

**DEPARTMENT OF FINANCE  
OFFICE OF THE STATE LOTTERY**

Statutory Authority: 29 Delaware Code, Sections 4805(a) and (b) and 4825(a), (c), and (d)  
(29 **Del.C.** §§4805(a) & (b) and 4825(a), (c), and (d))  
10 **DE Admin. Code** 204

**FINAL**

**ORDER**

**204 Sports Lottery Rules and Regulations**

The Director of the Office of the State Lottery (Director) hereby gives notice of amendments to 10 **DE Admin. Code** 204 relating to the Delaware Sports Lottery Rules and Regulations.

The Director seeks to adopt revisions to the existing sports lottery rules, i.e., the Sports Lottery Rules and Regulations (10 **DE Admin. Code** 204), to confirm that the Director has the legal authority to develop and implement a sports lottery mobile application to sell sports lottery tickets and to update the rules to comply with changes that have been made to Delaware laws and internal policies and procedures of the Office of the State Lottery. These revisions are primarily procedural in nature and relate to updates to match with current internal operating procedures. Pursuant to 29 **Del.C.** §10113(b)(6), regulations describing an agency's codifications of existing agency principles of decision derived from previous decisions are exempted from the notice and public comment requirements of 29 **Del.C.** Ch. 101. These revisions should not pose additional burdens on licensees or consumers. The Delaware Code authority for these revisions is 29 **Del.C.** §§4805(a) and (b) and 4825(a), (c), and (d).

The Office of the State Lottery does not plan to hold a public hearing on the revisions to the existing regulation. The revisions appear below. Members of the public may also request a copy of the revisions by visiting the Office of the State Lottery, 1575 McKee Road, Suite 102, Dover, Delaware 19904.

**DECISION AND ORDER CONCERNING THE REGULATIONS**

NOW THEREFORE, under the statutory authority and for the reasons set forth above, the Director of the Office of the State Lottery does hereby ORDER that the regulations be, and that they hereby are, amended as set forth below. The effective date of this Order is ten days from the date of its publication in the Delaware *Register of Regulations*, in accordance with 29 **Del.C.** §10118(g).

Vernon A. Kirk, Director  
Office of the State Lottery  
May 15, 2018

**204 Delaware Sports Lottery Rules and Regulations**

**1.0 Introduction**

These regulations are authorized pursuant to 29 **Del.C.** §4805 of Title 29 of the Delaware Code. Sports lottery operations in the State of Delaware are strictly regulated by the Delaware State Lottery Office through the powers delegated to the Director of the Lottery pursuant to Title 29 of the Delaware Code.

**2.0 Definitions**

~~The following words shall be accorded these meanings: The following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise. Words importing the masculine gender include the feminine as well, except as otherwise clearly indicated by the context.~~

**"agency Agency"** - or **"Delaware Lottery"** means the Delaware State Lottery Office created pursuant to 29 **Del.C.** Ch. 48.

**"agent Agent"** or **"licensed agent"** or **"licensed sports lottery agent"** - means any person licensed by the Director of the agency to conduct sports lottery operations.

**"applicant Applicant"** - means any person applying who applies for a license to be an Agent as authorized under Delaware law and these regulations.

**"background Background investigation"** - means the security, fitness and background checks conducted of an applicant.

**"business Business plan"** - means a document containing information regarding sports lottery operations as may be required by the Director.

**"central Central system"** - means the hardware, software and network components, which link and support all required sports lottery machines and the central site.

**"central Central system provider"** - means a person with whom the agency has contracted for the purpose of providing and maintaining a central communication system and the related management facilities with respect to operating and servicing the sports lottery machines.

**"central Central site"** - means the location where the central sports lottery communications control systems shall be located.

**"certification Certification"** - means the authorization by the lottery in accordance with its inspection and approval process of sports lottery machines, such certification to relate to either hardware or software.

**"credit Credit"** - means the opportunity provided to a player to play a sports lottery game or redeem the credit for cash.

**"credit Credit slip"** - means the ticket (receipt) resulting from a sports lottery game.

**"DGE"** - ~~Division of Gaming Enforcement of the Department of Homeland Security.~~

**"Director"** - means the Director of the Delaware State Lottery Office as established by Title 29, Ch. 48 of the Delaware Code.

**"Division of Gaming Enforcement"** or **"DGE"** means the Division established within the Department of Safety and Homeland Security under 29 Del.C. §8236 to (i) exercise exclusive jurisdiction for the criminal offenses which relate to gaming that occurs in a licensed video lottery facility or which relate the operation of the Lottery, and (ii) investigate the background, qualifications, and suitability of each applicant or licensee before any license is issued or re-issued by the Director.

**"key Key employee"** - means an individual employee, person or agent of an applicant or licensee who has the power to exercise significant influence over significant decisions concerning the applicant's or licensee's business.

**"kind Kind, type and number"** - means the generic varieties of sports lottery machines that may be selected for installation, and the quantities in which they may be installed.

**"license License"** - means (i) the authorization granted by the agency which permits an applicant to engage in defined sports lottery activities as an agent or technology provider; and (ii) the authorization granted by the agency which permits an applicant to perform employment duties as a key employee or sports lottery operations employee.

**"license License application"** - means the process by which a person requests licensing for participation in the sports lottery operations.

**"Licensed video lottery agent"** means any person licensed by the Director to conduct table games and/or video lottery operations in a video lottery facility and that has a sportsbook.

**"licensee Licensee"** - means any person authorized by the Director to participate in sports lottery operations.

**"lottery Lottery"** - means the public gaming system or games established and operated by the Delaware State Lottery Office.

**"maximum Maximum wager limit"** - means the maximum amount that can be wagered on a single sports lottery wager be it head-to-head or parlay, as determined by the Lottery Director from time to time.

**"net Net proceeds"** - All means all proceeds net of proceeds returned to players.

**"owner Owner"** - means a person who owns, directly or indirectly, any portion of an applicant or licensee.

**"person Person"** - means an individual, general partnership, limited partnership, corporation or other legal entity.

**"player Player"** - means an individual who plays a sports lottery game.

**"promises Premises"** - means the building and grounds occupied by a licensed agent where the agent's sports lottery operations occur or support facilities for such operations exist, such as facilities for the service of food or drink, including those areas not normally open to the public, such as areas where records related to sports lottery operations are kept.

**"request Request for proposals and qualifications"** - means a document developed under the direction of the Delaware State Lottery Office for the purpose of soliciting responses from potential technology providers as a means of acquiring bids for goods or services.

**"service Service technician"** - means any person who performs service, maintenance and repair operations on sports lottery machines.

