

1 **Title 36 MARYLAND STATE LOTTERY AND**
2 **GAMING CONTROL AGENCY**
3 **Subtitle 03 GAMING PROVISIONS**

4 **Chapter 07 Mandatory Exclusion**

5 **Authority: State Government Article, §9-1A-24(d), Annotated Code of Maryland**

6 **.01 General.**

7 This chapter establishes a mechanism by which the Commission:

8 A. Maintains a list of individuals who are to be mandatorily excluded or ejected from a video
9 lottery facility; and

10 B. Establishes standards that require a video lottery operation licensee to:

11 (1) Exclude or eject an individual from the premises of a video lottery facility; and

12 (2) Ensure that intoxicated individuals and individuals under the age of 21 are not allowed:

13 (a) To play video lottery terminals or table games; and

14 (b) In areas of the video lottery facility where video lottery terminals or table games are
15 located.

16 **.02 Definitions.**

17 A. In this chapter, the following terms have the meaning indicated.

18 B. Terms Defined.

For June 28, 2018 Commission meeting.

Most of the proposed amendments would clarify the process by which the Director may place an individual on the mandatory exclusion list, the information the Director would consider, and how the list is maintained. The amendment to Regulation .04D(9) would allow the Director to delegate mandatory exclusion list appeals to the OAH; this is related to a motion for delegation that Mr. Fontaine will request from the Commission. There are also proposed clean-up amendments, including adding the term “hearing” in Regulation .04D and removing the term “regular” from references to the delivery of mail by the U.S. mail.

1 (1) “Excluded individual” means an individual whose name and identifying information have
2 been placed on the mandatory exclusion list.

3 (2) “Mandatory exclusion list” means a list that is maintained by the Commission and
4 identifies those individuals whom the Commission has directed be mandatorily excluded or
5 ejected by a video lottery operation licensee from any video lottery operation licensed in the
6 State.

7 (3) Unredeemed Item.

8 (a) “Unredeemed item” means a token, voucher, check, ticket, chip, coupon, or similar
9 item that has monetary value, and that a player has:

10 (i) Won by playing a video lottery terminal or table game;

11 (ii) Inserted into a video lottery terminal;

12 (iii) Played at a table game; or

13 (iv) Received by converting cash, check, or wire transfer at a video lottery facility.

14 (b) “Unredeemed item” does not include cash.

15 **.03 Mandatory Exclusion List.**

16 A. The Commission shall establish a mandatory exclusion list.

17 B. The Director may place on the mandatory exclusion list an individual who:

18 (1) Is a career offender;

For June 28, 2018 Commission meeting.

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1 (2) Has been convicted of a criminal offense under the laws of the United States or any
2 jurisdiction within the United States that is a criminal offense involving moral turpitude or a
3 gambling offense;

4 (3) Would adversely affect the interests of the State, the licensee, or the individual if the
5 individual is ~~present in the establishment of a licensee~~ **were to be present at a video lottery**
6 **facility**;

7 (4) Is the subject of any administrative or judicial order directing the individual to stay away
8 from a video lottery or other gaming facility;

9 (5) Presents a threat to the safety of any individual on the premises of a video lottery facility;

10 (6) Engages in, or has a documented history of engaging in, disruption of video lottery or
11 table game play;

12 (7) The Director or a facility operator has a reasonable belief has cheated, or attempted to
13 cheat, at a facility by engaging in conduct including:

14 (a) Altering or misrepresenting the outcome of a game or event on which bets have been
15 placed;

16 (b) Placing, cancelling, increasing, or decreasing a bet based on knowledge that is not
17 available to other players;

18 (c) Claiming or collecting a prize from a video lottery facility that the individual did not
19 win or earn or that the individual was not otherwise authorized to claim or collect;

20 (d) Manipulating a video lottery terminal, a table game, a central monitor and control
21 system, or associated equipment or software to affect the outcome of a game or bet; or

22 (e) Altering the elements of chance or methods of selection or criteria that determine the
23 outcome of a game or bet; or

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1 (8) Engages in any conduct that may adversely affect public confidence in, or perception of,
2 video lottery or table game operations in the State.

