

AMENDATORY SECTION (Amending WSR 07-11-154, filed 5/22/07, effective 6/22/07)

WAC 315-04-010 Lottery retailers. The director shall license as lottery retailers such persons who will best serve the public interest and convenience, promote the sale of tickets, and meet the eligibility criteria for application and licensure. "Lottery retailer," formerly known as "licensed agent," means a person licensed by the director and shall have the same meaning as licensed agent. Said lottery retailers shall be authorized to sell such tickets as in the director's opinion will promote the best interests of the commission and produce maximum revenue, but a lottery retailer need not be authorized to sell tickets for all games operated by the director. A lottery retailer or applicant may be required to post a surety bond, security deposit, or (~~cash in lieu of a bond~~) savings certificate in such terms and conditions as the director may require.

AMENDATORY SECTION (Amending WSR 00-24-100, filed 12/6/00, effective 1/6/01)

WAC 315-04-020 License application eligibility. (~~(Any person may submit an application for licensure except:~~

~~(1) No person may submit an application for licensure who is under 18 years of age.~~

~~(2) No person may submit an application who will))~~ An applicant for a lottery retail license must:

(1) Be at least eighteen years of age.

(2) Not be engaged, or intend to be engaged, exclusively in the business of selling tickets.

(3) ((No person may submit an application for licensure who is)) Not be a member or employee of the commission or who is the spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any member or employee of the commission.

(4) ((No person may submit an application who is)) Not be, or (~~(is))~~ not be owned or controlled by or affiliated with, a vendor or contractor of the commission or director for the development, operation, management, security or any other aspect of a specific game.

(5) ((No person may submit an application who is not)) Be legally registered and licensed to conduct business in the state of Washington or (~~who has not~~) have submitted an application for a business license in the state of Washington.

~~((The submission of an application shall not entitle any person to receipt of a license to act as a lottery retailer. An application may be denied for any reason permitted by statute or these rules.))~~

AMENDATORY SECTION (Amending WSR 86-01-060, filed 12/16/85)

WAC 315-04-030 License application. (1) Any eligible person may apply for a license to act as a lottery retailer by first filing with

the director (~~(an)~~) a completed application on a form approved by the director, together with any supplement thereto, which shall include, but not be limited to, authorization to investigate criminal history, financial records and financial sources, said forms and supplements to be signed under oath.

(2) The submission of an application shall not entitle any person to receive a license to act as a lottery retailer. An application may be denied for any reason permitted by statute or these rules.

AMENDATORY SECTION (Amending WSR 07-11-154, filed 5/22/07, effective 6/22/07)

WAC 315-04-060 Provisional license. A provisional license temporarily authorizes a lottery retailer to conduct the sale of tickets pending processing of the general license (~~(or application renewal)~~).

(1) The director may issue a provisional license to an applicant for a general license after receipt of a person's fully completed lottery retailer's application, the authorization of a complete personal background check, and completion of a preliminary background check. The provisional license shall expire at the time of issuance of the general license or ninety days from the date the provisional license is issued, whichever occurs first. The provisional license may be extended by the director for one additional ninety-day period of time.

(2) If the ownership of an existing lottery retailer location changes, the director may issue a provisional license to the new owner. The provisional license shall expire twenty (~~(working)~~) days from the date of issuance if the director has not received the new owner's fully completed lottery retailer's application and authorization of a complete personal background check. If the required materials have been timely received by the director and a preliminary background check has been completed, the provisional license shall expire at the time of issuance of the general license or ninety days from the date the provisional license is issued, whichever occurs first.

AMENDATORY SECTION (Amending WSR 03-11-054, filed 5/19/03, effective 6/19/03)

WAC 315-04-065 Promotional license. (1) The director may issue a promotional license for a marketing promotion for a period not exceeding one hundred eighty days for the sale of scratch and/or (~~(on-line)~~) draw game tickets.

(2) The director may establish financial and criminal history or other criteria for the issuance of a promotional license based on the duration of the promotion and the variety and quantity of tickets to be sold by the applicant.

(3) The director may waive any license fees or charges in issuing a promotional license and may establish procedures to streamline payments by promotional retailers to the lottery.

