ARTICLE 3. RETAILERS

Rule 1. Definitions

65 IAC 3-1-1 Applicability
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 1. The definitions in this rule apply throughout this article. *(State Lottery Commission; 65 IAC 3-1-1; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 96; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-1-2 "Applicant" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 2. "Applicant" means a person who has submitted an application to be a retailer. *(State Lottery Commission; 65 IAC 3-1-2; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 96; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-1-2.5 "Bar code" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 2.5. "Bar code" means a graphical representation of data to be used in the validation of an instant ticket. *(State Lottery Commission; 65 IAC 3-1-2.5; 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)*

65 IAC 3-1-3 "Certificate of authority" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 3. "Certificate of authority" means the certificate issued to each retailer for purposes of display as described in 65 IAC 3-3-4. *(State Lottery Commission; 65 IAC 3-1-3; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 96; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-1-4 "Commission" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 4. "Commission" means the state lottery commission. *(State Lottery Commission; 65 IAC 3-1-4; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 96; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-1-4.5 "Controlling person" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 4.5. "Controlling person" means a person who is one (1) of the following:
(1) An individual who holds the office of chairman of the board, president, vice president, secretary, or treasurer of a retailer which is a corporation (or an individual occupying a similar status or performing similar functions for such a retailer).
(2) A person who owns, controls, or holds with power to vote at least thirty percent (30%) of the voting stock of a retailer which is a corporation, or controls in any manner the election or appointment of a majority of such a retailer's board of directors, and participates in the management of the retailer.
(3) A person who is a general partner of a retailer which is a partnership or who holds a position described in subdivision (1)

in, or owns or controls in the manner described in subdivision (2), a corporation which is a general partner of a retailer which is a partnership.

(4) A person who possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of a retailer, whether through the ownership of voting securities, by contract, or otherwise.

(State Lottery Commission; 65 IAC 3-1-4.5; emergency rule filed Jan 24, 1990, 4:00 p.m.: 13 IR 1068; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)

65 IAC 3-1-5 "Director" defined

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 5. "Director" means the director of the state lottery commission. *(State Lottery Commission; 65 IAC 3-1-5; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 96; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-1-6 "Instant game" defined

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 6. "Instant game" means a lottery game that offers preprinted lottery tickets that, after a covering is rubbed off, indicate immediately whether the player has won a prize or entry into a preliminary grand prize drawing. *(State Lottery Commission; 65 IAC 3-1-6; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 96; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-1-6.5 "Instant prize" defined

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 6.5. "Instant prize" means a prize which is awarded in connection with an instant game other than a telephone prize and other than a prize awarded pursuant to 65 IAC 4-3-7 or 65 IAC 4-3-10. *(State Lottery Commission; 65 IAC 3-1-6.5; emergency rule filed Oct 7, 1991, 2:00 p.m.: 15 IR 112; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-1-7 "Instant ticket" defined

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 7. "Instant ticket" means a lottery ticket in an instant game. *(State Lottery Commission; 65 IAC 3-1-7; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 96; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-1-8 "Lottery game" defined

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 8. "Lottery game" means an instant game, on-line game, pull-tab game, or such other game as may be instituted from time to time by the commission. *(State Lottery Commission; 65 IAC 3-1-8; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 96; 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)*

65 IAC 3-1-9 "Lottery ticket" defined

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 9. "Lottery ticket" means any evidence issued by the commission to prove participation in a game conducted by the

commission. *(State Lottery Commission; 65 IAC 3-1-9; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 96; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-1-10 "On-line game" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 10. "On-line game" means a lottery game distributed through retailer-located terminals which are connected to a central computer by telecommunications lines. *(State Lottery Commission; 65 IAC 3-1-10; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 96; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-1-11 "On-line ticket" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 11. "On-line ticket" means a lottery ticket issued in a computerized game. *(State Lottery Commission; 65 IAC 3-1-11; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 96; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-1-12 "Person" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 12. "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. *(State Lottery Commission; 65 IAC 3-1-12; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 96; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-1-12.5 "Pull-tab game" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 12.5. "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. *(State Lottery Commission; 65 IAC 3-1-12.5; 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)*

65 IAC 3-1-12.6 "Pull-tab ticket" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 12.6. "Pull-tab ticket" means a lottery ticket in a pull-tab game. *(State Lottery Commission; 65 IAC 3-1-12.6; 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)*

65 IAC 3-1-13 "Retailer" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 13. "Retailer" means a person, other than an agency or political subdivision of the state, who sells lottery tickets on behalf of the commission pursuant to a retailer contract. *(State Lottery Commission; 65 IAC 3-1-13; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 97; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-1-14 "Retailer contract" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 14. "Retailer contract" means the contract entered into by the commission and a retailer for the sale of lottery tickets. *(State Lottery Commission; 65 IAC 3-1-14; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 97; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-1-14.5 "Telephone prize" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 14.5. "Telephone prize" means a prize which has been designated by the director to be awarded on the basis of a telephone call by the player of an instant game. *(State Lottery Commission; 65 IAC 3-1-14.5; emergency rule filed Oct 7, 1991, 2:00 p.m.: 15 IR 112; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-1-15 "Terminal" defined
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-8

Sec. 15. "Terminal" means a device which is authorized by the commission to function in an on-line, interactive mode with a central computer system for the purpose of issuing on-line tickets and entering, receiving, and processing lottery transactions. *(State Lottery Commission; 65 IAC 3-1-15; emergency rule filed May 7, 1990, 2:10 p.m.: 13 IR 1735; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

Rule 2. General Provisions

65 IAC 3-2-1 Certificate of authority not a vested right
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 1. The possession of a certificate of authority issued by the commission to any person to act as a retailer in any capacity is a 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 person 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. *(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)*

Rule 3. Retailer Contracts

65 IAC 3-3-1 Eligibility
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 1. (a) The commission shall not enter into a retailer contract with 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.

