

MINNESOTA

I. **Definition of Gambling**

1. **Gambling is defined as the following:**

"A risking of money or other property between two or more persons on a contest of chance of any kind, where one must be the loser and the other the gainer." *St. Paul v. Stovall*, 225 Minn. 309, 314 (Minn. 1948). The purpose of sections Minn. Stat. sections 349.11 to 349.22 is to regulate lawful gambling to prevent its commercialization, to insure integrity of operations, and to provide for the use of net profits only for lawful purposes. Minn. Stat. § 349.11 (2009).

2. Gambling falls into three general categories: betting, (2) lotteries, and (3) gambling machines. All have in common the risk of loss or gain depending on the element of chance. While present statutes distinguish lotteries from the other two forms of gambling, betting and gambling machines are intermixed in the statutes. *State v. Finnerty*, 311 Minn. 267 (Minn. 1976).

3. **Dominant factor**

A stake laid upon the chances of a game is gaming. *Foley v. Whelan*, 219 Minn. 209, 214 (Minn. 1945). In *Gagliardi v. St. Paul*, the court found that the restaurant owner's contention that the restaurant's blackjack operation was a contest of skill and, therefore the prizes offered to the winners did MINN prohibit not bets. Stat. § 340A.410, and St. Paul, Minn., Legislative Code § 409.08(6) had no merit; the blackjack operation constituted unlawful gambling because blackjack was at least partially dependent upon chance and patrons could win drinks or participate in a prize vacation drawing. *Gagliardi v. St. Paul*, 1989 Minn. App. LEXIS 349 (Minn. Ct. App. Mar. 28 1989).

4. **Material Element**

A bet is a bargain whereby the parties mutually agree to a gain or loss by one to the other of specified money, property or benefit dependent upon chance although the chance is accompanied by some element of skill. Minn. Stat. § 609.75 (2009). Prizes offered to contestants in bona fide contests of skill, speed, strength, or endurance are not bets. Minn. Stat. § 609.75, subd. 3(3) (1986). *Gagliardi v. St. Paul*, 1989 Minn. App. LEXIS 349 (Minn. Ct. App. 1989).

The following are not bets under Minn. Stat. § 609.75(2009):

- a. A contract to insure, indemnify, guarantee or otherwise compensate another for a harm or loss sustained, even though the loss depends upon chance.
- b. A contract for the purchase or sale at a future date of securities or other commodities.

- c. Offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength, endurance, or quality or to the bona fide owners of animals or other property entered in such a contest.
- d. The game of bingo when conducted in compliance with sections 349.11 to 349.23.
- e. A private social bet not part of or incidental to organized, commercialized, or systematic gambling.
- f. The operation of equipment or the conduct of a raffle under sections 349.11 to 349.22, by an organization licensed by the Gambling Control Board or an organization exempt from licensing under section 349.166.
- g. Pari-mutuel betting on horse racing when the betting is conducted under chapter 240.
- h. The purchase and sale of state lottery tickets under chapter 349A. Minn. Stat. § 609.75 (2009).

5. **Gambling does not include the following:**

- a. Operation of the state lottery or the sale, possession, or purchase of tickets for the state lottery under chapter 349A. Minn. Stat. § 609.761 (2009).
- b. Tournaments or contests that satisfy all of the following requirements: Minn. Stat. § 609.761 (2009)
 - i. The tournament or contest consists of the card games of chance commonly known as cribbage, skat, sheephead, bridge, euchre, pinochle, gin, 500, smear, “Texas Hold'em”, or whist;
 - ii. The tournament or contest does not provide any direct financial benefit to the promoter or organizer;
 - iii. The value of all prizes awarded for each tournament or contest does not exceed \$ 200; and
 - iv. For a tournament or contest involving Texas holder:
 - v. No person under 18 years of age may participate
 - vi. The payment of an entry fee or other consideration for participating is prohibited;

- vii. The value of all prizes awarded to an individual winner of a tournament or contest at a single location may not exceed \$ 200 each day; and
- viii. The organizer or promoter must ensure that reasonable accommodations are made for players with disabilities. Accommodations to the table and the cards shall include the announcement of the cards visible to the entire table and the use of Braille cards for players who are blind. Minn. Stat. § 609.761 (2009).

c. Dice games conducted on the premises and adjoining rooms of a retail establishment licensed to sell alcoholic beverages if the following requirements are satisfied:

1. The games consist of board games played with dice or commonly known dice games such as "shake-a-day," "3-2-1," "who buys," "last chance," "liar's poker," "6-5-4," "horse," and "aces";
2. Wagers or prizes for the games are limited to food or beverages; and
3. The retail establishment does not organize or participate financially in the games. Minn. Stat. § 609.761 (2009).

