

CHAPTER 158
FORMERLY
HOUSE BILL NO. 131

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO LOTTERIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 48, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 4803 Definitions.

() "Lottery agent" or "lottery ticket sales agent" means a person whom the Director has licensed to sell lottery tickets.

() "Sports lottery agent" means a person whom the Director has licensed to conduct sports lottery games.

() "Video lottery agent" means a person whom the Director has licensed to conduct table games, video lottery games, sports lottery games, and Internet lottery games and who possesses either a horse racing meet license pursuant to Title 3 or Title 28 of the Delaware Code, a harness racing meet license pursuant to Title 3 of the Delaware Code, or both.

§ 4805 Director — Powers and duties.

(a) The Director shall have the power and the duty to operate and administer the state lottery and to promulgate such rules and regulations governing the establishment and operation of the lottery as the Director deems necessary and desirable in order that the lottery be initiated at the earliest feasible time and in order that the system shall produce the maximum amount of net revenues consonant with the dignity of the State and the general welfare of the people. The rules shall provide for all matters necessary or desirable for the efficient and economical operation and administration of the system and for the convenience of the purchasers of lottery tickets and the holders of winning tickets, and the players of all state lottery games including, but not limited to, the following:

(30) The provision of complimentary services, gifts, transportation, cash, food, nonalcoholic beverages, entertainment or any other thing of value by a video lottery agent to a guest;

(b) The Director shall also have the power and it shall be the Director's duty to:

(16) Bar, pursuant to §§ 4834 and 4835 of this title, any person from entering the premises of a video lottery agent or from participating in any capacity in the play of any table game, sports lottery game, video lottery game, or Internet lottery game, and, as applicable, procure such assistance from video lottery agents as is appropriate to enforce any such bar.

§ 4819A Restrictions on location and use of video lottery and sports lottery machines; fees.

(k)(6) The Council shall meet at least ~~2 times~~ 1 time each calendar year, at the call of the Director, the Chairperson, or a majority of the members.

§ 4824 Advisory Council on Video Lottery Planning.

(f) The Council shall meet at least ~~4 times~~ 1 time each calendar year, at the call of the Director, the Chairperson, or a majority of the members.

§ 4835 Exclusion or ejection of certain persons from video lottery facilities and Internet lottery games; exclusion of certain persons from participating in sports lottery games.

(a) The Director shall by regulation provide for the establishment of a list of persons who are to be excluded or ejected from any ~~licensed~~ video lottery agent's facility and excluded from participating in any capacity in the play of any table game, sports lottery game, video lottery game, or Internet lottery games game. Persons shall be placed on the list by order of the Director, predicated upon the filing of a petition by the Division of Gaming Enforcement. Persons shall be placed on the list if a reasonable basis exists for believing that the person's engagement in the games or presence in the facility is inimical to the interests of this ~~State~~State, or to the operation of ~~the a~~ video lottery agent's facilities, or both. Such provisions shall define the standards for exclusion and shall require the Director and the Division of Gaming Enforcement to consider any:

- (1) Prior conviction of a crime which is a felony in this State or under the laws of the United States; or a crime involving moral turpitude; or a violation of the gaming laws of any state;
- (2) Violation or conspiracy to violate any of the provisions of § 1471 of Title 11;
- (3) The failure to disclose an interest in a video lottery facility for which the person must obtain a license;
- (4) ~~Willful~~Willful evasion of fees or taxes;
- (5) Notorious or unsavory reputation which would adversely affect public confidence and trust that the Delaware Lottery is free from criminal or corruptive elements; or
- (6) Written order of a governmental agency which authorizes the exclusion or ejection of the person from an establishment at which gaming or pari-mutuel wagering is conducted.

(b) The Director also shall provide by regulation for the establishment of a list of persons who are to be excluded from participating in any capacity in the play of any sports lottery game, whether such sports lottery game is conducted at a video lottery agent's facility or a sports lottery agent's facility. The Director may place a person on the list of excluded sports lottery players by an order that shall be predicated upon the completion of an investigation conducted by the Division of Gaming Enforcement and its written report to the Director. Such regulatory provisions shall define the standards for exclusion from participation in any sports lottery games and shall require the Director to consider one or more of the following factors:

- (1) Prior conviction of a crime that is related to sports betting in any jurisdiction.
- (2) Anything that, in the opinion of the Director, would denigrate or undermine the integrity or overall soundness, financial stability, or reputation of the lottery, which may include a person's reputation, habits, and associations that may pose a threat to the public interest of the State or the reputation or effective control of the lottery.

(c)(1) The Director may issue an emergency order to exclude any person from participating in any capacity in the play of any sports lottery game if the Director finds that the person poses an immediate threat that would denigrate or undermine the integrity or overall soundness, financial stability, or reputation of the lottery, which may

include a person's reputation, habits, and associations that may pose a threat to the public interest of the State or the reputation or effective control of the lottery.

