

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

#### CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

##### PREAMBLE

**1. Sections Affected**

R19-3-201  
R19-3-202  
R19-3-203  
R19-3-204  
R19-3-205  
R19-3-206  
R19-3-207  
R19-3-208  
R19-3-209

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
New Section

**2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

The Lottery's general authority to promulgate retailer rules is A.R.S. § 5-504(B). The Lottery has statutory authority to request an authorized fingerprint card and obtain information from the Arizona criminal justice information system for the purpose of evaluating the fitness of current and prospective licensees as permitted by A.R.S. § 41-1750(G) through Executive Order 81-2 and as provided in A.R.S. § 5-510(B) which designates: "the security operations of the state lottery commission shall be a law enforcement agency and the supervising security officer is designated a peace officer. Such law enforcement agency and peace officer status shall be for the limited purpose of receiving investigative information from law enforcement agencies pertaining to investigations of lottery activities."

**3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 9 A.A.R. 1364, May 2, 2003

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Kathleen S. Pushor  
Executive Director

Address: 4740 E. University Drive  
Phoenix, AZ 85034

Telephone: (480) 921-4505

Fax: (480) 921-4488

E-mail: katie@lottery.state.az.us

or

Name: Nena Dawson  
Audit Director

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Phoenix, AZ 85034

Telephone: (480) 921-4430

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E-mail: nena@lottery.state.az.us

**5. An explanation of the rule, including the agency's reason for initiating the rule:**

Article 2, Retailers, is required by A.R.S. § 5-504 and prescribes the requirements and procedures for Arizona retailer businesses to obtain a license to sell Lottery game products, display promotional materials, requirements for the sale and payment of instant games and online games, and retailer conduct. The rules establish procedures for revocation, suspension, or renewal of retailer licenses, hearing procedures, and Lottery conducted compliance investigations. This amendment will incorporate changes required by Lottery staff, retailers, and legal counsel as a result of operating with these rules for several years and program policy recommendations from the Lottery's Retail Advisory Committee. The amendment will also provide consistency in the language of the text and make the rules more clear, concise, and understandable.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

A. The Arizona State Lottery.

Costs to the Lottery for this Article are included in the agency's appropriated budget. Retailer-related costs include background investigations for licensing, delivery of tickets, supplies and point-of-sale promotional items, installation of telephone lines for the online terminal and monthly communication fees for each retailer selling online games, and administrative costs collecting sales revenues and providing customer service to retailers. Cost of a licensing investigation, which includes an ADA (Americans with Disabilities Act) onsite inspection, is approximately \$200 per location. Initial telecommunication line installation for an online retailer terminal is approximately \$550 and the average monthly line charge is \$61. The Lottery has approximately 2500 online retailers. The Lottery paid \$2.8 million in telecommunication line-charges last fiscal year.

B. Political Subdivisions.

Political subdivisions of this state are not directly affected by the Retailer rules.

C. Businesses Directly Affected by the Rulemaking.

Businesses affected by these rules are those retailers that choose to apply for a Lottery license to sell Lottery game products to the public. The rules provide for licensing requirements, retailer conduct in selling and redeeming Lottery tickets, and compensation paid to retailers for Lottery services. The Lottery paid retailers earned over \$19.8 million in commissions in fiscal year 2002. Cost of selling Lottery products is minimal. Tickets do not require special storage except for normal risk management procedures, have almost unlimited shelf-life, do not spoil, and do not require additional employees to handle the product.

D. Private and Public Employment.

Private and public employees are not directly affected by this rule.

E. Consumers and the Public.

There are no costs to the public associated with the amendment of this rule.

F. State Revenues.

License fees and revenue generated by the sale of Lottery game tickets are distributed to costs and those programs funded with Lottery monies as provided in A.R.S. § 5-505 as appropriated. The Lottery collected \$24,100 in retailer license fees in fiscal year 2002. Transfers to state of Arizona funds were in excess of \$86.8 million.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Kathleen S. Pushor  
Executive Director  
Address: 4740 E. University Drive  
Phoenix, AZ 85034  
Telephone: (480) 921-4505  
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E-mail: katie@lottery.state.az.us  
or  
Name: Nena Dawson  
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Address: 4740 E. University Drive  
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Telephone: (480) 921-4430  
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E-mail: nena@lottery.state.az.us

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Date: June 20, 2003  
Time: 10:00 a.m.  
Location: Arizona Lottery  
4740 E. University  
Phoenix, AZ 85034  
Nature: Oral Proceeding (Close of the record is 5:00 p.m., M.S.T., Thursday, June 19, 2003 for written comments and at the end of the oral proceeding for verbal comments.)

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporation by reference and their location in the rules:**

Not applicable

**13. The full text of the rules follows:**

**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION**

**ARTICLE 2. RETAILERS**

Section

- R19-3-201. Retailer's Application and License
- R19-3-202. Direct Sales by Lottery
- R19-3-203. Revocation, Suspension, or Renewal Denial of Retailer's License
- R19-3-204. Display of Point-of-Sale and Promotional Material
- R19-3-205. Instant Game Requirements
- R19-3-206. ~~On-Line~~ Online Game Requirements
- R19-3-207. Compliance Investigations
- R19-3-208. Penalties
- R19-3-209. Notice and Service

**ARTICLE 2. RETAILERS**

**R19-3-201. Retailer's Application and License**

- A. Application. A person interested in obtaining a license to sell lottery tickets shall submit to the Director a verified application on forms prescribed by the Lottery containing the following information:
1. ~~Submit to the Director a verified application on forms prescribed by the Director containing the following information~~ If the applicant does business as sole owner:
    - a. ~~If the applicant does business as an individual, the~~ The applicant's name, home address, and home phone number;
    - b. ~~If the applicant does business as a partnership or a limited liability partnership, the names, addresses, and phone numbers of all partners with a designation of any limited partners;~~
    - e. ~~If the applicant does business as a corporation, limited liability company, an association, or any other organization, the names, addresses, and phone numbers of the president, vice-president, if any, secretary, and treasurer, or~~

