicant's Minnesota tax ID number, if any;
- J. a statement regarding the restrictions contained in subpart 4 of this part;
- K. a statement as to whether any officer, director, or other person in a supervisory or management position or holding a financial interest in the bingo hall is:

(1) a licensed distributor;
(2) a licensed manufacturer; or
(3) an affiliate of a wholesale distributor of alcoholic beverages;

- L. the signature of the chief executive officer of the lessor;
- M. the local government acknowledgement;
- N. the status of the bingo hall license; and
- O. such additional information as is necessary to properly

identify the applicant and to ensure compliance with Minnesota Statutes, sections 349.11 to 349.23.

This subpart sets forth the information that must be contained in an application for a bingo hall license. The application must be on a form provided by the board, as required by Minnesota Statutes, section 349.164. This subpart lists the information which the applicant must provide to the board before a bingo hall license application may be considered. The information required by this subpart is necessary to allow the board to adequately identify the applicant and the owner of the bingo hall, if the owner is not the same as the applicant. The information required by this subpart is reasonable because it provides necessary identification to the board and ensures that only qualified persons or entities are able to obtain a bingo hall license. This subpart (item J) also requires the bingo hall license application to contain a statement as to whether any officer, director, or other person in a supervisory or managerial position has been convicted of a felony or has been convicted in a state or federal court of a gambling-related offense within ten years of the date of the license application. Both provisions are needed and reasonable to conform the rule to the specific qualification requirements contained in section 349.164, subdivision 3. This subpart (item H) also contains a requirement that the bingo hall license applicant provide a list of the owners, partners, officers, directors, and people in supervisory and managerial positions, and requires that a bingo hall personnel form be completed for each of these individuals. This information is necessary to ensure that all persons employed by and affiliated with the bingo hall license applicant are not affiliated with criminal activity, engaged in conduct which would adversely affect the integrity of lawful gambling, or delinquent in their tax payments.

Subp. 7. Attachments to application.

A. Bingo hall occasion list: The bingo hall occasion list must be on a form prescribed by the board and must at a minimum contain the following information:

- (1) the name of the bingo hall;
- (2) the name of the organization(s) conducting bingo on the premises;
- (3) the organization's premises permit or exemption permit number; and
- (4) the days and hours of all bingo occasions, including ending times for each organization conducting bingo on the premises.

B. Bingo hall personnel information form: A bingo hall personnel form must be provided for the owner(s) of the bingo hall and, if the bingo

hall is owned by an organization, a corporation, a firm, or a partnership, by the officers, directors, managers, and supervisors. The bingo hall personnel form must be on a form prescribed by the board and must at a minimum contain the following information:

- (1) the name, phone number, and full address of the bingo hall;
- (2) full name, home or business address, date of birth, place of birth, social security number, and full name of spouse;
- (3) driver's license number, including state of registration;
- (4) branch of military service, if any, and dates of service;
- (5) citizenship information;
- (6) position with bingo hall and work phone number;
- (7) employment history for past ten years;
- (8) place(s) of residence for past ten years;
- (9) criminal history statement, except petty misdemeanors;
- (10) name, address, and license or exemption permit number of any organization conducting lawful gambling in Minnesota of which the applicant is a member; and
- (11) signature and date signed.

C. A Bingo Hall Personnel Affidavit must be completed, signed, and notarized by the applicant.

D. A copy of the resolution of the local unit of government approving the application pursuant to subpart 10 of this part.

The contents of the application and the required attachments are necessary to determine if the applicant is eligible and if the applicant has complied with the statutes and rules and should received a bingo hall license.

Item A is needed to determine the amount of bingo activity that will be conducted at the bingo hall. This information is needed by regulators to determine which organizations are conducting bingo at the hall to determine if those organizations are in compliance with statute and rules.

Item B of this subpart lists the information that must be provided on a bingo hall personnel form. This information is needed to ensure that all persons affiliated with the bingo hall license applicant have not been engaged in illegal gambling activity nor been involved in any activity which would adversely impact the integrity of lawful gambling and do not have tax liabilities. This information is also necessary to enable the board to provide adequate information to the Bureau of Criminal Apprehension in the event a background investigation is required.

Item C is necessary to ensure that the local unit of government has actually passed the resolution approving the bingo hall.

Subp. 8. Changes in application information. If any information submitted in the application changes, the bingo hall applicant or licensee must notify the board and the local unit of government within ten days of the change.

This subpart requires the bingo hall applicant, or licensee, to submit to the board within ten days any change in the

information submitted in the original application. This rule is necessary to allow the board to be fully apprised of the operations of the bingo hall and any changes that occur at the hall or in the management of the hall. The rule is reasonable because it does not provide an undue hardship on the bingo hall applicant, or licensee, but merely requires the accurate reporting of all information required to be submitted to the board.

Subp. 9. License fee. The annual fee for a bingo hall license is \$2,500. License fees are not prorated or transferable.

The rule merely restates the requirements of Minnesota Statutes, section 349.164, subdivision 4. The rule is reasonable because it includes the license fee with other provisions governing bingo hall licenses, and therefore lessens confusion among bingo hall license applicants.

Subp. 10. Local approval.

A. The applicant must take the bingo hall application to the clerk of the local unit of government and request that the local unit of government pass a resolution approving the bingo hall application. The resolution must be adopted no earlier than 60 days before the date that the application is received by the board.

B. The applicant shall attach to the application a copy of the resolution of the local unit of government approving the bingo hall when submitting the application to the board. An application which does not have a resolution approving the bingo hall attached will not be accepted by the board.

Minnesota Statutes, section 349.213, requires local approval of bingo hall applications before they can be issued by the board. This subpart sets forth the process for soliciting and receiving local approval.

Subp. 11. Issuance and denial.

A. Issuance. The board may issue a bingo hall license to an applicant who submits the information required by subparts 6 and 7 of this part, pays the fee required by subpart 9 of this part, obtains the local approval required by subpart 10 of this part, and is eligible to be licensed pursuant to Minnesota Statutes, section 349.164, and this part. All licenses issued by the board pursuant to this part shall be effective on the first day of a month.

B. Denial. The board shall deny the application of a person ineligible to hold a license pursuant to Minnesota Statutes, section 349.164, or this part.

C. Appeal of initial license denial. A person who has never held a bingo hall license or whose application for renewal of a bingo hall license was submitted after the expiration of the license is not entitled to an appeal of the board's denial of its application.

Subpart 11 clearly sets out the procedures for issuance, denial, and appeal of denial of an initial bingo hall license application. It details the time line requirements that must be met by the applicant, the agency, and the board. This subpart is

necessary to provide the applicant with the information necessary to appeal a denial of an initial bingo hall license application. It references the appropriate statutory authority to comply with due process.

Subp. 12. Renewals.

A. Procedure. To renew a license at the end of a term, a bingo hall licensee must submit a complete renewal application on a form prescribed by the board at least 75 days prior to the expiration of the licensee's existing bingo hall license. A renewal application is not complete until it contains the information required in subparts 6 and 7 of this part, the fee required by subpart 9 of this part, and the proof of local approval required by subpart 10 of this part.

Complete applications received by the board less than 75 days before the expiration of the applicant's existing license will be considered pursuant to the provisions of this part but, if the applicant is entitled to a renewed license, the board need not issue that renewed license until the first day of the month following the expiration of 75 days after the board has received the complete application. A bingo hall shall not continue to operate after the expiration of its license unless and until it receives a renewed license.

B. Denial. An application for renewal of a bingo hall license shall be denied by the board if:

(1) the applicant is ineligible for a license pursuant to the provisions of Minnesota Statutes, section 349.164, or this part;

(2) the proposed bingo hall site is a site where illegal gambling has occurred within the last 12 months; or

(3) it remains incomplete for more than 90 days after its initial submission.

