

1 **Title 36 STATE LOTTERY AND GAMING CONTROL AGENCY**

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3 **Subtitle 02 LOTTERY PROVISIONS**

4
5 **Chapter 02 Retailer Licensing**

6
7 Authority: State Government Article, §§ 9-112, 9-113, 9-114, and 9-115, Annotated Code of
8 Maryland

9 **.01 Definitions.**

10 A. In this chapter, the following terms have the meanings indicated.

11 B. Terms Defined.

12 (1) "Applicant" means a person applying for a lottery license and includes the individual
13 completing the application.

14 (2) "Probationary license" means a license issued by the Director to a new retailer that is
15 valid for a 12 month period, beginning with the first week of sales.

16 (3) "Regular license" means a license issued by the Director to a retailer who has
17 satisfactorily completed the requirements of a probationary license.

18 (4) "Special license" means a lottery license issued by the Director for special purposes as
19 determined by the Director.

20 (5) "Total sales" means amount of the sale of all lottery products by a retailer, minus the
21 value of all cancelled lottery tickets.

22 **.02 License Required.**

23 A. A person who sells a lottery ticket shall be licensed by the Agency as a retailer.

24 B. A person to be licensed as a retailer shall be issued a probationary license before being
25 eligible to receive a regular license.

26 C. No individual younger than 21 years old may be licensed as a lottery retailer.

27 D. A department, commission, agency, or instrument of the State, or its subdivisions that
28 seeks a license as a lottery retailer shall demonstrate to the satisfaction of the Director the
29 permission of any other person, board, commission, agent or instrumentality of the State, or its
30 subdivisions that may have controlling authority over the applicant.

1 E. An applicant for a license to be a lottery retailer whose proposed license location is in a
2 public facility shall demonstrate to the satisfaction of the Director that the owner or lessor of the
3 facility will allow the sale of tickets by the applicant.

4 **.03 License Restrictions.**

5 A. A retailer license may not be transferred to another person without the approval of the
6 Director.

7 B. A license may not be issued to any person to engage in business primarily as a lottery
8 retailer.

9 **.04 Application Process.**

10 A. To obtain a retailer license, a person shall submit to the Agency:

- 11 (1) A completed application on the forms required by the Agency; and
- 12 (2) Any other information requested by the Director.

13 B. The Director shall consider:

- 14 (1) The financial responsibility and security of the applicant and the applicant's business
15 or activity;
- 16 (2) The honesty and integrity of the applicant;
- 17 (3) The accessibility of the applicant's place of business or activity to the public;
- 18 (4) The suitability of the applicant's business for the sale of lottery tickets;
- 19 (5) The applicant's compliance with State and local business and taxation requirements;
- 20 (6) The sufficiency of existing licenses to serve the public convenience;
- 21 (7) The volume of the applicant's expected total sales;
- 22 (8) The accuracy of the information supplied in the application for a lottery retailer's
23 license; and
- 24 (9) Any other information deemed relevant by the Director.

25 **.05 Security.**

26 A. At the discretion of the Director and in the amount determined by the Director, an
27 applicant or a retailer may be required to post:

- (1) A surety bond;
- (2) An irrevocable letter of credit;
- (3) A cash security deposit; or
- (4) Any other form of security deemed acceptable to the Director.

.06 Probationary License.

A. New retailer.

- (1) All licenses issued by the Director to new retailers are probationary licenses.
- (2) The Director may terminate a probationary license without a hearing upon determination by the Director that the retailer has violated any provision in this subtitle.

B. Termination.

- (1) Before terminating a probationary license, the Director shall send written notice to the retailer of the Agency's intent to terminate the probationary license.
- (2) The notice shall include:
 - (a) The reason for the termination of the probationary license; and
 - (b) A statement that the retailer, upon written request, may appear before the Director to present his views.
- (3) A written request to appear before the Director shall be submitted within 10 days of the date of the notice of termination.
- (4) Failure to timely submit a written request to appear before the Director shall result in termination of the probationary license.
- (5) The decision of the Director to terminate a probationary license is final and not appealable.

.07 Special License.

A. The Director may issue a special license, subject to such conditions or limitations as the Director deems appropriate.

B. The limitations or conditions for the special lottery retailers may include:

- 1 (1) The length of the license period;
- 2 (2) The hours or days of sale;
- 3 (3) The location of sale;
- 4 (4) The specific persons who are allowed to sell lottery tickets; and
- 5 (5) The specific sporting, charitable, social, or other special events where lottery tickets
- 6 may be sold.

7 C. The Director may terminate a special license for any reason.

8 D. The decision of the Director to terminate a special license is final and not appealable.

9 **.08 Denial of a License.**

10 A. If the Director denies a license, the Director shall promptly provide the applicant with

11 written notice of the:

12 (1) Basis for the denial; and

13 (2) Applicant's right to request a reconsideration meeting with the Director or the

14 Director's designee.

15 B. An applicant may submit to the Director a written request for a reconsideration meeting

16 within 15 days of the date of the notice described in § A of this regulation.

