





# INTEROFFICE MEMO

Ryan Mindell, Executive Director

LaDonna Castañuela, Charitable Bingo Operations Director

**To:** Robert G. Rivera, Chairman  
Cindy Fields, Commissioner  
Mark A. Franz, Commissioner  
Clark E. Smith, Commissioner  
Jamey Steen, Commissioner

Approved

Denied

**From:** Bob Biard, General Counsel

A handwritten signature in blue ink, appearing to read "RGB", is written over the name "Bob Biard".

**Date:** September 11, 2024

**Re:** Consideration of and possible discussion and/or action, including proposal, on amendments to 16 TAC §§ 401.158 (Suspension or Revocation of License) and 401.160 (Standard Penalty Chart)

Attached is a draft rule proposal prepared for submission to the *Texas Register* for amendments to the referenced rules. The purpose of the proposed amendments is to reinforce the Commission's zero tolerance policy regarding a Texas Lottery sales agent (retailer) selling lottery tickets to a minor by requiring revocation of the retailer's license in all cases involving a violation of a law or Commission rule where the licensee intentionally or knowingly sells or offers to sell a lottery ticket to a person that the licensee knows is younger than 18 years of age. See Texas Government Code §466.3051(a) (Sale of Ticket to or Purchase of Ticket by Person Younger Than 18 Years of Age).

**Recommendation:** Staff recommends the Commission initiate the rulemaking process by publishing the attached proposed rule amendments in the *Texas Register* in order to receive public comments for a period of 30 days. Based on the *Texas Register's* current publication schedule, the comment period will begin Friday, September 27, and end Monday, October 28, and the rule change may be adopted after that date.



1           The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §§  
2   401.158 (Suspension or Revocation of License) and 401.160 (Standard Penalty Chart). The  
3   purpose of the proposed amendments is to reinforce the Commission's zero tolerance policy  
4   regarding a Texas Lottery sales agent (retailer) selling lottery tickets to a minor by requiring  
5   revocation of the retailer's license in all cases involving a violation of a law or Commission rule  
6   where the licensee intentionally or knowingly sells or offers to sell a lottery ticket to a person that  
7   the licensee knows is younger than 18 years of age. See Texas Government Code §466.3051(a)  
8   (Sale of Ticket to or Purchase of Ticket by Person Younger Than 18 Years of Age).

9           Robert Tirloni, Lottery Operations Director, has determined that for each year of the first  
10   five years the proposed amendments will be in effect, the public benefit expected is that Texas  
11   Lottery retailers will clearly understand that the penalty for selling or offering to sell a Texas  
12   Lottery ticket to a person younger than 18 years is license revocation, which is anticipated to result  
13   in enhanced protection against the sale of lottery tickets to minors.

14          Sergio Rey, Controller, has determined that for each year of the first five years the  
15   amendments will be in effect, there will be no significant fiscal impact for state or local  
16   governments as a result of the proposed amendments. There will be no adverse effect on small  
17   businesses or rural communities, micro businesses, or local or state employment. There will be no  
18   additional economic cost to persons required to comply with the amendments, as proposed.  
19   Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required  
20   because the proposed amendments will not have an adverse economic effect on small businesses  
21   or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

22          Pursuant to Texas Government Code §2001.0221, the Commission provides the following  
23   Government Growth Impact Statement for the proposed amendments. For each year of the first

1 five years the proposed amendments will be in effect, Sergio Rey, Controller, has determined the  
2 following:

3 (1) The proposed amendments do not create or eliminate a government program.

4 (2) Implementation of the proposed amendments does not require the creation of new  
5 employee positions or the elimination of existing employee positions.

6 (3) Implementation of the proposed amendments does not require an increase or decrease  
7 in future legislative appropriations to the Commission.

8 (4) The proposed amendments do not require an increase or decrease in fees paid to the  
9 Commission.

10 (5) The proposed amendments do not create a new regulation.

11 (6) The proposed amendments do not expand or limit an existing regulation.

12 (7) The proposed amendments do not increase or decrease the number of individuals  
13 subject to the rule's applicability.

14 (8) The proposed amendments do not positively or adversely affect this state's economy.

15 The Commission requests comments on the proposed amendments from any interested  
16 person. Comments may be submitted to Bob Biard, General Counsel, by mail at Texas Lottery  
17 Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by  
18 email at *legal.input@lottery.state.tx.us*. Comments must be received within 30 days after  
19 publication of this proposal in the *Texas Register* to be considered.

20 These amendments are proposed under Texas Government Code §466.015(b)(3), which  
21 requires the Commission to adopt rules governing the enforcement of prohibitions on the sale of  
22 tickets to or by an individual younger than 18 years of age, and §467.102, which authorizes the

Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

This proposal is intended to implement Texas Government Code, Chapter 466.

§401.158. Suspension or Revocation of License.

(a) (No change.)

(b) Without limiting the commission's ability to consider factors listed in §401.153(b) of this title as grounds for suspension or revocation of a license issued under this subchapter, the commission may also suspend or revoke a license for reasons including, but not limited to, any of the following:

(1) – (25) (No change.)

~~[(26) licensee intentionally or knowingly sells a ticket to a person that the licensee knows is younger than 18 years;]~~

(26) ~~[(27)]~~ licensee intentionally or knowingly sells a ticket and accepts anything for payment not specifically allowed under the State Lottery Act;

(27) ~~[(28)]~~ licensee sells tickets over the telephone or via mail order sales, establishes or promotes a group purchase or pooling arrangement under which tickets are purchased on behalf of the group or pool and any prize is divided among the members of the group or pool, and the licensee intentionally or knowingly:

(A) – (B) (No change.)

