

# NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING

After an agency has filed a Notice of Proposed Rulemaking with the Secretary of State's Office for *Register* publication and the agency decides to make substantial changes to the rule after it is proposed, the agency must prepare a Notice of Supplemental Proposed Rulemaking for submission to the Office, and the Secretary of State shall publish the Notice under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.). Publication of the Notice of Supplemental Proposed Rulemaking shall appear in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

## NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

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

#### CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

##### PREAMBLE

**1. Register citation and date for the original Notice of Proposed Rulemaking:**

Notice of Proposed Rulemaking: 9 A.A.R. 1332, May 2, 2003

**2. Sections Affected**

**Rulemaking Action**

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

**3. The statutory 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 statutory authority for the specific rule amendments is discussed below.

The Lottery is charged by A.R.S. § 5-512 to not license a person who engages in business exclusively as a lottery sales agent and in R19-3-201(A)(1)(e) the rules are amended to require evidence that the applicant's primary business products or services are not Lottery products or services concerning lotteries.

The Lottery is charged by A.R.S. § 5-512 to consider the financial responsibility of the applicant, security issues concerning the applicant, the nature of the person's business activity, the person's background and reputation in the community, accessibility of the person's place of business, public business activity, accessibility of the existing licensee to serve the public convenience, and the volume of expected sales. The amended R19-3-201(A)(1)(f) through (h) requests the information needed by the Lottery to implement these statutory requirements including outstanding debts to the state, information from business references, and financial responsibility. The rule provides three alternate tests to determine financial responsibility: (1) whether an applicant has sufficient equity from which the Lottery could satisfy a judgment against the applicant, if necessary, (2) whether an applicant has paid its bills as they became due for a period of at least three years and does not have outstanding legal actions, judgments, or tax liens that jeopardize that status, or (3) if an applicant cannot meet any of these tests, an applicant may qualify if the applicant is able to provide a guarantor to protect the Lottery's financial interests. To be an effective guarantee for community property, A.R.S. § 25-214(C)(2) requires both spouses to sign a guarantee. In the alternative, if a guarantor provides sufficient proof of the existence of separate property free from any claim by the community, a personal guarantee in writing signed by the individual and not co-signed by a spouse may be provided.

As provided in A.R.S. § 41-1750(G)(2), pursuant to an executive order a noncriminal justice agency may obtain criminal history record information through a fingerprint card for the purpose of evaluating the fitness of current or prospective licensees. At the commencement of the Lottery, the Governor issued Executive Order 81-2, which is still in effect and attached to this rulemaking package as exhibit "A," to establish the right of the Arizona Lottery to obtain and maintain information concerning arrests and convictions of a person for public offenses. The Lottery is charged by A.R.S. § 5-512 to consider the security issues and the background of a person applying for a license to sell lottery tickets. Under this authorization and to fulfill this duty R19-3-201(A)(2)(c), R19-3-201(A)(3)(c), R19-3-201(A)(4)(c), and R19-3-201(A)(5) request a fingerprint card for the purpose of evaluating the fitness of current and prospective licensees.

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The Lottery is charged by A.R.S. § 5-512 to consider the volume of expected sales in licensing an agent to sell lottery tickets. The Lottery requests information in R19-3-201(A)(1)(d) concerning the applicant's retail activities to predict the licensee's ability to meet the minimum sales requirements. In R19-3-201(B)(5) the Lottery evaluates the applicant's ability to meet or exceed the required minimum based on information relating to the number of people purchasing existing goods or services from the applicant or information relating to a comparable retailer.

Statutory authority for R19-3-201(C) is derived from the legislative requirement of A.R.S. § 5-504(B) to produce the maximum amount of net revenue consonant with the dignity of the state. Based on the legislature mandating these dual responsibilities, R19-3-201(C) establishes that a sexually-oriented business is not consonant with the dignity of the state. Deferred presentment companies are prevented from selling lottery tickets on their licensed premises and they are omitted from eligible licensees. A.R.S. § 6-1259.

A licensee is required to carry a minimum of four varieties of instant tickets in R19-3-201(F), which is authorized under A.R.S. § 5-504(B) requiring the Lottery to maximize net revenue. Most licensees carry eight to sixteen varieties of instant tickets. Experience has shown that when a licensee increases the number of games it offers for sale, its total volume of sales increase. A recent chain of stores increased the number of games from eight to twelve and increased sales 78%. The Lottery does not require a licensee to carry any specific game, but instead requires a licensee to select at least four instant games from all the available games.

Selling a lottery ticket to a person under the age of twenty-one is an absolute liability criminal statute. A.R.S. § 5-515. Under the Arizona Criminal Code no intent is required for an absolute liability criminal statute. The code requires only "conduct" as an absolute requisite to criminal liability. *State v. Agnew*, 132 Ariz. 567, 579, 647 P.2d 1165, 1177 (Ct. App. 1982). Therefore, R19-3-203(A)(2) was in error when it required a knowing violation and is here amended.

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

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

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 on-line games, and licensee conduct. The rules establish procedures for revocation, suspension, or renewal of retailer licenses, hearing procedures, and Lottery-conducted compliance investigations. This amendment incorporates changes suggested 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 also provides consistency in the language of the text and, further, makes the rules more clear, concise, and understandable.

**6. An explanation of the substantial change which resulted in this supplemental notice:**

R19-3-201(A). The agency rearranged the application requirements for each business entity type, consolidated requirements for all corporations, and consolidated all like-requirements under R19-3-201(A)(1). For clarity, marketing and sales information requirement was expanded to include the specific information required to show the applicant's ability to meet minimum lottery ticket sales. The equity or unencumbered assets in real or personal property to demonstrate financial responsibility was changed from "sufficient to pay lottery sales for a period of six months" to "in an amount of \$100,000 or more." Requirements to enable the agency to conduct a credit search and a criminal background check were clarified including provisions concerning community property and sole property separate from the community.

R19-3-201(C). Business products or services that primarily target children, business locations not convenient or in the public interest, and businesses not within the jurisdiction of the state of Arizona were deleted.

R19-3-201(E)(4)(e). The substantive review time-frame was changed from 20 days to 18 days to conform with A.R.S. § 41-1075(B).

R19-3-201(E)(4)(f). Subsection was deleted.

