

## POSSESSION OF GAMBLING DEVICES

### **99A.1 Definitions.**

For the purpose of this chapter, the words, terms, and phrases defined in this section shall have the meanings given them.

1. "*Gambling devices*" means gambling devices as defined in section 725.9.
2. "*Issuing authority*" and "*authority issuing the license*" mean and include the officer, board, bureau, department, commission, or agency of the state, or of any of its municipalities, by whom any license is issued and include the councils and governing bodies of all municipalities.
3. "*License*" includes permits of every kind, nature and description issued pursuant to any statute or ordinance for the carrying on, or used in the carrying on, of any business, trade, vocation, commercial enterprise or undertaking.
4. "*Licensed business*" means any business, trade, vocation, commercial enterprise, or undertaking for which any license is issued.
5. "*Licensed premises*" means the place or building, or the room in a building of the licensed business, and all land adjacent thereto and used in connection with and in the operation of a licensed business, and all adjacent or contiguous rooms or buildings operated or used in connection with the buildings of the licensed business.
6. "*Licensee*" means any person to whom a license of any kind is issued.
7. "*Municipality*" means any county, city, village or township.
8. "*Person*" means an individual, a copartnership, an association, corporation, or any other entity or organization.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 99A.1]

### **99A.2 Intentional possession.**

The intentional possession or willful keeping of a gambling device upon any licensed premises, except as provided in this chapter, is cause for the revocation of any license upon the premises where the gambling device is found. Possession by an employee of the licensee on the premises of the licensee creates a presumption of intentional possession by the licensee.

All licenses of any licensed business shall be revoked if the intentional possession or willful keeping of any such gambling device upon the licensed premises is established, notwithstanding that it may not be made to appear that such devices have actually been used or operated for the purpose of gambling.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 99A.2]

83 Acts, ch 187, § 31

### **99A.3 Proceedings to revoke.**

The proceedings for revocation shall be had before the issuing authority, which shall have power to revoke the license or licenses involved, as hereinafter provided.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 99A.3]

#### **99A.4 Duties of peace officers.**

Every sheriff, deputy sheriff, constable, marshal, policeman, police officer, and peace officer shall immediately report the finding of gambling devices at licensed premises to the authority or authorities issuing the license or licenses applicable to the premises in question.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 99A.4]

94 Acts, ch 1173, §6

#### **99A.5 Order to show cause.**

Upon the receipt of such information from any of the peace officers referred to in section 99A.4, if any issuing authority is of the opinion that cause exists for the revocation of any such license, then that authority shall issue an order to show cause directed to the licensee of the premises, stating the ground upon which the proceeding is based and requiring the licensee to appear and show cause at a time and place within the county in which the licensed premises are located, not less than ten days after the date of the order, why the licensee's license should not be revoked. The order to show cause shall be served upon the licensee as an original notice, or by certified mail, not less than eight days before the date fixed for the hearing thereof. A copy of the order shall forthwith be mailed to the owner of the premises, as shown by the records in the office of the county recorder at the owner's last known post-office address. A copy of the order shall at the same time be mailed to any other issuing authority, of which the authority issuing the order to show cause has knowledge, by which other licenses to that licensee may have been issued, and any such other authority may participate in the revocation proceedings after notifying the licensee and the officer or authority holding the hearing of its intention so to do on or before the date of hearing, and after the hearing take such action as it could have taken had it instituted the revocation proceedings in the first instance.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 99A.5]

#### **99A.6 Licenses revoked appeal.**

If, upon the hearing of the order to show cause, the issuing authority finds that the licensee intentionally possessed or willfully kept upon the licensee's licensed premises any gambling device, then the license or licenses under which the licensed business is operated, or used in the operation of such business on the licensed premises, shall be revoked.

Judicial review of actions of the issuing authorities may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Municipalities acting as issuing authorities shall be deemed state agencies solely for the purposes of bringing their actions under this chapter within the terms of section 17A.19. If the licensee has not filed a petition for judicial review in district court, revocation shall date from the thirty-first day following the date of the order of the issuing authority. If the licensee has filed a petition for judicial review, revocation shall date from the thirty-first day following entry of the order of the district court, if action by the district court is adverse to the licensee.

No new license or licenses shall be granted the licensee, nor for the same business if it is established that the owner had actual knowledge of the existence of the gambling devices resulting in the license revocation, upon the same premises, for the period of one year following the date of revocation.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 99A.6]

2003 Acts, ch 44, §114

### **99A.7 Attorney general duty.**

The attorney general shall attend the hearing, interrogate the witnesses, and advise the issuing authority. The attorney general shall also appear for the issuing authority in any certiorari proceeding taken pursuant to section 99A.6.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 99A.7]

94 Acts, ch 1173, §7

### **99A.8 Witnesses.**

The issuing authority may issue subpoenas and compel the attendance of witnesses at any hearing. Witnesses duly subpoenaed and attending any such hearing shall be paid fees and mileage by the issuing authority equal to the fees and mileage paid witnesses in the district court.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 99A.8]

### **99A.9 Owner of premises when penalized.**

When the license is revoked under the provisions of this chapter, subject to the provisions of section 99A.6, the owner of the premises upon which any licensed business has been operated shall not be penalized by reason thereof unless it is established that the owner had knowledge of the existence of the gambling devices resulting in the license revocation.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 99A.9]

### **99A.10 Manufacture and distribution of gambling devices permitted.**

A person may manufacture or act as a distributor for gambling devices for sale out of the state in another jurisdiction where possession of the device is legal or for sale in the state or use in the state if the use is permitted pursuant to either chapter 99B or chapter 99G.

85 Acts, ch 32, §117; 86 Acts, ch 1052, § 1; 90 Acts, ch 1062, § 1; 2003 Acts, ch 178, §101, 121; 2003 Acts, ch 179, §142