17 C. If an applicant fails to timely submit a written request for a reconsideration meeting, the

18 Commission may adopt as final the recommendation of the Director or the Director's designee.

19 D. During a reconsideration meeting, an applicant may:

20 (1) Be represented by counsel; and

21 (2) Present evidence as to why the license should be granted;

22 E. If after the reconsideration meeting the applicant is dissatisfied with the decision of the

23 Director or the Director's designee, the applicant may submit to the Commission, in writing:

24 (1) A request for a hearing before the Commission to appeal the decision of the Director

25 or the Director's designee to deny the license; and

26 (2) Shall submit the applicant's legal and factual basis for disagreeing with the denial

27 decision.

1 F. An applicant must submit a hearing request to the Commission within 15 days of the date
2 of the decision of the Director or the Director's designee after the reconsideration meeting.
3

4 G. If an applicant fails to submit a hearing request that complies with §§ E and F of this
5 Regulation, the Commission may adopt as final the decision of the Director or the Director's
6 designee to deny the application.
7

8 H. A timely written hearing request shall be the subject of a Commission hearing conducted
9 pursuant to COMAR 36.01.02.06.
10

11 I. Judicial review. The Commission's final action on a license denial is subject to judicial
12 review as provided in State Government Article, Title 10, Subtitle 2, Annotated Code of
13 Maryland.
14

15 J. Limitation on reapplication. An applicant may not submit an application or be included
16 in the application of another person for one year after the later of:
17

18 (1) The final action on a license denial denying the applicant's application; or
19

20 (2) If judicial review of the final action on a license denial is taken, the date an adverse
21 decision is entered against the retailer by the highest court to which an appeal is taken.
22

23 **.09 Corrective Action.**

24 **A. Deficiency.**

25 If the Director determines that a retailer no longer meets a license requirement of this
26 chapter, or that there is cause for imposing sanctions under Regulation .10 of this chapter, the
27 Director shall:
28

29 (1) Assess the seriousness of the deficiency;
30

31 (2) Require the retailer to develop a corrective action plan;
32

33 (3) Determine whether it is necessary during the pendency of the corrective action
34 process to emergently suspend the retailer's license;
35

36 (4) Evaluate and, if acceptable to the Agency, approve the corrective action plan;
37

38 (5) Determine appropriate timelines for the completion of corrective action;
39

40 (6) Conduct periodic monitoring of a retailer for which the Agency required a corrective
41 action plan to assess the retailer's progress toward remedying the deficiencies; and
42

43 (7) Recommend that the Commission impose a sanction under Regulation .10 of this
44 chapter if a deficiency is not remedied through implementation of corrective action.
45
46

1
2 B. Deficiency Notice.
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4 Upon determining that corrective action is required to remedy a deficiency, the Director
5 shall give written notice to a retailer that includes:
6

7 (1) A description of the violation;
8

9 (2) A description of the possible sanctions; and
10

11 (3) The requirement for the retailer to submit a corrective action plan to the Director
12 within a time frame established by the Director.
13

14 C. Corrective Action Plan.
15

16 (1) Within 10 days of receipt of a deficiency notice under § B of this regulation, the
17 retailer shall submit a corrective action plan to the Director for the Director's approval.
18

19 (2) The Director shall review the corrective action plan and inform the retailer whether
20 the corrective action plan is acceptable.
21

22 (3) If the retailer fails to submit an acceptable corrective action plan within the time
23 described under § C(1) of this regulation, the Director may:
24

25 (a) Provide the retailer with additional time within which to submit a revised
26 corrective action plan; or
27

28 (b) Impose a sanction on the retailer under Regulation .10 of this chapter.
29

30 (4) If the Director provided a retailer notice under § B(3) of this regulation and received
31 no timely written response, the Commission may adopt as final the Director's decision to impose
32 a sanction under Regulation .10 of this chapter.
33

34 D. Corrective Action Outcomes.
35

36 (1) If at any time during the corrective action period the Director determines that the
37 retailer has failed to fulfill a requirement of the corrective action plan or has made insufficient
38 progress toward remedying a deficiency, the Director may:
39

40 (a) For good cause, extend the time for completion of a corrective action plan; or
41

42 (b) Emergently suspend the retailer's license.
43

44 (2) If at the end of the corrective action period the retailer has failed to adequately
45 remedy a deficiency, the Director may impose a sanction under Regulation .10 of this chapter.
46

1 **.10 Sanctions.**
2

3 A. The Director may impose sanctions on a retailer for:
4

5 (1) Violating or failing to fulfill the retailer's responsibilities or a condition of a license
6 under this subtitle;
7