A raffle, conducted by a school district or a nonprofit organization organized primarily to support programs of a school district, if the following conditions are complied with:

0. Tickets for the raffle may only be sold and the drawing conducted at a high school event sponsored by a school district. All tickets must be sold for the same price;
 1. Tickets may only be sold to persons 18 years of age or older attending the event;
 2. The drawing must be held during or immediately after the conclusion of the event;
 3. One-half of the gross receipts from the sale of tickets must be awarded as prizes for the raffle, and the remaining one-half may only be expended to defray the school district's costs of sending event participants to high school activities held at other locations; and
 4. If a school district's or nonprofit organization's gross receipts from the conduct of raffles exceeds \$ 12,000 in a calendar year or \$ 5,000 in a single raffle, the school district or organization must report the following information to the Gambling Control Board annually: the total amount of gross receipts received, the total expenses for the raffles, the total prizes awarded, and an accounting of the expenditures from the gross receipts of the raffles. Minn. Stat. § 609.761 (2009).

Definition of bookmaking

Sports bookmaking is the activity of intentionally receiving, recording or forwarding within any 30-day period more than five bets, or offers to bet, that total more than \$ 2,500 on any one or more sporting events. Minn. Stat. § 609.75 whoever engages in sports bookmaking is guilty of a felony. Minn. Stat. § 609.76 (2009).

Specific gaming Device definitions

1. Gambling device includes the following:

A gambling device is a contrivance which for a consideration affords the player an opportunity to obtain something of value, other than free plays, automatically from the machine or otherwise, the award of which is determined principally by chance. "Gambling device" also includes a video game of chance, as defined in subdivision 8. Minn. Stat. § 609.75 (2009).

Minnesota courts expanded gaming devices to include anything used as a means for playing for money or other thing of value so that the result depends more largely on chance than on skill. *St. Paul v. Stovall*, 225 Minn. 309, 314 (Minn. 1948). IN addition, in *State v. Shaw*, 39 N.W. 305, 307 (1888), the Supreme Court of Minnesota held that gambling devices are used "in games of chance." *State v. Shaw*, 39 N.W. 305 (Minn. 1888).

2. **Games including cigars or drinks**

Playing any game for cigars or drinks, or under an agreement that the loser shall treat to cigars or drinks, or other refreshments, is gambling. Shaking dice for cigars is gambling. *Santrizos v. Public Drug Co.*, 143 Minn. 222, 224 (Minn. 1919).

3. **Slot machines**

Playing slot machines, which are universally regarded as gambling devices, is playing at a game within statutes prohibiting gambling. *Foley v. Whelan*, 219 Minn. 209, 215 (Minn. 1945).

4. **Pinball machines**

Pinball machines which reward a player by allowing him to play an additional number of games without inserting any more money if a certain score is obtained were not intended to be banned by the statutes prohibiting gambling. *McNeice v. City of Minneapolis*, 84 N.W.2d 232 (1957).

5. Transactions by which an investment service company purchased grain through brokers, neither of the parties expecting that the company would take delivery of the grain, and both parties anticipating that the investment company would settle for the difference between purchase and selling prices in the various transactions,

were gambling transactions. *Thomes v. Atkins*, 52 F. Supp. 405 (D. Minn. 1942). Trading in commodities futures does not constitute gambling as defined by statute. *ACLI Int'l Commodity Servs Inc v. Lindwall*, 347 N.W.2d 52 (Minn. Ct. App. 1984).

6. **Associated equipment**

Associated equipment means any equipment used in connection with gambling that would not be classified as a gambling device, including but not limited to: cards, dice, computerized systems of betting at a race book or sports pool, computerized systems for monitoring slot machines or games of chance, devices for weighing or counting money, and links which connect progressive slot machines. Minn. Stat. § 609.75 (2009).

