

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

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 at 15 A.A.R. 1942, November 20, 2009.) The Governor's Office authorized the notice to proceed through the rulemaking process on April 30, 2010.

[R10-98]

PREAMBLE

1. Sections Affected

R19-3-201
R19-3-202
R19-3-204
R19-3-205
R19-3-206
R19-3-209
R19-3-210
R19-3-212
R19-3-213
R19-3-214
R19-3-215
R19-3-216
R19-3-217

Rulemaking Action

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

Authorizing statute: A.R.S. § 5-504(B)

Specific statute: A.R.S. § 5-512 and Laws 2010, Ch. 126, §§ 1 and 2

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

Notice of Rulemaking Docket Opening: 16 A.A.R. 902, June 4, 2010

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

Name: Jeff Hatch-Miller, Executive Director

Address: Arizona State Lottery
4740 E. University Drive
Phoenix, AZ 85034

Telephone: (480) 921-4505

Fax: (480) 921-4488

E-mail: JHatch-Miller@azlottery.gov

or

Name: Pam DiNunzio

Address: Arizona State Lottery
4740 E. University Drive

Notices of Proposed Rulemaking

Phoenix, AZ 85034

Telephone: (480) 921-4489

Fax: (480) 921-4488

E-mail: pdinunzio@azlottery.gov

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

Article 2, Retailers, prescribes the requirements and procedures for Arizona retail businesses that sell Lottery game products. The rules explain common retailer provisions such as: requirements for the sale and payment of Lottery games, retailer conduct including the revocation, suspension or renewal of retailer licenses, hearing procedures, stolen tickets procedures, and Lottery-conducted compliance investigations. Laws 2010, Ch. 126 requires the Lottery to establish an additional special instant ticket game for use by charitable organizations. These rules are being amended to add retailer provisions related to this instant game offering.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or 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 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:

The rules for Article 2, Retailers, describe various requirements and procedures for retail businesses to sell Lottery game products. As a result of Laws 2010, Ch. 126, the Lottery is required to establish an additional special instant ticket game for charitable organizations. The Lottery anticipates this rulemaking will primarily impact the agency and Lottery retailers.

A. Arizona State Lottery. The Lottery will now offer "instant scratch games" and "instant tab games" as part of the instant ticket product line. Instant tab games are essentially the same as conventional scratch games, except the protective covering is a perforated tab instead of a latex covering. These games will be branded as Arizona Lottery products; retailers will be authorized to sell only tab games provided by the Lottery. Winning tab tickets must be manually verified, similar to the method used to verify scratch tickets before the Lottery automated the validation process. Therefore, R19-3-205(C) adds new language outlining that instant tab retailers will not be issued Lottery equipment for sale or redemption purposes. Instant tab tickets are available in a variety of price points, but the Lottery will likely provide games in the \$.50-\$1.00 range, with top prizes ranging from approximately \$25-\$500. Currently, only charitable organizations will be authorized to sell instant tab games. Any decision to expand instant tab games to other retail classifications will likely be the result of an Executive and/or Legislative policy decision. As provided in this rulemaking under R19-3-213, the Lottery will retain control with respect to the types of products a retailer is permitted to sell.

Costs to the Lottery related to this rulemaking include application/licensing expenses, and the development, printing, and distribution of the instant tab product to a specific group of retailers. These costs are included within the agency's appropriated budget. The Lottery will incur incremental administrative processing costs due to the initial licensing of new retailers. Preliminary estimates indicate the Lottery can expect to license approximately 300-500 new retailers classified as charitable organizations. This cost is included as part of the normal licensing process and expenses will be offset by the license fee received from the applicant.

This rulemaking establishes two separate retailer licenses, a full product license and a charitable license. The full product license provides a retailer with the authority to sell all Lottery products, while the charitable license is available only to a charitable organization with the proper tax exempt status. This distinction is made because certain Lottery licensing requirements, the compliance inspection process, and retailer commission structure will be different depending on the license category.

Unlike traditional retailers, charitable organizations will receive no Lottery sales representative support and will not be integrated into the Lottery's retailer accounting system. Consequently, the Lottery will not incur administrative accounting/customer service costs, sales representative time and travel costs, or on-line vendor contract costs typically incurred with traditional retailers. The Lottery expects to contract with a distributor who will deliver instant tab tickets, invoice retailers, and remit payment to the Lottery. The distributor must also provide the Lottery with routine reports, including inventory status, orders received, orders shipped, and all related financial information.

The Lottery does not anticipate any added expenses as a result of this rulemaking; all costs will be covered within the existing budget from revenues generated by the product.

B. Businesses Directly Affected by this Rulemaking. Lottery retailers are the only businesses impacted by the rules. Lottery retailers are also the only small businesses impacted by this rulemaking. A qualifying charitable organization

may become a licensed Lottery retailer and sell instant tab games. This rulemaking is expected to benefit these organizations while having no impact on the Lottery's traditional retailers, both large and small.

Retailers may now apply for a full product license or a charitable license. Retailers that qualify for a charitable license will have to comply with fewer licensing requirements. These retailers will not have to provide evidence of financial solvency, an authorization agreement for fund transfers, or information relating to pending litigation or judgments. Retailers holding a charitable license will remit payment to the Lottery's authorized distributor and the distributor assumes any financial risk. A charitable license applicant will be required to operate its premise at least two days per week as established in R19-3-202(B)(5). The purpose of this provision is to ensure the charitable organization regularly operates a premise, instead of holding sporadic fund-raising events.

The instant tab game product provides charitable organizations with the opportunity to generate revenue for their various causes. Initial estimates indicate these retailers as a whole could generate up to \$12 million in sales annually. Charitable organizations will earn 20% on each tab ticket transaction as compared to the regular retailer commission rate of 6.5%. This special rate is available only to qualifying charitable organizations, and applies only to the instant tab product. Under traditional instant scratch games, the Lottery distributes funds to beneficiaries designated by the Legislature to receive the funds. Under charitable instant tab games, the charitable group makes a contribution to its charities from the 20% commission. The higher commission rate will not increase expenditures to the Lottery since this cost is factored into the game structure and will be paid from game proceeds.

These rules are not expected to impact traditional Lottery retailers. Conventional retail locations (i.e. grocery chains, convenience stores) are completely different retail environments that are not in direct competition with charitable organizations. Traditional retailers offer the instant scratch product and earn a 6.5% commission on those sales. Traditional retailers are also eligible to receive up to an additional .5% commission for meeting performance criteria, while charitable organizations selling only instant tab games will not be entitled to this incentive. In FY09, the Lottery's 2600 retailers earned over \$32 million in total commissions, with an overall compensation rate of 6.7%.