C. Appeals.

(1) Late applications. An applicant that the board determines has failed to submit a complete renewal application at least 75 days prior to the expiration of an existing bingo hall license may appeal that determination by filing a written request for a contested case hearing with the board prior to the expiration of the existing bingo hall license. The director shall schedule a contested case hearing before an administrative law judge pursuant to Minnesota Statutes, chapter 14. When possible, the hearing shall be held less than 30 days after the service of a Notice and Order for Hearing pursuant to Minnesota Rules, part 1400.5600, subpart 3. In any event, all practicable efforts shall be made to hold a hearing, receive the administrative law judge's recommendation, and make a final agency decision before the expiration of the licensee's existing license. The sole issue at the hearing shall be whether the applicant submitted a complete application at least 75 days prior to the expiration of the applicant's existing license.

(2) Denials. A bingo hall owner whose renewal application has been denied may appeal that denial by requesting a contested case hearing pursuant to Minnesota Statutes, chapter 14. The request must be made in writing and received by the board no later than ten days after the bingo hall licensee receives the denial of the renewal application. Upon receipt of the request, the director shall schedule a contested case hearing before an administrative law judge pursuant to Minnesota Statutes, chapter 14. When possible, the hearing shall be held less than 30 days after the service of a Notice and Order for Hearing pursuant to Minnesota Rules, part 1400.5600, subpart 3. In any event, all practicable efforts shall be made to hold a hearing, receive the administrative law judge's recommendation, and make a

final agency decision before the expiration of the existing bingo hall license.

Subpart 12 clearly sets out the procedures for issuance, denial, and appeal of denial of a renewal of a bingo hall license to conduct lawful gambling. It details the time line requirements that must be met by the applicant, the agency, and the board. This subpart is necessary to provide the applicant with the information necessary to appeal a denial of a license renewal. It references the appropriate statutory authority on which the director must base his decision to issue or deny the license renewal.

Item A clearly sets forth the timetable an applicant must follow. This is necessary because the agency needs approximately 75 days to process the renewal application, including review of the application and conduct of background checks that are required by Minnesota Statutes, section 349.164, subdivision 3.

Item B clearly sets out the criteria upon which a denial of a license renewal will be based. It is reasonable because the criteria reflect the requirements of Minnesota Statutes, sections 349.11 to 349.23, and it limits the discretion of the director to deny license renewals.

Item C clearly sets forth the procedures by which an applicant that has been denied renewal of its bingo hall license may reapply for renewal. It also clearly sets forth the requirements which must be met by the applicant before it may reapply. This is necessary to ensure that the integrity of lawful gambling is protected by ensuring that only organizations that meet the statutory and rule requirements are allowed to renew the lawful gambling licenses. It is reasonable because organizations are licensed under statutory restrictions and are aware of the restrictions and the requirements that must be followed to protect their ability to continue to be licensed.

Item D clearly sets forth the procedures by which an applicant that has been determined to have made a late application for renewal of its bingo hall license or has been denied a renewal of its license may appeal that decision. It is reasonable because it grants sufficient due process to comply with state and federal constitutional provisions.

7862.0010 DISTRIBUTORS.

Subpart 1. Definitions. The definitions contained in Minnesota Rules, part 7860.0010, are hereby incorporated by reference.

Subp. 2. License required. No person may sell, offer for sale, or otherwise furnish gambling equipment without having obtained a distributor's license. Annual application must be made for a distributor's license.

Subpart 2 explains the requirement in Minnesota Statutes that a distributor's license is required before a person may distribute gambling equipment and clarifies that application for the license must be made annually.

Subp. 3. **Qualifications.** A license may not be issued to a person or to a corporation, firm, or partnership which has any officer, director, or other person in a supervisory or management position or employee eligible to make sales who:

- A. has ever been convicted of a felony;
- B. has ever been convicted of a crime involving gambling;
- C. has ever been convicted of (1) assault, (2) a criminal violation involving the use of a firearm, or (3) terroristic threats;
- D. is or has ever been engaged in an illegal business;
- E. owes \$500 or more in delinquent taxes;
- F. has had a sales and use tax permit revoked by the commissioner of revenue within the last two years;
- G. after demand, has not filed tax returns required by the commissioner of revenue; or
- H. is a wholesale distributor of alcoholic beverages or an employee of a wholesale distributor of alcoholic beverages.

Subpart 3 is necessary and reasonable because it conforms the rule to the prohibitions contained in Minnesota Statutes, section 349.161, subdivision 3.

Subp. 4. **Restrictions.** No distributor or any representative, agent, affiliate, or employee of a distributor may:

- A. be involved in the conduct of lawful gambling by an organization;
- B. keep or assist in the keeping of an organization's financial records, accounts, or inventories;
- C. prepare or assist in the preparation of the reports required to be submitted under part 7860.0120, subparts C, D, and E;
- D. provide to a lessor of gambling premises any compensation, gift, gratuity, premium, or other thing of value;
- E. participate in any gambling activity at any gambling premises where gambling equipment purchased from that distributor is used in the conduct of lawful gambling;
- F. alter or modify any gambling equipment, except to add a "last ticket sold" page sticker;
- G. recruit a person to become a gambling manager or identify to an organization a person as a candidate to become a gambling manager;
- H. identify for an organization a potential gambling location;
- I. purchase gambling equipment from any person not licensed as a manufacturer under part 7863.0010;
- J. lease premises to an organization for the conduct of lawful gambling; or
- K. be an officer or director of an organization which conducts lawful gambling.

Subpart 4 sets forth the restrictions on an interest in a distributorship. This restates Minnesota Statutes, section 349.161, subdivision 5, and offers additional clarification as in subitem C. These are reasonable and necessary to keep functions of distributing gambling equipment and conducting lawful gambling separate and to conform the rule to statute.

Items A, B, C, G, H, J, and K prohibit a distributor or any person employed by a distributor from providing services related

to the conduct of lawful gambling that are required to be performed by a licensed organization.

Subp. 5. Length of license. All distributor licenses expire one year from the effective date of the license.

Subpart 5 is necessary to clarify the exact term of the license.

Subp. 6. Contents of application. The application must be on a form provided by the board, and must contain at a minimum the following information:

- A. the complete name of the applicant and any other names used;
- B. the mailing address of the applicant;
- C. the office address, if different than the mailing address;
- D. the telephone number of the applicant;
- E. the legal nature of the applicant (corporation, firm, partnership, or sole partnership);
- F. the Minnesota tax ID number of the applicant, if any;
- G. a list of all persons with a direct or indirect financial interest in the applicant;
- H. a list of the owners, partners, officers, directors, managers, supervisors, and employees eligible to make sales on behalf of the applicant;
- I. the address of the facility where gambling equipment and supplies are unloaded in this state prior to sale;
- J. a statement regarding the restrictions contained in subpart 2, item E, of this part;
- K. the name, address, and account number of all business bank accounts for the applicant;
- L. the signature of the chief executive officer; and
- M. additional information as necessary to identify the applicant and ensure compliance with Minnesota Statutes, sections 349.11 to 349.23.

Subpart 6 relates to the application required for a distributor's license. It clarifies the exact information which must be submitted before an application may be considered by the board. The information required in items A through M is basically identifying information or information required by Minnesota Statutes.

Subp. 7. Attachments to application.

