

LAWS OF DELAWARE
VOLUME 83
CHAPTER 70
151st GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 201

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

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

Section 1. Amend § 4805, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(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:

(11) Apportionment of the total revenues accruing from the sale of tickets among:

d. Payment of earnings to the General Fund of the State;.

~~Provided, that no less than 30 percent of the total revenues accruing from the sale of tickets or shares shall be dedicated to paragraph (11)d. of this section;.~~

(24)c. The application for registration by an employee organization or key employee of such employee organization may be denied or registration revoked under the following circumstances:

1. If such employee organization or key employee of such employee organization is in violation of standards established under the Labor-Management Reporting and Disclosure Procedure Prohibition Against Certain Persons Holding Office, 29 U.S.C § 504(a);

2. The applicant's competence, honesty or integrity pose a threat to the public interest of the State or to the reputation of or effective regulation and control of the lottery based on the applicant's associations or by virtue of the fact that the applicant has been convicted of a felony crime of moral turpitude or has been arrested for an act constituting racketeering under § 1502(9)a., b.2. or b.4. through 10. of Title 11 within 10 years prior to applying for registration hereunder or at any time thereafter. Any employee or employee organization denied registration based on an arrest for an act constituting racketeering under § 1502(9)a., b.2. or b.4. through 10. of Title 11 may apply for reconsideration of registration if subsequently acquitted or a nolle prosequi is entered or the charge is otherwise dismissed. In such instances, the Lottery Office shall reconsider the applicant's registration based on the criteria previously set forth in this subsection;

3. The organization or individual has knowingly made or caused to be made any written statement to any representative of the office or the Delaware State Police or any oral response to an official inquiry by the office, its employees or agents which was at the time and in light of circumstances under which it was made false or misleading;

4. The organization or key employee thereof holds or obtains a direct financial interest in any video lottery agent, provided the employee organization is provided a 30-day period to divest of any such direct financial interest.

The ~~Delaware State Police~~ Division of Gaming Enforcement shall conduct the background checks required by this paragraph. The failure of any key employee to satisfy the requirements of paragraphs (a)(24)c.1. through 4. of this section may constitute grounds for suspension of the registration of the employee organization if the organization does not remove the key employee from the key employee's duties as defined in § 4803(o) of this title. The employee organization will be given a reasonable opportunity to remove or replace any key employee found to be in violation of paragraphs (a)(24)c.1. through 4. of this section;

~~d. All registration statements filed under this paragraph shall be valid for a 1-year period and a renewed registration form or an updated supplemental registration form must be filed annually.~~ The entity or individual filing ~~such form~~ a registration form is under a continuing duty to promptly notify the Director of any changes in disclosed information;

(25) The Director shall adopt procedures under the Delaware Administrative Procedures Act [Chapter 101 of this title] for employment investigations of the honesty, integrity, reputation and associations of office employees in order to determine that the employee's employment does not pose a threat to the public interest of the State or the integrity of the office. The procedures and any rules and regulations shall require any person seeking employment for compensation with the office for a position which has direct access to lottery ticket sales agents, video lottery agents, sports lottery agents, or vendors to submit his or her fingerprints and other relevant information in order to obtain the individual's entire federal and state criminal history record. ~~The Delaware State Police~~ Upon the Director's request, the Division of Gaming Enforcement shall conduct the investigations required under such rules and regulations. The rules and regulations shall require new employees to submit fingerprints for purposes of the state and federal criminal history checks;

(c)(1) The licenses granted pursuant to paragraph (b)(13) of this section or § 4825 of this title may be revoked or suspended for cause upon 30 days' written notice to the licensee or due to a change in ownership as set forth in those provisions, but shall otherwise not be subject to expiration or termination. "Cause" shall by way of example and not by limitation include falsifying any application for license or report required by the rules and regulations, the failure to report any information required by the rules and regulations, the material violation of any rules and regulations promulgated by the Director or any conduct by the licensee which undermines the public confidence in the video lottery system or serves the interest of organized gambling or crime and criminals in any manner. A license may be revoked for an unintentional violation of any federal, state or local law, rule or regulation provided that the violation is not cured within a reasonable time as determined by the Director; or a longer period

where the video lottery agent has made diligent efforts to cure. ~~The Secretary of Finance shall within a reasonable time, if requested, appoint a hearing officer to hold a hearing to determine whether the license should be revoked or suspended. The hearing officer's decision revoking or suspending the license shall be appealable to the Superior Court under the provisions of the Administrative Procedures Act [Chapter 101 of this title].~~—[Transferred to § 4805(c)(5)]—~~Any decision of the Director relating to the business plan or the number of video lottery machines to be awarded to licensees under § 4820(b) of this title shall be appealable under the Administrative Procedures Act in the manner of a case decision.~~ Notwithstanding the foregoing, nothing in this subsection shall otherwise prohibit the termination or revocation of a license in accordance with the rules and regulations adopted hereunder.

