

ARTICLE 3. RETAILERS

Rule 1. Definitions

65 IAC 3-1-1 Applicability (Repealed)

Sec. 1. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-2 "Applicant" defined (Repealed)

Sec. 2. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-2.5 "Bar code" defined (Repealed)

Sec. 2.5. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-3 "Certificate of authority" defined (Repealed)

Sec. 3. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-4 "Commission" defined (Repealed)

Sec. 4. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-4.5 "Controlling person" defined (Repealed)

Sec. 4.5. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-5 "Director" defined (Repealed)

Sec. 5. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-6 "Instant game" defined (Repealed)

Sec. 6. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-6.5 "Instant prize" defined (Repealed)

Sec. 6.5. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-7 "Instant ticket" defined (Repealed)

Sec. 7. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-8 "Lottery game" defined (Repealed)

Sec. 8. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-9 "Lottery ticket" defined (Repealed)

Sec. 9. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-10 "On-line game" defined (Repealed)

Sec. 10. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-11 "On-line ticket" defined (Repealed)

Sec. 11. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-12 "Person" defined (Repealed)

Sec. 12. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-12.5 "Pull-tab game" defined (Repealed)

Sec. 12.5. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-12.6 "Pull-tab ticket" defined (Repealed)

Sec. 12.6. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-13 "Retailer" defined (Repealed)

Sec. 13. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-14 "Retailer contract" defined (Repealed)

Sec. 14. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-14.5 "Telephone prize" defined (Repealed)

Sec. 14.5. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-1-15 "Terminal" defined (Repealed)

Sec. 15. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

Rule 2. General Provisions

65 IAC 3-2-1 Certificate of authority required

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

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

(b) A certificate of authority is a revocable privilege and not a legal right. A certificate of authority issued by the commission does not entitle a person to enter into a contract to sell lottery products.

(c) No person shall sell lottery products without:

- (1) a certificate of authority issued by the commission; and
- (2) an executed written retailer contract between the person and the commission;

where neither has been terminated, suspended, cancelled, or revoked.

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

- (1) selling lottery products directly to the public; or
- (2) obtaining a concession to sell lottery products on the premises of another.

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

Rule 3. Retailer Contracts

65 IAC 3-3-1 Eligibility

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

Sec. 1. (a) The commission shall not issue a certificate of authority to any person:

- (1) prohibited from becoming a retailer under IC 4-30-9-3, except that the requirement found in IC 4-30-9-3(1) applies only to a natural person or sole proprietor;
- (2) not registered or duly qualified to do business in Indiana;
- (3) who is a director, officer, or employee of a major procurement vendor;
- (4) related to any employee or member of the commission as husband, wife, or child; or
- (5) who is a corporation, partnership, or limited partnership that has an officer, member, director, or partner that is related to any employee or member of the commission in any capacity set forth in subdivision (4).

(b) The commission shall make all determinations regarding the matters set forth in IC 4-30-9-3(4)(B) or IC 4-30-9-3(4)(C). The director or the director's designee may make a final determination on all other matters regarding eligibility or selection of an applicant to become a retailer and the issuance or renewal of a certificate of authority. *(State Lottery Commission; 65 IAC 3-3-1; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 97; emergency rule filed Jan 24, 1990, 4:00 p.m.: 13 IR 1068; emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1725; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: 20071212-IR-065070656RFA; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA; emergency rule filed Jul 29, 2010, 3:51 p.m.: 20100804-IR-065100492ERA)*

65 IAC 3-3-2 Application for certificate of authority

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

Sec. 2. (a) Any person interested in obtaining a certificate of authority for the sale of lottery products shall first file an application on such form or forms as may be approved by the director.

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

(c) A single applicant may apply for certificates of authority for multiple selling locations using one (1) application as long

as each selling location is identified in the application.

(d) Each applicant shall submit, in conjunction with its application, payment of a nonrefundable application fee, as specified in section 2.2 of this rule.

(e) Any person that seeks a certificate of authority or retailer contract shall secure approval or authorization from any person, board, commission, agency, agent, or instrumentality which may have controlling authority over the applicant.

