
TITLE 65 STATE LOTTERY COMMISSION

Proposed Rule
LSA Document #10-240

DIGEST

Adds [65 IAC 1-7](#) to provide general provisions for promotional activities including guidelines for retailer promotional activities, promotional drawings conducted by the lottery, and supplemental prize offerings. Repeals [65 IAC 1-6](#), [65 IAC 4-3-10](#), [65 IAC 5-3-10](#), and [65 IAC 6-3-5](#). Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[65 IAC 1-6](#); [65 IAC 1-7](#); [65 IAC 4-3-10](#); [65 IAC 5-3-10](#); [65 IAC 6-3-5](#)

SECTION 1. [65 IAC 1-7](#) IS ADDED TO READ AS FOLLOWS:

Rule 7. Promotional Activities

[65 IAC 1-7-1](#) General provisions

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

Affected: [IC 4-30-3-8](#); [IC 4-30-13-1](#)

Sec. 1. (a) The commission may promote and advertise the lottery and individual lottery games.

(b) A commission authorized promotion may include any generally accepted consumer and trade sales promotion, including, but not limited to, the following:

- (1) Permanent and temporary point of purchase materials.
- (2) Drawings, contests, or sweepstakes.
- (3) "Buy some, get some free" promotions.
- (4) Consumer or trade coupons.
- (5) Product samples or free tickets.
- (6) Supplemental prizes or "second chance" promotions.
- (7) Product bundles.
- (8) Retailer incentives.
- (9) "Ask for the sale" promotions.
- (10) Retail clerk training.
- (11) Functional discounts.
- (12) Customer reward or loyalty programs.

(c) A commission authorized promotion may be conducted by:

- (1) the commission by its own efforts or through its vendors or agents;
- (2) one (1) or more authorized retailer locations with written approval of the commission; or
- (3) the commission in conjunction with one (1) or more authorized retailers.

(d) A temporary price reduction, product bundle, or other promotional activity, which:

- (1) is conducted or authorized by the commission under this rule; and
 - (2) may alter the normal effective cash price of lottery tickets as established by the commission;
- is an adjustment to the commission established price and not a violation of [IC 4-30-13-1](#).

(e) All promotions conducted or authorized by the commission must comply with all applicable federal and state laws.

(State Lottery Commission; [65 IAC 1-7-1](#))

[65 IAC 1-7-2](#) Retailer promotions

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

Affected: [IC 4-30-3-8](#)

Sec. 2. (a) An authorized retailer may promote the sale of lottery tickets individually or in conjunction with the commission so long as the retailer first obtains the prior written approval of the director in the manner and form as determined by the director.

(b) The director may place restrictions or conditions on the conduct of a retailer promotion approved under this section.

(c) At any time during a promotion being conducted by an authorized retailer, the director may:

(1) revoke the commission's approval; or

(2) place new or revised restrictions and conditions on the conduct of the promotion;

for any reason by giving the retailer written notice of the revocation, restrictions, or conditions. A retailer so notified shall immediately incorporate all restrictions and conditions into its promotion, or, if the approval of the promotion has been revoked, the retailer shall immediately cease the promotion in accordance with the directives of the director.

(d) Any promotional activity conducted by a retailer must be:

(1) consistent with the dignity and integrity of the state of Indiana; and

(2) in compliance with the commission's advertising standards.

(e) A retailer shall not use a commission:

(1) insignia;

(2) logo;

(3) trademark;

(4) service mark; or

(5) name;

of any lottery game without the prior written authorization of the commission in each instance.

(State Lottery Commission; [65 IAC 1-7-2](#))

[65 IAC 1-7-3](#) Retailer grievance

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

Affected: [IC 4-21.5-3](#); [IC 4-30-3-8](#)

Sec. 3. (a) Any complaint or grievance by a retailer regarding a promotion authorized by the commission and conducted by another retailer shall:

(1) be in writing;

(2) be delivered to the director within ten (10) days after the conclusion of the promotion;

(3) provide a brief description of the promotion;

(4) provide the factual basis for alleging that the retailer is aggrieved or adversely affected by the promotion; and

(5) demonstrate that the retailer is entitled to review of the promotion under any law.

(b) The director shall respond in writing to a complaint or grievance submitted in accordance with this section within a reasonable time.

