

1 Title 36 STATE LOTTERY AND
2 GAMING CONTROL AGENCY

3
4 Subtitle 03 GAMING PROVISIONS

5
6 Chapter .04 Enforcement

7
8 Authority: State Government Article, §§ 9-1A-04(a), (d); 9-1A-24(g); 9-1A-25(a),
9 (b), Annotated Code of Maryland

10
11 **ALL NEW.**

12 **Replaces the version of 36.03.04 proposed by Commission on December 18, 2012**

13
14 **.01 General.** This chapter establishes a framework within which the Commission may
15 take enforcement action against a licensee that results in a reprimand, fine, or condition
16 placed on a licensee, or a suspension or revocation of a license.

17
18 **.02 Definitions.**

19
20 A. In addition to the terms defined in State Government Article, Title 9, Subtitle 1A,
21 Annotated Code of Maryland, which have the same meanings in this chapter, in this
22 chapter the following terms have the meaning indicated.

23
24 B. Terms Defined.

25
26 (1) "Penalty" means a per day fine, not exceeding \$5,000 for each separate violation,
27 that the Commission may impose on a licensee under State Government Article, § 9-
28 1A-25(b), Annotated Code of Maryland.

29
30 (2) "Sanction" means non-monetary enforcement action that the Commission may
31 take against a licensee for a violation specified in State Government Article, § 9-1A-
32 25(a), Annotated Code of Maryland, and includes suspension or revocation of a
33 license, reprimand, or imposition of a condition on a licensee.

34
35 **.03 Violations.**

36
37 A licensee may not:

38
39 A. Violate:

40
41 (1) A provision of State Government Article, Title 9, Subtitle 1A, Annotated
42 Code of Maryland;

43
44 (2) A regulation adopted under State Government Article, Title 9, Subtitle 1A,
45 Annotated Code of Maryland; or

- 1 (3) A directive of the Commission or the Director;
2
3 B. Take, or attempt to take, any action that is intended to:
4
5 (1) Change or influence the outcome of a video lottery terminal or table game;
6
7 (2) Influence any person or unit of government that is involved in implementing
8 or enforcing State Government Article, Title 9, Subtitle 1A, Annotated Code
9 of Maryland; or
10
11 (3) Interfere with the regular operation of:
12
13 (a) The central monitor and control system;
14
15 (b) A video lottery terminal;
16
17 (c) Associated equipment or software; or
18
19 (d) A table game; or
20
21 C. Fail to:
22
23 (1) Conform to the information contained in a license application;
24
25 (2) Meet a licensing requirement;
26
27 (3) Promptly submit to the Commission a change to the information contained in
28 a license application; or
29
30 (4) Adequately remedy a deficiency of which the licensee has received notice
31 under Regulation .04E of this chapter.
32

33 **.04 Notice of Violation.**
34

- 35 A. After receiving a report of a licensee's alleged violation of Regulation .03 of this
36 chapter, the Agency shall:
37
38 (1) Notify the licensee of the alleged violation; and
39
40 (2) Investigate the report.
41
42 B. The Director may designate staff to serve on a review board that:
43
44 (1) Reviews the investigation of an alleged violation conducted under § A of this
45 regulation; and
46

1 (2) Makes a recommendation to the Director for addressing the alleged violation.

2

3 C. The review board's recommendation to the Director may include:

4

5 (1) Requiring the licensee to implement a corrective action plan;

6

7 (2) Issuing the licensee a warning letter;

8

9 (3) Entering into a settlement agreement with the licensee;

10

11 (4) Recommending that the Director initiate Commission proceedings to impose a
12 penalty or sanction on the licensee; or

13

14 (5) Any other appropriate action.

15

16 D. After reviewing the board's recommendation, the Director may:

17

18 (1) Initiate Commission proceedings to impose a penalty or sanction on the
19 licensee; or

20

21 (2) Direct staff to:

22

23 (a) Implement the board's recommendation; or

24

25 (b) Take other appropriate action.

26

27 E. A licensee shall be provided a notice of the violation that describes the statute,
28 regulation or directive allegedly violated, along with the Director's recommendation for
29 addressing the alleged violation.

30

31 F. Nothing in this chapter shall be construed to require that:

32

33 (1) The licensee receive an opportunity to meet with Staff to discuss an informal
34 settlement of a violation; or

35

36 (2) The Agency undertake a corrective action plan or attempt to reach a settlement
37 with the licensee before the Director initiates Commission proceedings for
38 imposition of a penalty or sanction against a licensee.