(4) Any retailer issued a promotional license must apply for and be issued a provisional/general license as set forth in this chapter

315-04 WAC and lottery policy in order to continue to sell lottery tickets after the expiration of ~~((his/her))~~ the promotional license.

AMENDATORY SECTION (Amending WSR 87-10-043, filed 5/4/87)

WAC 315-04-070 License charges. (1) A charge of twenty-five dollars shall be assessed for each license application submitted to the lottery. This charge is to ~~((reimburse))~~ offset the lottery's ~~((for))~~ processing costs incident to licensure ~~((and relicensure))~~.

(2) All fees established in this section or other sections of this Title 315 WAC, are not refundable.

AMENDATORY SECTION (Amending WSR 01-12-039, filed 5/30/01, effective 6/30/01)

WAC 315-04-085 Accessibility for persons with disabilities. Pursuant to lottery rules and policy, lottery retailers shall comply with state and federal laws prohibiting discrimination against and requiring accessibility for persons with disabilities ~~((r))~~ including, but not limited to, the Americans with Disabilities Act of 1990 and chapter 49.60 RCW. Prior to any sale of lottery tickets, new lottery retailers must certify that they comply with state and federal laws or must submit a plan that ensures that they will comply within a reasonable amount of time. ~~((Within time limits specified by the lottery, retailers who hold lottery licenses at the time this rule takes effect must certify that they comply with state and federal laws or must submit a plan that ensures that they will comply within a reasonable amount of time.))~~

AMENDATORY SECTION (Amending WSR 07-11-154, filed 5/22/07, effective 6/22/07)

WAC 315-04-090 License issuance eligibility. (1) The director may issue a license to any person to act as a lottery retailer who meets the eligibility criteria established by chapter 67.70 RCW, and these rules.

(2) Before issuing a license, the director ~~((shall))~~ may consider:

(a) The financial responsibility and security of the person and its business or activity;

(b) The results of any background check;

(c) The ~~((background and))~~ reputation of the person in the community for honesty and integrity;

~~((e))~~ (d) The type of business owned or operated by the person to ensure consonance with the dignity of the state, the general welfare of the people, and the operation and integrity of the lottery;

~~((d))~~ (e) The conformance of businesses located in residential areas to local land use and zoning codes, regulations, and ordinances;

~~((e))~~ (f) The accessibility of the person's place of business or activity to the public;

~~((f))~~ (g) The sufficiency of existing licenses to serve the public convenience;

~~((g))~~ (h) The volume of expected sales;

~~((h))~~ (i) The veracity of the information supplied in the application for a lottery retailer license; and

~~((i))~~ (j) The person's indebtedness to the state of Washington, local subdivisions of the state, and/or the United States government.

(3) The director may condition the issuance of any license upon the posting of a bond, security deposit, or ~~((cash in lieu of a bond))~~ savings certificate in such terms and conditions as the director may require.

AMENDATORY SECTION (Amending WSR 10-14-010, filed 6/24/10, effective 7/25/10)

WAC 315-04-095 Retailer credit criteria. (1) The director shall deny a lottery retailer license to any applicant whose credit is found to be poor as defined in this section.

(2) The director may grant a lottery retailer license to an applicant whose credit is rated as marginal or minimum as defined in this section. Provided, the director shall require:

(a) Applicants whose credit is rated as marginal as defined in this section to obtain a surety bond, security deposit, or savings certificate under terms and conditions established by the director prior to issuance of the license. Such surety bond must be secured from a company licensed to do business in the state of Washington. The bond, security deposit, or certificate shall be in the amount of three thousand five hundred dollars unless the director determines a higher amount is required.

(b) Applicants whose credit is rated as minimum as defined in this section may be required to obtain a surety bond or ~~((post cash in lieu of a bond))~~ security deposit under terms and conditions established by the director ~~((or submit three letters of credit to the lottery))~~ prior to issuance of a lottery retailer license. Such surety bond must be secured from a company licensed to do business in the state of Washington. The bond or cash shall be in the amount of three thousand five hundred dollars unless the director determines a higher amount is required, based on ~~((sales volume and))~~ financial solvency of the retailer.

