

MAR 2 1995



State of Minnesota • Gambling Control Board

Suite 300 South
1711 W. County Road B
Roseville, MN 55113
612/639-4000

March 1, 1995

A handwritten signature in black ink, appearing to be "m" followed by a long horizontal stroke.

Ms. Maryanne V. Hruby, Executive Director
Legislative Commission to Review Administrative Rules
55 State Office Building
100 Constitution Avenue
St Paul MN 55155

Re: In the Matter of Proposed Rules of the Minnesota Gambling
Control Board Relating to Pull-Tab Dispensing Devices

Dear Ms. Hruby:

The Minnesota Gambling Control Board intends to adopt rules relating to Pull-Tab Dispensing Devices. We plan to publish a Notice of Intent to Adopt Rules in the March 6, 1995 State Register.

As required by Minnesota Statutes, sections 14.131 and 14.23, the Board has prepared a Statement of Need and Reasonableness which is now available to the public. Also as required, a copy of this Statement of enclosed with this letter.

For your information, we are also enclosing a copy of the Notice of Intent to Adopt Rules and a copy of the proposed Rules in this matter.

If you have any questions about these rules, please contact me at 296-2631.

Sincerely,

A handwritten signature in black ink that reads "Sharon A. Beighley".

Sharon A. Beighley
Rules Coordinator

Enclosures: Statement of Need and Reasonableness
Notice of Intent to Adopt Rules
Rules

STATE OF MINNESOTA

MINNESOTA GAMBLING CONTROL BOARD

STATEMENT OF NEED AND REASONABLENESS

**In the Matter of the Proposed Adoption of the Rules
of the Minnesota Gambling Control Board Relating to**

M.R. 7861.0010, Definitions

M.R. 7861.0040, Premises Permits

M.R. 7861.0060, Conduct of Lawful Gambling

M.R. 7861.0080, Pull-Tabs

M.R. 7861.0120, Organization Operations, Accounts, and Reports

M.R. 7863.0010, Distributors

M.R. 7863.0020, Distributor Operations, Accounts, and Reports

M.R. 7864.0010, Licensed Manufacturers

M.R. 7864.0030, Manufacturer Operations, Accounts, and Reports

I. INTRODUCTION AND BACKGROUND

The above-captioned proposed rules of the Minnesota Gambling Control Board (Board) allow lawful gambling organizations to sell pull-tabs through the use of pull-tab dispensers. The Legislature authorized the Board to promulgate rules that establish minimum technical specifications for pull-tab dispensers, and establish procedures for the use of pull-tab dispensing devices. §M.S. 349.151, subd. 4(b) (1994). The law also mandated that the Board report to the 1995 Legislature on the rule, and offer a plan for implementation of the rule.

A Notice of Solicitation of Outside Information and Opinion was published in the State Register on June 6, 1994.

The Board proposes to promulgate a rule that will require the organization to maintain control of any pull-tab dispensing devices that it purchases or leases, including maintaining control of all keys to every dispenser. The proposed rule requires organization employees to maintain a key log, which enables the Board or law enforcement authorities to ascertain the whereabouts of any key or keys to a particular pull-tab dispenser at any time. The proposed rule also requires organization employees, when removing cash from a dispenser, to remove all cash from the device, not just the portion necessary to pay for a winning pull-tab. The Board believes that this requirement aids in deterring theft from the dispensers. Lawful gambling organizations will also be required to maintain access logs in the interior of each dispenser. Any person accessing a device for any reason will be required to write the time and date of entry in the log, as well as the reason for access, in addition to initializing the log. Another component of the proposed rule requires organizations to file a report with local law enforcement authorities within twenty-four hours of the discovery of a loss of cash or pull-tabs from a dispenser.

The Board proposes to promulgate a rule that allows lawful gambling organizations to lease pull-tab dispensers from licensed distributors, and allows licensed distributors to lease the devices from the licensed manufacturers. The Board has established safeguards in the rule to insure that the ability to lease dispensers will not be abused by the organizations, distributors, or manufacturers of the devices. The proposed rule also requires that persons performing repair or maintenance services on

pull-tab dispensing devices be licensed as either a manufacturer, a distributor, or a lawful gambling organization. Since the pull-tab dispensers are lawful gambling equipment, it would be illegal for an entity other than a licensed manufacturer, distributor, or organization to obtain and install replacement parts for dispensers.

The proposed rule establishes technical standards for pull-tab dispensers that reflect the current state of dispenser technology, while still remaining within the bounds of the legislative intent that the dispensers be nondescript and not resemble a slot machine or other video gambling device. For example, the rule will prohibit the use of video screens other than the Luminated Electronic Displays ("LED's") associated with normal operation of the device. The dispensers will not dispense credits in the form of cash or pull-tabs to redeem winning pull-tabs. The dispensers will not produce audio sounds, other than normal alarm system sounds. In order to insure and safeguard the integrity of pull-tab games vended through a dispenser, the proposed rule requires that dispensers not be capable of test-vending tickets or cash when the door to the device is closed. The rule will require several types of electronic and mechanical meters to insure that all pull-tabs and cash are accurately audited for each deal of pull-tabs dispensed through a dispenser. The dispensers will be required to have a time and date generator which, when compared to access log maintained by the organization, will enable law enforcement officials to quickly establish a timeframe within which a theft of cash or pull-tabs could have occurred.

The proposed rule requires the Board to enter into a contract with an independent testing laboratory to test each pull-tab dispensing device before it is approved for sale or use in Minnesota. The cost of the testing will be paid for by the Board, but will be reimbursed by the manufacturer of the device.

Specifics of the proposed rule can be found in part X. of this document (Detail of the Proposed Rule and Statement of Need and Reasonableness).

II. STATEMENT OF THE BOARD'S STATUTORY AUTHORITY

The Board has statutory authority to promulgate rules. Minnesota Statutes 349.151, subd. 4(a) (1994). It authorizes the Board to regulate lawful gambling to ensure that it is conducted in the public interest; to make rules authorized by this chapter; to take all necessary steps to ensure the integrity of and public confidence in lawful gambling; and adopt rules when necessary or proper to discharge the Board's powers and duties.

The Board is also authorized to adopt rules which allow the use of pull-tab dispensing devices. M.S. 349.151, subd. 4b(b). Those rules must limit the number of pull-tab dispensing devices at any permitted premises to three, limit the use of pull-tab dispensing devices to permitted premises that are licensed for on-premises sales of intoxicating liquor or 3.2 percent malt beverages or licensed bingo halls that allow gambling only by persons eighteen years of age or older, and prohibit the use of pull-tab dispensing devices at any permitted premises where pull-tabs are sold other than through a pull-tab dispensing device by an employee of the organization who is also the lessor, or an employee of the lessor.

111. PUBLIC ADVISORY COMMITTEE

The Board formed a Public Advisory Committee to assist in researching the proposed pull-tab dispensing device rules. The Public Advisory met, in conjunction with the Board's Rules Committee, on eight occasions for the purpose of reviewing and

suggesting revisions to the proposed rules. Members of the Public Advisory Committee were as follows:

Mark Anderson
Nite Tyme Dollars
2900 N 19th Street
Bismarck ND 58504
701-255-7509

Rollie Beach
Charitable Equipment, Inc..
4025 4th Avenue SW
Fargo ND 58103
701-282-7191

Gary Parker
GameTec
2214 Myers Rd
Albert Lea MN 56007
507-373-1871

Charles F. Harter, CEO
American Games, Inc.
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Council Bluffs, IA 51501
712-366-9553

Michael Morris
Charitable Vending of Minnesota
1912 Highway 179
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Technik Manufacturing, Inc.
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Columbus NE 68602
402-488-8300

Roger Swanson
Minnesota Dept. of Revenue
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St Paul MN 55146
612-297-2150

Mike Anderson
Minnesota Operators of Music and Amusements
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John Bergland
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Valerie Siegrist
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N Highway 59 PO Box 489
Oakland IA 51560
712-741-5587

James R. Maida
Gambling Laboratories, Inc.
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908-244-3818

Dan Boykin
Minnesota Dept. of Public Safety
Gambling Enforcement Division
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612-643-3006

King Wilson
Allied Charities of Minnesota
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Ken Lien
Lien Games
PO Box 564
Fargo ND 58107
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Mary Magnuson
Jacobson, Buffalo, Schoessler & Magnuson
10 S 5th Street #700
Minneapolis MN 55402
612-339-2071

Drew Naseth
Drew Naseth Company
3050 E 197th St
Faribault MN 55021
507-332-8062

Gambling Control Board members participating in the Advisory Committee meetings were Mary McLeod, Chair of the Rules Committee, and Allan Fonfara, Board member and member of the Rules Committee. Gambling Control Board staff members participating were Harry Baltzer, Executive Director, Sharon Beighley, Rules Coordinator, and Mike Strauss, Compliance Investigator. Fabian Hoffner, Assistant Attorney General, represented the Board as legal counsel at the meetings. Pat McCormack, Senate Research, and John Williams, House Research, were sent copies of all rule drafts and invited to attend all meetings.

A mailing list specific to this rulemaking process was developed and included approximately 25 individuals or entities who have an interest in this rule. Copies of all rule drafts were also furnished to all these individuals. Public attendance at the Public Advisory Committee meetings were good, and a great deal of interest was displayed on the part of the lawful gambling industry in Minnesota.

IV. SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes, section 14.115 requires an agency, when proposing a new rule or amending an existing rule that may affect small businesses, to consider certain methods of reducing the impact of the rule on small businesses.

The following indicators were considered by the Board in regard to the effect on small business if the proposed rule is successfully adopted.

The establishment of less stringent compliance or reporting requirements for small businesses. The Board carefully considered whether reporting and/or compliance requirements could be eased for small charitable organizations and distributors of lawful gambling equipment. Because the Board is charged with protecting the integrity of charitable gambling in Minnesota, the Board believes that compliance and reporting requirements for small organizations and distributorships could not be less than the requirements for large organizations, distributors, and manufacturers. In practice, the use of pull-tab dispensing devices will make compliance and reporting requirements easier for all organizations using the dispensers, and will increase compliance with reporting requirements. Organizations will also have more accurate reporting and fewer cash shortages in conducting pull-tabs because of the technological capabilities of pull-tab dispensers.

The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. Again, the Board reviewed the ramifications of reporting deadlines and schedules. The vast majority of schedules and deadlines are mandated by statute, and cannot be eased at the Board's discretion.

Because of the increased accuracy in auditing games that will occur when organizations use pull-tab dispensing devices, there is really no need to relax schedules or deadlines for reporting requirements.

The consolidation or simplification of compliance or reporting requirements for small businesses. Compliance and reporting requirements for lawful gambling organizations will be made easier if pull-tab dispensers are used. The dispensers will perform much of the accounting and auditing functions associated with pull-tab games, and will perform those functions with a greater degree of accuracy than is currently possible.