R19-3-201(F)(3). The subsection was amended to be more specific: "... to sell one or more Lottery products as a condition of selling any other Lottery product" was changed to "to sell instant tickets as a condition of selling on-line tickets or shares."

R19-3-201(J). Addition or removal of a partner in a partnership or a limited liability partnership (proposed subsections (4) and (5)) were combined. Subsequent subsections were renumbered accordingly. Proposed subsection (6) was amended from a substantial change in ownership of a non-public corporation to a change of directors or officers

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in a non-public corporation and renumbered to subsection (7). Proposed subsection (13), “licensee is sued for a monetary judgment” was deleted. Proposed subsection (16) was amended to add misdemeanor theft and embezzlement.

R19-3-201(K). Subsection was restructured for clarity. Continuation waiver was deleted under subsection (2).

R19-3-202. Special event was deleted.

R19-3-203(A)(1). Subsection was amended to delete “laws of the State of Arizona, the United States, or the regulations of the Arizona Lottery Commission” and the language was returned to the original language.

R19-3-203(A)(19). Subsection was added to include failure of a licensee to implement loss prevention procedures.

R19-3-203(B). The subsection was divided into two subsections ((B) and (C)) to add clarity.

R19-3-203(C). Subsection was renumbered to (D) and subsection (1)(c) was amended to add “felony” and delete “pending a determination of conviction or exoneration.”

R19-3-203(E). Proposed subsection was deleted.

R19-3-203(F). Subsection title was changed from “Procedure for filing an appeal with the Commission” to “Procedure for filing an appeal of a final administrative decision,” and the change was made throughout the rules. In subsection (1), the appeal was clarified as an optional motion for rehearing. Proposed subsections (2), (3), (4), and (5) were renumbered (b), (c), (d), and (e) respectively. Proposed subsection R19-3-203(G) was renumbered (f) and subsection R19-3-203(F)(2) was added to make final a decision of the Director accepting, modifying, or rejecting the recommended decision of the Administrative Law Judge subject to judicial review.

R19-3-203(H)(1). The “Director’s decision” was changed to “final administrative decision.”

R19-3-204(A). Specific pieces of promotional materials were deleted.

R19-3-204(B). Authorized Retailer decal was added to the subsection.

R19-3-205(A)(3). The subsection was reorganized and parts of this subsection were renumbered R19-3-205(A)(4) and R19-3-205(B).

R19-3-205(B). The subsection was restructured and renumbered R19-3-205(C). Subsequent subsections were renumbered accordingly.

R19-3-205(D)(7)(a) and R19-3-205(D)(7)(b). The last sentence in subsection R19-3-205(D)(7)(b) was moved to the end of subsection R19-3-205(D)(7)(a).

R19-3-205(E). Subsection was renumbered to R19-3-205(F) and the following sentence added: “The Lottery shall not pay a licensee a commission on sales transactions that are prohibited by any state or federal statute or rule.”

R19-3-205(F). The new proposed text was moved to subsection R19-3-205(C) and the subsection amended to add the requirement to sell tickets in numeric order.

R19-3-206(A). The new proposed text was moved to subsection R19-3-206(M).

R19-3-206(A)(4). At the suggestion of a public member, the following language was added to the end of the subsection: “... , if other customers are waiting to make a purchase.”

R19-3-206(I)(1) and R19-3-206(I)(2). The last sentence in subsection R19-3-206(I)(2) was moved to the end of subsection R19-3-206(I)(1).

The term “retailer” was changed to “licensee” throughout the rules when the word referred to a retailer already licensed by the Lottery. In addition, the Agency made several minor changes to the text of the rules to improve the clarity, conciseness, and understandability. Non-substantive changes in grammar, syntax, and stylistics were included to known standards of the Governor’s Regulatory Review Council and the Secretary of State.

**7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules 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. Licensee-related costs include background investigations for licensing, delivery of tickets, supplies and point-of-sale promotional items, installation of telephone lines for the on-line terminal and monthly telecommunication fees for each licensee selling on-line games, and administrative costs collecting sales revenues and providing customer service to licensees. Cost of a licensing investigation, which includes an Americans with Disabilities Act (ADA) on-site inspection, credit report (\$1 for individual and \$29 for corporations), and fingerprint check (\$5 for state or \$29 for national), is approximately \$200 per location. Initial telecommunication line installation for an on-line retailer terminal is approximately \$550 and the average monthly line charge is \$61. The Lottery has approximately 2500 on-line licensees. The Lottery paid \$2.8 million in telecommunication line-charges last fiscal year.

The amendment of R19-3-202 reflects the Lottery's addition to its promotional activities allowed by order under A.R.S. § 5-504(C)(3)(4) to sell lottery tickets at promotional events. Most promotional events are held at the licensee's premises and at these events the Lottery does not sell tickets; only the licensee sells tickets. In addition, the Lottery conducts numerous promotions statewide including the Coyotes® Pick 3™ title sponsorship, sports sponsorships, Arizona State Fair, Oktoberfest, and Women's Expo, that are used to promote new Lottery products like Slingo® and to sell tickets. Statewide road trips utilize added value radio-remotes in each market to broadcast the Lottery's promotional message. In addition, promotions are conducted throughout the year to celebrate sales of substantial winning tickets at the retail location where each sale occurred. The promotional campaigns are evaluated each year on the basis of their effectiveness at promoting products.

**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, licensee conduct in selling and redeeming Lottery tickets, and compensation paid to licensees for Lottery services. The Lottery paid licensees 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.

The economic impact of specific rules on businesses is discussed by specific rule amendment. The Lottery is charged to maximize net revenue in A.R.S. § 5-504(B) and it has chosen to limit losses through R19-3-201, which provides effective retailer screening for financial responsibility and cost-effective procedures in licensing and collection. This decision has been beneficial to both the Lottery and the retailers.

The Lottery has a very low rate of defaults and no losses due to dishonest acts by licensees (although licensees with employee thefts are discussed below). This procedure eliminates the need for high cost blanket bonds. At the close of fiscal year 2003, out of a total revenue of \$322 million, the amount in collection from retailers was \$22,000 and \$5,000 of that was in a large bankruptcy where it is anticipated that the Lottery's claim will be paid. Of the remaining \$17,000 a portion will be collected by the Attorney General's Office. With this low default rate (.00007) the best method of maximizing net revenue has been to expand the Lottery's licensee base with only financially responsible retailers. To maximize that base to include new retailers—who otherwise would not qualify—the Lottery provides an option for applicants to provide an account guarantee.