5. **Video games of chance**

Gambling device includes any "video game of chance," as defined by statute. A video game of chance is a game or device that simulates one or more games commonly referred to as poker, blackjack, craps, hi-lo, roulette, or other common gambling forms, though not offering any type of pecuniary award or gain to players.

The term also includes any video game having one or more of the following characteristics:

- a. It is primarily a game of chance, and has no substantial elements of skill involved;
- b. It awards game credits or replays and contains a meter or device that records unplayed credits or replays. A video game that simulates horse racing that does not involve a prize payout is not a video game of chance. Minn. Stat. § 609.75 (2009).

Bucket shop laws

0. Bucket shop is defined as the following:

A bucket shop is a place wherein the operator is engaged in making bets in the form of purchases or sales on public exchanges of securities, commodities or other personal property for future delivery to be settled at prices dependent on the chance of those prevailing at the public exchanges without a bona fide purchase or sale being in fact made on a board of trade or exchange. Minn. Stat. § 609.75 (2009).

1. Bucket shop does not include the following:

In Minn. Stat. § 609.75(3), certain activities are listed as not constituting gambling. Section 609.75(3) states: The following are not bets: (2) a contract for the purchase or sale at a future date of securities or other commodities. Under Minn. Stat. § 609.75(3), futures trading is

specifically listed as non-gambling. *ACLI International Commodity Services, Inc. v. Lindwall*, 347 N.W.2d 522 (Minn. Ct. App. 1984).

2. Criminal penalty for operating a bucket shop

However, there is a criminal penalty for operating a bucket shop, which is defined as a place wherein the operator is engaged in making bets in the form of purchases or sale on public exchanges of securities, commodities, or other personal property for future delivery to be settled at prices dependent on the chance of those prevailing at the public exchanges without a bona fide purchase or sale being in fact made on a board of trade or exchange. Minn. Stat. § 609.75 (6) (2009).

In *ACLI Int'l Commodity Servs Inc v. Lindwall*, 347 N.W.2d 522 (Minn. Ct. App. 1984), the court held that commodities futures contract for delivery of oats did not constitute gambling and was enforceable against investor; broker liquidated investor's position, resulting in deficits that broker sought to recover. *ACLI Int'l Commodity Servs Inc v. Lindwall*, 347 N.W.2d 522 (Minn. Ct. App. 1984).

In Minnesota it has been held a contract for the future delivery of a commodity is invalid when the parties to the contract do not intend the delivery of the subject matter but a settlement based on the differences between the contract and the market price. *Becher-Barrett-Lockerby Co. v. Hilbert*, 197 Minn. 541, 542 (Minn. 1936). This means that contracts for the sale or purchase of commodities for future delivery are gambling contracts and hence unenforceable where the intent is not to make or receive delivery but to settle on the basis of the difference between prices prevailing at a future date.

Under that rule, a broker who makes advances for his principal and aids him in operating in futures, with notice of the unlawful intent of the latter and of the real character of the transaction, cannot recover his commissions and advances. *Mohr v. Miesen*, 47 Minn. 228, 232 (Minn. 1891). The present public policy in Minnesota is evidenced by Minn. Stat. § 609.75 (3)(2). Trading commodities futures does not constitute gambling. *ACLI International Commodity Services, Inc. v. Lindwall*, 347 N.W.2d 522, 526 (Minn. Ct. App. 1984).

Prohibition of games of skills

0. Poker/card Games

A game means any game played with cards, dice, equipment, or any mechanical or electronic device or machine for money or other value, whether or not approved by law, and includes, but is not limited to: card and dice games of chance, slot machines, banking or percentage games, video games of chance, sports pools, pari-mutuel betting, and race book. "Game" does not include any private social bet. Minn. Stat. § 609.75 (2009).

A video game of chance is a game or device that simulates one or more games commonly referred to as poker, blackjack, craps, hi-lo, roulette, or other common gambling forms, though not offering any type of pecuniary award or gain to players.

Minn. Stat. § 609.75 (2009).

Minnesota does not prohibit tournaments or contests that satisfy all of the following requirements: Minn. Stat. § 609.761 (2009).