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

(5) The person is a corporation, partnership, or limited partnership which has an officer, director, or partner who is related to any employee 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) The director may make a preliminary determination 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 the director until the commission itself has made a final determination of such matters.

(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)*

65 IAC 3-3-2 Application for retailer contract for instant games

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

(c) Each applicant shall submit an application indicating each proposed instant ticket sales location along with 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.

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

65 IAC 3-3-3 Award of contracts

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 3. (a) The commission shall contract with retailers for the sale of instant tickets and for the sale of on-line tickets and pull-tab tickets. A retailer contract for the sale of on-line tickets or pull-tab tickets may be in the form of an amendment to a retailer contract for the sale of instant tickets, or all of the contracts for a single retailer may be combined into one (1) or more documents.

(b) The commission shall enter into contracts with retailers for instant games for periods of not less than one (1) year. Contracts for instant games shall be renewable based on a schedule determined by the commission. A nonrefundable renewal fee may be required in an amount established by the commission. No certificate of authority shall be issued for any renewal retailer contract for instant games until the renewal fee, if required, is paid to the commission and updated information on the retailer is submitted as may be required by the security division of the commission.

(c) The commission shall contract with each retailer for on-line games for a period of not less than one (1) year. Contracts for on-line games shall be renewable based on a schedule determined by the commission. A nonrefundable renewal fee may be required in an amount established by the commission. No certificate of authority shall be issued for any renewal retailer contract for on-line games until the renewal fee, if required, is paid to the commission and updated information on the retailer is submitted as may be required by the security division of the commission.

(d) A retailer contract for pull-tab games initially executed by the commission shall expire on the same date as the expiration of the retailer's contract for instant games. Thereafter, the commission shall contract with each retailer for pull-tab games for a period of not less than one (1) year, with the contract term beginning and ending on the same dates as the retailer's contract for instant games. Contracts for pull-tab games shall be renewable based on a schedule determined by the commission. A nonrefundable renewal fee may be required in an amount established by the commission. No certificate of authority shall be issued for any renewal retailer contract for pull-tab games until the renewal fee, if required, is paid to the commission and updated information on the

retailer is submitted as may be required by the security division of the commission. *(State Lottery Commission; 65 IAC 3-3-3; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 98; emergency rule filed Jan 24, 1990, 4:00 p.m.: 13 IR 1069; emergency rule filed May 7, 1990, 2:10 p.m.: 13 IR 1735; 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; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:27 p.m.: 26 IR 40, eff Aug 29, 2002)*

65 IAC 3-3-4 Certificate of authority

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 4. (a) The commission shall issue a certificate of authority to each retailer for purposes of display. The certificate of authority shall bear the name of the contracted retailer and the address of the contracted premises and the types of lottery tickets the retailer is authorized to sell at the contracted premises. The certificate of authority shall be posted in a conspicuous location on the premises accessible to the public.

(b) No certificate of authority is assignable or transferrable between persons or locations.

(c) In the sole discretion of the director, a retailer may obtain a certificate of authority for the sale of lottery tickets at temporary special events by filing an application which sets forth details concerning the proposed location of the temporary business and the length of the special event.

(d) In the sole discretion of the director, a retailer who has filed an application under section 5.5 or 5.6 of this rule to change location, structure, taxpayer identification number, and/or ownership may obtain a temporary certificate of authority for the sale of lottery tickets while the application is pending. A temporary certificate of authority issued during the pendency of an application for change of location of a retailer licensed to sell only instant tickets shall be valid for a maximum of thirty (30) days. Any other type of temporary certificate of authority shall be valid for a maximum of ninety (90) days. At the sole discretion of the director, a temporary certificate of authority may be renewed for another period of up to the same duration upon its expiration. *(State Lottery Commission; 65 IAC 3-3-4; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 98; emergency rule filed May 7, 1990, 2:10 p.m.: 13 IR 1735; 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; 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)*

65 IAC 3-3-5 Notice of changes of location, entity, or ownership

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 5. (a) A retailer must disclose to 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 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 changes.

(b) The commission shall be notified immediately of the occurrence or pending occurrence of the incapacitation, death, dissolution, or filing of a voluntary or involuntary petition in bankruptcy of the retailer or any other person listed on the retailer's application.

(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)*

65 IAC 3-3-5.5 Change of location

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.

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

(c) In the director's sole discretion, 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 certificate of authority which has been automatically suspended under this section. *(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)*

65 IAC 3-3-5.6 Change of control, ownership, or entity structure

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 5.6. (a) For purposes of this section, the following terms have the meanings indicated:

(1) "Change of control" means a change, in a single transaction or a series of transactions, whereby additional owners gain control of fifty percent (50%) or more of the ownership interest of a retailer.

(2) "Significant change of ownership" means a change, in a single transaction or a series of transactions, whereby additional owners gain control of at least five percent (5%) but less than fifty percent (50%) of the ownership interest of a retailer.