The establishment of performance standards for small businesses to replace design or operational standards required in the rule. The Board very carefully considered the minimum technical standards for pull-tab dispensers. During the course of the Public Advisory Committee meetings, manufacturers, distributors and representatives of the charitable gambling industry were allowed to offer suggestions regarding the technical standards for the dispensers. The proposed rule requires a pull-tab dispenser that is affordable by all organizations and distributors. The ability to lease the equipment rather than purchase it is a very important part of the rule, and will allow all organizations and distributors to participate, regardless of the size of their operation. There will be no additional costs to licensed distributors and organizations as a result of this rule. Licensed manufacturers, however, will be required to reimburse the Board for the cost of testing pull-tab dispensing devices that they propose to offer for sale in Minnesota. It is believed that none of the licensed manufacturers fall within the "small business" category. In any event, the cost of testing will have a relatively small impact on the manufacturer.

The exemption of small businesses from any or all requirements of the rule. In order to protect the integrity of charitable gambling, the Board cannot be less stringent with its application of rules to small businesses than it is to large businesses. The proposed rules apply equally to all licensees who manufacture or distribute gambling equipment, as well as to all organizations who conduct lawful gambling. To apply lesser standards to small businesses would compromise the Board's ability to effectively regulate lawful gambling and could cause harm to the industry as a whole.

In addition to considering the above indicators, the Board informed all licensees of this rulemaking proceeding through its monthly newsletter. All licensed manufacturers were formally invited to apply for membership on the Public Advisory Committee. Monthly updates on the status of the rulemaking proceeding were given at each month's Board meetings. In addition, the Board provided public notice of all Advisory Committee meetings and encouraged comment and input from any affected persons.

V. COSTS TO LOCAL PUBLIC BODIES

The Dual Notice of Intent to Adopt a Rule does not contain a statement of estimated costs to local public bodies pursuant to Minnesota Statutes, section 14.11, subdivision 1, because there is no cost to local public bodies and, therefore, the reasonable estimate of the total cost to public bodies to implement the rule for the two years following the adoption of the rule is less than \$100,000 and section 14.11, subdivision 1 is not applicable.

VI. AGRICULTURAL LAND IMPACT

Minnesota Statutes, section 14.11, subdivision 1, is inapplicable because the proposed rule does not have a direct and substantial adverse impact on agricultural land.

VII. DEPARTMENTAL CHARGES IMPOSED BY THE RULE

Minnesota Statutes, Section 16A.128, subdivision 1, does apply because the proposed rule requires licensed manufacturers to reimburse the Board for the cost of testing their pull-tab dispensing devices. The Board will enter into a contract with an independent testing laboratory, which will test prototypes of all dispensers approved for sale in Minnesota. The manufacturer will be required to reimburse the Board for the cost of testing, regardless of whether its dispenser is approved by the laboratory.

As stated earlier in the introduction section of this Statement, it is very important that the State enter into the testing contract. This will insure that the state retains control of the contract, including establishing qualifications for the testing laboratory and establishing criteria to be used in the testing process. If manufacturers were allowed to select their own testing laboratory, and pay for the cost of testing directly to the laboratory, the integrity of the dispensers could be compromised. In addition, public perception of the integrity and honesty of the testing program would be tainted, which could lead to a clouded perception of the overall integrity of the charitable gambling industry in Minnesota.

Attached to this Statement of Need and Reasonableness, as Exhibit A, are copies of the Board's correspondence to the Chairs of the Senate Finance Committee and the House Ways and Means Committee, as well to the Commissioner of Finance with respect to the costs imposed by the rule. Also attached as Exhibit B is a copy of the reply from the Department of Finance with respect to this issue.

VIII. FISCAL IMPACT

A fiscal note was filed for this rule. The rule will not force local agencies or school districts to incur costs, but does require the establishment of a reimbursement account for the Board to fund the initial cost of testing the pull-tab dispensers prior to being reimbursed by the manufacturer.

XI. WITNESSES

If these rules go to a public hearing, the witnesses below may testify on behalf of the Board in support of the need for and reasonableness of the proposed rule. The witnesses will be available to answer questions about the development and the content of the rules.

Harry W. Baltzer, Executive Director, Gambling Control Board
Sharon A. Beighley, Rules Coordinator, Gambling Control Board
Mike Strauss, Compliance Investigator, Gambling Control Board
Dan Boykin, Department of Public Safety, Gambling Enforcement Division

The Gambling Control Board will be represented by Fabian Hoffner, Assistant Attorney General, at the Rules Hearing.

X. DETAIL OF THE PROPOSED RULE AND STATEMENT OF NEED AND REASONABLENESS

M.R. 7861.0010, Subpart 1a:

The rule is necessary in order to define a commonly used term within the pull-tab dispenser industry. A "column" can mean a rectangular tube into which pull-tabs are stacked prior to vending, or it can also mean a round drum, which holds the pull-tabs, and is rotated when the dispenser is activated prior to dispensing the pull-tab(s). The rule is reasonable because it provides a definition for a term commonly used within the industry that may not be immediately recognizable to persons using the Board's rules.

M.R. 7861.0010, Subpart 2b:

It is necessary to define "E-PROM Microchip" so that persons using the Board's rules will be aware that this term refers to the computer microchip contained in a pull-tab dispenser, which holds the dispenser's complete programming code, including accounting and game information also contained on the dispenser's random access memory chip. The definition explains that the E-PROM microchip is an erasable, read-only memory chip, which serves to clarify that additional information, or software programs, cannot be added to the microchip once it has been installed in the dispenser. The rule is reasonable because it clearly defines the capabilities of the E-PROM microchip contained in the pull-tab dispensing device.

M.R. 7861.0010, Subpart 2c:

The definition of electronic currency validator is necessary because many terms are commonly used to define this mechanism, for instance, "bill acceptor". The proposed definition clearly explains all functions of the electronic currency validator, and is reasonable because it adds continuity and clarity to the rule, as well as providing a single definition for bill acceptors and cash validators that will be clear to all manufacturers of pull-tab dispensers.

M.R. 7861.0010, Subpart 11c:

Even though "pull-tab dispensing device" is defined in statute, it is necessary to include a definition in the Board's rules. The proposed definition is reasonable because it insures that the definition in rule will remain consistent over time with the statutory definition of "pull-tab dispensing device".

M.R. 7861.0010, Subpart 11d:

As with the definition for E-PROM microchip, it is also necessary to provide a definition for RAM microchip. The definition will delineate this microchip's functions from the functions of the E-PROM microchip, and make it clear that the two microchips being defined in rule perform separate but equally important functions within the dispenser. The rule is necessary to insure that all persons using the Board's rules interpret the term in the same fashion, and apply the same definition when manufacturing and using pull-tab dispensers.

M.R. 7861.0010, Subpart 12a:

The term "stacker box" is a term commonly used within the pull-tab dispensing industry, and is used in reference to all coin-operated vending machines, regardless of what the machines vend. It is necessary to define the stacker box as being an integral part of the dispenser's electronic currency validator, and make it clear that it is not a separate, stand-alone component of the dispenser. The rule is reasonable because it provides a clear definition for manufacturers of dispensers, as well as other persons using the Board's rules, to refer to.

M.R. 7861.0010, Subpart 12b:

It is necessary to define the term "test vend" to prevent possible misunderstandings by organizations using pull-tab dispensing devices. The Board realizes that test-vending is a necessary occurrence when dealing with vending machines of any type. The Board proposes this definition to clearly define the parameters under which an organization may run currency or pull-tabs through a dispensing device other than when offering a game for play by the public. The rule is reasonable because it provides a straight-forward and easy to understand definition for the term.

M.R. 7861.0040, Subpart 3(J):

The technical change to the language at the beginning of item J. is necessary and reasonable to insure that the rule is grammatically correct.

The Board proposes to add a new subitem (3) which will require the organization to state on its premises permit application the number of pull-tab dispensing devices that it proposes to locate at the premises. The rule is necessary because M.S. 349.151, subdivision 4(b) (1994) very clearly states that any permitted premises may have a maximum of three pull-tab dispensers installed. However, more than one organization can lease space from a lessor, which could result in three different organizations leasing space at one permitted premises and installing one dispenser for each organization. Therefore, the rule is necessary in order for the organization to inform the Board of how many dispensers it plans to install at each permitted premises. This will allow the Board to insure that no more than three dispensers are located at any given time at any permitted premises. The rule is reasonable because it places no undue burden on the organization, and serves to enhance the Board's ability to effectively regulate the placement of pull-tab dispensing devices.

M.R. 7861.0040, Subpart 4A:

The Board is proposing to add a new subitem (9) which will require the lease between the organization and the lessor of the permitted premises to disclose the days and hours that each pull-tab dispensing device on the premises will be in operation. The rule is reasonable because in many instances organizations will elect to hire employees of the lessor to sell and redeem winning pull-tabs. When pull-tab dispensers are used, however, employees of the lessor are prohibited from selling pull-tabs directly, and may only redeem winning pull-tabs. "Employees of the lessor" who also serve as organization employees are for the most part bartenders. Requiring the days and hours of operation of the dispenser is necessary in these instances, in order to insure that the lessor's employee redeeming the winning pull-tabs is also registered as

an employee of the organization. The rule is reasonable because it will insure that an organization employee is available to redeem a winning pull-tab whenever the dispensers are in operation.

M.R. 7861.0040, Subpart 4B:

The existing rule requires that organizations submit with their premises permit application a sketch showing the portion of the premises being leased and the total square footage. An addition to the rule will require that the sketch also show the specific locations of pull-tab dispensers at the site. The rule is necessary to insure that the Board and agents of the Department of Public Safety are aware of the specific locations of dispensers in all permitted premises. The rule is necessary in order for investigators to determine that only approved and registered devices are installed at the site. The rule is reasonable because it does not place an undue burden on the organization. It will serve to enhance the Board's ability to effectively regulate and monitor all pull-tab dispensers being used in Minnesota.

M.R. 7861.0040, Subpart 4C:

The Board proposes to amend subpart 4 of the rule to include a new item C. The new item will require lessors of permitted premises to furnish irrevocable consent regarding the installation and operation of pull-tab dispensers at the lessor's place of business.

Subitem (1) is necessary to insure that the device is located within the organization's leased space. The caveat that the dispenser must be located in an area where alcoholic beverages are regularly dispensed and consumed is necessary to insure that the lessor's employee, if also acting as an employee of the organization, will be able to closely monitor the activity around the dispenser and persons purchasing pull-tabs from the dispenser. Since persons under the age of 18 are prohibited from playing pull-tabs, requiring the device to be in an area where alcoholic beverages are regularly dispensed and consumed will deter underage players from using the dispenser. Many bowling alleys and other establishments which would qualify to have a dispenser installed have areas where underage persons gather. Again, requiring the dispenser to be in the bar area of the establishment, and within the leased space, is necessary to protect the integrity of the game and discourage underage persons from playing. The rule is reasonable because it does not place any undue burdens on the lessor or the organization conducting the activity, and it serves to help prevent underage persons from having access to the dispensers.