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

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

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

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

(j) An application for a certificate of authority will be considered active for only one (1) year after it is submitted and will be closed without action by the commission if the applicant has not provided all fees or information necessary for the commission to make a determination of eligibility within that time. An applicant whose application has been closed must reapply by completing a new application and paying all necessary application fees. (*State Lottery Commission; 65 IAC 3-3-2; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 98; emergency rule filed Oct 2, 1989, 2:10 p.m.: 13 IR 300; emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1727; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1035; emergency rule filed Apr 14, 1992, 5:00 p.m.: 15 IR 1970; emergency rule filed Apr 19, 1993, 5:00 p.m.: 16 IR 2193; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: 20071212-IR-065070656RFA; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA*)

65 IAC 3-3-2.2 Retailer fees

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

Affected: IC 4-30-9

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

(1) If the retailer will sell all lottery products, the nonrefundable application fee is one hundred dollars (\$100) per each ticket selling location.

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

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

(c) If a certified retailer under contract with the commission requires a duplicate or amended certificate of authority for display under section 2.5(c) of this rule, the retailer must pay to the commission a fee in the amount of ten dollars (\$10) prior to a duplicate or amended certificate of authority being issued. (*State Lottery Commission; 65 IAC 3-3-2.2; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA; emergency rule filed Jul 29, 2010, 3:51 p.m.: 20100804-IR-065100492ERA*)

65 IAC 3-3-2.5 Selection of retailers; posting of certificate of authority

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

Affected: IC 4-30-9-2

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

(1) The considerations provided in IC 4-30-9-2.

(2) The average number of customers who visit the potential retailer.

(3) The hours of operations of the potential retailer.

(4) The capability and willingness to sell all lottery products provide by the commission.

RETAILERS

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

(6) The capability and willingness to promote the sale of lottery products independently or in cooperation with the commission.

(7) The capability and willingness to comply with the provision of IC 4-30 and this title.

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

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

(d) A certificate of authority shall bear the:

(1) Name of the retailer.

(2) Physical address of the premises.

(3) Expiration date of the certificate of authority.

(State Lottery Commission; 65 IAC 3-3-2.5; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA; emergency rule filed Jul 29, 2010, 3:51 p.m.: 20100804-IR-065100492ERA)

65 IAC 3-3-2.8 Expiration or renewal of certificate of authority

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

Affected: IC 4-30-9

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

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

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

(d) A retailer may be required to pay a nonrefundable renewal fee with its application for renewal, as specified in section 2.2 of this rule. *(State Lottery Commission; 65 IAC 3-3-2.8; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA; emergency rule filed Jul 29, 2010, 3:51 p.m.: 20100804-IR-065100492ERA)*

65 IAC 3-3-3 Award of contracts (Repealed)

Sec. 3. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-3-4 Certificate of authority (Repealed)

Sec. 4. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-3-5 Notice of changes

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

Affected: IC 4-30-9

Sec. 5. (a) A retailer shall notify the commission in writing at least thirty (30) calendar days in advance of the occurrence of any of the following changes:

(1) Voluntary cancellation or termination of the retailer contract by the retailer or otherwise ceasing business operations or the sale of lottery products, either permanently or temporarily.

(2) A change in the designated bank account in which the retailer has deposited funds from the sale of lottery products or from which payments are made.

(3) Any proposed change in a selling location for which a certificate of authority is issued.

(4) Any proposed change in the controlling ownership interest of the retailer, whether through an asset purchase, stock purchase, merger, or acquisition.

(5) Any change in the form of a retailer's business organization, such as, but not limited to, a sole proprietorship, partnership,

corporation, or limited liability company.

(6) Any change in the taxpayer identification number of the retailer.

(b) A retailer shall notify the commission immediately after the occurrence of the following:

(1) The incapacitation or death of a sole proprietor, partner, or majority owner.

(2) The dissolution of the retailer or filing of a voluntary or involuntary petition in bankruptcy.

(3) A change in any of the information submitted to the commission in the retailer's most recent application or renewal form.