A. Distributor personnel form. A distributor personnel form must be completed by each owner, partner, director, manager, supervisor, or person eligible to make sales on behalf of the distributor. The form, prescribed by the board, must contain the following information:

- (1) name, phone number, and full address of applicant;
- (2) full name, home or business address, date of birth, place of birth, social security number, and full name of spouse;
- (3) driver's license number, including state of registration;
- (4) branch of military service, if any, and dates of service;
- (5) country of citizenship;
- (6) position with distributor and work phone number;
- (7) employment history for past ten years;

(8) place(s) of residence for past ten years;
(9) criminal history statement (except petty misdemeanors);
(10) name, address, and license or exemption permit number
of any organization of which the person is a member;
(11) signature of person and date signed; and
(12) additional information as necessary to properly
identify the person and ensure compliance with Minnesota Statutes, sections
349.11 to 349.23.

B. A distributor personnel affidavit must be completed, signed, and notarized by the owners, partners, officers, directors, managers, supervisors, and persons eligible to make sales on behalf of the distributor. "A person eligible to make sales" means any person who participates in or represents a distributor in any portion of a transaction that results in the sale of gambling equipment.

C. A current photograph of the applicant.

Like subpart 6, this subpart clarifies the exact information which must be attached to an application before it may be considered by the board.

Item A relates to the distributor personnel form which gives further information regarding any officer, director, or other person in a supervisory or management position. This is necessary to make sure that they are qualified to obtain a distributor's license.

Item A is also necessary because any person who participates in the business of a distributor, who deals with potential or current customers on behalf of the distributor, and who offers services to organizations as a representative of the distributor has a critical role in maintaining the integrity of the distributor and the gambling industry. Because of the vast number of organizations engaged in lawful gambling, as well as the number of people involved in the sale of gambling equipment, the potential for collusion is great and persons involved must be carefully screened.

Item B - Identification of all employees of a distributor helps to prevent the opportunity for collusion and illegal conduct on the part of the distributor and its employees.

The information contained in this item is necessary to help prevent collusion between distributors, employees of distributors, and gambling organizations. A distributor may not obtain a monopoly on a particular organization's gambling equipment, particularly when some type of collusive agreement may result in the organization paying higher prices for that equipment because of the inappropriate arrangement. The intermingling of roles is detrimental to the integrity of the gambling industry.

Subp. 8. Identification card. Before a person may perform employment services, including sales, for a distributor, the board must issue the person an identification card. The identification card must be in the possession of the employee at all times the employee is performing services on behalf of the distributor. The identification card must be on a form prescribed by the board and must contain:

- A. a picture of the person;
- B. the name of the person;
- C. the name of the distributor;

D. the license number and expiration date of the distributor's license;

E. the address and business phone number of the distributor;

F. the signature of the distributor; and

G. the date of issue and the signature of the director.

The picture identification card is the property of the state of Minnesota and must be returned to the board if the bearer is no longer eligible to conduct sales or is no longer employed by the distributor.

No person may be employed by or possess a picture identification card from more than one licensed distributor.

Subpart 8 sets forth the requirements that must be contained in the picture identification card issued by the board to distributors and persons who conduct sales on behalf of distributors. These requirements are necessary for identification determination. Subitem G is necessary to ensure the identification card, which does not have an expiration date, will be returned to the state when the individual is no longer eligible to conduct sales.

Subp. 9. **Changes in application information.** If any information submitted in the application changes, the distributor must notify the board in writing within ten days of the change.

This subpart merely requires that any change in the information must be filed with the board within ten days after the change. This is necessary so that the board can keep track of the required information concerning distributors to make sure that the distributors qualify to distribute gambling equipment.

Subp. 10. **License fee.** The annual fee for a distributor's license is \$2,500. License fees are not prorated or transferable.

The rule restates the requirements of Minnesota Statutes, section 349.161, subdivision 4. The rule is reasonable because it includes the license fee with other provisions governing distributor licenses, and therefore lessens confusion among distributor license applicants.

7862.0020 DISTRIBUTOR OPERATIONS, ACCOUNTS, AND REPORTS.

Subpart 1. **Purchase of gambling equipment.**

A. **Buying from licensed manufacturers.** A distributor may not purchase or otherwise obtain gambling equipment from any manufacturer unless the manufacturer selling or otherwise providing the gambling equipment has a valid license issued by the board.

B. **Purchases from manufacturers.** A distributor may not purchase any deal of pull-tabs or tipboards from a manufacturer unless the manufacturer meets the requirements in part 7863.0020.

Subpart 1, item A, restates the requirements that a manufacturer must be licensed and sell product that meets rule specifications. It is reasonable to include it in this subpart to alert distributors to the requirement.

Subp. 2. Sale of gambling equipment.

A. (1) Sales to organizations. A distributor may not sell or furnish to any organization any gambling equipment unless the organization has a valid license issued by the board, is exempt from licensing and holds a valid exemption permit, or is excluded from licensing under Minnesota Statutes, section 349.166.

(2) A distributor may not sell or furnish to any organization any gambling equipment before the effective date of the organization's license.

(3) A distributor may not sell or furnish to any organization any deal of pull-tabs or tipboards unless the deal meets all the requirements in Minnesota Rules, part 7863.0020.

B. Gifts to organizations prohibited. A distributor, or a representative, agent, affiliate, or employee of a distributor, may not directly or indirectly give gifts, trips, prizes, loans of money, premiums, or other gratuities to gambling organizations, or their employees, other than nominal gifts not to exceed a value of \$25 per organization in a calendar year.

C. Rebate of purchase prices by distributor. Rebates of purchase prices or discounts offered by a distributor must be separately stated on the original purchase invoice or separately invoiced on a credit memo referencing the original sales invoice and contained in the monthly pricing report.

D. Delivery in-state. Gambling equipment sold for in-state use must be delivered to the gambling manager or the gambling manager's authorized representative.

E. Sales to out-of-state purchasers. Gambling equipment sold by distributors to out-of-state customers for use out of state must be shipped directly from the distributor to the out-of-state site.

F. Sale of mechanical or coin-operated pull-tab dispensing devices prohibited. No mechanical or coin-operated pull-tab dispensing device shall be sold or otherwise furnished to any organization in this state.

Item A restates and amplifies Minnesota Statutes, section 349.161, subdivision 1, which allows only distributors to sell gambling equipment to licensed organizations or organizations that are specifically statutorily exempt from licensing requirements, and also restricts organizations to buy their gambling equipment only from a distributor who has a valid license.

Item B prohibits distributors from giving gifts, trips, prizes, loans of money (excluding credit), premiums, or other gratuities to gambling organizations or their employees. There is an exception for items that do not exceed a value of \$25 per organization in a calendar year. This prohibition is necessary to remove any influence that giving substantial gifts to an organization or employee may have on the purchasing of gambling supplies and to maintain the integrity of lawful gambling.

Item C clearly sets forth the requirement that a distributor must record all rebates, sales, and returns on invoices or credit memos.

Item D requires that gambling equipment and supplies sold for in-state use must be delivered to the gambling manager or his or her authorized representative. This is necessary so that the organization maintains tight controls on the delivery of its inventory.

Item E deals with distributor sales to out-of-state purchasers. The requirement of shipping to the out-of-state site is necessary so that in-state individuals may not purchase from distributors for use in this state representing that they are from out of state. Such purchases avoid the registration and taxation requirements.

Item F prohibits distributors from selling coin-operated or mechanical pull-tab dispensing devices. This prohibition is necessary because at this stage of gambling regulation in Minnesota, the board is not equipped to regulate coin-operated pull-tab dispensing devices.

Subp. 3. Registration of gambling equipment.

A. A distributor may not sell, transfer, furnish, or otherwise provide any gambling equipment unless the equipment has been registered with the board and has a registration stamp affixed.

B. For gambling equipment actually held in inventory by a distributor before August 1, 1990, the distributor shall place a state registration stamp on the flare of each deal of pull-tabs and each flare for a tipboard.

