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Minnesota Gambling Control Board

**Powers and Duties
of the
Minnesota Gambling Control Board
and
Delegated Authority**

History:

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Background

The Minnesota Gambling Control Board, its powers and duties, and delegated authority are documented and clarified in a variety of ways.

Direction provided by Board. Historically the director and staff have relied on the Board's direction to clarify their authority and regulatory role, whether it has been provided through administrative direction at a Board meeting, through statutory changes, in the Board's bylaws, or through the Board's rule process. Through these processes the Board has clarified the role of the Board, its committees, the director, and staff.

Statutory authority. The Board has used its statutory authority to set criteria for certain delegated authority, such as operational requests that can be delegated to the director with established criteria.

Bylaws. In its bylaws the Board established the role of four board committees: The Executive Committee, Legislative Committee, Rules Committee, and Compliance Review Group (CRG). The Board used its rulemaking authority to clarify the powers and duties of the CRG and the executive committee (*see Minn. Rules, Chapter 7865*).

Reference to Board in Statutes and Rules

It is noted that throughout statute and the Board's rules there are considerable references to the "Board" that may appear to have some ambiguity. There are many meanings or intent attached to the term "Board."

1. Full Board.
2. Committee of the Board.
3. Delegated to the director and staff, either explicitly, implied, or as otherwise authorized by the Board. For example, it is assumed/implied that the director will carry out and supervise administrative functions of the Board to ensure that the powers and duties of the Board are met, such as to:
 - a. receive required reports and inspect all premises, records, books, and other documentation of organizations, distributors, manufacturers, and linked bingo game providers to insure compliance with all applicable laws and rules (note: the director's duties include issuing subpoenas to compel the attendance of witnesses and the product of documents, books, records, and other evidence relating to an investigation, a compliance review, or an audit the director is authorized to conduct);
 - b. register gambling equipment and issue registration stamps;
 - c. register employees of organizations licensed to conduct lawful gambling, etc.;
 - d. review application information;
 - e. review required monthly reports;
 - f. review leases;
 - g. process application information changes;
 - h. review and make recommendations for requests considered by the Board;
 - i. conduct compliance reviews and site inspections; and
 - j. collect and deposit fees due.

Board's Powers and Duties

Minnesota Statutes, section 349.151, subdivision 4, describes the powers and duties of the Board, including the authority to delegate certain powers and duties to the CRG in paragraph (a), clause (18):

(a) The board has the following powers and duties:

- (1) to regulate lawful gambling to ensure it is conducted in the public interest;
- (2) to issue licenses to organizations, distributors, distributor salespersons, manufacturers, linked bingo game providers, and gambling managers;
- (3) to collect and deposit license, permit, and registration fees due under this chapter;
- (4) to receive reports required by this chapter and inspect all premises, records, books, and other documents of organizations, distributors, manufacturers, and linked bingo game providers to insure compliance with all applicable laws and rules;
- (5) to make rules authorized by this chapter;
- (6) to register gambling equipment and issue registration stamps;
- (7) to provide by rule for the mandatory posting by organizations conducting lawful gambling of rules of play and the odds and/or house percentage on each form of lawful gambling;
- (8) to report annually to the governor and legislature on its activities and on recommended changes in the laws governing gambling;
- (9) to report annually to the governor and legislature a financial summary for each licensed organization identifying the gross receipts, prizes paid, allowable expenses, lawful purpose expenditures including charitable contributions and all taxes and fees as per section 349.12, subdivision 25, paragraph (a), clauses (8) and (18), and the percentage of annual gross profit used for lawful purposes;
- (10) to impose civil penalties of not more than \$1,000 per violation on organizations, distributors, distributor salespersons, manufacturers, linked bingo game providers, and gambling managers for failure to comply with any provision of this chapter or any rule or order of the board;
- (11) to issue premises permits to organizations licensed to conduct lawful gambling;
- (12) to delegate to the director the authority to issue or deny license and premises permit applications and renewals under criteria established by the board;