Subitem (2) will require the lessor to insure that the dispenser is protected to some extent against vandalism or attempted unauthorized entry. The rule is necessary to insure that the pull-tab dispensers are monitored carefully, and that reasonable safeguards are taken by the lessor to protect the organization's pull-tabs, cash, and physical property. The rule is reasonable. While it may require the lessor to take extra precautions when pull-tab dispensers are installed, the precautions are a reasonable consequence of allowing dispensers at the site. The organization conducting the gambling and the Board have a reasonable right to expect that the lessor will take all necessary steps to insure that the dispensers are not tampered with, or that persons do not attempt to interfere with the normal play of the device.

Subitem (3) is necessary to make sure that an organization employee is available at all times to redeem winning pull-tabs when the dispenser is in operation. As stated previously, employees of the lessor may redeem winning pull-tabs, but they

must be registered with the Board as employees of the organization as well. The rule is reasonable because there is no cost involved with registering lessors' employees as organization employees, the organization and lessor are free to agree upon the number of lessors' employees that need to be registered, and there is a relatively minor amount of paperwork involved with the registration. The rule is reasonable because it will help to insure that an authorized person is always available to redeem winning pull-tabs when the dispenser is in operation, and will require that the dispenser be turned off if an eligible person is not available to redeem the winning pull-tabs.

Subitem (4) will require the lessor to insure that their employees do not access or attempt to access the interior of a pull-tab dispensing device, other than for reasons addressed in M.R. 7861.0080 (Conduct of Pull-Tabs). It is also necessary to insure that lessor does not permit unauthorized employees or organization representatives from entering the dispenser. The rule is necessary to insure the integrity of pull-tab games vended through a dispenser and to make sure that only authorized persons access the device. The rule is reasonable because it places no undue burden on the lessor, and will actually provide the lessor with power to deny access to the dispenser to organization members or repair persons not specifically authorized by the organization to access the device.

M.R. 7861.0040, Subpart 7(C):

The added language is a necessary and reasonable rule change, and while it does not pertain specifically to pull-tab dispensers, it is needed to insure that the Board's rules are consistent with changes made by the Legislature. Making the technical change in this process will save taxpayer money by removing the need for a separate rulemaking promulgation.

M.R. 7861.0040, Subpart 9(D):

As is the case with M.R. 7861.0040, Subpart 7(C), this item is a technical change. The language is being included in this rulemaking proceeding to avoid a separate rulemaking process. The new language is necessary to insure that the chapter of the Board's rules governing premises permits is consistent with other chapters of the Board's rules regarding licenses and permits. The new language is reasonable because it places no regulatory burdens on the organization or the licensee. It merely serves to set forth the procedures for appeal of a denied premises permit.

M.R. 7861.0060, Subpart 1(A):

This item does not relate specifically to the conduct of pull-tabs vended through a pull-tab dispenser, however the rule change is necessary to insure that the Board's rules are consistent with statutory changes made by the 1994 Legislature. The rule change is reasonable in that it is technical in nature, and does not impose any standards or restrictions beyond those already contained in law.

M.R. 7861.0060, Subpart 1(D)(2):

This rule requires organizations to have at each permitted premises a sketch of the leased premises illustrating the dimensions of the space. It is necessary to include language to require that the specific locations of pull-tab dispensing devices be included in the required sketch. When conducting compliance reviews on-site or investigations into gambling-related matters, the Board and other agencies of state government need to know exactly where the dispensers are located. The rule is reasonable because it

places no undue burden on the organization, and the requirement will not be difficult to comply with. The rule is also reasonable because it will provide an effective tool for the Board and other state departments to use when determining if the organization is in compliance with all rules and regulations regarding the use of pull-tab dispensing devices.

M.R. 7861.0060, Subpart 2:

The Board proposes to add four new restrictions to this subpart that will apply when pull-tab dispensers are used at leased premises.

Item (I), in addition to reiterating the statutory prohibition against no more than three pull-tab dispensers being permitted at any site, also defines "permitted premises" as an establishment where lawful gambling is conducted. It is necessary to define the term in this subpart in order to remove possible confusion. Some persons have suggested that if several organizations were leasing space at one establishment, each organization could have three dispensers in use at the site. The Board needs to define clearly that there may only be three dispensers at each site, regardless of the number of lawful gambling organizations that lease space at the site. The rule is reasonable because it serves to clarify the statutory language and is informational in nature.

Item (J) clarifies the statutory requirement that pull-tab dispensing devices cannot be installed at locations that do not have current and valid licenses for on-premises sales of intoxicating liquor or 3.2 percent malt beverages. While the requirement is statutory, it is necessary to restate the requirement in rule form so that all licensees of the Board are fully informed of this restriction. The rule is also reasonable because it serves to inform licensees and other users of the Board's rules of the statutory prohibition.

Item (K) is also intended to clarify statutory language. It is necessary to state in the Board's rules that bingo halls who choose to lease their premises to exempt or excluded organizations cannot use pull-tab dispensing devices. The rule is necessary to fully inform all licensees regarding the restriction and to insure that all interested persons are completely informed. The rule is reasonable in that it does not add new restrictions not already imposed by law, it is informational in nature, and will aid in insuring that bingo hall licensees as well as other licensees of the Board are aware of the requirement.

Item (L) clarifies that statutory prohibition against lessors or employees of lessors selling pull-tabs for an organization when pull-tab dispensers are installed at the site. The rule is necessary in order to insure that lessors and organizations fully understand that if the lessor or lessor's employees sell pull-tabs for the organization as organization employees, pull-tab dispensers cannot be installed at the site. In other words, situations where dispensers are installed and bartenders are selling pull-tabs for the organization from behind the bar will not be allowed. The rule is reasonable because it repeats the statutory prohibition in a clearer fashion. Having the language in rule form will insure that all licensees are clearly informed about the restriction.

M.R. 7861.0060, Subpart 7:

The Board proposes to add a sentence to this subpart which will require that organizations, when rotating or transferring pull-tab dispensing devices from one permitted premises to another, provide prior written notification to the Board prior to rotating or transferring the dispenser. The rule is necessary in order for the Board and

agents from the Department of Public Safety to know at all times the whereabouts of each pull-tab dispensing device in the state. The rule is necessary to insure that unapproved dispensers are not installed and operated. The rule is reasonable because the organization must merely provide notification to the Board. The organization does not have to seek approval from the Board to make the transfer. The rule is also reasonable because it will provide a tool for the Board and the Department of Public Safety to use in conducting inventories or inspections of pull-tab dispensing devices .

M.R. 7861.0080, Subpart 1(A):

The Board proposes to delete existing item (A). The deletion is necessary in order to completely remove the restriction against pull-tabs being dispensed from coin-operated or mechanical dispensing devices. The deletion is reasonable because it serves to remove the potential for confusion when reading the Board's rules.

M.R. 7861.0080, Subpart 1(D):

Item (D) is a recent rule promulgated by the Board that allows organizations conducting multiple games of pull-tabs to combine the receipts for the games in a single cash register drawer. Because games are commonly commingled in pull-tab dispensing devices, and in many instances the winners will be redeemed from a single cash register drawer, it is necessary to amend the rule to allow organizations redeeming pull-tabs vended from pull-tab dispensing devices to do so through the use of a single cash register drawer. The rule is reasonable because it will allow the redemption of winning pull-tab tickets in this manner. The rule is also reasonable because the integrity of the commingled games vended through a dispenser is not compromised. Pull-tab dispensing devices have very accurate and rapid accounting mechanisms in place to insure that errors do not occur.

M.R. 7861.0080, Subpart 1(E):

The Board proposes to add this item that will prohibit organizations from storing unplayed or closed games of pull-tabs in any storage compartment in a pull-tab dispensing device. The rule is necessary to make sure that pull-tab tickets are not stolen or misplaced and that the organization takes all possible steps to insure that unplayed or closed games are properly safeguarded until they can be played or stored. The rule is reasonable because it will not cause an undue hardship or burden to the organization. Organizations are currently required to safeguard unplayed and closed games. The addition of this item will merely insure that unplayed or closed games are not stored in an area where they would be vulnerable to theft or tampering.

M.R. 7861.0080, Subpart 1(F):

This item is intended to insure that organizations and their employees do not attempt to modify the operational functions of a pull-tab dispensing device or the currency validator, microchips, or meters contained within a pull-tab dispensing device. The rule is necessary to insure that the integrity of the device's accounting and auditing mechanisms remain intact. The rule is reasonable because it will not cause a burden to the organization. The rule is also reasonable because it is an aid in preserving the integrity of lawful gambling in Minnesota and will insure that no one tampers with the dispensers.

M.R. 7861.0080, Subpart 1(G):

Because of the technological nature of pull-tab dispensers, it is necessary to promulgate a rule prohibiting the use of pull-tab games that offer free plays or last sale features when the game is being sold through a dispenser. Since the dispensers will not accept winning pull-tabs to vend more tickets or give cash to the player, there will be no way for a player to redeem a "free play" winning pull-tab ticket. Likewise, games that offer "last sale" features are simply impossible to offer through a pull-tab dispenser. The rule is reasonable because it is explanatory in nature and will alert organizations that these types of pull-tab games cannot be sold through a pull-tab dispenser.

M.R. 7861.0080, Subpart 2(C):

The last sentence in this item is being amended to provide an exception for pull-tabs that are dispensed through a dispenser. Unless the dispenser contains cylindrical drums into which the pull-tabs are placed, the pull-tabs must be stacked in the individual columns. It is necessary to provide an exception to the existing requirement that pull-tabs must be "dumped into the container and mixed". With most dispensers, this is not physically possible. The rule is reasonable because it will allow the organization to use pull-tab dispensers with stackable columns. The existing rule was originally promulgated to insure randomization of pull-tabs. Randomization of pull-tabs vended through a dispenser is insured because the entire game is placed into at least two columns in the dispenser, and the player has no control over which column or container a purchased pull-tab will be vended from.

M.R. 7861.0080, Subpart 2(N):

The Board proposes to add a new item, which will apply solely to pull-tabs being sold through a pull-tab dispensing device.

Subitem (1) will require that the dispenser be located within the leased space and within view of an organization employee. The rule is necessary to insure that the dispenser is not located in a hallway or by a door, where it could be played by underage persons without the knowledge of the organization. Requiring that the dispenser be within view is necessary to deter underage gambling, attempted tampering, or theft from the dispenser. The rule is reasonable because it places no undue burden on the organization, and will help to insure that illegal gambling does not take place on the premises. The rule is also reasonable because it will help to deter persons from tampering with the dispenser or attempting to access the device to remove tickets or cash when no one is looking.

Subitem (2) requires the organization to assign unique identification codes to any person it authorizes to access the dispenser. The unique identification codes will be used in the access log that the organization is required to keep inside every device. Using codes rather than names or initials will aid the organization in determining if an unauthorized access to the dispenser has been made. The rule is necessary to provide the organization with a mechanism for restricting access to the dispensers and to provide a means of deterring unauthorized entry. The rule is reasonable because it will not cause any undue hardship on the organization.