Small businesses: Charitable organizations are likely to be included in this category. As outlined above, these retailers will benefit from reduced application requirements, a higher commission paid on instant tab products, and the overall ability to generate additional revenue.

C. Consumers and the Public. There are no costs to the general public associated with the adoption of these rules. The public will potentially benefit from activities charitable organizations are able to support as a result of offering instant tab games.

D. State Revenues. Revenue generated from Lottery game sales and retailer license fees are deposited into the Lottery Fund. In FY09, total game sales were \$484.5 million and approximately \$30,000 was collected in license fees. There may be a moderate to substantial (\$10,000-\$25,000) increase in license revenues due to the addition of charitable organizations as retailers; however, the fees only allow the Lottery to recover the cost of providing the service.

A percentage of Lottery game revenue is typically returned to the state to fund various beneficiary programs as specified in A.R.S. § 5-522. The Lottery returned \$129.1 million to state beneficiaries in FY09 and will exceed that amount in FY10. However, instant tab tickets offer a higher commission than traditional Lottery products, which impacts proceeds that would otherwise be returned to the state. Generating state profit was not the objective of allowing charitable organizations to sell instant tab tickets. Instead, commissions earned will be utilized by these organizations to fund charitable activities. The state will break even, but will not profit from these games.

This rulemaking will not have any identifiable economic impact on political subdivisions of the state or private and public employment. These amendments are necessary as a result of recent legislation; there are no alternative methods for achieving the purpose of the rulemaking.

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: Jeff Hatch-Miller, Executive Director

Address: Arizona State Lottery
4740 E. University Drive
Phoenix, AZ 85034

Telephone: (480) 921-4505

Fax: (480) 921-4488

E-mail: JHatch-Miller@azlottery.gov

or

Name: Pam DiNunzio

Address: Arizona State Lottery
4740 E. University Drive

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Phoenix, AZ 85034
Telephone: (480) 921-4489
Fax: (480) 921-4488
E-mail: pdinunzio@azlottery.gov

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 persons may request an oral proceeding on the proposed rules:

Date: September 10, 2010
Time: 10:00 a.m.
Location: Arizona Lottery
4740 E. University Drive
Phoenix, AZ 85034
Nature: Oral Proceeding

The close of record is 5:00 p.m. on September 9, 2010 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:

None

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. Definitions
- R19-3-202. Retailer's Application and License
- R19-3-204. Revocation, Suspension, or Renewal Denial of Retailer's License
- R19-3-205. ~~Lottery-Issued~~ Lottery-issued Equipment
- R19-3-206. Retailer Training
- R19-3-209. Notice and Service
- R19-3-210. Reportable Events
- R19-3-212. Retailer Compensation
- R19-3-213. Ticket Sales to Players
- R19-3-214. Payments to Lottery
- R19-3-215. Prize Validation and Payment
- R19-3-216. Distribution and Return of Instant Tickets
- R19-3-217. Unaccounted and Stolen Instant Scratch Tickets

ARTICLE 2. RETAILERS

R19-3-201. Definitions

In this Article, unless the context otherwise requires:

1. "Act" means A.R.S. Title 5, Chapter 5, Article 1 of the Arizona Revised Statutes.
2. "Charitable Organization" means an organization including not more than one auxiliary, to which the United States Internal Revenue Service or the Arizona Department of Revenue has issued a letter of determination of the organization's tax exempt status, and the organization has operated for charitable purposes in Arizona for at least two years.
- ~~2-3.~~ "Controlling agent" means a stockholder, director, officer, managerial employee, or other person directly or indirectly controlling or operating the retailer's business.
4. "Flare" means the board or placard that accompanies each package of instant tab tickets and that has printed on or affixed to it the following information:

- a. Game name.
- b. Serial number.
- c. Ticket count.
- d. Prize structure, and
- e. Cost per play.
- 5. “Instant scratch ticket” means an instant game ticket where the protective covering is made of latex or another substance that is scratched off.
- 6. “Instant tab ticket” means an instant game ticket where the protective covering is a perforated paper tab that is opened.
- 7. “License” means one or both of the following licenses:
 - a. “Full product license” means a license to sell any product authorized by the Lottery.
 - b. “Charitable license” means a license to a qualified charitable organization to sell only instant tab tickets.
- 3-8. “Partial pack of tickets” means less than a complete pack of consecutively numbered and connected tickets. If a pack is broken into individual tickets, each individual ticket is considered a partial pack.
- 4-9. “Premises manager” means the contact representative for a specific premise of a business site or charitable organization.
- 5-10. “Retailer” means a licensed provider of sales and redemptions services for Lottery products.
- 6-11. “Ticket” means one or more Lottery game plays.
- 7-12. “Validation” means confirmation of a winning Lottery ticket by Lottery-issued equipment.

R19-3-202. 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. The applicant’s name, and if different, the trade name of the retailer’s business premise, address of the physical location of the place of business, the mailing address if different, and phone number;
 - b. The applicant’s current transaction privilege tax license number issued under A.R.S. § 42-5005 and federal taxpayer identification number issued by the Internal Revenue Service and recorded on Form W-9;
 - c. Certification that the applicant’s business location complies with the Americans with Disabilities Act;
 - d. Marketing and sales information on the forms provided by the Lottery. The information required includes expected volume of sales, number of cash registers, hours of operation, products presently offered for sale, and approximate daily volume of customers entering the place of business;
 - e. Evidence that the applicant’s business products or services are not exclusively lottery products or services concerning lotteries;
 - f. Financial relationship and any outstanding debt with the state of Arizona, any of its political subdivisions, or the United States government;
 - g. Evidence that the applicant for a full product license 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 community property is being used to guarantee the account, or by the guarantor only, if guarantor provides proof that the guarantee is based on sole and separate property.
 - h. An Electronic Funds Transfer Authorization agreement showing a valid bank account number for the full product applicant from which the Lottery will withdraw any amounts due; and
 - i. Name, case number, court designation, and type of action for any pending litigation or judgments for which the full product applicant may potentially be held financially responsible.
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 spouse if community property owner, unless applicant provides proof that the 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 applicant in order to obtain a credit search from a credit reporting agency; and
 - c. A completed authorized fingerprint card for the applicant. If any general partner is a corporation, a fingerprint card is 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;