C. For gambling equipment received by a distributor from a manufacturer on or after August 1, 1990, a distributor shall place a state registration stamp on each master flare for a group of up to 100 paddleticket cards, on the front of each paddlewheel, and on each device for selecting bingo numbers. This requirement does not apply to sales by distributors to out-of-state customers for use out of state.

D. The board shall furnish consecutively-numbered state registration stamps to each distributor at the cost of five cents each. For equipment that the distributor is required to register, the distributor shall write legibly in ink the manufacturer's game serial number and state registration number on the stamp and affix the stamp directly to the front of the flare of a pull-tab game, the flare for a tipboard, and the master flare for all paddleticket cards before making delivery to any organization.

E. Registration stamps must be placed by a distributor on items that are authorized for use within Minnesota.

F. A distributor may not transfer or furnish Minnesota registration stamps to any person, distributor, or manufacturer.

G. The distributor shall return any and all unused state registration stamps in its possession to the board within five days after the distributor ceases doing business.

This subpart sets forth the procedure by which distributors can continue to register equipment in their possession prior to August 1, 1990, and recognizes procedures needed for distributors to continue to register equipment other than pull-tabs and tipboards.

This subpart recognizes that distributors may still have "unstamped" deals of pull-tabs and tipboards in inventory which were received by them before manufacturers were required to affix the stamps (the effective date was August 1, 1990, for manufacturer stamping). Therefore, the distributors need to retain the ability to stamp those items. Also, distributors are to continue to affix registration stamps to some items of gambling equipment (paddleticket master flares, etc.), i.e. all items other than pull-tab and tipboard games.

It also addresses the marking and identification of equipment for gambling. Minnesota Statutes requires that all gambling equipment must have a registration stamp placed upon it before the gambling equipment is sold. This sets out the procedures to be used by the distributors in the registration and identification of gambling equipment. It is necessary because the instructions set forth in the statute are not complete enough in detail to allow distributors to comply uniformly to that requirement.

The cost of the registration stamps is set at five cents each. It is anticipated that this cost will cover the cost of the printing and some of the administrative costs related to these state stamps.

Items E, F, and G restrict the use and acquisition of the stamps. This is necessary for adequate control of the stamps and of gambling equipment.

Item G requires that the stamps be returned to the board if the distributor should go out of business. It is necessary that gambling stamps not be floating around unaccounted for. Item G also deals with an occurrence that may require the return of merchandise and establishes the procedure to handle the returned registration stamp. To preserve the integrity of the use of the registration stamps, the rule allows for the cancelation of those stamps and the issuance of new ones.

Subp. 4. Records and reports required.

A. Sales invoice.

(1) A distributor who sells, leases, or otherwise provides gambling equipment must record the transaction on a sales invoice.

(2) A sales invoice must be on a standard form prescribed by the commissioner of revenue and must contain the following information:

(a) the license number of the distributor;

(b) the complete business name and address of the organization;

(c) the license number and expiration date of the license of the organization or the exemption permit number of the organization;

(d) the invoice number;

(e) the date the gambling equipment was shipped;

(f) the quantity by the number of deals for pull-tabs, by the number of boards for tipboards, and by the number of paddleticket cards for paddletickets;

(g) a full description of each item of gambling equipment sold;

(h) state registration stamp numbers for each item of gambling equipment sold;

(i) the ideal gross receipts for each type of pull-tab, tipboard, and paddleticket game;

(j) the ideal net receipts for each type of pull-tab, tipboard, and paddleticket game;

(k) the identity of the manufacturer from which the distributor purchased the equipment;

(l) the date of the sale of the gambling equipment;

(m) the name of the person who ordered the equipment;

(n) the name of the person who received the equipment;

(o) for bingo cards or sheets sold after on or January 1, 1991, the individual number of each card; and

(p) the serial number of the equipment.

B. Registration stamp number log. A registration stamp number log in which the Minnesota gambling registration stamp numbers and the manufacturer's game serial numbers are recorded must be maintained by the distributor on a standard form prescribed by the board and furnished to the board upon demand.

C. Reports filed with the board monthly. A licensed distributor must submit a monthly pricing report to the board on a form approved by the board and must include:

(1) the name, license number, and full address of distributor;

(2) the month and year of the report; and

(3) the form, description, card count, top winners, gross profit, percent to players, deals per case, price per deal, and volume discounted price, exclusive of transportation costs.

The report must be filed no later than the first day of each month. Amendments must be filed within five days of the filing. A computer-generated form may be used with the approval of the director if the form complies with the requirements of this subpart.

D. Reports filed with the department of revenue monthly. Each distributor shall mail a copy of each sales invoice, as described in part 7862.0020, subpart 4, to the commissioner of revenue to be received by the 15th of the month following the month in which the sale was completed along with the corresponding registration stamp log.

E. Report of delinquent organization required.

(1) A distributor shall notify the board by registered mail if a licensed organization is more than 35 days delinquent in its payment to the distributor of tax obligations or costs of equipment.

(2) The board shall notify the licensed organization of the delinquency and direct the organization to eliminate the delinquency, if one exists.

(3) If the board is notified that the delinquency has not been paid within ten days of the distributor's initial notification to the board, the board shall notify all licensed distributors that no registered gambling equipment may be sold, offered for sale, or furnished to that organization.

(4) A distributor may not sell, offer for sale, or furnish gambling equipment to an organization that has been determined by the board to be 45 or more days delinquent in its payment to a licensed distributor of a tax obligation or the costs of gambling equipment.

(5) When the delinquency is paid, the distributor must immediately notify the board and the board shall notify all licensed distributors.

F. Examination of books and records. The board, the commissioner of revenue, the commissioner of public safety, and their agents may examine the books and records of any distributor without notice at any time during normal business hours.

G. Length of record retention. Each distributor shall maintain records of the purchase and sale, lease, rental, or loan of gambling equipment for three and one-half years.

This subpart is necessary to prevent the illicit sale of gambling equipment. It requires the use of a sales invoice.

This is a necessary control method and is blended with the monthly reporting requirements of the distributor. Otherwise, sales not recorded on a sales invoices would escape reporting and subsequent tracking.

Item A requires that distributors keep a uniform sales invoice. Minnesota Statutes require that the distributors report monthly to the board on sales of equipment to organizations conducting lawful gambling. The requirement set forth in a later item, that a copy of each sales invoice be sent in to the board, will satisfy the monthly reporting requirements. By using a uniform sales invoice, the need to make a separate monthly report has been eliminated. The information on the sales invoice is needed to accurately account for the games and to cross-check the profits reported on the games by the organizations with the information supplied by the distributors.

This information is essential to the board and is not burdensome on the distributors. Each of these items are standard on sales invoices. These items serve as the foundation for the board to cross-check the game information reported by the organizations to the board. This information will enable the board to determine the accuracy of the gambling tax return and do statistical analysis of an organization's gambling operation to detect irregularity of reporting and patterns of questionable gambling results.

This requires that all sales invoices issued by a distributor contain the expiration date of the license of the organization purchasing the gambling equipment. This will help protect the distributor from selling gambling equipment to an unlicensed organization which has continued to conduct gambling although its licensed has expired.

Item B requires a registration stamp number log that will match the stamp numbers and the manufacturers' serial numbers. This is also a necessary part of the reporting and control of gambling equipment. The log will match a registration stamp number with its respective game serial number. This will provide accountability by the licensed distributor for all of the issued registration stamp numbers. The information is vital for tracing games, by game serial number, to the distributor and to the organization. The board, with this information, will be able to maintain control over all of the issued game registration numbers by knowing which game registration numbers have been issued; sold as deals to organizations which have been reported on the gambling tax return by organizations; and which should be part of a distributor's and organization's ending inventory. It thus provides accountability and detects irregularities.