(3) "Change of entity structure" means a change in one (1) or more of the following:

(A) The taxpayer identification number of a retailer.

(B) The jurisdiction in which the retailer was organized.

(C) The form of a retailer's business organization (such as, but not limited to, a sole proprietorship, partnership, or corporation).

(b) Any change of control of a retailer authorized to sell lottery tickets will automatically suspend the retailer's contract and the certificate of authority unless the requirement for a new contract has been waived as provided in subsection (e). Except as provided in subsection (d), 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 a new retailer contract with the commission.

(c) Any significant change of ownership or change of entity structure 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 significant change of ownership or change of entity structure or the requirement for an amendment has been waived as provided in subsection (e). Except as provided in subsection (d), 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.

(d) In the director's sole discretion, a retailer who is otherwise authorized to sell lottery tickets may be temporarily authorized to sell tickets following a change of control, significant change of ownership, or change of entity structure prior to issuance of a new certificate of authority and the execution of a new retailer contract or an amendment to the retailer contract as required by this section.

(e) In the director's sole discretion, the director may waive the requirements of this section with respect to a particular change in control, significant change of ownership, or change of entity structure or type of change in control, significant change of ownership, or change of entity structure and prospectively or retroactively reinstate any retailer's contract or certificate of authority which has been automatically suspended under this section. *(State Lottery Commission; 65 IAC 3-3-5.6; emergency rule filed Apr 19, 1993, 5:00 p.m.: 16 IR 2195; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-3-6 Loss of contract or certificate of authority
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 6. (a) Upon the loss, mutilation, or destruction of any retailer contract or certificate of authority, the retailer holding such contract or certificate of authority shall apply to the commission for a duplicate.

(b) The application for duplicate retailer contract or certificate of authority shall consist of a statement signed under oath or penalty of perjury stating the details of the circumstances under which the retailer contract or certificate of authority was lost, mutilated, or destroyed, and a certification that such retailer contract or certificate of authority was, in fact, lost, mutilated, or destroyed.

(c) The application for duplicate retailer certificate of authority shall be accompanied by a fee as specified in 65 IAC 1-1-18. There is no fee for a duplicate retailer contract.

(d) The existing pieces of any mutilated or partially destroyed retailer contract or certificate shall be surrendered to the commission at the time application for a duplicate retailer contract or certificate of authority is made.

(e) If a lost retailer contract or certificate of authority is found after a duplicate has been issued, such retailer contract or certificate of authority shall be immediately surrendered to the commission. If such retailer contract or certificate of authority is found prior to the issuance of duplicate, the retailer shall immediately inform the commission and the commission shall cancel the application for duplicate retailer contract or certificate of authority and return the duplicate application fee. *(State Lottery Commission; 65 IAC 3-3-6; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 99; emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1728; emergency rule filed Apr 19, 1993, 5:00 p.m.: 16 IR 2195; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-3-7 Termination of retailer contract
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

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) The director may terminate a retailer contract or suspend a retailer for a period of time specified by the director from receiving and selling tickets, or reject any later-filed application for a new contract, if the retailer fails to comply with the terms of the retailer contract, or for any of, but not limited to, the following reasons:

(1) The retailer has provided false or misleading information in obtaining a retailer contract and 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.
(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) The retailer has endangered the security 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) The retailer has failed to accurately account for lottery tickets, revenues, or prizes as required by the commission.
(9) The retailer has failed to remit or is delinquent in remitting money owed to the commission.
(10) The retailer has endangered the efficient operation of the commission or any lottery game.
(11) 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) 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.
(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) The retailer has violated any rule or regulation promulgated by the commission.
(19) The retailer has violated any directive or instruction issued by the director.
(20) The retailer has violated any provision of IC 4-30.
(21) 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 of the public interest.
(22) The retailer has materially changed any factor considered by the commission in selecting the retailer.
(23) The retailer has engaged in conduct prejudicial to public confidence in the lottery.
(24) The retailer has sold lottery tickets for a lottery game prior to the date announced for the commencement of sales for that lottery game.
(25) The retailer knowingly fails to enter a play in an on-line game into the commission's central computer system upon the request of a ticket purchaser.
(26) The retailer knowingly cancels an on-line ticket without being requested to do so by the owner of the on-line ticket.
(27) The retailer is licensed to sell pull-tab tickets and no longer satisfies the requirements of section 10(f) of this rule.

(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.
(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)

65 IAC 3-3-7.5 Deactivation of on-line terminal or bar code reader
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 7.5. The commission may deactivate the on-line terminal or bar code reader 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 is illegal or contrary to the best interests of the lottery.
(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)

65 IAC 3-3-8 Application for retailer contract for on-line games
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 8. (a) This section shall apply only to retailer contracts for the sale of on-line tickets.

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

(c) Each applicant shall submit an application indicating each proposed lottery ticket sales location. The applicant shall, upon approval of the application, pay a nonrefundable fee as specified in 65 IAC 1-1-18.

(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) Any person that seeks a retailer contract as a retailer for on-line tickets shall bear the burden of securing approval of any other person, board, commission, agency, agent, instrumentality or political subdivision of the state or the United States which may have controlling authority over the application.