- a. The tournament or contest consists of the card games of chance commonly known as cribbage, skat, sheephead, bridge, euchre, pinochle, gin, 500, smear, Texas hold'em, or whist;
 - b. The tournament or contest does not provide any direct financial benefit to the promoter or organizer;
 - c. The value of all prizes awarded for each tournament or contest does not exceed \$ 200; and
 - d. For a tournament or contest involving Texas hold'em:
 - i. No person under 18 years of age may participate;
 - ii. The payment of an entry fee or other consideration for participating is prohibited.
 - iii. The value of all prizes awarded to an individual winner of a tournament or contest at a single location may not exceed \$ 200 each day; and
 - iv. The organizer or promoter must ensure that reasonable accommodations are made for players with disabilities. Accommodations to the table and the cards shall include the announcement of the cards visible to the entire table and the use of Braille cards for players who are blind.
- Minn. Stat. § 609.761 (2009).

2. **Games using dice**

Minnesota does not prohibit dice games conducted on the premises and adjoining rooms of a retail establishment licensed to sell alcoholic beverages if the following requirements are satisfied:

- a. The games consist of board games played with dice or commonly known dice games such as "shake-a-day," "3-2-1," "who buys," "last chance," "liar's poker," "6-5-4," "horse," and "aces";

- b. Wagers or prizes for the games are limited to food or beverages; and
- c. The retail establishment does not organize or participate financially in the games. Minn. Stat. § 609.761 (2009).

Express Exemptions

0. Minnesota statute § 609.75 defines a "bet" as the following:

A bargain whereby the parties mutually agree to a gain or loss by one to the other of specified money, property or other benefit dependent upon chance although the chance is accompanied by some element of skill. Prizes offered to contestants in bona fide contests of skill, speed, strength, or endurance are not bets. Minn. Stat. § 609.75, (3)(3) (1986). *Gagliardi v. St. Paul*, 1989 Minn. App. (Minn. Ct. App. 1989).

2. Social Gaming

A “game as defined in Minnesota Statute § 609.75 does not include any private social bet. Minn. Stat. § 609.75 (2009).

Minnesota Statutes does not prohibit tournaments or contests that satisfy all of the following requirements:

- a. The tournament or contest consists of the card games of chance commonly known as cribbage, skat, sheephead, bridge, euchre, pinochle, gin, 500, smear, “Texas Hold'em”, or whist;
- b. The tournament or contest does not provide any direct financial benefit to the promoter or organizer;
- c. The value of all prizes awarded for each tournament or contest does not exceed \$ 200; and
- d. For a tournament or contest involving “Texas Hold'em”:
 - i. No person under 18 years of age may participate;
 - ii. The payment of an entry fee or other consideration for participating is prohibited;
 - iii. The value of all prizes awarded to an individual winner of a tournament or contest at a single location may not exceed \$ 200 each day; and
 - iv. The organizer or promoter must ensure that reasonable accommodations are made for players with disabilities. Accommodations to the table and the cards shall include the

announcement of the cards visible to the entire table and the use of Braille cards for players who are blind. Minn. Stat. § 609.761 (2009).

Games using dice

Minnesota does not prohibit dice games conducted on the premises and adjoining rooms of a retail establishment licensed to sell alcoholic beverages if the following requirements are satisfied:

- . The games consist of board games played with dice or commonly known dice games such as "shake-a-day," "3-2-1," "who buys," "last chance," "liar's poker," "6-5-4," "horse," and "aces";
- a. Wagers or prizes for the games are limited to food or beverages; and
- b. The retail establishment does not organize or participate financially in the games. Minn. Stat. § 609.761 (2005).

Charity Gaming

Chapter 349 of the Minnesota Statutes regulates charitable gambling in the state of Minnesota. The game of bingo, the operation of gambling equipment, or the conduct of a raffle is not betting if it is conducted in compliance with these sections, which were enacted for the purpose of regulating lawful gambling, preventing its commercialization, insuring integrity of operations, and to provide for the use of net profits only for lawful purposes. Bingo, raffles, paddlewheels, tipboards, and pull-tabs are included in the definition of lawful gambling. Dunnell Minn. Digest GAMBLING § 2.02 (4th ed.)

