

HOUSE RESEARCH

Bill Summary

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Overview

This bill authorizes the placement of gaming machines by the state lottery at racetracks. A racetrack would have to have conducted at least 50 days of live racing for at least five consecutive years to be eligible for gaming machines.

The racetrack would make a one-time payment of \$100,000,000 upon entering the contract, to be deposited in the general fund. Once the gaming machines become operational, 55 percent of the revenue (total wager minus payouts) would go to the racetrack. The racetrack would pay the city (or town) and the county where the racetrack is located 1 percent of the revenue and would also be required to use a portion of its share for horse racing purses and the Breeders Fund. The bill imposes a 35 percent in-lieu tax on adjusted gross gaming machine revenue and a 5 percent tax on card club revenue.

The bill also authorizes a racetrack where gaming machines are located to conduct any form of gambling that may be conducted at Indian casinos, subject to regulation by the Racing Commission. These games would be taxed at 20 percent of adjusted gross receipts (revenues less winnings), and the racetrack would be required to set aside a percentage for horse racing purses and the Breeders Fund.

- 1 Purses.** Requires a racetrack that has gaming machines to set aside at least 7.25 percent of adjusted gross gaming machine revenue for horse racing purses. Allows the racetrack and the majority horseperson's organization to negotiate a different percentage if approved by the Racing Commission. Requires 20 percent of this money to go to the Minnesota Breeders Fund for purse supplements.
- 2 Taxes imposed.** Imposes a 5 percent tax on the amount received from charges for card

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- playing services in card clubs, less amounts set aside for purses and the Breeders Fund.
- 3 **Limitations.** Eliminates the statutory limitation on the number of tables permitted at a card club (currently a maximum of 50 tables).
- 4 **Generally.** Permits the Racing Commission's director of racing security or a licensed security office to detain a person if there is probable cause to believe the person committed a gambling crime while at a facility where gaming machines are located.
- 5 **In-lieu tax.** Requires the state lottery to pay 35 percent of adjusted gross gaming machine revenue to the commissioner of revenue, in lieu of sales tax.
- 6 **Gambling device possession.** Exempts gambling devices possessed by the state lottery from the general prohibition against possession of gambling devices.
- 7 **Gambling device distributors.** Allows licensed gambling device distributors and manufacturers to sell, lease, or rent gambling devices to the state lottery.
- 8 **Gambling in licensed liquor establishments.** Exempts gambling devices at racetracks from the prohibition against gambling devices at establishments licensed for retail liquor sales.
- 9 **Lottery procurement contract definition.** Adds contracts for gaming machines to the definition of "lottery procurement contract."
- 10 **Gaming machine definition.** Defines "gaming machine" as a machine, system, or device, which, upon payment of consideration to play a game, may award or entitle a player to a prize by reason of skill, chance, or both.
- 11 **Gaming machine game.** Defines "gaming machine game" as a game played by a gaming machine.
- 12 **Gaming machine play.** Defines "gaming machine play" as a record that proves participation in a gaming machine game.
- 13 **Adjusted gross gaming machine revenue.** Defines "adjusted gross gaming machine revenue" as all money received by the lottery from gaming machine plays, less prizes paid.
- 14 **Lottery operations account.** Excludes from the limit of 15 percent of gross revenue that the lottery may spend on lottery operations amounts transferred or retained by a racetrack under a location contract for gaming machines. Provides that the director cannot credit more than 10 percent of adjusted gross revenue from gaming machines at the gaming facility to the lottery operations account in any fiscal year.
- 15 **Budget; plans.** Exempts amounts paid to an outside vendor for a central system for gaming machines and amounts paid for gaming machines from lottery operating expenses (which are capped by law).
- 16 **Restrictions.** Exempts gaming machines from the prohibition against the lottery installing any coin-operated games.
- 17 **Gaming machine operation.** Provides for the operation of gaming machines by the state lottery at a racetrack.

Subd. 1. Location contract. Authorizes the lottery director to enter into a contract with a class A racetrack that has conducted at least 50 days of live racing each year for the past five calendar years, under which the racetrack provides locations for gaming machines. Requires the contract to:

- include a provision terminating the contract on the first day of a calendar year following a calendar year during which the racetrack failed to conduct at least 50

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days of live racing;

- provide for compensation to the racetrack of at least 55 percent of adjusted gross gaming machine revenue; and
- require the racetrack to annually remit 1 percent of the adjusted gross gaming machine revenue to both the city or town and the county where the racetrack is located.

