

DEPARTMENT OF REVENUE

Colorado Lottery

LOTTERY RULES AND REGULATIONS

1 CCR 206-1

RULE 2 - LICENSING GENERAL RULES AND REGULATIONS

BASIS AND PURPOSE FOR AMENDED RULE 2

The purpose of Rule 2 is to establish and provide the specific factors required for determining eligibility of an applicant desiring to obtain a license for the sale of Lottery products to the public; to specify certain duties of the licensees; to authorize the Director to establish bonding protection for the State of Colorado; to describe the types of limitations which may be placed upon licenses issued by the Director; to provide for the circumstances upon which the Director may terminate licenses and issue duplicate licenses; to specify certain terms, conditions and duties required of licensees authorized to sell Lottery game products; to specify the rights of the licensee, as well as the detailed operation of the Lottery at the retail sales level. The provisions of Rule 2 are necessary in order to promote the public interest, as well as the security and efficient operation of the Lottery. The statutory basis for Rule 2 is found in C.R.S. 44-40-107 and 44-40-109(1)(a) and (2).

2.1 Application for License to Sell Lottery Products

- a. Any person may apply to the Lottery for a license to sell Lottery products as a licensee by filing an "Application for Lottery Retail License." Such application shall be completed under penalty of perjury on a form approved by the Director.
- b. A fee in an amount to be determined by the Director shall be paid by the applicant to the Lottery. This fee shall be paid at the time of the issuance of the license.

2.2 Licensee's Commission

Each licensee shall be entitled to receive a payment for the sale or authorized disbursement of Lottery products by said licensee as provided for in Rules 5.10, 10.14, 10.A.15, 10.D.9 and 14.11.

2.3 Eligibility for License

- a. The Director shall issue licenses for the sale of Lottery products in accordance with the provisions of C.R.S. 44-40-107 and these Rules and Regulations. The Director shall license only such persons who, in the Director's opinion, will best serve the public interest and trust in the Lottery and promote the sale of Lottery products. Prior to issuing any license, the Director shall consider the following factors:
 1. The moral character and reputation of the applicant per C.R.S. 44-40-107 (4) (e).
 2. The financial responsibility and security of the applicant and its business or activity.
 3. The accessibility of the public to the licensed premises proposed by applicant.
 4. The number and sufficiency of existing licenses to serve the public interest.
 5. The volume of applicant's expected Lottery ticket sales.
 6. The security and efficient operation of the Lottery.
 7. Whether the applicant is ineligible under the provisions of C.R.S. 44-40-107(4).

- b. In addition, the Director shall consider the following factors:
 - 1. Business and security considerations which include but are not limited to:
 - i.) Past security problems;
 - ii.) Credit history of owners, officers and the business entity;
 - iii.) History of administrative or regulatory actions.
 - 2. Marketing considerations which include but are not limited to:
 - i.) Projected sales of Lottery products
 - ii.) Willingness to promote lottery products.

2.4 Duties of Licensees

In order to promote the public interest and the security and efficient operation of the Lottery, each applicant shall agree, if granted a license, to perform the following terms, conditions and duties:

- a. To be bound by and comply with all lawful provisions of Article 40, Title 44, C.R.S. and the Rules and Regulations adopted pursuant thereto; as well as with any lawful instructions or directives issued by the Director.
- b. To actively promote the sale of Colorado Lottery products and make them available for sale at all times the system is available and at the times that are consistent with the business hours of operation.
- c. To pay prizes up to and including \$599.00 to the ticket bearer for any scratch and/or online products validated by the retailer. All products validated by a retailer must be paid by that retailer.
 - 1. The retailer must maintain sufficient funds to pay all scratch and/or online product claims of \$150 or less by cash, check, or money order.
 - 2. The retailer will be prompted at the time of validation whether to accept the validation for prizes greater than \$150 but less than \$600. If a retailer accepts and validates the ticket, the prize must be paid.
 - 3. Prizes shall be paid during the normal business hours of the licensee provided the validation system is operational and claims can be validated. The licensee shall not charge the claimant a fee for payment of a prize or for cashing a business check drawn on the licensee's account.
- d. To maintain authorized displays, notices, and other materials used in connection with the sale of Lottery products in accordance with reasonable instructions or directives issued by the Director.
- e. To maintain a complete and accurate set of books of account, correspondence and records of all Lottery transactions and operations, including but not limited to the receipt, sale, handling, inventory, and returns for credit for all Lottery game products received by licensee, and any books of account, correspondence, reports and records that may be required for Lottery game products. Books, correspondence and records referencing the Lottery account must be made available during normal business hours, with or without prior notice, to any duly authorized representative of the Lottery for inspection and audit by an auditor selected by the Commission or Director.
- f. To allow inspections of the licensed premises by duly authorized representatives of the Division during normal business hours, to determine compliance with the provisions of the Act, Rules and Regulations, instructions and directives of the Lottery Director.
- g. To indemnify and hold the State of Colorado, the Colorado Lottery and the Colorado Lottery Commission harmless from any and all liabilities, claims, actions, and judgments of any kind or