Item C describes the information which must be filed with the board. This is necessary to provide distributors of gambling equipment with some recourse against licensed organizations who are more than 35 days delinquent in payments to the manufacturer for the cost of gambling equipment.

Item D requires that the sales invoice be submitted to the department of revenue monthly as required in Minnesota Statutes. This subpart sets up the procedure to satisfy this requirement and uses the information already generated by the distributor rather than requiring separate monthly reports. The timeliness

of submitting the information is important to local law enforcement officials. It clearly states that a distributor must record all sales and returns.

Item F deals with allowing the board and its agents to examine the records of the distributor. This authority is given to the board in Minnesota Statutes, section 349.162, subdivision 2. This is an amplification of that authority.

7863.0010 LICENSED MANUFACTURERS.

Subpart 1. Definitions. The definitions contained in Minnesota Rules, part 7860.0010, are hereby incorporated by reference.

Subp. 2. License required. A manufacturer of gambling equipment may not sell any gambling equipment to any person without having obtained a manufacturer's license. Annual application must be made for a manufacturer's license.

Subpart 2 explains the requirement in Minnesota Statutes that a manufacturer's license is required before an applicant may sell lawful gambling equipment and clarifies that application for the licensed must be made annually.

Subp. 3. Qualifications. A license may not be issued to a person, or to a corporation, firm, or partnership, that has as an officer, director, or other person in a supervisory or management position or person eligible to make sales on behalf of the manufacturer, a person who:

- A. has ever been convicted of a felony;
- B. has ever been convicted of a crime involved gambling;
- C. has ever been convicted of (1) assault, (2) a crime involving the use of a firearm, or (3) terroristic threats;
- D. is or has ever been engaged in an illegal business;
- E. owes \$500 or more in delinquent taxes;
- F. has had a sales and use tax permit revoked by the commissioner of revenue within the last two years; or
- G. has had a license related to gambling revoked or denied by another jurisdiction for a violation of law or rule.

Subpart 3 is necessary and reasonable because it conforms the rules to the prohibitions in Minnesota Statutes, section 349.163, subdivision 1(a).

Subp. 4. Restrictions. No manufacturer may:

- A. sell gambling equipment to any person not licensed as a distributor under part 7862.0010;
- B. 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 sold by the manufacturer for use in this state;
- C. be directly or indirectly licensed as a distributor unless the manufacturer does not manufacture any gambling equipment other than paddlewheels and was licensed as both a manufacturer and distributor on May 1, 1990;
- D. participate in the conduct of lawful gambling or have an owner, officer, director, partner, or employee who is an officer, director, of gambling manager of any organization conducting lawful gambling;

E. be an owner, officer, director, or partner of a wholesale alcoholic beverage distributor;

F. provide, or permit an affiliate or person acting on behalf of the manufacturer to provide, any compensation, gift, gratuity, premium, contribution, or thing of value to a lessor of gambling premises; or

G. provide or permit an affiliate or person acting on behalf of the manufacturer to provide any compensation, gift, gratuity, premium, contribution, or thing of value to an appointed official.

Subpart 4 sets forth the restrictions on an interest in a manufacturer. These are reasonable and necessary to keep the functions of manufacturing gambling equipment separate from distributing gambling equipment and conducting lawful gambling.

Subp. 5. Length of license. A manufacturer's license expires one year from the effective date of the license.

Subpart 5 is necessary to clarify the exact term of a license.

Subp. 6. Contents of application. The application must be on a form prescribed by the board and include at a minimum the following information:

- A. the business name and other names used, address, and phone number of the applicant;
- B. the Minnesota tax ID number, if any, of the applicant;
- C. the type of business (sole proprietorship, partnership, or corporation);
- D. the type of product to be sold in Minnesota;
- E. the full names and titles of the owners, officers, directors, supervisors, managers, and sales employees;
- F. the addresses of all facilities where gambling equipment is manufactured;
- G. the name, address, and telephone number of the applicant's registered agent in Minnesota;
- H. the signature of the chief executive officer; and
- I. additional information as is necessary to properly identify the applicant and to ensure compliance with Minnesota Statutes, sections 349.11 to 349.23.

Subpart 6 relates to the application required for a manufacturer's license. The information required in items A through I is basically identifying information or information required by Minnesota Statutes.

Subp. 7. Attachments to application.

A. A manufacturer's personnel form must be completed by each owner or, if a corporation or partnership, each partner, officer, director, supervisor, manager, or person eligible to make sales on behalf of the manufacturer in Minnesota. The manufacturer's personnel form must include, at a minimum, the following information:

- (1) the name, address, phone number, and license number, if issued, of the manufacturer;
- (2) the individual's full name, address, date of birth, place of birth, social security number, telephone number, and full name of the spouse;

(3) the driver's license number, including state of registration;

(4) the branch of military service information, if any, and dates of service;

(5) the country of citizenship;

(6) the position with the manufacturer and work phone;

(7) the employment history for the last ten years;

(8) the place(s) of residence for the last ten years;

(9) the name, address, and license or exemption permit number of any organization conducting lawful gambling in Minnesota of which the person is a member;

(10) a criminal history statement, except petty misdemeanors;

(11) the signature of the person and date signed; and

(12) any additional information as is necessary to properly identify the person and to ensure compliance with Minnesota Statutes, sections 349.11 to 349.23.

B. Personnel affidavit. An affidavit must be signed and notarized by the applicant and by the officers, directors, partners, supervisors, managers, and persons eligible to make sales on behalf of the applicant in Minnesota.

C. Registration of logo. The manufacturer must submit a copy of its logo or trademark which will be used to identify the manufacturer on all products sold in Minnesota.

Item A relates to the manufacturer personnel form which gives further information regarding any officer, director, or other person in a supervisory or management position. This is necessary to make sure that they are qualified to obtain a manufacturer's license. It is also necessary because any person who participates in the business of a manufacturer, who deals with potential or current customers on behalf of the manufacturer, and who offers services to organizations as a representative of the manufacturer has a critical role in maintaining the integrity of the manufacturer and the gambling industry. Because of the vast number of organizations engaged in lawful gambling, as well as the number of people involved in the sale of gambling equipment, the potential for collusion is great.

The requirement in item C is necessary so that gambling equipment in use in Minnesota can be traced back to the manufacturer for audit and regulatory procedures.

Subp. 8. Changes in application information. Any changes in the information submitted in the application must be filed with the board within ten days after the change.

Subpart 8 merely requires that any change in the information must be filed with the board within ten days after the change. This is necessary so that the board can keep track of the required information concerning manufacturers to make sure that the manufacturers are qualified.

Subp. 9. License fee. The annual manufacturer's license fee is \$2,500. License fees are not prorated or transferable.

The rule restates the requirements of Minnesota Statutes, section 349.164, subdivision 4. The rule is reasonable because it includes the license fee with other provisions governing manufacturers' licenses, and therefore lessens confusion among applicants.

Subp. 10. Investigation. Before granting or renewing a manufacturer's license, the board may conduct, or request the director of gambling enforcement to conduct, a background investigation, including a review of the applicant's sources of financing, ownership, and organizational structure.

This rule is necessary to give the board the discretion to background investigation of any applicant. It is reasonable because a background check may be needed to ensure the integrity of lawful gambling is protected.

7863.0020 MANUFACTURER OPERATIONS, ACCOUNTS, AND RECORDS.

Subpart 1. Sale of gambling equipment.

A. Board approval of gambling equipment. Prior to the sale of gambling equipment in Minnesota, the manufacturer must submit to the board a sample of its gambling equipment. The board shall inspect the product to determine if it meets the criteria and standards established by law and rule. The board shall notify the manufacturer within 15 days whether the product is approved for sale in this state.