Profits from lawful gambling under the charitable gambling statute may be spent only for lawful purposes or for expenses related to the gambling operation as authorized by the conducting organization. Minn. Stat. § 349.15 (2009). At a monthly meeting of the organization's membership. Provided that no more than 70 percent of the gross profit less the tax imposed under section [A> For licenses renewed with an effective date between July 1, 2006, and June 30, 2008, an organization shall carry forward an amount equal to 15 percent of any positive allowable expense carryover amount. This balance must be used to offset any future negative expense balance at the time of license renewal. 2006 Minn. ALS 205, 7.

. Lawful purpose is defined as one or more of the following:

- i. Any expenditure by or contribution to an organization exempt for the payment of federal income taxes under section 501(c)(3) of the Internal Revenue Code;

- ii. A contribution to an individual or family suffering from poverty, homelessness, or physical or mental disability, which is used to relieve the effects of that poverty, homelessness, or disability;
- iii. A contribution to an individual for treatment for delayed posttraumatic stress syndrome or a contribution to a recognized program for the treatment of compulsive gambling on behalf of an individual who is a compulsive gambler;
- iv. A contribution to or expenditure on a public or private nonprofit educational institution registered with or accredited by this state or any other state;
- v. A contribution to a scholarship fund for defraying the cost of education to individuals where the funds are awarded through an open and fair selection process;
- vi. Activities by an organization or a government entity which recognize humanitarian or military service to the United States, the state of Minnesota, or a community, subject to rules of the board;
- vii. Recreational, community, and athletic facilities and activities intended primarily for persons under age 21, provided that such facilities and activities do not discriminate on the basis of gender;
- viii. Payment of gambling taxes and assessments on licensed gambling premises;
- ix. A contribution to the United States, this state or any of its political subdivisions, or any agency or instrumentality thereof other than a direct contribution to a law enforcement or prosecutorial agency;
- x. A contribution to or expenditure by a nonprofit organization, church, or body of communicants gathered in common membership for mutual support and edification in piety, worship, or religious observances; or
- xi. Payment of one-half of the reasonable costs of a required audit. Minn. Stat. § 349.12 (2009).

a. "Lawful purpose" does not include:

1. Any expenditure made or incurred for the purpose of influencing the nomination or election of a candidate for public office or for the purpose of promoting or defeating a ballot question.
2. Any activity intended to influence an election or a governmental decision-making process. Minn. Stat. § 349.12, (25) (2009).

Lottery

A lottery means the following:

A lottery is a plan which provides for the distribution of money, property or other reward or benefit to persons selected by chance from among participants some or all of whom have given a consideration for the chance of being selected. Minn. Stat. § 609.75 (2009).

A lottery exists if: (1) a prize or reward is offered, (2) chance determines who is awarded the prize, and (3) participants pay consideration for the chance to win the prize. But an in-package chance promotion is not a lottery if: (1) one can participate for "free and without purchase of the package," (2) the permissible methods of participation are free and a "scheduled termination date of the promotion" is listed, (3) retailers are given entry forms so that customers can participate for free, (4) odds of winning are not misrepresented, (5) game pieces are randomly distributed and distribution records are maintained "for at least one year after the termination date of the promotion," (6) "prizes are randomly awarded if game pieces are not used," and (7) the sponsor provides the state with a record of those who were awarded prizes of \$ 100 or more upon request, if the request is made within one year of the promotion's termination date. Minn. Stat. § 609.75, (1)(b) (2002). *Minn. Souvenir Milkcaps, LLC v. State*, 687 N.W.2d 400 (Minn. Ct. App. 2004).

a. **The following were found to constitute a lottery in violation of the existing statutes:**

- . Schemes for the distribution of clothing, *State v. Wolford*, 185 N.W. 1017 (1921);
- i. Plan where merchants gave tickets to their customers upon purchase of merchandise for a drawing to be held later; *State v. Powell*, 170 Minn. 239, 212 N.W. 169 (1927),
- ii. A company which invested no funds, but distributed money collected from its patrons in accordance with priority of the number of the certificate given each so-called investor; *State ex re. Hathorn v. United States Express Co.*, 95 Minn. 442, 104 N.W. 556 (1905),
- iii. "Free" tickets for a chance at a prize given with each ticket to a theater show. *State v. Schubert Theatre Players Co.*, 203 Minn. 366, 281 N.W. 369 (1938).