39

40 **.05 Corrective Action Plan.**

41

42 A. If the Director directs staff to implement a corrective action plan with a licensee,
43 Agency staff shall give written notice to a licensee that includes:

44

45 (1) A description of the alleged violation;

46

- 1 (2) A description of the possible sanctions; and
2
3 (3) The requirement for the licensee to submit a corrective action plan to the
4 Director.

5
6 B. Contents of Corrective Action Plan. A corrective action plan shall include:

- 7
8 (1) Periodic monitoring or progress reports;
9
10 (2) Timelines for completing corrective action;
11
12 (3) Implementation of measures to guard against recurrence of the alleged
13 violation; and
14
15 (4) Any other measures necessary to resolve the alleged violation.

16
17 C. Time for Implementing a Corrective Action Plan.

- 18
19 (1) Within 10 days of receipt of a notice under § A of this regulation, the licensee
20 shall submit a corrective action plan to the Director, or the Director's
21 designee.
22
23 (2) The Director, or the Director's designee, shall review the corrective action
24 plan and inform the licensee whether the corrective action plan is acceptable.
25
26 (a) If the corrective action plan is acceptable, the licensee shall execute it
27 immediately.
28
29 (b) If the corrective action plan is not acceptable, the licensee shall submit a
30 revised plan immediately.
31
32 (3) If the licensee fails to submit an acceptable corrective action plan within the
33 time described under § C(1) of this regulation, the Director may:
34
35 (a) Provide the licensee with additional time within which to submit a revised
36 corrective action plan; or
37
38 (b) Initiate proceedings before the Commission for imposition of a penalty or
39 sanction on the licensee.
40
41 (4) If the Director, or the Director's designee, provided a licensee with a notice
42 under § A of this regulation and did not receive a timely written response, the
43 Commission may adopt a recommendation by the Director for imposition of a
44 penalty or sanction.
45

46 D. Corrective Action Plan Outcome.

- 1
2 (1) After a licensee has completed, to the satisfaction of the Director or the
3 Director's designee, a corrective action plan, the alleged violation is resolved,
4 except that the alleged violation may be:
5
6 (a) The basis of a subsequent corrective action plan, settlement, penalty, or
7 sanction if a similar violation occurs; or
8
9 (b) Raised during a Commission hearing as part of the Agency's enforcement
10 record for the licensee.
11
12 (2) If at any time during the corrective action period the Director, or the
13 Director's designee, determines that the licensee has made insufficient
14 progress toward fulfilling a requirement of the corrective action plan, the
15 Director may:
16
17 (a) For good cause, extend the time for completion of a corrective action
18 plan; or
19
20 (b) Initiate proceedings before the Commission for imposition of a penalty
21 or sanction on the licensee.
22
23 (3) If at the end of the corrective action period the licensee has failed to
24 satisfactorily complete the corrective action plan, the Director may initiate
25 proceedings before the Commission for imposition of a penalty or sanction on
26 the licensee.
27

28 **.06 Settlement.**

29
30 A. The Commission may provide a licensee with the opportunity to discuss with staff a
31 means of entering into a settlement agreement between the licensee and the Commission
32 by which the violation is settled without a penalty or sanction.
33

34 B. A settlement agreement:

- 35
36 (1) Shall be signed by an authorized representative of the licensee and the
37 Director or the Director's designee; and
38
39 (2) May not be considered final and binding until approved by the Commission.
40

41 C. If a licensee violates a term of a settlement agreement, nothing in this regulation shall
42 be construed to prevent the Commission from imposing a penalty or sanction against the
43 licensee for that, or the underlying, violation.
44

45 **.07 Commission Action.**

1 A. The Director may initiate Commission proceedings for imposition of a penalty or
2 sanction against a licensee if a licensee:

3
4 (1) Violates a provision of Regulation .03 of this chapter;

5
6 (2) Fails to timely or satisfactorily complete a corrective action plan required by
7 the Commission;

8
9 (3) Violates a term of a settlement agreement; or

10
11 (4) Engages in any conduct that exposes the State's gaming program to a serious
12 and imminent risk of harm to its integrity, security, or profitability.