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- b. Written authorization and tax identification number 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 premise manager who is the contact representative for the applicant's corporate location in Arizona;
 - b. Written authorization and tax identification number to perform a credit search; and
 - c. A completed authorized fingerprint card for the appropriate responsible local premise manager.
5. If the applicant does business as a charitable organization:
 - a. A copy of the organization charter or formation, and if applicable, the authorization of the auxiliary and proof that the status is current;
 - b. The name, home address, and home phone number of each officer and local premise manager, or if an auxiliary, of each officer and local premise manager of the auxiliary;
 - c. A letter of determination issued in the organization's name by the United States Internal Revenue Service or the Arizona Department of Revenue of the organization's tax exempt status;
 - d. A completed authorized fingerprint card for each officer and local premise manager, or if an auxiliary, of each officer and local premise manager of the auxiliary; and
 - e. Evidence that the charitable organization has maintained a premise within the state of Arizona for the two years immediately preceding the date of application.
- ~~5-6.~~ If the Lottery licenses an applicant under subsection (A)(1)(g)(iii), the guarantor shall provide a written authorization to perform a credit search. If the guarantee is based on community property, the guarantor and guarantor's spouse shall provide written authorization for the Lottery to perform a credit search.
- ~~6-7.~~ Submit an application fee of \$45.00 and the following fees, if applicable:
 - a. If any individual listed on the personal questionnaire has resided outside the state of Arizona within the last 10 years, a fingerprint fee of \$29 per individual.
 - b. If the applicant does business as a corporation, limited liability company, limited liability partnership, or a partnership, a credit check fee of \$22.
- ~~7-8.~~ If the applicant is a business with more than one current licensed location, the application fee for the new location shall be pro-rated at \$1.25 per month from the application date until the date the other licenses are due for renewal under R19-3-202(H)(2)(c).
- B.** Prerequisites to obtain or renew a license.
 1. Evidence that the applicant 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 by a Lottery-licensed retailer, would be grounds for suspension or revocation of a license granted by the state of Arizona;
 2. An applicant, a director or officer of a corporation, ~~or~~ member of a limited liability company, or charitable organization shall not have had a business license required by statute in Arizona or any other state suspended or revoked within the last 12 months;
 3. An applicant, a director or officer of a corporation, ~~or~~ member of a limited liability company, or charitable organization 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 noncompliance~~ with the Americans with Disabilities Act, and shall not have sold Lottery products without being licensed within one year of the person's date of application;
 4. ~~The~~ A full product license applicant shall have demonstrated financial solvency based on the information provided in the application, credit search, or pending litigation, if any, or tax liens, if any;
 5. A charitable license applicant shall have operated its premise for the sale of products at least two days per week for the majority of the calendar year.
- C.** The Lottery shall not issue a license 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 of Lottery sales is a minor;
 2. The organization is an adult-oriented business as defined in A.R.S. § 13-1422 or displays sexually explicit material in violation of A.R.S. § 13-3507; ~~or~~
 3. The applicant provides deferred presentment services defined in A.R.S. § 6-1251; ~~or~~
 4. The applicant has sold an Arizona Lottery product without a license, or operated gaming machines or equipment which are required to be licensed without a license.
- D.** Residency requirement. To obtain a license, 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. A limited liability partnership in which at least one of the partners resides in Arizona; or

6. A charitable organization authorized to do business in Arizona.
- 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.
 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 according to 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 for a full product license, charitable license, or both, 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 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.
- F. Display of license and point-of-sale material.**
1. A license issued under this Chapter shall be signed by the Director or the Director's designated representative. A retailer shall post the license or a copy of the license held by the retailer in a conspicuous place on the premises where the retailer sells Lottery products.
 2. A retailer shall prominently display its license, the Americans with Disabilities Act Notice, Arizona Problem Gambling Helpline toll-free telephone number, and the Authorized Retailer Notice.
 3. A retailer selling instant tab tickets shall prominently display the flare for each instant tab game currently on sale.
 - ~~3-4.~~ A violation of this subsection is grounds for disciplinary action according to the provisions of R19-3-204.
- G. As a condition of licensure, each retailer shall agree to release, indemnify, defend, and hold harmless, the 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 affect the rights of the retailer to recover for losses caused by any third party.**
- H. Duration and renewal of license.**
1. A license issued under this Chapter shall expire three years from the license issuance date by operation of law.
 2. A retailer 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 R19-3-202(A), (B), and (D). By filing an application for renewal, ~~the~~ a full product retailer authorizes the Lottery to collect a \$45.00 renewal fee by an electronic transfer of funds from the bank account from which the Lottery regularly bills the retailer. A charitable retailer shall submit a check or money order with its renewal application.
 - 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 retailer to operate as a retailer until actual issu-

- ance of the renewal license.
- b. The Director may refuse to renew a license according to the provisions of R19-3-204.
 - c. A retailer 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 \$1.25 per month from the license expiration date until the next renewal date of the other licenses held by the same retailer.
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 according to this Chapter.
 4. A license issued under this Chapter is subject to termination by the Director according to the provisions of this Chapter before the expiration date.

R19-3-204. 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 laws of the state of Arizona, the United States, or the regulations of the Lottery, which could be punished by jail time or imprisonment, revocation or suspension of a Lottery license, or involves moral turpitude;
 2. The retailer offers to sell a Lottery ticket, sells a Lottery ticket or pays a prize on any winning Lottery ticket to a person younger than 21 years old;
 3. The retailer sells a Lottery ticket to a person using 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 Lottery ticket or sells a Lottery ticket to a person during the same transaction in which the 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 does not meet the minimum sales requirements or does not follow the guidelines specified in writing by the Director. The Lottery shall provide minimum sales requirements and guidelines to each retailer annually. The Lottery may also post this information on the Lottery's web site for review. The minimum sales requirements and guidelines shall include:
 - a. The formula used to determine the minimum sales requirements and guidelines for the specified time period;
 - b. Resources available to assist retailers in achieving minimum sales requirements and guidelines; and
 - c. The process the Lottery will initiate if a retailer fails to achieve the minimum sales requirements or follow the specified guidelines.
 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, incomplete, or omits relevant information;
 8. The retailer's actions cause two payments to be returned to the Lottery for insufficient funds in a 12-month period;
 9. The retailer becomes insolvent, unable or unwilling to pay debts, or is declared bankrupt;
 10. The retailer, or an officer, member of the LLC, controlling agent, or local premise manager of the retailer:
 - a. Is convicted of a felony, felony theft that is designated as a misdemeanor, misdemeanor theft, 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 for misrepresentation, consumer fraud, or any 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 adds a minor as an owner, partner, or officer of the business;
 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, or any entity with 10 percent or more of the same shareholders, partners, or members as the retailer;
 14. The retailer or an officer or employee of the retailer sells any Lottery product for consideration other than U.S. currency, check, credit card, debit card or, if a player requests, the exchange of a winning Lottery ticket;
 15. The retailer, or an officer, ~~or employee,~~ or agent of the retailer sells a Lottery ticket by telephone, mail, fax, on the Internet, or on premises other than the one listed on the ~~Lottery~~ retailer's license;
 16. The retailer, or an officer, ~~or employee,~~ or agent of the retailer sells an altered Lottery ticket, an expired Lottery ticket, or a Lottery ticket after the announced end of the game;
 17. The retailer fails to display the license, Americans with Disabilities Act Notice, Arizona Problem Gambling Helpline toll-free telephone number, or Authorized Retailer Notice, ~~or license~~;
 18. The retailer fails to report a change event defined in R19-3-210; ~~or~~
 19. The retailer fails to comply or cooperate with an investigation concerning Arizona state laws ~~or~~, Lottery regulations;

or denies access to Lottery personnel:

20. The charitable retailer fails to prominently display the flare for each instant tab game currently on sale; or

21. The charitable retailer no longer qualifies as a charitable organization or its letter of determination of tax exempt status is suspended or revoked.