- (13) to delegate to the director the authority to approve or deny fund loss requests, contribution of gambling funds to another licensed organization, and property expenditure requests under criteria established by the board;
 - (14) to suspend or revoke licenses and premises permits of organizations, distributors, distributor salespersons, manufacturers, linked bingo game providers, or gambling managers as provided in this chapter;
 - (15) to approve or deny requests from licensees for:
 - (i) waivers from fee requirements as provided in section 349.16, subdivision 6; and
 - (ii) variances from Gambling Control Board rules under section 14.055; and
 - (16) to register employees of organizations licensed to conduct lawful gambling;
 - (17) to require fingerprints from persons determined by board rule to be subject to fingerprinting;
 - (18) to delegate to a compliance review group of the board the authority to investigate alleged violations, issue consent orders, and initiate contested cases on behalf of the Board (note: part 7865.0210 outlines the CRG powers and duties, contained later in this document);
 - (19) to order organizations, distributors, distributor salespersons, manufacturers, linked bingo game providers, and gambling managers to take corrective actions; and
 - (20) to take all necessary steps to ensure the integrity of and public confidence in lawful gambling.
- (b) The board, or director if authorized to act on behalf of the board, may by citation assess any organization, distributor, distributor salesperson, manufacturer, linked bingo game provider, or gambling manager a civil penalty of not more than \$1,000 per violation for a failure to comply with any provision of this chapter or any rule adopted or order issued by the board. Any organization, distributor, distributor salesperson, gambling manager, linked bingo game provider, or manufacturer assessed a civil penalty under this paragraph may request a hearing before the board. Appeals of citations imposing a civil penalty are not subject to the provisions of the Administrative Procedure Act.

Director's Duties and Authority

<p>Minnesota Statutes, section 349.152, describes the duties of the director:</p> <ol style="list-style-type: none"> (1) carry out gambling policy established by the board; (2) employ and supervise personnel of the board; (3) advise and make recommendations to the board on rules, policy, and legislative initiatives; (4) approve or deny operational requests from licensees as delegated by the board; (5) issue licenses and premises permits as authorized by the board; (6) issue cease and desist orders; 	<ol style="list-style-type: none"> (7) make recommendations to the board on license issuance, denial, censure, suspension and revocation, civil penalties, and corrective action the board imposes; (8) ensure board rules, policy, and decisions are adequately and accurately conveyed to licensees; (9) conduct investigations, inspections, compliance reviews, and audits under this chapter; and (10) issue subpoenas to compel the attendance of witnesses and the production of documents, books, records, and other evidence relating to an investigation, compliance review, or audit the director is authorized to conduct.
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Building Requests; Contributions of Gambling Funds

Minnesota Statutes, Section 349.151, subdivision 4, paragraph (a), clause (13), delegates to the director the authority to approve or deny property expenditure requests and contributions of gambling funds under criteria established by the Board.

	Delegated to Director
1. LG269, Request to exceed annual limit for code A22. – Minn. Stat. 349.12, subd. 25, para. (a), clause (22).	No.
2. LG262, Building – Building...fire, catastrophic event. – Minn. Stat. 349.12, subd. 25, para. (a), clause (25).	No.
3. LG263, Building – Eminent domain. – Minn. Stat. 349.12, subd. 25, para. (a), clause (25); replacement of a building taken or sold under an eminent domain proceeding.	No.
4. LG266, Real property/capital assets used exclusively for lawful purpose. – Minn. Stat. 349.12, subd. 25, para. (a), clauses (23) and (24); erection, acquisition, improvement, or expansion of real property, or acquisition/improvement of a capital asset with cost greater than \$2,000.	Director has authority delegated by the Board to approve expenditures for emergency repairs, such as roof leak, plumbing, etc. or to purchase capital assets to help organization realize costs savings or do its program, i.e. trail groomer breaks down.
5. LG268, ADA replacement building amount applied. – Minn. Stat. 349.12, subd. 25, para. (a), clause (22).	No.
6. Transfer of gambling funds to organization general account. – Minn. Rule 7861.0320, subp. 4, item E.	Yes, in cases where a raffle was conducted in conjunction with a membership event raffle under 349.173, paragraph (d).
7. LG272, Emergency loan of gambling funds to general fund for veterans and fraternal licensed organizations (COVID-19 relief provision). – Executive Order 20-63 dated 5/27/20, p. 9, para. G.	Yes.