B. Sales to distributors. A manufacturer may not sell or make available to any distributor any gambling equipment unless the distributor has a valid license issued by the board.

C. Sale of pull-tabs and tipboard deals. A manufacturer may not sell or provide any deal of pull-tabs or tipboards to a licensed distributor unless the deal meets the standards established in subpart 2 of this part.

(1) The manufacturer must place the flare for each pull-tab deal and each tipboard deal, with the Minnesota registration stamp affixed, inside the wrapping of each deal.

(2) The manufacturer must provide a master flare with each sealed grouping of up to 100 paddleticket cards.

(3) Each flare must fully describe the prizes and winning number, symbol, set of symbols, notice to pull-tab purchasers, and the bar code according to standards prescribed by the commissioner of revenue, and manufacturer's label or trademark. Each flare must also contain the odds, house percentage, or number of tickets.

D. Sale of coin-operated or mechanical pull-tab dispensing devices prohibited. A manufacturer may not sell, offer for sale, or otherwise provide a coin-operated or mechanical pull-tab dispensing device to any distributor in this state.

Subp. 2. Standards of pull-tabs and tipboards.

A. Pull-tab standards. All pull-tab tickets sold in this state must conform to the following standards:

(1) Pull-tabs shall be constructed so that concealed numbers or symbols cannot be viewed or determined from the outside of the pull-tab ticket using a high intensity lamp of 500 watts. Protection shall be provided by using opaque paper stock or by use of an aluminum foil laminate.

(2) The deal must be assembled so that winners are placed randomly throughout the deal.

(3) The minimum information printed on a pull-tab, or if starred (*) on a single folded or banded ticket, must include:

- (*a) the name of the manufacturer or its distinctive logo;
- (b) the name of the game;
- (c) the manufacturer's form number; .
- (d) the price per individual pull-tab;
- (*e) the unique minimum five-digit game serial number, printed on the game information side of the pull-tab which must not be repeated on the same form number for three years; and
- (f) the number of winners, and respective winning numbers or symbols, and prize amounts unless a flare is included giving that information.

(4) The deal shall be designed, constructed, glued, and assembled in such a manner as to prevent the determination of a winning ticket without removing the tabs or otherwise uncovering the symbols or numbers. Each ticket in a deal must bear the same serial number. There shall not be more than one serial number in one deal.

The numbers or symbols must be fully visible in the window and shall be centered so that no part of a symbol or number remains covered when the tab is removed.

(5) It must not be possible to isolate winning pull-tabs from variations in size or the appearance of a cut edge of the pull-tab.

(6) It must not be possible to detect or pick out winning pull-tabs through variations in printing graphics or colors.

(7) A unique symbol or printed security device, such as a specific number keyed to particular winners, or the name of the symbol or some of the symbol colors changed for a winner, or other similar protection shall be placed in the winning windows. This item does not apply to numeral games.

(8) All pull-tabs sold in this state must be packaged as follows:

(a) Each deal's package, box, or other container shall be sealed at the factory with a seal including a warning to the purchaser that the game may have been tampered with if the package, box, or container was received by the purchaser with the seal broken.

(b) A deal's serial number shall be clearly and legibly placed on the outside of the deal's package, box, or other container.

(c) For games shipped to Minnesota for sale in this state, the flare for the game shall be located on the outside of each game's sealed package, box, or other container.

B. Tipboard standards. All tipboard tickets sold in this state must conform to the following standards:

(1) Each tipboard ticket shall contain the manufacturer's name, label, or trademark. The label or trademark must be filed with the board prior to the sale of the tipboard ticket by the manufacturer.

(2) Deals of tipboard tickets must be manufactured, assembled, and packaged so that none of the winning tipboard tickets, nor the location or approximate location of any of the winning tipboard tickets can be determined in advance of opening the tipboard tickets in any manner or by any device, including but not limited to any pattern in manufacture, assembly, packaging, markings, or by the use of a light.

(3) On banded tipboard tickets, the minimum four-digit serial number and the name of the manufacturer must be printed so both are readily visible prior to opening the tipboard ticket.

Subpart 2 lays out standards for pull-tabs and tipboards. The standards are necessary for the purpose of establishing minimum quality standards for the manufacture of tipboards and tickets. The broad purpose is to ensure that the games are honest and fair to all participants and that the tickets are secure against invasion by any practical method.

These are standards of construction and packaging for pull-tabs and tipboards. Given the statutory requirement of registration of these games, it is reasonable to provide standards for these games so that games that are not well-constructed are not played in Minnesota.

The standards are necessary to establish minimum quality standards for the manufacturer of tipboards and pull-tab tickets sold in Minnesota. The purpose of the standards is to ensure that they games are uniform, and that the pull-tabs are secure against alteration by most practical methods. The standards proposed in this subpart are consistent with the standards used in other parts of the country, and are not so unique as to detrimentally impact manufacturers who sell pull-tabs in Minnesota. Therefore, these standards are both needed and reasonable.

Subitem A(2) requires that pull-tabs must be randomly mixed. This requirement is necessary so that a pattern will not be established for the location of winning pull-tabs, which would give unfair advantage to players or to an organization. This item also requires the manufacturer to assemble pull-tabs so that the winners may not be predetermined which will help accomplish the same purpose.

Item D is necessary because the board is not prepared to regulate these items.

Subp. 3. Registration of gambling equipment.

A. A manufacturer must affix a Minnesota registration stamp to the flare for each deal of pull-tabs and each deal of tipboards, which are shipped, sold, furnished, or provided for use in Minnesota, or to any person or location in Minnesota.

(1) Consecutively numbered state registration stamps shall be sold by the board to each pull-tab or tipboard manufacturer at the cost of five cents each.

(2) A manufacturer may not place a Minnesota registration stamp on any item or product shipped, sold, or provided for use in other states or counties.

(3) A manufacturer may not transfer or furnish Minnesota registration stamps to any other manufacturer, any distributor, or any other person, other than a representative of the board or the commissioner of revenue.

(4) The manufacturer shall legibly write in ink, or legibly imprint in ink, the serial number of the pull-tab or tipboard game on the registration stamp. The serial number must match the serial number written or imprinted on the flare for that deal, and must also match the serial number imprinted on each ticket in the deal.

(5) Defective or unusable registration stamps may be returned by a manufacturer to the board. The board may reimburse or credit the manufacturer for any registration stamps returned. The board may refuse

reimbursement or credit for returned registration stamps if the stamps have been altered or rendered unusable by the manufacturer.

(6) Minnesota registration stamps affixed to flares of returned or unusable pull-tab or tipboard deals which were previously stamped by a manufacturer must be voided by that manufacturer.

(a) The manufacturer shall write, in ink, the word "VOID" across the face of the registration stamp and shall retain the flares, with the voided registration stamps affixed, for a period of three and one-half years.

(b) Voided registration stamps should be reported to the commissioner of revenue as described in item (4) above.

(c) The deal associated with any voided registration stamp must be either destroyed, sold for use in a location other than Minnesota, or, if intended for shipment or sale to a Minnesota location, be provided with a new flare having a new registration stamp affixed to it.

(d) Manufacturer records and monthly reports to the commissioner of revenue must document these transactions.

(7) The manufacturer shall return all unused registration stamps to the board within five days after the cessation of business.

B. All gambling equipment sold by a licensed manufacturer for use in Minnesota must be manufactured in a manner that would permit the manufacturer to identify the buyer of the gambling equipment and provide the identity of the buyer at the request of the board.

C. All gambling equipment which is sold by a licensed manufacturer to a licensed distributor for use in Minnesota must have a legible and discernible logo or identification of the licensed manufacturer.