As discussed under statutory authority, the legislative mandate to the Lottery is to maximize revenue to the state while acting in accord with the dignity of the state. Therefore, in R19-3-201(A)(1)(d) and R19-3-201(B)(5) applicants are required to provide information concerning their present retail activities and customer base as an indicator that the applicant can meet the minimum required sales. The information is provided to the Lottery by an applicant through a marketing questionnaire that includes questions concerning an applicant's interest in selling both on-line and instant or just instant tickets; business references; information about the premises; information concerning on-site or off-site supervision of premises; store hours, major cross streets, number of cash registers; and products presently offered for sale within certain major categories.

The amendment of R19-3-203(A)(4) provides for an even playing field for all licensees by requiring a minimum dollar amount instead of the previous ticket minimums. This change recognizes that the Lottery presently offers for sale tickets with varying price points from \$1 to \$10. This change will assure a licensee that minimum sales are not affected by the licensee's choice of tickets. This change is neutral as to economic impact.

Applicants not eligible for a lottery license listed in the amended R19-3-201(C) include sexually-oriented businesses under A.R.S. § 13-1422 and as defined in A.R.S. § 11-821(I), and deferred presentment companies as defined in A.R.S. § 6-1251 and prohibited by A.R.S. § 6-1259(B)(11). Although eliminating sexually-oriented businesses from the pool of applicants may also eliminate some potential income, the loss of such income is authorized by the Legislature's requirement that the Lottery maximize sales in accord with the dignity of the state.

A licensee is required by R19-3-201(F) to maintain at least four instant games for sale at all times, but the licensee and not the Lottery selects which instant games. Most licensees maintain eight or twelve different games and the larger licensees maintain sixteen different games.

The new R19-3-201(J), requiring the licensed retailer to report in writing any changes that could affect their license, is of a nature that updates application information or reflects authority to deal with the Lottery. The cost would be the time required to reduce the information to writing, make a copy, and either fax or attach a thirty-seven cent stamp.

The amendment of R19-3-201(I)(2)(c) allows the licensee to choose whether it is better economically to renew all of its locations at the same time or stagger renewals throughout the year on the date the premises were originally licensed. Previously the licensee was required to renew all locations on the same date. The change is beneficial to the licensee and has no economic impact to the Lottery because each premise is licensed separately.

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A licensee must maintain minimum required sales to retain its lottery license under R19-3-203(A)(4). If a licensee does not maintain the minimum required sales, the licensee has the option to pay the telephone line charges rather than relinquish its retailer license under R19-3-206(C)(2). In fiscal year 2003, 293 licensees opted to pay the line charge fee—which is the cost to the Lottery of maintaining the connection—rather than surrender their lottery licenses. If the failure to maintain minimum sales is due to conditions beyond the licensee’s control, such as road work or seasonal sales, the licensee may apply for a waiver. In fiscal year 2003, waivers were requested by 245 licensees and the Lottery granted 209 waivers. Two licensees requested to change to instant-only tickets (the Lottery has no line connection costs with instant only) and sixteen licensees voluntarily relinquished their licenses.

In regards to R19-3-201(B)(19) and R19-3-201(D)(1)(b), statistics show that nationwide approximately 84% of all thefts of Lottery products occur at the retailer level and 16% of losses occurred during transit because of poor bookkeeping or lost tickets. In fiscal year 1999, the Arizona Lottery experienced 91 incidents of reported stolen tickets. The breakdown of the thefts by type showed that 40% were licensee employee thefts, 14% burglaries, 5% robberies, 15% grab-and-runs, 7% other causes, and 19% internal problems. In fiscal year 2000, the Arizona Lottery experienced 95 incidents of reported stolen tickets with approximately 43% licensee employee theft, 20% unknown administrative error/employee theft, 10% burglaries, 11% robberies, 10% grab-and-runs, and 6% from other sources such as fraud. Of the reported thefts, 24 thefts occurred from gas stations, 18 thefts from convenience stores, 36 thefts from Circle Ks, six thefts from grocery stores, four thefts from check cashing outlets, two thefts from liquor stores, and one theft from a truck stop.

Based on this information the Lottery developed its loss prevention program with the objective “to train and assist licensees and sales personnel in the recognition and prevention of retail loss, as well as the prosecution of individuals; thereby increasing licensee profitability.” This program was modeled after a highly successful program in Idaho. The Lottery sales staff were instructed to assist in training and supporting the licensees in loss prevention. Most licensees maintain good loss prevention procedures or they would not be in business for long. However, if a licensee experiences a loss, the Lottery has developed procedures that can assist in reducing future risks and procedures to ease reporting thefts. The Lottery and the licensee each bear 50% of the cost of ticket losses not paid by the licensee’s insurance and hold the same economic interest in preventing loss.

The Lottery has two directions in providing loss prevention information. It provides written materials to the licensees and works with licensees when they report a theft or other loss. The required loss prevention training is provided to the licensees in a manner that is most convenient to the licensees. With large corporate accounts training can be provided as part of the licensee’s normal training schedule and with small independent licensees by a lottery representative in the store. Additional opportunities are provided during installation of new equipment and through other optional training.

In connection with R19-3-205(A), the Lottery has a written policy to end instant games when 90% of the game’s inventory has been invoiced, the end of scheduled sales (depending on the price point), or when the last top prize has been claimed. Experience has shown that keeping fresh new games in the market increases overall revenue. Licensees receive credit for the partial packs and full packs that are returned to the Lottery, so this rule is income neutral to the licensees. However, the constant changing of games increases overall revenue to the Lottery and commissions to the licensees.

The new instant ticket validation terminals for instant-only licensees provide a risk-free validation process, rather than the previous sight validation, and R19-3-205(E) establishes the procedures concerning these terminals. Licensees are responsible for maintaining the cost of the telephone connection, however, the instant ticket validation terminal does not require a dedicated line, only a telephone line to call-in to the Lottery computer. It operates on the same principle as many charge card validators and the licensee’s same telephone line or any other telephone line may be used.

The required training in R19-3-205(E)(8) concerning use of the instant ticket validation terminal is simple and the initial instruction is provided in the licensee’s store by the Lottery’s contractor that installs the device. The licensee is responsible for providing training to new staff, however, the Lottery sales representatives are trained on the validation terminal and can provide any additional training when they make regular visits to the licensee.