(3) In the event the retailer's credit is rated as poor or marginal as defined in this section subsequent to the issuance of the license the director may:

(a) Revoke or suspend a retailer's license; and/or

(b) Require such a retailer to secure a surety bond from a company licensed to do business in the state of Washington, submit a security deposit, or post a savings certificate under terms and conditions established by the director. The surety bond, security deposit, or savings certificate shall be in the amount of three thousand five hundred dollars unless the director determines, based on sales volume and financial solvency of the retailer, a higher amount is required.

(4) Credit rating is defined as the ability to meet financial obligations when they become due. It includes current reporting accounts

payable and public financial record information including, but not limited to, court records((7)) and other public records up to three years prior to the lottery's credit check request, and reports from credit bureaus or other credit reporting agencies up to ((three)) two years prior to the lottery's credit check request. A significant incident may include a lien, judgment, bankruptcy, involuntary collection action, or any similar incident ((which)) that reflects on the individual's willingness and ability to pay creditors. A numerical rating of "one" represents excellent credit. A numerical rating of "nine" represents involuntary collection.

(a) A "poor" credit rating indicates public record showing three or more significant incidents within the past three years.

(b) A "marginal" credit rating indicates public record information showing one or more significant incidents within the past three years.

(c) A "minimum" credit rating indicates the information is insufficient for evaluation.

(d) An "acceptable" credit rating indicates that there have been no significant incidents in the public record within the past three years. Provided, at least three accounts must be evaluated in order to receive an "acceptable" rating.

(5) Credit rating checks shall be conducted as follows:

(a) Corporation business credit ratings shall be checked. Personal credit ratings of the corporate officers and owners of ten percent or more equity in the corporation may also be checked.

(b) Sole proprietors and partnership business credit ratings shall be checked. Personal credit ratings of:

(i) The sole proprietor and his or her spouse; or

(ii) All partners and their spouses shall also be checked.

(c) Findings shall be applied in accordance with subsections (1), (2), and (3) of this section.

(d) Financial solvency status for licensees previously required to post a surety bond, security deposit, or savings certificate under this section shall be reviewed annually by the lottery for status improvement and possible reduction or release of the requirement.

AMENDATORY SECTION (Amending WSR 07-11-154, filed 5/22/07, effective 6/22/07)

WAC 315-04-130 Death or incapacity of licensee. (1) In the event of the proven incapacity, death, receivership, bankruptcy, or assignment for benefit of creditors of any lottery retailer, upon approval of the director, the license may be transferred to a court appointed or court confirmed guardian, executor or administrator, receiver, trustee, or assignee for the benefit of creditors, who may continue to operate the activity under the license, subject to the provisions of chapter 67.70 RCW and these rules.

(2) The person to whom a license is transferred hereunder must be otherwise qualified to hold a license.

(3) The license following transfer shall be void upon that person ceasing to hold such a court appointed or court confirmed position.

(4) The director may condition the transfer of any license under this section upon the posting of a bond (~~or cash in lieu of a bond~~),

security deposit, or savings certificate in such terms and conditions as the director may require.

AMENDATORY SECTION (Amending WSR 07-11-154, filed 5/22/07, effective 6/22/07)

WAC 315-04-132 Change of business structure, ownership, or officers. (1) Every change of business structure of a person to whom a license has been issued must be reported to the lottery prior to the change. A change of business structure shall mean the change from one form of business organization to another, such as from sole proprietorship to partnership or corporation.

(2) Every substantial change of ownership of a person to whom a license has been issued must be reported to the lottery prior to the change. A substantial change of ownership shall mean the transfer of ten percent or more equity, or the addition or deletion of an owner of ten percent or more of the person.

(3) Every change of officers of a person to whom a license has been issued must be reported to the lottery not later than ten days following the effective day of the change.

(4) If the substantial change of ownership involves the addition or deletion of one or more owners or officers, the lottery retailer shall submit a license application reflecting the change(s) and any other documentation the director may require.