(2) Within 30 days after an adverse determination by the Director, the licensee seeking to appeal the revocation or suspension for cause may demand a hearing before the Lottery Commission and show cause why the Director's determination was in error. Failure to demand a hearing within the time allotted in this paragraph precludes the person from having an administrative hearing, but in no way affects his right to petition for judicial review.

(3) Upon receipt of a licensee's demand for a hearing under this subsection, 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 Director and the licensee. At the hearing, the licensee shall have the affirmative obligation to demonstrate by clear and convincing evidence that the Director's determination was in error under the criteria for cause established by this subsection and any regulations hereunder.

(4) If, upon completion of the hearing, the Lottery Commission determines that the licensee has met its burden of proof, an order to that effect shall be entered and the license shall be reinstated. If, upon completion of the hearing, the Lottery Commission finds that the licensee has not met its burden of proof, an order shall be entered to that effect. This order is subject to review in the Superior Court pursuant to the Administrative Procedures Act [Chapter 101 of this title].

(5) Any decision of the Director relating to the business plan or the number of video lottery machines to be awarded to licensees under § 4820(b) of this title shall be appealable under the Administrative Procedures Act [Chapter 101 of this title] in the manner of a case decision.

Section 2. Amend § 4807A, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) Any person seeking a license from the State Lottery Office shall be required to submit fingerprints and other necessary information in order to obtain the following:

(1) A report of the individual's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Bureau of Identification Central Repository contains no such information relating to that person; and

(2) A report of the individual's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544. ~~The State Bureau of Identification Division of~~

Gaming Enforcement shall be the intermediary for the purposes of this section and the State Lottery Office shall be the screening point for the receipt of said federal criminal history records.

(b) All information obtained pursuant to subsection (a) of this section shall be forwarded to the ~~State Lottery Office~~ Division of Gaming Enforcement, which shall access the information and make a ~~determination~~ recommendation to the Director of suitability for licensure. The person seeking licensure shall be provided with a copy of all information forwarded to the State Lottery Office pursuant to this subsection. Information obtained under this subsection is confidential and may only be disclosed to the Director and Deputy Director of the State Lottery Office. The State Bureau of Identification may release any subsequent criminal history to the ~~State Lottery Office~~ Division of Gaming Enforcement.

Section 3. Amend § 4809, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) No person shall sell a ticket for any type of lottery game at a price greater than that fixed by rule or regulation of the Director. No person other than a licensed lottery sales agent or a licensed sports lottery agent shall sell lottery tickets or shares, except that nothing in this section shall be construed to prevent any person from giving lottery tickets to another as a gift or bonus.

Section 4. Amend § 4815, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(b) All proceeds, net of proceeds returned to players pursuant to paragraph (b)(1) of this section, from the operation of the video lottery shall be electronically transferred daily or weekly at the discretion of the Lottery Director into a designated State Lottery account by the agent, and transferred to the State Lottery Fund by the Lottery on a daily or weekly basis and shall be applied as follows:

(3)c. Application of funds retained by the state lottery.--The funds retained by the state lottery shall be applied as follows: first, to the administrative costs and expenses in respect of the video lottery including, but not limited to, administrative expenses including payroll and other employment costs attributable to the operation of the video lottery by the State Lottery Office, law-enforcement and security expenses, including payroll and other employment costs of the state lottery, the Office of the Attorney General and the ~~Delaware State Police~~ Division of Gaming Enforcement, attributable to the operation by the state lottery of a video lottery; second, \$1,000,000 or 1%, whichever is greater, of the proceeds returned to the State under this paragraph (b)(3), to the Division of Substance Abuse and Mental Health of the Department of Health and Social Services for funding programs for the treatment, education and assistance of compulsive gamblers and their families; third, costs of the Administrator of Racing and racing inspectors referenced in Chapters 100 and 101 of Title 3; fourth, the State's contribution to the Delaware Standardbred Breeder's Program and Delaware Certified Thoroughbred Program (DCTP); and fifth, the remainder shall be paid into the State's General Fund.