(c) The only remedies available to an aggrieved retailer are:

(1) the revocation of approval of the subject promotion;

(2) reformation of the subject promotion by imposition of new conditions on the promotion by the director; or

(3) denial of approval of the same or similar promotions permanently or for a period of time.

(d) Any appeal of a decision by the director under this section shall be decided in compliance with [IC 4-21.5-3](#) to the extent that statute applies.

(State Lottery Commission; [65 IAC 1-7-3](#))

[65 IAC 1-7-4](#) Promotional drawings

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

Affected: [IC 4-30-3-8](#)

Sec. 4. (a) "Promotional drawing" means, for purposes of this section, a drawing or other event involving the random selection of winners that does not require participants to purchase or hold lottery tickets in order to win.

(b) The director shall establish written internal controls and procedures consistent with this section for a promotional drawing or drawings conducted under this section. The internal controls and procedures shall include at least the following:

- (1) Eligibility requirements for participation.
- (2) Method and mode of entry.
- (3) Date, time, and location of the promotional drawing.
- (4) Procedure for randomly selecting winners from qualified entries.

(c) The director may, at the director's discretion, amend or alter the written internal controls and procedures for any promotional drawing without notice prior to the time that the promotional drawing is conducted.

(d) All promotional drawings involving a prize with a fair market value greater than:

- (1) five hundred ninety-nine dollars (\$599) shall be witnessed by a representative of the commission's security division; and
- (2) five thousand dollars (\$5,000) shall be witnessed by a representative of the commission's security division and an independent certified public accountant.

(e) The liability of the commission, the director, and the commission's employees for failure to enter any person into a promotional drawing, for any improper operation or conduct of any promotional drawing, or for the failure of any person to win a prize in a promotional drawing is limited to entry of the aggrieved person in another promotional drawing with prizes of similar value and each participant in a promotional drawing agrees by the act of participating in the promotional drawing to this limitation of liability.

(f) Disputes regarding dates, times, requirements, or procedures shall be resolved by the director in the exercise of the director's sole discretion. All participants in a promotional drawing shall be deemed to have agreed to all internal controls and procedures by their participation in the promotional drawing or any proceedings in connection with the promotional drawing.

(State Lottery Commission; [65 IAC 1-7-4](#))

[65 IAC 1-7-5](#) Supplemental prize drawings

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

Affected: [IC 4-30-3-8](#)

Sec. 5. (a) Holders of instant, pull-tab, or draw game tickets, whether or not they are otherwise eligible for prizes under this article, may be entered from time to time into drawings or other events for the award of consolation or supplemental prizes.

(b) The director shall establish written internal controls and procedures consistent with this section

for a promotional drawing or drawings conducted under this section. The internal controls and procedures shall include at least the following:

- (1) Eligibility requirements for participation.
- (2) Method and mode of entry.
- (3) Date, time, and location of the promotional drawing.
- (4) Procedure for randomly selecting winners from qualified entries.

The director shall make such information available at the site of the promotional drawing.

(c) The director may, at the director's discretion, amend or alter the written internal controls and procedures for any promotional drawing without notice prior to the time that the promotional drawing is conducted.

(d) All promotional drawings involving a prize with a fair market value greater than:

- (1) five hundred ninety-nine dollars (\$599) shall be witnessed by a representative of the commission's security division; and
- (2) five thousand dollars (\$5,000) shall be witnessed by an independent certified public accountant.

(e) The liability of the commission, the director, and the commission's employees for failure to enter any person into a promotional drawing, for any improper operation or conduct of any promotional drawing, or for the failure of any person to win a prize in a promotional drawing is limited to entry of the aggrieved person in another promotional drawing with prizes of similar value and each participant in a promotional drawing agrees by the act of participating in the promotional drawing to this limitation of liability.

(f) Disputes regarding dates, times, requirements, or procedures shall be resolved by the director in the exercise of the director's sole discretion. All participants in a promotional drawing shall be deemed to have agreed to all internal controls and procedures by their participation in the promotional drawing or any proceedings in connection with the promotional drawing.

(State Lottery Commission; [65 IAC 1-7-5](#))

SECTION 2. THE FOLLOWING ARE REPEALED: [65 IAC 1-6](#); [65 IAC 4-3-10](#); [65 IAC 5-3-10](#); [65 IAC 6-3-5](#).

[Notice of Public Hearing](#)

Posted: 06/09/2010 by Legislative Services Agency

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