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

(State Lottery Commission; 65 IAC 3-3-5; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 98; emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1727; emergency rule filed Apr 14, 1992, 5:00 p.m.: 15 IR 1971; emergency rule filed Apr 19, 1993, 5:00 p.m.: 16 IR 2193; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: 20071212-IR-065070656RFA; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA; emergency rule filed Jul 29, 2010, 3:51 p.m.: 20100804-IR-065100492ERA)

65 IAC 3-3-5.5 Change of location; temporary certificates of authority

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

Affected: IC 4-30-9

Sec. 5.5. (a) Each lottery ticket sales location of a retailer must be a fixed location.

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

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

(d) A retailer who is otherwise authorized to sell lottery products may be temporarily authorized by the director to sell products at a new location prior to issuance of an amended certificate of authority at the new location.

(e) The director may issue a temporary certificate of authority to a retailer for the sale of lottery products at a special event in accordance with any procedures prescribed by the director.

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

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

(h) A temporary certificate of authority may be revoked by the director at any time. *(State Lottery Commission; 65 IAC 3-3-5.5; emergency rule filed Apr 19, 1993, 5:00 p.m.: 16 IR 2194; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: 20071212-IR-065070656RFA; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

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

Sec. 5.6. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-3-5.7 Change of ownership or entity structure

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

Affected: IC 4-30-9

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

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

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

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

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

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

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

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

prior to the issuance of the new or amended certificate of authority. *(State Lottery Commission; 65 IAC 3-3-5.7; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-3-6 Loss of contract or certificate of authority (Repealed)

Sec. 6. (Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)

65 IAC 3-3-7 Revocation or suspension of certificate of authority

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

Affected: IC 4-30; IC 35-45-5

Sec. 7. (a) The director may:

- (1) revoke a certificate of authority;
- (2) suspend a certificate of authority for a period of time, as specified by the director;
- (3) refuse to renew a certificate of authority; or
- (4) reject any later-filed application for a new or amended certificate of authority;

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

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

- (1) The retailer provided false or misleading information in obtaining a retailer contract or certificate of authority.
- (2) The retailer no longer meets the eligibility requirements found in IC 4-30 or this article.
- (3) The retailer endangered the security, integrity, or efficient operation of the commission or any lottery game.
- (4) The retailer failed to accurately account for lottery tickets, revenues, or prizes as required by the commission.
- (5) The retailer failed to remit or is delinquent in remitting money owed to the commission or the electronic funds transfer of a retailer is dishonored.
- (6) The retailer committed any fraud, deceit, or misrepresentation to the commission or to any individual purchasing a lottery ticket from the retailer.
- (7) The retailer sold a lottery ticket at any place other than the place authorized and specified in the retailer's contract, certificate of authority, or temporary certificate of authority.
- (8) The retailer violated any rule or regulation promulgated by the commission.
- (9) The retailer violated any written policy directive issued by the director.
- (10) The retailer failed to comply with or materially breached the terms of the retailer contract.
- (11) The retailer has violated any provision of IC 4-30 or IC 35-45-5.
- (12) The retailer is a person whose character is no longer consistent with the dignity and integrity of the state of Indiana.
- (13) The retailer materially changed any factor considered by the commission in selecting the retailer.
- (14) The retailer engaged in conduct prejudicial to public confidence in the lottery.
- (15) The retailer sold lottery tickets for a lottery game prior to the date announced for the commencement of sales for that lottery game or sold tickets after date announced as last sales date for that game.
- (16) The retailer knowingly and without reasonable cause refuses to provide a lottery product upon the request and payment of the ticket price by a ticket purchaser.

RETAILERS

(17) The retailer knowingly cancels a draw ticket without being requested to do so by the owner of the draw ticket.

(18) The retailer knowingly retains an employee involved in the sale of lottery products who has been convicted of a criminal offense related to the security or integrity of the commission or a lottery in any other jurisdiction.