- 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 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 under an emergency action, and impose specific conditions on a retailer during the suspension and commence an action to permanently revoke a license issued under this Article if the retailer 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 the retailer to suspend or revoke a license. Written notice to the retailer is effective notice if it is sent or hand-delivered to the address in the application or the last address provided under R19-3-210.
- D.** Emergency action.
1. The Director may disable a retailer's on-line terminal, ~~and~~ suspend sales of Lottery ~~tickets~~ games, or remove tickets if the public welfare is threatened pending a proceeding for revocation, suspension, or denial of 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 comply or cooperate with an investigation concerning Arizona state laws or Lottery regulations;
 - c. The retailer, corporate officer, director, partner, LLC member, or premises manager is charged with a felony, felony theft that is designated as a misdemeanor, misdemeanor theft, or a crime involving gambling or fraudulent schemes and artifices.
 2. A retailer who receives a Notice of Intent to Revoke a Retailer's License with a 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 shall take steps allowed by law to secure payment and return of Lottery products and property.
 4. The Director shall notify the retailer in writing 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.
- E.** Procedure for hearings. A retailer may request a hearing before the Office of Administrative Hearings regarding a revocation, suspension, or license denial. The procedures and requirements set forth in A.R.S. Title 41, Chapter 6, Article 10 apply to hearings under this subsection.
- F.** Procedure for filing an appeal of a final administrative decision:
1. An appeal to the Lottery Commission is deemed an optional motion for rehearing.
 - a. A Notice of Appeal to the Lottery Commission shall be filed within 10 days of receipt of the final administrative decision. The Notice shall contain:
 - i. A copy of the Director's final administrative decision; and
 - ii. The alleged factual or legal error in the final administrative decision from which the appeal is taken.
 - 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.
 - d. The Lottery Commission may rule based on the written briefs, or if requested, may provide for oral argument.
 - e. The Lottery Commission shall make its ruling on the appeal on the record.
 - f. A final decision of the Lottery Commission is subject to judicial review under A.R.S. 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.
- G.** Revocation of a retailer's license.
1. A retailer who receives a notice of the final administrative decision revoking the retailer's license shall:
 - a. Immediately cease all sales of Lottery products, and
 - b. Surrender the license and all other Lottery property and products upon request of 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 shall take all steps allowed by law to secure payment and the return of Lottery products and property.

R19-3-205. Lottery-issued Equipment

- A.** A full product retailer shall only sell or validate Lottery products using authorized Lottery-issued equipment in accor-

dance with the Act and this Chapter.

1. Equipment location. A retailer shall:
 - a. Locate the equipment at a site approved by the Lottery within the retailer's place of business and shall not move the equipment from that site without prior approval from the Lottery.
 - b. Ensure that electrical service to the equipment location is installed according to the specifications established by the Lottery. The retailer shall pay monthly charges for electrical service.
 2. Equipment conversion.
 - a. If the Lottery deems it necessary, the Lottery shall modify its on-line or instant gaming system by:
 - i. Changing equipment or accessories; or
 - ii. Converting to another on-line or instant gaming system.
 - b. A retailer shall assist the Lottery to the extent reasonable and practicable to accomplish a modification of the on-line or instant gaming system in a timely and economical fashion.
 3. The Lottery shall not be liable for damages of any kind due to interruption or failure of any Lottery-issued equipment.
 4. Equipment care. A retailer shall at all times:
 - a. Operate the Lottery-issued equipment and accessories only in the ordinary course of its 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 damage to the equipment and other property of the Lottery, or property of Lottery contractors.
 5. Equipment maintenance. A retailer shall:
 - a. Maintain the Lottery-issued equipment and accessories in a clean and orderly condition; and
 - b. Replace paper stock in the equipment as necessary; and
 - c. Minimize equipment downtime by:
 - i. Notifying the Lottery or its contractor immediately of any equipment failure, malfunction, damage, or accident; and
 - ii. Making the equipment available for repair, adjustment, or replacement at all times during the retailer's regular business hours.
 6. Equipment supplies. A retailer shall:
 - a. Order and use equipment supplies exclusively from the Lottery or its designated contractor. The Lottery shall furnish equipment supplies, at no cost, to the retailer; and
 - b. Maintain a sufficient inventory of Lottery equipment supplies.
- B. A full product retailer may sell tickets using its authorized Lottery product vending machine in accordance with the Act and this Chapter.**
1. A retailer shall establish safeguards to ensure that Lottery product vending machines are not operated by persons under the legal age to purchase Lottery tickets.
 2. The Lottery product vending machine shall be placed in an area of the store that:
 - a. Is visible to store personnel and players; and
 - b. Is easily accessible to players.
 3. The retailer shall maintain an adequate supply of instant tickets.
- C. Retailers holding a charitable license will not be issued Lottery equipment for the sale or validation of instant tab tickets.**

R19-3-206. Retailer Training

- A.** A retailer shall participate in training provided by the Lottery in the operation of Lottery equipment and sale of Lottery products, which may take place at a retailer's place of business.
- B.** A retailer shall ensure that all employees selling Lottery products or operating Lottery equipment 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.** A retailer shall be responsible for:
 1. Any compensation payable to employees for participation in Lottery training courses and instruction; and
 2. All other costs associated with employee training.
- D.** A full product retailer shall provide all employees operating Lottery equipment with copies of the procedures manuals, bulletins, and technical materials furnished to the retailer by the Lottery or its contractors.
- E.** A charitable retailer shall ensure that all employees and volunteers selling instant tab tickets have received proper training.

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 retailer, premise manager, guarantor, or the attorney of record, or is deposited as certified mail in the United States Postal Service, addressed to the retailer or guarantor at the address listed on the application for license or as noticed as a change event under R19-3-210.

