

Document: Emergency Rule

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TITLE 65 STATE LOTTERY COMMISSION

LSA Document #00-332(E)

DIGEST

Amends 65 IAC 3-4-3 concerning the sale of lottery tickets. Effective December 18, 2000.

65 IAC 3-4-3

SECTION 1. 65 IAC 3-4-3 IS AMENDED TO READ AS FOLLOWS:

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. ~~or may conduct such promotions including, but not limited to, "free ticket promotions", "test market promotions", and "de minimis free ticket promotions" through retailers in accordance with subsection (k).~~
- (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 commission may conduct promotions through retailers in accordance with the following:~~
- ~~(l) A retailer may dispense lottery tickets free of charge, at a reduced rate, or as contest prizes, and may conduct a "free ticket~~

promotion", "test market promotion", or "de minimis free ticket promotion" so long as the retailer first obtains the prior written approval of the commission; in accordance with this subsection:

(2) A free ticket promotion means any program or arrangement under which the commission, by credit, compensation, or otherwise, permits or enables one (1) or more, but less than all, retailers to sell a lottery ticket or tickets to the public at an effective cash price which is less than the price of such ticket or tickets as otherwise established by the commission. By way of example and not limitation, and subject to the following exclusions, a promotion in which the commission provides credit to the retailer, reimbursing the retailer and allowing the sale of six (6) tickets for the price of five (5) without the retailer's paying the commission for the sixth ticket is a free ticket promotion:

(3) A free ticket promotion shall not include any program or arrangement under which one (1) or more retailers, but not more than three (3) retailer locations under common or related ownership, is permitted or enabled by the commission to give away or offer at a reduced cash price per ticket fewer than two thousand (2,000) tickets per location and which occurs over a time period which does not exceed a total of ninety-six (96) hours in duration. A retailer location may utilize this de minimis exclusion only once in any consecutive twelve (12) month period.

(4) A free ticket promotion shall not include any program or arrangement under which the commission authorizes one (1) or more retailers to conduct what would otherwise be a free ticket promotion except that such promotion is either:

(A) of a character substantially different from any free ticket promotion or other promotion previously conducted by the commission in the effected geographic area in terms of rules of operation, effective price of tickets, or otherwise; or

(B) conducted in a geographic region or retailer category in which there has been no free ticket promotion in at least six (6) months.

Such test market promotions shall not exceed four (4) weeks in duration. All test market promotions shall be made available to all retailers in each participating region or category on the same terms and at the same time.

(5) No application or written authorization shall be required for a retailer to participate in any promotion which is offered by the commission to all retailers on the same terms and at the same time.

(6) The commission shall conduct no free ticket promotions except upon written application and in exchange for consideration from the retailer or retailers involved. The requirement for a written application and consideration shall not apply to de minimis or test market promotions. At least annually the commission shall publish and disseminate to all retailers guidelines for the commission's acceptance of applications for written approval to conduct free ticket promotions, including, but not limited to, acceptable consideration, application procedures, and forms. The guidelines may permit consideration other than cash.

(7) Any complaint or grievance by a retailer about a free ticket or test market promotion conducted by the commission, including, but not limited to, a dispute over the granting or denying of an application or whether a promotion may be categorized as such, shall be commenced and decided solely in compliance with 65 IAC 3-5-1, et seq., and not otherwise, shall be commenced within fourteen (14) days after the commission's mailing of its written ruling upon the retailer's written request, or thirty (30) days after the conclusion of the promotion if a retailer has a grievance or complaint about a promotion conducted by another retailer.

(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*)

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