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

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

(d) A retailer may not receive or sell lottery products at any location where its certificate of authority for that location is either suspended or has been revoked. *(State Lottery Commission; 65 IAC 3-3-7; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 99; emergency rule filed Nov 20, 1989, 10:05 a.m.: 13 IR 680; emergency rule filed Jan 24, 1990, 4:00 p.m.: 13 IR 1070; emergency rule filed May 7, 1990, 2:10 p.m.: 13 IR 1736; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1036; errata filed Mar 10, 1992, 11:00 a.m.: 15 IR 1393; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: 20071212-IR-065070656RFA; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA; emergency rule filed Jul 29, 2010, 3:51 p.m.: 20100804-IR-065100492ERA)*

65 IAC 3-3-7.5 Deactivation of draw terminal

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

Affected: IC 4-30

Sec. 7.5. The commission may limit or deactivate the draw terminal or other lottery equipment of a retailer if the commission determines that any of the following is occurring:

(1) The retailer is using the equipment to purchase, sell, or redeem tickets in a manner contrary to IC 4-30 or this title.

(2) The retailer is using the equipment to generate tickets for a drawing which has already taken place.

(3) The equipment is malfunctioning.

(4) The retailer is using the equipment improperly.

(5) The retailer is engaging in any activity with the equipment which may compromise the operation or integrity of the lottery, is prejudicial to the public confidence in the lottery, is contrary to the best interests of the lottery, or constitutes activity that is illegal under local, state, or federal laws.

(6) The retailer fails to hold money received by the retailer from the sale of lottery products in trust or fails to deliver or transfer payment to the commission under IC 4-30 and this title.

(State Lottery Commission; 65 IAC 3-3-7.5; emergency rule filed Sep 3, 1992, 9:00 a.m.: 16 IR 74; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: 20071212-IR-065070656RFA; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)

65 IAC 3-3-8 Application for retailer contract for on-line games (Repealed)

Sec. 8. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

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

Sec. 9. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

65 IAC 3-3-10 Retailer contracts for pull-tab games (Repealed)

Sec. 10. *(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)*

Rule 4. Retailer Operations

65 IAC 3-4-1 Ticket sales; retailer accountability

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

Affected: IC 4-30-11-2

Sec. 1. (a) A retailer may return opened and unopened scratch-off ticket packages to the commission for credit against liability owed or a refund, at the commission's discretion. A retailer may not return opened or unopened pull-tab ticket packages for refund or credit except with the prior consent of the director.

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

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

- (1) The retailer immediately notified the division of security of the commission of the theft in accordance with subsection (b).
- (2) The retailer maintained records of their ticket inventory in accordance with the duties of this article and the terms of the retailer contract at the time of the loss such that the stolen tickets were reasonably identified.
- (3) The retailer does not receive or retain any other compensation for the loss of the stolen tickets whether by restitution, a claim on an insurance policy, or by any other form of indemnity.

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

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

(e) Retailers shall be required, at the commission's sole discretion, to order and receive lottery products in the manner prescribed by the commission. The commission will determine the time and manner of reimbursement by the retailer. A retailer shall not accept lottery tickets to be sold by the retailer from anyone except an authorized commission representative.

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

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

(h) Retailers must establish electronic funds transfer accounts in conjunction with the retailer's bank account for purposes of receiving money from ticket sales, making payments to the commission, and receiving payments from the commission.

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

(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 products and the amount paid out as prizes, shall be held in a bank account prior to collection by the commission.

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

(l) A retailer shall sell 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 tickets shall be transferred from one (1) retailer location to another for sale.

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

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

(o) A retailer shall provide:

- (1) employees of the commission; and
- (2) other persons designated by the director to service lottery equipment;

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

(p) The director may require that a retailer submit to the commission an audit report conducted by an independent certified public accountant on the retailer's lottery activities. The retailer shall be responsible for the cost of only the first such audit in any one (1) term of a certificate of authority. (*State Lottery Commission; 65 IAC 3-4-1; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 100; emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1728; emergency rule filed Jan 30, 1991, 4:15 p.m.: 14 IR 1288;*

emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1038; emergency rule filed Sep 3, 1992, 9:00 a.m.: 16 IR 74; emergency rule filed Jul 7, 1995, 10:00 a.m.: 18 IR 2799; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: 20071212-IR-065070656RFA; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)

