

## History of Significant Changes in Gambling Laws

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### **Committee Jurisdiction**

The State and Local Government and Veterans Committee has jurisdiction over the following types of gambling:

- Charitable gambling – regulated by the Gambling Control Board, under Minn. Stat. chapter 349.
- Pari-mutuel wagering on horse races – regulated by the Racing Commission, under chapter 240.
- Lottery – regulated by the State Lottery, under Minn. Stat. chapter 349A.

There are roughly 550 organizations licensed to conduct charitable gambling in the state.<sup>1</sup>

There are currently two licensed racetracks in the state: Canterbury Park in Shakopee and Running Aces in Columbus.

In fiscal year 2021, the total gross revenue from gambling through charitable gambling, pari-mutuel wagering, and the lottery, was \$3.94 billion.<sup>2</sup>

### **Significant Changes in Law Related to Gambling**

The story of gambling laws in the state has been chronicled thoroughly in several publications, including the following three, all available through the Legislative Reference Library:

- Minnesota State Lottery, [Gambling in Minnesota, an Overview](#), (2013)
- Williams, John, [Gambling in Minnesota, a Short History](#), House Research publication (2005)

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<sup>1</sup> [Active Lawful Gambling Organizations](#), Minnesota Gambling Control Board (March 6, 2023)

<sup>2</sup> [Annual Report on Percentage of Gambling Revenues that Come From Problem Gamblers](#), Dept. of Human Services (2022), p. 10.

- Mogensen, Samuel E. "[Don't Chase Your Losses: Online Gambling Regulation and Solutions in Minnesota](#)," Mitchell Hamline Law Review: Vol. 44: Iss. 3, Article 9 (2018).

These works all provide significant color and context to the story of Minnesota's changing gambling laws. This memo is a highly condensed version of that story, simply identifying major changes to gambling laws.

The Minnesota Constitution, enacted in 1857, precludes the legislature from authorizing a lottery: "The legislature shall not authorize any lottery of the sale of lottery tickets."

In 1945, the legislature legalized the conduct of bingo for charitable purposes.<sup>3</sup>

There were no further changes to gambling laws until 1963 when the legislature recodified the state's criminal laws and expressly exempted "private social bets not part of or incidental to organized, commercialized, or systematic gambling."<sup>4</sup>

In 1967, the legislature applied state sale tax to bingo games.<sup>5</sup>

In 1978, the legislature expanded the allowed charitable games to include raffles, paddlewheels, and tipboards. The law also allowed charitable gambling to take place in businesses with liquor licenses.<sup>6</sup>

In 1981, the legislature added pulltabs to the list of allowable charitable games.<sup>7</sup> Also in 1981, the first Native American high stakes bingo hall opened on the Fond du Lac reservation near Cloquet.<sup>8</sup> This was followed soon after by the Little Six parlor on the Mdewakanton Sioux reservation near Shakopee.<sup>9</sup> Twelve more high stakes bingo halls opened on reservations in the state by 1987.<sup>10</sup>

In 1982, the legislature placed a constitutional amendment on the ballot to allow pari-mutuel wagering<sup>11</sup> on horse racing. It was not clear at the time whether a constitutional amendment was necessary to avoid the constitutional prohibition on lotteries, but proposing the amendment to voters avoided any constitutional challenge and was a way to obtain a public referendum on the measure.<sup>12</sup> Voters approved the amendment 64% to 36%.<sup>13</sup> The legislature established the

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<sup>3</sup> Id at 5.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id at 6.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> John Williams, House Research, [Gambling in Minnesota, a Short History](#) (2005), 30

<sup>11</sup> Parimutuel betting is a form of betting where the pot of wagered money is disbursed to winning wagerers. Payouts are determined by the pot and behavior of wagerers in placing bets. The "house" does not have a risk of losing money to pay out winnings.

<sup>12</sup> Minnesota State Lottery, [Gambling in Minnesota, an Overview](#) (2013), p. 6

<sup>13</sup> Id.

Racing Commission in 1983 to issue licenses and regulate the horse racing industry.<sup>14</sup> The first track, Canterbury Downs in Shakopee, opened in 1985.<sup>15</sup> Running Aces opened in 2008.

In 1984, the legislature created the Charitable Gambling Control board and shifted regulatory authority for charitable gambling from local governments to the state.<sup>16</sup>

Before 1987, courts had ruled that states had jurisdiction on reservations for violations of criminal law, but not for matters regarding civil or regulatory law.<sup>17</sup> In 1987, the U.S. Supreme Court ruled that states could not preclude gambling on reservations if the gambling was of a type allowed under regulation elsewhere in the state. California v Cabazon Band of Mission Indians, 480 U.S. 202 (1987). In other words, states were entitled to prevent gambling on Indian lands of the types of gambling that the state prohibited outright elsewhere in the state, but a state could not preclude on Indian lands gambling types that were allowed elsewhere in the state and regulated.

In 1988, voters approved a constitutional amendment to allow the state to operate a lottery. The measure was approved by voters, 59% to 41%.<sup>18</sup> The next year, the legislature created a Department of Gaming, with authority over the lottery, charitable gambling, and horse racing. This department was abolished within two years.