nature arising from or relating to the licensee's acts or omissions in the operation and conducting of the sale of Lottery products.

- h. To pay an administrative fee, to be determined by the Lottery Director, to reimburse the Colorado Lottery for inactive scratch tickets that are lost due to negligence or misconduct of the licensee.
- i. To provide confirmation that the licensee is not a member of the Lottery Commission, employee of the Lottery or current Lottery contractor.
- j. To agree that all Lottery products shall be deemed to have been purchased by the licensee as of the date each book of Instant/Scratch products is activated, at the price, less applicable commission, established by the Commission; and that the licensee shall make payment to the Colorado Lottery in a timely manner as established by the Lottery's electronic funds transfer (EFT) policy for any and all Lottery Instant/Scratch products which are activated and offered for sale to the public including products that have been sold, but not activated.
- k. To pay a communication and/or administrative fee at the discretion of the Director in an amount to be determined by the Director to cover operational costs to the Lottery in servicing said retailer account.
- l. To maintain a secure place for unsold Lottery products upon instruction or directive by the Director or designee.
- m. To prominently display the Colorado Lottery license in an area visible to the general public.
- n. To agree that all unclaimed prizes from all Lottery products remain the property of the State of Colorado as set forth in C.R.S. 44-40-113 and C.R.S. 40.40.114.
- o. To pay, without reimbursement, all electricity charges in conjunction with the operation of the terminal equipment related to the sale of Lottery products.
- p. To participate in Lottery training sessions and provide staff training.
- q. To use signage identifying the location as a Lottery retailer. Nothing herein shall require retailer to install signage which is in violation of any state, local, or municipal code.
- r. To provide authorization for an account with EFT (Electronic Funds Transfer) capability to be used for weekly billing of all Lottery products;
- s. To maintain a balance in the account sufficient to cover payment due the Lottery for the established billing period. The Lottery shall utilize EFT to withdraw the amount due the Lottery on the day specified by the Director. In the event the day specified for withdrawal occurs on a legal holiday, withdrawal shall occur on the following business day.
- t. To sell Scratch products in consecutive, numerical order.
- u. To sell Lottery products for cash only, inclusive of checks, money orders and debit cards, and shall not sell Lottery products on a credit or any other non-cash basis. Licensee shall not exchange Lottery products and/or books with any other person, including other licensees.
- v. To play Lottery games, if so desired, in a responsible and fair manner. Licensees are prohibited from playing Lottery games by using any method other than random, fair chance, or by any method contrary to the principle that every Lottery ticket has an equal and random chance of winning.
- w. In addition to the requirements listed in the previous sub-paragraphs of 2.4, a licensee authorized to sell online game products shall agree to the following terms, conditions and duties:
 - 1. To print online products only on the specific ticket stock issued by the Lottery to the specific retail outlet and not transfer ticket stock to any other outlet;

2. To acknowledge that the online terminal and supplies issued by the Lottery or the online vendor remain the property of Lottery or online vendor. The licensee shall exercise due diligence in the operation of the online terminal and immediately notify the Lottery and the central computer facility of any equipment, communications line or online systems malfunction, such as the issuance of an invalid online ticket, or the inability to generate or redeem an online ticket. The licensee shall not perform any mechanical or electrical maintenance on the online terminal. The licensee shall not move, alter or tamper with the terminal except as required by the Lottery or its agent.
3. To provide without reimbursement the full cost of terminal installation and hookup charges any and all charges related to the sale of Lottery products, as specified by the Lottery.
4. To provide, without reimbursement, any requirement the Lottery deems necessary for terminal installation and maintenance of equipment related to the sale of Lottery products;
5. To pay, without reimbursement, all communication charges in conjunction with the operation of the terminal equipment related to the sale of Lottery products, unless otherwise specified by the Director.