(g) An application will be considered active for one (1) year after it is submitted. An applicant whose application has been on file with the commission for more than one (1) year may reapply by completing a new application or such other forms as may be prescribed by the director. *(State Lottery Commission; 65 IAC 3-3-8; emergency rule filed Jan 24, 1990, 4:00 p.m.: 13 IR 1071; emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1728; 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 2196; errata filed Jun 24, 1993, 10:00 a.m.: 16 IR 2620; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-3-9 Commission determinations regarding retailer contracts for on-line games

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 9. (a) In selecting retailers for on-line tickets, the commission may consider the following factors in addition to the factors specified in section 1 of this rule:

(1) The applicant's volume of instant ticket sales.

(2) The distribution of retailers for on-line tickets throughout the state and the geographic area serviced by the applicant, and the sufficiency of retailers for on-line tickets to serve the public convenience at any particular location in the state.

(3) The average number of customers who visit an applicant's place of business.

(4) The applicant's hours of operations.

(5) The capability and willingness of an applicant to pay prizes up to the maximum amount payable by retailers at various times during the day.

(6) The capability and willingness of an applicant to promote the sale of lottery tickets.

(7) An applicant's proposed location for the terminal to sell on-line tickets.

(8) The financial stability of an applicant.

(9) Any problems the commission has experienced with an applicant's electronic funds transfer account for instant games.

(10) The degree to which an applicant uses display materials for instant games.

(11) The sales potential for on-line tickets by the applicant.

(b) The commission may limit the number of on-line ticket retailers. The commission shall encourage small and minority businesses to apply to be on-line retailers.

(c) The commission may in its discretion condition the selection of an applicant as an on-line retailer on reimbursement by the applicant to the commission of all or any portion of the cost of the equipment, supplies, and services to be used by the applicant as an on-line retailer and may use different forms of retailer contracts for on-line retailers to reflect such conditions. *(State Lottery Commission; 65 IAC 3-3-9; emergency rule filed Jan 24, 1990, 4:00 p.m.: 13 IR 1071; emergency rule filed Sep 24, 1998, 3:40 p.m.: 22 IR 473; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-3-10 Retailer contracts for pull-tab games

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 10. (a) This section applies only to retailer contracts for the sale of pull-tab tickets.

(b) Any person interested in obtaining a certificate of authority for the sale of pull-tab tickets shall first file an application on

such form or forms as may be approved by the director.

(c) Each applicant shall submit an application indicating each proposed lottery ticket sales location. The applicant must first be a licensed retailer of instant tickets or simultaneously apply to be a licensed retailer of instant tickets. Notwithstanding the foregoing, the director may, at the director's discretion, authorize an applicant to sell only pull-tab games from its lottery ticket sales location.

(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 or to any other location.

(f) The commission may enter into a single retailer contract with a retailer to sell pull-tab and instant tickets.

(g) Any person that seeks a retailer contract as a retailer for pull-tab tickets shall bear the burden of securing approval of any other person, board, commission, agency, agent, instrumentality, or political subdivision of the state or the United States which may have controlling authority over the applicant. *(State Lottery Commission; 65 IAC 3-3-10; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1037; emergency rule filed Apr 14, 1992, 5:00 p.m.: 15 IR 1972; emergency rule filed Jan 12, 1994, 5:00 p.m.: 17 IR 1110; errata filed Mar 18, 1994, 9:30 a.m.: 17 IR 1889; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:27 p.m.: 26 IR 40, eff Aug 29, 2002)*

Rule 4. Retailer Operations

65 IAC 3-4-1 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 retailer may return opened and unopened instant ticket packages to the commission for credit against liability owed or 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.

(c) 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 by the commission.

(d) Retailers shall be required, at the commission's sole discretion, to order and receive lottery tickets 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.

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

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

(g) The commission may require retailers to 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) Funds from the sale of lottery tickets 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 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 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) 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. *(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)*

65 IAC 3-4-2 Retailer's responsibilities

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 2. Retailers shall be required to:

(1) Provide certain specified services, including the sale and issuance of lottery tickets.

(2) Sell lottery tickets for all lottery games requested to be sold by the commission.

(3) Adhere to the terms of IC 4-30 and the rules, regulations, policies, and procedures of the commission.

(4) Validate and redeem winning lottery tickets to the extent required by this article.

(5) Prominently display all point-of-sale materials supplied by the commission, which, at a minimum, may include the following:

(A) A door decal supplied by the commission and mounted on or near the main entrance or entrances which shall be visible to potential customers prior to their entry into the location, advising them of the availability of lottery tickets at the location.

(B) A lottery ticket purchase reminder supplied by the commission which shall be located at or near each purchase location.

(C) Any posters supplied by the commission which inform lottery ticket purchasers of new lottery games, rules for playing any lottery games, and current drawing information.

(D) Any brochures supplied by the commission which explain lottery games being offered to the lottery ticket purchasers, which shall be made available to customers at or near each purchase location.

(6) Post in a conspicuous location on the premises accessible to the public a statement supplied by the commission of the estimated odds of winning some prize for each lottery game.

(7) Upon the theft, loss, destruction, or damage of lottery tickets, immediately notify the division of security of the commission by telephone and take all reasonable steps to protect the remaining lottery tickets from further damage or loss.

(8) If equipment has been installed on the retailer's premises to read bar code information on instant tickets, the retailer shall take actions required by the commission with respect to that equipment, which, at a minimum, includes the following:

(A) Providing space for the equipment together with such electrical and telecommunication service as shall be specified by the commission at a location on the retailer's premises approved by the commission.

(B) Attending all training sessions required by the commission at sites announced by the commission.

(C) Properly caring for the equipment at the retailer's location and taking reasonable safeguards against damage to or theft of the equipment.