The practice of giving credit for void tickets, which is ended in R19-3-206, follows the rule change by the Multi-State Lottery Association ending voids for Powerball®. The Lottery is bringing its rules for all games consistent with Powerball and will file with the Attorney General for review of R19-3-401(C)(3) to end all voids. R19-3-401(C)(3) will be issued simultaneously with this rule. A licensee should have no economic loss due to this change.

**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.

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F. State Revenues.

Revenue generated by the sale of Lottery game tickets and license fees are deposited into the Lottery fund and the prize fund. The Legislature appropriates from these funds the amounts available for Lottery operations. The maximum percentage of the funds to be applied to operation of the Lottery is established in A.R.S. § 5-505 and A.R.S. §§ 5-521 and 5-522. These sections also specify the use of the revenues collected between player prizes and programs funded with Lottery monies. The Lottery collected \$24,100 in retailer license fees in fiscal year 2002. Transfers to state of Arizona funded programs were in excess of \$92.4 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	Nena Divine Special Projects
Address:	4740 E. University Drive Phoenix, AZ 85034	4740 E. University Drive Phoenix, AZ 85034
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Fax:	(480) 921-4488	(480) 921-4507
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**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules, or if no proceeding is scheduled, where, when, and how may request an oral proceeding on the proposed rules:**

Date:	April 2, 2004
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, April 1, 2004 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. Incorporations 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 <u>Point-of-sale and</u> Promotional Material
R19-3-205.	Instant Game Requirements
R19-3-206.	<del>On-Line</del> <u>On-line</u> Game Requirements
R19-3-207.	Compliance Investigations
R19-3-208.	Penalties
R19-3-209.	<u>Notice and Service</u>

**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:

1. Submit to the Director a verified application on forms prescribed by the Director containing the following information:
  - a. ~~If the applicant does business as an individual, the applicant's name, address, and phone number;~~

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- 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 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.a. ~~The business applicant name, and if different, the trade name of the retailer's business premise, address, or of the physical location of the applicant's place of business, and the mailing address if it is different from the place of business, and phone number;~~
  - f.b. ~~The applicant's current transaction privilege tax license number issued pursuant to under A.R.S. § 42-1305 § 42-5005 and federal taxpayer identification number recorded on Form W-9;~~
  - g.c. ~~Certification that the applicant has complied applicant's business location complies with the statutes and rules governing the Americans with Disabilities Act;~~
  - h.d. ~~Marketing and sales forecast information, on the forms and in the manner specified by the Lottery, sufficient for the Lottery to determine whether applicant is more likely than not to be able to sell the minimum lottery tickets required by R19-3-203(A)(4). The information shall include the volume of expected sales, number of cash registers, hours of operation, products presently offered for sale, foot traffic defined as approximate average number of persons entering the applicant's business premises per day based on a sampling of at least five days, and previous lottery sales history at that location or in comparable stores, if any;~~
  - e. ~~Evidence that the applicant's primary business products or services are not Lottery products or services concerning lotteries;~~
  - i.f. ~~Names, addresses, and phone numbers of 3 three business references for the applicant;~~
  - j.g. ~~Financial relationship and any outstanding debt with the state state of Arizona, or any of its government political subdivisions, or the United States government;~~
  - h. ~~Evidence that the applicant is financially solvent. The evidence may include any one of the following:~~
    - i. ~~Equity or unencumbered assets in real estate or personal property, other than goodwill and intellectual property, in an amount of \$100,000 or more;~~
    - ii. ~~Evidence the applicant has established business credit, has a record of meeting 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 in writing of applicant's Lottery account signed by a guarantor and the guarantor's spouse, if married, or by the guarantor only, if guarantor provides proof that guarantee is based on sole and separate property.~~
  - k.i. ~~Authorization agreement for electronic fund transfer with a valid bank account number from which any amount due the Lottery will be transferred Electronic Funds Transfer Authorization agreement showing a valid bank account number from which the Lottery will withdraw any amounts due; and~~
  - j. ~~Name, case number, court designation, and type of action for any pending litigation or judgments against the applicant or applicant's spouse, or for which the applicant may potentially be held financially responsible. If the applicant is applying as the sole separate property, a limited liability partnership, limited liability corporation, or a corporation, then no information on spousal litigation is to be submitted.~~
2. ~~If the applicant does business as a sole proprietorship or partnership:~~
- a. ~~The name, home address, and home phone number of each owner or partner including community property owner unless applicant provides proof that the applying business is sole property separate from the community;~~
  - b. ~~Written authorization and tax identification number for the business entity and social security number of each owner or partner, and if married, each owner's or partner's spouse, for the purpose of performing a credit search that includes community property from a credit reporting agency, unless applicant provides proof that the business is sole property separate from the community; and~~
  - c. ~~A completed authorized fingerprint card for each owner or partner, and each owner's or partner's spouse, if married unless applicant provides proof that the business is sole property separate from the community. If any general partner is a corporation, fingerprint cards are required under subsection (A)(4).~~
3. ~~If the applicant does business as a limited liability partnership ("LLP") or a limited liability company ("LLC"):~~
- a. ~~The name, home address, and home phone number of each partner or member;~~
  - b. ~~Written authorization and tax identification number for the business entity to perform a credit search; and~~
  - c. ~~A completed authorized fingerprint card for each partner or member.~~
4. ~~If the applicant does business as a corporation:~~
- a. ~~The name, corporate address, and corporate phone number of each officer and director, and the name, home address and home phone number of the responsible local manager and contact representative;~~
  - b. ~~Written authorization and tax identification number to perform a credit search; and~~