(2) An emergency order shall set forth the grounds upon which it is issued and shall be effective immediately upon issuance and shall remain in effect until further order of the Director. In addition, an emergency order to exclude a person from participating in any capacity in the play of any sports lottery game shall be served upon the excluded sports lottery player within 7 calendar days of issuance. After the Division of Gaming Enforcement completes an investigation and report to the Director that confirms the excluded sports lottery player meets the criteria of this subsection or that the excluded sports lottery player does not meet the criteria of this subsection, the Director shall issue a further order regarding the excluded sports lottery player, which order may finalize the decision to exclude the sports lottery player or reverse the decision to exclude the sports lottery player.

~~(b)~~(d) In considering placement on the exclusion list, it shall be improper to discriminate on any basis prohibited by § 711(a) of Title 19.

~~(c)~~(e) Whenever the name and description of any person is placed on a list pursuant to this section, the Director shall serve notice of such fact to such person:

- (1) By personal service;
- (2) By certified mail to the last known address of such person; or
- (3) By publication daily for 1 week in 1 of the principal newspapers published in the city of Dover and in 1 of the principal newspapers published in the city of Wilmington, Delaware.

~~(d)~~(f) Within 30 days after service by mail or in person or 60 days after the last publication, the person named may demand a hearing before the Lottery Commission and show cause why that person's name should be taken from such a list. Failure to demand a hearing within the time allotted in this section precludes the person from having an administrative hearing, but in no way affects that person's right to petition for judicial review.

~~(e)~~(g) Upon receipt of a demand for hearing, the Lottery Commission shall set a time and place for the hearing. This hearing must not be held later than 30 days after receipt of the demand for the hearing, unless the time of the hearing is changed by the Lottery Commission with the agreement of the Division of Gaming Enforcement, the Director, and the person demanding the hearing. At the hearing, the Division of Gaming Enforcement or the Director, whichever initiated the placement of the person on the exclusion list or the list of excluded sports lottery players, shall have the affirmative obligation to establish a reasonable basis that the person named for exclusion satisfies the criteria for exclusion established by this section and any regulations hereunder.

~~(f)~~(h) If, upon completion of the hearing, the Lottery Commission determines that:

(1) The Division of Gaming Enforcement or the Director has not met ~~its~~ the burden of proof, an order shall be entered requiring that the person's name be removed from the list of excluded persons or the list of excluded sports lottery players and requiring the Director to so notify all video lottery agents of the person's removal from the list.

(2) Placing the person on the exclusion list or the excluded sports lottery players list was proper, an order shall be entered to that effect, and the ~~Director~~ Lottery Commission shall serve a copy of that order on the

person so named pursuant to subsection ~~(e)~~ (e) of this section, ~~supra~~, as well as all video lottery agents. This order is subject to review in the Superior Court, which shall have exclusive jurisdiction over appeals of exclusion listings from the Lottery Commission.

~~(g)~~(i) Nothing contained in this section shall:

(1) Affect the common law right of a video lottery agent, as an owner or lessor of property, from excluding or ejecting any person from its property for any reason that is not unlawful or excluding any person from participation in Internet lottery games for any reason that is not unlawful; or

(2) Be applicable to any action undertaken by a video lottery agent in the exercise of such right.

§ 4836 Penalties for wagering by excluded persons.

(a) Any person whose name has been placed on the list of persons to be excluded from participating in any capacity in the play of any sports lottery game or the Internet lottery game or excluded or ejected from a video lottery agent's facilities facility, except for persons whose name has been placed on the self-exclusion list, who thereafter knowingly participates in any capacity in the play of any sports lottery game or Internet lottery game or enters the premises of a video lottery facility, is guilty of a class A misdemeanor.

(b) Any person whose name has been placed on the self-exclusion list, who thereafter knowingly enters a gaming area or engages in the Internet lottery, is guilty of a class A misdemeanor.

(c) A ~~licensed~~ video lottery agent shall have a duty to keep from its premises any person who is on the list of persons to be excluded from entering a video lottery facility- and shall have a duty to keep from its gaming room any person who is on the self-exclusion list. The Director may revoke, limit, condition, or suspend the license of a video lottery agent, or impose a fine or other monetary penalty, if that video lottery agent knowingly fails to exclude or eject from its premises any person placed on the list of persons to be excluded or ejected, or knowingly fails to exclude or eject from its gaming room any person on the self-exclusion list.

(d) A person who is prohibited from gaming activity by any order of the Director, or court of competent jurisdiction, or by any provision of this subchapter, including underage persons and any person on the exclusion or self-exclusion list, shall not collect, in any manner or proceeding, any winnings or recover any losses arising as a result of any prohibited gaming activity. The Director shall provide by regulation for the procedures of handling the forfeiture of any winnings or the prohibition of recovering any losses by persons prohibited from gaming activity as set forth in this subsection.

(e) In addition to any other penalty provided by law, any money or thing of value which has been obtained by any person prohibited from gaming activity in a video lottery facility shall be subject to an order of forfeiture by the Director, following notice to the prohibited person and an opportunity for the prohibited person to be heard as set forth by regulation.

(f) The Director also shall establish regulations concerning the disposition of any forfeited funds received under this section.

Approved July 23, 2019