**"sports Sports lottery"** ~~shall mean~~ means a lottery in which the winners are determined based on parlay wagering on the outcome of any ~~professional or collegiate sporting event, including racing, held within or~~

~~without the State, but excluding collegiate sporting events that involve a Delaware college or university, and amateur or professional sporting events that involve a Delaware team National Football League games and does not include wagering on any other football games in any other league, professional or otherwise, or any other sport or sporting event played in any league, professional or otherwise.~~

~~“**sports Sports lottery machine**” or “**terminal**” shall mean means any machine in which bills, coins or tokens are deposited in order to play a sports lottery game. A machine shall be considered a sports lottery machine notwithstanding the use of an electronic credit system making the deposit of bills, coins or tokens unnecessary.~~

~~“**sports Sports lottery operations employee**” shall mean means an individual employee, person or agent of an applicant or licensee who is responsible for the security of sports lottery operations or proceeds.~~

~~“**sports Sports lottery systems**” - means systems provided by a technology provider that consist of sports wagering products, risk management (bookmaking), operations and support services.~~

~~“**technology Technology provider**” - means any person or entity who proposes to contract with a sports lottery agent or the agency for the provision of goods or services related to a sports lottery, the provision of which requires a license pursuant to 29 **Del.C.** Ch. 48.~~

~~“**terminal**” — see “sports lottery machine”.~~

## 16 DE Reg. 291 (09/01/12)

### 3.0 Licensing of Agents

3.1 Video Lottery Agents. Any potential sports lottery agent who is already licensed as a Delaware State Lottery Video Lottery Agent is not required to apply for a separate sports lottery license. Any such Agent must, however, file with the agency, the names, addresses, employer identification or social security numbers (if applicable) and dates of birth (if applicable) of its directors, officers, or partners, owners, key employees and sports lottery operations employees not already provided under the Agent's Video Lottery license application. The Agent must also submit an amendment to its video lottery business plan.

3.2 Retail Lottery Agents. Any potential sports lottery agent who ~~is has already licensed as a Delaware State Lottery Retail Lottery Agent (retailer) must obtained from the Director a license to sell lottery tickets and provide lottery-related services under 10 DE Admin. Code 202 is not required to apply to the agency for a separate sports lottery license. Any such applicant desiring to obtain a sports lottery license shall apply to the agency on forms specified by the Director from time to time as defined in section 3.3. At the discretion of the Director, such an applicant may be allowed to meet the requirements of the application process for a sports lottery license by relying on forms, materials, criminal history responses, and submissions already provided for the purpose of determining the qualifications of the applicant during the retail lottery licensing process. Nothing in this section will limit the Director's authority to require an existing Agent to undergo a new and complete application process for a sports lottery license.~~

3.3 Application Process for Licensing as a Sports Lottery Agent

3.3.1 Any applicant desiring to obtain a license to act as an agent shall apply to the agency on forms specified by the Director from time to time. Application forms shall require the applicant to provide the following, without limitation:

3.3.1.1 The applicant's legal name, form of business entity (e.g., general or limited partnership, corporation, etc.);

3.3.1.2 The names, addresses, employer identification or social security numbers (if applicable) and dates of birth (if applicable) of its directors, officers, partners, or owners, as applicable;

3.3.1.3 A form regarding the applicant's “Statement of Eligibility” to hold a Lottery Sports Agent License license as a sports lottery agent, including disclosure regarding the Applicant, applicant or any persons identified in ~~subparagraph~~ subsection 3.3.1.2; who have:

3.3.1.3.1 Been convicted of an offense other than a traffic ~~violations~~ violation;

3.3.1.3.2 Been subject to any disciplinary action, past or pending, by any administrative, ~~government~~ governmental, or regulatory body;

3.3.1.3.3 Been charged with a violation of any statute, rule, regulation, or ordinance of any administrative, regulatory, or other governmental body; or

3.3.1.3.4 Been in default of paying any taxes, fees, or other obligations owed to the State of Delaware, any local governmental entity, or the federal government.

3.4 Applicant Submissions. Any applicant desiring to obtain a license to act as an agent shall submit, without limitation, the following documentation in conjunction with application forms as required by the Director:

3.4.1 A copy of a license ~~issued by the Delaware Division of Revenue~~ to conduct business in the State of Delaware as issued by the Delaware Division of Revenue;

- 3.4.2 A personal financial statement of and for the applicant, or any persons identified in ~~subparagraph subsection~~ 3.3.1.2, ~~OR or~~, at the Director's discretion, copies of the applicant's audited financial statements for the previous three (3) years;
- 3.4.3 Copies of the State and Federal income tax returns for the most recently completed income tax year for the applicant; or any persons identified in ~~subparagraph subsection~~ 3.3.1.2;
- 3.4.4 ~~Personal Guaranty~~ A personal guaranty (for corporations only);
- 3.4.5 A "Notarized Criminal History Affidavit" form signed by the applicant and all persons identified in ~~subparagraph subsection~~ 3.3.1.2;
- 3.4.6 A Delaware criminal history record for the applicant; and any persons identified in ~~subparagraph subsection~~ 3.3.1.2;
- 3.4.7 ~~Federal~~ A federal criminal history record for the applicant; and any persons identified in ~~subparagraph subsection~~ 3.3.1.2;
- 3.4.8 ~~Statement~~ A statement of compliance and ~~Lottery approved an~~ inspection report for ~~Section (30) Delaware Lottery Accessibility Process, Lottery Rules and Regulations, certifying as required under 10 DE Admin. Code 202, Section 29.0 regarding~~ non-discrimination on the basis of disability in Delaware ~~Lottery lottery~~ programs; and
- 3.4.9 Any and all other information as the Director may require to determine the competence, honesty and integrity of the applicant as required by Title 29, Ch. 48 of the Delaware Code.
- 3.5 Certification of Application Documents. The application, as well as other documents submitted to the agency by or on behalf of the applicant for purposes of determining the qualifications of the applicant ~~or agent~~, shall be sworn to or affirmed before a notary public. ~~If any form or document is signed by an attorney for the applicant, the signature shall certify that the attorney has read the forms or documents and that, to the best of his or her knowledge, information and belief, based on diligent inquiry, the contents of the form or documents so supplied are true.~~
- 3.6 Agency Requests for Supplemental Information. Upon request of the agency, the applicant shall supplement the information provided in the application form as deemed necessary by the agency. The applicant shall furnish all information, including financial data and documents, certifications, consents, waivers, individual history forms, tax returns, cancelled checks, or other materials required or requested by the agency for purposes of determining the qualifications of the applicant ~~or agent~~.
- 3.7 Incomplete or Inaccurate Information. To the extent, if any, that the information supplied in the application or otherwise supplied by the applicant or on the applicant's behalf, becomes inaccurate or incomplete, the applicant shall so notify the agency in writing as soon as it is aware that the information is inaccurate or incomplete, ~~and~~ The applicant shall at that time supply the information necessary to correct the inaccuracy or incompleteness of the information.
- 3.8 Application Evaluation Criteria. The Director shall weigh the following factors in ~~evaluation of~~ evaluating the application:
  - 3.8.1 The criminal background, if any, of the applicant, or any of its officers, directors, partners, owners, key employees, and sports lottery operations employees. No license shall be issued to any applicant if any of the persons identified in this subsection have been convicted, within 10 years prior to the filing of the application, of any felony, a crime of moral turpitude, or a crime involving gambling.
  - 3.8.2 The extent to which, if any, the applicant would be subject to the control or influence of its activities by any person having a financial interest pertaining to the applicant, including a mortgage or other lien against property of the applicant or, who in the opinion of the agency, might otherwise influence its activities. In such case the Director shall consider the character, honesty and integrity of whoever has the ability to control or influence the activities of the applicant.
  - 3.8.3 The degree to which the applicant has supplied accurate and complete information pursuant to the requirements of these regulations.
  - 3.8.4 Whether the applicant has demonstrated the business ability and experience necessary to satisfactorily conduct the sports lottery operations.
  - 3.8.5 Whether the person, or any of its officers, directors, partners, or owners, are known to associate with persons of nefarious backgrounds or disreputable character such that the association could adversely affect the general credibility, security, integrity, honesty, fairness or reputation of the lottery.
  - 3.8.6 With respect to any past conduct which may adversely reflect upon the applicant, the nature of the conduct, the time that has passed since the conduct, the frequency of the conduct, and any extenuating circumstances that affect or reduce the impact of the conduct or otherwise reflect upon the applicant's fitness for the license.