In 1988, Congress enacted the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §2701, that established a framework for legal gambling on reservations that reflected the Court’s decision in the Cabazon case. The framework divided games into three classes, with varying degrees of state input on whether or how the games are conducted:

<b>Class</b>	<b>Types of Games in Class</b>	<b>Legal Parameters</b>
Class I	Social games played solely for prizes of minimal value or traditional forms of Indian gaming in connection with tribal ceremonies or celebrations.	Allowed. Controlled exclusively by tribes
Class II	Games of chance (physical or electronic), including bingo, pull-tabs, punch boards, tip jars; and  Card games that are explicitly authorized and are not explicitly prohibited by the laws of the state and are played at any location. These games must be “unbanked” do not include blackjack or baccarat. “Unbanked” means players play against one another and not against a house.	Allowed on tribal lands if allowed anywhere in the state. Conducted under licenses and regulations established by tribal ordinance. Must be played in conformity with state laws regarding hours of operation and limits on wagers or pot sizes for card games
Class III	All gaming that does not fall within classes I and II. This includes common casino games (e.g.	Allowed only if the State permits such gaming by any person, organization, or

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Id.

	roulette, craps, chemin de fer, baccarat) and banked card games (e.g. blackjack).	entity and if the gaming is the subject of a compact between the state and the tribe.
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The IGRA required states to negotiate in good faith with a tribe that requested a compact. By 1991, Minnesota entered compacts with the eleven federally recognized tribes in the state that allowed the tribes to offer video games of chance.<sup>19</sup> Later, the state entered compacts with the eleven tribes to allow them to offer blackjack, after a federal magistrate ruled that the state was required to negotiate these contracts because the state allowed private social betting.<sup>20</sup>

In 1999, the legislature authorized card clubs at licensed racetracks.<sup>21</sup>

In 2005, the legislature authorized the play of Texas Hold-Em tournaments in bars and restaurants.<sup>22</sup>

In 2012, the state authorized charitable gambling organizations to offer electronic pulltabs and electronic linked bingo games at bars and restaurants, in a bill that funded the construction of the Vikings stadium.<sup>23</sup>

Also, in 2012, Canterbury Park agreed to drop its pursuit for the state to allow slot machines at race tracks (colloquially termed a “racino”) in exchange for payments from the Shakopee Mdewakanton Sioux Community of \$75 million over 10 years.<sup>24</sup> The legislature also loosened restrictions on the card clubs at the racetracks by allowing the tracks to host banked card games (where a player bets against the house rather than only against other players), allowing more card tables in the card clubs, and more and larger tournament events.<sup>25</sup>

### **Current Gambling Issues**

Before 2018, the federal Professional and Amateur Sports Protection Act (PASPA) precluded states from allowing wagering on sports. In 2018, the U.S. Supreme Court held that PASPA was unconstitutional, clearing the way for states to legalize sports wagering.<sup>26</sup> Several sports wagering bills have been introduced in Minnesota since 2019. In 2023, Senators Klein and Miller have introduced sports wagering bills. Senator Klein’s bill, [SF 1949](#), was heard in the senate Committee on Commerce on March 9, 2023.

In 2020, the Shakopee Mdewakanton Sioux Community petitioned an administrative law judge (ALJ) in the Office of Administrative Hearings to declare invalid the Gambling Control Board’s

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<sup>19</sup> Id.

<sup>20</sup> Williams, John, Gambling in Minnesota, a Short History, House Research publication (2005), p. 5.

<sup>21</sup> Minnesota Laws 1999, [chapter 206](#).

<sup>22</sup> Minnesota Laws 2005, [chapter 166](#).

<sup>23</sup> Minnesota Laws 2012, [chapter 299](#).

<sup>24</sup> Karnowski, Steve, “[Tribe, Canterbury horse track reach deal to stop racino](#),” MPR News (June 4, 2012).

<sup>25</sup> Minnesota Laws 2012, [chapter 279](#).

<sup>26</sup> [Murphy v. NCAA](#), 138 S.Ct. 1461 (2018).

approval of electronic pulltab machines that displayed multiple pulltabs being opened in one window in response to a single touch (“open-all” functionality).<sup>27</sup> The Community asserted that the Board’s decision to allow these electronic pulltabs amounted to a rule and that the rule had been adopted without a proper rulemaking process. The ALJ decided in favor of the Board. The Community appealed to the Minnesota Court of Appeals. On February 27, 2023, the court of appeals reversed the decision of the Gambling Control Board and concluded that the Board had implemented an “unadopted rule” which the court declared invalid because the rule was adopted without proper rulemaking process. The result of this ruling is that charitable gambling organizations may not offer “open-all” functionality on electronic pulltab devices until the Board conducts rulemaking to adopt the rule allowing these devices.

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<sup>27</sup> In re Shakopee Mdewakanton Sioux Cmty., \_\_N.W.2d\_\_, (Minn. Ct. App. Feb. 27, 2023).