65 IAC 3-4-2 Retailer's responsibilities (Repealed)

Sec. 2. (Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)

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

Sec. 2.5. (Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)

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

Sec. 2.6. (Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)

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

Sec. 2.7. (Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)

65 IAC 3-4-3 Sale of lottery tickets (Repealed)

Sec. 3. (Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)

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 to a retailer with validation capabilities for prize payment, the retailer shall verify that it is visually consistent with the features of a winning ticket and examine it for any alteration. A retailer shall not make any payment on a ticket that does not meet the validation requirements of this title.

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

(1) If a scratch-off ticket, draw ticket, or pull-tab ticket is entitled to a prize of less than or equal to twenty-five dollars (\$25), a retailer shall validate the scratch-off ticket, draw ticket, or pull-tab ticket as a winning lottery ticket with the bar code reader and shall redeem a valid winning scratch-off ticket, draw ticket, or pull-tab ticket notwithstanding the location at which the ticket was purchased.

(2) If a scratch-off ticket, draw ticket, or pull-tab ticket is entitled to a prize of less than or equal to five hundred ninety-nine dollars (\$599) but greater than twenty-five dollars (\$25), a retailer may, only upon validating the scratch-off ticket, draw ticket, or pull-tab ticket as a winning lottery ticket with the bar code reader, redeem the valid winning scratch-off ticket, draw ticket, or pull-tab ticket notwithstanding the location at which the ticket was purchased.

(c) A retailer who does not sell instant tickets but has a bar code reader issued by the commission may redeem a scratch-off ticket or pull-tab ticket presented for prize payment. A retailer who does not sell draw tickets shall not redeem a draw 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 five hundred ninety-nine dollars (\$599), shall be paid with cash, check, or money order, at the retailer's discretion.

RETAILERS

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) A retailer shall not pay any claim to a person who is under the age of eighteen (18) and shall refer any claims made by minors to the commission.

(f) If a retailer pays any claim on a ticket which was not a winner for any reason, the retailer will be held responsible to the commission for the improper payment. The retailer may seek reimbursement from the person whose name appears on the back of the ticket and that person shall reasonably reimburse the retailer.

(g) If a lottery ticket appears altered, torn, misprinted, illegible, or damaged, a retailer is not required to validate the ticket and shall refer the player to the commission. (*State Lottery Commission; 65 IAC 3-4-4; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 102; emergency rule filed May 7, 1990, 2:10 p.m.: 13 IR 1737; emergency rule filed Oct 7, 1991, 2:00 p.m.: 15 IR 112; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1039; errata filed Feb 25, 1992, 11:00 a.m.: 15 IR 1222; emergency rule filed Sep 3, 1992, 9:00 a.m.: 16 IR 77; errata, 16 IR 751; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:27 p.m.: 26 IR 41, eff Aug 29, 2002; readopted filed Nov 14, 2007, 3:02 p.m.: 20071212-IR-065070656RFA; emergency rule filed Jun 30, 2009, 10:10 a.m.: 20090701-IR-065090483ERA, eff Jul 1, 2009; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA; emergency rule filed Jul 29, 2010, 3:51 p.m.: 20100804-IR-065100492ERA*)

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 compensation of five and one-half percent (5.5%) of the valid lottery ticket price of each scratch-off ticket or pull-tab ticket sold by such retailer, subject to deduction for returns as may be allowed under this article. A retailer shall be entitled to compensation of six percent (6%) of the valid draw ticket price of each draw ticket sold by such retailer, subject to deduction for cancellations as may be allowed under this article.