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- ~~the functional equivalent of these officers, the directors, the owners of 10% or more of the stock or beneficial interest, and owners of equity that creates controlling interest in the business;~~
- ~~d. If the applicant does business as a corporation, a limited liability company or a limited liability partnership, evidence that the entity is in good standing with the Arizona Corporation Commission or the Secretary of State;~~
  - ~~e.b. The business name, address, or (physical location of the applicant's place of business), phone number, and the mailing address if it is different from the physical place of business;~~
  - ~~f.c. The applicant's current transaction privilege tax license number issued pursuant to A.R.S. § 42-1305 § 42-5005 and federal taxpayer identification number recorded on Form W-9;~~
  - ~~g.d. Certification that the applicant has complied applicant's business location is in compliance with the statutes and rules governing the Americans with Disabilities Act;~~
  - ~~h.e. Marketing and sales forecast information, on the forms and in the manner specified by the Lottery, which indicates the applicant's ability to perform Lottery minimum sales;~~
  - ~~f. Evidence that the applicant's primary business products or services are not Lottery products or services concerning lotteries:~~
    - ~~i.g. Names, addresses, and phone numbers of 3 three business references for the business and owner;~~
    - ~~j.h. Financial relationship and any outstanding debt with the state of Arizona, or any of its government subdivisions, and the United States government;~~
    - ~~i. Evidence that the applicant has demonstrated financial responsibility sufficient to adequately meet debts as they become due, which may include one or more of the following:~~
      - ~~i. Equity or unencumbered assets in real estate or personal property, other than goodwill and intellectual property, in the name of the applicant sufficient to pay lottery sales for a period of six months;~~
      - ~~ii. Evidence the applicant's business met its business debts as they became due for the last three consecutive years and does not have outstanding legal actions, judgments or tax liens;~~
      - ~~iii. Personal guarantee of applicant's Lottery account in writing signed by an individual and the individual's spouse, if married.~~
    - ~~j. Written authorization and social security number of applicant and, if married, the applicant's spouse, to perform a credit search. If the sole owner has not been in business for three years, written authorization and social security number for any guarantor and guarantor's spouse;~~
    - ~~k. A completed authorized fingerprint card for the applicant of an individual business and the applicant's spouse, if married;~~
    - ~~k.l. Authorization agreement for electronic fund transfer with a valid bank account number from which any amount due the Lottery will be transferred;~~
    - ~~m. Name, case number, court designation, and type of action for any pending litigation or judgments against applicant or applicant's spouse, or for which applicant may potentially be held financially responsible.~~
2. If the applicant does business as a partnership:
- a. The name, home address, and home phone number of each partner;
  - b. The partnership business name, address (physical location of the place of business), phone number, and the mailing address if it is different from the physical place of business;
  - c. The applicant's current transaction privilege tax license number issued pursuant to A.R.S. § 42-5005 and federal taxpayer identification number recorded on Form W-9;
  - d. Certification that the applicant's business location is in compliance with the statutes and rules governing the Americans with Disabilities Act;
  - e. Marketing and sales forecast information, on the forms and in the manner specified by the Lottery, which indicates the applicant's ability to perform Lottery minimum sales;
  - f. Evidence that the applicant's primary business products or services are not Lottery products or services concerning lotteries;
  - g. Names, addresses, and phone numbers of three business references for the partnership and each of the partners. The reference must identify how they know the applicant and for how long. A single reference may reference both the partnership and a partner based on the reference's personal knowledge of each;
  - h. Financial relationship and any outstanding debt with the state of Arizona, any of its government subdivisions, and the United States government by the partnership and each partner;
  - i. Evidence that the partnership has demonstrated financial responsibility sufficient to adequately meet debts as they become due, which may include one or more of the following:
    - i. Equity or unencumbered assets in real estate or personal property of the partnership, other than goodwill and intellectual property, in the name of the partnership sufficient to pay lottery sales for a period of six months;
    - ii. Evidence applicant's partnership business met its business debts as they became due for the last three consecutive years and does not have outstanding legal actions, judgments or tax liens;
    - iii. Personal guarantee of the partnership Lottery account in writing signed by an individual and the individual's spouse, if married.

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- j. Written authorization and tax identification number for the partnership and social security number of each partner and, if married, each partner's spouse, to perform a credit search. If the partnership has not been in business for three years, written authorization and social security number for any guarantor and guarantor's spouse;
  - k. A completed authorized fingerprint card for each partner in the partnership and each partner's spouse, if married. If any partner is a corporation, fingerprint cards are required as prescribed in subsection (A)(4);
  - l. Authorization agreement for electronic fund transfer with a valid bank account number from which any amount due the Lottery will be transferred;
  - m. Name, case number, court designation, and type of action for any pending litigation or judgments against the partnership, any partner or partner's spouse, or for which the partnership or any partner may potentially be held financially responsible.
3. If the applicant does business as a limited liability partnership (hereafter "LLP"):
- a. The name, home address, and home phone number of each partner;
  - b. The LLP business name, address (physical location of the place of business), phone number, and the mailing address if it is different from the physical place of business;
  - c. The LLP's current transaction privilege tax license number issued pursuant to A.R.S. § 42-5005 and federal taxpayer identification number recorded on Form W-9;
  - d. Certification that the applicant's business location is in compliance with the statutes and rules governing the Americans with Disabilities Act;
  - e. Marketing and sales forecast information on the forms and in the manner specified by the Lottery, which indicates the applicant's ability to perform Lottery minimum sales;
  - f. Evidence that the applicant's primary business products or services are not Lottery products or services concerning lotteries.
  - g. Names, addresses, and phone numbers of three business references for the LLP and each of the partners. The reference must identify how they know the applicant and for how long. A single reference may reference both the partnership and a partner based on the reference's personal knowledge of each;
  - h. Financial relationship and any outstanding debt with the state of Arizona, any of its government subdivisions, and the United States government by the LLP and each partner;
  - i. Evidence that the LLP has demonstrated financial responsibility sufficient to adequately meet debts as they become due, which may include one or more of the following:
    - i. Equity or unencumbered assets in real estate or personal property of the LLP, other than goodwill and intellectual property, in the name of the LLP sufficient to pay lottery sales for a period of six months;
    - ii. Evidence applicant's LLP business met its business debts as they became due for the last three consecutive years and has no outstanding legal actions, judgments and tax liens;
    - iii. Personal guarantee of the LLP Lottery account in writing signed by a partner and partner's spouse, if married.
  - j. Written authorization and tax identification number for the LLP to perform a credit search. If the LLP has not been in business for three years, written authorization and social security number for any guarantor and guarantor's spouse;
  - k. A completed authorized fingerprint card for the appropriate responsible supervisor who is the contact representative for the applicant's LLP location in Arizona;
  - l. Authorization agreement for electronic fund transfer with a valid bank account number from which any amount due the Lottery will be transferred;
  - m. Name, case number, court designation, and type of action for any pending litigation or judgments against the LLP, or for which the LLP may potentially be held financially responsible;
4. If the applicant does business as a non-public corporation with unencumbered assets of less than \$100,000:
- a. The corporation name, address, and phone number and the name, home address and home phone number of all officers, directors and 10% or more shareholders of the corporation;
  - b. The name under which the corporation does business as, if any, address (physical location of the place of business), phone number, and the mailing address if it is different from the physical place of business;
  - c. The corporation's current transaction privilege tax license number issued pursuant to A.R.S. § 42-5005 and federal taxpayer identification number recorded on Form W-9;
  - d. Certification that the applicant's business location is in compliance with the statutes and rules governing the Americans with Disabilities Act;
  - e. Marketing and sales forecast information on the forms and in the manner specified by the Lottery, which indicates the applicant's ability to perform Lottery minimum sales;
  - f. Evidence that the applicant's primary business products or services are not Lottery products or services concerning lotteries.
  - g. Names, addresses, and phone numbers of three business references for the corporation. The reference must identify how they know the applicant and for how long;



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- c. The LLC's current transaction privilege tax license number issued pursuant to A.R.S. § 42-5005 and federal taxpayer identification number recorded on Form W-9;
- d. Certification that the applicant's Arizona business location is in compliance with the statutes and rules governing the Americans with Disabilities Act;
- e. Marketing and sales forecast information on the forms and in the manner specified by the Lottery, which indicates the applicant's ability to perform Lottery minimum sales;
- f. Evidence that the applicant's primary business products or services are not Lottery products or services concerning lotteries.
- g. Names, addresses, and phone numbers of three business references for the LLC. The reference must identify how they know the applicant and for how long;
- h. Financial relationship and any outstanding debt with the state of Arizona, any of its government subdivisions, and the United States government by the LLC;
- i. Evidence that the LLC has demonstrated financial responsibility sufficient to adequately meet debts as they become due, which may include one or more of the following:
  - i. Equity or unencumbered assets in real estate or personal property owned by the LLC, other than goodwill and intellectual property, sufficient to pay lottery sales for a period of six months;
  - ii. Evidence applicant's LLC business met its business debts as they became due for the last three consecutive years and has no outstanding litigation, judgments or tax liens;
  - iii. Personal guarantee of the LLC Lottery account in writing signed by an individual and the individual's spouse, if married.
- j. Written authorization to perform a credit search on the LLC. If the LLC has not been in business for three years, written authorization and social security number for any guarantor and guarantor's spouse;
- k. A completed authorized fingerprint card for the appropriate responsible supervisor who is the contact representative for the applicant's LLC location in Arizona;
- l. Authorization agreement for electronic fund transfer with a valid bank account number from which any amount due the Lottery will be transferred;
- m. Name, case number, court designation, and type of action for any pending litigation or judgments against the LLC, individual members or their spouses, or for which the LLC or any member may potentially be held financially responsible.