(5) If the substantial change of ownership involves the addition of one or more owners or officers who does not have on file with the lottery current "personal history information" and "criminal history information" forms, the director may require each such owner or officer to submit the required forms.

(6) Failure to comply with these requirements may result in suspension or revocation of the license.

AMENDATORY SECTION (Amending WSR 86-01-060, filed 12/16/85)

WAC 315-04-160 Display of material. Lottery retailers shall display lottery point-of-sale material approved by the director in a manner which is readily seen by and available to the public. Upon request, the director may make additional point-of-sale materials available to lottery retailers at no cost or at such costs as determined by the director. Lottery retailers are responsible for the maintenance and security of point-of-sale and other materials or signage provided by the lottery and accepted by the retailer. Lottery retailers may use and/or display other promotional and point-of-sale material, provided, it is in accord with the image and/or theme established by the lottery((r)) including, but not limited to, design, script style, color scheme, and logo; and it is consonant with the dignity of the state. The director may require removal of objectionable material and/or its use be discontinued.

AMENDATORY SECTION (Amending WSR 07-11-154, filed 5/22/07, effective 6/22/07)

WAC 315-04-170 Tickets convenient to public. (1) Every lottery retailer shall make the purchase of tickets convenient and readily accessible to the public.

(2) Unless otherwise agreed by the director in writing, each lottery retailer shall make tickets available for sale during its normal business hours at the location designated on its lottery retailer license, master business license, and lottery retailer contract.

AMENDATORY SECTION (Amending WSR 16-13-090, filed 6/15/16, effective 7/16/16)

WAC 315-04-180 Obligations of lottery retailers. (1)(a) Upon acceptance of a pack of instant tickets from the director, the retailer shall be responsible for the condition and security of the pack. The retailer shall hold the pack in its own safekeeping until it is ready to begin sale of the pack. Immediately prior to beginning sale, the retailer shall place the pack in "activated" status (~~(in the lottery's instant ticket accounting system (ITAS))~~) on the lottery-issued terminal. Placement in activated status designates that the tickets in the pack may be sold, and prizes in the pack may be paid. Tickets must not be sold before being placed in active status.

(b) In the event that instant tickets accepted by the retailer are lost, stolen, or in any way unaccounted for prior to their being placed in activated status (~~on ITAS~~), the retailer shall, upon discovery of their disappearance, immediately notify the director of each pack or portion of a pack so unaccounted for, lost, or stolen. The retailer may be required to provide the director a police report or other evidence of the pack's disappearance. The retailer may be charged twenty-five dollars for each pack or portion of a pack unaccounted for, lost, or stolen.

(c) A retailer may return an unopened pack, at no charge, to the director at any time prior to the pack having been placed in activated status. Within thirty days of the official end of an instant game, a retailer shall return to the director all packs never activated in that game.

(d) Upon placement of a pack in activated status, the retailer shall be liable to the director for payment for the pack, in the amount calculated under WAC 315-06-035. Payment for a pack shall be due to the director (1) no later than fifty calendar days after the pack has been placed in activated status or when eighty percent of the low tiered prizes have been validated, thereby validating the pack; or (2) payment for a pack shall be due to the director no later than twenty-one days after activation. The director shall not reimburse the retailer for any ticket losses which occur after activation of the pack from which the tickets came, except as allowed by WAC 315-04-210(2) or 315-06-190.

(e) Each lottery retailer and lottery license applicant shall sign and comply with a lottery (~~instant~~) retailer (~~agreement~~) contract. Failure to sign or to comply shall result in revocation or denial of a retailer's lottery license.

(2) Each lottery retailer shall abide by the law, these rules, and all other directives or instructions issued by the director.

(3) Each lottery retailer grants to the director an irrevocable license to enter upon the premises of the lottery retailer in which tickets may be sold or any other location under the control of the lottery retailer where the director may have good cause to believe lottery materials and/or tickets are stored or kept in order to inspect said lottery materials and/or tickets and the licensed premises.

(4) All property given, except tickets, to a lottery retailer remains the property of the director, and, upon demand, the lottery retailer agrees to deliver forthwith the same to the director. The lottery retailer also agrees to be responsible for the maintenance and security of such property.