(D) Refraining from attempting to perform any mechanical or electrical maintenance or repairs on the equipment at the retailer's location except as authorized by the commission.

(E) Providing reasonable access to the retailer's premises to employees of the commission and to other persons designated by the director to service the equipment at the retailer's location.

(State Lottery Commission; 65 IAC 3-4-2; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 101; errata, 13 IR 1860; emergency rule filed Sep 3, 1992, 9:00 a.m.: 16 IR 75; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)

65 IAC 3-4-2.5 On-line retailer's responsibilities

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 2.5. In addition to satisfying the requirements of section 2 of this rule, retailers for on-line games shall be required to do the following:

(1) Provide a space for a terminal together with such electrical and telecommunications service as shall be specified by the commission at a location on the retailer's premises approved by the commission.

(2) Maintain an adequate supply of play slips, claim forms, pencils, and brochures at the location of the terminal.

(3) Attend all training sessions required by the commission at sites announced by the commission.

(4) Properly care for the terminal at the retailer's location and take reasonable safeguards against damage to or theft of the terminal or any supplies.

(5) Refrain from attempting to perform any mechanical or electrical maintenance or repairs on the terminal at the retailer's location except as authorized by the commission.

(6) Promptly change ribbons, replenish ticket stock, and clear paper jams as required on the terminal at the retailer's location.

(7) Provide reasonable access to the retailer's premises to employees of the commission and to other persons designated by the director to service the terminal at the retailer's location.

(State Lottery Commission; 65 IAC 3-4-2.5; emergency rule filed May 7, 1990, 2:10 p.m.: 13 IR 1737; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)

65 IAC 3-4-2.6 Pull-tab retailer's responsibilities

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 2.6. In addition to satisfying the requirements in section 2 of this rule, retailers for pull-tab games shall retain all invoices, accounting materials, and informational materials about any pull-tab game so long as the retailer is selling pull-tab tickets for the pull-tab game. A retailer selling tickets for a pull-tab game shall complete and display all informational material supplied by the commission with respect to the pull-tab game so long as the retailer is selling pull-tab tickets for the pull-tab game. *(State Lottery Commission; 65 IAC 3-4-2.6; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1039; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-4-2.7 Additional responsibilities of instant ticket retailers

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 2.7. In addition to satisfying the requirements of section 2 of this rule, retailers for instant games shall be required to do the following:

(1) At such times as the commission shall direct, redeem winning instant tickets for all instant prizes up to five hundred ninety-nine dollars ($599) notwithstanding the location at which the instant ticket was purchased.

(2) At the discretion of the director, install one (1) telephone or communications line (which shall not be a line for a pay telephone) per selling location as required for operation of lottery equipment.

(State Lottery Commission; 65 IAC 3-4-2.7; emergency rule filed Jun 26, 1992, 5:00 p.m.: 15 IR 2466; errata filed Aug 27, 1992, 9:00 a.m.: 16 IR 65; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)

65 IAC 3-4-3 Sale of lottery tickets

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30

Sec. 3. (a) Retailers are prohibited from selling a lottery ticket or lottery tickets to anyone under the age of eighteen (18).

(b) Except as otherwise required by this rule, a retailer shall sell valid lottery tickets and shall redeem winning lottery tickets for prizes of less than or equal to twenty-five dollars ($25) during normal business hours and such additional hours as the retailer desires for the location contracted with the commission. Nothing in this rule shall prevent a retailer from having different business hours for each separately contracted location.

(c) The retailer may not sell a lottery ticket at any price other than that fixed by the regulations of the commission. No person

other than a retailer or a retailer's employee may sell tickets.

(d) Without prior commission approval, a retailer may not receive tickets to be sold by the retailer from anyone except an authorized commission representative.

(e) All ticket sales shall be final. The 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.

(f) Instant tickets shall not be sold after the announced termination date of the instant game or after the date of the final drawing held in any instant game unless otherwise provided herein or publicly announced by the commission.

(g) On-line tickets shall not be sold after the date of the drawing for which they were designated.

(h) A retailer may sell lottery tickets and accept payment for sales of lottery tickets only at the location stated on its certificate of authority and shall indicate on each lottery ticket sold the name of the retailer and the retailer identification number shown on the certificate of authority as assigned to the retailer by the commission.

(i) The commission may act as a retailer and may, as a retailer, conduct promotions which involve the dispensing of lottery tickets free of charge.

(j) Retailers shall hold the director, the commission, its employees, and the state harmless from any liability arising in connection with operating and conducting lottery ticket sales.

(k) The director may limit or terminate the sale of on-line tickets by a retailer for a particular selection event if the director finds that the manner of sales by the retailer with respect to the particular selection event may compromise the operation or integrity of the lottery of the state of Indiana, be prejudicial to the public confidence in the lottery, or constitute illegal activity under local, state, or federal laws. *(State Lottery Commission; 65 IAC 3-4-3; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 102; emergency rule filed Oct 2, 1989, 2:10 p.m.: 13 IR 301; emergency rule filed Mar 19, 1992, 8:30 a.m.: 15 IR 1401; errata filed Jun 4, 1992, 1:00 p.m.: 15 IR 2256; emergency rule filed Sep 3, 1992, 9:00 a.m.: 16 IR 76; emergency rule filed Jul 28, 1994, 5:00 p.m.: 17 IR 2902; emergency rule filed Dec 18, 2000, 1:15 p.m.: 24 IR 1365; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-4-4 Procedure for awarding prizes

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 4. (a) Upon the presentation of a lottery ticket 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 a valid instant ticket within the meaning of 65 IAC 4-1-14, a valid on-line ticket within the meaning of 65 IAC 5-1-12, or a valid pull-tab ticket within the meaning of 65 IAC 6-1-9.