R19-3-210. Reportable Events

A retailer shall report the following events to the Lottery in writing at least 10 business 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 licensed retailer within 10 business days after the death occurs;
4. Addition or removal of a partner in a partnership or a limited liability partnership;
5. 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 shareholder that holds 10% or more of a corporation or adds a shareholder that holds 10% or more of a corporation;
6. Merger or acquisition of the licensed entity;
7. Addition or removal of a member in a limited liability company;
8. Addition or removal of a controlling agent, premise manager, or designated corporate contact representative;
9. Divorce or legal separation action filed by an individual retailer or retailer's spouse, if the licensed entity is a sole proprietorship or a partnership;
10. Retailer or guarantor becomes insolvent;
11. Retailer or guarantor files bankruptcy;
12. Retailer is sued for a monetary judgment;
13. Change in bank account from which the Lottery's electronic funds transfers are made;
14. Change in mailing address or phone number of retailer or guarantor; ~~or~~
15. The applicant, a director or officer of a corporation, a member of a limited liability company, or a local premise manager is charged with a felony, felony theft designated as a misdemeanor, misdemeanor theft, embezzlement, or a crime involving gambling; ~~or~~
16. Revocation, suspension, or other action against a charitable organization's letter of determination of tax exempt status.

R19-3-212. Retailer Compensation

- A. The Lottery shall pay a full product retailer a commission of six and one-half percent of the price of each Lottery ticket sold. The Lottery shall not pay a retailer a commission on sales transactions that are prohibited by any state or federal statute or rule.
- B. In addition to the compensation specified in subsection (A), the Lottery shall pay an incentive of up to one-half percent on the price of each ticket sold ~~to a~~ by a full product retailer who meets specifications established in writing by the Director. The written specifications shall be provided to the retailer before the incentive program begins.
- C. The Lottery shall pay a charitable retailer a commission of 20 percent of the price of each instant tab ticket purchased. This commission rate applies only to instant tab tickets and is in lieu of compensation authorized in subsections (A) and (B). The Lottery shall not pay a retailer a commission on sales transactions that are prohibited by any state or federal statute or rule.

R19-3-213. Ticket Sales to Players

- A. A ~~Lottery~~ retailer shall sell only the type of Lottery ~~product~~ products authorized by ~~the its~~ its Lottery issued license.
 1. The Director may require a retailer to sell any one or any combination of Lottery game products.
 2. The Director may require a retailer to sell instant tickets as a condition of selling on-line tickets.
 3. The Director may determine which game products a retailer is authorized to sell based on the retailer's license.
- B. A retailer shall only sell or validate Lottery products using authorized Lottery-issued equipment in accordance with the Act and this Chapter.
- C. Other than informing a player of publicly available game odds, a retailer 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.
- D. On-line tickets.
 1. All on-line ticket sales are final. If a retailer accepts a returned on-line ticket from a player or generates an on-line ticket that is refused by the player and the retailer does not resell the ticket, the Lottery shall deem the on-line ticket to be owned by the retailer.
 2. A retailer shall not devote more than 15 consecutive minutes of sales to an on-line game purchase by any single player if other customers are waiting to make a purchase.
 3. A retailer shall not permit the use of facsimiles or copies of selection slips, or other materials that are not printed or approved by the Lottery. Plays may be entered by using the Lottery equipment touch screen or by using a selection slip provided by the Lottery and hand-marked by the player.
- E. Instant scratch tickets.
 1. All instant scratch ticket sales are final.
 2. The retailer shall sell instant scratch tickets within each pack in sequential order.
 3. The retailer shall not sell an instant scratch ticket after the announced end of game.

E. All instant tab ticket sales are final.

R19-3-214. Payments to Lottery

- A. Money collected by full product retailers 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).
- B. A full product retailer shall pay for ticket sales in the following manner:
1. Pay to the Lottery each Friday, by an electronic funds transfer, the amount due from the sale of its Lottery tickets for the seven-day period ending at the close of business on the previous Saturday.
 2. The amount due for on-line tickets means the retailer's gross on-line sales revenue, minus any promotional tickets, prize winnings paid out by the retailer, the retailer's sales commission and plus or minus any accounting or prize adjustments.
 3. The amount due for instant tickets is based on billing for instant ticket packs issued to a retailer with billing occurring 45 days after a pack is activated, or after 85% of winning tickets in the pack are validated, whichever occurs first, minus any promotional tickets, returned tickets, prize winnings paid out by the retailer, the retailer's sales commission and plus or minus any accounting or prize adjustments.
 4. The full product retailer 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 full product 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 full product retailer shall notify the Lottery of any bank account changes within 10 business days before the effective date of the change.
 5. If a full product retailer's payment is returned to the Lottery for any reason, the retailer shall deliver a certified check, cashier's check, or money order, or make a direct deposit for the amount due to the Lottery's bank account within 24 hours of notification. Additionally, if the retailer's payment is returned to the Lottery:
 - a. The Director may require that the retailer's Lottery equipment be disabled;
 - b. The Director may revoke, suspend, or deny renewal of the retailer's license according to R19-3-204;
 - c. The Director may require the payment for instant tickets upon activating the pack for sale; and
 - d. The Director may require the return of the retailer's current inventory of instant tickets and suspend further delivery of instant tickets.
- C. A charitable retailer shall pay the Lottery's authorized representative for instant tab tickets.

R19-3-215. Prize Validation and Payment

- A. A full product retailer shall provide prize winner validation and payment services to any Lottery claimant regardless of where the ticket was purchased.
- B. A full product retailer shall pay all winning prizes up to and including \$100, and may pay all winning prizes from \$101 up to and including \$599.
1. A winning instant scratch ticket shall satisfy the validation criteria in R19-3-705 and R19-3-706 and have a proper validation receipt issued by the terminal.
 2. A winning on-line ticket shall satisfy the validation criteria in R19-3-406 and R19-3-407 and have a proper validation receipt issued by the terminal.
- C. A charitable retailer shall pay all winning prizes for tickets sold at its location.
1. A winning instant tab ticket shall satisfy the validation criteria in R19-3-705(A) and R19-3-705(B)(1) through (8), and contain the necessary play, prize, and win symbol captions that enable visual confirmation of a prize.
 2. Prizes shall not be paid by the Lottery or by another retailer.
- ~~C.~~ D. Prizes shall be paid by cash, check, money order, or if requested by the player, by Lottery tickets.

R19-3-216. Distribution and Return of Instant Tickets

- A. The Lottery or its authorized representative shall distribute instant scratch tickets and accept returned instant scratch tickets as follows:
1. 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. Collect full and 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.
 3. Collect full and partial packs of tickets when a game is ended. The Lottery shall announce the ending date of a game and communicate this information to all retailers in a timely manner.
 4. Credit to the retailer, 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.
- B. The Lottery or its authorized representative shall distribute instant tab tickets and shall not accept returns on instant tab tickets.