~~2.7. Submit a non-refundable an application fee of \$36.00. A licensee that is a corporation, limited liability company, an association, or any other organization, may renew its licenses for all locations on the same date in accordance with the provisions of subsection (I). If the applicant is a business with more than + one licensed location, the application fee for that location shall be pro-rated at \$1.00 per month from the application date until the date the other licenses are due for renewal.~~

~~B. To Prerequisites to obtain or renew a license, a person shall submit to the Lottery evidence that the person is of good character and reputation. The Lottery may find that a person lacks good character and reputation if it determines that the person has committed any act which, if committed or done by a licensed retailer, would be grounds for suspension or revocation of a license or that the person was named on any business license in this state or any other state that was suspended or revoked. An applicant and all persons named on the application must demonstrate the following:~~

- 1. Evidence that the applicant or person is of good character and reputation. The Lottery may find that a person lacks good character and reputation if it determines that the person has committed any act which, if committed or done by a licensed retailer, would be grounds for suspension or revocation of a license granted by the state of Arizona;
- 2. An applicant or person shall not have had a business license required by statute in Arizona or any other state suspended or revoked within the last 10 years;
- 3. An applicant or person shall not have had a Lottery license denied or revoked at the address and location of the applicant's place of business for reasons other than ADA non-compliance, and shall not have sold lottery products without being licensed within one year of the person's date of application;
- 4. Demonstrates financial responsibility based on the information provided in the application, credit search, pending litigation, tax liens, or by means of any financially responsible personal guarantee.
- 5. Demonstrates onsite foot traffic purchasing existing goods or services offered for sale by the applicant which provides a sufficient customer base to meet or exceed the required minimum sale of Lottery tickets.

~~C. To obtain a license, a person shall not have had a Lottery license denied or revoked at the address and location of the applicant's place of business for reasons other than ADA non-compliance, and shall not have sold lottery products without being licensed within 1 year of the person's date of application.~~

~~D.C. The Lottery shall not issue a license to a minor, a partnership in which 1 of the partners is a minor, or a corporation, association or other organization in which a corporate officer, member or manager is a minor. to an applicant for any of the following reasons:~~

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1. Applicant is a minor, a partnership or LLP in which one of the partners is a minor, an LLC in which one of the members is a minor, or a corporation or other organization in which a corporate officer, director, member or manager is a minor;
2. Organization is a sexually oriented business;
3. Business products or services primarily target children;
4. Business location is not convenient or in the public interest;
5. Business is not within the jurisdiction of the state of Arizona;
6. Provide deferred presentment services defined in A.R.S. § 6-1251.

**~~F.D.~~D.** Residency requirement. To obtain a license, a person shall be:

1. A resident of Arizona;
- ~~4.2.~~ 2. A partnership in which at least ~~4~~ one of the general partners resides in Arizona; or
- ~~5.3.~~ 3. ~~An unincorporated business authorized to do business in Arizona~~ A limited liability partnership in which at least one of the partners reside in Arizona.
- ~~2.4.~~ 4. A corporation incorporated in Arizona or authorized to do business in Arizona;
- ~~3.5.~~ 5. A limited liability company authorized to do business in Arizona in which a member or manager resides in Arizona;

**~~F.E.~~E.** Time-frame for licensure.

1. The Director shall finish an administrative completeness review within 15 days from the date of receipt of the application and fee prescribed in subsection (A).
  - a. The Director shall issue a notice of administrative completeness to the applicant if no deficiencies are found in the application.
  - b. If the application is incomplete or the fee is not submitted, the Director shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 15-day time-frame for completion of the administrative completeness review is suspended from the date the notice of incompleteness is sent until the applicant provides the Director with all missing information.
  - c. If the Director does not provide the applicant with notice regarding administrative completeness, the application shall be ~~deemed~~ considered complete 15 days after receipt by the Director.
2. An applicant with an incomplete application shall submit all of the missing information within 20 days of service of the notice of incompleteness.
  - a. If an applicant cannot submit all missing information within 20 days of service of the notice of incompleteness, the applicant may obtain an extension by submitting a written request, which documents the reasons the applicant is unable to meet the 20-day deadline, to the Director no later than 20 days from service of the notice of incompleteness.
  - b. The Director shall review the request for an extension of the 20-day deadline and shall grant the request if the Director determines that an extension will enable the applicant to assemble and submit the missing information. An extension of the 20-day deadline shall be for no more than 20 days. The Director shall notify the applicant in writing of the decision to grant or deny the request for an extension. An applicant who requires an additional extension shall submit an additional written request in accordance with this subsection.
3. If an applicant fails to submit a complete application within the time allowed, the Director shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a license shall apply again in accordance with this Section.
4. From the date on which the administrative completeness review of an application is finished, the Director shall complete a substantive review of the applicant's qualifications in no more than 75 days.
  - a. If an applicant is found to be ineligible, the Director shall issue a written notice of denial to the applicant.
  - b. If an applicant is found to be eligible, the Director shall issue a license to the applicant permitting the applicant to engage in business as a Lottery retailer under the terms of this Chapter.
  - c. If the Director finds deficiencies during the substantive review of an application, the Director shall issue a written request to the applicant for additional information.
  - d. The 75-day time-frame for substantive review is suspended from the date of a written request for additional information until the date that all information is received.
  - e. If the applicant and the Director mutually agree in writing, the 75-day substantive review time-frame may be extended once for no more than 20 days.
  - f. The Director may extend the 75-day substantive review time-frame for a mutually agreed period of time for ADA compliance, remodeling, and construction of retailer business location.
5. For the purpose of A.R.S. § 41-1072 et seq., the Director establishes the time-frames for a license to sell Lottery tickets:
  - a. Administrative completeness review time-frame: 15 days.
  - b. Substantive review time-frame: 75 days.
  - c. Overall time-frame: 90 days.

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6. If the Director does not provide the applicant with written notice granting or denying a license within the overall time-frame, the Director shall refund the applicant's application fee within 30 days after the expiration of the overall time-frame or the time-frame extension.

~~G.F.~~ The Director may license a qualified applicant to sell any 1 or any combination of the Lottery's game products. The Director may require a licensee to sell 1 or more Lottery products as a condition of selling any other Lottery product. A Lottery licensee shall sell only the type of Lottery product authorized by the Lottery.

1. The Director may license a qualified applicant to sell any one or any combination of the Lottery's game products.
2. The Director may require a licensee to sell a minimum of four instant games with different game numbers. The licensee may be exempted from selling four different instant games by showing three consecutive months of double the minimum sales requirements in R19-3-203(A)(4)(a).
3. The Director may require a licensee to sell one or more Lottery products as a condition of selling any other Lottery product.