(d) Gross table game revenue shall be electronically transferred daily or weekly at the direction of the Lottery Director into a designated state lottery account by the agent, and transferred to the State Lottery Fund by the lottery on a daily or weekly basis. Gross table game revenue shall be applied as follows:

(1) Proceeds returned to the State. — a. Except as otherwise provided by this paragraph, of gross table game revenue, there shall be returned to the State 15.5%.

b. The funds retained by the State shall be applied as follows: first, to the administrative costs and expenses of the Office, including, but not limited to, administrative expenses including payroll and other employment costs, and law-enforcement and security expenses, including payroll and other employment costs of the state lottery, the Office of the Attorney General, and the Division of Gaming Enforcement, ~~and the Delaware State Police~~; second, \$250,000 or 1%, whichever is greater, of the proceeds returned to the State under this paragraph, to the Division of Substance Abuse and Mental Health of the Department of Health and Social Services to be used exclusively for funding programs for the treatment, education and assistance of compulsive gamblers and their families; third, costs of the Administrator of Racing and racing inspectors referenced in Chapters 100 and 101 of Title 3; and fourth, the remainder shall be paid into the State's General Fund.

(e) Gross revenue from the Internet video lottery and Internet table games shall be accounted for to the State Treasurer and all proceeds, net of moneys returned to players, shall be placed into a special account known as the State Internet Lottery Fund. From the Fund, the Director shall first pay for the operation and administration of the Internet video lottery and Internet table games. Thereafter, the first \$3,750,000 of proceeds in each fiscal year shall be transferred to the State Lottery Fund for the benefit of the State. After \$3,750,000 of proceeds has been transferred to the State each fiscal year, the remaining proceeds shall be distributed as follows:

(1) The proceeds from the sales of Internet video lottery games shall be distributed pursuant to paragraphs ~~(b)(2)~~ (b)(4)b.1 – (b)(4)b.4 and (b)(3) of this section, provided that the calculations for such distribution shall be done after netting out the proceeds returned to players and administrative and vendor costs; and

Section 5. Amend § 4822, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

29 Del. C. § 4822 Annual crime report.

The State Lottery Office, with the assistance of the Attorney General's Office and the ~~State Bureau of Identification~~ Division of Gaming Enforcement, shall annually provide to the General Assembly a report detailing the crimes that occur within the communities surrounding each racetrack property, including an analysis of crimes relating to table gaming, whether in or outside the property of a video lottery facility.

Section 6. Amend § 4828, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~(e) The terms of licenses under this section shall be as follow:~~

~~(1) Initial licenses of key employees, officers, directors, and persons who own directly or indirectly 10% or more of a video lottery agent shall have a term of 2 years, and renewals of licenses of key employees shall have a term of 3 years;~~

~~(2) Initial licenses of gaming employees and sport lottery operations employees shall have a term of 3 years, and renewals of licenses of gaming employees shall have a term of 4 years; and~~

~~(3) Initial licenses of gaming room service employees shall have a term of 5 years, and renewals of licenses of gaming room service employees shall have a term of 6 years.~~

Section 7. Amend § 4829, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

~~(h) The terms of licenses under this section shall be as follows:~~

~~(1) Service companies identified in paragraph (a)(1) of this section shall be licensed for an initial term of 2 years and succeeding renewal terms of 3 years from date of issuance;~~

~~(2) Service companies identified in paragraphs (a)(2) and (a)(3) of this section shall be licensed for an initial term of 3 years and succeeding renewal terms of 4 years from date of issuance.~~

Section 8. Amend § 4831, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) It shall be unlawful for any licensed agent to employ or continue to employ an individual or service company that is required to possess a license under the provisions of this chapter, but that is not licensed. A licensed agent who violates the provisions of this section shall pay a fine imposed by the Office Director of not less than \$1,000 and not more than \$5,000. A licensed person who knowingly violates the provisions of this section is guilty of a Class A misdemeanor.

Section 9. This Act takes effect 30 days after its enactment into law.

Approved June 30, 2021