Subitem (3) merely reiterates that any agreement that the organization enters into with a lessor must contain the irrevocable consents from the lessor required in

M.R. 7861.0040 (Premises Permits). The rule is necessary to insure that the organization and the lessor are fully informed of the requirements and rules of the Board, and to require that the agreement be contained within the lease. The rule is reasonable because it will not require the organization to fill out and submit a new form, rather, the existing lease form will be revamped to include the requirements for pull-tab dispensers.

Subitem (4) will require the organization to make sure that players can correctly relate the pull-tabs in each column of a dispenser to the flare that the organization is required to post for that game. Current rules require the organization to post the flare for each game in play directly on the receptacle containing the tickets for that game. In the case of pull-tab dispensers, this will not be possible.

Pull-tabs dispensers can be no more than 48 inches in width. Two or more games could be in play at any given time in one dispenser. There will simply not be room on the front of each dispenser to post the flare for each game currently being offered in the dispenser.

The rule is necessary to insure that the organization will devise a mechanism for fully informing players about the games being offered through a dispenser. For example, the organization could post the flare on an adjacent wall, place a small sticker under the flare with #1 on it, and place a corresponding sticker with #1 on the columns of the dispenser containing the tickets for that particular game.

The rule is reasonable because the Board is not mandating a specific method for informing players, the method of informing is being left to the organization's discretion. The rule is also reasonable because organizations are required to post flares for each game currently being played, and this rule will allow the organization to post the flares and identify the games in the manner it determines is best for that site.

Subitem (5) requires the organization to place each game into a minimum of two columns and to make sure that the pull-tabs are divided equally among the columns to which the game is being added. The rule is necessary to insure randomization of the tickets in each deal and to protect the players who choose to purchase tickets for that game. The rule is reasonable because it protects the integrity of the game of pull-tabs when dispensed through a dispenser, adds to the public confidence of the honesty of the game, and discourages attempts to manipulate a game through the placement of pull-tabs in a single column.

Subitem (6) is necessary to make sure that the organization places the entire deal in the dispenser at the same time. Again, the rule is necessary as a safety feature for those playing the game and will insure that all winning tickets are placed out for play simultaneously. The rule enhances the randomization of the game. The rule is reasonable because it does not place a burden on the organization and will actually aid the organization because there will be no "lost" or "misplaced" tickets for each deal dispensed through a pull-tab dispensing device.

Subitem (7) is necessary to ensure the organization is responsible for the pull-tab dispensing devices that it purchases or leases. The rule places heavy emphasis on key control for dispensers, because control of keys is vital to the total integrity of the dispenser and the games sold through the dispenser. It is necessary to insure that the organization's gambling manager assumes responsibility for all keys to the dispenser. The requirement is reasonable because it will allow for some discretion on the part of

the gambling manager as to the individuals who are assigned custody of keys to the dispenser.

Item (b) will require that the organization maintain a key log. The key log is necessary as a vital information tool for law enforcement officials to use when investigating thefts of cash or pull-tabs from the dispenser. The key log will maintain data on names, addresses, and telephone numbers of individuals who are assigned keys to a dispenser, the dates that the key(s) was assigned, and will maintain a chain-of-custody of all keys by requiring an entry whenever a key changes hands from one employee to another. These requirements are reasonable in that the information required to be maintained in the log is readily accessible to the gambling manager. Maintaining the log will not be an undue hardship.

Item (c) will require that if any of the keys are lost or stolen, the specific lockset must be replaced in its entirety.

Item (d) outlines a prohibition against any key being assigned to more than one individual at a time, and item (e) prohibits the organization from obtaining duplicate keys to any compartment of a device.

The entire key issue is vital to the security of the dispensers and the integrity of the lawful gambling industry in Minnesota. The rule is reasonable because none of the requirements are unusual or cost prohibitive to the organization. The rule is reasonable because it will provide the organization, law enforcement officials and the Board staff with tools to insure that the whereabouts of all keys to a dispenser can be discerned at any time by merely looking at the key log.

Item (8) of the proposed rule will require that the organization obtain approval from the Board prior to replacing or clearing any of the microchips or nonresettable meters in the device. The rule is necessary to insure that the dispensers are only used in a lawful manner and to allow the Board and agents from the Department of Revenue to conduct an audit of the dispenser, if necessary, prior to clearing any information. The rule is reasonable because it allows the organization to replace certain components of the dispenser, if necessary, in the event of a failure of the device rather than replacing the entire dispenser. The rule is also reasonable because it insures that the integrity of pull-tab games sold through a dispenser will be maintained. It also insures that no information contained in the dispenser's memory will be cleared or erased in the event of a catastrophic failure of a device without notification to and approval from the Board.

Item (9) will require the organization to clearly post the Minnesota compulsive gambling hotline telephone number on each device. The rule is necessary in order to insure that lawful gambling organizations remain responsive to the needs of players who may become problem gamblers, and to insure that players are informed of resources they can call on if they feel that gambling has become problematic to them. The rule is reasonable in that organizations are currently required to prominently post such telephone numbers, and requiring them to post the telephone number on the dispenser itself will not be a burden. The rule is reasonable in that it is not cost prohibitive and demonstrates the organization's willingness to assist its patrons in this manner.

Item (10) requires organization employees, when removing cash from a dispenser, to remove all the cash at one time rather than taking just enough to pay a winning pull-tab. The rule is necessary to minimize the number of times that the cash

compartment is accessed in view of patrons and players, and to insure that the cash totals can be accurately reconciled to the totals reflected on the device's accounting meters. To allow an employee to remove cash several times during the course of a day or busy evening, depending upon the employee to jot down the amount of cash removed, and to perhaps allow patrons and players to view the amount of cash remaining in the device is not sound practice in terms of security risks. Requiring the employee to remove all the cash, take enough to pay the winner, and store the remaining cash in a locked area is a much better means of insuring the safety of cash in a dispenser. The rule is reasonable because it will aid the organization in ensuring that actual cash receipts reconcile to the totals indicated on the device's accounting meters. The rule is also reasonable because it will deter those who may get a glimpse of cash remaining in the device from attempting to access the device and remove the remaining cash.

M.R. 7861.0080, Subpart 3(A):

This item deals with the posting of flares for pull-tab games. The rule is necessary to insure that flares for pull-tab games being sold through a dispenser, if unable to be affixed to the dispenser itself, must be posted in close proximity to the dispenser. It is necessary for players to be able to determine which columns in a dispenser contain tickets for the game that they choose to play. The rule is reasonable, because it allows the organization the discretion of either placing the flare on the dispenser, or in close proximity to it. The rule is also reasonable because it serves to aid the player in determining which game of pull-tabs they want to play at any given time.

M.R. 7861.0080, Subpart 3(B):

This rule originally stated that separate cash banks had to be maintained for each deal of pull-tabs in play. During the promulgation of the rules that allow organizations to use a single cash register drawer when multiple deals of pull-tabs are in play, the rule was amended to allow for this occurrence. Now it is necessary to amend the rule to insure that organizations who allow employees to redeem winning pull-tabs vended through a dispenser can do so through a cash register. The rule is reasonable because many organizations will opt to have employees of the lessor serve as employees of the organization for the purpose of redeeming winners, and those redemptions will undoubtedly be done through the use of a cash register. The rule is reasonable because the integrity of the game will not be compromised.

M.R. 7861.0080, Subpart 4(A):

It is necessary to amend the rule to insure that organizations can commingle pull-tab games in a pull-tab dispensing device. Although the existing rule refers to "receptacle", the Board believes it is necessary to explicitly state that commingled deals can be dispensed through a pull-tab dispensing device. The rule is reasonable because it allows the organization to commingle games, the integrity of the game is not compromised, and accounting and auditing functions will be made easier for the organization if a pull-tab dispenser is used.

M.R. 7861.0080, Subpart 4(B):

This change is identical to the change discussed above in M.R. 7861.0080, Subpart 3(B). This item deals with commingled deals of pull-tabs. It is necessary to require the posting of flares in the same manner for commingled deals as for single

deals. The rule is reasonable because there will be no new procedures for the organization to follow, it will insure that players are adequately informed about the game, and will serve to protect the overall integrity of pull-tab games when sold through a dispenser.

M.R. 7861.0080, Subpart 6(F):

This item will require the organization to maintain an access log for each dispenser that it operates. The rule is necessary in order to insure that a complete and accurate history of persons who entered the dispenser for any reason is maintained on the site. The log must be kept in an interior compartment of the dispenser. The rule is reasonable because it will provide, when used in conjunction with the required time and date generator on the device, an accurate record for law enforcement officials to use when investigating losses of tickets or cash from a dispenser. The rule is reasonable because it will also aid the organization in keeping required records and control of its devices at all times. The rule is reasonable because it will aid in insuring the integrity of pull-tab dispensing devices being used in the state.

M.R. 7861.0120, Subpart 3(E)(1):

Current rule provides that organizations, when filing a fund loss report, include a law enforcement report that has been filed within ten days of the discovery of the loss. When pull-tab dispensers are used, however, such losses will be readily apparent because of the sophisticated metering and accounting capabilities of the dispenser, and obvious damage to the dispenser if it was broken into. Because such losses will be readily apparent, the Board believes it is necessary to require the organization to file a law enforcement report within twenty-four hours of discovery of the loss. The rule is necessary in order to allow law enforcement officials to begin the investigation quickly, and to resolve the problem before the "trail" of evidence gets cold. The rule is reasonable because it insures that investigations will be opened promptly for incidents involving the theft of cash or tickets from a dispenser. The rule is also reasonable in that it will not cause undue hardship to the organization, and will help the organization to recover missing cash or tickets in the event the individual responsible for the crime is quickly apprehended.

M.R. 7863.0010, Subpart 2:

It is necessary to amend this subpart to require persons desiring to repair pull-tab dispensing devices to obtain either a manufacturer, distributor, or organization license. Pull-tab dispensing devices are classified as gambling equipment and as such cannot be in the possession of anyone without a specific license from the Board. Replacement parts for dispensers are likewise classified as gambling equipment and cannot be obtained by third-party service providers. The rule is reasonable because those entities wishing to provide pull-tab dispenser service are not precluded from obtaining a distributor license from the Board, and thus obtaining the necessary replacement parts for dispensers. The rule is also reasonable because it allows the Board to maintain the integrity of the dispensers and insures that unauthorized persons are not providing service or possibly tampering with the microchips or meters contained in a device.

M.R. 7863.0020, Subpart 2:

The Board proposes to add a new item (B) to this subpart, which deals with the sale of gambling equipment by distributors to lawful gambling organizations. The new

item will prescribe not only the procedure for sale of pull-tab dispensing devices but also the procedures to be used when dispensers are leased to organizations by distributors.