~~H.G.~~ A license issued under this Chapter shall be signed by the Director or the Director's designated representative and by the licensee. A licensee shall not transfer a license and shall exhibit evidence of possessing the license upon demand. A licensee shall post the license number appearing on the license or a copy of the license held by the licensee in a conspicuous place on the premises where the licensee sells lottery products. A violation of this subsection is grounds for disciplinary action in accordance with the provisions of R19-3-203.

~~I.H.~~ As a condition of licensure, each licensee shall agree to release, indemnify, defend, and hold harmless, the Arizona Lottery, its directors, officers, and employees, from and against any and all liability, damage, cost, claim, loss, or expense, including, without limitation, reasonable attorney's fees and disbursements, resulting from or arising by reason of loss of use, temporary or permanent cessation of Lottery equipment, or terminal operations. This should not be construed in any way to effect the rights of the licensee to recover for losses caused by any 3rd-party.

~~J.I.~~ Duration and renewal of license.

1. A license issued under this Chapter shall expire ~~3~~ three years from the license issuance date by operation of law.
2. A licensee may renew a license to sell lottery tickets by submitting to the Director a verified application for renewal of the current license on forms prescribed by the Director containing the information required in R19-3-201(A), (B), and ~~(E)~~ (D), accompanied by the required \$36 fee.
  - a. An application for renewal of a lottery license received by the Director or deposited in the United States mail postage prepaid on or before the renewal date, shall authorize the licensee to operate as a retailer until actual issuance of the renewal license.
  - b. The Director may refuse to renew a license in accordance with the provisions of ~~R19-3-204~~ R19-3-203.
  - c. All licenses held by the same corporation, limited liability company, an association, or any other organization, shall be renewed on the same date. A licensee holding more than one license may elect to renew all licenses on the same date. If a license is renewed under this election, the application fee will be pro-rated at \$1 per month from the license expiration date until the renewal date of the other licenses held by the same licensee.
3. A license issued under this Chapter that has expired by operation of law for failure to renew may be activated and renewed within ~~4~~ one year of its expiration by filing the required application of renewal and payment of the application renewal fee provided for in this Chapter. If a license has been suspended for ~~4~~ one or more years for failure to renew, a new application for license must be made and a new license issued in accordance with this Chapter.
4. A license issued under this Chapter is subject to termination by the Director in accordance with the provisions of this Chapter before the expiration date.

~~J.~~ Report Change Events. The following events must be reported to the Lottery in writing at least 15 days prior to the event:

1. Change in business location;
2. Sale of ownership of the business;
3. Death of a licensee must be reported within 15 days after the death occurs;
4. Addition or removal of a partner;
5. Addition or removal of a partner in a limited liability partnership;
6. Substantial change in ownership of a non-public corporation with unencumbered assets of less than \$100,000 by a transfer of stock (equity) that removes a 10% or more shareholder or adds a 10% or more shareholder of a corporation;
7. Merger or acquisition of the licensed entity;
8. Addition or removal of a member in a limited liability company;
9. Addition or removal of a controlling agent or designated corporate contact representative;
10. Divorce action filed by an individual licensee or licensee's spouse, if the licensed entity is a sole ownership or a partnership;
11. Licensee or guarantor becomes insolvent;
12. Licensee or guarantor files bankruptcy;
13. Licensee is sued for a monetary judgment;
14. Change in bank account from which Lottery electronic funds transfers are made;

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15. Change in mailing address or phone number of licensee or guarantor; or

16. A named person on the application or successor is charged with a felony, felony theft designated as a misdemeanor, or a crime involving gambling.

**K.** ~~Change of Ownership or Business Location. If a licensee plans to sell, terminate, substantially change the ownership of the licensee's business, or change the business location, the licensee shall notify the Director in writing of the date of sale, termination, substantial ownership change, or change of business location at least 15 days before the transaction. License is not assignable or transferable. A license authorizes the entity described in the application to sell lottery tickets only at the specific location stated on the license. No other person or entity may be a subcontractor under a license. Change of ownership or business location listed in subsections (J)(1), (J)(2), (J)(3), (J)(4), (J)(5), (J)(6), (J)(7), or (J)(8) require a new license application.~~

1. The licensee shall not sell any additional tickets and must surrender the license to the Director on the date of sale, termination, substantial ownership change, or business location change.

2. ~~A substantial change in ownership means a transfer of equity that creates a shift in the controlling interest of a licensee's business. The new applicant shall not sell tickets until a new license is granted or a continuation waiver for a period of time not to exceed 75 days is awarded by the Director.~~

**R19-3-202. Direct Sales by Lottery**

The Lottery may sell lottery tickets at its main office, any branch it establishes in the state, any promotion, or any special event.

**R19-3-203. Revocation, Suspension, or Renewal Denial of Retailer's License**

**A.** A retailer's license may be revoked, suspended or denied renewal by the Director for any of the following reasons:

1. The retailer violates a provision of the ~~Act or this Chapter~~ laws of the state of Arizona, the United States, or the regulations of the Arizona Lottery Commission;

2. The retailer ~~knowingly offers to sell a lottery ticket,~~ sells a lottery ticket or pays a prize on any winning lottery ticket to a person who is less than 21 years old;

3. The retailer ~~knowingly~~ sells a ticket to a person using a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by any public entity the Department of Economic Security to purchase the ticket or sells a ticket to a person during the same transaction in which a person uses a public assistance voucher issued by any public entity or an electronic benefits card issued by the Department of Economic Security to purchase any goods in addition to the lottery ticket;

4. The retailer's average weekly sales of tickets for the:

a. Instant games are less than ~~\$250 tickets~~ \$250 per week for the preceding quarterly period; and

b. Online games are less than ~~\$400 tickets~~ \$400 per week for the preceding quarterly period; or

c. Instant games and online games combined are less than \$650 per week for the preceding quarterly period;

5. The retailer commits an act that impairs the retailer's reputation for honesty and integrity;

6. The retailer does not make purchase or redemption of lottery tickets convenient and readily accessible to the public;

7. The retailer provides to the Lottery a statement, representation, warranty, or certificate that the Lottery determines is false, incorrect, ~~or~~ incomplete or omits relevant information;

8. The retailer has ~~2~~ two payments returned to the Lottery for insufficient funds in a 12-month period which is caused by the retailer's actions;

9. The retailer becomes insolvent, unable or unwilling to pay its debts, or is declared bankrupt;

10. The retailer or an officer or controlling agent of the retailer:

a. Is convicted of a felony, felony theft that is designated as a misdemeanor, or a crime involving gambling or fraudulent schemes and artifices; or

b. Is the subject of a civil order, judgment, or decree of a federal or state authority related to misrepresentation, consumer fraud, or other fraud;

11. Facts are discovered which, if known at the time the retailer's license was issued or renewed, would have been grounds to deny licensure;

12. The retailer adds a minor as an owner, partner, or officer of the business; ~~or~~

13. The retailer or an officer or employee of the retailer sells a ticket or pays a prize to oneself, ~~to any entity either wholly owned or partially owned by the retailer,~~ to any entity either wholly owned or partially owned by the retailer, or any entity with 10% or more of the same shareholders, partners, or members as the retailer;

14. The retailer or an officer or employee of the retailer sells or exchanges any lottery product for any consideration other than U.S. currency, check, credit card, debit card or, if player requests, winning Lottery ticket;

15. The retailer or an officer or employee of the retailer sells a ticket by telephone, mail, fax, on the internet, or on premises other than the one listed on the retailer's license;