Permits the director to cancel, suspend, or refuse to renew a contract, or to impose a civil penalty, if the racetrack loses its license; does not account for gaming machine proceeds; fails to remit funds as required; violates a law, rule, or order of the director; fails to comply with the contract; or acts in a manner that hurts public confidence in the integrity of the gaming machines. This termination of a location contract is a contested case under the Administrative Procedures Act.

Prohibits the location of gaming machines in a city or town unless the governing body of the city or town adopts a resolution approving the location of gaming machines.

Requires the racetrack to make a one-time payment of \$100,000,000 to the director by June 30, 2007, to be deposited in the general fund, as a condition of entering the contract. Requires the contract to include a refund provision in the event that this section is repealed by the legislature, revoked by constitutional amendment, or held unconstitutional in court.

Requires the contract to include a liquidated damages provision to recover the licensee's initial investment (including the license payment) if the state revokes by legislation or constitutional amendment all or substantially all forms of gambling authorized by this section. Also requires the contract to specify that the licensee will bear all costs associated with managing the day-to-day activity of gaming machines.

Subd. 2. Machine operation. Requires machines to be operated, controlled, and owned or leased by the lottery. Requires them to be maintained by the lottery or a lottery contractor. Requires a central communications system that monitors each machine. Requires the lottery to approve general security arrangements. Requires the lottery to approve all advertising related to machines. Requires machines to be accessible to individuals with disabilities.

Subd. 3. Games. Requires the director to specify the games played on gaming machines, including horse racing.

Subd. 4. Prizes. Makes gaming machine prizes subject to the same laws as other lottery games with respect to player rights. Exempts gaming machine prizes from the law that authorizes withholding of unpaid taxes from lottery prizes.

Subd. 5. No credit restriction. Requires the licensee to require that all gaming at the

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facility be conducted on a cash basis. Notes that a licensee can offer check cashing or install or accept bank and credit card transactions like other Minnesota retailers.

Subd. 6. Prohibitions. Prohibits persons under age 18, and the lottery director and lottery employees and their immediate families, from playing gaming machines or receiving a prize from the operation of a gaming machine.

Subd. 7. Compulsive gambling; report. Requires the director to post the compulsive gambling hotline number near gaming machines. Requires the director and racetrack to develop a proactive plan relating to problem gambling. Requires the director to report to the legislature on this plan by January 15 of each year.

Permits the licensee to establish a self-exclusion program by which persons can request to be excluded from gaming machine locations.

Subd. 8. No local license. Prohibits political subdivisions from licensing, regulating, or taxing gaming machines.

Subd. 9. Reimbursement to racing commission. Requires the Racing Commission to require the class A licensee to reimburse the commission for its costs of regulating the licensee.

- 18 **Recovery of money lost.** Exempts gaming machine play from the law that allows persons to sue to recover gambling losses.
- 19 **Gambling debts void.** Exempts gaming machine play from the law that makes gambling debts void.
- 20 **What are not bets.** Adds gaming machine plays to the list of gambling activities that are not bets for purposes of state laws that prohibit gambling.
- 21 **Exemption from gambling laws.** Exempts manufacture, possession, sale, and operation of gaming machines from anti-gambling laws.
- 22 **Other games.** Allows the commission to authorize a racetrack with a gaming machine location contract to conduct card games that Indian casinos in Minnesota are authorized to conduct by compact or law. Requires the commission to adopt game procedures and take other actions necessary to regulate the conduct and ensure the integrity of games. Imposes a tax of 20 percent of gross gaming receipts (revenue from card games, less winnings paid to players) on any games conducted under this section. Requires the racetrack to set aside at least 7.25 percent of adjusted gross receipts for purses for live races, 20 percent of which shall be transferred to Breeders Fund. Permits the racetrack and the majority horseperson's organization to negotiate different percentages.
- 23 **Lottery budget; gaming facility.** Requires the director to submit to the commissioner of finance a budget for gaming machine operation. Allows the director to expend amounts necessary to operate gaming at the gaming facility, notwithstanding the statutory provision allowing the legislature to cap lottery operating expenses. Exempts amounts expended at the gaming facility in FY 06 and FY 07 from the cap on expenditures for lottery operations.
- 24 **Severability.** Provides that if any provision of the bill is found unconstitutional or otherwise invalid, all other provisions remain in effect.
- 25 **Effective date.** Makes the act effective the day following final enactment.