

## TITLE 65 STATE LOTTERY COMMISSION

## Emergency Rule

LSA Document #09-989(E)

## DIGEST

Amends [65 IAC 1-1-1](#), [65 IAC 3-2-1](#), [65 IAC 3-3-1](#), [65 IAC 3-3-2](#), [65 IAC 3-3-5](#), [65 IAC 3-3-5.5](#), [65 IAC 3-3-7](#), [65 IAC 3-3-7.5](#), [65 IAC 3-4-1](#), [65 IAC 3-4-4](#), [65 IAC 3-4-5](#), and [65 IAC 3-4-7](#) through [65 IAC 3-4-9](#) to reflect the current procedures and practices of the lottery regarding relations and duties of retailers. Adds [65 IAC 1-1-19](#) concerning deviations of provisions. Adds [65 IAC 3-3-2.2](#) concerning retailer fees. Adds [65 IAC 3-3-2.5](#) concerning selection of retailers and posting of certificate of authority. Adds [65 IAC 3-3-2.8](#) concerning expiration or renewal of certificate of authority. Adds [65 IAC 3-3-5.7](#) concerning change of ownership or entity structure. Repeals [65 IAC 1-1-18](#), [65 IAC 3-1](#), [65 IAC 3-3-3](#), [65 IAC 3-3-4](#), [65 IAC 3-3-5.6](#), [65 IAC 3-3-6](#), [65 IAC 3-3-8](#), [65 IAC 3-3-9](#), [65 IAC 3-3-10](#), [65 IAC 3-4-2](#), [65 IAC 3-4-2.5](#), [65 IAC 3-4-2.6](#), [65 IAC 3-4-2.7](#), [65 IAC 3-4-3](#), [65 IAC 3-4-6](#), and [65 IAC 3-5-1](#) through [65 IAC 3-5-9](#), and [65 IAC 3-5-10.1](#). Effective December 18, 2009.

[65 IAC 1-1-1](#); [65 IAC 1-1-18](#); [65 IAC 1-1-19](#); [65 IAC 3-1](#); [65 IAC 3-2-1](#); [65 IAC 3-3-1](#); [65 IAC 3-3-2](#); [65 IAC 3-3-2.2](#); [65 IAC 3-3-2.5](#); [65 IAC 3-3-2.8](#); [65 IAC 3-3-3](#); [65 IAC 3-3-4](#); [65 IAC 3-3-5](#); [65 IAC 3-3-5.5](#); [65 IAC 3-3-5.6](#); [65 IAC 3-3-5.7](#); [65 IAC 3-3-6](#); [65 IAC 3-3-7](#); [65 IAC 3-3-7.5](#); [65 IAC 3-3-8](#); [65 IAC 3-3-9](#); [65 IAC 3-3-10](#); [65 IAC 3-4-1](#); [65 IAC 3-4-2](#); [65 IAC 3-4-2.5](#); [65 IAC 3-4-2.6](#); [65 IAC 3-4-2.7](#); [65 IAC 3-4-3](#); [65 IAC 3-4-4](#); [65 IAC 3-4-5](#); [65 IAC 3-4-6](#); [65 IAC 3-4-7](#); [65 IAC 3-4-8](#); [65 IAC 3-4-9](#); [65 IAC 3-5-1](#); [65 IAC 3-5-2](#); [65 IAC 3-5-3](#); [65 IAC 3-5-4](#); [65 IAC 3-5-5](#); [65 IAC 3-5-6](#); [65 IAC 3-5-7](#); [65 IAC 3-5-8](#); [65 IAC 3-5-9](#); [65 IAC 3-5-10.1](#)

SECTION 1. [65 IAC 1-1-1](#) IS AMENDED TO READ AS FOLLOWS:

**[65 IAC 1-1-1](#) Definitions**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-3-1](#); [IC 4-30-4-3](#)

Sec. 1. (a) "Commission" means the state lottery commission created by [IC 4-30](#). In order to differentiate the commission from agencies and commissions created in other states, the commission may use the name "The State Lottery Commission of Indiana", in the execution of agreements, contracts, and other documentation.

(a) The definitions in this section apply throughout this title.

(b) "Applicant" means a person who has submitted an application to receive a certificate of authority to contract with the commission as a retailer.

~~(b) "Chairman"~~ (c) "Chair" means the chairman **chairperson** of the commission selected pursuant to [IC 4-30-4-3](#).

~~(c) "Director" means the director of the commission appointed pursuant to [IC 4-30-5](#).~~

(d) "Commission" means the state lottery commission created by [IC 4-30](#), doing business as the Hoosier Lottery. In order to differentiate the commission from agencies and commissions created in other states, the commission may use the name "The State Lottery Commission of Indiana" in the execution of agreements, contracts, and other documentation.

(e) "Draw game" means a lottery game distributed through retailer-located terminals which are connected to a central computer by a communications network.

~~(d)~~ (f) "Member" means a member of the commission, as described in [IC 4-30-3-1](#).

(g) "Person" means any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation, or other group or combination, and includes any agency or political

subdivision of the state.

(h) "Pull-tab game" means a lottery game that offers preprinted tickets on which one (1) or more tabs are opened to reveal immediately whether the player has won a prize.

(i) "Scratch-off game" means a lottery game that offers preprinted lottery tickets that, after a covering is rubbed off, immediately reveals whether the player has won a prize.

(j) "Scratch-off prize" means a prize awarded in connection with a scratch-off game but not a prize awarded pursuant to [65 IAC 4-3-7](#) or [65 IAC 4-3-10](#).

(k) "Terminal" means a device which is authorized by the commission to function in an interactive mode with a central computer system for the purpose of issuing draw game tickets and entering, receiving, and processing lottery transactions.

*(State Lottery Commission; [65 IAC 1-1-1](#); emergency rule filed Jul 20, 1989, 4:10 p.m.: 12 IR 2290; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 90; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Sep 16, 2009, 2:24 p.m.: [20090923-IR-065090771ERA](#); emergency rule filed Dec 18, 2009, 10:05 a.m.: [20091230-IR-065090989ERA](#))*

SECTION 2. [65 IAC 1-1-19](#) IS ADDED TO READ AS FOLLOWS:

**[65 IAC 1-1-19](#) Deviation from provisions**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30](#)

Sec. 19. The director or the commission may approve deviations from the provisions of this title if the director or the commission determines that:

- (1) the requirement or procedure is impractical or burdensome; and
- (2) an alternative means of satisfying the requirement or procedure:
  - (A) fulfills the purpose of the rule;
  - (B) is in the best interest of the public and the gaming industry in Indiana; and
  - (C) does not violate [IC 4-30](#) or any other law.

*(State Lottery Commission; [65 IAC 1-1-19](#); emergency rule filed Dec 18, 2009, 10:05 a.m.: [20091230-IR-065090989ERA](#))*

SECTION 3. [65 IAC 3-2-1](#) IS AMENDED TO READ AS FOLLOWS:

**[65 IAC 3-2-1](#) Certificate of authority required**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-9](#)

Sec. 1. The possession of **(a) A person must hold a valid** certificate of authority issued by the commission to ~~any person to act in order to enter into a contract~~ as a retailer **of lottery products** in any capacity.