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- c. A completed authorized fingerprint card for the appropriate responsible local manager who is the contact representative for the applicant's corporate location in Arizona.
5. If financial solvency is determined under subsection (A)(1)(h)(iii), written authorization to perform a credit search and social security number for any guarantor and guarantor's spouse if a guarantee is based on community property, or for the guarantor only if the guarantee is based on separate property.
- ~~2-6.~~ 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 current licensed location, the application fee for that the new location shall may be pro-rated at \$1.00 per month from the application date until the date the other licenses are due for renewal under R19-3-201(I).
- 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.~~
1. Evidence that the applicant and all persons named on the application are 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 Lottery-licensed retailer, would be grounds for suspension or revocation of a license granted by the state of Arizona;
2. An applicant and all persons named on the application 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 and all persons named on the application 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. The applicant shall have demonstrated financial solvency based on the information provided in the application, credit search, pending litigation, and tax liens;
5. The applicant shall demonstrate either sufficient foot traffic, as defined in R19-3-201(A)(1)(d), or evidence of a comparable retailer that predicts 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 if any of the following applies:~~
1. The 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 in which a corporate officer, director, or manager over lottery sales is a minor;
2. The applicant is a sexually oriented business under A.R.S. § 13-1422 and as defined in A.R.S. § 11-821(I); or
3. The applicant provides deferred presentment services defined in A.R.S. § 6-1251.
- E.D.** ~~Residency requirement. To obtain a license, a person an applicant shall be one of the following:~~
1. A resident of Arizona;
2. A corporation incorporated in Arizona or authorized to do business in Arizona;
3. A limited liability company authorized to do business in Arizona in which a member or manager resides in Arizona;
4. A partnership in which at least + one of the general partners resides in Arizona; or
5. ~~An unincorporated business authorized to do business in Arizona~~ A limited liability partnership in which at least one of the partners resides in Arizona.
- F.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 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.

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- 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~~ according to 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~~ according to this subsection.
  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~~ 18 days.
  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.
  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 Director may exempt a licensee from selling four different instant games if the licensee shows three consecutive months of double the minimum sales requirement in R19-3-203(A)(4)(a).
  3. The Director may require a licensee to sell instant tickets as a condition of selling on-line tickets or shares.
- ~~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~~ according to 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 lottery~~ equipment, or terminal operations. This should not be construed in any way to ~~effect~~ affect the rights of the licensee to recover for losses caused by any ~~3rd~~ third 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~~ according to the provisions of ~~R19-3-204~~ R19-3-203.

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- 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 more than one license is renewed under this subsection, the application fee shall be pro-rated at \$1.00 per month from the license expiration date until the next 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 ~~+~~ 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 ~~+~~ one or more years for failure to renew, a new application for license must be made and a new license issued ~~in accordance with~~ according to this Chapter.
4. A license issued under this Chapter is subject to termination by the Director ~~in accordance with~~ according to the provisions of this Chapter before the expiration date.
- J.** Reportable Events. A licensee shall report the following events to the Lottery in writing at least 15 days before the event or as otherwise specified in this Section:
1. Change in business location;
  2. Sale of ownership of the business;
  3. Death of a licensee within 15 days after the death occurs;
  4. Addition or removal of a partner in a partnership or a limited liability partnership;
  5. Merger or acquisition of the licensed entity;
  6. Addition or removal of a member in a limited liability company;
  7. Change of directors and officers in a non-public corporation;
  8. Addition or removal of a controlling agent or designated corporate contact representative;
  9. Divorce or legal separation action filed by an individual licensee or licensee's spouse, if the licensed entity is a sole proprietorship or a partnership;
  10. Licensee or guarantor becomes insolvent;
  11. Licensee or guarantor files bankruptcy;
  12. Change in bank account from which the Lottery's electronic funds transfers are made;
  13. Change in mailing address or phone number of licensee or guarantor; or
  14. A named person on the application or successor is charged with a felony, felony theft designated as a misdemeanor, misdemeanor theft, embezzlement, 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. A license is not assignable or transferable. A license authorizes the entity described in the application to sell lottery tickets only at the specific premise stated on the license.~~
- ~~1. The licensee shall surrender the license to the Director on the date of sale, termination, substantial ownership change, or business location change. If there is a change of ownership, business location, or for changes listed in subsections (J)(1) through (J)(6), the licensee shall:~~
    - ~~a. Surrender the license to the Director on the date of the event;~~
    - ~~b. Not sell any additional lottery tickets;~~
    - ~~c. Not allow the sale of Lottery products under a subcontract.~~
  - ~~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 owner must apply for a license according to R19-3-201.~~

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

The Lottery may sell lottery tickets at its main office, any branch it establishes in the state, or any ~~special~~ promotional 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 licensee~~ licensee violates a provision of the Act or this Chapter;
  2. The ~~retailer knowingly~~ licensee offers to sell a lottery ticket, sells a lottery ticket or pays a prize on any winning lottery ticket to a person less than ~~18~~ 21 years old;
  3. The ~~retailer licensee~~ licensee 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 Arizona 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 licensee's~~ licensee'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. On-line games are less than ~~\$400 tickets~~ \$400 per week for the preceding quarterly period; or
    - c. Instant games and on-line games combined are less than \$650 per week for the preceding quarterly period;

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5. The ~~retailer~~ licensee commits an act that impairs the ~~retailer's~~ licensee's reputation for honesty and integrity;
  6. The ~~retailer~~ licensee does not make purchase or redemption of lottery tickets convenient and readily accessible to the public;
  7. The ~~retailer~~ licensee 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~~ licensee has ~~2~~ two payments returned to the Lottery for insufficient funds in a 12-month period ~~which that~~ is caused by the retailer's actions;
  9. The ~~retailer~~ licensee becomes insolvent, unable or unwilling to pay ~~its~~ debts, or is declared bankrupt;
  10. The ~~retailer~~ licensee or an officer or controlling agent of the ~~retailer~~ licensee:
    - 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~~ for misrepresentation, consumer fraud, or other fraud;
  11. Facts are discovered which, if known at the time the Lottery retailer's license was issued or renewed, would have been grounds to deny licensure;
  12. The ~~retailer~~ licensee adds a minor as an owner, partner, or officer of the business; ~~or~~
  13. The ~~retailer~~ licensee or an officer or employee of the ~~retailer~~ licensee sells a ticket or pays a prize to oneself: to any entity either wholly owned or partially owned by the licensee, or any entity with 10% or more of the same shareholders, partners, or members as the licensee;
  14. The licensee or an officer or employee of the licensee sells or exchanges any lottery product for consideration other than U.S. currency, check, credit card, debit card or, if a player requests, a winning lottery ticket;
  15. The licensee or an officer or employee of the licensee sells a ticket by telephone, mail, fax, on the internet, or on premises other than the one listed on the Lottery retailer's license;
  16. The licensee or an officer or employee of the licensee sells an altered ticket, an expired ticket, or a ticket after the announced end of the game;
  17. The licensee fails to display the Americans with Disabilities Act Notice, Arizona Problem Gambling Helpline toll-free telephone number, or license;
  18. The licensee fails to report a change event defined in R19-3-201(J); or
  19. The licensee fails to implement loss prevention procedures required in writing by the Lottery within 30 days of notice.
- 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, the regulations of the Arizona Lottery, or the written complaint of any person, investigate an act of a ~~retailer~~ licensee within 30 days after receiving the information. The Director may temporarily suspend a license under an emergency action, and impose specific conditions on a ~~retailer~~ licensee during the suspension or commence an action to permanently revoke a license issued under this Article if the ~~retailer~~ licensee is found to have committed an act or omission listed in subsection (A).
- C.** The Lottery shall mail or hand deliver a notice of action to suspend or revoke a license. Written notice to the licensee is effective notice if it is sent or hand delivered to the address in the application or the last address provided under R19-3-201(J).
- D.** Emergency action.
1. The Director may turn off a retailer's on-line terminal and suspend sales of lottery tickets if the public welfare is threatened pending a proceeding for revocation, suspension or denial of renewal, in the following circumstances:
    - a. The licensee's bank account has insufficient funds when the Lottery's regularly scheduled electronic transfer of the licensee's account is returned by the bank as insufficient funds or closed account and the licensee does not immediately pay the insufficiency;
    - b. The licensee fails to implement loss prevention procedures required in writing by the Lottery within 30 days of notice;
    - c. The licensee, corporate officer, director, partner, LLC member, or location manager is charged with a felony or misdemeanor theft, embezzlement, or a crime involving gambling.
  2. A licensee 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 licensee fails to settle the financial account and surrender the license and all other lottery property and products, the Director shall take 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 under R2-19-103 and R2-19-110.