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16. The retailer or an officer or employee of the retailer sells an altered ticket, an expired ticket or a ticket after the announced end of the game;
  17. The retailer fails to display the Americans with Disabilities Act Notice which includes the Arizona Problem Gambling Helpline toll-free telephone number, or
  18. The retailer fails to report a change event defined in R19-3-201(J).
- B.** The Director may on the Director's own motion, and shall on an allegation of a violation of a provision of the laws of the state of Arizona, or the United States, or the regulations of the Arizona Lottery or the written complaint of any person, investigate an act of a retailer within 30 days after receiving the information. The Director may temporarily suspend a license, and impose specific conditions on a retailer during the suspension or permanently revoke a license issued under this Article if the retailer is found to have committed an act or omission listed in subsection (A) by serving or mailing a written notice to the retailer. If an emergency action listed in subsection (C) is found, the notice shall contain that finding. Written notice to the retailer is effective notice if it is sent to the address in the application or the last address provided under R19-3-201(J).
- C.** Emergency action.
1. The public health, safety, or welfare imperatively requires emergency action to turn off a retailer's online terminal and suspend sales of lottery tickets pending a proceeding for revocation, suspension or denial or renewal, in the following circumstances:
    - a. The retailer's bank account has insufficient funds when the Lottery's regularly scheduled electronic transfer of the retailer's account is returned by the bank as insufficient funds or closed account and the retailer does not immediately pay the insufficiency;
    - b. The retailer fails to implement loss prevention procedures required by the Lottery within 30 days of written notice;
    - c. The retailer, corporate officer, director, partner, LLC member, or location manager is indicted or charged by misdemeanor with theft, embezzlement, or a crime involving gambling pending a determination of conviction or exoneration.
  2. A retailer who receives a Notice of Intent to Revoke a Retailer's License with a written finding of emergency action shall:
    - a. Immediately cease all sales of lottery products, and
    - b. Surrender the retailer's license and all other lottery property and products upon request by the Director's representative.
  3. If the retailer fails to settle the financial account and surrender the license and all other lottery property and products, the Director is authorized to take all steps allowed by law to secure payment and return of lottery products and property.
  4. The Director shall notify the retailer within five days of taking an emergency action that an expedited hearing or informal conference may be obtained before the Office of Administrative Hearings pursuant to R2-19-103 and R2-19-110.
- ~~**D.**~~ Procedure for hearings. A retailer may request a hearing with the Office of Administrative Hearings regarding a revocation, suspension, or license denial. The hearing shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.
- E.** A decision of the Director accepting, rejecting or modifying the recommended decision of the Administrative Law Judge is a final administrative decision subject to judicial review under A.R.S. Title 12, Chapter 7, Article 6 or to the Lottery Commission.
- ~~**F.**~~ Procedure for filing an appeal with the Commission:
1. A person who wishes to appeal a final decision of the Director shall file an appeal a Notice of Appeal with the Lottery Commission within 30 10 days of receipt of the Director's decision. The filed appeal Notice of Appeal shall contain the following:
    - a. A copy of the Director's decision; and
    - b. The alleged factual or legal error in the decision of the Director from which the appeal is taken.
  2. A person appealing the decision of the Director may file a written brief stating the position on the appeal within 30 days after receipt of the decision being appealed.
  3. The Lottery may file a responding brief within 15 days after receipt of the appellant's brief.
  - 3-4. The Commission may rule based on the written briefs, or if requested, may provide for oral argument.
  - 4-5. The Commission shall make its ruling on the appeal on the record.
- ~~**G.**~~ A final decision of the Commission is subject to judicial review under A.R.S. Title 41, Chapter 6, Article 10 Title 12, Chapter 7, Article 6.
- ~~**H.**~~ Revocation of a retailer's license.
1. A retailer who receives a notice of license revocation the Director's decision as provided in R19-3-203(E) revoking the retailer's license shall:
    - a. Immediately cease all sales of lottery products, and

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- b. Surrender the retailer's license and all other lottery property and products upon request by the Director's representative.
2. If the retailer fails to settle the financial account and surrender the license and all other lottery property and products, the Director is authorized to take all steps allowed by law to secure payment and return of lottery products and property.

**R19-3-204. Display of Point-of-Sale and Promotional Material**

- A.** Each retailer shall prominently display and maintain a minimum of ~~3~~ three different point-of-sale Lottery promotional materials approved or provided by the Lottery. Promotional materials may include, but are not limited to, game related change mats, mobiles, strip banners, table tents tent cards, brochures, or stickers, danglers, Authorized Retailer decal, Guide to All Games brochure, and Please Play Responsibly™ program and problem gambling toll-free helpline information.
- B.** Each retailer shall prominently display the Americans with Disabilities Act Notice which includes the Arizona Problem Gambling Helpline toll-free telephone number.

**R19-3-205. Instant Game Requirements**

- A.** Distribution, return and payment billing of instant tickets. The following describe the manner in which tickets for each instant Instant game tickets will be distributed, returned, and billed to retailers and payment made as follows:
  1. The Lottery or its authorized representative shall distribute to each retailer the quantity of tickets on which the Lottery and the retailer agree, based on the retailer's anticipated volume of sales.
  2. The Lottery shall bill for instant ticket packs issued to a retailer 45 days after a pack is activated or after 85% of winning tickets in the pack are validated, whichever occurs ~~1st~~ first.
  3. The Lottery shall announce, within three working days of the Director's written approval, the end of an instant game. The Director shall end an instant game when the last top prize has been claimed, any time there is an actual or perceived threat to the game's integrity or security, a particular percentage of the game's inventory has been invoiced, the designated sales period has expired, or at the discretion of the Director.
    - 3-a. Within 30 days before the announced end of each instant game the Lottery or its authorized representative shall collect unopened full packs of tickets in a retailer's possession. When a game is ended, the Lottery or its authorized representative shall initiate collection of full packs and partial packs of tickets in a retailer's possession. The retailer shall return the tickets within 30 days following the announced end of the game. The Lottery shall credit to the retailer, within 60 days following the announced end of the instant game in the billing period immediately following the receipt of the returned tickets, the net dollar value of any unopened full packs and partial packs of tickets collected received by the Lottery. The Lottery will not accept for credit any tickets returned more than 30 days after the announced end of game. All opened partial packs of tickets shall remain in the retailer's possession and may be sold before the end of the 180-day redemption period following the announced end of game.
    - 4-b. The Lottery may collect full and opened partial packs of tickets during a game if the Lottery and the retailer determine that the retailer's sales for a specific game are minimal (for example, no sales activity within a 2-week period) and after the announced end of a game if the instant game is a seasonal, holiday, or event-related game.
- B.** A retailer shall pay for instant game ticket sales in the following manner:
  1. Pay to the Lottery each Friday, by an electronic transfer of funds, the amount due from the sale of its instant game Lottery tickets for the seven-day period ending at the close of business on the previous Saturday. The amount due means the retailer's instant game tickets settled according to subsection (A)(2) minus any promotion tickets, returned tickets, prize winnings paid out by the retailer, the retailer's sales commission and plus or minus any adjustments.
  5. A retailer shall follow a schedule established by the Lottery for payment of all amounts due according to a statement or invoice provided by the Lottery. The retailer shall pay the amount due to the Lottery by an electronic transfer of funds.
  - 6-2. A The retailer shall deposit funds in a timely manner into a bank account from which an electronic transfer will be made to the Lottery.
    - a. The retailer shall provide the Lottery with an electronic funds transfer authorization with showing a valid bank account number from which the amounts due the Lottery will be transferred; and
    - b. The retailer shall notify the Lottery of any bank account changes 15 days before the effective date of the change.
  - 7-3. If a retailer's payment is returned to the Lottery for insufficient funds or any other reason, the retailer shall deliver a certified check, cashier's check, or money order or make a direct deposit to the Lottery's bank account before the next payment is due within 24 hours of notification. Additionally, if the retailer's payment is returned to the Lottery,
    - a. The Director may require the retailer to pay the amount due in the form of a cashier's check, money order, sight draft or certified check at the time of each future delivery of tickets;
    - b. The Director may require the payment of each future delivery of tickets upon activation;
    - c. The Director may summarily inactivate the retailer's instant ticket validation terminal;
    - d. The Director may pick up the retailer's current inventory of tickets and withhold further delivery of tickets; and

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- e. The Director may revoke, suspend, or deny renewal of the retailer's license in accordance with ~~R19-3-203(A)(7)~~ R19-3-203(A)(8).