b. **The following were found not to constitute a lottery:**

- . A voting contest arranged by merchants to stimulate trade because the element of chance was lacking. *Amlie Strand Hardware Co. v. Moose*, 224 N.W. 158 (1929) (element of chance lacking).
- i. The business of issuing and redeeming trading stamps was not considered a lottery because not attended with such elements of chance, uncertainty, and contingency as to justify restrictions. *State ex rel. Simpson v. Sperry-Hutchinson Co.*, 126 N.W. 120 (1910).
- ii. A prize contest offered by a newspaper to enlarge its subscriptions was not considered a lottery because there was a lack of consideration as no subscriptions were required for participation; *Holt v. Rural Weekly Co.*, 173 Minn. 337, 217 N.W. 345 (1928).
- iii. A pinball machine which merely awards free replays to players achieving a certain score. *McNeice v. Minneapolis*, 84 N.W.2d 232 (1957).

c. **A lottery has four essential elements:** (1) a prize, (2) the prize must go to a winner by chance, (3) participants must pay a consideration for the chance, *Albert Lea Amusement Corp. v. Hanson*, 231 Minn. 401, 413 (Minn. 1950), and (4) the game must be designed for or result in private pecuniary gain to its sponsors. It does not make it any less a lottery that some participants get the chance for nothing if others pay for it. *Dunnell Minn. Digest GAMBLING § 1.00* (4th ed.).

d. **Establishing a state lottery**

A state lottery is established under the supervision and control of the director of the state lottery appointed by the governor. *Minn. Stat. § 349A.02* (2009).

Licensed organizations

Since 1984, Minnesota gambling statutes have provided: A licensed organization must report to the Minnesota Gambling Control Board and to its membership monthly on its gross receipts, expenses, profits, and expenditure of profits from lawful gambling. *Minn. Stat. § 349.19* (2009).

Tickets for the lottery are sold through contracts with lottery retailers. The director of the Gaming board may not contract with a retailer who:

- . Is under the age of 18;
- i. Is in business solely as a seller of lottery tickets;

- ii. Owes \$500 or more in delinquent taxes;
- iii. Has been convicted within the previous five years of a felony or gross misdemeanor, any crime involving fraud or misrepresentation, or a gambling-related offense;
- iv. Is a member of the immediate family, residing in the same household, as the director, board member, or any employee of the division;
- v. In the director's judgment does not have the financial stability or responsibility to act as a lottery retailer, or whose contracting as a lottery retailer would adversely affect the public health, welfare, and safety, or endanger the security and integrity of the lottery; or
- vi. Is a currency exchange. Minn. Stat. § 349A.02 (2009).

Buyers of lottery tickets

A person who buys a lottery ticket from a retailer agrees to be bound by the rules applicable to the particular lottery game for which the ticket is purchased. Minn. Stat. § 349A.08 (2009). The player acknowledges that the determination of whether a ticket is a valid winning ticket is subject to the rules of the director, claims procedures established by the director for that game, and any confidential or public validation tests established by the director for that game. Minn. Stat. § 349A.08 (2009).

Age requirements

- . A person under the age of 18 years may not buy a ticket in the state lottery. Minn. Stat. § 349A.08.
- i. A lottery retailer may prove by a preponderance of the evidence the affirmative defense that a sale to a minor was made reasonably and in good faith in reliance upon representation of proof of age. Minn. Stat. § 349A.02 (2009).

Horse Racing

Under the common law it was illegal and invalid as against good morals and sound public policy to wager upon the result of a horse race, in which the parties had no other interest. *Wilkinson v. Tousley*, 16 Minn. 299 (Gil. 263) (1871).

In 1982, a constitutional amendment was approved to authorize "on-track pari-mutuel betting on horse racing in a manner prescribed by law." *Rice v. Connolly*, 488 N.W.2d 241, 244 (Minn. 1992). Pursuant to the constitutional authorization, the legislature established the Minnesota Racing Commission and detailed that body's licensing and regulatory powers over the establishment and operation of pari-mutuel betting on horse racing. Subsequent legislation authorizing off-track pari-mutuel betting on horse racing has been declared unconstitutional. *Rice v. Connolly*, 488 N.W.2d 241 (Minn. 1992).