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~~C.E.~~ Procedure for hearings. A retailer licensee may request a hearing before 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. The procedures and requirements set forth in A.R.S. Title 41, Chapter 6, Article 10 apply to hearings under this subsection.

~~D.F.~~ Procedure for filing an appeal with the Commission of a final administrative decision:

1. ~~A person who wishes to appeal a final decision of the Director shall file an appeal with the Lottery Commission within 30 days of receipt of the Director's decision. The filed appeal shall contain the following: An appeal to the Lottery Commission is considered in the nature of an optional motion for rehearing.~~
  - a. A Notice to the Lottery Commission shall be filed within ten days of receipt of the final administrative decision. The Notice shall contain:
    - ~~a.i.~~ A copy of the Director's final administrative decision; and
    - ~~b.ii.~~ The alleged factual or legal error in the final administrative decision of the Director from which the appeal is taken.
  - ~~2-b.~~ 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.
  - c. The Lottery may file a response brief within 15 days after receipt of the appellant's brief.
  - ~~3-d.~~ The Commission may rule based on the written briefs, or if requested, may provide for oral argument.
  - ~~4-e.~~ The Commission shall make its ruling on the appeal on the record.
  - ~~E-f.~~ A final decision of the Lottery Commission is subject to judicial review under A.R.S., Title 41, Chapter 6, Article 10 Title 12, Chapter 7, Article 6.
2. 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.

~~F.G.~~ Revocation of a retailer's license.

1. A retailer licensee who receives a notice of ~~license revocation~~ the final administrative decision revoking the retailer's license 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.
2. If the retailer licensee fails to settle the financial account and surrender the license and all other lottery property and products, the Director ~~is authorized to~~ shall take all steps allowed by law to secure payment and the return of lottery products and property.

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

- ~~A.~~ Each retailer licensee 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, change mats, mobiles, strip banners, table tents, brochures, or stickers.
- ~~B.~~ A licensee shall prominently display the Americans with Disabilities Act Notice, Arizona Problem Gambling Helpline toll-free telephone number, and the Authorized Retailer decal.

**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 The Lottery or its authorized representative shall distribute instant game tickets ~~will be distributed, accept returned instant game tickets, and bill instant game tickets sold to retailers licensees and payment made as follows:~~
  1. ~~The Lottery or its authorized representative shall distribute~~ Distribute to each retailer licensee the quantity of tickets on which the Lottery and the retailer licensee agree, based on the retailer's licensee's anticipated volume of sales.
  2. ~~The Lottery shall bill~~ Bill for instant ticket packs issued to a retailer licensee 45 days after a pack is activated or after 85% of winning tickets in the pack are validated, whichever occurs ~~1st~~ first.
  3. ~~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. Initiate collection of full packs and partial packs of tickets in a licensee's possession when a game ends. The Lottery shall credit to the retailer, within 60 days following the announced end of the instant game, the net dollar value of any unopened full packs of tickets collected by the Lottery. 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. Credit to the licensee, in the billing period following the receipt of the Lottery authorized returned tickets, the net dollar value of any unopened full packs and partial packs of tickets the Lottery receives from the licensee.
  - ~~4.5.~~ The Lottery may collect Collect full and opened partial packs of tickets during a game if the Lottery and the retailer licensee determine that the licensee'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.

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- B.** 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:
1. The last top prize has been claimed;
  2. There is an actual or perceived threat to the game's integrity or security;
  3. A particular percentage of the game's inventory has been invoiced;
  4. The designated sales period has expired; or
  5. At the discretion of the Director.
- C.** The money collected from the sale of instant game Lottery tickets is collected for the benefit of the state and shall be paid 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 is the licensee's instant game tickets calculated according to subsection (A)(2) minus any promotion tickets, returned tickets, prize winnings paid out by the licensee, the licensee's sales commission and plus or minus any accounting or prize 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 retailer licensee 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 licensee 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 licensee shall notify the Lottery of any bank account changes 15 days before the effective date of the change.
  - ~~7-3.~~ If a retailer's licensee's payment is returned to the Lottery for insufficient funds or any other reason, the retailer licensee 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 licensee's payment is returned to the Lottery,
    - a. The Director may require the retailer licensee 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 licensee's instant ticket validation terminal;
    - d. The Director may pick up the retailer's licensee's current inventory of tickets and withhold further delivery of tickets; and
    - e. The Director may revoke, suspend, or deny renewal of the retailer's licensee's license in accordance with according to R19-3-203(A)(7) R19-3-203(A)(8).
- ~~B-D.~~** Ticket prize validation and payment requirements. A retailer licensee shall provide prize winner validation and payment services to any Lottery claimant regardless of where the a winning ticket was purchased. A licensee may pay all winner prizes, up to and including \$599, provided that the ticket is validated as specified in R19-3-705. The retailer licensee shall pay all winner prizes, up to and including \$599 \$100, provided that if the ticket is validated as specified in R19-3-705. Winner prizes may be paid by cash, business check, or money order, or if the prize winner requests, by Lottery tickets.
- E.** A licensee 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 licensee shall locate the instant validation terminal at a site approved by the Lottery within the licensee's place of business. The licensee shall not move the terminal from that site without prior approval from the Lottery.
    - b. A licensee shall ensure that the electrical service and data communication services to the terminal location are installed according to the specifications established by the Lottery. The licensee shall timely pay monthly charges for the electrical and telephone services.
  2. Instant validation terminal conversion.
    - a. If the Lottery modifies its instant gaming system, it may:
      - i. Change terminals, equipment, or accessories; or
      - ii. Convert to another on-line or instant gaming system.
    - b. A licensee shall assist the Lottery to the extent practicable to accomplish a modification of the on-instant gaming system in a timely and economical fashion.
  3. Instant validation terminal operation. A licensee shall have its instant 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 licensee's business is open.
  4. The 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.