(b) Each instant, on-line, and pull-tab ticket shall contain a unique bar code. A winning instant ticket, on-line, or pull-tab ticket shall be further validated and redeemed in the following manner:

(1) If an instant ticket, on-line 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 ticket, on-line ticket, or pull-tab ticket as a winning lottery ticket with the bar code reader and shall redeem a valid winning instant ticket, on-line ticket, or pull-tab ticket notwithstanding the location at which the ticket was purchased.

(2) If an instant ticket, on-line ticket, or pull-tab ticket is entitled to a prize of less than or equal to six hundred dollars ($600), a retailer may, within its discretion, validate the instant ticket, on-line ticket, or pull-tab ticket as a winning lottery ticket with the bar code reader and may redeem, within its discretion, a valid winning instant ticket, on-line 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 redeem an instant 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 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 on-line 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. Holders of winning instant game tickets and pull-tab game tickets shall have the right to claim instant prizes for sixty (60) days after the end of the instant game or pull-tab game in which the prize was won and shall have the right to claim telephone prizes for sixty (60) days after the telephone play in which the telephone prize was won. Winners of prizes awarded pursuant to 65 IAC 4-3-10 shall have the right to claim those prizes for sixty (60) days after the prize is won, unless a longer or shorter period is determined and announced pursuant to that section. 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.

(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)*

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

(b) In addition to the commissions 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 sales, number of lottery tickets redeemed, or the sale of winning lottery tickets.

(c) 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)

65 IAC 3-4-6 Delivery of tickets
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9

Sec. 6. A retailer shall notify the commission of the names and addresses of one (1) or more persons in the retailer's business who are authorized by the retailer to request and receive delivery of tickets. *(State Lottery Commission; 65 IAC 3-4-6; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 103; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

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 retailer, or any relative living in the same household with a retailer, may purchase a lottery ticket at the premises where the retailer is authorized to sell lottery tickets. No employee of a retailer, or any relative living in the same household with an employee of a retailer, may purchase a lottery ticket at the premises at which the employee is employed.

(b) No person shall 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 retailer shall 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 retailer shall 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 retailer shall enter into any agreement or arrangement to give preference in the sale of lottery tickets to a purchaser based on the number of lottery tickets sold or to be sold to that purchaser. *(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)*

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 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.

(b) The commission may impose an additional weekly fee in an amount specified by the commission on retailers licensed to sell on-line tickets whose average weekly gross sales of on-line 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 on retailers licensed to sell on-line tickets whose average weekly gross sales of on-line 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)*

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:

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

(2) Payment of a service charge as specified in 65 IAC 1-1-18.

(3) Payment of 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)*

Rule 5. Retailer Claims and Appeals

65 IAC 3-5-1 Application
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-21.5; IC 4-30-7; IC 4-30-9

Sec. 1. Pursuant to IC 4-21.5-2-5(11), decisions by the commission or the director with respect to retailer contracts are not subject to IC 4-21.5. In lieu thereof, retailers or applicants shall follow the procedures of and have the remedies available under this rule in the event of a protest of any decision of the commission or the director or a claim under a retailer contract with the commission. *(State Lottery Commission; 65 IAC 3-5-1; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 104; emergency rule filed Nov 20, 1989, 10:05 a.m.: 13 IR 681; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-5-2 Denial of application; appeal
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-7; IC 4-30-9

Sec. 2. If an application of an applicant to become a retailer for any type of lottery game, to renew a retailer contract, or to change ownership or location is denied, or if the certificate of authority of a retailer is revoked, the retailer or applicant may appeal the decision by filing a written appeal complying with section 4 of this rule within seventy-two (72) hours after the decision is received by the retailer or applicant. A decision mailed to a retailer or applicant by first-class United States mail shall be presumed, subject to rebuttal, to have been received by the retailer three (3) days after the date the decision was mailed. *(State Lottery Commission; 65 IAC 3-5-2; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 104; emergency rule filed May 7, 1990, 2:10 p.m.: 13 IR 1738; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1040; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-5-3 Retailer contract claims
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-7; IC 4-30-9

Sec. 3. (a) A retailer may file a written claim with the director for money or other relief in connection with a retailer contract. Any such claim by a retailer shall be filed no later than thirty (30) days after the payment is alleged to be due in connection with the retailer contract.

(b) Nothing in this section shall prohibit a retailer from continuing to perform under a retailer contract while a claim is pending. The commission shall not delay payment to a retailer of undisputed amounts as a result of the filing of a claim under this section.

(c) The director shall issue a decision on a claim within thirty (30) days after the claim was filed. The director shall state the reasons for denial of any claim filed under this section. A copy of the decision shall be mailed by certified or registered mail, return receipt requested, to the retailer who filed the claim. The director may order that a retailer be given relief from administrative procedures, liquidated damages, or failure to follow contract formalities when the director determines that such relief is in the best interests of the lottery and consistent with the integrity of the lottery.