~~B.C.~~ Ticket prize validation and payment requirements. A retailer shall provide prize winner validation and payment services to any Lottery claimant regardless of where the ticket was purchased. A retailer may pay all winner prizes, up to and including \$599, provided that the ticket is validated as specified in R19-3-705. The retailer shall pay all winner prizes, up to and including ~~\$599~~ \$100, provided that the ticket is validated as specified in R19-3-705. Winner prizes may be paid by cash, business check, ~~or~~ money order, or if player requests, by Lottery tickets.

**D.** A retailer shall only validate instant tickets using its authorized instant validation terminal in accordance with the Act and this Chapter.

1. Instant Validation terminal location.

- a. A retailer shall locate the validation terminal at a site approved by the Lottery within the retailer's place of business and shall not move the terminal from that site without prior approval from the Lottery.
- b. A retailer shall ensure that the electrical service and data communication services to the terminal location are installed in accordance with the specifications established by the Lottery. The retailer shall ensure also that monthly payments for the electrical and telephone services are made.

2. Instant Validation terminal conversion.

- a. If the Lottery considers it necessary, the Lottery shall modify its online or instant gaming system by:
  - i. Changing terminals, equipment, or accessories; or
  - ii. Converting to another online or instant gaming system.
- b. A retailer shall assist the Lottery to the extent reasonable and practical to accomplish a modification of the online or instant gaming system in a timely and economical fashion.

3. Instant Validation terminal operation. A retailer shall have its validation terminal available for the validation and cashing of instant game Lottery tickets at a minimum of 14 continuous hours each day if the Lottery's system is active and the retailer's business is open.

4. The Arizona Lottery shall not be liable for damages of any kind due to failure of any Lottery instant validation terminal interruption or termination of validation terminal operations.

5. Instant Validation terminal care. A retailer shall at all times:

- a. Operate the validation terminal, associated equipment, and accessories only in the ordinary course of its instant game Lottery business and only in accordance with the requirements established by the Lottery; and
- b. Exercise diligence and care to prevent failures and malfunctions of, and accidents to the terminal and other property of the Lottery or property of online and instant game contractors.

6. Instant Validation terminal maintenance. A retailer shall:

- a. Keep the validation terminal, associated equipment, and accessories clean, orderly, and in good condition;
- b. Replace ribbons and paper stock in the terminal as required; and
- c. Minimize terminal downtime by:
  - i. Notifying the Lottery or its online or instant game contractor immediately of any terminal failure, malfunction, damage, or accident; and
  - ii. Making the terminal available for repair, adjustment, or replacement at all times during the retailer's regular business hours.

7. Instant Validation terminal supplies. A retailer shall:

- a. Order and use terminal supplies, including but not limited to, ribbons and paper stock, exclusively from the Lottery or its designated contractor; and
- b. Maintain a sufficient inventory of validation terminal Lottery supplies to avoid an out-of-stock situation. The Lottery shall furnish validation terminal supplies, at no cost, to the retailer.

8. Retailer training. A retailer shall:

- a. Participate in training provided by the Lottery in the operation of instant validation terminals and sale of Lottery products, which may take place at a retailer's place of business;
- b. Ensure that all employees selling Lottery products or operating Lottery instant validation terminals are properly trained in these areas and have access to all materials provided by the Lottery relating to the sales and promotion of Lottery products and the operation of Lottery equipment;
- c. Be responsible for:
  - i. Any compensation payable to employees for participation in Lottery training courses and instruction; and
  - ii. All other costs associated with employee training; and
- d. Provide all employees operating Lottery equipment with copies of the procedures manuals, bulletins, and technical materials that are furnished to the retailer by the Lottery or its online or instant game contractor.

~~E.E.~~ Retailer's compensation. The Lottery shall pay a retailer a commission of 6.5% of the price of each instant lottery ticket it sells.

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~~D.F.~~ Instant ticket sales. The money collected from the sale of Lottery tickets are trust monies required to be collected for the benefit of the state and shall be paid to the Lottery according to subsection (B). Instant game tickets shall be sold in numeric order starting with ticket 000. All instant game ticket sales are final and the Lottery will not accept ticket returns except as prescribed in subsections (A)(3) and (A)(4). The retailer shall not sell an instant game ticket after the announced end-of-game.

~~E.G.~~ In addition to the compensation specified in ~~subsection (C)~~ subsection (E), the Lottery shall pay an incentive of up to .5% on the price of each ticket sold to retailers who meet specifications established in writing by the Director. The written specifications shall be provided to the retailer before the incentive program begins.

~~F.H.~~ Unaccounted and stolen tickets.

1. Tickets unaccounted for by a retailer shall be the property of the retailer.
2. The retailer shall report stolen tickets to the local law enforcement agency within ~~± one~~ one hour of the theft or when discovered. In addition, the retailer shall report the event by telephone to the Lottery's Security Division within one-half hour of law enforcement notification and provide the Lottery with a copy of the written police report. ~~The Lottery shall issue credit for stolen tickets in an amount equal to 50% of the retailer's purchase price for the instant tickets before retail sale less any 3rd-party reimbursement.~~ The retailer shall cooperate in any investigation and prosecution of the theft.
  - a. The retailer's insurance is the loss payee and only if there is insufficient insurance to pay for the retailer's loss shall the Lottery issue credit for stolen tickets that have been activated for sale. The credit shall be in an amount equal to 50% of the retailer's purchase price for the instant tickets less any 3rd-party reimbursement. Instant tickets reported as stolen in an "issued to retailer" status but not yet activated for sale are not billed to the retailer and a credit will not be issued. The retailer shall sign an affidavit stating that the listed tickets were stolen and whether a claim for reimbursement is being or will be made with a 3rd party for the amount covered by the available Arizona Lottery credit. If the retailer obtains reimbursement for the stolen tickets from a source other than the Lottery, the Lottery credit will be reduced by the amount of the 3rd-party reimbursement.
  - b. A credit for stolen tickets will not be given if the Lottery finds the retailer was negligent or did not enforce reasonable loss-prevention procedures to protect tickets, ticket processing and ticket accounting.
  - ~~b.c.~~ Each retailer location is limited to no more than 2 two stolen ticket credits credit requests within 36 months of the date of the last theft for which a credit is requested any 36-month period.
3. If the claimed ticket for a prize is reported stolen or unaccounted for by a retailer, the Lottery shall hold the prize money in escrow pending the findings of an investigation by an appropriate law enforcement agency.

**I.** A retailer may sell instant tickets using its authorized Instant Ticket Vending Machine in accordance with the Act and this Chapter.