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5. Instant validation terminal care. A licensee shall at all times:
    - a. Operate the instant validation terminal, associated equipment, and accessories only in the ordinary course of its instant game Lottery business and only according to 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 on-line and instant game contractors.
  6. Instant validation terminal maintenance. A licensee shall:
    - a. Maintain the instant validation terminal, associated equipment, and accessories in a clean, orderly, and good condition;
    - b. Replace ribbons and paper stock in the instant validation terminal as necessary; and
    - c. Minimize terminal downtime by:
      - i. Notifying the Lottery or its instant validation terminal 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 licensee's regular business hours.
  7. Instant validation terminal supplies. A licensee shall:
    - a. Order and use terminal supplies exclusively from the Lottery or its designated contractor. The Lottery shall furnish validation terminal supplies, at no cost, to the licensee; and
    - b. Maintain a sufficient inventory of validation terminal Lottery supplies to avoid an out-of-stock situation.
  8. Licensee training. A licensee 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 licensee'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 furnished to the licensee by the Lottery or its contractors.
- ~~C.F.~~ Retailer's Licensee's compensation. The Lottery shall pay a ~~retailer licensee~~ licensee a commission of ~~6-1/2%~~ six and one-half percent of the price of each instant lottery ticket it sells. The Lottery shall not pay a licensee a commission on sales transactions that are prohibited by any state or federal statute or rule.
- ~~D.G.~~ Instant ticket sales. ~~All instant game ticket sales are final and the Lottery will not accept ticket returns except as prescribed in subsections (A)(3)-(A)(4).~~
1. The licensee shall sell instant game tickets in numeric order starting with ticket 000.
  2. All instant game ticket sales are final and the Lottery will not accept ticket returns except as prescribed in subsection (A)(3).
  3. The retailer shall not sell an instant game ticket after the announced end-of-game.
- ~~E.H.~~ In addition to the compensation specified in subsection ~~(C)~~ (F), the Lottery shall pay an incentive of up to ~~1/2%~~ one-half percent on the price of each ticket sold to licensees who meet specifications established in writing by the Director. The written specifications shall be provided to the ~~retailer licensee~~ licensee before the incentive program begins.
- ~~F.I.~~ Unaccounted and stolen tickets.
1. Tickets unaccounted for by a ~~retailer licensee~~ licensee shall be the property of the ~~retailer licensee~~ licensee.
  2. The ~~retailer licensee~~ licensee shall report stolen tickets to the local law enforcement agency within ~~1~~ one hour of the theft or when discovered. In addition, the ~~retailer licensee~~ licensee shall report the ~~event theft~~ by telephone to the Lottery's Security Division within ~~1/2~~ 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 licensee~~ licensee shall cooperate in any investigation and prosecution of the theft.
    - a. The licensee's insurance proceeds shall first be applied against any loss. If there is insufficient insurance to pay for the licensee's loss, the Lottery shall issue credit for stolen tickets that have been activated for sale. The credit shall be in an amount equal to 50% of the licensee's purchase price for the instant tickets less any third-party reimbursement. The Lottery shall not credit instant tickets reported as stolen that are in an "issued to retailer" status because the tickets are not activated for sale and are not billed to the retailer. The ~~retailer licensee~~ licensee 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~~ third 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. The Lottery shall not issue a credit for stolen tickets if the Lottery finds the licensee was negligent or did not enforce reasonable loss-prevention procedures to protect tickets, ticket processing, and ticket accounting.

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b-c. Each retailer licensee 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 licensee, the Lottery shall hold the prize money in escrow pending the findings of an investigation by an appropriate law enforcement agency.

**J.** A licensee may sell instant tickets using its authorized instant ticket vending machine according to the Act and this Chapter.

1. A licensee 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 On-line Game Requirements**

**A.** Ticket sales requirements. A retailer licensee selling On-line on-line Lottery games shall issue On-line on-line Lottery tickets using its authorized terminal ~~in accordance with~~ according to 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.~~ 1. If a retailer licensee accepts a returned ticket from a player or generates a ticket that is refused by the player and the retailer licensee does not void or resell the ticket, the Lottery shall deem the ticket to be owned by the retailer licensee.

~~3.2.~~ 2. A retailer licensee 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 licensee shall not make any representation to a player regarding a likelihood to win, a guaranteed return on a percentage of purchases, or better chances or odds of winning.

4. A licensee shall not devote more than 15 minutes of sales to a purchase by any single player, if other customers are waiting to make a purchase.

~~4.5.~~ 4. A retailer licensee 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 licensee 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 ~~retailer shall~~ retailer licensee may pay a winner prize, up to and including \$599. A licensee shall pay all winner prizes up to and including \$100. Winner prizes may be paid by cash, business check, ~~or~~ money order, or if the prize winner requests, by Lottery tickets.

**C.** Terminal location.

1. A retailer licensee shall locate an on-line Lottery terminal at a site approved by the Lottery within the retailer's licensee's place of business and shall not move the terminal from that site without prior approval from the Lottery.