Subitem (1) will require that the terms of a sale or lease of a pull-tab dispensing device be set forth in a form prescribed by the board. It is necessary for the Board to outline on a form the conditions that must be met for the sale or lease of dispensers. Without a Board prescribed form, the opportunity for special deals to be made between distributors and manufacturers exists. Such business arrangements may lead to undue pressure being exerted on an organization to purchase other gambling equipment solely from that distributor. The rule is reasonable because it will ensure that organizations are protected against undue marketing pressures from distributors. The rule is also reasonable because it will allow the Board to effectively regulate the sale or lease of pull-tab dispensing devices from distributors to lawful gambling organizations.

Subitem (2) mandates that if a distributor leases a pull-tab dispensing device to an organization, the minimum monthly lease cost must be five percent of the purchase price of the dispenser. Again, this item is necessary in order to prevent special leases of dispensers, i.e., \$1.00 per month in exchange for purchasing all other gambling equipment from that distributor. The rule is reasonable because it will insure that all organizations are treated fairly and equally when leasing dispensers from licensed distributors. The rule is reasonable because it helps to insure that licensed distributors operate within the law and the rules of the Board.

Subitem (3) is necessary to insure that when a distributor enters into a pull-tab dispenser lease with a lawful gambling organization, the distributor owns or has a valid lease agreement with a manufacturer for that specific device. It is necessary to insure that the distributor has a valid and lawful interest in the dispenser before selling or leasing it to a lawful gambling organization. If a distributor should go out of business, or have its license revoked, or otherwise terminated, it is possible that "unpaid for" dispensers could be repossessed by a manufacturer. This rule is reasonable because it will serve to protect the organizations from such an occurrence.

Subitem (4) is explanatory in nature and is necessary to insure that distributors are aware that existing credit provisions contained in law and rule will apply to leases of pull-tab dispensing devices. The rule is reasonable because it will insure that the Board is fully informed regarding credit delinquencies on the part of organizations and will also protect the distributors.

Subitem (5) is necessary to insure that an organization whose license or authorization to conduct gambling has been suspended, revoked, not renewed or otherwise terminated does not end up with contraband gambling equipment. It is reasonable to make a provision in the rule for a pull-tab dispenser lease between an organization and a distributor to be cancelled should it become illegal for the organization to have such equipment in its possession.

M.R. 7863.0010, Subpart 3(F):

This new item is necessary to prohibit a distributor from obtaining, making, and furnishing extra keys to any compartment of a pull-tab dispensing device. The rule is necessary to insure that the organization will have ultimate responsibility for all keys to the dispenser. Allowing extra or duplicate keys to be made would defeat the purpose of M.R. 7861.0080, Subpart 2(7). The rule is reasonable because it will not present any undue hardship to the distributor and will tend to remove any pressures that the

organization may attempt to exert on the distributor to furnish extra or duplicate keys to a dispenser. The rule is also reasonable because it will insure that the integrity of pull-tab dispensers is maintained and protected.

M.R. 7863.0010, Subpart 3(C)(2):

The additional language in this item is necessary to insure that distributors place permanent state registration stamps on all pull-tab dispensers that it leases or sells to lawful gambling organizations. Placing a permanent state registration stamp on each dispenser is necessary in order to track the movement of pull-tab dispensers within the state, and to know which organization purchased or leased the dispenser. The rule is reasonable because it places no undue burden on the distributor; the distributor currently places permanent registration stamps on other items of permanent gambling equipment. The rule is also reasonable because it provides an effective tool for the Board to use in tracking pull-tab dispensers.

M.R. 7863.0010, Subpart 6(A)(2)(e):

The Board proposes to add a new requirement for distributors' sales invoices. It is necessary for the distributor to include on its invoice the premises permit number of the organization purchasing or leasing a pull-tab dispenser. The rule is necessary in order for the Board and the Department of Revenue to verify that pull-tab dispensers have been shipped to and installed at the correct location. The rule is reasonable because it provides another mechanism for the Board to use when verifying that pull-tab dispensers are being operated within the bounds of law and rule in the state.

M.R. 7863.0010, Subpart 6(A)(2)(k):

It is necessary to include language in this item that will require the distributor to report the monthly lease cost of a pull-tab dispenser on its sales invoice. The requirement is necessary in order to insure that lease cost figures can be verified and to insure that dispensers are being leased for the appropriate monthly lease cost. The rule is reasonable because it will place no undue hardship on the distributor, and it provides an additional mechanism to verify the lease prices that distributors are charging to organizations.

M.R. 7863.0010, Subpart 6(A)(6)a)

Existing rules of the Board require distributors to include certain information on their sales invoices when permanent gambling equipment is sold or leased to an organization. It is necessary to include pull-tab dispensers in the rule language that refers to the different types of permanent gambling equipment. The rule is reasonable because it will not place any burdens on the distributors and will insure that sales invoices for the sale or lease of pull-tab dispensers contain all the information required by the existing rule.

M.R. 7863.0010, Subpart 6(C)(1)(k):

The Board proposes to add an additional requirement to the rule governing pricing reports. By law distributors are required to file monthly pricing reports with the Board that contain relevant information regarding the cost of their gambling equipment approved and offered for sale in Minnesota. The new requirement is necessary to insure that distributors report the purchase price of pull-tab dispensers, the monthly lease cost, and the cost for any replacement parts for the dispenser. It will

also require the distributor to provide the cost of any service agreements offered for pull-tab dispensers. The rule is reasonable because it will provide a mechanism for the Board to insure that distributors are operating within the bounds of law and rule regarding the sale or lease of pull-tab dispensing devices. The rule is also reasonable because it will not cause any undue hardship or burden to the distributor.

M.R. 7863.0010, Subpart 6(D) and 6(D)(2):

With regard to permanent gambling equipment, the Board currently requires distributors to report to the Board the name of the manufacturer that it obtained permanent gambling equipment from. It is necessary to amend this rule to insure that pull-tab dispensers are included in this report, and to insure that instances where distributors lease dispensers from manufacturers are also documented in the report. The rule is reasonable because the distributors can easily comply with the requirement, and the information is necessary for the Board to know the origin of all dispensers offered for sale or lease in Minnesota.

M.R. 7863.0010, Subpart 6(E)(f):

This item pertains to the requirement that distributors file monthly reports with the Board regarding any equipment that they accept from organizations to be returned to the manufacturer. Again, it is necessary to include pull-tab dispensers in this report. It is necessary for the Board to know when and why a dispenser has been returned to the manufacturer in order to make a determination as to whether an investigation into the problem is needed. The rule is reasonable because the distributor will merely have to include another item of permanent gambling equipment into its existing report. The rule is also reasonable because it will help to insure that manufacturing problems with pull-tab dispensing devices are brought to the attention of the Board, and that corrective action measures can be taken, if necessary.

M.R. 7864.0010, Subpart 2:

This new rule is identical to the rule being proposed in M.R. 7863.0010, subpart 2. It will require that manufacturers must be licensed in Minnesota in order to perform repair or maintenance work on pull-tab dispensers. It is necessary to insure that unauthorized persons do not perform repair or maintenance work on pull-tab dispensers. The opportunity to tamper with the dispensers would be too great, and the potential for harm to the integrity of the industry is very real. The rule is reasonable because persons can apply for an appropriate license from the Board, as either a manufacturer or a distributor, which would allow them to perform service work on the dispensers.

M.R. 7864.0030, Subpart 1(D)(1):

This item is necessary to insure that pull-tab dispensing devices are manufactured with sufficient safety mechanisms that will aid in preserving data whenever an electrical failure occurs in the power supply to the dispenser. The rule is reasonable because pull-tab dispensers are already required to be manufactured in accordance with existing government standards for safety. The rule is reasonable because it will insure that pull-tab dispensing devices approved and offered for sale in Minnesota comply with the minimum safety standards.

M.R. 7864.0030, Subpart 1(I)(2):

This requirement is necessary to insure that pull-tab dispensing devices are manufactured so that paper pull-tabs from any licensed manufacturer can be successfully vended through the dispenser. It is necessary to insure that manufacturers do not manufacture devices that are specific to one type of paper pull-tab, thus creating a monopoly for the paper pull-tabs they market in Minnesota. The rule is reasonable because it tends to foster competition in the industry, discourages attempts to control markets for dispensers and insures that once an organization has purchased or leased a device from a distributor, it can continue to purchase pull-tabs from other manufacturers if it so desires.

M.R. 7864.0030, Subpart 1(I)(3):

This rule will require that the manufacturer place a shatterproof covering in front of the dispenser's columns. The rule is necessary in order to deter attempted theft of pull-tabs by breaking the glass or other covering on the columns. The rule also requires that the player be able to see a majority of the pull-tabs remaining in the device. This requirement is necessary in order for the player to decide which game to purchase a pull-tab from, and to aid in insuring the general integrity of pull-tabs when vended through a dispenser. The rule is reasonable because the manufacturer should be expected to take all possible precautions to assist the organization with its responsibility to prevent theft of pull-tab tickets from a device. The rule is also reasonable because it preserves the integrity of the game, and allows players flexibility in deciding from which game in the dispenser to purchase a ticket. When a player can see the majority of the pull-tabs remaining in any of the columns, it may help them decide from which game to purchase a pull-tab.

M.R. 7864.0030, Subpart 1(I)(4):

This requirement is necessary in order to have dispensed pull-tabs vended into a receptacle, rather than just dropping out into the patron's hand or on the floor. While not required by rule, many dispensers have an optional "all" button that will allow the dispenser to vend all pull-tabs purchased at one time, i.e., if a player has purchased \$20.00 worth of pull-tabs, the device will rapidly vend all tickets purchased. It is necessary to have a tray or other outlet to catch the pull-tabs. The rule is reasonable because most manufacturers currently comply with the requirement, it is not cost prohibitive to the manufacturer to install the item on the dispenser, and it makes it easier for the player to retrieve the purchased pull-tabs.

M.R. 7864.0030, Subpart 1(I)(5):

It is necessary to require that the dispenser accommodate deals with pricing of up to \$2.00. By law, a single pull-tab cannot cost more than \$2.00 to a player. The dispenser is also required to accurately dispense the correct number of pull-tabs based on the amount of currency entered. The rule is reasonable because organizations can sell games with pull-tabs that cost less than \$2.00 per pull-tab. The dispenser is capable of being adjusted to accept pull-tab deals with varying prices, up to a maximum of \$2.00. The rule is reasonable because the dispenser will not be capable of returning any change to the player. For example, if a player inserts \$20.00 into the device, they will receive \$20.00 in pull-tabs. The rule is reasonable because it will insure that the number of pull-tabs dispensed is always accurate and can be correlated to the amount of currency inserted into the dispenser.

M.R. 7864.0030, Subpart 1(I)(6):

This rule will require that at least one button be placed on the front of the dispenser that will permit vending of pull-tabs. The rule is necessary in order to be sure that pull-tabs can be accurately vended. Not requiring a button could be interpreted by the manufacturer to mean that a lever or other mechanism could be used to dispense pull-tabs. It is necessary that the device have buttons in order to keep it from resembling a slot machine or other gambling device. The rule is reasonable because it requires a minimum of one button, but does not place a maximum on the number of buttons that can be used. As stated previously, the dispenser can use an "all" button that will dispense all pull-tabs purchased at one time. Alternatively, the player can insert currency and press the appropriate buttons to get pull-tabs from any of the particular games being vended through the dispenser at that time. The rule is reasonable because it insures that the player has a choice as to which pull-tab game to play.