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| 8. LG200C, Transfer of gambling funds to organization general account by 501(c)(3) or 501(c)(4) festival organization for A1 expenditure.
– Minn. Stat. 349.154, subd. 1.
– Minn. Rule 7861.0320, subp. 14, item A, subitems (2), and (3).
– Minn. Rule 7861.0320, subp. 15, item B. | Yes. |
| 9. LG270, Contribution of gambling funds to another licensed gambling organization.
– Minn. Stat. 349.12, subd. 25, para. (a), clause (20). | Director may approve requests for amounts \$500 and less and reports approved requests to the Board. |
| 10. LG250, Fund loss request for profit carryover adjustment.
– Minn. Rule 7861.0320, subp. 9. | No. |
| 11. State-level program, expenditures for.
– Minn. Stat. 349.12, subd. 25, para. (a), clause (21).
– Minn. Rule 7861.0320, subp. 16, item C. | Yes. |
| 12. LG204, License termination plan.
– Minn. Stat. 349.19, subd. 8.
– Minn. Rule 7861.0220, subp. 8. | No. |
| 13. LG251, Rule variance request; fee.
– Minn. Rule 7865.0250, subp. 1, item A. | Yes. Director determines and negotiates estimated fee in agreement with licensee. |
| 14. LG251, Rule variance request.
– Minn. Rule 7865.0250. | No. |

Other - Raffles

Delegated to Director

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| 15. Raffles: Alternative method of selecting raffle winners.
– Minn. Stat. 349.173, para. (d).
– Minn. Rule 7861.0310, subp. 6. | No. |
| 16. Raffles: Changing or canceling a raffle.
– Minn. Rule 7861.0310, subp. 8; changing raffle date.
– Minn. Rule 7861.0310, subp. 9; canceling raffle date. | These are not statutory requirements; they were established by the Board and delegated to the director by rule. |

Manufacturers' Lawful Gambling Equipment (Games & Devices)

Delegated to Director

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| 17. Lawful gambling equipment – approval.
– Minn. Stat. 349.163, subd. 6.
– Minn. Rule 7864.0230. | No. |
| 18. Lawful gambling equipment – testing of programmable electronic devices.
– Minn. Rule 7864.0230, subp. 11, item F, subitem (4). | Yes. Director may require testing by a certified independent laboratory. |
| 19. Lawful gambling equipment – modifications to previously approved equipment.
– Minn. Rule 7864.0230, subp. 11, item A, subitem (5).
– Minn. Rule 7864.0235, subp. 7. | By rule, director reviews and determines if changes to previously approved equipment must be submitted to the Board for approval. |
| 20. Recall of lawful gambling equipment.
– Minn. Rule 7863.0220, subp. 5; distributor.
– Minn. Rule 7863.0260, subp. 4; linked bingo game provider.
– Minn. Rule 7863.0240, subp. 6; manufacturer. | Yes. |
| 21. Method of sale and transfer of electronic pull-tab games.
– Minn. Stat. 349.162, subd. 5, para. (b). | Board approves initial method. Subsequent changes approved by director; report back to Board. |

Distributors of Lawful Gambling Equipment

22. Method of sale and transfer of electronic pull-tab games.
– Minn. Stat. 349.162, subd. 5, para. (a).

Delegated to Director

Board approves initial method.
Subsequent changes approved by director; report back to Board.

Operational

23. Transfer of electronic bingo devices between sites.
– Minn. Rule 7863.0220, subp. 2, item I, subitem (3); distributor.
– Minn. Rule 7863.0260, subp. 2, item F, subitem (3); linked bingo game provider.
24. Delinquent payments reported to Board.
– Minn. Rule 7863.0220, subp. 16; distributor.
– Minn. Rule 7863.0260, subp. 7; linked bingo game provider.
– Minn. Rule 7864.0240, subp. 7; manufacturer.
25. Deactivation of electronic bingo or pull-tab device; implement other controls.
– Minn. Stat. 349.151, subd. 4c, para. (b) – see also linked bingo.
– Minn. Stat. 349.151, subd. 4d, para. (e) – pull-tab devices/system.

Delegated to Director

Yes.