Subpart 3 addresses the marking and identification of equipment for gambling. Minnesota Statutes require that all gambling equipment must have a registration stamp placed upon it before the gambling equipment is sold. This sets out the procedures to be used by the manufacturers in the registration and identification of gambling equipment. It is necessary because the instructions set forth in the statute are not complete enough in detail to allow manufacturers to comply uniformly to that requirement.

It is reasonable in that other states are using similar methods. It allows the board to have knowledge of the equipment being distributed and is not so burdensome on the manufacturers to be prohibitive.

Subp. 4. Records and reports.

A. Monthly report to board. A licensed manufacturer must submit a monthly pricing report to the board. The report must be on a form approved by the board and at a minimum include:

(1) the name, license number, and full address of manufacturer;

(2) the month and year of report; and

(3) the form, description, card count, top winners, gross profit, percent to players, deals per case, price per deal, and volume discounted price, exclusive of transportation costs.

The report must be filed no later than the first day of each month. Amendments must be filed within five days of the filing. A computer-generated format may be used with the approval of the director if it substantially complies with the requirements of this part.

B. Monthly report to department of revenue. A manufacturer must report monthly to the commissioner of revenue, on a form prescribed by the commissioner. This report shall include an accounting for all registration stamps used, returned, voided, ruined, destroyed, or otherwise disposed of during the report period. The report is due on the 25th day of the month which succeeds the month in which the registration stamp use takes place.

C. Delinquent distributors.

(1) **Required.** A licensed manufacturer shall notify the board by registered mail if a licensed distributor is more than 30 days delinquent in its payment to that manufacturer.

(2) The board shall notify that licensed distributor of the delinquency and direct the distributor to eliminate the delinquency, if one exists.

(3) The board must be notified by the licensed manufacturer that the delinquency is paid or that no delinquency exists within ten days of the licensed manufacturer's initial notification to the board.

(4) If the board is notified that the delinquency has not been paid within ten days of the manufacturer's initial notification to the board, the board shall notify all licensed manufacturers that no gambling equipment may be sold, offered for sale, or furnished to that distributor.

(5) When the delinquency is paid, the board shall notify all licensed manufacturers.

D. Examination of books and records.

(1) The board and the commissioner of revenue or public safety and their agents may examine the books and records of any manufacturer.

(2) If the manufacturer fails to comply with this subpart, the board shall notify the manufacturer in writing that the manufacturer is responsible for the travel and living expenses of board staff while examining the manufacturer's books and records.

E. Length of record retention. A manufacturer must maintain records which fully account for their receipt and use of all Minnesota registration stamps for a period of three and one-half years.

Subpart 4 clearly sets forth the requirements for manufacturers as to what records must be kept and what reports must be filed with the board and the department of revenue.

Item A sets forth the information that is required for the monthly pricing report as authorized by Minnesota Statutes, section 349.169, subdivision 1. The information is the minimum information necessary to determine the requirements of section 349.169, subdivision 1, have been met. The rule is reasonable because it clarifies statutory language but does not add additional burdens.

Item B is necessary to alert the manufacturers to the information required to conform to Minnesota Statutes, section 349.1222.

Item C clearly describes the steps the manufacturer must go through in the event of a delinquency with a distributor.

Item D is reasonable because it is reasonable for a manufacturer licensed to manufacture product for use in Minnesota submit to regulatory scrutiny by the state.

Item E is necessary and reasonable because it conforms record retention requirements to the three-and-one-half-year time limit the department of revenue has established to begin an audit.

7864.0010 COMPLIANCE REVIEW GROUP.

Subpart 1. **Establishment.** The chair of the board shall appoint at least one panel consisting of at least three board members to serve as compliance review group(s). The compliance review group(s) will meet as necessary to exercise the powers and duties granted to them by subpart 2 of this part.

The role of the CRG is to permit an informal review into allegations against licensees. The CRG process is less costly to both parties, can provide for time savings, and utilizes the principles of mutual determination of an issue.

Subp. 2. **Powers and duties.** Each compliance review group may:

- A. meet as necessary to consider alleged violations of laws or rules related to lawful gambling by persons licensed under Minnesota Statutes, chapter 349;
- B. direct the director to initiate investigations of persons licensed under chapter 349 for the purpose of determining whether laws or rules related to lawful gambling have been violated;
- C. require any person or entity licensed under Minnesota Statutes, chapter 349, to appear before it to discuss alleged violations of laws or rules related to lawful gambling;
- D. conduct hearings in accordance with subpart 2 of this part;
- E. negotiate proposed consent orders with licensees to resolve any violations of laws or rules related to lawful gambling;
- F. enter into consent orders with licensees to resolve any violations of laws or rules related to lawful gambling;
- G. recommend to the board that it take disciplinary action against a person or entity licensed under Minnesota Statutes, chapter 349;
- H. recommend to the board that it summarily suspend a license pursuant to the provisions of Minnesota Statutes, section 349.1641; and
- I. initiate and recommend any other proceedings necessary to ensure that violations of the laws and rules related to lawful gambling are detected and addressed appropriately.

Because the board is the final "judge" in enforcement actions, there must be a mechanism for preliminary enforcement decision-making that does not involve all members of the board in order to preserve the objectivity of the board in its quasi-judicial role. This is reasonable because it affords licensees and registrants an opportunity to be heard and to negotiate a settlement, thus preserving their resources as well as those of the board. At the same time, the process allows the remaining members of the board who have to make a quasi-judicial decision on a disciplinary matter to retain their objectivity and not become biased against the respondent.

7864.0020 SUSPENSIONS OR REVOCATIONS.

Subpart 1. **Grounds for suspension.** The board may suspend any license issued pursuant to Minnesota Statutes, chapter 349, after a contested case hearing under Minnesota Statutes, chapter 14, if the licensee has:

- A. violated any law or any rule adopted by the board;

B. made a false statement in a document or application required to be submitted to the board or the department of revenue or has made a false statement in testimony before the board, or a compliance review group, or an agent of the board conducting an investigation on behalf of the board; and

C. engaged in fraud or misrepresentation in the securing of a license from the board or in the conduct of lawful gambling. "

Subpart 1 summarizes the circumstances under which the board may impose discipline. It is necessary to clarify the authority found throughout the statute. It is also reasonable because it provides notice to licensees and registrants of the grounds for an enforcement action which could result in suspension, revocation, or lack of renewal.

Subp. 2. Length of suspension. In determining the length of any suspension of a license issued under Minnesota Statutes, chapter 349, the board shall consider:

A. the severity of the conduct as indicated by the potential harm to the integrity of lawful gambling;

B. the culpability of the violator;

C. the frequency of the violator's failure to comply with laws or rules related to lawful gambling;

D. the actual harm caused to the integrity of lawful gambling;

E. the likelihood that the violations will occur again; and

F. the degree of the violator's cooperation during the course of the investigation into its activities.

This subpart sets forth the criteria determining the length of suspension. It is necessary to allow the board to distinguish between moderate and severe violations and, hence, impose discipline which will most effectively punish violations and deter future violations. It is reasonable because it allows the board to retain flexibility to treat individual cases on their merits.

Subp. 3. Grounds for revocation.

A. The board may revoke the license of any organization, distributor, manufacturer, or bingo hall owner after a hearing pursuant to Minnesota Statutes, chapter 14, for what it determines to be a willful violation of laws or rules related to lawful gambling.

B. The board may revoke the license of any gambling manager after a hearing pursuant to Minnesota Statutes, chapter 14, for any violation of laws or rules related to lawful gambling after considering the factors identified in subpart 2 of this part.

This subpart identifies and summarizes the circumstances under which the board may revoke a license. It is necessary to summarize authority found in a variety of places in the statutes.

