

**DEPARTMENT OF FINANCE
OFFICE OF THE STATE LOTTERY**
Statutory Authority: 29 Delaware Code, Section 4805(a) (29 Del.C. §4805(a))

FINAL

ORDER

Rule 6.34 Agents: Duties

Pursuant to 29 **Del.C.** §10115 and 29 **Del.C.** §4805(a), the Delaware Lottery Office issues this Order adopting proposed amendments to the Video Lottery Regulations. Following notice and a public hearing held on December 21, 2004, the Lottery makes the following findings and conclusions:

Summary of the Evidence

1. The Lottery posted public notice of the proposed amendments in the December 1, 2004 *Register of Regulations* and for two consecutive weeks in the Delaware Capital Review and Delaware State News. The Lottery's proposed amendments were as follows: i) amend Video Lottery Regulation 4.2 to provide that any entity proposing to contract with the Lottery or a video lottery agent must obtain a technology provider license; ii) amend Video Lottery Regulation 6.34(5) to provide that temporary employees, consultants, or contractors must obtain a license and vendors who propose to contract with the Lottery or a video lottery agent must obtain a technology provider license; iii) amend Video Lottery Regulation 6.35 to require video lottery agents to file copies of video lottery related contracts in excess of \$50,000; iv) amend Video Lottery Regulation 7.16.2 to require a video lottery agent to update the self-exclusion list within forty-eight (48) hours after receiving notice from the Lottery or the Video Lottery Enforcement Unit.

2. The Lottery received no written comments from the public during the period from December 1, 2004 through December 30, 2004. The Lottery received no public comments at the public hearing on December 21, 2004.

Findings of Fact and Conclusions

3. The public was given notice and an opportunity to provide the Lottery with comments in writing and by testimony at the public hearing on the proposed amendments to the Video Lottery Regulations.

4. The Lottery finds that the amendments to the Video Lottery Regulations should be adopted as proposed. The proposed amendments are necessary under 29 **Del.C.** §4805 (a) to permit the Lottery to operate the video lottery in a manner that produces the maximum amount of net revenues consonant with the dignity of the State and the general welfare of the people of Delaware. The proposed amendments are necessary steps to strengthen the licensing and enforcement procedures authorized by 29 **Del.C.** §4805(a)(16-17).

5. The effective date of this Order shall be ten (10) days from the publication of this Order in the *Register of Regulations* on February 1, 2005. This Order adopts the proposed amendments to the Video Lottery Regulations in their entirety as published in the *Register of Regulations* in December, 2004, **8 DE Reg 842**.

IT IS SO ORDERED this 10th day of January, 2005.

Don Johnson, Hearing Officer

6.0 Agents: Duties

The following duties are required of all licensed agents:

6.1 Provide a secure location for the placement, operation, and play of all licensed video lottery machines located on the licensed agent's premises.

6.2 Permit no person to tamper with or interfere with the approved operation of any licensed video lottery machine without prior written approval of the agency and the VLEU, unless otherwise directed by the Lottery.

6.3 Assure that telephone lines from the agency's central computer to the licensed video lottery machines located on the licensed agent's premises are at all times connected, and prevent any person from tampering or interfering with the continuous operation of the lines.

6.4 With respect to video lottery operations, contract only with officers, directors, owners, partners, key

employees, and suppliers of video lottery equipment and paraphernalia authorized by the agency to participate in video lottery operations within the State of Delaware.

6.5 Ensure that licensed video lottery machines are placed and remain as placed unless the agency authorizes their movement within the sight and control of the agent or a designated employee, through physical presence and by the use of surveillance cameras at all times.

6.6 Ensure that licensed video lottery machines are placed and remain as placed in the specific area of the premises as approved by the lottery. The initial placement and any subsequent relocation of any video lottery machine requires the prior written approval of the agency and the VLEU.

6.7 Monitor video lottery machine play and prevent access to or play by persons who are under the age of twenty-one (21) years or who are intoxicated, or whom the agent has reason to believe are intoxicated, and prohibit play by persons who are barred by law or self-banned from playing any video lottery machine.

6.8 Commit no violations of the laws of this State concerning the sale, dispensing, and consumption on the premises of alcoholic beverages that result in suspension or revocation of an alcoholic beverage license.