**(b) A certificate of authority** is a **revocable** privilege ~~personal to that person and is not a legal right. The possession of A certificate of authority issued by the commission to any person to act as a retailer in any capacity does not automatically entitle that a person to enter into a contract to sell lottery tickets or obtain materials for any particular lottery game. The possession of a certificate of authority by any person to act as a retailer to sell instant tickets or pull tab tickets does not entitle that person to sell on-line tickets or participate in on-line games. The possession of a certificate of authority by any person to act as a retailer to sell instant tickets does not entitle that person to sell pull tab tickets or participate in pull tab games.~~ **products.**

(c) No person shall sell lottery products without:

(1) a certificate of authority issued by the commission; and

(2) an executed written retailer contract between the person and the commission;  
where neither has been terminated, suspended, cancelled, or revoked.

(d) Nothing in this title shall preclude the commission from:

(1) selling lottery products directly to the public; or

(2) obtaining a concession to sell lottery products on the premises of another.

(State Lottery Commission; [65 IAC 3-2-1](#); emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 97; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1034; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Dec 18, 2009, 10:05 a.m.: [20091230-IR-065090989ERA](#))

SECTION 4. [65 IAC 3-3-1](#) IS AMENDED TO READ AS FOLLOWS:

#### [65 IAC 3-3-1](#) Eligibility

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-9-3](#)

Sec. 1. (a) ~~The commission shall not enter into a retailer contract with~~ **issue a certificate of authority to** any person: ~~as a retailer who has any of the following characteristics:~~

~~(1) The person is less than eighteen (18) years of age.~~

~~(2) The person will engage exclusively in the business of selling lottery tickets, as determined by the following factors:~~

~~(A) The length of time for which the business has been established.~~

~~(B) The percentage of business in both dollar amount and number of items sold that constitute the sale of lottery tickets.~~

~~(C) The nature of the business other than the sale of lottery tickets in which the retailer is engaged.~~

~~(D) The total volume of sales.~~

~~(3) The person has ever been convicted of, or entered a plea of guilty or nolo contendere to, a felony committed in the preceding ten (10) years, regardless of adjudication, unless the commission determines that one (1) or more of the following has occurred:~~

~~(A) The person has been pardoned or the person's civil rights have been restored.~~

~~(B) Subsequent to such conviction or entry of the plea the person has engaged in the kind of law-abiding commerce and good citizenship that would reflect well upon the integrity of the lottery.~~

~~(C) If the person is a firm, association, partnership, trust, corporation, or other entity, and the person has terminated its relationship with the individual whose actions directly contributed to the person's conviction or entry of a plea, the person proves to the satisfaction of the commission that the person in a good faith effort has engaged in civic, charitable, or other similar endeavors reflecting well upon the community and in the interest of the integrity of the lottery.~~

**(1) prohibited from becoming a retailer under [IC 4-30-9-3](#), except that the requirement found in [IC 4-30-9-3\(1\)](#) applies only to a natural person or sole proprietor;**

**(2) not registered or duly qualified to do business in Indiana;**

**(3) who is a director, officer, or employee of a major procurement vendor;**

~~(4) The person is related to any employee or member of the commission as husband, wife, or child; or~~

~~(5) The person who is a corporation, partnership, or limited partnership which that has an officer, member, director, or partner who that is related to any employee or member of the commission in any capacity set forth in subdivision (4).~~

~~(6) The person is a corporation, partnership, or limited partnership which has a controlling person who has ever been convicted of, or entered a plea of guilty or nolo contendere to, a felony committed in the preceding ten (10) years, regardless of adjudication, unless the commission makes a written determination (which must be in addition to issuance of a certificate of authority or execution of a retailer contract) that one (1) or more of the events set forth in subdivision (3)(A), (3)(B), or (3)(C) has occurred with respect to the controlling person.~~

~~(7) The person is one (1) of the following:~~

~~(A) A department, an agency, a commission, a division, an authority, a board, a bureau, a hospital, or an office of the state, including a state institution of postsecondary education.~~

~~(B) An entity that performs an essential governmental function.~~

~~(C) Part of the judicial department of government.~~

~~(D) Part of the legislative department of government.~~

~~(E) A political subdivision of the state, including an agency, an authority, a board, a bureau, a commission, a committee, a council, a department, a division, an institution, an office, an officer, or other similar body of a political subdivision.~~

~~(b) Each applicant shall be a resident of Indiana or registered or duly qualified to do business in Indiana.~~

~~(c) In selecting retailers, the commission shall consider the following factors, among others:~~

~~(1) Financial responsibility.~~

~~(2) Integrity.~~

~~(3) Reputation.~~

~~(4) Accessibility of the place of business or activity to the public.~~

~~(5) Security of the premises.~~

~~(6) Sufficiency of existing retailers to serve the public convenience.~~

~~(7) Projected volume of sales for the lottery game involved.~~

~~(d) The commission shall conduct whatever investigations it deems necessary to analyze an application and may require any applicant to be fingerprinted to complete its investigation and review of the retailer application.~~

~~(e) In making the determinations set forth in subsections (a) through (b) and in considering the factors in subsection (c), the commission may require an applicant to produce any information the commission deems necessary.~~

~~(f) The commission may not establish a limitation upon the number of instant ticket retailers and shall make every effort to encourage small and minority businesses to participate as retailers.~~

~~(g) Retailer selection shall be based on business considerations and the public convenience and without regard to political affiliation.~~

~~(h) Nothing in this rule shall preclude the commission from selling lottery tickets directly to the public.~~

~~(i) (b) The director may~~ **commission shall** ~~make a preliminary determination~~ **all determinations** regarding the matters set forth in subsection (a)(3), but no retailer contract shall be entered into with any person based upon such a preliminary determination by [IC 4-30-9-3\(4\)\(B\)](#) or (C) [[IC 4-30-9-3\(4\)\(B\)](#) or [IC 4-30-9-3\(4\)\(C\)](#)]. The director until the commission itself has made **or the director's designee may make** a final determination of such **on all other matters regarding eligibility or selection of an applicant to become a retailer and the issuance or renewal of a certificate of authority.**

~~(j) Any retailer contract executed on behalf of the commission in violation of this article or [IC 4-30](#) shall be voidable at the election of the commission.~~

*(State Lottery Commission; [65 IAC 3-3-1](#); emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 97; emergency rule filed Jan 24, 1990, 4:00 p.m.: 13 IR 1068; emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1725; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Dec 18, 2009, 10:05 a.m.: [20091230-IR-065090989ERA](#))*

SECTION 5. [65 IAC 3-3-2](#) IS AMENDED TO READ AS FOLLOWS:

#### **[65 IAC 3-3-2](#) Application for certificate of authority**

**Authority:** [IC 4-30-3-7](#); [IC 4-30-3-9](#)

**Affected:** [IC 4-30](#)

Sec. 2. (a) This section shall apply only to retailer contracts for the sale of instant tickets. A separate application for retailer contracts for on-line games or pull-tab games will be required, except that the director may

~~permit the use of a single form to make applications for the sale of instant tickets, on-line, and pull-tab tickets.~~

~~(b) (a)~~ Any person interested in obtaining a certificate of authority for the sale of lottery tickets **products** shall first file an application on such form or forms as may be approved by the director.