3 **C. In evaluating whether to place an individual on the mandatory exclusion list, the**
4 **Director may specify monetary amounts and circumstances, including:**

5 **(1) The nature of the incident;**

6 **(2) Whether the individual was a video lottery employee licensee at the time of the**
7 **incident;**

8 **(3) If the individual was a licensee, whether the individual was working at a video**
9 **lottery facility while the individual engaged in conduct described in § B of this regulation;**

10 **(4) Whether the incident directly impacts:**

11 **(a) A video lottery facility;**

12 **(b) A player; or**

13 **(c) A licensee;**

14 **(5) The amount or type of loss to:**

15 **(a) A video lottery facility;**

16 **(b) A player; or**

17 **(c) A licensee;**

18 **(6) Whether the individual made restitution;**

For June 28, 2018 Commission meeting.

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1 **(7) Whether the individual was involved in a prior incident that meets the criteria of §B**
2 **of this regulation;**

3 **(8) Whether a video lottery facility has other information the Director finds relevant;**
4 **and**

5 **(9) Any other information the Director finds relevant.**

6 ~~C.~~ **D.** The entry of an individual on the mandatory exclusion list shall include sufficient
7 information to identify the excluded individual.

8 ~~D.~~ **E.** The information used to identify an excluded individual may include:

9 (1) The individual's:

10 (a) Name and any nickname or alias;

11 (b) Residential address;

12 (c) Telephone numbers;

13 (d) Gender;

14 (e) Physical description, including any birthmarks, scars, or tattoos;

15 (f) Race or ethnic origin;

16 (g) For non-United States citizens, country of origin; and

17 (h) Photograph;

18 (2) Date of placement on the mandatory exclusion list;

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1 (3) Brief statement of the basis for placing the individual on the mandatory exclusion list;
2 and

3 (4) Any other information the Commission requires.

4 ~~E. F.~~ The mandatory exclusion list and related records are public records under General
5 Provisions Article, §4-101, Annotated Code of Maryland.

6 **.04 Inclusion on Mandatory Exclusion List.**

7 A. Upon receipt of information that reasonably indicates an individual meets any criteria under
8 Regulation .03B of this chapter, **and after making any considerations described in Regulation**
9 **.03 of this chapter**, the Director shall:

10 (1) Evaluate the information;

11 (2) Ensure that the information required under Regulation ~~.03D~~.**.03E** of this chapter
12 sufficiently identifies the individual; and

13 (3) Decide whether to place the individual on the mandatory exclusion list.

14 **B. Prior to placing an individual on the mandatory exclusion list, the Director or the**
15 **Director’s designee may provide a video lottery facility with:**

16 **(1) Information used to identify an individual who may be excluded;**

17 **(2) The factual basis for placing an individual on the mandatory exclusion list; and**

18 **(3) An opportunity to provide the Director with information identified in Regulation .03**
19 **of this chapter.**

20 ~~B. C.~~ If the Director decides to place an individual on the mandatory exclusion list, staff shall
21 deliver to the individual by ~~regular~~ U.S. mail a written notice explaining:

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- 1 (1) The factual basis for placing the individual on the mandatory exclusion list;
- 2 (2) The availability of a reconsideration meeting with the Director or the Director’s designee;
- 3 (3) The requirements for submitting a request for a reconsideration meeting;
- 4 (4) ~~That if~~ **If** a timely **request for a reconsideration meeting** request is not submitted, the
5 individual’s name shall be placed on a mandatory exclusion list ~~that~~ **and the name** will be
6 distributed to all facility operators in the State and be publicly available; and
- 7 (5) That the excluded individual shall be:
 - 8 (a) Prohibited from entering any video lottery facility; and **from** playing any video lottery
9 terminal or table game; in the State;
 - 10 (b) Subject to criminal charges for trespassing or any other appropriate criminal charge;
11 and
 - 12 (c) Required to:
 - 13 (i) Redeem or liquidate an unredeemed item with monetary value that the individual
14 has received since being placed on the mandatory exclusion list; and
 - 15 (ii) Surrender to the Problem Gambling Fund established under State Government
16 Article, §9-1A-33, Annotated Code of Maryland, any unredeemed items and prizes in the
17 possession of the individual or received by the individual at a video lottery facility after
18 placement on the mandatory exclusion list.