6.9 Maintain at all times sufficient change and cash in denominations accepted by the video machines located in the premises.

6.10 Exercise caution and good judgment in extending credit for video lottery machine play, and comply with all applicable federal and state laws.

6.11 Exercise caution and good judgment in providing cash for checks presented for video lottery machine play. The agent shall also ensure that any contractor who performs check cashing services for the agent also exercises caution and good judgment in providing cash for checks under this regulation.

6.12 Report promptly all video lottery machine malfunctions to the appropriate technology provider and agency and notify the agency of any technology provider failure to provide service and repair of such terminals and associated equipment.

6.13 Conduct agency approved advertising and promotional activities related to video lottery operations.

6.14 Install, post and display prominently at locations within or about the premises signs, redemption information and other promotional material as may be required by the agency.

6.15 Conduct video lottery operations only during those hours established and approved by the Director or designee.

6.16 Assume responsibility for the proper and timely payment to players of credits or tokens awarded.

6.17 Prohibit the possession, use or control of gambling paraphernalia on the premises not directly related to the lottery or horse racing or harness horse racing and prohibit illegal gambling on the premises.

6.18 Reserved

6.19 Attend all meetings, seminars, and training sessions required by the agency.

6.20 Supervise its employees and their activities to ensure compliance with these rules.

6.21 Assume responsibility for the proper and immediate redemption of all credits; however, no credits may be redeemed by a person under twenty-one (21) years of age, and no credits submitted for redemption beyond the one year time limit will be redeemed. No credits or prizes may be redeemed by any person illegally on the agent's premises or persons who have requested that they be self-banned from the agent's premises.

6.22 Provide dedicated power and a proper video lottery machine environment in accordance with the specifications of the agency. The agent shall permit no person to completely shut off power to an operational video lottery machine without the prior approval of the agency.

6.23 Furnish to the Director complete information pertaining to any change in ownership of the agent or the owner of the premises or beneficial owner (other than a change in ownership by an owner of less than twenty (20) percent of the issued and outstanding capital stock of the agent or premises owner if such stock is publicly traded).

6.24 Promptly report to the lottery any violation or any facts or circumstances that may result in a violation of State or Federal law and/or any rules or regulations pursuant thereto, excluding violations concerning motor vehicle laws.

6.25 Conduct video lottery operations in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of Delaware, or reflect adversely on the security or integrity of the lottery.

6.26 Hold the Director, the State of Delaware, and employees thereof harmless from and defend and pay for the defense of any and all claims which may be asserted against the Director, the State or the employees thereof, arising from the participation in the video lottery system, except claims arising from the negligence or willful misconduct of the Director, the State or the employees thereof.

6.27 Maintain all required records.

6.28 Provide at the request of the Director or the VLEU immediate access to the premises and to all records related to any aspect of these regulations, including without limitation the duties imposed by these regulations.

6.29 Keep current on all payments, tax obligations and other obligations to the agency and other licensees with whom video lottery business is conducted. The agent shall pay the players and transfer the net proceeds to the State lottery fund in conformity with the requirements set forth in these regulations and 29 Del. C. chapter 48.

6.30 Ensure that there are no automated teller machines (ATMs) within twenty-five (25) feet of any video lottery machine on the premises.

6.31 Locate all video lottery machines within the viewing range of closed circuit television cameras at all times, including both normal business hours and those periods when video lottery operations are closed. The presence of these cameras is to ensure the integrity of the lottery, the video lottery operations, and the safety of the patrons. Surveillance tapes will be maintained by the agent according to a schedule established by the Director and the VLEU. The installation of any new closed circuit television or repositioning of any CCTV cameras or new surveillance system must be reviewed and approved by the Director and the VLEU before placed in to operation.

6.32 Comply with such other requirements as shall be specified by the Director. The agent shall submit to the Director a description of its system of internal procedures and administrative and accounting controls which shall conform to the rules and regulations of the agency and be otherwise satisfactory to the Director in his or her sole discretion.