**(b) An applicant for a certificate of authority accepts any and all risk of adverse publicity, notoriety, embarrassment, criticism, or other action or financial loss that may occur in relation to the application process or the disclosure of public records. The applicant expressly waives any claim for damages against the commission that may result from the application process.**

**(c) A single applicant may apply for certificates of authority for multiple selling locations using one (1) application as long as each selling location is identified in the application.**

~~(e) (d)~~ Each applicant shall submit, ~~an~~ **in conjunction with its** application, indicating each proposed instant ticket sales location along with **payment of** a nonrefundable application and bonding fee, as specified in [65 IAC 1-1-18](#). ~~A separate application and bonding fee will apply to each selling location.~~ **section 2.2 of this rule.**

~~(d) Each location for which an application is submitted must be a fixed location.~~

~~(e) Applications and subsequent retailer contracts, if any, are not transferable to any person.~~

~~(f) (e)~~ Any person that seeks a **certificate of authority** or retailer contract as a retailer shall bear the burden of securing **secure** approval of **or authorization from** any other person, board, commission, agency, agent, or instrumentality or political subdivision of the state or the United States which may have controlling authority over the applicant.

**(f) An applicant must comply with all requests for information, documents, or other materials that may be reasonably necessary to determine the eligibility of the applicant to receive a certificate of authority.**

**(g) All applicants and retailers are under a continuing duty to disclose any material change in information submitted in its application to the commission or other information provided to the commission at the commission's request.**

**(h) Any misrepresentation or omission made by an applicant or retailer may be grounds for denial of an application or revocation or suspension of a certificate of authority held by a retailer.**

**(i) An applicant bears the burden of demonstrating that the applicant is eligible to receive or hold a certificate of authority and must continue to meet all conditions or restrictions relating to possession of a certificate of authority after issuance or any subsequent renewal.**

**(j) An application for a certificate of authority will be considered active for only one (1) year after it is submitted and will be closed without action by the commission if the applicant has not provided all fees or information necessary for the commission to make a determination of eligibility within that time. An applicant whose application has been closed must reapply by completing a new application and paying all necessary application fees.**

*(State Lottery Commission; [65 IAC 3-3-2](#); emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 98; emergency rule filed Oct 2, 1989, 2:10 p.m.: 13 IR 300; emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1727; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1035; emergency rule filed Apr 14, 1992, 5:00 p.m.: 15 IR 1970; emergency rule filed Apr 19, 1993, 5:00 p.m.: 16 IR 2193; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Dec 18, 2009, 10:05 a.m.: [20091230-IR-065090989ERA](#))*

SECTION 6. [65 IAC 3-3-2.2](#) IS ADDED TO READ AS FOLLOWS:

**[65 IAC 3-3-2.2](#) Retailer fees**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-9](#)

Sec. 2.2. (a) An applicant for a certificate of authority to enter into a contract to sell lottery products must pay a nonrefundable application fee in one (1) of the following amounts, depending on the products to be sold:

- (1) If the retailer will sell all lottery products, the nonrefundable application fee is one hundred dollars (\$100) per each ticket selling location.
- (2) If the retailer will only sell scratch-off and/or pull-tab lottery products, the nonrefundable application fee is fifty dollars (\$50) per each ticket selling location.

(b) A retailer applying for renewal of an existing certificate of authority must pay a nonrefundable renewal fee with its application in the amount *[of]* fifty dollars (\$50) for each selling location being renewed.

(c) All fees shall be submitted to the commission in the form of a certified check or cashier's check.

(d) If a certified retailer under contract with the commission requires a duplicate or amended certificate of authority for display under section 2.5(c) of this rule, the retailer must pay to the commission a fee in the amount of ten dollars (\$10) prior to a duplicate or amended certificate of authority being issued.

*(State Lottery Commission; [65 IAC 3-3-2.2](#); emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

SECTION 7. [65 IAC 3-3-2.5](#) IS ADDED TO READ AS FOLLOWS:

**[65 IAC 3-3-2.5](#) Selection of retailers; posting of certificate of authority**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-9-2](#)

Sec. 2.5. (a) The commission must base selection of retailers based on business considerations and public convenience. In the selection of retailers, the commission will consider the following factors:

- (1) The considerations provided in [IC 4-30-9-2](#).
- (2) The average number of customers who visit a potential retailer.
- (3) The hours of operations of the potential retailer.
- (4) The capability and willingness to sell all lottery products provide by the commission.
- (5) The capability and willingness to pay prizes up to the maximum amount payable by retailers at various times during the day.
- (6) The capability and willingness to promote the sale of lottery products independently or in cooperation with the commission.
- (7) The capability and willingness to comply with the provision of [IC 4-30](#) and this title.

(b) The commission shall only issue a certificate of authority to selected retailers that applied for and are eligible to receive a certificate of authority under this article.

(c) A certificate of authority issued by the commission shall be posted by the retailer at the retail location in a conspicuous location accessible to the public.

(d) A certificate of authority shall bear the:

- (1) Name of the retailer.
- (2) Physical address of the premises.
- (3) Expiration date of the certificate of authority.



(State Lottery Commission; [65 IAC 3-3-2.5](#); emergency rule filed Dec 18, 2009, 10:05 a.m.:  
[20091230-IR-065090989ERA](#))

SECTION 8. [65 IAC 3-3-2.8](#) IS ADDED TO READ AS FOLLOWS:

**[65 IAC 3-3-2.8](#) Expiration or renewal of certificate of authority**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-9](#)

**Sec. 2.8. (a) Upon expiration of a retailer's certificate of authority at a selling location, any retailer contract entered into between the retailer and the commission for that selling location must terminate.**

**(b) Prior to expiration of a certificate of authority, a retailer may apply to renew the certificate of authority by filing an application for renewal on such form or forms as may be approved by the director.**

**(c) A certificate of authority may be renewed at the discretion of the director upon a determination that the retailer remains in compliance with the eligibility and selection standards provided in [IC 4-30](#) and this title.**

**(d) A retailer may be required to pay of [sic] a nonrefundable renewal fee with its application for renewal, as specified in section 2.2 of this rule.**

(State Lottery Commission; [65 IAC 3-3-2.8](#); emergency rule filed Dec 18, 2009, 10:05 a.m.:  
[20091230-IR-065090989ERA](#))

SECTION 9. [65 IAC 3-3-5](#) IS AMENDED TO READ AS FOLLOWS:

**[65 IAC 3-3-5](#) Notice of changes**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-9](#)

**Sec. 5. (a) A retailer must disclose to ~~shall notify~~ the commission in writing any change in directors, officers, general partners, or retailer selling location. The director may require any new directors, officers, or general partners to undergo background checks performed by the security division as a condition to continued effectiveness at least thirty (30) calendar days in advance of the retailer's contract and certificate of authority. A retailer's contract with the commission and certificate of authority shall be amended to reflect any such occurrence of any of the following changes:**

- (1) Voluntary cancellation or termination of the retailer contract by the retailer or otherwise cease business operations or the sale of lottery products, either permanently or temporarily.**
- (2) A change in the designated bank account in which the retailer has deposited funds from the sale of lottery products or from which payments are made.**
- (3) Any proposed change in a selling location for which a certificate of authority is issued.**
- (4) Any proposed change in the controlling ownership interest of the retailer, whether through an asset purchase, stock purchase, merger, or acquisition.**
- (5) Any change in the form of a retailer's business organization, such as, but not limited to, a sole proprietorship, partnership, corporation, or limited liability company.**
- (6) Any change in the taxpayer identification number of the retailer.**

**(b) ~~The commission~~ A retailer shall be notified ~~notify the commission~~ immediately ~~of~~ after the occurrence or pending occurrence of the following:**

- (1) The incapacitation or death of a sole proprietor, partner, or majority owner.**
- (2) The dissolution of the retailer or filing of a voluntary or involuntary petition in bankruptcy. ~~of the retailer or any other person listed on the retailer's application.~~**
- (3) A change in any of the information submitted to the commission in the retailer's most recent**

application or renewal form.