R19-3-217. Unaccounted and Stolen Instant Scratch Tickets

- A. All Lottery tickets issued to a full product retailer shall be the property of the retailer until their return is acknowledged by the Lottery.
- B. The full product retailer shall report stolen Lottery tickets to the local law enforcement agency and the Lottery Investigations unit within one hour from the time the theft occurs or the theft first could have been discovered.
 - 1. The retailer shall provide a copy of the written police report to the Lottery.
 - 2. The retailer shall cooperate in any investigation and prosecution of the theft.
 - 3. The retailer shall sign an affidavit providing the details as known by the retailer.
 - 4. The retailer shall maintain and report current game, pack, and ticket inventory.
- C. After sustaining a loss from stolen tickets, the full product retailer's insurance is the loss payee.
- D. If there is insufficient insurance to pay for the retailer's loss and the full product retailer complies with subsection (B), the Lottery will credit the retailer's account for instant tickets that are stolen as follows:
 - 1. The Lottery shall credit all charges against the retailer's account for the stolen tickets if the Lottery determines that the theft was from a source not associated with the retailer or by an unknown party.
 - 2. The Lottery shall credit 50% of the charges against the retailer's account for the stolen tickets if the Lottery determines that the theft was from an employee, manager, officer, director, or a relative with access to Lottery tickets.
 - 3. Each retailer is limited to no more than two stolen ticket credit requests within any 12-month period.
- E. The Lottery shall not issue a credit for stolen tickets if the Lottery finds that the retailer was negligent or did not enforce reasonable loss-prevention procedures to protect tickets, ticket processing, and ticket accounting.
- F. If a prize claim is made against a ticket that has been reported as stolen or a ticket unaccounted for by the retailer, the Lottery shall hold the prize money in trust pending the findings of an investigation by an appropriate law enforcement agency.

NOTICE OF PROPOSED RULEMAKING

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

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 at 15 A.A.R. 1942, November 20, 2009.) The Governor's Office authorized the notice to proceed through the rulemaking process on April 30, 2010.

[R10-99]

PREAMBLE

1. Sections Affected

R19-3-701
R19-3-702
R19-3-705
R19-3-706
R19-3-707
R19-3-708
R19-3-709

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
Amend

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

Authorizing statute: A.R.S. § 5-504(B)
Specific statutes: A.R.S. § 5-504(C) and Laws 2010, Ch. 126, §§ 1 and 2

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

Notice of Rulemaking Docket Opening: 16 A.A.R. 879, May 28, 2010

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

Name: Jeff Hatch-Miller, Executive Director
Address: Arizona State Lottery
4740 E. University Drive
Phoenix, AZ 85034
Telephone: (480) 921-4505

Notices of Proposed Rulemaking

Fax: (480) 921-4488
E-mail: JHatch-Miller@azlottery.gov
or
Name: Pam DiNunzio
Address: Arizona State Lottery
4740 E. University Drive
Phoenix, AZ 85034
Telephone: (480) 921-4489
Fax: (480) 921-4488
E-mail: pdinunzio@azlottery.gov

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

Article 7, Design and Operation of Instant Games, provides for the conduct of the Arizona Lottery's instant games. The rules explain the common components of instant games such as: game profiles, game playstyles, determination of a winning ticket, procedures required to claim prizes and the claim period, ticket validation requirements, and disputes concerning a ticket. These rules are being amended to add provisions for another instant game offering called instant tab tickets in accordance with Laws 2010, Ch. 126. The rulemaking also amends outdated terminology and makes conforming technical changes for greater clarity.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or 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 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:

The rules for Article 7, Design and Operation of Instant Games, describe various provisions for the Lottery's instant game products. Laws 2010, Ch. 126 requires the Lottery to establish an additional special instant ticket game for use by charitable organizations. This rulemaking now includes requirements for both instant "scratch" games and instant "tab" games. Instant tab games are essentially the same as conventional scratch ticket games, except the protective covering is a perforated tab instead of a latex covering. Winning instant tab tickets must be manually verified, similar to the method used to verify scratch tickets before the Lottery automated the validation process. Instant tab tickets are available in a variety of price points, but the Lottery will likely provide games in the \$.50-\$1.00 range, with top prizes ranging from approximately \$25-\$500.

The Lottery anticipates amendments to this Article will primarily impact the agency and certain Lottery retailers. The rulemaking also makes conforming and technical changes that are neutral with respect to economic impact.

A. Arizona State Lottery. Costs to the Lottery related to this rulemaking include expenses to print and distribute instant game tickets, in addition to administrative costs associated with contract monitoring and game development. These items are included within the agency's appropriated budget and will be covered from product revenues. The Lottery does not anticipate any added costs as a result of this rulemaking.

Laws 2010, Ch. 126, authorizes charitable organizations to sell instant tab games and the Lottery has been designated as the provider of tab tickets to these organizations. These games will be branded as Arizona Lottery products; Lottery retailers will be authorized to sell only games provided by the Lottery. In this rulemaking, the Lottery adds new provisions for instant tab games. The rule amendments will allow the Lottery to introduce this instant game product in a timely manner, thereby providing licensed charitable organizations with the potential to increase revenue.

B. Businesses Directly Affected by this Rulemaking. Lottery retailers are the only businesses impacted by the rules. Qualified charitable organizations may become licensed Lottery retailers; this rulemaking is expected to benefit these organizations while having no impact on traditional Lottery retailers.

The instant tab game product line provides charitable organizations with the opportunity to generate revenue for their various causes. Preliminary estimates indicate the Lottery can expect to add 300-500 charitable organizations as retailers, with the potential to generate up to \$12 million in overall sales annually. Charitable organizations will earn 20% on each tab ticket transaction as compared to the regular retailer commission rate of 6.5%. This special rate is available only to qualifying charitable organizations, and applies only to the instant tab product. Under traditional instant scratch games, the Lottery distributes funds to beneficiaries designated by the Legislature to receive the funds. Under charitable instant tab games, the charitable group makes a contribution to its charities from the 20% commis-

sion. The higher commission rate will not increase expenditures to the Lottery since this cost is factored into the game structure and will be paid from game revenues.

These rules are not expected to impact traditional Lottery retailers. Conventional retail locations (i.e. grocery chains, convenience stores) are completely different retail environments that are not in direct competition with charitable organizations. Traditional retailers offer the instant scratch product and earn a 6.5% commission on those sales. Traditional retailers are also eligible to receive up to an additional .5% commission for meeting performance criteria, while charitable organizations selling only instant tab games will not be entitled to this incentive. In FY09, the Lottery's 2600 retailers earned over \$32 million in total commissions.

Small Businesses: Lottery retailers are the only small businesses affected by these rules and the anticipated impact is the same. The ability for charitable organizations to sell instant tab games will have a neutral impact on traditional retailers, including small retailers. Charitable organizations will benefit from a higher commission on instant tab games and the overall ability to generate additional revenue.

C. Consumers and the Public. There are no costs to the general public associated with the adoption of these rules. The public will potentially benefit from activities charitable organizations are able to support as a result of offering instant tab games.