1. A retailer shall establish safeguards to ensure that Instant Ticket Vending Machines are not operated by persons under the legal age to purchase lottery tickets.
2. The Instant Ticket Vending Machine shall be placed in an area of the store that:
  - a. Is visible to store personnel and other customers; and
  - b. Is easily accessible to players.
3. The retailer shall maintain an adequate supply of instant tickets in all bins to minimize out-of-stock conditions.

**R19-3-206. On-Line Online Game Requirements**

**A.** Ticket sales requirements. The money collected from the sale of Lottery tickets are trust monies required to be collected for the benefit of the state and shall be paid to the Lottery according to subsection (M). A retailer selling ~~On-line~~ online Lottery games shall issue ~~On-line~~ online Lottery tickets using its authorized terminal in accordance with the Act and this Chapter.

- ~~1.~~ If a ticket is voided as prescribed in R19-3-401(C)(3), the retailer shall refund the ticket price to the ticket holder.
- ~~2.~~ 1. If a retailer accepts a returned ticket from a player or generates a ticket that is refused by the player and the retailer does not void or resell the ticket, the Lottery shall deem consider the ticket to be owned by the retailer.
- ~~3.~~ 2. A retailer shall not sell a ticket or combination of tickets to any person or entity that could guarantee the purchaser a win. A retailer shall not devote more than 15 minutes of sales in any hour to a purchase by any single player.
- ~~3.~~ A retailer shall not make any representation in the nature of or concerning a likelihood to win, a guaranteed return on a percentage of purchases, or better chances or odds of winning.
- ~~4.~~ A retailer shall not devote more than 15 minutes of sales in any hour to a purchase by any single player.
- ~~4.~~ 5. A retailer shall not permit the use of facsimiles or copies of selection slips, or other materials that are inserted into a terminal's selection slip reader that are not printed or approved by the Lottery. Plays may be entered manually only by using the lottery terminal keypad or touch screen or by using a selection slip provided by the Lottery and hand-marked by the player.

**B.** Ticket prize validation and payment requirements. A retailer shall provide prize winner validation and payment services to any Lottery claimant regardless of where the ticket was purchased. If all the ticket validation criteria in R19-3-401(H)(I) are satisfied and a proper validation ticket, which is an authorization to pay, is issued by the terminal, the

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retailer ~~shall~~ may pay a winner prize, up to and including \$599. A retailer shall pay all winner prizes up to and including \$100. Winner prizes may be paid by cash, business check, ~~or money order, or if player requests, by Lottery tickets.~~

**C.** Terminal location.

1. A retailer shall locate an online Lottery terminal at a site approved by the Lottery within the retailer's place of business and shall not move the terminal from that site without prior approval from the Lottery.
2. A retailer shall ensure that the electrical service and telephone data communication services to the terminal location are installed in accordance with the specifications established by the Lottery. The retailer shall ensure also that monthly payments for the electrical services are made. The Lottery may assess the retailer for monthly data ~~line~~ communication charges if retailer sales of Lottery products are less than the required minimums established in R19-3-203.
3. If any action by the retailer makes it necessary to place an order with the ~~providing telephone company~~ data communication provider to correct or relocate telephone data communication service after the terminal is initially installed, the retailer shall pay for the charges incurred. The Lottery shall provide to the retailer a statement of charges and a copy of the telephone data communication bill associated with the charges.

**D.** Terminal conversion.

1. If the Lottery ~~deems~~ considers it necessary, the Lottery shall modify its online Lottery system by:
  - a. Changing terminals, equipment, or accessories; or
  - b. Converting to another online system.
2. A retailer shall assist the Lottery to the extent reasonable and practical to accomplish a modification of the online Lottery System in a timely and economical fashion.

**E.** Terminal operation. A retailer shall have its online Lottery terminal available for the sale, validation, cancellation, and cashing of online Lottery tickets at a minimum of 14 continuous hours each day if the Lottery's online system is active and the retailer's business is open.

**F.** The Arizona Lottery shall not be liable for damages of any kind due to failure of any online lottery terminal interruption or termination of online terminal operations.

**G.** Terminal care. A retailer shall at all times:

1. Operate the online terminal, associated equipment, and accessories only in the ordinary course of its online Lottery business and only in accordance with the requirements established by the Lottery; and
2. Exercise diligence and care to prevent failures and malfunctions of, and accidents to the terminal and other property of the Lottery or property of online contractors.

**H.** Terminal maintenance. A retailer shall:

1. Keep the online Lottery terminal, associated equipment, and accessories clean, orderly, and in good condition;
2. Replace ribbons and ticket stock in the terminal as required; and
3. Minimize terminal downtime by:
  - a. Notifying the Lottery or its online contractor immediately of any terminal failure, malfunction, damage, or accident; and
  - b. Making the terminal available for repair, adjustment, or replacement at all times during the retailer's regular business hours.

**I.** Terminal supplies. A retailer shall:

1. Order and use online Lottery supplies, including but not limited to, ribbons, ticket stock, and selection slips exclusively from the Lottery or its designated contractor; and
2. Maintain a sufficient inventory of online Lottery supplies to avoid an out-of-stock situation. The Lottery shall furnish online supplies, at no cost, to the retailer.

**J.** Retailer training. A retailer shall:

1. Participate in training provided by the Lottery in the operation of online terminals and sale of Lottery products, which may take place at a retailer's place of business;
2. Ensure that all employees selling Lottery products or operating Lottery online terminals are properly trained in these areas and have access to all materials provided by the Lottery relating to the sales and promotion of Lottery products and the operation of Lottery equipment;
3. Be responsible for:
  - a. Any compensation payable to employees for participation in Lottery training courses and instruction; and
  - b. All other costs associated with employee training; and
4. Provide all employees operating online Lottery equipment with copies of the procedures manuals, bulletins, and technical materials that are furnished to the retailer by the Lottery or its online contractor.

**K.** Retailer compensation. The Lottery shall pay a retailer a commission of 6.5% of the price of each online ticket it sells. ~~The Lottery shall not consider a voided ticket a sale.~~ The Lottery shall not pay a retailer a commission on sales transactions that are prohibited by any state or federal statute or rule.

- L. In addition to the compensation specified in subsection (K), the Lottery shall pay an incentive of up to .5% on the price of each ticket sold to retailers who meet specifications established in writing by the Director. The written specifications shall be provided to the retailer before the incentive program begins.
- M. A retailer shall pay for online ticket sales in the following manner:
1. Pay to the Lottery each Friday, by an electronic transfer of funds, the amount due from the sale of its online Lottery tickets for the seven-day period ending at the close of business on the previous Saturday. The amount due means the retailer's gross online sales revenue, minus any ~~voided tickets~~, promotion tickets, prize winnings paid out by the retailer, ~~and the retailer's sales commission and plus or minus any adjustments~~.
  2. ~~Pay the amount due to the Lottery by an electronic transfer of funds~~. The retailer shall deposit funds in a timely manner into a bank account from which the electronic transfer will be made to the Lottery.
    - a. The retailer shall provide the Lottery with an electronic funds transfer authorization showing a valid bank account number from which the amounts due the Lottery will be transferred; and
    - b. The retailer shall notify the Lottery of any bank account changes 15 days before the effective date of the change.
  3. If a retailer's payment is returned to the Lottery for insufficient funds or any other reason, the retailer shall deliver a certified check, cashier's check, or money order, or make a direct deposit to the Lottery's bank account ~~before the next payment is due~~ within 24 hours of notification. Additionally, if the retailer's payment is returned to the Lottery,
    - a. The Director may summarily inactivate the retailer's online Lottery terminal; and
    - b. The Director may revoke, suspend, or deny renewal of the retailer's license in accordance with ~~R19-3-203(A)(7)~~ R19-3-203(A)(8).