M.R. 7864.0030, Subpart 1(I)(7):

It is necessary that the pull-tab dispenser have at least two columns because of the requirement that a deal of pull-tabs be added to two different columns in the device. It is also necessary to limit the number of columns that a device can contain. Practically speaking, most existing dispensers contain no more than eight to ten columns. However, since there are no limitations in rule on the size of the columns themselves, it is necessary to limit the number of columns to insure that dispensers are not manufactured in an inordinately large size. The rule will also require that the columns be located in a separately locking compartment in the device. This is necessary to allow the organization the flexibility to authorize different employees to access tickets or cash. This increases the security of the pull-tabs in the dispenser and protects the overall integrity of the game. The rule is reasonable because the vast majority of pull-tab dispensers are currently manufactured in this fashion. There will be no prohibitive costs to the manufacturer to insure that the columns are in a separately locking compartment of the device. The rule is reasonable because it enhances the security of the pull-tabs in the dispenser, insures randomization of the pull-tab deal, and contributes to the overall integrity of the pull-tabs being vended through a dispenser.

M.R. 7864.0030, Subpart 1(I)(8):

This item is necessary in conjunction with M.R. 7864.0030, Subpart 1(I)(7) above. This rule will limit the overall size of the dispenser to no more than 48 inches in width. The rule is necessary in order to insure that manufacturers do not seek approval for dispensers that may be up to six feet in length, but that otherwise would meet the requirements of the Board's rules. The rule is reasonable because no such dispensers are currently being manufactured, and the rule serves to inform the manufacturer that dispensers over 48 inches in width will not be approved by the Board.

M.R. 7864.0030, Subpart 1(I)(9):

This rule is necessary to insure random dispensing of pull-tabs from any deal. When adding new games to the dispenser, the organization will be required to place the game into a minimum of two columns. When the player presses the button for a particular game the dispenser will vend from either one of the two columns that

contain the deal. The player has no control over which column pull-tabs will be vended from. Because most dispensers are manufactured in such a fashion that the pull-tabs must be manually stacked in the columns, requiring the dispenser to insure random dispensing from a minimum of two columns is necessary. The rule is reasonable because it does not place any undue burden on the manufacturer to insure that the dispenser is capable of randomization. Mandated randomization is essential to the integrity of the game.

M.R. 7864.0030, Subpart 1(D)(10):

This item will require that the dispenser have a luminated electronic display (LED), which will display the value of the currency inserted into the dispenser. This is necessary for the convenience of the player and to verify that the dispenser has accepted and validated correctly the amount of currency that the player has inserted. It is also necessary to prohibit the display of advertising or other graphic messages on the LED in order to insure that the dispensers do not resemble slot machines or other video gambling devices. The rule is reasonable because it protects the player and ensures that the dispenser has correctly accepted and validated currency, and it insures that messages such as "play me" or other enticements are not displayed on the LED.

M.R. 7864.0030, Subpart 1(D)(11):

The Board proposes to promulgate this rule to insure that the pull-tab dispensers are capable of retaining in memory the amount of currency accepted and validated immediately prior to a power interruption that may cause the actual pull-tabs not be vended. The rule is necessary in order to prevent discrepancies arising between players and organization employees as to the amount of currency entered prior to a power interruption or dispenser malfunction. The rule is reasonable because it serves to protect both the player and the organization and will ensure that malfunctions or power interruptions do not cause disagreements about currency inserted into the dispenser.

M.R. 7864.0030, Subpart 1(D)(12):

This rule prohibits the dispenser from dispensing cash or pull-tabs to redeem winning pull-tabs. It is very important that winning pull-tabs vended through a dispenser be redeemed from an organization employee. The organization employee can verify the age of the player and that the winning pull-tab was purchased at that location. The rule is reasonable because it protects the organization from possible attempts to redeem winners through a dispenser by underage persons or by persons attempting to redeem counterfeit or illegal pull-tabs through a dispenser.

M.R. 7864.0030, Subpart 1(D)(13):

This rule will require that the dispenser be manufactured with bolt-holes, or other mechanisms so that the organization can securely mount the dispenser in place at the site. This is necessary to deter theft of the entire dispenser in an attempt to get cash or tickets. The rule is reasonable because it does not require the organization to permanently bolt the device to the floor or wall, it merely requires the manufacturer to ensure that the device can be securely bolted to the wall or floor if the organization so desires.

M.R. 7864.0030, Subpart 1(I)(14):

This item expressly prohibits the use of a video display screen as part of the pull-tab dispenser. It is necessary to include the prohibition to insure that the pull-tab dispensers approved for sale and use in Minnesota comply with the legislative directive that the dispensers not resemble slot machines or other gambling devices. The rule is reasonable because it places no undue burden on the manufacturer, it will preserve the legislative intent regarding the dispensers, and helps to deter enticements to play the device.

M.R. 7864.0030, Subpart 1(I)(15):

This prohibition is necessary in order to stay within the legislative directive that pull-tab dispensers be nondescript in nature. Dispensers that are capable of producing sounds such as sirens, whistles, etc., would provide enticements to play the device. The rule is reasonable because it permits the installation of an audio alarm that would sound if someone was attempting to break into the dispenser. The rule is reasonable because it insures that pull-tab dispensers approved for sale in Minnesota remain within the legislative intent that the dispensers be nondescript in nature and not resemble slot machines or other gambling devices.

M.R. 7864.0030, Subpart 1(I)(16):

This rule very clearly states the prohibition that pull-tab dispensers not resemble slot machines or other gambling devices. The rule is necessary to insure that pull-tab dispensers submitted for approval for sale in Minnesota cannot be confused with slot machines or video gaming machines. The rule is reasonable because it is informative in nature and clearly lets the manufacturer know that such dispensers will not be approved in Minnesota.

M.R. 7864.0030, Subpart 1(I)(17):

The Board proposes to require that manufacturers of pull-tab dispensing devices permanently affix to the dispenser their name or logo, the device's serial number, model number, and date of manufacture. This is necessary in order for the Board or law enforcement agents to quickly ascertain the manufacturer of any device in use in Minnesota. The rule is reasonable because it will not pose an undue hardship on the manufacturer, and will help to insure the integrity of pull-tab dispensers at any given time.

M.R. 7864.0030, Subpart 1(I)(18):

This item will require that the manufacturer place the on/off switch in an inconspicuous place on the exterior of the device. The rule is necessary to insure that the device can be easily turned off when no organization employee is present to redeem winning pull-tabs. The rule is also necessary to make sure that the device cannot easily be turned off by players or persons attempting to interfere with the normal play of the dispenser. The rule is reasonable because it will pose no undue hardship on the manufacturer or the organization.

M.R. 7864.0030, Subpart 1(I)(19):

This rule will require that the manufacturer furnish no more than four keys to any of the doors or compartments of the pull-tab dispenser. The rule is necessary as an integral part of the key control issue. If the number of keys and the key access log are maintained properly, it will be far easier for the organization, law enforcement officials, and the Board to resolve cases of missing pull-tabs, cash, or keys. The rule is reasonable because the manufacturers can easily comply with the requirement, the organizations can change the lockset if keys are lost, misplaced, or stolen, and it will enhance the security features of the pull-tab dispensers in use in Minnesota.

M.R. 7864.0030, Subpart 1(I)(20):

This item relates to the necessity for test vending pull-tabs or cash on an occasional basis. For example, when an organization adds new games to a dispenser, it is necessary to vend several of the pull-tabs from that deal through the dispenser in order to insure that the pull-tabs are vending properly. The same holds true when changing or repairing bill stackers or electronic currency validators. This rule is necessary to insure that test-vends do not register on the dispenser's accounting meters, thus skewing the accounting records maintained by the dispenser. The rule is necessary in order to allow the organization to perform the test-vends that insure the dispenser is working properly. The rule is reasonable because it does not compromise the security and safety mechanisms resident in the dispenser, it allows the organization to perform the necessary test-vends, and it insures that accurate accounting information will be retained on the dispenser's accounting meters.

M.R. 7864.0030, Subpart 1(I)(21):

This rule will require that the pull-tab dispenser have at least one nonresettable electronic accounting meter and at least one nonresettable mechanical accounting meter to track the total currency validated by the electronic currency validator in the dispenser. The rule is necessary in order to insure that all cash inserted into the dispenser is properly accounted for. It is necessary to have a mechanical back-up meter in the event of failure of the electronic meter. It is also necessary because the meters will retain the total amount of cash validated from the date the dispenser was placed into service. This will insure that discrepancies in cash counting do not occur, and that the total receipts for each pull-tab game played through the dispenser can be accurately reconciled. The rule is reasonable because all pull-tab dispensers on the market today contain this metering system. The rule is reasonable because it will enhance the integrity of pull-tab games vended through a pull-tab dispenser.

M.R. 7864.0030, Subpart 1(I)(22):

This item requires that the pull-tab dispensing device be equipped with at least one nonresettable electronic accounting meter and at least one nonresettable mechanical accounting meter that tracks the total number of pull-tabs dispensed from each device. This requirement is very similar to the requirement found in M.R. 7864.0030, Subpart 1(I)(21), except that the meters required by this item will maintain totals for the actual number of pull-tabs dispensed from the date the pull-tab dispenser was placed into service. This rule is necessary in order for the organization to accurately track the total number of pull-tabs sold for each deal and to reconcile the total number of pull-tabs sold with the total amount of cash received for that deal. The rule is reasonable because manufacturers of pull-tab dispensers currently install such metering systems in

the dispensers that they market. The rule is reasonable because it will enhance the integrity of pull-tab games vended through dispensers.

M.R. 7864.0030, Subpart 1(I)(23):

This rule requires another metering system, that will track the number of pull-tabs dispensed from each column in the device. The rule is necessary in order to be sure that the organization can more easily reconcile the number of tickets dispensed in each game with the total amount of cash accepted and validated. The rule is reasonable because it provides another mechanism to insure that each deal of pull-tabs can be accurately accounted for. The rule is also reasonable because the organization will be able to quickly identify problems that may exist with a particular deal of pull-tabs. Manufacturers currently market and sell dispensers with this feature so there will be no additional work needed by manufacturers to comply with this requirement.

M.R. 7864.0030, Subpart 1(I)(24):

This item will require that the pull-tab dispensing device be equipped with an Erasable Programmable Read-Only Memory microchip (E-PROM). The rule is necessary because this microchip contains the entire programming code for a dispenser. It maintains the information generated by the various metering systems in the dispenser as well as operating the currency validator and other electronic and mechanical components of the dispenser. The rule is necessary to insure that the dispenser will adequately maintain and retain accounting information. The rule is reasonable because all pull-tab dispensers currently on the market contain this microchip. The rule is reasonable because it will aid the organization in accurately accounting and tracking each deal of pull-tabs vended through the dispenser. The rule is reasonable because the Board intends to have the microchip tested prior to being approved for use in Minnesota. This will insure that the dispenser is capable of performing all auditing and accounting functions required by the Board's rules.