(5) All books and records pertaining to the lottery retailer's lottery activities shall be made available for inspection and copying, during the normal business hours of the lottery retailer and between 8:00 a.m. and 5:00 p.m., Monday through Friday, upon demand by the director.

(6) All books and records pertaining to the lottery retailer's lottery activities shall be subject to seizure by the director without prior notice.

(7) No lottery retailer shall advertise or otherwise display advertising in any part of the lottery retailer's premises as a licensed location which may be considered derogatory or adverse to the operations or dignity of the lottery.

AMENDATORY SECTION (Amending WSR 07-11-154, filed 5/22/07, effective 6/22/07)

WAC 315-04-200 Denial, suspension or revocation of a license.

The director may deny an application for or suspend or revoke any license issued pursuant to these rules (~~for one or more of the following reasons~~) if:

(1) ~~((Failure))~~ The applicant, lottery retailer, or any employee or representative of the lottery retailer:

(a) Fails to meet or maintain the eligibility criteria for license application and issuance established by chapter 67.70 RCW, or these rules;

~~((2) Failure))~~ (b) Fails to account for lottery tickets received or the proceeds of the sale of tickets or to post a bond if required by the director or to comply with the instructions of the director concerning the licensed activity;

~~((3) Failure))~~ (c) Fails to pay to the lottery any obligation when due;

~~((4) Violating))~~ (d) Violates any of the provisions of chapter 67.70 RCW, or these rules;

~~((5) Failure))~~ (e) Fails to file any return or report or to keep records required by the director or by these rules;

~~((6) Failure))~~ (f) Fails to pay any federal, state, or local tax or indebtedness;

~~((7))~~ (g) Commits any fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the lottery;

~~((8) If public convenience is adequately served by other licensees;~~

~~(9) Failure))~~ (h) Fails to sell a sufficient number of tickets to meet administrative costs;

~~((10) If there is a history of thefts or other forms of losses of tickets or revenue there from;~~

~~(11) Failure))~~ (i) Fails to follow the instructions of the director for the conduct of any particular game or special event;

~~((12) Failure))~~ (j) Fails to follow security procedures of the director for the handling of tickets or for the conduct of any particular game or special event;

~~((13))~~ (k) Makes a misrepresentation of fact to the purchaser, or prospective purchaser, of a ticket, or to the general public with respect to the conduct of a particular game or special event or the status of a ticket;

~~((14) Failure))~~ (l) Fails to comply with lottery point-of-sale requirements which have been published and disseminated to lottery retailers;

~~((15) Failure or inability))~~ (m) Fails or is unable to meet financial obligations as they fall due in the normal course of business;

~~((16) If there is a))~~ (n) Delays in accounting or depositing in the designated depository the revenues from the ticket sales;

~~((17))~~ (o) Has violated, or failed or refused to comply with any of the provisions, requirements, conditions, limitations, or duties imposed by chapter 9.46 RCW (Gambling Act), or chapter 7, Laws of 1982 2nd ex. sess., or when a violation of any provisions of chapter 7, Laws of 1982 2nd ex. sess., has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;

~~((18))~~ (p) Knowingly causes, aids, abets, or conspires with another to cause any person to violate any of the laws of this state;

~~((19))~~ (q) Has obtained a license by fraud, misrepresentation, concealment, or through inadvertence or mistake;

~~((20))~~ (r) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, ~~((wilful))~~ willful failure to make required payments or reports to a governmental agency at any level, or filing false reports, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any misdemeanor, involving any gambling activity or physical harm to individuals or involving moral turpitude, or of any misdemeanor within the past six months of the license application date, or of any felony within ten years of the license application date; except as specifically provided by law, the provisions of chapter 9.96A RCW apply. However, RCW 9.96A.020 does not apply to a person who is required to register as a sex offender under RCW 9A.44.130;

~~((21))~~ (s) Makes a misrepresentation of, or fails to disclose, a material fact to the commission or director on any report, record, application form, or questionnaire required to be submitted to the commission or director. Misrepresentation of, or failure to disclose, criminal history shall be considered a material fact for purposes of this section;

