

DEPARTMENT OF REVENUE

Colorado Lottery

LOTTERY RULES AND REGULATIONS

1 CCR 206-1

RULE 4 SUSPENSION, REVOCATION, OR NON-RENEWAL OF LICENSE

BASIS AND PURPOSE FOR AMENDED RULE 4

The purpose of Rule 4 is to provide specific notice of the causes for and procedures regarding denial, suspension, revocation, or non-renewal of a license to sell Lottery tickets. The statutory basis for Rule 4 is found in C.R.S. 44-40-107 and C.R.S. 44-40-109.

4.1 Mandatory Revocation of License

A license shall be revoked upon a finding by the Lottery Director that the licensee:

- a. Has provided false or misleading information to the Lottery;
- b. Has been convicted of any gambling-related offense;
- c. Has endangered the security of the Lottery;
- d. Has been a person whose character is no longer consistent with the protection of the public interest; or
- e. Has intentionally refused to pay a prize in his possession to a person entitled to receive the prize.

4.2 Discretionary Suspension, Revocation or Non-Renewal of License

A license may be suspended, revoked or not renewed upon a finding by the Lottery Director that the licensee:

- a. Has changed its business location by the licensee without properly notifying the Lottery;
- b. Has insufficient sales volume;
- c. Has failed to remit or has been delinquent remitting money owed to the Lottery;
- d. Has endangered the efficient operation of the Lottery;
- e. Has been convicted of a felony, including but not limited to, robbery, burglary, theft, trespass, criminal mischief, forgery, computer crime, bribery, perjury, offenses related to judicial or other proceedings, telecommunications crimes, racketeering, accounting fraud, or the distribution, sale, manufacturing, dispensation or possession of drugs or drug paraphernalia. Other convictions, whether felony or misdemeanor, may relate to a determination that the licensee is a person whose character is no longer consistent with the protection of the public interest and trust in the Lottery and may lead to the suspension or revocation of a license.
- f. Has sold a Lottery ticket at a price greater or less than that fixed by the Commission except as provided in Section 44-40-116(1), C.R.S.;
- g. Has sold a Lottery ticket when not authorized to do so;
- h. Has sold a Lottery ticket to any person under the age of eighteen (18) years of age;

- i. Has sold a Lottery ticket at any place other than the place authorized and specified on the license;
- j. Has any violation of Article 40, Title 44, C.R.S. or any Rule or Regulation adopted pursuant thereto;
- k. Has not reported a change in ownership to the Lottery.

4.3 Procedure for Issuance, Renewal, Denial, Revocation, Suspension, Limitation and Modification of License

The procedures contained in Article 4 of Title 24, C.R.S. shall apply to the issuance, renewal, denial, revocation, suspension, limitation and modification of licenses for the sale of Lottery tickets. The Lottery Director may designate an administrative law judge to take evidence and make findings and report them to the Lottery Director.

- a. Any person entitled to a notice of hearing shall be given timely notice of the time, place, and nature thereof, the legal authority and jurisdiction under which it is to be held, and the matters of fact and law asserted. Such notice shall be served personally or by mailing by first-class mail to the last address furnished by the licensee, in accordance with the notice requirement set for in C.R.S., section 24-4-105(2)(a).
- b. The proponent of an order shall have the burden of proof and every party to the proceeding shall have the right to present its case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts. Subject to these rights and requirements, where a hearing will be expedited and the interests of the parties will not be substantially prejudiced thereby, the person conducting the hearing may receive all or part of the evidence in written form. The rules of evidence and requirements of proof shall conform, to the extent practicable, with those in civil non-jury cases in the district courts. However, when necessary to do so in order to ascertain facts affecting the substantial rights of the parties to the proceeding, the person so conducting the hearing may receive and consider evidence not admissible under such rules if such evidence possesses probative value commonly accepted by reasonable and prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. The person conducting the hearing shall give effect to the rules of privilege recognized by law and may exclude incompetent and unduly repetitious evidence. Documentary evidence may be received in the form of a copy or excerpt if the original is not readily available; but, upon request, the party shall be given an opportunity to compare the copy with the original. An agency may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to it.
- c. Any party, or the agent, servant, or employee of any party, permitted or compelled to testify or to submit data or evidence shall be entitled to the benefit of legal counsel of his own choosing and at his own expense, but a person may appear for himself. An attorney who is witness may not act as counsel for the party calling him as a witness. Any party, upon payment of a reasonable charge therefore, shall be entitled to procure a copy of the transcript of his testimony if it is recorded.

4.4 Felony Review Panel

In any proceeding for the issuance, denial, suspension, or revocation of a Lottery retailer license in which a felony conviction or a conviction involving fraud is in issue, the following procedure shall follow the Lottery Director's entry of a final order granting, denying, suspending, or revoking the Lottery retailer license:

- a. If the matter has been heard by an Administrative Law Judge, the Lottery Director's order adopting or modifying the initial decision of the Administrative Law Judge shall be deemed the Lottery Director's final order, unless the Lottery Director orders the Administrative Law Judge to conduct additional proceedings.
- b. The licensee and the Lottery Division may, within fifteen(15) days of the date on which the Lottery

Director signs the final order, file with the Lottery Director and serve upon the opposing party a motion directed to the Felony Review Panel to modify the Lottery Director's final order. The opposing party may, within fifteen (15) days of receipt of the motion, file with the Lottery Director and serve upon the moving party a brief opposing the motion. Within ten (10) days of receipt of the brief opposing the motion, the moving party may file with the Lottery Director and serve upon the opposing party a reply brief in support of the motion. Each party shall file with the Lottery Director the original and three (3) copies of each motion or brief filed by the party. The Lottery Director shall cause any initial decision, the Lottery Director's final order, and any motions and briefs to be delivered to the Felony Review Panel. The Lottery Director shall notify the parties of the date on which he forwarded the final order and any other material to the Felony Review Panel.

- c. The Executive Director of the Department of Revenue shall be the Chairman of the Felony Review Panel.
- d. Each member of the Felony Review Panel shall notify the Executive Director of the Department of Revenue in writing of the panel member's decision whether to accept or reject the Lottery Director's final order within thirty (30) days of the date on which the Lottery Director forwarded the final order and any other materials to the Felony Review Panel. If the panel member fails to notify the Executive Director of the Department of Revenue of the panel member's decision within thirty (30) days of the date on which the Lottery Director forwarded the final order to the panel, the panel member shall be deemed to have accepted the Lottery Director's final order.
- e. If two or more members of the Felony Review Panel accept the Lottery Director's final order, the final order shall become the order of the Felony Review Panel. The Executive Director of the Department of Revenue shall notify the Lottery Director and the licensee of such acceptance in writing, and the order of the Felony Review Panel shall be deemed final on the date of such written notice.
- f. If two or more members of the Felony Review Panel reject the Lottery Director's final order, the Executive Director of the Department of Revenue shall notify the Lottery Director and the licensee of such rejection in writing and shall state the reasons for such rejection. The Lottery Director shall modify his final order, conduct additional proceedings, or dismiss the proceeding in accordance with the order of the Felony Review Panel. The Executive Director of the Department of Revenue shall notify the licensee and the Lottery Division of such modification, additional proceeding, or dismissal in writing. A modified final order shall be subject to the procedure set forth in Rule 4.5 b).
- g. The order of the Felony Review Panel shall be considered final agency action for the purposes of Section 24-4-106, C.R.S., unless the order remands the matter to the Lottery Director for further action.