- 3.8.7 The extent, if any, to which the applicant has failed to comply with any applicable tax laws of the federal, state or local governments.
- 3.8.8 Any other information before the Director, including substantially similar background investigations performed by other agencies or jurisdictions, which relates to the applicant's competency, financial capability, honesty, integrity, reputation, habits, or associations.
- 3.9 Site Evaluation Criteria. The Director shall weigh the following factors, ~~and~~, as well as other objective business site evaluation criteria, ~~and~~ to determine the suitability of ~~applicant~~ the applicant's business site locations as licensed ~~retail selling retailer~~ locations for sports lottery games:
- 3.9.1 Customer traffic count;
- 3.9.2 Business hours;
- 3.9.3 Available parking;
- 3.9.4 Trade style (i.e., products sold);
- 3.9.5 Product exposure within the location;
- 3.9.6 Security of sports lottery machines and systems;
- 3.9.7 Nearest licensed retailer of similar trade style; and
- 3.9.8 Convenience of accessibility to Lottery products and services within a community or commercial cluster);
- 3.10 Issuance of Sports Lottery License. A license shall be issued to the applicant if the Director is satisfied, upon evaluation of a sports lottery application as defined in subsection 3.4, and upon further consideration of site evaluation as criteria specified subsection ~~3.5~~ 3.9, and upon further determining that the applicant would be a fit agent and not pose a threat to the public interest, the reputation of the lottery, or the effective control of the lottery. At the discretion of the Director, a license may be issued as "conditional" or "probationary" based upon information received or determinations reached during the sports lottery application process.
- 3.11 Ongoing Requirements of Agents
- 3.11.1 Operation pursuant to a license issued under these regulations shall signify agreement by the agent to abide by all provisions of the regulations, including those contained in this section.
- 3.11.2 The agent shall at all times make its premises available for inspection by authorized representatives of the agency.
- 3.11.3 The agent and any entity owned by the agent in which the agent has a controlling ownership interest shall consent in writing to the examination of all accounts, bank accounts, and records under the control of the agent or the owned entity; and, upon request of the agency, shall authorize all third parties in possession or control of the said documents to allow the agency to examine such documents.
- 3.11.4 An agent shall immediately notify the agency of any proposed or effective change regarding the makeup of the owners, directors, officers, partners, or key employees of the agent.
- 3.11.5 An agent has a continuing duty to maintain suitability for licensure. A license does not create a property right, but is a revocable privilege contingent upon continuing suitability for licensure.
- 3.11.6 Any license granted may not be transferred, assigned or pledged as collateral. A change of ownership which occurs after the Director has issued a license shall automatically terminate the license.
- 3.11.7 If the Director proposes to deny a license application, ~~and the agency is subject to the requirements contained in subchapter IV of 29 Del.C. Ch. 101, the agency shall first give written notice to the applicant of the intended action, the reasons therefore, and the right to a hearing as provided for in 29 Del.C. Ch. 101~~ the Director shall follow the procedures set forth in 10 DE Admin. Code 202, Section 5.0.
- 3.12 Delaware Freedom of Information Act. To the extent provided by law, any information obtained pursuant to this Section 3.0 shall be held in confidence and not subject to the Delaware Freedom of Information Act, 29 **Del.C.** Ch. 100.

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**4.0 Licensing of Technology Providers**

- 4.1 As deemed necessary, the Director shall give public notice of the agency's intent to select technology providers of sports lottery systems that consist of sports wagering products, risk management (bookmaking), operations and support services through a request for proposal and qualifications by advertising in a newspaper of general circulation in Delaware and in a prominent trade publication requesting expressions of interest to serve as a technology provider. The licensing of a technology provider shall not serve as the basis of requiring the Director to select the technology provider under the procurement procedures set forth in Chapter 69 of Title 29 of the Delaware Code.
- 4.2 Each person desiring to obtain a license from the agency as a technology provider shall submit a license application on a form specified and supplied by the agency. Any person or entity who proposes to contract with

a sports lottery agent or the Lottery agency for the provision of goods or services related to sports lottery operations, must obtain a technology provider license pursuant to these Sports Lottery Regulations. The license application shall, among other things:

- 4.2.1 Give notice that the applicant will be required to submit to a background investigation, the cost of which must be borne by the applicant.
- 4.2.2 Require the applicant to supply specified information and documents related to the applicant's fitness and the background of its owners, partners, directors, officers, key employees, and sports lottery operations employees, including but not limited to copies of financial statements, tax returns, insurance policies, and lists of creditors.
- 4.2.3 Require the applicant to disclose the identity of all customers to whom it has furnished sports lottery systems within the three years immediately preceding the date of the application.
- 4.2.4 Require the applicant to disclose whether the applicant, or any of its present or former officers, directors, owners, partners, key employees, or sports lottery operations employees, is or has been the subject of an investigation in another jurisdiction, the nature of the investigation, and the outcome, if any, of such investigation.
- 4.2.5 Provide a description of the means by which the applicant exercises security and financial control over the activities of service technicians in order to insure the integrity of sports lottery operations.
- 4.2.6 Require the applicant to disclose its legal name, form or entity (e.g., general or limited partnership, corporation, etc.), and the names, addresses, social security numbers and dates of birth of its directors, officers, partners, owners, key employees and sports lottery operations employees.
- 4.2.7 Require the applicant to disclose the names and addresses of individuals who have been authorized by the applicant to engage in dealings with the agency for purposes of representing the interests of the applicant.
- 4.2.8 Require the applicant to enclose copies of its audited financial statements for the preceding three (3) fiscal years and a copy of internally prepared financial statements for the current fiscal year or at the close of the most recent fiscal quarter.
- 4.2.9 Require the applicant to provide a description of its risk management capabilities, engineering and software development resources, technical and maintenance support capabilities and ability to manufacture and deliver the sports lottery machines.
- 4.2.10 Require persons who are proposing to contract with the agency or a sports lottery agent to provide a copy of their contract proposal.
- 4.3 Upon request, the applicant shall supplement the information provided in the application form as deemed necessary by the Director.
- 4.4 To the extent, if any, that the information in the application or the supplemental information provided by the applicant becomes inaccurate or incomplete, the applicant shall so notify the agency in writing as soon as it is aware that the information is inaccurate or incomplete, and shall at that time supply the information necessary to make the application or supplementary information accurate and complete.
- 4.5 The applicant shall cooperate fully with the agency and ~~the~~ DGE in any background investigation of the applicant.
- 4.6 The applicant, upon request of the agency or ~~the~~ DGE, shall make any and all of its books and records available for inspection by the agency or ~~the~~ DGE; Provided provided, however, that any information obtained pursuant to this subsection shall, to the extent provided by law, be held in confidence and not subject to the Delaware Freedom of Information Act.
- 4.7 As soon as the agency has determined that the application form is complete and that the applicant is otherwise qualified, it shall forward the same to ~~the~~ DGE which shall conduct as soon as practicable a background investigation of the applicant, its officers, partners, owners, directors, key employees, and sports lottery operations employees, and report its findings to the agency.
- 4.8 Notwithstanding any other provision contained herein to the contrary, the Director may determine, upon review of the licensing standards of another state, that such standards are so comprehensive, thorough, and provide similar adequate safeguards, that the license of an applicant in such other state precludes the necessity of a full application and background check. In such case, the Director shall require a limited application and background check, as determined by the Director in his sole discretion, as are necessary to assure that the applicant is fit for the license and does not pose a threat to the public interest of the State or to the reputation of or effective regulation of the sports lottery.
- 4.9 In evaluating applications, the Director shall consider:

