# Title 36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY

## Subtitle 02 LOTTERY PROVISIONS

### Chapter 02 Retailer Licensing

#### Authority: State Government Article, §§9-101, 9-111—9-116, and 9-119, Annotated Code of Maryland

### .01 Definitions.

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

B. Terms Defined.

(1) “Applicant” means a person applying for a lottery license and includes the individual completing the application.

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

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

(4) “Special license” means a lottery license issued by the Director for special purposes as determined by the Director.

**(5)** **“Terminate” or “revoke” mean, with regard to any Lottery license, removal of the right to sell Lottery tickets.**

~~(5)~~**(6)** “Total sales” means **the** amount of the sale of all lottery products by a retailer, minus the value of all cancelled lottery tickets.

### .02 License Required.

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

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

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

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

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

### .03 License Restrictions.

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

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

### .04 Application Process.

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

(1) A completed application on the forms required by the Agency; and

(2) Any other information requested by the Director.

B. The Director shall consider:

(1) The financial responsibility and security of the applicant and the applicant's business or activity;

(2) The honesty and integrity of the applicant;

(3) The accessibility of the applicant's place of business or activity to the public;

(4) The suitability of the applicant's business for the sale of lottery tickets;

(5) The applicant’s compliance with State and local business and taxation requirements;

(6) The sufficiency of existing licenses to serve the public convenience;

(7) The volume of the applicant’s expected total sales;

(8) The accuracy of the information supplied in the application for a lottery retailer’s license; and

(9) Any other information deemed relevant by the Director.

### .05 Security.

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

A. A surety bond;

B. An irrevocable letter of credit;

C. A cash security deposit; ~~or~~

**D.** **Lottery escrow deposit; or**

~~D.~~ **E.** 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 **or the Director’s designee** to present ~~his~~**the retailer’s** 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) The length of the license period;

(2) The hours or days of sale;

(3) The location of sale;

(4) The specific persons who are allowed to sell lottery tickets; and

(5) The specific sporting, charitable, social, or other special events where lottery tickets may be sold.

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

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

### .08 Denial of a License.

A. If the Director denies a license, the Director shall promptly provide the applicant with written notice of the:

(1) Basis for the denial; and

(2) Applicant’s right to request a reconsideration meeting with the Director or the Director’s designee.

B. An applicant may submit to the Director a written request for a reconsideration meeting within 15 days of the date of the notice described in §A of this regulation.

C. If an applicant fails to timely submit a written request for a reconsideration meeting, the Commission may adopt as final the recommendation of the Director or the Director’s designee.

D. During a reconsideration meeting, an applicant may:

(1) Be represented by counsel; and

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

E. If after the reconsideration meeting the applicant is dissatisfied with the decision of the Director or the Director’s designee, the applicant may submit to the Commission, in writing:

(1) A request for a hearing before the Commission to appeal the decision of the Director or the Director’s designee to deny the license; and

(2) The applicant’s legal and factual basis for disagreeing with the denial decision.

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

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

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

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

J. Limitation on Reapplication. An applicant may not submit an application or be included in the application of another person for 1 year after the later of:

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

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

### .09 Corrective Action.

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

(1) Assess the seriousness of the deficiency;

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

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

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

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

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

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

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

(1) A description of the violation;

(2) A description of the possible sanctions; and

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

C. Corrective Action Plan.

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

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

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

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

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

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

D. Corrective Action Outcomes.

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

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

(b) Emergently suspend the retailer’s license.

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

### .10 Sanctions.

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

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

(2) Violating:

(a) A provision of the lottery law;

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

(c) An order or directive of the Agency;

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

(4) Failing to cooperate with the Agency;

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

(6) ~~During a 10-week period within 30 days preceding a notice of deficiency or sanction, failing to:~~**Failing to meet the retailer’s sales requirements as set by the Agency;**

~~(a) Attain the lesser of:~~

~~(i) An average of $5000 per week in total sales; or~~

~~(ii) 50 percent of the average total sales of the five closest lottery retailers; or~~

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

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

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

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

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

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

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

(13) Closing the retailer’s operations without prior notice to and authorization by the Agency;

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

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

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

(17) Other activities or actions deemed by the Director to require the imposition of a sanction.

B. Types of Sanctions.

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

(2) Limitations on a license may include:

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

(b) Placement of conditions on the retailer’s operations.

C. Suspension, Revocation, and Limitation.

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

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

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

D. Emergency Suspension.

(1) Notwithstanding any other requirement of this chapter, if the Director determines that immediate action is necessary to protect against an imminent, serious threat by a retailer to the security, financial stability, reputation, or integrity of the lottery, the Director may suspend the license of a retailer without prior notice.

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

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

(b) The nature of the violation;

(c) The duration of suspension;

(d) Information about the retailer’s obligation to submit to the Agency a corrective plan; and

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

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

E. Agency Action. After the Director terminates a probationary or special license or imposes an emergency suspension or sanction on a retailer with a regular license, the Agency may:

(1) Disable **the retailer’s lottery terminal** ~~connectivity with lottery operations between the Agency and the retailer;~~

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

(3) Direct the retailer to immediately:

(a) Cease selling or displaying lottery products;

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

(c) Pay all funds owed the Agency; and

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

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

(1) The final action on a sanction; or

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