**(4) Any change causing the retailer to no longer satisfy fully all requirements in [IC 4-30](#) and this article.**

~~(c) A retailer shall provide the commission with at least thirty (30) days' advance notice of any proposed change in location or any proposed change of control, significant change of ownership, or change of entity structure within the meaning of section 5.6 of this rule.~~

*(State Lottery Commission; [65 IAC 3-3-5](#); emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 98; emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1727; emergency rule filed Apr 14, 1992, 5:00 p.m.: 15 IR 1971; emergency rule filed Apr 19, 1993, 5:00 p.m.: 16 IR 2193; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Dec 18, 2009, 10:05 a.m.: [20091230-IR-065090989ERA](#))*

SECTION 10. [65 IAC 3-3-5.5](#) IS AMENDED TO READ AS FOLLOWS:

**[65 IAC 3-3-5.5](#) Change of location; temporary certificates of authority**

**Authority:** [IC 4-30-3-7](#); [IC 4-30-3-9](#)

**Affected:** [IC 4-30-9](#)

~~Sec. 5.5. (a) Any change in a selling location of a retailer authorized to sell lottery tickets will automatically suspend the retailer's contract and the certificate of authority unless the retailer's contract has previously been amended to reflect the change of location or the requirement for an amendment has been waived as provided in subsection (c). Except as provided in subsection (b), sales of lottery tickets are prohibited following such an automatic suspension until the retailer has applied for and received a certificate of authority from the commission, paid the fee specified in [65 IAC 1-1-18](#), and entered into an amendment of the retailer's contract with the commission. Reinstatement of the retailer's contract and the certificate of authority is subject to the regulations and policies of the commission.~~

**(a) Each lottery ticket sales location of a retailer must be a fixed location.**

**(b) If a retailer's selling location changes, the retailer shall obtain an amended certificate of authority prior to selling lottery products at the new location.**

**(c) The commission must determine whether the new selling location continues to meet the selection and eligibility criteria in this article prior to issuing an amended certificate of authority to change the selling location of a retailer.**

~~(b) In the director's sole discretion; (d) A retailer who is otherwise authorized to sell lottery tickets~~ **products** may be temporarily authorized **by the director** to sell **tickets products** at a new location prior to issuance of a new **an amended** certificate of authority and the execution of an amendment to the retailer contract with respect to such **at the** new location.

~~(c) In the director's sole discretion; (e) The director may waive the requirements of this section with respect to a particular change in location or type of change in location and prospectively or retroactively reinstate any retailer's contract or~~ **issue a temporary** certificate of authority which has been automatically suspended under this section. **to a retailer for the sale of lottery products at a special event in accordance with any procedures prescribed by the director.**

**(f) Any temporary certificate of authority issued by the director shall be valid for a maximum of ninety (90) days. A temporary certificate of authority may be renewed by the director prior to its expiration.**

**(g) The director may place restrictions or conditions upon a temporary certificate of authority. The recipient of a temporary certificate of authority shall comply with any and all restrictions or conditions.**

**(h) A temporary certificate of authority may be revoked by the director at any time.**



(State Lottery Commission; [65 IAC 3-3-5.5](#); emergency rule filed Apr 19, 1993, 5:00 p.m.: 16 IR 2194; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Dec 18, 2009, 10:05 a.m.: [20091230-IR-065090989ERA](#))

SECTION 11. [65 IAC 3-3-5.7](#) IS ADDED TO READ AS FOLLOWS:

**[65 IAC 3-3-5.7](#) Change of ownership or entity structure**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-9](#)

**Sec. 5.7. (a) A retailer may not sell, assign, or transfer a certificate of authority. A certificate of authority is only valid as to the person to whom the certificate of authority was issued by the commission.**

**(b) If a retailer's form of business association changes, the retailer must obtain an amended certificate of authority that reflects the change prior to selling any lottery products under the new business organization.**

**(c) If a controlling ownership interest in a retailer is acquired or transferred, whether in one (1) transaction or a series of transactions, the successor to the controlling interest must obtain a new certificate of authority for each selling location acquired in accordance with the provisions of this article.**

**(d) In the event that a controlling ownership interest in a retailer is acquired or transferred, the original retailer shall continue to be liable for the successor owner's lottery transactions, as if the successor owner is an agent of the retailer, unless and until:**

- (1) the retailer delivers to the commission written notice specifically requesting cessation of lottery product sales;**
- (2) the director issues a temporary certificate of authority under subsection (f); or**
- (3) the successor owner is issued a new certificate of authority by the commission.**

**(e) The director may adopt, from time to time, any appropriate and necessary procedures to verify the ownership of a retailer and/or any retailer selling location to ensure that lottery products are in fact sold only by retailers under an approved certificate of authority and retailer contract and in accordance with [IC 4-30](#) and this title.**

**(f) The director may issue a temporary certificate of authority to a retailer or applicant while an application for a new or amended certificate of authority is pending as a result of:**

- (1) a change of a controlling ownership interest in an existing retailer; or**
- (2) a change in the form of business association of an existing retailer;**

**prior to the issuance of the new or amended certificate of authority.**

(State Lottery Commission; [65 IAC 3-3-5.7](#); emergency rule filed Dec 18, 2009, 10:05 a.m.: [20091230-IR-065090989ERA](#))

SECTION 12. [65 IAC 3-3-7](#) IS AMENDED TO READ AS FOLLOWS:

**[65 IAC 3-3-7](#) Revocation or suspension of certificate of authority**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30](#); [IC 35-45-5](#)

**Sec. 7. (a) A retailer contract may be terminated by the retailer at any time upon thirty (30) days' written notice to the commission.**

~~(b)~~ **(a)** The director may: terminate:

**(1) revoke a retailer contract or certificate of authority;**

**(2) suspend a retailer a certificate of authority** for a period of time, **as** specified by the director; ~~from receiving and selling tickets, or~~

**(3) refuse to renew a certificate of authority; or**

**(4) reject any later-filed application for a new contract, if the retailer fails to comply with the terms of the retailer contract, or amended certificate of authority;**

for any of, but not limited to, the following reasons **contained in subsection (b).**

**(b) The director may take any action under subsection (a) for any of the following reasons:**

~~(1) The retailer has provided false or misleading information in obtaining a retailer contract and or certificate of authority.~~

~~(2) The retailer (or, if the retailer is a corporation, partnership, or limited partnership, any controlling person of the retailer) has been convicted of an offense punishable as a felony or convicted of an offense involving dishonesty or any gambling-related offense. no longer meets the eligibility requirements found in [IC 4-30](#) or this article.~~

~~(3) The retailer has tax delinquencies outstanding owed to any federal, state, or local government.~~

~~(4) The retailer has filed for protection under bankruptcy statutes.~~

~~(5)~~ **(3)** The retailer has endangered the security, **integrity, or efficient operation** of the commission or any lottery game.