- 4.9.1 Whether the applicant has demonstrated that it has the resources, experience and ability ~~necessary~~ needed to supply the necessary sports lottery systems as may be required under a contract with the agency.
- 4.9.2 Any past conduct of the applicant, or any of its present or former officers, directors, partners, owners, key employees, or sports lottery operations employees which may adversely reflect upon the applicant, the nature of the conduct, the time that has passed since the conduct, the frequency of the conduct and any extenuating circumstances that affect or reduce the impact of the conduct or otherwise reflect upon the applicant's fitness for the license. No license shall be issued to any applicant if any of the persons identified in this subsection have been convicted, within ten years prior to the filing of the application, of any felony, a crime of moral turpitude or a crime involving gambling.
- 4.9.3 Any findings provided by ~~the DGE~~ following after completing its background investigation.
- 4.9.4 The extent, if any, to which the applicant has failed to comply with any applicable tax laws of the Federal, State or local governments.
- 4.9.5 The association of the applicant, or any of its officers, directors, owners, partners, key employees, or sports lottery operations employees, with persons of known criminal background or persons of disreputable character, that may adversely affect the general credibility, security, integrity, honesty, fairness or reputation of sports lottery operations.
- 4.9.6 Any other information supplied in connection with the application, including substantially similar background investigations performed by other agencies or jurisdictions, which relates to the applicant's competence, financial capability, honesty, integrity, reputation, habits, or associations.
- 4.9.7 The degree to which the applicant has supplied accurate and complete information pursuant to the requirements of these regulations.
- 4.9.8 Whether the applicant is in compliance with ~~the section of Title 29, Ch. 48, §4805 (a) (17)~~ 29 Del.C. §4829(i) that states: "The risk manager of the sport lottery must be a bookmaker currently licensed to operate, and operating, sports books in the United States and the sports lottery technology system provider must be licensed to operate lotteries in the United States."
- 4.10 A license shall not be issued to a technology provider if the applicant technology provider has any direct or indirect financial interest in an agent licensee or in the real or personal property of an agent licensee.
- 4.11 A license shall be issued to the applicant if the Director is satisfied, upon consideration of the factors specified in subsection 4.9, that the applicant would be a fit technology provider and not pose a threat to the public interest, the reputation of the lottery or to the effective control of the lottery.
- 4.12 An applicant for a technology provider's license shall, prior to issuance of the license, post a bond or irrevocable letter of credit in a manner and in an amount established by the agency. Any such bond 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.
- 4.13 The agency, with the assistance of ~~the~~ DGE, may require licensed technology providers to annually update information submitted with their initial license application.

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**5.0 Technology Providers: Contracts; Requirements; Duties**

- 5.1 The Director shall, pursuant to the procedures set forth in Chapter 69 of Title 29 of the **Delaware Code**, enter into contracts with licensed technology providers as he or she shall determine to be appropriate, pursuant to which the technology providers shall furnish to the State, a sports lottery system that results in the efficient and economical operation of the lottery, convenience of the players, and is in accordance with the agents' business plans as approved and amended by the Director.
- 5.2 All contracts with technology providers who are sports lottery system providers shall include, without limitation, provisions to the following effect:
  - 5.2.1 The technology provider shall furnish a person to work with the agency and its consultants to provide assistance as needed in establishing, planning and executing acceptance tests on the sports lottery machines provided by such technology provider. Technology provider assistance shall be provided as requested by the agency in troubleshooting communication and technical problems that are discovered when sports lottery machines are initially placed at the agent's site;
  - 5.2.2 The technology provider shall submit sports lottery machine illustrations, schematics, block diagrams, circuit analysis, technical and operation manuals, program source code and object code, and any other information requested by the Director for the purposes of analyzing and testing the sports lottery machines;

- 5.2.3 For testing, examination and analysis purposes, the technology provider shall furnish working models of sports lottery machines, associated equipment, and documentation at locations designated by the Director. The technology provider shall maintain the current software and sports lottery machines in good working order acceptable to the agency. The technology provider shall pay all costs of any testing, examination, analysis and transportation of the sports lottery machines, which may include the entire dismantling of the machines, and some tests that may result in damage or destruction to one or more electronic components of the machines. The agency and its agents shall have no liability for any damage or destruction. The agency may require that the technology provider provide specialized equipment or the agency may employ the services of an independent technical laboratory expert to test the sports lottery machine at the technology provider's expense;
- 5.2.4 Technology providers shall submit all hardware, software, and test equipment necessary for testing of their sports lottery machines, and shall provide the Director with keys and locks subject to the Director's specifications for each approved sports lottery machine;
- 5.2.5 The software or other equivalent technology of each sports lottery machine shall be certified to be in compliance with published specifications; and
- 5.2.6 No sports lottery machine shall be put into use prior to certification of its model by the Director.
- 5.3 All contracts with technology providers shall include, without limitation, provisions to the following effect;:
- 5.3.1 Technology providers shall agree to promptly report any violation or any facts or circumstances that may result in a violation of these rules; provide immediate access to all ~~its~~ their records and ~~its~~ their physical premises for inspection at the request of the Director; and attend all trade shows or conferences as required by the Director;
- 5.3.2 Technology providers shall agree to modify their hardware and software as necessary to accommodate sports game changes directed by the agency from time to time;
- 5.3.3 Technology providers shall provide such bonds and provide evidence of such insurance as the Director shall require from time to time and in such amounts and issued by such companies as the Director shall approve; and
- 5.3.4 Technology providers shall have a valid license to conduct business in the State of Delaware, shall comply with all applicable tax provisions, and shall in all other respects be qualified to conduct business in Delaware.
- 5.4 Each sports lottery machine certified by the Director shall bear a unique serial number and shall conform to the exact specifications of the sports lottery machine model tested and certified by the Director.
- 5.5 Technology providers shall hold harmless the agency, the State of Delaware, and their respective employees for any claims, loss, cost, damage, liability or expense, including, without limitation, legal expense arising out of any hardware or software malfunction resulting in the wrongful award or denial of credits or cash.
- 5.6 A technology provider shall not distribute a sports lottery machine for placement in the state unless the machine has been approved by the agency. Only licensed technology providers may apply for approval of a sports lottery machine or associated equipment. The technology provider shall submit two copies of sports lottery machine illustrations, schematics, block diagrams, circuit analysis, technical and operation manuals, program source code and object code, and any other information requested by the agency for the purposes of analyzing and testing the sports lottery machine or associated equipment.
- 5.7 The agency may require that two working models of a sports lottery machine be transported to the location designated by the agency for testing, examination, and analysis. The technology provider shall pay all costs of testing, examination, analysis and transportation of such sports lottery machine models, which may include the entire dismantling of the sports lottery machine, and tests which may result in damage or destruction to one or more electronic components of such sports lottery machine model. The agency may require that the technology provider provide specialized equipment or the services of an independent technical expert in testing the terminal.
- 5.8 After each test has been completed, the agency shall provide the sports lottery systems provider with a report that contains findings, conclusions, and pass/fail results. Prior to approving a particular sports lottery machine model, the agency may require a trial period not in excess of sixty (60) days for a licensed agent to test the sports lottery machine. During the trial period, the technology provider may not make any modifications to the sports lottery machine model unless such modifications are approved by the agency.
- 5.9 The technology provider is responsible for the assembly and initial operation, in the manner approved and licensed by the agency, of all of its sports lottery machines and associated equipment. The technology provider may not change the assembly or operational functions of any of its sports lottery machines approved for placement in Delaware unless a "request for modification to an existing sports lottery machine prototype" is made to the agency. ~~that~~ Such request ~~to~~ must contain all appropriate information relating to the type of