M.R. 7864.0030, Subpart 1(I)(25):

This rule is necessary because only prototype models of each type of pull-tab dispenser will be submitted to an independent testing laboratory for testing. Each model will contain an identical E-PROM microchip, therefore it is only necessary to test the prototype model. It is, however, necessary for the manufacturer to insure that the E-PROM microchips contained in each pull-tab dispenser for that model that are shipped to Minnesota are identical to the microchip in the prototype model tested by the laboratory. The rule is reasonable because it not cause any undue hardship for the manufacturer to achieve compliance with the rule. The rule is reasonable because it will provide insurance to the Board that the microchip in the dispenser has been recommended for use in Minnesota. The rule is reasonable because it enhances the integrity of pull-tab dispensers used in Minnesota.

M.R. 7864.0030, Subpart 1(I)(26):

This rule will require that pull-tab dispensers be equipped with random access memory (RAM) microchips. This is necessary to insure that the dispenser has a microchip that will operate the software in the dispenser. This microchip records and maintains accounting information for each game in play and played through a dispenser. New games and other data can be added to the dispenser and recorded on this microchip. This microchip will record basically the same information as will be found on the dispenser's E-PROM microchip. The RAM microchip, however, can be

written to by the organization or a serviceperson, whereas the E-PROM microchip cannot be written to once it is installed in the dispenser. The rule is reasonable because it will enhance the safety and security features of the dispenser. The rule is reasonable because manufacturers are currently installing RAM microchips in dispensers that they manufacture and market. The rule is also reasonable because it will allow the dispenser to accept and maintain new pull-tab games and records as they are added to the dispenser by the organization.

M.R. 7864.0030, Subpart 1(I)(27):

This rule is necessary to insure that the RAM microchip contains and permanently records the same information required by rule that is recorded and maintained on the electronic and mechanical metering systems. The accounting information maintained on the metering systems must also be maintained by the RAM microchip to provide a mechanism for the organization, law enforcement agents, or the Board to verify the accuracy of pull-tab deals dispensed through the dispenser. The rule is reasonable because it provides safeguards to insure the accuracy of all pull-tab deals in play through the dispenser; it provides a mechanism to verify totals of tickets and cash for each game; and it insures the overall integrity of all pull-tab games sold through a pull-tab dispenser.

M.R. 7864.0030, Subpart 1(I)(28):

This item requires the manufacturer to insure that the E-PROM and RAM microchips are safely secured within the interior of the device and will require the manufacturer to place a tamperproof seal over these microchips. The rule is necessary in order to insure that the organization, law enforcement agents, the Board, or servicepersons will be readily able to ascertain whether the microchips have been tampered with and, therefore, the overall security of the dispenser has been compromised. The rule is reasonable because manufacturers are easily able to comply with this requirement, it helps to provide knowledge of whether or not the dispenser's accounting mechanisms and records have been tampered with, and it serves to insure the integrity of the device.

M.R. 7864.0030, Subpart 1(I)(29):

It is necessary to require that the dispenser discontinue operation immediately if any of the accounting metering systems or microchips are disconnected. Again, this item is necessary in order to be sure that the integrity of the dispenser is maintained and to prevent unauthorized persons from interfering with the normal accounting and auditing functions of the dispenser. The rule is reasonable because it protects the organization operating the dispenser, it insures that the integrity of games currently being played in that dispenser will be maintained, and it also provides greater integrity for the pull-tab industry in general in Minnesota.

M.R. 7864.0030, Subpart 1(I)(30):

This rule is necessary in order to provide a mechanism for regulators and law enforcement agents to determine when a theft of cash or tickets from a dispenser occurred. This requirement, in combination with the access log which the organization is required to maintain and the key control mechanisms in place, will firmly fix the time within which the crime was committed. The rule is reasonable because it provides an excellent mechanism to resolve thefts of cash or tickets from a dispenser. The rule is reasonable because it will greatly enhance the security of the dispensers and the

games that are vended through them. The rule is also reasonable because technology currently exists that allow manufacturers to comply with this requirement.

M.R. 7864.0030, Subpart 1(D)(31):

This rule sets forth the requirements for the electronic currency validator contained in the dispenser. Because many different validators and bill acceptors are currently available, it is necessary for the Board to clarify the requirements for currency validators used in pull-tab dispensers.

Subitem (a) will require that the validator only validate U.S. currency. This rule is necessary. Validators cannot accept and validate foreign currency due to daily fluctuations in exchange rates, physical size of the currency, and differences in paper stock used to mint currency. The rule is reasonable because it is in use successfully in other jurisdictions, players from outside the United States will be readily able to exchange their currency through other means, and it will help to insure that the validator operates without jamming or causing other malfunctions.

Subitem (b) requires that the validator only accept currency in denominations of up to \$20.00. This rule is necessary in order to deter any possible attempts to play the dispenser using counterfeit currency in larger denominations. The rule is reasonable because it will not interfere with the normal play of the device. Players who wish to purchase more than \$20.00 in pull-tabs can simply insert additional currency.

Subitem (c) is technical in nature and requires that the validator transmit the amount of currency validated to the accounting meters and microchips in the dispenser. To have a complete and accurate record of all currency accepted by the validator, the value of currency validated in each transaction must be recorded and maintained on the meters and microchips. The rule is reasonable because it causes no undue hardship to the manufacturer (dispensers and validators currently interact in this manner), and it insures that all necessary game and accounting information will be accurately recorded and maintained.

Subitem (d) requires that the validator have the technological capability to not instruct the dispenser to vend pull-tabs until it has validated and accepted the currency being inserted into the device. This is necessary to insure that persons do not attempt to cheat the validator by inserting currency and then attempting to withdraw the bill after the validator has begun to accept it. The rule is reasonable because it will insure that pull-tabs are not vended until the currency has been accepted and validated by the dispenser. The rule is reasonable because it will protect the organization against attempts to cheat the dispenser. The rule is also reasonable because it will protect the integrity of pull-tab games dispensed through dispensers.

Subitem (e) will require a certain level of sophistication on the part of the validator. However, validators currently on the market are able to comply with this requirement. Essentially, this subitem will require that the currency validator be capable of recognizing and preventing known manipulations of United States currency, i.e., counterfeit currency. The rule is necessary to insure that the validator installed in the dispenser has the technological capability to recognize and defeat attempts to defraud the dispenser by inserting counterfeit currency. The rule is reasonable because it helps to protect the organization against such losses. The rule is also reasonable because the overall integrity of the pull-tab game is maintained.

Subitem (f) is necessary to insure that invalid currency is returned to a player rather than being accepted. For example, a \$50 dollar bill inserted into the dispenser will be rejected. The rule is necessary because it works in conjunction with subitems (a), (b) and (e) of this item. The rule is reasonable in order to insure that players do not lose money by inadvertently inserting the wrong type of currency in the dispenser. The rule is also reasonable because it serves to protect the accounting records contained in the dispenser. For instance, if the validator accepted and validated a \$50 bill without returning pull-tabs to the player, the totals on the metering systems would indicate a problem with the deal in play.

Subitem (g) requires that the dispenser have a receptacle for containing the cash that is accepted and validated by the validator. The rule is necessary in order to insure that cash is kept in a secure area in the dispenser and cannot be readily accessed through the exterior door to the device or other means. The rule is reasonable because it protects the organization against losses of cash. The rule is also reasonable because it tends to ensure the overall integrity of the dispenser.

Subitem (h) is technical in nature and requires that the validator automatically stop operating if a malfunction occurs or if electrical power to the dispenser or validator is interrupted. The rule is necessary in order to insure that the integrity of the dispenser's accounting records and meters is maintained in the event of a malfunction or electrical interruption. The rule is reasonable because manufacturers are able to comply with the rule; the rule will aid in protecting the security of the dispenser and protect organizations against accounting discrepancies.

M.R. 7864.0030, Subpart 2(H):

The Board proposes to promulgate this item to clearly delineate for manufacturers the necessary steps to obtain approval of pull-tab dispensers that they want to offer for sale in Minnesota.

Item (1) requires the manufacturer to submit a catalog or brochure that illustrates the features of the dispenser. The rule is necessary in order to provide a mechanism for the manufacturer to inform the Board about the dispenser without having to ship the entire unit to the Board. The rule is reasonable because the Board will be able to ascertain from the catalog or brochure whether or not the product meets the legislative directive that the dispenser be nondescript, the size of the dispenser, and other features that are apparent by simply viewing the device. The rule is reasonable because it would be unreasonable and cost prohibitive to require the manufacturer to ship the entire dispenser to the Board. The costs for storage space for the Board to retain the device once it was submitted would also be very prohibitive.

Item (2) is necessary and works in conjunction with item (1). Requiring the manufacturer to submit a description of the dispenser and to provide evidence that all of the technical standards outlined in M.R. 7864.0030, Subpart 1(I) have been met is necessary. It is necessary for the Board to be assured that the dispenser meets all technical requirements adopted by rule. The rule is reasonable because the manufacturer will easily be able to comply, the manufacturer will not have to ship the entire unit to the Board, and the Board will not have to retain and store the device in perpetuity.

Item (3) requires that the manufacturer provide a notarized certificate from the state's independent testing laboratory which states that the E-PROM microchip in the dispenser has been tested and approved for use in Minnesota. Again, the rule is

necessary in order to insure that manufacturer has had the model's prototype tested by the Board's laboratory. The rule is reasonable because it does not require the manufacturer to have every E-PROM tested -- only the E-PROM for the prototype model. The rule is reasonable because it insures that the E-PROM installed in the dispenser is identical to the one which the manufacturer has had tested by the laboratory. The rule is reasonable because it insures the integrity of the dispenser that the manufacturer plans to offer for sale.

Item (4) is necessary because it provides a mechanism for the Board to require the manufacturer to make additional information available in the event that problems or questions arise during the approval process. The rule is reasonable because it has been successfully promulgated in other items of this subpart. The rule is also reasonable because it will ensure that the Board has all the information it needs to make a determination on whether or not a particular dispenser will be approved.

M.R. 7864.0030, Subpart 2(I):

This rule will require the manufacturer to reimburse the Board for the cost of testing pull-tab dispensing devices. The rule is necessary because the Board will enter into a contract with an independent testing laboratory to perform testing services on pull-tab dispensers being submitted for approval. It is necessary that the State be the entity that enters into the contract with the laboratory. There is only one (or two) laboratory that performs this type of testing. The known provider of this service does not accept payment directly from the manufacturer to perform the testing, it only deals with the state or local jurisdiction which is requiring the testing. In addition, even if it were possible for the manufacturer to arrange and pay for its own testing, this would severely compromise the integrity of the dispenser and the Board could not be sure of the objectivity of the testing. The rule is reasonable because the state should not have to absorb the costs of testing. The cost of testing is a reasonable cost of doing business that the manufacturer should absorb. The rule is reasonable because it is in use successfully in other regulatory gambling jurisdictions. The rule is reasonable because it will insure that the state maintains control of the testing process by establishing the qualifications for the testing laboratory which will do the testing.