~~(6) The ownership or location of the business of the retailer has changed.~~

~~(7) The retailer has failed to meet the volume of sales of lottery tickets established for the retailer by the commission.~~

~~(8)~~ **(4)** The retailer has failed to accurately account for lottery tickets, revenues, or prizes as required by the commission.

~~(9)~~ **(5)** The retailer has failed to remit or is delinquent in remitting money owed to the commission **or a check or the electronic funds transfer of a retailer is dishonored.**

~~(10) The retailer has endangered the efficient operation of the commission or any lottery game.~~

~~(11)~~ **(6)** The retailer has committed any fraud, deceit, or misrepresentation to the commission or to any individual purchasing a lottery ticket or lottery tickets from the retailer.

~~(12) The retailer has sold a lottery ticket to any person under eighteen (18) years of age.~~

~~(13)~~ **(7)** The retailer has sold a lottery ticket at any place other than the place authorized and specified in the retailer's contract, and certificate of authority, **or temporary certificate of authority.**

~~(14) The retailer has not prominently displayed the retailer's certificate of authority at the approved sales location.~~

~~(15) The retailer has not prominently displayed and maintained point-of-sale advertising and public information for lottery tickets at the approved sales location.~~

~~(16) The retailer has not made point-of-sale information for lottery tickets accessible to the public.~~

~~(17) The retailer has sold lottery tickets at a price other than that stated on the lottery ticket or fixed by the commission, unless expressly permitted by this article.~~

~~(18)~~ **(8)** The retailer has violated any rule or regulation promulgated by the commission.

~~(19)~~ **(9)** The retailer has violated any **written policy** directive or instruction issued by the director.

~~(20)~~ **(10)** The retailer failed to comply with or materially breached the terms of the retailer contract.

**(11)** The retailer has violated any provision of [IC 4-30](#) or [IC 35-45-5](#).

~~(21)~~ **(12)** The retailer (or, if the retailer is a corporation, partnership, or limited partnership, any controlling person of the retailer) is a person whose character is no longer consistent with the **protection dignity and integrity** of the public interest. **state of Indiana.**

~~(22)~~ **(13)** The retailer has materially changed any factor considered by the commission in selecting the retailer.

~~(23)~~ **(14)** The retailer has engaged in conduct prejudicial to public confidence in the lottery.

~~(24)~~ **(15)** The retailer has sold lottery tickets for a lottery game prior to the date announced for the commencement of sales for that lottery game **or sold tickets after date announced as last sales date for that game.**

~~(25)~~ **(16)** The retailer knowingly fails and without reasonable cause refuses to enter provide a play-in-an on-line game into the commission's central computer system **lottery product** upon the request and payment of the ticket price by a ticket purchaser.

~~(26)~~ **(17)** The retailer knowingly cancels an on-line a draw ticket without being requested to do so by the owner of the on-line draw ticket.

~~(27) The retailer is licensed to sell pull-tab tickets and no longer satisfies the requirements of section 10(f) of this rule.~~

**(18) The retailer knowingly retains an employee involved in the sale of lottery products who has been**

convicted of a criminal offense related to the security or integrity of the commission or a lottery in any other jurisdiction.

(19) The retailer has had a certificate of authority or temporary certificate of authority suspended or revoked at another selling location.

(c) The revocation of a retailer's certificate of authority will terminate any and all retailer contracts between the retailer and the commission to sell lottery products at the selling location for which the certificate of authority was issued.

~~(c) The commission may terminate a retailer contract at any time upon thirty (30) days' written notice to the retailer if the commission determines that, due to a change in the type of lottery game to be played, a change in the method by which lottery games are to be played, a change in the method the commission will use in servicing or contracting with retailers, or, for any other reason, it is in the best interest of the commission to terminate or change retailers.~~

~~(d) The commission may temporarily or permanently suspend a retailer contract and certificate of authority, without prior notice, if the commission determines that immediate suspension is necessary in order to ensure the integrity, security, honesty, or fairness of the operation of the commission or any lottery game or that an emergency exists which requires the immediate termination of a retailer contract and certificate of authority. A suspension under this subsection may exist for any violation of subsection (b), or any other reason determined by the director, if the director determines that an immediate suspension is necessary in accordance with this subsection.~~

~~(e) A retailer's sole remedy following termination or suspension of its retailer contract is to file an appeal under [65 IAC 3-5](#).~~

(d) A retailer may not receive or sell lottery products at any location where its certificate of authority for that location is either suspended or has been revoked.

(State Lottery Commission; [65 IAC 3-3-7](#); emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 99; emergency rule filed Nov 20, 1989, 10:05 a.m.: 13 IR 680; emergency rule filed Jan 24, 1990, 4:00 p.m.: 13 IR 1070; emergency rule filed May 7, 1990, 2:10 p.m.: 13 IR 1736; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1036; errata filed Mar 10, 1992, 11:00 a.m.: 15 IR 1393; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Dec 18, 2009, 10:05 a.m.: [20091230-IR-065090989ERA](#))

SECTION 13. [65 IAC 3-3-7.5](#) IS AMENDED TO READ AS FOLLOWS:

#### [65 IAC 3-3-7.5](#) Deactivation of draw terminal

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30](#)

Sec. 7.5. The commission may **limit or** deactivate the ~~on-line~~ **draw** terminal or ~~bar-code reader~~ **other lottery equipment** of a retailer if the commission determines that any of the following is occurring:

- (1) The retailer is using the equipment to purchase, sell, or redeem tickets in a manner contrary to [IC 4-30](#) or this title.
- (2) The retailer is using the equipment to generate tickets for a drawing which has already taken place.
- (3) The equipment is malfunctioning.
- (4) The retailer is using the equipment improperly.
- (5) The retailer is engaging in any activity with the equipment which **may compromise the operation or integrity of the lottery, is prejudicial to the public confidence in the lottery**, is ~~illegal or~~ contrary to the best interests of the lottery, **or constitutes activity that is illegal under local, state, or federal laws.**
- (6) **The retailer fails to hold money received by the retailer from the sale of lottery products in trust or fails to deliver or transfer payment to the commission under [IC 4-30](#) and this title.**

(State Lottery Commission; [65 IAC 3-3-7.5](#); emergency rule filed Sep 3, 1992, 9:00 a.m.: 16 IR 74; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#);

SECTION 14. [65 IAC 3-4-1](#) IS AMENDED TO READ AS FOLLOWS:

**[65 IAC 3-4-1](#) Ticket sales; retailer accountability**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-11-2](#)

Sec. 1. ~~(a) A retailer is liable to the commission for any and all lottery tickets accepted or generated by an employee or representative of the retailer, such liability being in the amount of the ticket price established for each lottery game multiplied by the number of tickets accepted or generated. All such lottery tickets are to be considered purchased by the retailer, unless returned to the commission or canceled within the time and in the manner prescribed by the commission. All money received by a retailer from the sale of lottery tickets, less the amount retained as compensation for the sale of lottery tickets and the amount paid out in prizes by the retailer, shall be held in trust until delivery to the commission or electronic transfer to the administrative trust fund established by [IC 4-30](#).~~

~~(b)~~ **(a)** A retailer may return opened and unopened instant **scratch-off** ticket packages to the commission for credit against liability owed or a refund, at the commission's discretion. ~~Instant tickets from opened instant ticket packages may only be returned in continuous, sequential strips.~~ A retailer may not return opened or unopened pull-tab ticket packages for refund or credit except with the prior consent of the director.