change, the reason for the change, and all documentation required. The agency must approve such request prior to any changes being made, and the agency shall reserve the right to require second testing of sports lottery machines after modifications have been made.

- 5.10 Each sports lottery machine approved for placement in a ~~licensed~~ an agent's place of business shall conform to the exact specifications of the sports lottery machine prototype tested and approved by the agency. Any sports lottery machine which does not so conform shall be disconnected from the Delaware sports lottery system until compliance has been achieved. Each sports lottery machine shall at all times operate and be placed in accordance with the provisions of these regulations.
- 5.11 The following duties are required of all licensed technology providers, without limitation:
- 5.11.1 Manufacture terminals and associated equipment for placement in Delaware in accordance with the specifications of the agency.
  - 5.11.2 Manufacture terminals and associated equipment to ensure timely delivery to ~~licensed~~ Delaware agents.
  - 5.11.3 Maintain and provide an inventory of associated equipment to assure the timely repair and continued, approved operation and play of licensed sports lottery machines acquired under the contract for placement in Delaware, ~~provided further that~~ and maintain said equipment ~~will be maintained~~ at a Delaware storage facility or warehouse.
  - 5.11.4 Provide an appropriate number of service technicians with the appropriate technical knowledge and training to provide for the service and repair of its ~~licensed~~ sports lottery machines and associated equipment so as to assure the continued, approved operation and play of those machines acquired under contract for placement in Delaware.
  - 5.11.5 Obtain any certification of compliance required under the applicable provisions of rules adopted by the Federal Communications Commission.
  - 5.11.6 Promptly report to the agency any violation or any facts or circumstances that may result in a violation of State or Federal law and/or any rules or regulations adopted pursuant thereto.
  - 5.11.7 Conduct sports 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 sports lottery.
  - 5.11.8 Hold the agency and the State of Delaware and its employees harmless from any and all claims that may be made against the agency, the State of Delaware, or the employees of either, arising from the technology provider's participation in or the operation of a sports lottery game.
  - 5.11.9 Defend and pay for the defense of all claims that may be made against the agency, the State of Delaware, or the employees of either, arising from the technology provider's participation in sports lottery operations.
  - 5.11.10 Maintain all required records.
  - 5.11.11 Provide only those ~~licensed~~ sports lottery machines, validation units and associated equipment approved under these regulations.
  - 5.11.12 It shall be the continuing duty of the technology provider licensee to provide the Director with an updated list of the names and addresses of all its employees who are involved in the daily operation of the sports lottery machines. These employees will include individuals or their supervisors involved with (1) the repair or maintenance of the sports lottery machines, or (2) positions that provide direct access to the sports lottery machines. It shall be the continuing duty of the technology provider licensee to provide for the bonding of each of these individuals to ensure against financial loss resulting from wrongful acts on their parts.
  - 5.11.13 It shall be the ongoing duty of the technology provider licensee to notify the Director of any change in officers, partners, directors, key employees, sports lottery operations employees, or owners. These individuals shall also be subject to a background investigation. The failure of any of the above-mentioned individuals to satisfy a background investigation may constitute "cause" for the suspension or revocation of the technology provider's license.
  - 5.11.14 Supervise its employees and their activities to ensure compliance with these rules.
  - 5.11.15 Promptly report to the ~~Lottery~~ agency 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.
  - 5.11.16 Comply with such other requirements as shall be specified by the Director.

## 6.0 Agents: Duties

6.1 The following duties are required of all ~~licensed~~ agents:

- 6.1.1 Provide a secure location for the placement, operation, and play of all ~~licensed~~ sports lottery machines located on the ~~licensed~~ agent's premises.

- 6.1.2 Permit no person to tamper with or interfere with the approved operation of any ~~licensed~~ sports lottery machine without prior written approval of the agency unless otherwise directed by the Lottery Director.
- 6.1.3 Assure that telephone lines from the central computer system to the ~~licensed~~ sports 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.
- 6.1.4 With respect to sports lottery operations, contract ~~only~~ with only officers, directors, owners, partners, key employees, and suppliers of sports lottery equipment and paraphernalia authorized by the agency to participate in sports lottery operations within the State of Delaware.
- 6.1.5 Ensure that ~~licensed~~ sports 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, if self-service terminals, by the use of surveillance cameras at all times.
- 6.1.6 Ensure that ~~licensed~~ sports lottery machines are placed and remain as placed in the specific area of the premises as approved by the lottery agency. The initial placement and any subsequent relocation of any sports lottery machine requires the prior written approval of the agency.
- 6.1.7 Monitor sports lottery play and prevent 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.
- 6.1.8 Commit no violations of the laws of this State concerning the sale, dispensing, and consumption on the agent's premises of alcoholic beverages that result in suspension or revocation of an alcoholic beverage license.
- 6.1.9 Maintain at all times sufficient cash for daily operations.
- 6.1.10 ~~Video lottery agents authorized to extend credit shall exercise~~ Exercise caution and good judgment in extending credit for sports lottery play ~~if the agent is a licensed video lottery agent authorized to extend such credit,~~ and comply with all applicable federal and state laws.
- 6.1.11 Exercise caution and good judgment in providing cash for checks presented for sports lottery 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.
- 6.1.12 Report promptly all sports lottery machine malfunctions to the appropriate technology provider and notify the agency of any technology provider ~~failure~~ who fails to provide service and repair of such terminals and associated equipment.
- 6.1.13 Conduct agency approved advertising and promotional activities related to sports lottery operations.
- 6.1.14 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.
- 6.1.15 Conduct sports lottery operations only during those hours established and approved by the Director or his or her designee.
- 6.1.16 Assume responsibility for the proper and timely payment to players of winning sports lottery wagers for those players who hold winning tickets with a value up to and including \$600. Winning sports lottery tickets with a value of more than ~~\$500 (after deducting the amount of the wager)~~ \$600 must be cashed at a licensed video lottery agent's ~~Sports Book sportsbook~~ or the ~~Lottery Office~~ Delaware Lottery's office. Agents who have received prior approval from the Director to cash winning sports lottery tickets with a value of \$601 to \$1,500 must also assume responsibility for the proper and timely payment to players of winning sports lottery tickets. Licensed video lottery agents must also assume responsibility for the proper and timely payment to those players who hold credit slips that have any winning value and that were issued by the same licensed video lottery agent. Players may also cash winning sports lottery tickets with any winning value at the Delaware Lottery's office.
- 6.1.17 Prohibit the possession, use or control of gambling paraphernalia on the agent's premises not directly related to the lottery or horse racing or harness horse racing and prohibit illegal gambling on the agent's premises.
- 6.1.18 Attend all meetings, seminars, and training sessions required by the agency.
- 6.1.19 Supervise its employees and their activities to ensure compliance with these rules.
- 6.1.20 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. For ~~Sports Lottery Agents~~ sports lottery agents who are also ~~Video Lottery Agents~~ licensed video lottery agents, no credits or prizes may be redeemed by any persons who have requested that they be self-banned from the agent's premises.