Yes.

Yes. Director reports back to Board on actions required.

License Applications, Permits, and Certifications

Minn. Stat. 349.151, subd. 4, para. (a), clause (12), delegates to the director the authority to issue or deny license applications under criteria established by the Board.

Delegated to Director

26. Application for organization license.
– Minn. Stat. 349.16.
– Minn. Rule 7861.0220, subp. 6.
– Minn. Rule 7861.0220, subps. 1 to 7.
27. Application for organization license – waiver of license fee.
– Minn. Stat. 349.16, subd. 6.
28. Application for premises permit.
– Minn. Stat. 349.165.
– Minn. Rule 7861.0240.
29. Application for gambling manager license.
– Minn. Stat. 349.167.
– Minn. Rule 7861.0230, subps. 1 to 7.
30. Exempt permits and excluded bingo authorizations.
– Minn. Stat. 349.166.
– Minn. Rule 7861.0330; excluded bingo.
– Minn. Rule 7861.0340; exempted lawful gambling.
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31. Application for distributor license.
– Minn. Stat. 349.161, subd. 2.
– Minn. Rule 7863.0210.
32. Application for distributor salesperson license.
– Minn. Stat. 349.161.
– Minn. Rule 7863.0210, subp. 8.
33. Application for manufacturer license.
– Minn. Stat. 349.163, subd. 1.
– Minn. Rule 7864.0210.
34. Certification of independent testing laboratory.
– Minn. Stat. 349.163, subd. 6.

Yes.

Yes.

Yes.

Yes.

Yes.

No.

Yes.

No.

No.

35. Appeal of denied license or permit.
– Minn. Rule 7865.0260.

Delegated by rule to the Board's Executive Committee.

Linked Bingo

36. Application for linked bingo game provider license, including game system and management plan.
– Minn. Stat. 349.1635, subd. 2.
– Minn. Rule 7863.0250.
37. Linked bingo game system modifications.
– Minn. Rule 7863.0260, subp. 1a.
38. Linked bingo management plan modifications.
– Minn. Rule 7863.0250, subp. 5, item D.
– Minn. Rule 7863.0260, subp. 2a, item A.
39. Linked bingo – agreements with organizations.
– Minn. Rule 7863.0260, subp. 2, item B.

Delegated to Director

No.

By rule, director reviews and approves subsequent changes to system after license approved.

By rule, director reviews and approved subsequent changes.

By rule, director reviews and approves terms and conditions of agreements, including subsequent changes.

Sanctions and Civil Penalties

40. Consent orders; corrective actions.
– Minn. Stat. 349.151, subd. 4, para. (a), clause (18).
– Minn. Rule 7865.0210.
41. Civil penalty (citation, fine) - up to \$1,000 per violation.
– Minn. Stat. 349.151, subd. 4, para. (b).
– Minn. Rule 7865.0230.
42. Civil penalty for noncompliance with lawful purpose expenditure (LPE) rating - penalty up to \$10,000.
– Minn. Stat. 349.15 subd. 1, para. (d), clause (2).
43. Summary suspension of license.
– Minn. Stat. 349.1641.
44. Suspension or revocation of license or permit.
– Minn. Stat. 349.155, subd. 4.
– Minn. Rule 7865.0210.
– Minn. Rule 7865.0220.
45. Cease and desist orders.
– Minn. Stat. 349.152, subd. 3, para. (a).
46. Other: District court.
– Minn. Stat. 349.152, subd. 3, para. (b). Gives Board authority to bring action in district court and may refer the matter to the Attorney General. Upon proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted.

Delegated to Director

Delegated to the CRG by rule.

CRG. Director, by rule, may issue citation of up to \$1,000.

No.

No. Director may vacate summary suspension when organization has corrected issue; report back to Board.

No.

Statute gives director authority to issue cease and desist orders.

No.

Rulemaking

47. Rules.
– Minn. Stat. 349.151, subd. 13 (rulemaking).

Delegated to Director

- Board initiates rulemaking process.
- Rules Committee reviews proposed rule changes drafted by staff and provides recommendation to Board.
- Board has historically delegated to the director by resolution the authority to represent the Board in the rulemaking process.