Specific Internet prohibition

Minnesota does not have a statutory, case law, or attorney's general opinion definition governing bucket shops.

Penalties for unlawful gambling/Gaming Crimes

0. Lawful gambling fraud

A person is guilty of a crime and may be sentenced as provided in subdivision 2 if the person does any of the following: Minn. Stat. § 609.763 (2009).

- . Knowingly claims a lawful gambling prize using altered or counterfeited gambling equipment;
- i. Knowingly claims a lawful gambling prize by means of fraud, deceit, or misrepresentation,
- ii. Manipulates any form of lawful gambling or tampers with any gambling equipment with intent to influence the outcome of a game or the receipt of a prize; or
- iii. Knowingly places or uses false information on a prize receipt or on any other form approved for use by the Gambling Control Board or the Alcohol and Gambling Enforcement Division of the Department of Public Safety. Minn. Stat. § 609.763 (2005).

A person who violates subdivision 1 may be sentenced as follows:

- . If the dollar amount involved is \$ 500 or less, the person is guilty of a misdemeanor;
- i. If the dollar amount involved is more than \$ 500 but not more than \$ 2,500, the person is guilty of a gross misdemeanor; and
- ii. If the dollar amount involved is more than \$ 2,500, the person is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$ 6,000, or both. Minn. Stat. § 609.763 (2009).

In a prosecution under this section, the dollar amounts involved in violation of subdivision 1 within any 12-month period may be aggregated and the defendant charged accordingly. When the same person in two or more counties commits two or more offenses, the defendant may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this subdivision. Minn. Stat. § 609.763 (2009).

- 1. **Gambling is punishable as a misdemeanor.** Minn. Stat. § 609.755 (2009).
- 2. **Gambling acts that constitute gross misdemeanors**

While gambling is punishable as a misdemeanor, other acts relating to gambling constitute gross misdemeanors. A person who does any of the following may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both:

- c. Maintains or operates a gambling place or operates a bucket shop;
- d. Intentionally participates in the income of a gambling place or bucket shop;
- e. Conducts a lottery, or, with intent to conduct a lottery, possesses facilities for doing so;
- f. Sets up for use for the purpose of gambling, or collects the proceeds of, any gambling device or bucket shop;
- g. Except as provided in Minn. Stat. § 299L.07 manufactures, sells, offers for sale, or otherwise provides, in whole or any part thereof, any gambling device, including those defined in Minnesota Statutes section 349.30, subdivision 2;
- h. With intent that it shall be so used, manufactures, sells, or offers for sale, any facility for conducting a lottery, except as provided by Minnesota Statutes section 349.40; or
- i. Receives, records, or forwards bets or offers to bet or, with intent to receive, record, or forward bets or offers to bet, possesses facilities to do so. Minn. Stat. § 609.76 (2009).

A person who engages in sports bookmaking is guilty of a felony. Minn. Stat. § 609.76 (2009).

Lottery violations

. A person is guilty of a felony if that person does any of the following with intent to defraud the state lottery:

- . Alters or counterfeits a state lottery ticket;
- i. Knowingly presents an altered or counterfeited state lottery ticket for payment;
- ii. Knowingly transfers an altered or counterfeited state lottery ticket to another person; or
- iii. Otherwise claims a lottery prize by means of fraud, deceit, or misrepresentation. Minn. Stat. § 609.651 (2009).
 - a. A person under the age of 18 years may not buy a ticket in the state lottery. Minn. Stat. § 349A.08.

With intent that it shall be so used, manufactures, sells, or offers for sale, any facility for conducting a lottery, except as provided by Minnesota Statutes section 349.40; or receives,

records, or forwards bets or offers to bet or, with intent to receive, record, or forward bets or offers to bet, possesses facilities to do so. Minn. Stat. § 609.76 (2009).

b. A person is guilty of a felony under Minn. Stat. § 609.631 (2009) if the person:

- vi. Obtains computer access to the state lottery without statutory authorization, or
- vii. Makes a materially false or misleading statement, or a material omission, in a record required to be submitted under the state lottery laws, or in a record submitted in a lottery retailer's application or a document related to a bid. Minn. Stat. § 609.631 (2009).