(d) A retailer whose claim is denied by the director may appeal the decision by filing a written appeal complying with section 4 of this rule within seventy-two (72) hours after receipt of the decision. *(State Lottery Commission; 65 IAC 3-5-3; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 104; errata, 13 IR 1860; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-5-4 Notice of appeal

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-7; IC 4-30-9

Sec. 4. (a) A notice of appeal shall be filed by mailing a notice of appeal to the director at the principal office of the director in Indianapolis by registered or certified mail, return receipt requested, or by delivering the notice of appeal to the principal office of the director in Indianapolis. Filing by registered or certified mail shall be effective upon mailing.

(b) A notice of appeal shall be in writing and shall state the following:

(1) The decision which is being appealed.

(2) The grounds for the appeal.

(3) The retailer identification number as shown on the certificate of authority of a retailer, or the application number of an applicant who is denied a certificate of authority involved in the appeal.

(4) Any other information necessary to identify the retailer contract or application involved in the appeal.

(c) A retailer or prospective retailer who files a notice of appeal may file a supplemental statement of reasons for appeal within ten (10) days after the date the notice of appeal was filed. Such a supplemental statement of reasons shall explain more fully the basis of the appeal but shall not raise any grounds for appeal not included in the notice of appeal. A retailer or prospective retailer who files a notice of appeal which does not contain specific citation to any statutes or regulations which the notice of appeal alleges were violated shall file a supplemental statement setting forth such specific citations. A supplemental statement of reasons for appeal shall be filed in the same manner as a notice of appeal.

(d) The director may prescribe a form or forms which shall be used by any retailer or prospective retailer who files a notice of appeal unless good cause is shown that use of the form was impossible or impractical in the situation. *(State Lottery Commission; 65 IAC 3-5-4; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 104; emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1730; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-5-5 Hearing procedures

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-21.5; IC 4-30-7; IC 4-30-9

Sec. 5. (a) All hearings shall be conducted by the director or by another person (who may be an employee of the commission) appointed by the director to act as a hearing officer to hear appeals in place of the director and to exercise the powers of the director in conducting the hearing and recommending a decision to the director with respect to the appeal. The person presiding at a hearing shall be known as the hearing judge. Hearing judges shall conduct hearings with due regard for the rights of all parties as well as the facts and the law, and consistent with the orderly and prompt dispatch of proceedings.

(b) The director shall decide to hear the appeal personally or appoint a hearing judge within ten (10) days after the notice of appeal is filed. The hearing judge shall conduct a hearing on every appeal within forty-five (45) days after the notice of appeal is filed. All parties to an appeal or claim shall be given at least five (5) days' notice of the time and place of the hearing, unless all parties to the appeal or claim agree to a shorter notice period. All hearings shall be held in Indianapolis, Indiana, unless the hearing judge orders otherwise.

(c) The commission and the appellant shall be the parties to any appeal under this rule. Only the appellant, employees of the commission, and such other persons as the hearing judge orders may participate in the hearing of an appeal.

(d) Hearings of appeals shall be informal and shall not be conducted like trials. The Indiana Rules of Trial Procedure, IC 4-21.5, and the rules of evidence shall not apply to the conduct of hearings. Parties may be, but shall not be required to be, represented by counsel.

(e) The hearing judge may exclude evidence upon a determination that it is repetitive or not relevant to the appeal. The commission shall issue subpoenas authorized by law to private parties upon request, upon a simple statement of the general relevance and reasonable scope of the testimony or other evidence sought. Hearing judges shall have the power to administer oaths and affirmations and to regulate the course of hearings or the conduct of the parties. The hearing judge may limit the number of witnesses or the length of testimony or oral presentations in order to hear the appeal in a reasonable amount of time. The hearing judge may ask questions at any time, but the hearing judge shall not question the appellant in closed session.

(f) All hearings shall be open to the public. The hearing judge may adjourn the public hearing to discuss and reach a decision in private. All hearings shall be electronically recorded, and the recordings shall be kept with the records of the commission for at least sixty (60) days after the date of the hearing. A court reporter may be used at the request of any party to the hearing at the expense of such party. The court reporter's transcript shall be given to the hearing judge at no expense to the commission, unless the court reporter was requested by the commission, its employees, or the hearing judge, and the transcript shall become a part of the records of the commission.

(g) Unless the hearing judge orders otherwise, hearings shall be conducted in the following order:

(1) The appellant will explain the reasons for the appeal and the desired relief.

(2) The appellant will present witnesses and evidence, and the commission staff will be able to ask questions of each witness.

(3) The staff of the commission will present other witnesses and evidence relevant to a determination of the appeal, and the appellant will be able to ask questions of each witness.

(4) After all evidence has been presented, the hearing judge shall adjourn the hearing to reach a decision in private.

(State Lottery Commission; 65 IAC 3-5-5; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 104; emergency rule filed Nov 20, 1989, 10:05 a.m.: 13 IR 682; emergency rule filed Apr 14, 1992, 5:00 p.m.: 15 IR 1967; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)

65 IAC 3-5-6 Hearing judge's decision

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-7; IC 4-30-9

Sec. 6. (a) If the hearing judge is other than the director, the hearing judge shall recommend a decision to the director. The hearing judge shall issue a written decision within thirty (30) days after the hearing date if a court reporter was not used at the hearing, and within thirty (30) days after a transcript of the hearing is received by the hearing judge if a court reporter is used at the hearing and a transcript is prepared. The hearing judge is not required to have a transcript prepared even if a court reporter was used at a hearing.