19 ~~C.~~ **D.** Reconsideration Meeting.

- 20 (1) An individual may submit to the Director a written request for a reconsideration meeting
21 within 15 days of the date of the individual’s receipt of the notice described in ~~§B~~ **§C** of this
22 regulation.

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1 (2) If an individual fails to timely submit a request under ~~§C(4)~~ **§D(1)** of this regulation, the
2 individual shall be placed on the mandatory exclusion list.

3 (3) A reconsideration meeting may be held by the Director or the Director's designee;

4 (4) During a reconsideration meeting, an individual may:

5 (a) Be represented by counsel; and

6 (b) Present evidence as to why the individual does not meet the criteria under Regulation
7 .03B of this chapter.

8 (5) The Director or the Director's designee shall deliver to the individual by ~~regular~~ U.S.
9 mail a written notice of the decision following the reconsideration meeting.

10 (6) An individual dissatisfied with the result of a reconsideration meeting may submit a
11 written request to the Commission for an appeal **hearing**.

12 (7) The request for an appeal **hearing** shall:

13 (a) Be submitted within 15 days of the date of the individual's receipt of the written
14 notice of the decision following the reconsideration meeting; and

15 (b) Describe the individual's legal and factual bases for disagreeing with placement on
16 the mandatory exclusion list.

17 (8) If an individual fails to timely submit a written request for an appeal hearing under ~~§C(7)~~
18 **§D(7)** of this regulation, the individual shall be placed on the mandatory exclusion list.

19 (9) Upon receipt of a timely written request for an appeal hearing, the Director **or the**
20 **Director's designee** shall provide the individual with a ~~hearing~~ notice for a **the appeal** hearing.

21 ~~D.~~ **E. Appeal Hearing.**

For June 28, 2018 Commission meeting.

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1 (1) If after an appeal hearing the Commission decides that the excluded individual does not
2 meet any criteria under Regulation .03B of this chapter, the individual's name may not be placed
3 on the mandatory exclusion list.

4 (2) If after an appeal hearing the Commission decides that the excluded individual meets any
5 criteria under Regulation .03B of this chapter:

6 (a) The individual's name shall remain on the mandatory exclusion list;

7 (b) The Commission shall notify all facility operators in the State of the individual's
8 addition to the mandatory exclusion list;

9 (c) The individual may seek judicial review of the Commission's decision; and

10 (d) The individual may request to be removed from the mandatory exclusion list only as
11 provided in Regulation .05 of this chapter.

12 **.05 Removal from Mandatory Exclusion List.**

13 A. After an excluded individual has been on the mandatory exclusion list for at least 5 years, the
14 individual may request removal from the mandatory exclusion list.

15 B. An excluded individual's request under §A of this regulation shall be submitted to the
16 Director in writing and shall include a detailed statement about why there is:

17 (1) Good cause for removal of the ~~individual's name~~ **individual** from the list; and

18 (2) A material change in the individual's circumstances since the individual's name was
19 placed on the list.

20 C. The Director or the Director's designee shall investigate the request and make a
21 recommendation to the Commission whether to grant or deny the request.

For June 28, 2018 Commission meeting.

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1 D. If the Director or the Director’s designee recommends removing the individual from the list,
2 the Commission may approve the recommendation without a hearing, and Agency staff shall:

3 (1) Remove the individual from the mandatory exclusion list;

4 (2) Deliver to the individual by ~~regular~~ U.S. mail a notice of removal from the mandatory
5 exclusion list; and

6 (3) Notify the State’s facility operators of the individual’s removal from the mandatory
7 exclusion list.

8 E. If the Director or the Director’s designee recommends continued ~~placement~~ **inclusion** on the
9 mandatory exclusion list, the excluded individual may submit a written **request for an** appeal
10 **hearing** to Commission.