**(b)** Upon the theft, loss, destruction, or damage of lottery products, a retailer shall immediately notify the division of security of the commission by telephone and take all reasonable steps to protect the remaining lottery products from further damage or loss.

**(c)** A retailer may claim a credit against liability owed or a refund, at the commission's discretion, for stolen instant tickets conditioned upon the following:

**(1)** The retailer immediately notified the division of security of the commission of the theft in accordance with subsection **(b)**.

**(2)** The retailer maintained records of their ticket inventory in accordance with the duties of this article and the terms of the retailer contract at the time of the loss such that the stolen tickets were reasonably identified.

**(3)** The retailer does not receive or retain any other compensation for the loss of the stolen tickets whether by restitution, a claim on an insurance policy, or by any other form of indemnity.

The commission may require reimbursement of any credit or refund to a retailer for stolen instant tickets that may have been previously granted but no longer meets the conditions of this subsection.

~~(c)~~ **(d)** Each retailer shall account for all lottery tickets issued by the commission and all funds received by the retailer as required by procedures and forms developed, **from time to time**, by the commission.

~~(d)~~ **(e)** Retailers shall be required, at the commission's sole discretion, to order and receive lottery tickets **products** in the manner prescribed by the commission. The commission will determine the time and manner of reimbursement by the retailer. ~~however, the commission is permitted to utilize reimbursement methods based on actual ticket sales.~~ **A retailer shall not accept lottery tickets to be sold by the retailer from anyone except an authorized commission representative.**

~~(e)~~ **(f)** The retailer is responsible for all money collected **by the retailer** from lottery ticket sales. ~~unless such money is collected by the commission.~~ The funds **Money collected from lottery ticket sales** shall be deposited promptly and shall be available on the designated day of collection **designated by the commission**.

~~(f)~~ **(g)** The retailer may use its business operating bank account or a separate bank account for lottery purposes.

~~(g)~~ The commission may require **(h)** Retailers to **must** establish electronic funds transfer accounts in

conjunction with the retailer's bank account for purposes of receiving money from ticket sales, making payments to the commission, and receiving payments from the commission.

~~(h)~~ **(i)** Funds from the sale of lottery ~~tickets~~ **products** which are deposited in the retailer's account shall be unencumbered and unpledged.

~~(i)~~ In the event there is a change in the bank account in which the retailer has deposited funds from the sale of lottery tickets, the retailer shall notify the commission of the change at least thirty (30) working days in advance of the change becoming effective.

~~(j)~~ All money received by each retailer from operation of the lottery, less the amount received by the retailer for the sale of the lottery ~~tickets~~ **products** and the amount paid out as prizes, shall be held in a bank account prior to collection by the commission.

~~(k)~~ Each retailer must file with the commission reports of the retailer's receipts and transactions of sales of lottery ~~tickets~~ **products** in accordance with the procedures and instructions made available to the retailers by the commission.

~~(l)~~ A retailer must notify the commission at least thirty (30) working days in advance of the retailer's intent to cease operation of its business and sale of lottery tickets, either permanently or temporarily.

~~(m)~~ **(l)** A retailer shall sell ~~pull-tab~~ tickets only from the location to which they were delivered by the commission or which is on file with the commission with respect to such tickets. No ~~pull-tab~~ tickets shall be transferred from one (1) retailer location to another for sale.

**(m)** Upon revocation or termination of a certificate of authority or retailer contract, the retailer shall return all lottery products and equipment in its possession in accordance with the policies and procedures of the commission.

**(n)** A retailer shall retain all invoices, accounting materials, and informational materials about any pull-tab game as long as the retailer is selling pull-tab tickets for the pull-tab game.

**(o)** A retailer shall provide:

**(1)** employees of the commission; and

**(2)** other persons designated by the director to service lottery equipment;

reasonable access to the retailer's premises and any lottery equipment, products, materials, or supplies during normal business hours or at such other times as may be required by the director or department of security to enter the premises of a retailer. The premises include the location where lottery tickets are sold or any other location under the control of the retailer where the director may have good cause to believe lottery materials, equipment, or tickets are stored or kept in order to inspect the lottery materials, equipment, or tickets.

**(p)** The director may require that a retailer submit to the commission an audit report conducted by an independent certified public accountant on the retailer's lottery activities. The retailer shall be responsible for the cost of only the first such audit in any one (1) term of a certificate of authority.

*(State Lottery Commission; [65 IAC 3-4-1](#); emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 100; emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1728; emergency rule filed Jan 30, 1991, 4:15 p.m.: 14 IR 1288; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1038; emergency rule filed Sep 3, 1992, 9:00 a.m.: 16 IR 74; emergency rule filed Jul 7, 1995, 10:00 a.m.: 18 IR 2799; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Dec 18, 2009, 10:05 a.m.: [20091230-IR-065090989ERA](#))*

SECTION 15. [65 IAC 3-4-4](#) IS AMENDED TO READ AS FOLLOWS:

#### **[65 IAC 3-4-4](#) Procedure for awarding prizes**



Sec. 4. (a) Upon the presentation of a lottery ticket **to a retailer with validation capabilities** for prize payment, the retailer shall verify that it is visually consistent with the features of a winning ticket and examine it for any alteration. A retailer shall not make any payment on a ticket which is not:

- (1) a valid ~~instant~~ **scratch-off** ticket within the meaning of [65 IAC 4-1-14](#);
- (2) a valid ~~on-line~~ **draw** ticket within the meaning of [65 IAC 5-1-12](#); or
- (3) a valid pull-tab ticket within the meaning of [65 IAC 6-1-9](#).