2. A retailer licensee shall ensure that the electrical service and telephone data communication services to the terminal location are installed ~~in accordance with~~ according to the specifications established by the Lottery. The retailer licensee shall ~~ensure also that~~ timely pay monthly payments charges for the electrical services ~~are made~~. The Lottery may assess the retailer licensee for monthly data line communication charges if retailer licensee sales of Lottery products are less than the required minimums established in R19-3-203.

3. If any action by the retailer licensee makes it necessary ~~to place an order with the providing telephone company~~ to correct or relocate telephone data communication service after the terminal is initially installed, the retailer licensee shall pay for the ~~charges associated costs~~ incurred. The Lottery shall provide to the retailer licensee a statement of charges costs and a copy of the telephone data communication bill associated with the charges costs.

**D.** Terminal conversion.

1. If the Lottery deems it necessary, the Lottery shall modify its on-line Lottery system by:

a. Changing terminals, equipment, or accessories; or

b. Converting to another on-line system.

2. A retailer licensee shall assist the Lottery to the extent reasonable and practical to accomplish a modification of the on-line Lottery ~~System~~ system in a timely and economical fashion.

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

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

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- G.** Terminal care. A ~~retailer~~ licensee shall at all times:
1. Operate the on-line terminal, associated equipment, and accessories only in the ordinary course of its on-line Lottery business and only ~~in accordance with~~ according to 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 on-line contractors.
- H.** Terminal maintenance. A ~~retailer~~ licensee shall:
1. ~~Keep~~ Maintain the on-line Lottery terminal, associated equipment, and accessories clean, orderly, and in good condition;
  2. Replace ribbons and ticket stock in the terminal as ~~required~~ necessary; and
  3. Minimize terminal downtime by:
    - a. Notifying the Lottery or its on-line 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~~ licensee's regular business hours.
- I.** Terminal supplies. A ~~retailer~~ licensee shall:
1. Order and use on-line Lottery supplies, including but not limited to, ribbons, ticket stock, and selection slips exclusively from the Lottery or its designated contractor; ~~The Lottery shall furnish on-line supplies, at no cost, to the retailer;~~ and
  2. Maintain a sufficient inventory of on-line Lottery supplies to avoid an out-of-stock situation. ~~The Lottery shall furnish on-line supplies, at no cost, to the retailer.~~
- J.** ~~Retailer~~ Licensee training. A ~~retailer~~ licensee shall:
1. Participate in training provided by the Lottery in the operation of on-line terminals and sale of Lottery products, which may take place at a ~~retailer's licensee's~~ place of business;
  2. Ensure that all employees selling Lottery products or operating Lottery on-line 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 on-line Lottery equipment with copies of the procedures manuals, bulletins, and technical materials ~~that are~~ furnished to the ~~retailer~~ licensee by the Lottery or its on-line contractor.
- K.** ~~Retailer~~ Licensee compensation. The Lottery shall pay a ~~retailer licensee~~ a commission of ~~6-1/2%~~ six and one-half percent of the price of each on-line ticket it sells. ~~The Lottery shall not consider a voided ticket a sale.~~ The Lottery shall not pay a ~~retailer licensee~~ 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 ~~1/2%~~ one-half percent on the price of each ticket sold to ~~retailers~~ a licensee who meet specifications established in writing by the Director. The written specifications shall be provided to the ~~retailer~~ licensee before the incentive program begins.
- M.** ~~A retailer shall pay for on-line ticket sales~~ Money collected from the sale of on-line Lottery tickets is collected for the benefit of the state and shall be paid to the Lottery in the following manner:
1. Pay to the Lottery each Friday, ~~by an electronic funds transfer,~~ the amount due from the sale of its on-line Lottery tickets for the ~~7-day~~ seven-day period ending at the close of business on the previous Saturday. The amount due means the retailer's gross on-line sales revenue, minus any ~~voided tickets,~~ promotion tickets, prize winnings paid out by the ~~retailer licensee,~~ and the ~~retailer's licensee's~~ sales commission and plus or minus any accounting or prize adjustments.
  2. ~~Pay the amount due to the Lottery by an electronic transfer of funds.~~ The ~~retailer licensee~~ shall deposit funds in a timely manner into a bank account from which the electronic funds transfer will be made to the Lottery.
    - a. The ~~retailer licensee~~ 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 licensee~~ shall notify the Lottery of any bank account changes 15 days before the effective date of the change.
  3. If a ~~retailer's licensee's~~ payment is returned to the Lottery for insufficient funds or any other reason, the ~~retailer licensee~~ 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 licensee's~~ payment is returned to the Lottery,
    - a. The Director may summarily inactivate the ~~retailer's licensee's~~ on-line Lottery terminal; and
    - b. The Director may revoke, suspend, or deny renewal of the ~~retailer's licensee's~~ license ~~in accordance with R19-3-203(A)(7)~~ according to R19-3-203(A)(8).

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

- A. A retailer licensee 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 licensee shall allow investigations during the retailer's licensee's regular business hours by authorized Lottery investigators to determine whether the retailer licensee is complying with the provisions of the Act and this Chapter.
- C. A retailer licensee 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. The licensee may use Non-paper non-paper types of storage, such as microfiche, may be used, and the licensee may store Records may be stored records at a central location.

**R19-3-208. Penalties**

- A. The Director shall assess a civil penalty against a retailer licensee for any of the following acts of the retailer licensee:
  - ~~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 licensee has committed an act listed in subsection (A), investigate an act of the retailer licensee listed in subsection (A). The Director shall give notice to the retailer licensee 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 licensee against whom a penalty is assessed shall pay the penalty to the Lottery by the 31st day after the retailer licensee receives notice of imposition of the civil penalty, if the retailer licensee does not request a hearing as provided in subsection (D).
- D. A retailer licensee 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 licensee decides not to seek judicial review of the Director's final administrative decision, the retailer licensee shall pay the civil penalty to the Lottery by the 36th day after the retailer licensee receives the Director's decision.
  - 2. If the retailer licensee decides to seek judicial review of the Director's final administrative decision, the retailer licensee shall pay the civil penalty to the Lottery by the 36th day after the date of the Superior Court's decision.
  - 3. If the retailer licensee decides to appeal the Superior Court's decision, the retailer licensee shall pay the civil penalty to the Lottery by the 36th day after the date of the decision on appeal.
  - 4. A retailer licensee 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 deemed made by the Lottery for any notice, decision, order, subpoena, or other process when the document or a copy 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).