- 6.1.21 Provide dedicated power and a proper sports lottery environment in accordance with the specifications of the agency. The agent shall permit no person to completely shut off power to an operational sports lottery machine without the prior approval of the agency.
- 6.1.22 Furnish to the Director complete information pertaining to any change in ownership of the agent or the owner of the premises or beneficial owner.
- 6.1.23 Promptly report to the lottery agency 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.
- 6.1.24 Conduct sports 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.
- 6.1.25 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 sports lottery, ~~except claims arising from the negligence or willful misconduct of the Director, the State or the employees thereof.~~
- 6.1.26 Maintain all required records.
- 6.1.27 Provide at the request of the Director or ~~the~~ DGE 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.
- 6.1.28 Keep current on all payments, tax obligations and other obligations to the agency and other licensees with whom sports 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.** Ch. 48.
- 6.1.29 Locate all self-service sports lottery machines within the viewing range of closed circuit television cameras at all times, including both normal business hours and those periods when sports lottery operations are closed. The presence of these cameras is to ensure the integrity of the lottery, the sports lottery operations, and the safety of the patrons. Surveillance tapes will be maintained by the agent according to a schedule established by the Director. 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 Lottery agency before being placed in operation.
- 6.1.30 Comply with such other requirements as shall be specified by the Director. The agent may be requested to 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.
- 6.1.31 At the Director's discretion, provide, on a continuing basis, to the Director the names and addresses of all employees who are involved in the daily operation of the sports lottery. These employees will include individuals or their supervisors involved with (1) the security of the sports lottery, (2) the handling or transporting of proceeds from the sports lottery, or (3) positions that provide direct access to sports lottery machines.
- 6.1.32 Notify the Director on a continuing basis of any change in officers, partners, directors, key employees, sports lottery operations employees, and owners.
- 6.1.33 Comply on a continuing basis with the requirements for obtaining or retaining a license under the provisions of these regulations and 29 **Del.C.** Ch. 48.

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### **7.0 Sports lottery**

- 7.1 The Director shall authorize a sports lottery on the agent's premises in conformity with approved operational procedures.
- 7.2 The sports lottery shall be based on bills, coins, or credits, and the wagering limits shall be set by the Lottery agency in cooperation with the technology provider.
- 7.3 Each sports lottery ticket shall display the amount wagered and the payout based on the amount wagered.
- 7.4 Each player shall be at least twenty-one (21) years of age. In the event an underage player attempts to claim any winning payout, the sports lottery agent should treat the wager as void, and the underage player shall not be entitled to any winning payouts or a refund of amounts bet. In the event a person illegally on the premises attempts to claim any winning payout, the sports lottery agent will also treat the wager as void, and the person shall not be entitled to any winning payouts or a refund of amounts bet. This policy prohibiting persons underage and persons illegally entering the premises from winning prizes shall be prominently displayed on the premises of the sports lottery agent.

- 7.5 Agents shall redeem credit slips presented by a player in accordance with procedures proposed by the agent and approved by the Director prior to the opening of the premises for sports lottery wagering. Such procedures shall be modified at the direction of the Director in his or her sole discretion at any time. Players claiming winning payouts may be required to present sufficient identification as required by the agency.
- 7.6 Credit slips may be redeemed by a player at the designated place on the premises where the sports lottery is located during the one year redeeming period commencing on the date that the last wagered event occurred.
- 7.7 No credit slip or winning ticket shall be redeemed more than one (1) year from the date that the last wagered event occurred. Funds reserved for the payment of a credit slip or expired winning ticket shall be paid into the State Lottery Fund if unredeemed one year from the date that the last wagered event occurred. The one-year redemption policy in this regulation shall be prominently displayed on the premises of the sports lottery agent.
- 7.8 No payment for a credit slip may be made unless the credit slip meets the following requirements:
- 7.8.1 It is presented on a fully legible, valid, printed credit slip on paper approved by the agency, containing the information as required;
- 7.8.2 It is not mutilated, altered, unreadable, or tampered with in any manner, or previously paid;
- 7.8.3 It is not counterfeit in whole or in part; and
- 7.8.4 It is presented by a person authorized to play.
- 7.9 ~~Method of Payment. The management of each licensed agent shall designate employees authorized to redeem credit slips during the hours of operation. Credits shall be immediately paid in cash or by check when a player presents a credit slip for payment meeting the requirements of this section. Winning sports lottery tickets with a value of more than \$599 (after deducting the amount of the wager) must be cashed at a video lottery agent's Sports Book or the Lottery Office. Each agent's management shall designate employees authorized to redeem winning sports lottery tickets and/or credit slips during the agent's hours of operation.~~
- 7.9.1 Winning Sports Lottery Tickets. Players holding winning sports lottery tickets that have a value up to and including \$600 may cash such tickets at an agent's retailer location, a licensed video lottery agent's sportsbook, or the office of the Delaware Lottery. Agents who have received prior approval from the Director to cash winning sports lottery tickets with a value of \$601 to \$1,500 must immediately pay players, in cash or by check, upon presentment of winning sports lottery tickets. Licensed video lottery agents must also assume responsibility for the proper and timely payment to players who present winning sports lottery tickets with any winning value. Players may also cash winning sports lottery tickets with any winning value at the office of the Delaware Lottery.
- 7.9.2 Credit Slips. When a player presents to a licensed video lottery agent a credit slip that has any winning value, the licensed video lottery agent must immediately pay the player in cash or by check, but only for the licensed video lottery agent's own credits slips.
- 7.10 ~~Liability for Malfunction. The agency and the State of Delaware are not responsible for any sports lottery machine malfunction or for any error by the agent that causes credit to be wrongfully awarded or denied to players. Unless the Director is satisfied that a mutilated lottery ticket is genuine, no credit or prize will be issued to the holder of said ticket. The Delaware Lottery is not responsible for paying winning tickets resulting from any system or terminal malfunction or from human error. Tickets misprinted due to machine error or any malfunction or other type of error must be returned to the Delaware Lottery's office, and the Agent's account will be credited. If a ticket that has been sold to the public is determined by the Director to be misprinted due to machine error (as determined by the Delaware Lottery's internal procedures) or is determined to be erroneously issued due to a malfunction or other type of error, the Delaware Lottery shall reimburse the ticket holder for the cost of the ticket. Such tickets will not be eligible for any prize. The Director may require agents to comply with such directives as he deems necessary for erroneous, misprinted, or mutilated tickets received by an agent.~~
- 7.11 Sports lottery machines shall not be operated or available for play on Christmas, or after 4:00 a.m. on Easter. Each prize ticket winner must present a physical paper ticket to an agent or to the Delaware Lottery claim a prize. In addition, a winner may be required to provide (i) a photo identification card that has the winner's name and current residential address and (ii) a Social Security card.
- 7.12 The Director will determine:
- 7.12.1 the types of sports wagers that will be offered for sale at sportsbooks and at agents' premises, and
- 7.12.2 at which locations players may cash winning sports lottery tickets.
- 7.13 The Director has the authority to develop and implement a sports lottery mobile application that will allow the sale of sports lottery tickets to players who wish to use cellular phones or other types of computerized mobile devices or computers to purchase such tickets.