6.33 Provide, on a continuing basis, to the Director the names and addresses of all employees who are involved in the daily operation of the video lottery machines. These employees will include individuals or their supervisors involved with (1) the security of the video lottery machines, (2) the handling or transporting of proceeds from the video lottery machines, or (3) positions that provide direct access to video lottery machines. It shall be the continuing duty of the video lottery agent licensee to provide for the bonding of any of the above-mentioned employees to ensure against financial loss resulting from wrongful acts on their parts. Likewise, the agent shall post a bond or irrevocable letter of credit in a manner and in an amount established by the agency. Any such bonds shall be issued by a surety company authorized to transact business in Delaware and said company shall be approved by the State Insurance Commissioner as to solvency and responsibility.

6.34 (1) Notify the Director on a continuing basis of any change in officers, partners, directors, key employees, video lottery operations employees, and owners. The video lottery agent shall provide this information to the Lottery and the VLEU on a weekly basis. Such persons will also be subject to a background investigation. The failure of any of the above-mentioned persons to satisfy a background investigation may constitute "cause" for the suspension or revocation of the video lottery agent's license, provided that an agent is first given a reasonable opportunity to remove or replace such person if the agent was unaware of such "cause" prior to the background investigation. The agent must supply the VLEU with the completed License Application Form ("LAF") and fingerprint cards for each employee before the employee begins employment. Agent employees required to be licensed by the Delaware Lottery laws, 29 Del.C. chapter 48, and these Regulations must have been successfully completed and been issued a valid license under section 14.0 of these Regulations prior to commencement of employment.

(2) The agent must notify the VLEU of the transfer of any employee within the agent's organization on a weekly basis. The Lottery and the VLEU will determine if a new or updated LAF must be submitted for the transferred employee.

(3) The agent must notify the Lottery and the VLEU of the termination of any employee and the reason for the termination on a weekly basis.

(4) The agent must submit to the Lottery and the VLEU on a weekly basis the names of all new employees who will work on the video lottery premises. All employees who do not meet the definition of key employees or video lottery operations employees must file a completed LAF with the VLEU within seven (7) days of commencement of employment.

(5) The agent must obtain advance approval before any temporary employee, consultant, or contractor will be permitted access to secure locations. Any such temporary employee, consultant, or contractor must submit a Request for Temporary Work Approval Form to the VLEU at least forty-eight (48) hours prior to the date of assignment. Any such temporary employee, consultant, or contractor must also submit a license application pursuant to Regulation 14.0 and must be employed by a licensed technology provider. Any vendor who proposes to contract with a video lottery agent or the Lottery for the provision of goods or services, including management services, related to the video lottery operations, must obtain a technology provider license pursuant to Video Lottery Regulation 4.0. The Lottery will consider secure areas to include, but not be limited to, access to the inside of a video lottery machine, surveillance rooms, cash vaults, and cash booths.

6.35 As soon as it is known to the agent, file with the Director a copy of any current or proposed agreement and disclose to the Director any other relationship between the agent, its parents, subsidiaries, related entities, partners, owners, directors, officers or key employees for the sale, lease, maintenance, repair or other assignment of the agent's premises, or any other relationship of any vendor, manufacturer or other person who stands to benefit financially from the possession or use of video lottery machines by such agent. The agent shall file with the Director for approval every contract in excess of ~~\$1,000~~ \$50,000 which pertains to the agent's video lottery operations. The agent shall notify the Director of any contract with an entity that is subject to the license requirements for vendors or technology providers under 29 **Del.C.** §4805(b)(17) and Chapter 4 of these Regulations.

6.36 Comply with the applicable requirements contained in Title 3, §10048 and §10148 and Title 28, §427 of the Delaware Code. The agent shall file an annual report, due January 15th of each year, which provides sufficient information for the Director to determine whether the agent has satisfied the requirements of this provision.

6.37. Comply with the provisions of the business plans as approved and amended.

6.38. Comply on a continuing basis with the requirements for obtaining or retaining a license under the provisions of these regulations and 29 **Del.C.** Chapter 48.

2 DE Reg. 115 (7/1/98)

3 DE Reg. 1083 (2/1/00)

7 DE Reg. 206 (8/1/03)

7 DE Reg. 958 (1/1/04)

***Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Office of the State Lottery is available at: <http://lottery.state.de.us/videolottery.html>**

8 DE Reg 1143 (2/1/05)