2.5 ADA - American's with Disabilities Act

To prohibit discrimination, no Lottery retailer shall discriminate against any individual on the basis of disability in the full and equal enjoyment of Lottery-related goods, services, facilities, privileges, advantages or accommodations of any Lottery Licensed Facility.

- a. Each applicant for a Lottery license shall review his/her retail facility for compliance with the Federal ADA (American's with Disabilities Act) as it pertains to the sale of Colorado Lottery products.
- b. To assist applicants with this inspection, the Lottery will include a list of compliance requirements with the retailer application paperwork.
- c. The facility analysis shall begin where the customer parks, moves through the path of travel to the Lottery sales area of the store.
- d. The applicant is required to correct any ADA noncompliant areas prior to applying for a Colorado Lottery sales license.
- e. The applicant must complete the Lottery license application form pertaining to ADA status.
- f. Any physical modifications or changes to a licensed location must be in compliance with the ADA requirements for Colorado Lottery licensed retailers.
- g. The Colorado Lottery allows for alternatives to barrier removal at retail locations. Such alternatives may include, but are not limited to:
 1. Providing curb service; and/or
 2. Drive thru; and/or
 3. Relocating activities to accessible licensed locations
- h. The Colorado Lottery will actively pursue any complaint it receives regarding the inaccessibility of Lottery products at any of its licensed locations. If a location is found to be noncompliant, the retailer is required to correct the area(s) of noncompliance. Noncompliance of Colorado Lottery ADA requirements may result in license suspension or revocation proceedings.

The ADA guidelines listed for potential retail outlets were written following the directives enacted by the Federal ADA Act of 1990. The requirements listed in the Federal ADA Act of 1990 are not solely specific to the Colorado Lottery and its retailers. The Federal ADA Act of 1990 is enforced by the United States Department of Justice.

2.6 Licensing Disqualifications

A license shall not be granted to:

- a. Any person who will engage in business exclusively as a Lottery sales agent, unrelated to any other commercial business activity.
- b. Any person who has provided false or misleading information to the Lottery.
- c. Any person who is deemed not financially responsible to operate a business.
- d. Any person whose proposed licensed premises is a residence or, by reason of its location is not accessible to a sufficient number of persons so as to reasonably justify the Lottery's expenditure of public monies to provide and deliver Lottery products, services, and supplies to such a location. In making such a determination, the Director shall consider the possible economic benefit to the State and the convenience to the public to be gained from licensing such person.
- e. Any person whose volume of Lottery ticket sales projected or anticipated is such as not to reasonably justify the Lottery's expenditure of public monies to provide and deliver Lottery products, services, and supplies to such a location, when considering the possible economic benefit and convenience to the public to be gained there from. For the purpose of initial licensing, a projected or anticipated volume of instant game Lottery ticket sales must meet the current minimum sales requirement as determined by the Lottery Director.
- f. Any sole proprietor who is not a resident of the State of Colorado.
- g. Any corporation that is neither incorporated in, nor authorized to do business in, the State of Colorado.
- h. Any Limited Liability Company (L.L.C.), that is not incorporated in or authorized to do business in the State of Colorado.
- i. Any partnership, or association, or other type of business entity, none of whose general partner(s), member(s), or representative(s) is a resident of the State of Colorado.
- j. Any person who has been convicted, within ten years of an application, of a felony crime, including but not limited to, robbery, burglary, theft, trespass, criminal mischief, forgery, computer crime, bribery, perjury, offenses related to judicial and other proceedings, telecommunications crimes, racketeering, 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 person is not of good character and reputation and may lead to the denial of a license.
- k. Any business entity member that has an outstanding liability with the Colorado Lottery including amounts transferred to Central Collection Services or has been written off by the Colorado Lottery due to bankruptcy or for non-payment.