## **8.0 Accounting and Distribution Procedures**

- 8.1 The technology provider will provide an accounting mechanism for the sports lottery system as a whole, which mechanism shall achieve compliance with the standards of integrity, security and control established by the agency.
- 8.2 Each agent and technology provider shall submit to the Director such financial and operating information as the Director shall require from time to time at such times and in such format as the Director shall specify. For purposes of submission of this and other information, each agent shall have a computer on the premises which is suitable for this purpose.
  - 8.2.1 Each agent, unless specifically exempted by the Agency, shall file weekly, monthly, quarterly, and annual reports and statistical data in a format specified by the Director. The data may be used by the Agency to evaluate the financial position and operating performance of individual sports lottery agents and to compile information regarding the performance and trends of the sports lottery industry in the State of Delaware.
  - 8.2.2 Each agent, unless specifically exempted by the Agency, shall at its own expense, cause its annual financial statements to be audited in accordance with generally accepted auditing standards by an independent certified public accountant licensed to practice in the State of Delaware.
  - 8.2.3 The annual financial statement shall be prepared on a comparative basis for the current and prior fiscal year, and shall present the sports lottery agent's present financial position and results of operations in conformity with generally accepted accounting principles.
  - 8.2.4 The Agency may periodically prescribe a set of standard reporting forms and instructions to be used by each sports lottery agent for filing the weekly, monthly, and quarterly reports.
  - 8.2.5 Each sports lottery agent and technology provider, unless specifically exempted by the Agency, shall conduct its sports lottery operations to meet the minimum requirements set forth in the Agency's Minimum Internal Control Standards (MICS).
- 8.3 The agency or its designated agents shall have the right to audit the books and records including without limitation tax returns and IRS withholding and reporting records of any agent and each technology provider. To such end, the agents and technology providers shall fully cooperate with whoever undertakes the audit.
- 8.4 All proceeds, net of proceeds returned to players, from the operation of the sports lottery shall be electronically transferred daily or weekly at the discretion of the Lottery Director into a designated State Lottery account by the agent. To the extent, if any, that such daily or weekly remission cannot be achieved due to the unavailability of bank services, the remission shall be made on the first day that such services are available. Agents shall furnish to the agency all information and bank authorizations required to facilitate the timely transfer of monies to the State lottery fund. Agents shall provide the agency thirty (30) days advance notice of any proposed account changes in order to assure the uninterrupted electronic transfer of funds.
- 8.5 The agency is not responsible for resolving net proceeds discrepancies which are differences between actual money collected and the amount shown on the billing statement. Further, the agency is not responsible for the loss or theft of money prior to its deposit in the agency's account in the bank.
- 8.6 Agents shall comply with all prescribed Federal requirements for tax withholding, recording and reporting, including, without limitation, those requirements relating to the transfer of funds withheld from player winnings from the agents to the tax authorities.
- 8.7 Any discrepancy regarding settlement of accounts will be resolved by the Director as he or she deems appropriate.

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## **9.0 Maintenance of Sports Lottery Machines**

- 9.1 No sports lottery machine may be placed in operation in Delaware until the technology provider has provided its personnel with sufficient and appropriate training in the service and repair of each of its approved sports lottery machine models.
- 9.2 Each technology provider shall service and maintain its sports lottery machines, current software, and associated equipment in the manner and condition required by the agency and in accordance with its contractual arrangements.
- 9.3 Technology providers shall provide the agency or its designee upon request with a master key for access into each locked compartment of each sports lottery machine placed in operation.

## **10.0 Standards for Advertising, Marketing and Promotional Materials**

- 10.1 All advertising, marketing and promotional materials, related to the sports lottery or referencing the sports lottery, to be utilized by an agent or person acting on behalf of the agent shall be submitted to the agency for

review and approval prior to use, except that such materials need not be submitted for review and approval if identical materials have been previously submitted and approved. Materials are not identical for purposes of this provision if they vary in any respect, such as in the size of a billboard.

- 10.2 The agency shall review any materials submitted pursuant to this section and approve their use unless in the judgment of the agency such materials, if used, would result in an appearance which reflects adversely on the agency, would reasonably be expected to offend a substantial number of people, contain inaccurate or misleading information, or otherwise be inappropriate.