**R19-3-207. Compliance Investigations**

- A. A retailer shall comply with all provisions of the Act and this Chapter. The Lottery may conduct inspections to verify compliance and, if necessary, order an audit or investigation of the business for verification.
- B. ~~Investigation of premises~~. A retailer shall allow investigations during the retailer's regular business hours by authorized Lottery investigators to determine whether the retailer is complying with the provisions of the Act and this Chapter.
- C. A retailer shall keep all invoices, records, bills and other papers and documents relating to the purchase, sale, and validation of Lottery products that are kept in the normal course of business for tax purposes for 5 five years. These records and papers shall be easily accessible to the Lottery authorized investigator for examination or audit. Non-paper types of storage, such as microfiche, may be used. Records may be stored at a central location.

**R19-3-208. Penalties**

- A. The Director shall assess a civil penalty against a retailer for any of the following acts of the retailer:
- ~~1. Until June 1, 2003, offering to sell or selling a lottery ticket or share to any person who is less than 18 years of age;~~
  - ~~2.1. Beginning on June 1, 2003, offering~~ Offering to sell or selling a lottery ticket or share to any person who is less than 21 years of age;
  - ~~3.2. Selling a lottery ticket or share to a person who uses either a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security to purchase the ticket or share; or~~
  - ~~4.3. Selling a lottery ticket or share during the same transaction in which a person uses either a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security to purchase any goods in addition to the lottery ticket or share.~~
- B. The Director shall on the written complaint of any person, and shall upon receipt of information indicating that a retailer has committed an act listed in subsection (A), investigate an act of the retailer listed in subsection (A). The Director shall give notice to the retailer as provided in A.R.S. §§ 41-1092.03 and 41-1092.04 of imposition of a civil penalty if the Director finds that the retailer has committed an act listed in subsection (A). The civil penalty for an act listed in subsection (A) is:
1. In an amount up to \$300 for the first violation within a 12-month period;
  2. In an amount more than \$300 and up to \$500 for the second violation within a 12-month period; and
  3. In an amount more than \$500 and up to \$1,000 for the third violation within a 12-month period.
- C. A retailer against whom a penalty is assessed shall pay the penalty to the Lottery by the 31st day after the retailer receives notice of imposition of the civil penalty, if the retailer does not request a hearing as provided in subsection (D).
- D. A retailer may request a hearing regarding imposition of a civil penalty. The procedures and requirements set forth in A.R.S. Title 41, Chapter 6, Article 10 apply to hearings under this subsection.
- E. A decision of the Director accepting, modifying or rejecting the recommended decision of the Administrative Law Judge is a final administrative decision subject to judicial review under A.R.S. Title 12, Chapter 7, Article 6.
1. If the retailer decides not to seek judicial review of the Director's final administrative decision, the retailer shall pay the civil penalty to the Lottery by the 36th day after the retailer receives the Director's decision.
  2. If the retailer decides to seek judicial review of the Director's final administrative decision, the retailer shall pay the civil penalty to the Lottery by the 36th day after the date of the Superior Court's decision.

Notices of Proposed Rulemaking

3. If the retailer decides to appeal the Superior Court's decision, the retailer shall pay the civil penalty to the Lottery by the 36th day after the date of the decision on appeal.
4. A retailer shall pay interest at the rate provided in A.R.S. § 44-1201 from the date final judgment assessing a civil penalty is entered until satisfaction of the judgment.

**R19-3-209. Notice and Service**

Service shall be considered to have been made by the Lottery for any notice, decision, order, subpoena, or other process when the document or a copy thereof is delivered to the licensee, guarantor, or the attorney of record, or is deposited as certified mail in the United States Postal Service, addressed to the licensee or guarantor at the address listed on the application for license or as noticed as a change event under R19-3-201(J).

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA**

**PREAMBLE**

- 1. Sections Affected**  
R20-5-629
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 23-405(4)  
Implementing statute: A.R.S. § 23-410
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
None
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Patrick Ryan  
Address: Division of Occupational Safety and Health  
Industrial Commission of Arizona  
800 W. Washington, Suite 203  
Phoenix, AZ 85007  
Telephone: (602) 542-1695  
Fax: (602) 542-1614  
E-mail: pat.ryan@osha.gov
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**  
The Division of Occupational Safety and Health (ADOSH) is amending R20-5-629 in order to conform with the Federal Occupational Safety and Health Administration's recent changes to 29 CFR 1904. ADOSH / OSHA is delaying the effective date of three provisions of the Occupational Injury and Illness Recording and Reporting Requirements rule published January 19, 2001 (66 FR 5916-6135). The provisions being delayed define "musculoskeletal disorder (MSD)" and require employers to check the MSD column on the OSHA Log if an employee experiences a work-related musculoskeletal disorder, state that MSDs are not considered privacy concern cases, and require employers to enter a check in the hearing loss column of the OSHA 300 Log for cases involving occupational hearing loss. The effective date of these provisions is delayed from January 1, 2003 until January 1, 2004. OSHA will implement the hearing loss column requirements on January 1, 2004, and will continue to evaluate the MSD provisions over the next year. Copies of the material are available for inspection or reproduction at the Arizona Division of Occupational Safety and Health, 800 W. Washington, Room 203, Phoenix, AZ 85007, and can be downloaded from the Federal OSHA web site (www.osha.gov).
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
None

Notices of Proposed Rulemaking

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The Federal Occupational Safety and Health Administration and the Arizona Division of Occupational Safety and Health has determined that these revisions to the occupational injury and illness recording and reporting requirements will have little to no impact for affected industry groups and has determined the revisions to be economically feasible for all industries including small business. Cost and benefit analysis of these amendments is available for inspection, review, and copying at the Industrial Commission of Arizona, Division of Occupational Safety and Health, 800 W. Washington, Phoenix, AZ 85007.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Patrick Ryan  
Address: Division of Occupational Safety and Health  
Industrial Commission of Arizona  
800 W. Washington, Suite 203  
Phoenix, AZ 85007  
Telephone: (602) 542-1695  
Fax: (602) 542-1614  
E-mail: pat.ryan@osha.gov

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

An oral proceeding has been scheduled as follows:

Date: June 2, 2003  
Time: 9:00 a.m.  
Location: Hearing Room A  
Industrial Commission of Arizona  
800 W. Washington  
Phoenix, AZ 85007

Written comments may be submitted on or before 9:00 a.m., June 2, 2003.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporation by reference and their location in the rules:**

Occupational Injury and Illness Recording and Reporting Requirements, as published in 29 CFR 1904, with amendments as of December 17, 2002, in R20-5-629.

**13. The full text of the rule follows:**

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA**

**ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH CONSTRUCTION STANDARDS**

Section

R20-5-629. The Occupational Injury and Illness Recording and Reporting Requirements, 29 CFR 1904.

**ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH CONSTRUCTION STANDARDS**

**R20-5-629. The Occupational Injury and Illness Recording and Reporting Requirements, 29 CFR 1904.**

All employers, both public and private shall comply with the Occupational Injury and Illness Recording and Reporting Requirements, as published in 29 CFR 1904, with amendments as of ~~December 17, 2002~~ ~~July 1, 2002~~, incorporated by reference and on file with the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. Copies of the referenced materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402.