8 (2) Violating:
9

10 (a) A provision of the lottery law;
11

12 (b) A regulation adopted under the lottery law; or
13

14 (c) An order or directive of the Agency;
15

16 (3) Providing the Agency with false or misleading information;
17

18 (4) Failing to cooperate with the Agency;
19

20 (5) Failing to remit, or failing to make timely remittance of, funds owed to the Agency;
21

22 (6) During a 10-week period within 30 days preceding a notice of deficiency or sanction,
23 failing to:
24

25 (a) Attain the lesser of the lesser of:
26

27 (i) An average of \$5000 per week in total sales; or
28

29 (ii) Fifty percent of the average total sales of the 5 closest daily lottery retailers; or
30

31 (b) Maintain an average cashing ratio of at least 25 percent of total sales;
32

33 (7) Failing to display lottery point of sale material and equipment as directed by the
34 Agency;
35

36 (8) Failing to make tickets available for sale as directed by the Agency;
37

38 (9) Damaging or altering, or allowing another person to damage or alter, materials or
39 equipment provided to the retailer by the Agency or a vendor of the Agency;
40

41 (10) Interfering with, or influencing the outcome of, a lottery game;
42

43 (11) Failing to prepare, submit, or implement an adequate corrective plan under
44 Regulation .09 C of this chapter;
45

1 (12) Changing ownership of the retailer's operations without prior notice to the
2 Agency;

3
4 (13) Closing the retailer's operations without prior notice to and authorization by the
5 Agency;

6
7 (14) Engaging in conduct, or permitting an employee to engage in conduct, that impairs
8 the reputation of the lottery program, or would otherwise bring the State into disrepute;

9
10 (15) Incurring criminal charges related to the conduct of illegal gaming;

11
12 (16) Possessing materials or equipment indicating involvement by the retailer or the
13 retailer's employees in the conduct of illegal gaming; or

14
15 (17) Other activities or action deemed by Director to require the imposition of a
16 sanction.

17
18 B. Types of Sanctions.

19
20 (1) Sanctions may include the emergency suspension, suspension, revocation, and
21 limitation of the license of a retailer.

22
23 (2) Limitations on a license may include:

24
25 (a) Ineligibility for or removal from the Expanding Cashing Authority Program under
26 COMAR 36.02.03.06; and

27
28 (b) Placement of conditions on the retailer's operations.

29
30 C. Suspension, Revocation and Limitation.

31
32 (1) Except as set forth in § D of this regulation, the Director shall give the retailer notice
33 of the intended suspension or revocation at least 15 days before the imposition of the intended
34 sanction.

35
36 (2) A retailer may appeal the Director's imposition of a sanction before the date the
37 sanction is imposed by submitting a request for a hearing before the Commission.

38
39 (3) The Commission's final action on a sanction is subject to judicial review as provided
40 in State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

41
42 D. Emergency Suspension.

43
44 (1) Notwithstanding any other requirement of this chapter, if the Director determines that
45 immediate action is necessary to protect against an imminent, serious threat by a retailer to the

1 security, financial stability, reputation or integrity of the lottery, the Director may suspend the
2 license of a retailer without prior notice.

3
4 (2) If the Director emergently suspends a retailer's license, the Director shall provide the
5 retailer with written notice that includes:

6
7 (a) A statement of the authority upon which the suspension is based;

8
9 (b) The nature of the violation;

10
11 (c) The duration of suspension;

12
13 (d) Information about the retailer's obligation to submit to the Agency a corrective
14 plan; and

15
16 (e) A statement of the retailer's right to request a Commission hearing.

17
18 (3) If after a license is emergently suspended, the retailer does not submit a timely written
19 request for a Commission hearing, the Director may move to revoke the retailer's license by
20 giving the retailer notice under § C(1) of this regulation.

21
22 E. Agency Action.

23
24 After the Director terminates a probationary or special license or imposes an emergency
25 suspension or sanction on a retailer with a regular license, the Agency may:

26
27 (1) Disable connectivity with lottery operations between the Agency and the retailer;

28
29 (2) Require the retailer to surrender, or direct an Agency vendor to remove, any materials
30 or equipment that were provided to the retailer by the Agency or a vendor of the Agency
31 equipment;

32
33 (3) Direct the retailer to immediately:

34
35 (a) Cease selling or displaying lottery products;

36
37 (b) Render a final accounting to the Agency in a manner specified by the Director;
38 and

39
40 (c) Pay all funds owed the Agency; and

41
42 (4) Take any other action necessary to protect the security, financial stability, reputation
43 or integrity of the Agency.

44
45 F. Reapplication.

1 A person may not reapply to be a retailer or be included in the application of another
2 person for one year after the later of:

3
4 (1) The final action on a sanction; or

5
6 (2) If judicial review of the final action on a sanction is taken, the date an adverse
7 decision is entered against the retailer by the highest court to which an appeal is taken.

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