## 11.0 Enforcement

- 11.1 The license of a sports lottery agent or technology provider may be suspended or revoked for the following reasons:
- 11.1.1 Failure of the agent to file with the Director the information required pursuant to 29 **Del.C.** §4820(a); and
  - 11.1.2 For cause, such as, but not limited to, falsifying any application for license or report to the agency; failure to report information required by the regulations; the material violation of the regulations; or any conduct by the licensee, or any of its owners, officers, directors, partners, key employees, or sports lottery operations employees, which undermines the public confidence in the sports lottery system or serves the interest of organized gambling or crime and criminals in any manner. A license may be revoked for an unintentional violation of any Federal, State or local law, rule or regulation provided that the violation is not cured within a reasonable time as determined by the Director, or a longer period where the sports lottery agent has made diligent efforts to cure. For purposes of this provision, the licensee is deemed to be familiar with all the provisions of these regulations and unintentional violations shall not include violations which the agent or technology provider asserts are unintentional because of lack of awareness of these regulations. Likewise, for purposes of this provision, diligent efforts to cure shall not constitute a defense to a suspension or revocation of the license arising out of situations where the violation would not have occurred had the licensee exercised diligent efforts to comply with the requirements when they were first applicable.
- 11.2 Prior to the revocation or suspension of any license, the agency shall notify the licensee of the intended revocation or suspension of the license, and the reasons therefor. No revocation or suspension shall be effective until a final order is issued pursuant to the following procedure, except when the public welfare clearly requires emergency action and the agency's order so states. The notice of the intended revocation or suspension shall comply with any applicable requirements of the Delaware Administrative Procedures Act and, at a minimum, afford the licensee with an opportunity for a hearing.
- 11.3 If the licensee desires a hearing, it shall provide the agency with a written ~~statement~~ appeal within ten days of receipt of the notice which contains the following:
- 11.3.1 A clear and concise assignment of each error which the licensee alleges to have been committed in the tentative determination to suspend or revoke the license. Each assignment of error should be listed in a separately numbered paragraph.
  - 11.3.2 A clear and concise statement of the facts on which the licensee relies in support of each assignment of error.
  - 11.3.3 A prayer setting forth the relief sought.
  - 11.3.4 The signature of the licensee or an officer authorized to request the hearing.
  - 11.3.5 A sworn verification by the licensee ~~or counsel for the licensee~~ that the statements contained in the statement appeal are true.
- 11.4 The Secretary of Finance with respect to petitions filed by agents, and the Director with respect to petitions filed by technology providers, shall appoint a hearing officer within a reasonable time of receipt of the ~~statement referenced in the preceding paragraph~~ appeal. Notice of the hearing shall be given at least 20 days before the date it is to be held.
- 11.5 The licensee may appear individually, ~~or by legal counsel, or by any other duly authorized representative.~~ ~~In the absence of the licensee, written evidence of a representative's authority shall be presented to the hearing officer in a form satisfactory to the hearing officer.~~
- 11.6 The licensee ~~or his duly authorized representative,~~ may, with the approval of a hearing officer, waive the hearing and agree to submit the case for decision on the record, with or without a written brief. Such a waiver or agreement shall be in writing and placed in the record.
- 11.7 The licensee shall be given an opportunity for argument within the time limits fixed by the hearing officer following submission of the evidence. The hearing officer, upon request of the licensee, may accept briefs in lieu of argument. The briefs shall be filed within ten days after the hearing date or within such other time as fixed by the hearing officer.

- 11.8 The hearing officer may admit any relevant evidence, except that it shall observe the rules of privilege recognized by law. The hearing officer may exclude any evidence which is irrelevant, unduly repetitious, or lacking a substantial probative effect.
- 11.9 A written record, made by a court reporter, shall be made of all hearings and all witnesses shall be sworn and subject to cross examination.
- 11.10 Following the conclusion of the hearing and within ten days of the receipt of the transcript thereof, or within such other time as fixed by the hearing officer but in no event later than forty-five days following the hearing, the hearing officer shall in proceedings involving agents prepare a final decision, including his or her findings of fact and conclusions of law, and the order signed by the hearing officer shall be final. A copy of said order shall be served upon the licensee and any attorney of record in person or by registered or certified mail. In proceedings involving technology providers, the hearing officer shall submit his or her recommendations to the Director for decision.
- 11.11 Notwithstanding the procedures set forth herein regarding technology providers, there shall be no right of hearing or judicial review allowed with respect to decisions involving technology providers unless otherwise provided by law.
- 11.12 Whoever violates ~~the Lottery chapter 29 Del.C. Ch. 48~~, or any Lottery rule or regulation duly promulgated thereunder, or any condition of a license issued pursuant to 29 **Del.C.** §4805, or any Administrative Order issued pursuant to Lottery statutes or Regulations shall be punishable as follows:
- 11.12.1 If the violation has been completed, by a civil penalty imposed by Superior Court, which by 29 **Del.C.** §4823 shall have jurisdiction of civil penalty actions brought pursuant to this section, of not less than \$1000 nor more than \$10,000 for each completed violation. Each day of a continued violation shall be considered as a separate violation if, on each such day, the violator has knowledge of the facts constituting the violation and knows or should know that such facts constitute or may constitute a violation. Lack of knowledge regarding such facts or violation shall not be a defense to a continued violation with respect to the first day of its occurrence.
- 11.12.2 If the violation is continuing or there is a substantial likelihood that it will reoccur, the Director may also seek a temporary restraining order, preliminary injunction, or permanent injunction in the Court of Chancery, which shall have jurisdiction of an action for such relief.
- 11.12.3 In his discretion, the Director may impose an administrative penalty of not more than \$1,000 for each administrative penalty for each violation. Each day of continued violation shall be considered as a separate violation if the violator has knowledge of the facts constituting the violation and knows or should know that such facts constitute or may constitute a violation. Lack of knowledge regarding such facts or violations shall not be a defense to a continued violation with respect to the first day of its occurrence. Prior to the assessment of an administrative penalty, written notice of the Director's proposal to impose such penalty shall be given to the violator, and the violator shall have 30 days from receipt of such notice to request a public hearing. Any public hearing, if requested, shall be held prior to the imposition of the penalty and shall be governed by ~~§10125 of Title 29~~ 29 **Del.C.** §10125. If no hearing is timely requested, the proposed penalty shall become final and shall be paid no later than 60 days from receipt of the notice of proposed penalty. Assessment of an administrative penalty shall take into account the circumstances, nature, and gravity of the violation, as well as any prior history of violations, the degree of culpability, the economic benefit to the violator resulting from the violation, any economic loss to the State, and such other matters as justice may require. In the event of nonpayment of an administrative penalty within 30 days after all legal appeal rights have been waived or otherwise exhausted, a civil action may be brought by the Director in Superior Court for the collection of the penalty, and for interest, from the date payment was due, attorneys' fees and other legal costs and expenses. The validity or amount of such administrative penalty shall not be subject to review in an action to collect the penalty. Any penalty imposed after a public hearing is held pursuant to this subsection shall be appealable to Superior Court, and such appeal shall be governed by ~~§10142 of Title 29~~ 29 **Del.C.** §10142.
- 11.12.4 In his discretion, the Director may endeavor to obtain compliance with requirements of the Lottery chapter, 29 **Del.C.** Ch. 48, by written Administrative Order. Such order shall be provided to the responsible party, shall specify the complaint, and propose a time for correction of the violation. It may also provide an opportunity for a public hearing at which the Director shall hear and consider any submission relevant to the violation, corrective action, or the deadline for correcting the violation.
- 11.13 The Director shall enforce ~~Ch. 48, 29 Delaware Code~~ 29 **Del.C.** Ch. 48 and any rules, regulations, or Administrative Orders issued thereunder.
- 11.14 Any interest, costs or expenses collected by the Lottery under actions instituted by 29 **Del.C.** §4823 or these regulations shall be appropriated to the State Lottery Office to carry out the purposes of 29 **Del.C.** Ch. 48.

## **12.0 Employee Licensing Procedure**

Except as required of video lottery agent employees as specified in Section 14.0 of the Delaware State Lottery Video Lottery & Table Game Regulations, individual employee gaming licenses are not required to operate a sports lottery terminal. Any employee who currently holds a valid video lottery license shall not be required to be re-licensed for the sports lottery.

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## **13.0 Severability**

The sections and subsections of these rules and regulations shall be deemed severable. Should any section or subsection be deemed by judicial opinion or legislative enactment to be invalid, unconstitutional or in any manner contrary to the laws of the State of Delaware, then such opinion or enactment shall invalidate only that particular section or subsection of these rules and regulations and all other sections shall remain in full force and effect.

**13 DE Reg. 406 (09/01/09)**

**16 DE Reg. 291 (09/01/12)**

**21 DE Reg. 974 (06/01/18) (Final)**