Subp. 4. Additional grounds. Any grounds for denial of a license are also grounds for suspension or revocation of a license.

Subp. 5. Compliance review groups. In negotiating consent orders containing proposed suspensions or revocations, the compliance review groups shall consider the provisions of this part.

7864.0030 FINES.

Subpart 1. Imposition. The board may impose a civil fine upon any licensed organization, gambling manager, bingo hall lessor, distributor, or manufacturer for violation of any provision of Minnesota Statutes, sections 349.12 to 349.23, or a violation of the board's rules. The civil penalty may not exceed \$500 per violation.

In determining the amount of the fine to be imposed for a violation of law or rule, the board shall consider:

- A. the severity of the conduct as indicated by the potential harm to the integrity of lawful gambling;
- B. the culpability of the violator;
- C. the frequency of the violator's failure to comply with the law or rules;
- D. the actual harm caused to the integrity of lawful gambling;

and

E. any other factor related to the violation that the board considers crucial to its determination of the amount of the fine as long as the same factors are considered with regard to all violators.

This is necessary because it sets out for the board the factors to be considered in the imposition of civil penalties and provides a framework for determining the amount of fine to be imposed. This subpart sets forth the criteria for decisions. It allows the board to retain flexibility to treat individual cases on their merits. This is necessary to set forth the board's authority to impose civil fines, which authority is clearly set forth in Minnesota Statutes, section 349.151, subdivision 2(8). This subpart also sets forth the factors to be considered by the board in the imposition of a civil fine. The factors are necessary to adequately inform those subject to the regulation of the board the amount of a fine may be imposed for any particular course of conduct. The factors are also necessary to ensure uniform application of the law and to provide the board with guidance in determining the amount of a fine to be imposed. Because the rule provides uniformity and consistency, the proposed rule is reasonable.

Subp. 2. Citation form. The director or agents of the commissioner of revenue may issue to any licensee or person registered with the board a proposed fine on a citation form prescribed by the board. The amount of the proposed fine must be determined in accordance with the factors listed in subpart 1 of this part. The proposed fine must be paid to the board within seven days, excluding Saturdays, Sundays, and holidays, of the date on which the citation is issued. Failure to pay the proposed fine within seven days may subject the licensee or registered person to further disciplinary action by the board unless the licensee or registered person appeals the citation and the proposed fine to the board within the seven-day period.

Sets forth the form of a citation that may be issued by the board or the commissioner of revenue. The citation is a document which sets forth the alleged violation of law as well as a proposed fine. The rule is necessary to create a uniform document for use throughout the state to adequately inform those

subject to regulation by the board what type of citation form will be used.

Subp. 3. Appeals. An appeal of the proposed fine must contain the name of the person or organization that received the citation, the date on which the citation was issued, the amount of the proposed fine as stated on the citation, and the specific reasons why the proposed fine should not be paid.

Appeals of proposed fines shall be referred by the board to the compliance review group for purposes of a hearing. Within ten days of the receipt of an appeal, the compliance review group must schedule a hearing. The licensee or registered person may be represented by counsel and may present documents and other relevant evidence to support its position. The compliance review group must issue an order within ten days of the date of the hearing, recommending to the board whether or not a civil fine should be imposed.

If the compliance review group determines that a civil fine should be imposed, the order must contain a recommendation for the amount of the fine. The board must act on the recommendation of the compliance review group at its next regularly scheduled meeting. Within ten days of acting on the matter, the board must issue an order, including findings of fact and conclusions of law. The order is a final agency decision.

This subpart sets forth the procedure that must be used to effectuate an appeal of a citation and proposed fine. This subpart is necessary because the rules currently do not provide an appeal process for citations and fines. The amendment is reasonable because it provides an opportunity for a hearing, clearly sets forth the requirements that must be met to perfect the appeal, and indicates the responsibility of the compliance review group in handling the appeal. The proposed appeal procedure comports with due process as well as other administrative appeal procedures used throughout the state.

Subp. 4. Payment from gross receipts prohibited. Money used to pay a fine imposed by the board may not be paid from the gross receipts of gambling.

This subpart is necessary to clearly prohibit the payment of fines from gambling proceeds. The prohibition is necessary to ensure that the organization is actually punished for violating the law. A fine paid from gambling proceeds would have little or no effect on the organization and would not deter the organization from violating the law in the future. Therefore an organization must pay the fine from other monetary sources.

Subp. 5. Consequences of failure to correct violations. Failure to correct the violation for which the fine was imposed is grounds for the suspension or revocation of a license.

This subpart is necessary to ensure that an organization correct any violation for which a fine was imposed. Without this subpart an organization may find it more advantageous to pay the fine and continue the prohibited conduct. This subpart ensures that appropriate disciplinary action may be taken to guard against such practices.

7864.0040 STAYS.

Subpart 1. Entitlement. Any licensee subjected to a board order suspending or revoking its license or imposing a civil fine upon it is entitled to a stay of imposition of that sanction upon filing an appeal to the court of appeals unless the board determines that the potential or actual harm to the public and/or the integrity of lawful gambling resulting from the grant of such a stay would exceed the harm to the licensee from the denial of such a stay.

Subp. 2. Procedure.

A. Request. Any licensee seeking a stay pursuant to subpart 1 of this part must file a written request with the board. The request must contain:

(1) a copy of the licensee's appeal to the court of appeals and proof that the appeal has been filed with the court of appeals;

(2) a brief statement describing why the harm the licensee would suffer from the denial of a stay exceeds the potential or actual harm to the public or the integrity of lawful gambling that would result from the grant of a stay; and

(3) a copy of the order issued by the board imposing the sanction the licensee seeks to have stayed.

B. Initial consideration. Any request for a stay complying with the provisions of paragraph A above must be considered by the chair of the board pursuant to the provisions of subpart 1 of this part. The chair shall respond to the applicant in writing within five days, excluding Saturdays, Sundays, and holidays, of the date the application is received by the board. The response shall grant or deny the stay and explain the reasons therefore. The chair's decision regarding the stay shall represent the official board response to the request until the board is able to consider the request pursuant to paragraph C below.

C. Board consideration. All requests for stays shall be considered by the board after initial consideration and response by the chair. If the chair has granted the licensee's request for the stay, the board shall consider the request at its next regularly scheduled meeting. If the chair has denied the request, the chair shall call a special board meeting to consider the licensee's request for a stay. The special meeting must be held no later than ten days after the chair has issued a written response to the request. When the board considers the request for a stay, it shall grant or deny the stay pursuant to the provisions of subpart 1 of this part and issue a written order containing its decision and the reasons therefore within five days of the date it considers the request. The board's decision constitutes a final agency action.

This part sets out the procedures to be used by a licensee to obtain a stay of imposition of any sanction imposed by the board. The procedures are necessary to guide the board and the regulated community in dealing with appeals of disciplinary actions. Subpart 1 creates a presumption that a stay will be granted unless the potential or actual harm to the integrity of lawful gambling would exceed the harm to the licensee of denying the stay. This is reasonable because it protects the licensee's right to appeal which allowing the board, in extreme situations, to maintain the integrity of lawful gambling by denying a stay.

Subpart 2 lays out the procedure for requesting a stay and for the board's consideration of a stay. Because time is of the essence in this situation, item B delegates considerations of the stay request to the chair of the board. Item C, however, provides for full board actions either ratifying or rejecting the chair's decision. So as to assure the appeal rights of the licensee, full board review will be held within a maximum of ten days after the chair's decision in these circumstances when the chair denies the stay. This, again, is reasonable because it protects the integrity of lawful gambling while ensuring that the licensee is not denied a stay for any extended length of time without having the full board review the request.