~~((22))~~ (t) Denies the commission or director or their authorized representatives, including authorized local law enforcement agencies, access to any place where a licensed activity is conducted, or fails to promptly produce for inspection or audit any book, record, document, or item required by law or these rules;

~~((23))~~ (u) Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses indicated under subsection ~~((20))~~ (1)(r) of this section: Provided, That at the request of an applicant for an original license, the director may defer decision upon the application during the pendency of such prosecution or appeal;

~~((24))~~ (v) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in lottery or gambling or related activities would be inimical to the proper operation of an authorized lottery or gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management, or execution of an activity for financial gain;

~~((25))~~ (w) Is a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates probable cause to believe that the association is of such a nature as to be inimical to the policy of this state or to the proper operation of the authorized lottery or gambling or related activities in this state. For the purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are deemed criminal violations of the public policy of this state. A career offender cartel shall be defined as any group of persons who operate together as career offenders.

(2) Public convenience is adequately served by other licensees.

(3) There is a history of theft or other form of loss of tickets or revenue from the locations specified on the license or another licensed location owned or operated, in part or total, by the same licensed retailer or applicant.

AMENDATORY SECTION (Amending WSR 91-11-033, filed 5/9/91, effective 6/9/91)

WAC 315-04-205 Reapplication following license denial or revocation. Unless otherwise specified in the final decision or order, the director shall not grant a license based on reapplication less than ninety days following the agency's final decision or order of denial or revocation under WAC 315-04-200.

AMENDATORY SECTION (Amending WSR 94-11-027, filed 5/6/94, effective 6/6/94)

WAC 315-04-210 Procedure if license is terminated, suspended or revoked. (1) Upon termination, revocation, or suspension of a lottery retailer's license for any reasons whatsoever, the lottery retailer must, by a date designated by the director, render a final lottery accounting and surrender all lottery property, as well as unsold lottery tickets which have been placed in activated status, to the director.

(2) The director shall reimburse each retailer whose license is terminated, suspended, or revoked for payments made for unsold tickets which had been placed in activated status prior to termination, suspension, or revocation which the retailer returns to the director.

AMENDATORY SECTION (Amending WSR 87-01-057, filed 12/16/86)

WAC 315-04-230 Licensing of enterprises operated by or subject to jurisdiction of Indian tribes. (1) The director is authorized to license as lottery retailers businesses which are operated by federally recognized Indian tribes, or operated upon lands subject to the jurisdiction of such Indian tribes, if the tribal council of the tribe having jurisdiction has passed an ordinance or resolution agreeing to the following provisions:

(a) All matters relating to the issuance, suspension, and revocation of such license, as well as the manner in which the sale of lottery tickets is conducted by the licensee, shall be governed exclusively by the laws of the state of Washington, and no inconsistent tribal laws, ordinances, resolutions, or rules exist or will be enacted.

(b) In the event of litigation involving the issuance, suspension, or revocation of any such license, the conduct of the business as a lottery retailer, the financial relationship between any licensee and the lottery or any other matter connected with the lottery or its operation, the courts of the state of Washington shall have jurisdiction, and venue shall be proper only in Thurston County.

(c) Administrative disputes shall be submitted to the jurisdiction of the director, Washington state lottery, or any lawfully appointed designee thereof, and shall be conducted in accordance with Washington state law.

(d) Lottery employees and vendors, including investigators and enforcement officers, may enter upon trust lands and property including lands owned by the tribe or its members, solely for the purposes of conducting investigations and enforcing the provisions of chapter 67.70 RCW.

(2) A certified copy of such ordinance or resolution shall be filed along with the application for licensure of any business located on Indian lands, or operated by an Indian tribe.

(3) In the event any law of the state of Washington relating to matters contained in subsection (1) of this section is enacted, modified, or repealed, tribal laws, ordinances, resolutions, or rules must be changed to be consistent with the revised laws of the state of Washington. The director may (a) suspend licenses issued pursuant to this section pending tribal council action to make such changes, and/or (b) revoke such licenses if the required changes are not made within ninety days.