11 F. Appeal **Hearing**.

12 (1) The request for an appeal **hearing** shall:

13 (a) Be submitted within 15 days of the date of the individual’s receipt of the written
14 notice of the recommendation of the Director or the Director’s designee; and

15 (b) Describe the individual’s legal and factual bases for disagreeing with the
16 recommendation.

17 (2) If an individual fails to timely submit a written request for an appeal hearing under
18 §F(1)(a) of this regulation, the individual shall remain on the mandatory exclusion list.

19 (3) Upon receipt of a timely written request for an appeal hearing, the Director shall provide
20 the individual with a hearing notice for a hearing.

21 G. If after a hearing the Commission denies the **individual’s** request **for removal**, it shall deliver
22 to the individual by ~~regular~~ U.S. mail a notice that the:

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- 1 (1) Request was denied; and
- 2 (2) Individual shall remain on the mandatory exclusion list.

3 **H. Separate from the individual’s ability to request removal under §A of this regulation,**
4 **the Director shall periodically review the mandatory exclusion list and may consider the**
5 **following in order to determine if an individual should be removed:**

- 6 **(1) Whether the individual is living;**
- 7 **(2) Whether there are changed circumstances; or**
- 8 **(3) Any other relevant information.**

9 **.06 Judicial Review.**

10 The Commission’s decision under Regulations ~~.04D(2)~~ **.04E(2)** and .05G of this chapter may be
11 subject to judicial review.

12 **.07 Enforcement.**

13 A facility operator may not:

- 14 A. Knowingly fail to exclude or eject from the facility premises an excluded individual;
- 15 B. Fail to notify the Commission if an excluded individual is excluded or ejected from the
16 facility;
- 17 C. Permit an intoxicated individual or individual under the age of 21 to:
18 (1) Play a video lottery terminal or table game; or

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1 (2) Be in areas of the video lottery facility where video lottery terminals or table games are
2 located; or

3 D. Knowingly allow the following individuals to collect a jackpot:

4 (1) An excluded individual; or

5 (2) An individual under the age of 21.

6 **E. Fail to obtain any unredeemed items and prizes in the possession of an excluded**
7 **individual and transfer them to the Problem Gambling Fund established under State**
8 **Government Article, §9-1A-33, Annotated Code of Maryland.**

9 **.08 Facility Exclusion Plan.**

10 A. A facility operator shall establish a plan for identifying and:

11 (1) Excluding or ejecting from a facility:

12 (a) Excluded individuals; and

13 (b) Individuals who may be eligible for placement on the mandatory exclusion list; and

14 (2) Ensuring that intoxicated individuals and individuals under the age of 21 are not allowed:

15 (a) To play video lottery terminals; and

16 (b) In areas of the video lottery facility where video lottery terminals or table games are
17 located.

18 B. The plan required under §A of this regulation shall include at least the following elements:

19 (1) Goals;

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- 1 (2) Procedures and deadlines for implementation;
 - 2 (3) Identification of facility personnel responsible for implementation;
 - 3 (4) Responsibilities of facility personnel identified as responsible for implementation;
 - 4 (5) Training for facility personnel on the requirements of this chapter;
 - 5 (6) Regular monitoring of the mandatory exclusion list;
 - 6 (7) Prompt reports to the Commission about the presence on facility premises of an
7 individual who:
 - 8 (a) Is included on the mandatory exclusion list; and
 - 9 (b) Is required to be prevented from playing video lottery terminals or table games;
 - 10 (8) Prompt reports to the Commission about an individual who is permanently excluded from
11 the facility;
 - 12 (9) The facility's response to the discovery of an individual who is on the mandatory
13 exclusion list on facility property, which may include pursuing criminal charges against the
14 individual; and
 - 15 (10) Any other element required by the Commission.
- 16 C. A facility operator shall submit to the Commission for its approval:
- 17 (1) The exclusion plan required under §A of this regulation at least 60 days before video
18 lottery terminal operations are to commence;
 - 19 (2) Any amendments to a facility's exclusion plan prior to implementation; and

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- 1 (3) An annual report describing the operation of the facility’s exclusion plan.

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