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

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

(d) No retailer or employee of a retailer shall request, demand, or accept gratuities or similar compensation in exchange for the performance of duties authorized pursuant to the retailer's contract. (*State Lottery Commission; 65 IAC 3-4-5; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 103; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1040; emergency rule filed Jul 29, 1992, 10:00 a.m.: 15 IR 2599; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:27 p.m.: 26 IR 42, eff Aug 29, 2002; readopted filed Nov 14, 2007, 3:02 p.m.: 20071212-IR-065070656RFA; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA; emergency rule filed Jul 29, 2010, 3:51 p.m.: 20100804-IR-065100492ERA*)

65 IAC 3-4-6 Delivery of tickets (Repealed)

Sec. 6. (*Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA*)

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) A retailer, or any relative living in the same household with a retailer, shall not purchase a lottery ticket at the premises where the retailer is authorized to sell lottery products nor redeem such a ticket. An employee of a retailer, or any relative living in the same household with an employee of a retailer, shall not purchase a lottery ticket at the premises at which the employee is employed nor redeem such a ticket.

(b) A person shall not use point-of-sale materials issued by the commission or otherwise hold himself or herself out as a retailer without being authorized by the commission to act as a retailer.

RETAILERS

(c) A retailer shall not extend credit or lend money for the purchase of a lottery ticket. This provision shall not be construed to prohibit the purchase of a lottery ticket through the use of a credit or charge card or other instrument issued by a bank, savings association, credit union, or charge card company.

(d) A retailer shall not sell a lottery ticket for delivery at a location other than that specified on the retailer's certificate of authority unless all of the following are true:

(1) Delivery of goods or services other than lottery tickets at locations other than that specified on the retailer's certificate of authority occurs in the ordinary course of the retailer's business.

(2) The retailer has sold and is delivering to the purchaser of the lottery ticket a good or service other than the lottery ticket.

(3) The delivery is within the state of Indiana.

(4) Payment is made at or before the time of delivery.

(e) A retailer shall not enter into any agreement or arrangement to give preference in the sale of lottery products to a purchaser based on the number of lottery tickets sold or to be sold to that purchaser.

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

(g) Scratch-off tickets shall not be sold after the announced termination date of the scratch-off game or after the date of the final drawing held in any instant game.

(h) Draw game tickets shall not be sold after the date of the drawing for which they were designated. (*State Lottery Commission; 65 IAC 3-4-7; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 103; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 408; emergency rule filed Mar 19, 1992, 8:30 a.m.: 15 IR 1401; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: 20071212-IR-065070656RFA; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA; emergency rule filed Jul 29, 2010, 3:51 p.m.: 20100804-IR-065100492ERA*)

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 draw tickets shall pay a minimum weekly service charge to the commission in the amount of ten dollars (\$10).

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

(c) The commission may impose an additional weekly fee in the amount of ten dollars (\$10) on retailers licensed to sell draw tickets whose average weekly gross sales of draw tickets are greater than or equal to one thousand dollars (\$1,000) but less than two thousand dollars (\$2,000). (*State Lottery Commission; 65 IAC 3-4-8; emergency rule filed May 7, 1990, 2:10 p.m.: 13 IR 1738; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: 20071212-IR-065070656RFA; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA; emergency rule filed Jul 29, 2010, 3:51 p.m.: 20100804-IR-065100492ERA, eff Aug 29, 2010*)

65 IAC 3-4-9 Settlement delinquencies

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

Affected: IC 4-30

Sec. 9. If a check or electronic funds transfer of a retailer is dishonored or the retailer fails to make timely payment of any amount owed to the commission for any reason, the commission may:

(1) impose a delinquency charge for late payment of amounts due the commission in an amount up to fifty dollars (\$50);

(2) charge simple interest on the amount due from the designated day of collection to the day of payment at the rate of twelve percent (12%) per annum; and

(3) require all payments be made by money order or certified check.

(*State Lottery Commission; 65 IAC 3-4-9; emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1729; emergency rule filed Jan 19, 1996, 2:00 p.m.: 19 IR 1375; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; readopted filed Nov 14, 2007, 3:02 p.m.: 20071212-IR-065070656RFA; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA; emergency rule filed Jul 29, 2010, 3:51 p.m.: 20100804-IR-065100492ERA*)

Rule 5. Retailer Claims and Appeals (Repealed)

(Repealed by State Lottery Commission; emergency rule filed Dec 18, 2009, 10:05 a.m.: 20091230-IR-065090989ERA)

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