13
14 B. Initiation of Commission Proceedings. The Direction shall initiate Commission
15 proceedings for the imposition of a penalty or sanction on a licensee by scheduling a
16 Commission hearing in accordance with COMAR 36.01.02.06 on the alleged violation
17 and providing the licensee with written notice of the:

18
19 (a) Recommendation for imposition of the penalty or sanction;

20
21 (b) Basis for the recommendation for imposition of the penalty or
22 sanction;

23
24 (c) Consequences of a decision by the Commission to impose a penalty or
25 sanction;

26
27 (d) Date, time and location of the hearing; and

28
29 (e) Applicable hearing rights.

30
31 **.08 Emergency Suspension.**

32
33 A. The Director may emergently suspend a license if the Director determines that
34 suspension is necessary in order to protect the State's gaming program against a serious
35 and imminent risk of harm to its integrity, security, or profitability.

36
37 B. Emergency Suspension – Process. If the Director emergently suspends a license, the
38 Director shall promptly schedule a Commission hearing on the emergency suspension
39 and provide the licensee with the written notice required under Regulation .07B of this
40 chapter, along with notice directing the licensee that:

41
42 (1) The licensee shall immediately cease performing under the license; and

43
44 (2) Failure to comply with the Director's directive to cease performing under the
45 license constitutes a separate violation of Regulation .03 of this chapter for which
46 an additional penalty or sanction may be imposed.

1
2 **.09 Imposition of Penalties and Sanctions.**

3
4 A. Consequences. For a violation of Regulation .03 of this chapter, the Commission
5 may impose a:

6
7 (1) Penalty not exceeding \$5,000 for each day and each violation;

8
9 (2) Sanction, including:

10
11 (a) Revocation of a license;

12
13 (b) Suspension of a license for a period of time;

14
15 (c) Reprimand; or

16
17 (d) Condition that must be met within a specified time as to:

18
19 (i) Training;

20
21 (ii) Staffing;

22
23 (iii) Supervision;

24
25 (iv) Compliance with internal controls;

26
27 (v) Probationary periods; or

28
29 (vi) Any other directive to address the violation.

30
31 B. Penalty – Required Considerations. To determine the amount of a penalty to impose
32 on a licensee, the Commission shall consider:

33
34 (1) The seriousness of the violation;

35
36 (2) The harm caused by the violation; and

37
38 (3) Whether the person who committed the violation acted in good faith.

39
40 C. Sanction – Considerations. To determine the appropriate sanction to impose on a
41 licensee, the Commission may consider the factors in § B of this regulation, and:

42
43 (1) Whether a violation was willful;

44
45 (2) Whether the licensee had, or should have had, control of the situation;

46

1 (3) Whether the violation may have occurred in connection with unclear or
2 insufficient:

3
4 (a) Information;

5
6 (b) Training;

7
8 (c) Communication; or

9
10 (d) Requirements;

11
12 (4) Any extraordinary circumstances;

13
14 (5) Prior disciplinary history with the Commission;

15
16 (6) Profit that resulted, or may have resulted, from the violation;

17
18 (7) Harm that resulted, or may have resulted, from the violation;

19
20 (8) How the violation was detected;

21
22 (9) Tailoring the discipline to address the violation;

23
24 (10) Action taken by the licensee to prevent recurrence of the violation;

25
26 (11) Action taken by the Commission to address similar violations; and

27
28 (12) Any other information that the Commission finds relevant.

29
30 D. Ignorance No Defense. Because a licensee is presumed to be familiar with
31 applicable statutes and regulations governing the State's video lottery terminal
32 program, a claim of ignorance of the law may not be used as a defense to a
33 finding of a violation or to the imposition of a penalty or sanction.

34
35 E. Imposition of penalty and sanction. A penalty and a sanction may be imposed for
36 each violation.

37
38 **.07 Commission Action.**

39
40 A. Commission action against a licensee for a violation of Regulation .03 of this chapter
41 shall be conducted as specified in COMAR 36.01.02.06, and the Commission shall:

42
43 (1) Make a finding whether the licensee violated a provision of Regulation .03 of
44 this chapter; and

- 1 (2) If the licensee violated a provision of Regulation .03 of this chapter, decide
2 whether, and to what extent, to impose a penalty or sanction.
3
4 B. A licensee may seek judicial review of the Commission's decision.
5
6 C. A licensee against whom the Commission ordered the imposition of suspension or
7 revocation of a license shall immediately comply with the Commission's order.
8
9 D. A licensee against whom the Commission imposed a penalty shall remit to the
10 Commission payment in full of the penalty within 30 calendar days.
11
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