D. State Revenues. Revenue generated from Lottery game sales are deposited into the Lottery Fund. A percentage of Lottery game revenue is typically returned to the state to fund various beneficiary programs as specified in A.R.S. § 5-522. The Lottery returned \$129.1 million to state beneficiaries in FY09 and will exceed that amount in FY10. However, instant tab tickets offer a higher commission than traditional Lottery products, which impacts proceeds that would otherwise be returned to the state. Generating state profit was not the objective of allowing charitable organizations to sell instant tab tickets. Instead, commissions earned will be utilized by these organizations to fund charitable activities. The state will break even, but will not profit from these games.

This rulemaking will not have any identifiable economic impact on political subdivisions of the state, or private and public employment.

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: Jeff Hatch-Miller, Executive Director

Address: Arizona State Lottery
4740 E. University Drive
Phoenix, AZ 85034

Telephone: (480) 921-4505

Fax: (480) 921-4488

E-mail: JHatch-Miller@azlottery.gov

or

Name: Pam DiNunzio

Address: Arizona State Lottery
4740 E. University Drive
Phoenix, AZ 85034

Telephone: (480) 921-4489

Fax: (480) 921-4488

E-mail: pdinunzio@azlottery.gov

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 persons may request an oral proceeding on the proposed rules:

Date: September 10, 2010

Time: 10:00 a.m.

Location: Arizona Lottery
4740 E. University Drive
Phoenix, AZ 85034

Nature: Oral Proceeding

The close of record is 5:00 p.m. on September 9, 2010 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:

None

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 7. DESIGN AND OPERATION OF INSTANT GAMES

Section

R19-3-701.	Definitions
R19-3-702.	Game Profile
R19-3-705.	Ticket Validation Requirements
R19-3-706.	Ticket Ownership and Responsibility; Prize Payment
R19-3-707.	Claim Period
R19-3-708.	Procedure for Claiming Prizes
R19-3-709.	Disputes Concerning a Ticket

ARTICLE 7. DESIGN AND OPERATION OF INSTANT GAMES

R19-3-701. Definitions

In this Article, unless the context otherwise requires:

1. "Caption" means the printed characters appearing below a play symbol or prize symbol that verify and correspond with that symbol. No more than one caption will appear under a symbol.
2. "Game profile" means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential game fundamentals required by these rules for an instant game.
3. "Instant game" means a game that is played by removing the protective covering from a ticket to reveal the play symbols, or prize symbols, or both that determine if a ticket holder is entitled to a prize or prizes.
4. "Instant scratch game" means an instant game where the protective covering is made of latex or another substance that is scratched off.
5. "Instant tab game" means an instant game where the protective covering is a perforated paper tab that is opened.
- ~~4-6.~~ "Pack" means a group of tickets bearing a common identification number.
- ~~5-7.~~ "Pack-ticket number" means a unique multi-digit number that includes a game number, a pack number, and a ticket number which distinguishes each ticket from every other ticket within an instant game.
- ~~6-8.~~ "PIN" means the designated characters within the validation number that allows an on-line terminal to validate an instant ticket.
- ~~7-9.~~ "Play area" means the portion or portions of the ticket which contains the play symbol or symbols. More than one play area may appear on a ticket.
- ~~8-10.~~ "Play symbols" means the printed image or images that appear within the defined play area of the ticket that determine if the ticket holder is entitled to a prize or prizes.
- ~~9-11.~~ "Prize structure" means the estimated number of prizes, prize values, and odds of winning prizes for an individual game.
- ~~10-12.~~ "Prize symbol" means the printed image or images that indicates the prize or prizes available in that game.
- ~~11-13.~~ "Retailer validation code" means the multiple letters in the play area, under the protective covering that verify prizes less than \$600.
- ~~12-14.~~ "Validation number code" means the unique ~~multi-digit~~ multi-positional code on each ticket that is used to ~~validate~~ authenticate winning tickets.

R19-3-702. Game Profile

- A. Each game shall have a Game Profile and at a minimum, the Profile shall contain the following information:
1. Game name;
 2. Game number;
 3. Prize structure;
 4. Game Playstyle;

Notices of Proposed Rulemaking

5. Play symbols;
 6. Retailer validation codes, if any;
 7. Special features, if any;
 8. Retail sales price;
 9. How to play and win instructions; and
 10. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable.
- B. The Commission shall approve the individual Game Profile prior to the game being sold to the public.

R19-3-705. Ticket Validation Requirements

- A. Each instant game ticket shall be validated prior to payment of a prize.
- B. To be eligible for a prize, a ticket holder ~~must~~ shall present a ticket meeting all of the following requirements:
1. The ticket shall not be stolen or appear on any list of omitted tickets on file with the Lottery;
 2. The ticket shall not be counterfeit or forged, in whole or in part;
 3. The ticket shall not be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;
 4. The ticket shall not be blank, partially blank, misregistered, defective, or printed or produced in error;
 5. The play and prize symbols shall have the captions that confirm and agree with those applicable to that instant game;
 6. The ticket shall have been issued by the Lottery in an authorized manner;
 7. The ticket shall have been legally obtained;
 8. The ticket shall pass all other confidential validation tests determined by the Director;
 9. The ticket shall be validated in accordance with the provisions of ~~sections~~ R19-3-706 and R19-3-708;
 10. The display printed on the ticket shall correspond precisely with the approved artwork on file at the Lottery;
 - ~~11. The validation number of a winning ticket shall appear in the Lottery's official file of validation numbers of winning tickets and shall not have been paid previously;~~
 - ~~12-11.~~ 11. All of the ticket symbols originally printed on the ticket shall appear in the play area on the ticket and shall correspond to those shown in the Game Profile; and
 - ~~13-12.~~ 12. The play and prize symbols shall have the required captions that confirm and agree with those of the appropriate instant game;
 - ~~14. The ticket shall contain a game number, a pack ticket number, a retailer validation code, a PIN number and at least one ticket validation number.~~
- C. In addition to the requirements in subsection (B), each instant scratch game ticket shall meet the following:
1. The ticket shall contain a game number, a pack-ticket number, a retailer validation code, and where applicable, a PIN number, and at least one ticket validation code; and
 2. The validation code of a winning ticket shall appear in the Lottery's official file of validation codes of winning tickets and shall not have been previously paid.
- D. In addition to the requirements in subsection (B), each instant tab game ticket shall meet the following:
1. The ticket shall contain a game number and a serial number, and
 2. A winning tab ticket shall contain the necessary prize and win symbol captions to enable visual confirmation of a prize.
- ~~C.E.~~ If the ticket fails to pass any of the requirements in Section R19-3-705(B), subsections (B) and (C) for instant scratch games, or subsections (B) and (D) for instant tab games, the ticket is void and ineligible for any prize payout.