(b) The decision shall include as much detail as the hearing judge determines is necessary to explain the reasons for the decision and shall be signed by the hearing judge. If the hearing judge was not the director, the hearing judge's decision shall be delivered to the director, who may issue the decision as written or modify it in any manner (including changing the prevailing party) before issuing the final decision. A copy of the director's decision shall be mailed to the appellant. *(State Lottery Commission; 65 IAC 3-5-6; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 105; emergency rule filed Apr 14, 1992, 5:00 p.m.: 15 IR 1968; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-5-7 Rehearing

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-7-2; IC 4-30-9

Sec. 7. (a) Any retailer or applicant aggrieved because of the decision of an appeal under this rule may be granted a rehearing before the commission for the purpose of presenting evidence, facts, or reasons why the decision on appeal should be modified or reversed. To apply for a rehearing, the party requesting the rehearing shall within seventy-two (72) hours from receipt of notice of

the decision of the appeal file a written request with the director, who shall forward the request to the chairman. The decision to grant a rehearing is wholly within the discretion of the commission. The commission may in its discretion grant a rehearing notwithstanding the failure to file a written request within seventy-two (72) hours as required by this subsection if the commission determines there was good cause for the failure to file. A rehearing shall be conducted in a manner similar to a hearing under section 5 of this rule and shall be presided over by the chairman or another member of the commission designated by the commission. The decision of the commission after a rehearing or the decision to deny a rehearing shall be deemed to be a decision by the commission and exhaustion of all administrative appeals under IC 4-30-7-2.

(b) If as a result of a decision of an appeal under this rule the commission would enter into a retailer contract (or an existing retailer contract would not be terminated) with a retailer who has been convicted of, or entered a plea of guilty or nolo contendere to, (or if the retailer is a corporation, partnership, or limited partnership, with a retailer which has a controlling person who has 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, then the decision shall automatically be submitted to the commission for a rehearing. The decision to have a rehearing is wholly within the discretion of the commission. If a rehearing is held, it shall be conducted in the same manner as a rehearing under subsection (a). The decision of the commission after a rehearing or the decision not to have a rehearing shall be deemed to be a decision by the commission and exhaustion of all administrative appeals under IC 4-30-7-2. *(State Lottery Commission; 65 IAC 3-5-7; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 105; emergency rule filed Jan 24, 1990, 4:00 p.m.: 13 IR 1072; emergency rule filed Apr 14, 1992, 5:00 p.m.: 15 IR 1968; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-5-8 Legal action

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-7; IC 4-30-9

Sec. 8. Nothing in this rule shall prevent the director or the commission from taking legal action against a retailer or applicant at any time. *(State Lottery Commission; 65 IAC 3-5-8; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 106; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-5-9 Computation of time; delivery

Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-7-1; IC 4-30-9

Sec. 9. (a) In computing any period of time prescribed or allowed by this rule, by IC 4-30-7-1, or by order of the director or the commission pursuant to this rule, the hour (if the time period is stated in terms of hours) or day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included unless it is one (1) of the following:

(1) A Saturday.
(2) A Sunday.
(3) A legal holiday as defined by state statute.
(4) A day the principal office of the director in Indianapolis is closed during regular business hours.

In any event, the period runs until the corresponding time of the next day that is not a Saturday, a Sunday, a legal holiday, or a day on which the office is closed.

(b) The delivery of any document pursuant to this rule, pursuant to IC 4-30-7-1, or pursuant to an order of the director or the commission under this rule shall be made by one (1) of the following methods:

(1) Delivering the document personally or by courier.
(2) Mailing the document by registered or certified mail, return receipt requested.
(3) Transmitting the document by facsimile followed by delivery or mailing as described in subdivision (1) or (2).

Delivery by registered or certified mail is deemed made at 8:00 a.m., Indianapolis time, on the day after the day of mailing. Delivery by facsimile transmission is deemed made at 8:00 a.m., Indianapolis time, on the day of receipt of the facsimile transmission. Delivery in person or by courier is deemed made at 8:00 a.m., Indianapolis time, on the day of receipt. *(State Lottery Commission; 65 IAC 3-5-9; emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1730; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

65 IAC 3-5-10 Request for ruling (Repealed)

Sec. 10. *(Repealed by State Lottery Commission; filed Dec 7, 1992, 5:00 p.m.: 16 IR 1196)*

65 IAC 3-5-10.1 Request for ruling
Authority: IC 4-30-3-7; IC 4-30-3-9
Affected: IC 4-30-9-3

Sec. 10.1. A prospective applicant to be a retailer may request a determination regarding such prospective applicant's qualification under IC 4-30-9-3(4) to enter into a contract with the commission to be a retailer by filing a request for ruling with the commission on such forms as the director may determine. Upon the filing of a request for ruling, a hearing shall be scheduled before the director, with the prospective retailer applicant having the same rights as an appellant under 65 IAC 3-5-5. A decision on the request for ruling shall be issued in the same manner provided for appeals under section 6 of this rule. Any ruling by the director must be approved or denied by the commission or the commission may permit, within its discretion, a rehearing in the manner provided in section 7 of this rule. Any ruling by the director is binding on the commission only to the extent of the facts presented at the hearing and appearing in the record of the hearing or in the decision. *(State Lottery Commission; 65 IAC 3-5-10.1; emergency rule filed Dec 7, 1992, 5:00 p.m.: 16 IR 1196; errata filed Feb 8, 1993, 1:00 p.m.: 16 IR 1514; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268)*

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