(b) Each ~~instant, on-line,~~ **scratch-off, draw,** and pull-tab ticket shall contain a unique bar code. A winning ~~instant ticket, on-line,~~ **scratch-off, draw,** or pull-tab ticket shall be further validated and redeemed **by a retailer with validation capabilities** in the following manner:

- (1) If an ~~instant~~ **scratch-off** ticket, ~~on-line~~ **draw** ticket, or pull-tab ticket is entitled to a prize of less than or equal to twenty-five dollars (\$25), a retailer shall validate the ~~instant~~ **scratch-off** ticket, ~~on-line~~ **draw** ticket, or pull-tab ticket as a winning lottery ticket with the bar code reader and shall redeem a valid winning ~~instant~~ **scratch-off** ticket, ~~on-line~~ **draw** ticket, or pull-tab ticket notwithstanding the location at which the ticket was purchased.
- (2) If an ~~instant~~ **scratch-off** ticket, ~~on-line~~ **draw** ticket, or pull-tab ticket is entitled to a prize of less than or equal to ~~six hundred~~ **five hundred ninety-nine** dollars (\$600), **(\$599) but greater than twenty-five dollars (\$25)**, a retailer may, ~~within its discretion, validate~~ **only upon validating** the ~~instant~~ **scratch-off** ticket, ~~on-line~~ **draw** ticket, or pull-tab ticket as a winning lottery ticket with the bar code reader, ~~and may redeem within its discretion, a~~ **the** valid winning ~~instant~~ **scratch-off** ticket, ~~on-line~~ **draw** ticket, or pull-tab ticket notwithstanding the location at which the ticket was purchased.

(c) A retailer who does not sell instant tickets but has a bar code reader issued by the commission ~~shall~~ **may** redeem an ~~instant~~ **scratch-off** ticket **or pull-tab ticket** presented for prize payment. ~~A retailer who does not sell pull-tab tickets shall redeem a pull-tab ticket presented for prize payment.~~ A retailer who does not sell ~~on-line~~ **draw** tickets shall not redeem an on-line ticket presented for prize payment.

(d) The retailer shall pay any winning lottery ticket with a cash prize of twenty-five dollars (\$25) or less in cash or new lottery tickets with the consent of the lottery ticket holder. Any winning lottery ticket with a cash prize exceeding twenty-five dollars (\$25), but not exceeding six hundred dollars (\$600), shall be paid with cash, check, or money order, at the retailer's discretion. Any noncash prize which a retailer is authorized to deliver shall be delivered in the manner required by the rule applicable to a specific lottery game or as specified by the director.

(e) Any validated winning lottery ticket may be paid by check at the commission headquarters in Indianapolis, Indiana, or at a district claim center after the claimant has completed such winner claim forms as the commission may specify.

(f) Winning lottery tickets received by a person under the age of eighteen (18) as a gift shall be paid by the commission to an adult member of the minor's family or the legal guardian of the minor as custodian.

(g) Holders of winning tickets shall have the right to claim prizes for one hundred eighty (180) days after the drawing or the end of the lottery game or play in which the prize was won. If a valid claim is not made for a prize within the applicable time period, the prize shall constitute an unclaimed prize and the prize money shall be added to the pool from which future prizes are to be awarded or used for special prize promotions.

(h) Until such time as a name is imprinted or placed upon the back portion of the lottery ticket in the designated area, a lottery ticket shall be owned by the physical possessor of such ticket. When a name is placed on the rear of the ticket in the designated place, the person whose name appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. A pull-tab ticket remains at all times a bearer instrument and shall be owned by the physical possessor of the ticket unless the prize is over six hundred dollars (\$600) and space has been designated on the ticket for including winner information.

(i) In the event it is determined that, for any reason, a prize was paid by a retailer on a ticket which was not a



winner, the person whose name appears on the back of the ticket will be required to reimburse the retailer for said payment. If a retailer pays any claim which was not a winner, the retailer will be held responsible to the commission for the improper payment, even if the person whose name appears on the back of the ticket fails to reimburse the retailer or cannot be located.

(j) A lottery ticket will be considered void if altered, torn, misprinted, illegible, or damaged in such a manner that verification is impossible. If it is determined that a lottery ticket contains a manufacturing defect which makes the lottery ticket appear to be a winner when in fact it is not, the bearer shall be entitled to reimbursement for the full purchase price of the lottery ticket but shall not be awarded any prize. **Reimbursement of the purchase price may, at the discretion of the commission, be in the form of:**

- (1) cash or a cash equivalent;**
- (2) replacement tickets from the same or a different game with the same price; or**
- (3) coupons good toward the purchase of replacement tickets that are equivalent to the purchase price.**

(k) The commission's decision and judgment in respect to the determination of a winning lottery ticket or of any other dispute arising from payment or awarding of prizes shall be final and binding upon all participants in the lottery unless otherwise provided by law or this article. In the event a question arises relative to a winning lottery ticket, or the payment or awarding of any prize, the commission may deposit the prize winnings into an escrow fund until it resolves the controversy and reaches a decision, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy.

(l) The commission reserves the right to request of the claimant of any winning lottery ticket disclosure of the source of the ticket.

*(State Lottery Commission; [65 IAC 3-4-4](#); emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 102; emergency rule filed May 7, 1990, 2:10 p.m.: 13 IR 1737; emergency rule filed Oct 7, 1991, 2:00 p.m.: 15 IR 112; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1039; errata filed Feb 25, 1992, 11:00 a.m.: 15 IR 1222; emergency rule filed Sep 3, 1992, 9:00 a.m.: 16 IR 77; errata, 16 IR 751; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:27 p.m.: 26 IR 41, eff Aug 29, 2002; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Jun 30, 2009, 10:10 a.m.: [20090701-IR-065090483ERA](#), eff Jul 1, 2009; emergency rule filed Dec 18, 2009, 10:05 a.m.: [20091230-IR-065090989ERA](#))*

SECTION 16. [65 IAC 3-4-5](#) IS AMENDED TO READ AS FOLLOWS:

#### **[65 IAC 3-4-5 Compensation](#)**

**Authority:** [IC 4-30-3-7](#); [IC 4-30-3-9](#)

**Affected:** [IC 4-30-9](#)

Sec. 5. (a) A retailer shall be entitled to a ~~commission~~ **compensation** of five and one-half percent (5.5%) of the valid lottery ticket price of each ~~instant~~ **scratch-off** ticket or pull-tab ticket sold ~~to by~~ such retailer, subject to deduction for returns as described in **may be allowed under** this article. A retailer shall be entitled to a ~~commission~~ **compensation** of six percent (6%) of the valid ~~on-line~~ **draw** ticket price of each ~~on-line~~ **draw** ticket sold by such retailer.

(b) In addition to the ~~commissions~~ **compensation** under subsection (a), the commission may, from time to time, establish retailer incentive programs whereby retailers are entitled to bonus payments by satisfying designated criteria which may include, but not limited to, volume of lottery ~~tickets~~ **product** sales, number of lottery tickets redeemed, or the sale of winning lottery tickets.

**(c) Any compensation or incentive payment made under this section may be supplemented or reduced in exchange for the provision of other supplemental services provided by the commission or the retailer as provided in a retailer's contract with the commission.**

~~(e)~~ **(d)** No retailer or employee of a retailer shall request, demand, or accept gratuities or similar compensation

in exchange for the performance of duties authorized pursuant to the retailer's contract.