R19-3-706. Ticket Ownership and Responsibility; Prize Payment

- A. Until a ticket is signed, the ticket is owned by its physical possessor.
- B. ~~The Director shall recognize as the owner of a winning instant ticket is~~ the person whose signature appears upon the ticket in the area, if an area has been designated for that purpose.
1. If more than one signature appears on the ticket, the Director is authorized to require that one or more of those claimants be designated to receive the payment. A claim form shall be submitted by each claimant who is designated to receive a portion of the prize claimed from the winning ticket.
 2. Prior to payment of a prize, a claimant who has signed the ticket may designate another claimant to receive the prize by signing a relinquishment of claim statement.
 3. When the winning ticket was purchased by a group of players, the group shall designate one of the claimants to sign the ticket for the group. Each claimant shall complete an individual claim form to receive the claimant's portion of the prize.
 4. In the event there is an inconsistency in the information submitted on a claim form, when required, and as shown on the winning instant ticket, the Director shall authorize an investigation and withhold all winnings payable to the ticket owner or holder until such time as the Director is satisfied that the proper person is being paid.
- C. Prior to paying the claimant a prize of \$600 or more, the Lottery shall match the winner's name against the lists of persons owing a debt to a participating state agency, furnished to the Lottery under A.R.S. § 5-525.
1. If there is a match on any of the claims submitted with a ticket, the amount that is owed shall be deducted from the

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prize due the claimant.

2. The claimant shall be notified in writing of the amount of the setoff and the agency to which it shall be paid.
 3. If the claimant has two or more agencies which are owed a debt, the Lottery shall pay a pro-rata share to each of the agencies, except that a Department of Economic Security overdue child support setoff shall be paid in full before any amount shall be paid to another agency.
 4. The claimant shall be notified in writing that a right to appeal the setoff exists ~~and must be commenced within 30 days of the receipt of this notification~~. The notification shall include the name and address of the agency with which to file the appeal and that the appeal shall commence within 30 days of receipt of the notification.
 5. If, after deducting withholding taxes and the setoff, a portion of the prize remains, then that portion shall be paid to the winner with the notification of setoff.
 6. The ~~amount of~~ setoff amount shall be forwarded to the agency, and that agency shall be responsible for any appeal and crediting of the payment against the amount owed or refunding any amount to the winner.
 7. Upon a determination that a setoff is due, the winner loses the right under subsection (B)(2) to assign any portion of the claim.
- D. Prizes shall be paid by cash, check, money order, or if requested by the player, by Lottery tickets.
1. If a ticket contains more than one winning game play, any prize amounts shall be combined and paid in accordance with the prize payment limits specified in ~~Section~~ R19-3-708.
 2. Each winning game play wins the prize amount specified in the Game Profile.
- E. The Lottery is not responsible for lost or stolen tickets.

R19-3-707. Claim Period

- A. ~~In order for~~ For the claimant to receive payment, a winning instant scratch game ticket shall be received by the Lottery or a retailer no later than 5:00 p.m. (Phoenix time) on the 180th calendar day following the announced end of the instant game.
- ~~B.1.~~ If a claimant presents a valid winning instant scratch ticket to a retailer for payment on the 180th calendar day following the announced end of the instant ~~ticket scratch~~ game and is not paid the prize, the Director is authorized to pay the prize if the claimant presents the valid winning ticket to the Lottery no later than 5:00 p.m. (Phoenix time) on the following business day.
- ~~C.2.~~ In the case of a drawing prize associated with an instant scratch game, the claimant ~~must~~ shall claim the prize no later than 5:00 p.m. (Phoenix time) on the final day designated by the Director and on file at the Lottery.
- B. In the case of a winning instant tab game ticket, the claimant shall claim the prize at the selling retailer location on the same business day the ticket was purchased.
- ~~D.C.~~ The end of an instant game shall be designated by the Director and on file at the Lottery.

R19-3-708. Procedure for Claiming Prizes

- A. To claim ~~a~~ an instant scratch ticket prize of up to and including \$599, the claimant shall present the ticket to any participating licensed retailer or to a Lottery office, or mail the ticket to a Lottery office for validation. The licensed retailer shall pay ~~a winner a prize~~ all winning prizes up to and including \$100 and may pay a winner a prize all winning prizes from \$101 up to and including \$599 provided that:
1. All of the ticket validation criteria in ~~Section~~ R19-3-705 have been satisfied; and
 2. A proper validation slip, which is an authorization to pay, has been ~~issued~~ generated by the terminal.
- B. To claim ~~a~~ an instant scratch ticket prize that the retailer does not validate or is not authorized to pay, including all prizes of \$600 or more, the claimant shall submit a claim form, available from any retailer, and the ticket to the Lottery. If the claim is:
1. Verified and validated by the Lottery as a winning ticket, the Lottery shall make payment of the amount due to the claimant, less any authorized debt setoff amounts, or withheld taxes, or both.
 2. Denied by the Lottery, the claimant shall be notified within 15 days from the day the claim is received in the Lottery office.
- C. If ~~a~~ an instant scratch ticket prize winner dies prior to receiving full payment, the Lottery shall pay all remaining prize money to the prize winner's beneficiary or to any person designated by an appropriate judicial order.
- D. ~~The Lottery is discharged of all liability upon payment of the prize money.~~ To claim an instant tab ticket prize, the claimant shall present the ticket to the selling retailer on the same business day the ticket was purchased. The selling retailer shall pay all winning prizes provided that:
1. All of the ticket validation criteria in R19-3-705(A) and R19-3-705(B)(1) through (8) have been satisfied; and
 2. The retailer has performed a visual confirmation of the winning play, prize, and win symbol captions.
- E. Payment of prize money shall not be accelerated ahead of its normal date of payment.
- E. The Lottery is discharged of all liability upon payment of the instant scratch ticket prize money.
- G. The retailer has sole responsibility to pay prizes on instant tab tickets. The Lottery is discharged of all liability to pay prizes on instant tab tickets.

R19-3-709. Disputes Concerning a Ticket

- A. If a dispute between the Lottery and a claimant occurs concerning a ticket, the Director is authorized to replace the disputed ticket with a ticket or tickets of equivalent sales price from any current instant game.
- B. If a defective ticket is purchased, the Lottery shall replace the defective ticket with a ticket or tickets of equivalent sales price from any current instant game.
- C. Replacement of the disputed ticket is the sole and exclusive remedy for a claimant.
- D. If a dispute between the Lottery and a claimant occurs concerning the eligibility of an entry into a grand prize, second chance or promotional drawing, the Director is authorized to place any person's eligible entry that was not entered in that drawing into any subsequent drawing or drawings.