M.R. 7864.0030, Subpart 3(C):

The Board proposes to amend the existing rule by striking the language relating to the prohibition against coin-operated or mechanical pull-tab dispensing devices. It also plans to include new language that deals with the sale or lease of pull-tab dispensing devices from manufacturers to distributors.

Item (1) requires the Board to provide a form to the manufacturer that the manufacturer must use when selling or leasing a dispenser. The rule is necessary to insure that the sale or lease follows all rules of the Board and that special deals or leases are not entered into with different distributors. The rule is reasonable because it will apply equally to all manufacturers and distributors. The rule is reasonable because it will insure that the Board is fully informed of the details of each sale or lease of a pull-tab dispensing device to a distributor. The rule is also reasonable because it protects the integrity of lawful gambling.

Item (2) establishes the minimum monthly lease cost of a dispenser at five percent of the dispenser's purchase price. Again, this is intended to deter special deals being made with certain distributors in exchange for that distributor purchasing all other gambling equipment from that manufacturer. The rule is identical to that being

proposed for distributor leases of pull-tab dispensers to lawful gambling organizations. The rule is reasonable because it insures that special deals or other requirements are not added to leases with certain distributors. It also is reasonable for the Board to insure that all distributors are treated equally and given an equal opportunity to lease or purchase the dispensers. The rule is also reasonable because it serves to protect the integrity of the industry.

Item (3) is necessary in order to inform the manufacturer that if a distributor should default in the terms of the lease agreement, the credit provisions contained in law and existing rule will apply. The rule is reasonable in that it is informative in nature and insures that pull-tab dispenser leases are subject to the same credit provisions as sales of other gambling equipment.

Item (4) is necessary to protect the manufacturer in the event that a distributor's license is suspended, revoked, not renewed or otherwise terminated. It simply provides a mechanism for a pull-tab dispenser lease to be cancelled and protects the manufacturer from potential loss of assets. The rule is reasonable because it establishes a means for the manufacturer to recover leased equipment from a distributor. The rule is also reasonable because it contributes to the overall integrity of lawful gambling in Minnesota.

M.R. 7864.0030, Subpart 3(G):

The Board proposes to promulgate this item to deal with demonstration models of pull-tab dispensing devices. The rule is necessary in order to allow manufacturers to ship demonstration models into Minnesota for purposes of sales and marketing. The rule is necessary to insure that the demonstration models, which will not bear a registration stamp, will never be sold to a distributor who in turn might sell or lease it to an organization. The rule is reasonable because it allows the Board to effectively track and regulate all pull-tab dispensers. The rule is reasonable because it will insure that demonstration models of pull-tab dispensers are never sold for actual use in the state. The rule is also reasonable because it enhances the level of security and integrity of pull-tab dispensers in use.

M.R. 7864.0030, Subpart 3(H):

This item is necessary in order to insure that the manufacturer does not supply more than four keys to any door or compartment of a pull-tab dispensing. The rule is necessary and works in conjunction with other proposed rules that mandate key control for pull-tab dispensers. The rule is reasonable because manufacturers will be able to comply with the rule. The rule is reasonable because it increases the safety and security level of the dispenser. The rule is also reasonable because it will insure that the number of keys provided with a pull-tab dispenser is strictly regulated and controlled by the Board.

M.R. 7864.0030, Subpart 7(A)(1)(j):

This item is necessary in order to inform the manufacturer regarding the information that must be included on its monthly pricing reports with regard to pull-tab dispensers. The rule is necessary because the Board must be aware of the prices that manufacturers are charging to purchase or lease a dispenser and any costs associated with service agreements for the dispenser. The rule is reasonable because it provides a mechanism for the Board to insure that manufacturers' prices are the same across-the-board to all distributors and that discounted prices or special arrangements are not

being made with specific distributors in return for the purchase of other gambling equipment that the manufacturer may offer for sale in Minnesota. The rule is reasonable because it increases the integrity of the industry and protects the distributors from inflated or unreasonable prices being charged by the manufacturer.

M.R. 7864.0030, Subparts 7(B)(2) and 7(B)(7):

This rule amendment is necessary to require the manufacturer to provide the monthly lease cost of a pull-tab dispenser on the sales invoice filed with the Department of Revenue. Subitem (7) is necessary in order to insure that pull-tab dispensing devices are classified as permanent gambling equipment insofar as sales invoice requirements are concerned. The rule is reasonable because it has been successfully applied in other areas of the Board's rules. The rule is reasonable because it will not cause any undue hardship for the manufacturer and can be easily complied with. The rule is also reasonable because it provides another mechanism for the Board and the Department of Revenue to verify that the prices provided on the manufacturer's pricing reports are the actual prices being invoiced to distributors.


M.R. 7864.0030, Subpart 7(C):

This rule amendment is necessary to insure that any pull-tab dispensers returned to the manufacturer by the distributor are properly reflected on the manufacturer's returned equipment report. The rule is reasonable because the Board needs to be aware of any returns of pull-tab dispensers. The Board can use this information in determining whether an investigation of this particular dispenser model is required or whether the manufacturer should be required to take corrective action. The rule is reasonable because it provides a mechanism for the Board to be aware of manufacturing or technical problems that may exist in pull-tab dispensers in use.

XI. CONCLUSION

Based on the foregoing, the proposed Minnesota Rules parts 7861.0010, 7861.0040, 7861.0060, 7861.0080, 7861.0120, 7863.0010, 7863.0020, 7864.0010, and 7864.0030 are both necessary and reasonable.

DATED: 2 - 27, 1995



HARRY W. BALTZER
EXECUTIVE DIRECTOR
MINNESOTA GAMBLING CONTROL BOARD



State of Minnesota • Gambling Control Board

Suite 300 South
1711 W. County Road B
Roseville, MN 55113
612/639-4000

January 24, 1994

Ms. Laura King, Commissioner
Minnesota Department of Finance
400 Centennial Office Building
658 Cedar Street
St Paul MN 55155

Re: In the Matter of Proposed Rules of the Minnesota Gambling
Control Board Relating to Pull-Tab Dispensing Devices

Dear Commissioner King:

Pursuant to Minnesota Statutes chapter 16A.1285, subdivision 4, the Minnesota Gambling Control Board is furnishing you with a copy of the proposed rule and notice of adoption for the above-captioned rulemaking promulgation. We plan to submit the rule and notice to the State Register on February 17, 1995.

Proposed rule M.R. 7864.0030 (Manufacturer Operations, Accounts, and Reports) establishes a mechanism for licensed manufacturers to reimburse the Board for any and all costs associated with testing of pull-tab dispensing devices being submitted for approval for use in Minnesota. The specific rule language can be found on page 21 of the rule draft, as underlined Item I. The Board has proposed Legislation in Minnesota Statutes chapter 349.151, subd. 4b (1994) to give the Board the authority to establish a reimbursement account wherein the funds will be deposited. A copy of the proposed legislation is also included with this mailing.

Comments and recommendations from the Commissioner of Finance must be included in the Board's Statement of Need and Reasonableness supporting the above-captioned rule. Since the Statement of Need and Reasonableness must be prepared before the rule and notice are published in the State Register, I would appreciate receiving your comments and recommendations at your earliest convenience.

Thank you, and if you have any questions or wish to discuss this request in greater detail, please call me at 639-4091.

Sincerely,

A handwritten signature in cursive script that reads "Sharon A. Beighley".

Sharon A. Beighley
Rules Program Coordinator

cc: Jim King, DOF Executive Budget Officer
Harry Baltzer, Gambling Control Board Executive Director



State of Minnesota • Gambling Control Board

Suite 300 South
1711 W. County Road B
Roseville, MN 55113
612/639-4000

January 24, 1994

Senator Gene Merriam, Chair
Senate Finance Committee
122 State Capitol
St Paul MN 55155

Representative Loren Solberg, Chair
House Ways and Means Committee
343 State Office Building
St Paul MN 55155

Re: In the Matter of Proposed Rules of the Minnesota Gambling
Control Board Relating to Pull-Tab Dispensing Devices

Dear Senator Merriam and Representative Solberg:

The Minnesota Gambling Control Board intends to adopt rules relating to Pull-Tab Dispensing Devices. The 1994 Legislature mandated that the Board adopt rules governing the use of pull-tab dispensing devices, and present a report on the rulemaking process to the 1995 Legislature. Accordingly, a report on the rules as well as a copy of the proposed rules have been furnished to Senator Berg, Chair of the Senate Gaming Regulation Committee and Representative Dorn, Chair of The Gambling Operations Division of the Governmental Operations Committee.

As required by Minnesota Statutes, section 16A.1285, subdivision 4, any departmental earnings changes or adjustments authorized by the Commissioner of Finance must be reported to the Chairs of the Senate Committee on Finance and the House Ways and Means Committee. Since section 16A.1285 does not specify whether the Department of Finance or the Board adopting the rules is responsible for reporting this to you, the Board is sending a copy of the Notice and the proposed rules to you.

Proposed rule M.R. 7864.0030 (Manufacturer Operations, Accounts, and Reports) establishes a mechanism for licensed manufacturers to reimburse the Board for any and all costs associated with testing of pull-tab dispensing devices being submitted for approval for use in Minnesota. The Board has proposed legislation in Minnesota Statutes chapter 349.151, subd. 4(b) (1994) to give the Board the authority to establish a reimbursement account wherein the funds will be deposited. This rule language can be found on page 21 of the rule draft, as underlined item I. A copy of the proposed legislation is also included with this mailing.

If you have any questions, or wish to discuss this issue in greater detail, please call me or Harry Baltzer, Executive Director of the Gambling Control Board, at 639-4000.

Sincerely,

A handwritten signature in cursive script that reads "Sharon A. Beighley".

Sharon A. Beighley
Rules Program Coordinator

cc: Harry Baltzer

STATE OF MINNESOTA

Office Memorandum

Department: of Finance

Date: January 27, 1995

To: Sharon Beighley, Rules Program Coordinator
Gambling Control Board

From: Jim King *Jim King*
Executive Budget Officer

Phone: 296-7964

Subject: Comments on Proposed Rules

You have asked for our comments on proposed rule M.R. 7864.0030 (Manufacturer Operations, Accounts, and Reports), specifically the provision to establish a mechanism for licensed manufacturers to reimburse the board for any and all costs associated with testing of pull-tab dispensing devices being submitted for approval for use in Minnesota. Since there is currently no statutory language giving you the authority to seek these reimbursements, we are not in a position to offer any additional comments on your proposed rules. At the time you receive such authority, we would then be in a position to provide comments and recommendations on your proposal. When submitting your proposal to us, you should include a completed departmental earnings form (Fi-0399-01) showing all the detailed information required. Let me know if you have any questions.

cc: Michelle Harper
Bruce Reddemann