(State Lottery Commission; [65 IAC 3-4-5](#); emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 103; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1040; emergency rule filed Jul 29, 1992, 10:00 a.m.: 15 IR 2599; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:27 p.m.: 26 IR 42, eff Aug 29, 2002; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Dec 18, 2009, 10:05 a.m.: [20091230-IR-065090989ERA](#))

SECTION 17. [65 IAC 3-4-7](#) IS AMENDED TO READ AS FOLLOWS:

**[65 IAC 3-4-7](#) Prohibited acts**

**Authority:** [IC 4-30-3-7](#); [IC 4-30-3-9](#)

**Affected:** [IC 4-30](#)

Sec. 7. (a) ~~No A~~ retailer, or any relative living in the same household with a retailer, ~~may~~ **shall not** purchase a lottery ticket at the premises where the retailer is authorized to sell lottery tickets. ~~No products.~~ An employee of a retailer, or any relative living in the same household with an employee of a retailer, ~~may~~ **shall not** purchase a lottery ticket at the premises at which the employee is employed.

(b) ~~No A~~ person shall **not** use point-of-sale materials issued by the commission or otherwise hold himself or herself out as a retailer without being authorized by the commission to act as a retailer.

(c) ~~No A~~ retailer shall **not** extend credit or lend money for the purchase of a lottery ticket. This provision shall not be construed to prohibit the purchase of a lottery ticket through the use of a credit or charge card or other instrument issued by a bank, savings association, credit union, or charge card company.

(d) ~~No A~~ retailer shall **not** sell a lottery ticket for delivery at a location other than that specified on the retailer's certificate of authority unless all of the following are true:

- (1) Delivery of goods or services other than lottery tickets at locations other than that specified on the retailer's certificate of authority occurs in the ordinary course of the retailer's business.
- (2) The retailer has sold and is delivering to the purchaser of the lottery ticket a good or service other than the lottery ticket.
- (3) The delivery is within the state of Indiana.
- (4) Payment is made at or before the time of delivery.

(e) ~~No A~~ retailer shall **not** enter into any agreement or arrangement to give preference in the sale of lottery tickets **products** to a purchaser based on the number of lottery tickets sold or to be sold to that purchaser.

(f) **All lottery product sales by a retailer shall be final. A retailer shall not accept returns except as provided in the rules, regulations, policies, or procedures of the commission or with the approval of the director.**

(g) **Scratch-off tickets shall not be sold after the announced termination date of the scratch-off game or after the date of the final drawing held in any instant game unless otherwise provided herein or publicly announced by the commission.**

(h) **Draw game tickets shall not be sold after the date of the drawing for which they were designated.**

(State Lottery Commission; [65 IAC 3-4-7](#); emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 103; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 408; emergency rule filed Mar 19, 1992, 8:30 a.m.: 15 IR 1401; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Dec 18, 2009, 10:05 a.m.: [20091230-IR-065090989ERA](#))

SECTION 18. [65 IAC 3-4-8](#) IS AMENDED TO READ AS FOLLOWS:

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**65 IAC 3-4-8 Service charges for on-line retailers**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30-9](#)

Sec. 8. (a) Each retailer licensed to sell on-line **draw** tickets shall pay a minimum weekly service charge to the commission in an amount specified by the commission. ~~Such minimum service charges paid by retailers shall be used to offset losses from retailer defaults and costs for telecommunications.~~ **of twelve dollars (\$12).**

(b) The commission may impose an additional weekly fee in an amount ~~specified by the commission~~ **of twenty-five dollars (\$25)** on retailers licensed to sell on-line **draw** tickets whose average weekly gross sales of on-line **draw** tickets are less than one thousand dollars (\$1,000).

(c) The commission may impose an additional weekly fee in the ~~same amount as subsection (b) or a different amount specified by the commission~~ **of ten dollars (\$10)** on retailers licensed to sell on-line **draw** tickets whose average weekly gross sales of on-line **draw** tickets are greater than or equal to one thousand dollars (\$1,000) but less than two thousand dollars (\$2,000).

*(State Lottery Commission; [65 IAC 3-4-8](#); emergency rule filed May 7, 1990, 2:10 p.m.: 13 IR 1738; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.:*

*[20071212-IR-065070656RFA](#); emergency rule filed Dec 18, 2009, 10:05 a.m.: [20091230-IR-065090989ERA](#))*

SECTION 19. [65 IAC 3-4-9](#) IS AMENDED TO READ AS FOLLOWS:

**65 IAC 3-4-9 Settlement delinquencies**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#)

Affected: [IC 4-30](#)

Sec. 9. (a) If a check or electronic funds transfer of a retailer is dishonored ~~the certificate of authority of the retailer may be suspended by the commission. A suspended certificate of authority may be reinstated at the discretion of the commission upon the occurrence of any of the following:~~ **or the retailer fails to make timely payment of any amount owed to the commission for any reason, may:**

(1) ~~Payment of the entire amount due from the retailer to the commission.~~

(2) ~~Payment of~~ **(1) impose** a service **delinquency** charge as specified in [65 IAC 1-1-18](#). **for late payment of amounts due the commission in an amount up to fifty dollars (\$50); and**

(3) ~~Payment of~~ **(2) charge** simple interest on the amount due from the designated day of collection to the day of payment at the rate of twelve percent (12%) per annum.

(4) ~~The retailer's execution of and compliance with a signed, written agreement specifying terms for the repayment of the entire amount due from the retailer to the commission.~~

All payments shall be by money order or certified check.

(b) If a retailer's check or electronic funds transfer is dishonored, the commission may require that future deliveries of instant tickets be delivered to the retailer on a C.O.D. basis.

*(State Lottery Commission; [65 IAC 3-4-9](#); emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1729; emergency rule filed Jan 19, 1996, 2:00 p.m.: 19 IR 1375; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: [20071212-IR-065070656RFA](#); emergency rule filed Dec 18, 2009, 10:05 a.m.: [20091230-IR-065090989ERA](#))*

SECTION 20. THE FOLLOWING ARE REPEALED: [65 IAC 1-1-18](#); [65 IAC 3-1-1](#); [65 IAC 3-1-2](#); [65 IAC 3-1-2.5](#); [65 IAC 3-1-3](#); [65 IAC 3-1-4](#); [65 IAC 3-1-4.5](#); [65 IAC 3-1-5](#); [65 IAC 3-1-6](#); [65 IAC 3-1-6.5](#); [65 IAC 3-1-7](#); [65 IAC 3-1-8](#); [65 IAC 3-1-9](#); [65 IAC 3-1-10](#); [65 IAC 3-1-11](#); [65 IAC 3-1-12](#); [65 IAC 3-1-12.5](#); [65 IAC 3-1-12.6](#); [65 IAC 3-1-13](#); [65 IAC 3-1-14](#); [65 IAC 3-1-14.5](#); [65 IAC 3-1-15](#); [65 IAC 3-3-3](#); [65 IAC 3-3-4](#); [65 IAC 3-3-5.6](#); [65 IAC 3-3-6](#); [65 IAC 3-3-8](#); [65 IAC 3-3-9](#); [65 IAC 3-3-10](#); [65 IAC 3-4-2](#); [65 IAC 3-4-2.5](#); [65 IAC 3-4-2.6](#); [65 IAC 3-4-2.7](#); [65 IAC 3-4-3](#); [65 IAC 3-4-6](#); [65 IAC 3-5](#).