2.7 License Suspension/Revocation

- a. The Director may order the removal of such terminal from a location after considering factors which include but are not limited to:
 1. Sales volume which does not meet established standards;
 2. Failure to generate sufficient sales volume to cover the Lottery's administrative costs.

- b. The Director may immediately suspend a retailer's Lottery operation, order removal of an online terminal from a retail location, or take any other action necessary in the event the licensee:
 - 1. Fails to comply with any rule established by the Commission or any instruction issued by the Director.
 - 2. Tamper with or attempts to tamper with the online terminal or system.
 - 3. Fails to make payment of a validated prize or makes payment and the payment is dishonored for any reason.
 - 4. Fails to make payment to the Lottery or makes payment to the Lottery and the payment is dishonored for any reason.

2.8 Bonding Requirement

No license shall be issued or renewed by the Director, unless the applicant or licensee is first bonded in such an amount and type as may be required by the Director to protect the State against any monetary loss that may arise from the licensee's purchase and sale of Lottery products.

Such bonding may take the form of any instrument that is determined by the Director to satisfy the requirements of C.R.S. 44-40-107(1) and C.R.S. 44-40-121.

2.9 Limitations on Licenses

- a. Unless otherwise limited or conditioned pursuant to the provisions contained in subparagraph 2.9 c) hereof, each license issued by the Director for the sale of Lottery products shall limit the sale thereof solely to the licensed premises; and shall terminate unless timely renewed. The Director may limit a licensee to a particular type of Lottery game.
- b. A license may be renewed upon the timely payment of a renewal fee to be determined by the Director.
- c. In order to protect the public interest and trust in the Lottery and to further the sale of Lottery products, the Director may, but shall not be required to, issue a license for special events containing reasonable limitations or conditions. Such limitations and conditions may include any one or all of the following:
 - 1. The length of license period;
 - 2. The hours and days of Lottery ticket sales;
 - 3. The location of sale;
 - 4. The specific person who may be allowed to sell Lottery products;
 - 5. The specific sporting, charitable, social, or other special event where Lottery products may be sold;
 - 6. Such other limitations or conditions of licensing as determined by the Director to best serve the public convenience; to promote the sale of Lottery products; to protect the security and integrity of the Lottery games; or as may be otherwise necessary or desirable for the efficient and economical operation and administration of the Lottery.
- d. For the purpose of 2.9 c), a special event shall mean a specific sporting, charitable, social event, or other specific location or activity, such as a fair, which, by reason of its limited duration or other special character requires the issuance of a license containing such limitations or conditions as described above in order to protect the security and integrity of Lottery games.

2.10 Provisional License

- a. The Director may issue a provisional license to an applicant pending the completion of the processing required under Paragraph 2.3, after receipt of the person's fully completed application and completion of a preliminary background check. The provisional license shall expire at the time of issuance of the general license or ninety (90) days from the date the provisional license is issued, whichever occurs first. The provisional license may be extended by the Director for one additional ninety (90) day period of time.
- b. The Director may issue a provisional license to an applicant for renewal of a general license when a determination has been made and it becomes necessary to authorize a licensee to sell products pending approval of the application for general license renewal. The provisional license shall expire at the time of the issuance of the general license renewal or ninety (90) days from the date the provisional license is issued, whichever occurs first.

2.11 Non-Transferability of License

A license issued pursuant to these Rules and Regulations shall not be assignable or transferable. If either the person who has signed the application for licensure is no longer employed by the licensee in the capacity stated on the application or if the ownership of the licensee substantially changes, the Director reserves the right to terminate the license. The licensee shall notify the Director in writing at least thirty (30) days prior to any such proposed change. A substantial change in ownership shall mean a transfer of ten percent (10%) or more of either the equity of such business, or the decision-making authority thereof.

2.12 Duplicate Licenses

Upon the loss, mutilation or destruction of any license issued by the Director, a duplicate license can be issued. A mutilated license shall be surrendered to the Director upon issuance or denial of a duplicate license. A lost license, when found, must be immediately surrendered to the Director.