

**SENATE**  
**STATE OF MINNESOTA**  
**NINETY-FIRST SESSION**

**S.F. No. 435**

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DATE  
01/24/2019

D-PG

Introduction and first reading

OFFICIAL STATUS

Referred to State Government Finance and Policy and Elections

1.1 A bill for an act  
 1.2 relating to lawful gambling; modifying requirements for annual audits and reports  
 1.3 for certain lawful gambling organizations; amending Minnesota Statutes 2018,  
 1.4 sections 297E.06, subdivision 4; 309.53, subdivision 3.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2018, section 297E.06, subdivision 4, is amended to read:

1.7 Subd. 4. **Commissioner required audits; annual audit, certified inventory, and cash**  
 1.8 **count.** ~~(a) An organization licensed under chapter 349 with gross receipts from lawful~~  
 1.9 ~~gambling of more than \$750,000 in any year must have an annual financial audit of its~~  
 1.10 ~~lawful gambling activities and funds for that year.~~

1.11 ~~(b)~~ (a) The commissioner may require a financial audit of the lawful gambling activities  
 1.12 and funds of an organization licensed under chapter 349, ~~with gross receipts less than~~  
 1.13 ~~\$750,000 annually~~, when an organization has:

1.14 (1) failed to timely file required gambling tax returns;

1.15 (2) failed to timely pay the gambling tax or regulatory fee;

1.16 (3) filed fraudulent gambling tax returns;

1.17 (4) failed to take corrective actions required by the commissioner; or

1.18 (5) failed to otherwise comply with this chapter.

1.19 ~~(e)~~ (b) Audits under this subdivision must be performed by an independent accountant  
 1.20 licensed in accordance with chapter 326A.

2.1 ~~(d)~~ (c) An organization licensed under chapter 349 must perform an annual certified  
 2.2 inventory and cash count at the end of its fiscal year and submit the report to the  
 2.3 commissioner within 30 days after the end of its fiscal year. The report shall be on a form  
 2.4 prescribed by the commissioner.

2.5 ~~(e)~~ (d) The commissioner of revenue shall prescribe standards for the audits, certified  
 2.6 inventory, and cash count reports required under this subdivision. The standards may vary  
 2.7 based on the gross receipts of the organization. The standards must incorporate and be  
 2.8 consistent with standards prescribed by the American Institute of Certified Public  
 2.9 Accountants. A complete, true, and correct copy of ~~the audits~~ any required audit, and the  
 2.10 annual certified inventory, and cash count report must be filed as prescribed by the  
 2.11 commissioner.

2.12 **EFFECTIVE DATE.** This section is effective July 1, 2019.

2.13 Sec. 2. Minnesota Statutes 2018, section 309.53, subdivision 3, is amended to read:

2.14 Subd. 3. **Financial statement requirements; audited financial statements;**  
 2.15 **exceptions.** (a) The financial statement shall include a balance sheet, statement of income  
 2.16 and expense, and statement of functional expenses, shall be consistent with forms furnished  
 2.17 by the attorney general, and shall be prepared in accordance with generally accepted  
 2.18 accounting principles so as to make a full disclosure of the following, including necessary  
 2.19 allocations between each item and the basis of such allocations:

2.20 ~~(a)~~ (1) total receipts and total income from all sources;

2.21 ~~(b)~~ (2) cost of management and general;

2.22 ~~(c)~~ (3) program services;

2.23 ~~(d)~~ (4) cost of fund-raising;

2.24 ~~(e)~~ (5) cost of public education;

2.25 ~~(f)~~ (6) funds or properties transferred out of state, with explanation as to recipient and  
 2.26 purpose;

2.27 ~~(g)~~ (7) total net amount disbursed or dedicated within this state, broken down into total  
 2.28 amounts disbursed or dedicated for each major purpose, charitable or otherwise;

2.29 ~~(h)~~ (8) names of professional fund-raisers used during the accounting year and the  
 2.30 financial compensation and profit resulting to each professional fund-raiser; and

3.1 ~~(9)~~ a list of the five highest paid directors, officers, and employees of the organization  
3.2 and its related organizations, as that term is defined by section 317A.011, subdivision 18,  
3.3 that receive total compensation of more than \$100,000, together with the compensation paid  
3.4 to each.

3.5 (b) For purposes of this subdivision, "compensation" is defined as the total amount  
3.6 reported on Form W-2 (Box 5) or Form 1099-MISC (Box 7) issued by the organization and  
3.7 its related organizations to the individual. The value of fringe benefits and deferred  
3.8 compensation paid by the charitable organization and all related organizations as that term  
3.9 is defined by section 317A.011, subdivision 18, shall also be reported as a separate item for  
3.10 each person whose compensation is required to be reported pursuant to this subdivision.

3.11 (c) Unless otherwise required by this subdivision, the financial statement need not be  
3.12 certified.

3.13 (d) A financial statement of a charitable organization which has received total revenue  
3.14 in excess of \$750,000 for the 12 months of operation covered by the statement shall be  
3.15 accompanied by an audited financial statement prepared in accordance with generally  
3.16 accepted accounting principles that has been examined by an independent certified public  
3.17 accountant for the purpose of expressing an opinion. In preparing the audit the certified  
3.18 public accountant shall take into consideration capital, endowment or other reserve funds,  
3.19 if any, controlled by the charitable organization.

3.20 (e) For purposes of calculating the \$750,000 total revenue threshold provided by this  
3.21 subdivision;

3.22 (1) the value of donated food to a nonprofit food shelf may not be included if the food  
3.23 is donated for subsequent distribution at no charge, and not for resale; and

3.24 (2) a charitable organization licensed to conduct lawful gambling under chapter 349  
3.25 shall compute revenue from lawful gambling by subtracting prizes actually paid from gross  
3.26 receipts, as defined in section 349.12, subdivision 21.

3.27 **EFFECTIVE DATE.** This section is effective July 1, 2019.