a. Whoever sells or transfers a chance to participate in a lottery or disseminates information about a lottery with the intent to encourage participation is guilty of a misdemeanor. Minn. Stat. § 609.755 (2009), and whoever conducts a lottery, or with intent to conduct a lottery possesses facilities for doing so, is guilty of a gross misdemeanor. Minn. Stat. § 609.76 (2009).

b. Under age lottery purchase

A person under the age of 18 years may not buy or redeem for a prize a ticket in the state lottery. A lottery retailer may not sell and a lottery retailer or other person may not furnish or redeem for a prize a ticket in the state lottery to any person under the age of 18 years. It is an affirmative defense to a charge under this subdivision for the lottery retailer or other person to prove by a preponderance of the evidence that the lottery retailer or other person reasonably and in good faith relied upon representation of proof of age described in section 340A.503, subdivision 6, in making the sale or furnishing or redeeming the ticket. A violation of these rules is a misdemeanor. Minn. Stat. § 349A.12 (2009).

c. Fraudulent ticket sales

A person other than a lottery retailer may not sell a ticket in the state lottery. A lottery retailer may not sell a ticket for a price other than the price set by the director. A person who is a lottery retailer, or is applying to be a lottery retailer, a person applying for a contract with the director, or a person under contract with the director to supply goods or services to lottery may not pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service, excluding food or beverage, having an aggregate value of over \$ 100 in any calendar year to the director, employee of the lottery, or to a member of the immediate family residing in the same household as that person. Nothing prohibits giving a state lottery ticket as a gift, provided that a state lottery ticket may not be given to a person under the age of 18. A violation of these rules is a gross misdemeanor. Minn. Stat. § 349A.12 (2009).

. State of Anne/ recover of debts

Any person who loses money gambling may sue for and recover such money by a civil action. Minn. Stat. § 541.20 (2009). The right of a loser to recover his losses at gambling from the winner was unknown at common law. The right of recovery is purely statutory. *Foley v. Whelan*, 219 Minn. 209, 210 (Minn. 1945).

This statute is remedial, and hence should be liberally construed in favor of the remedy provided, so as to afford a loser the benefits thereof. *Foley v. Whelan*, 17 N.W.2d 367 (1945). In *Foley*, the one playing coin-operated machine is entitled to recover losses from keeper as money lost at playing game. The court held that the statute authorizing the loser to recover his losses from the winner is in pari materia with, and in aid of, the statutes making gambling an offense. *Id.*

Pursuant to Minn. Stat. § 609.75(4), an "injured person" may bring a civil action to recover damages sustained for violations of the criminal code. Minn. Stat. § 611A.05 (2009). Where a plaintiff can show that he was damaged by the defendant's illegal gambling activities, the trial court may not justifiably enter summary judgment against the plaintiff. *Wexler v. Brothers Entertainment Group, Inc.*, 457 N.W.2d 218, 223 (Minn. Ct. App. 1990).

I. Lawful commercial casino gaming:

Gaming Contracts

By statute, every note, bill, bond, mortgage, or other security or conveyance in which the whole or any part of the consideration shall be for any money or goods won by gambling or playing at cards, dice, or any other game whatever, or by betting on the sides or hands of any person gambling, or for reimbursing or repaying any money knowingly lent or advanced at the time and place of that gambling or betting, or lent and advanced for any gambling or betting to any persons so gambling or betting, shall be void and of no effect as between the parties to the same, and as to all persons except those as hold or claim under them in good faith, without notice of the illegality of the consideration of the contract or conveyance. Minn. Stat. § 541.21 (2009). This statute does not apply to pari-mutuel wagering conducted under a license issued pursuant to Minnesota Statutes chapter 240 or 349 or purchase of tickets in the state lottery under chapter 349A. Minn. Stat. § 541.21 (2009).

All contracts for the settlement of differences according to the rise and fall of the market which do not contemplate delivery under any circumstances as a part of the performance and completion of the purchase are invalid as gambling or wagering contracts and are unenforceable. *In re ESTATE OF PETERSON*, 281 N.W. 877 (Minn. 1938). The validity or invalidity of a contract for sale for future delivery depends upon the actual intention of the parties to the contract at the time of entering into it. *Dunnell Minn. Digest GAMBLING § 3.01 (4th ed.)*.