(28) ~~[(29)]~~ licensee intentionally or knowingly alters or forges a ticket;

(29) ~~[(30)]~~ licensee intentionally or knowingly influences or attempts to influence the selection of a winner of a lottery game;

(30) ~~[(31)]~~ licensee intentionally or knowingly claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or aids or agrees to aid another person or

1 persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or  
2 misrepresentation;

3 (31) [~~(32)~~] licensee intentionally or knowingly tampers with, damages, defaces, or renders  
4 inoperable any vending machine, electronic computer terminal, or other mechanical device used  
5 in a lottery game, or fails to exercise due care in the treatment of commission property;

6 (32) [~~(33)~~] licensee:

7 (A) – (D) (No change.)

8 (33) [~~(34)~~] licensee intentionally or knowingly makes a statement or entry that the person  
9 knows to be false or misleading on a required report;

10 (34) [~~(35)~~] licensee fails to maintain or make an entry the licensee knows is required to be  
11 maintained or made for a required report;

12 (35) [~~(36)~~] licensee knowingly refuses to permit the director of the Lottery Operations  
13 Division, the executive director, commission, the lottery operator, the employees or agents of the  
14 lottery operator, or the state auditor to examine the agent's books, records, papers or other objects,  
15 or refuses to answer any question authorized under the State Lottery Act;

16 (36) [~~(37)~~] licensee intentionally or knowingly makes a material and false or incorrect, or  
17 deceptive statement, written or oral, to a person conducting an investigation under the State Lottery  
18 Act or a commission rule;

19 (37) [~~(38)~~] licensee commits an offense of conspiracy as defined in the State Lottery Act;

20 (38) [~~(39)~~] licensee sells or offers for sale any interest in a lottery of another state or state  
21 government or an Indian tribe or tribal government, including an interest in an actual lottery ticket,  
22 receipt, contingent promise to pay, order to purchase, or other record of the interest;

1           (39) licensee intentionally or knowingly sells or offers to sell a ticket to a person that the  
2   licensee knows is younger than 18 years (revocation only);

3           (40) – (42) (No change.)

4   §401.160. Standard Penalty Chart.

5   (a) – (g) (No change.)

6   (h) Standard Penalty Chart.

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<b>TEXAS LOTTERY COMMISSION RETAILER REGULATORY VIOLATIONS AND RELATED PENALTIES</b>				
<b>No.</b>	<b>DESCRIPTION OF VIOLATION</b>	<b>1st OCCURRENCE</b>	<b>2nd OCCURRENCE</b>	<b>3rd OCCURRENCE</b>
<b>1st Tier Violations</b>				
1.	Licensee engages in telecommunication or printed advertising that the director determines to have been false, deceptive or misleading.	Warning Letter (Notification in writing to the licensee of the detected violation, including a warning that future violations will result in more severe administrative penalties including Suspension and/or revocation of the license.)	10-90 day Suspension	30-90 day Suspension to Revocation
2.	Licensee conditions redemption of a lottery prize upon the purchase of any other item or service.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
3.	Licensee imposes a restriction upon the redemption of a lottery prize not specifically authorized by the director.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
4.	Licensee fails to follow instructions and procedures for the conduct of any lottery game, lottery special event or promotion.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
5.	Licensee and/or its employee(s) exhibit discourteous treatment including, but not limited to, abusive language toward customers, commission employees or commission vendors.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation

6.	Licensee fails to establish or maintain reasonable security precautions regarding the handling of lottery tickets and other materials.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
7.	Licensee fails to deface a validated ticket.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
8.	Licensee sells a draw game ticket for a draw that has already taken place.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
9.	Licensee fails to follow validation procedures, including, but not limited to, paying a claim without validating the ticket, failing to pay a valid prize after validating a customer's winning ticket, or retaining a customer's winning ticket that has not been validated.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
10.	Licensee violates any directive or instruction issued by the director of Lottery Operations.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
11.	Licensee violates any express term or condition of its license not specifically set forth in this subchapter.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
12.	Licensee sells a scratch ticket from a game that has closed after the date designated for the end of the game.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
13.	Licensee refuses to refund or properly cancel a Pick 3 or Daily 4 ticket.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
14.	Licensee fails to return an exchange ticket to a prize claimant claiming a prize on a multi-draw ticket if an exchange ticket is produced by the licensee's terminal.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation

15.	Licensee fails to keep accurate and complete records of all tickets that have not been sold from confirmed, active, and settled packs.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
16.	Licensee fails to meet any requirement under §401.368, Lottery Ticket Vending Machines rule, if the licensee has been supplied with a self-service lottery ticket vending machine by the commission.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
17.	Licensee fails to take readily achievable measures within the allowed time period to comply with the barrier removal requirements regarding the ADA.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
18.	Licensee fails to prominently post license.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
19.	Licensee sells tickets that were assigned to another licensed location.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
20.	Licensee knowingly sells a ticket or pays a lottery prize to another person who is: (A) an officer or an employee of the commission; (B) an officer, member, or employee of a lottery operator; (C) an officer, member, or employee of a contractor or subcontractor that is excluded by the terms of its contract from playing lottery games; (D) the spouse, child, brother, sister, or parent of a person described by (A), (B), or (C) above who resides within the same household as that person.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
<b>2nd Tier Violations</b>				
21.	Licensee endangers the security and/or integrity of the lottery games operated by the commission.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation
22.	Licensee intentionally or knowingly sells a ticket at a price the licensee knows is greater than the price set by the executive director.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation

23.	Licensee charges a fee for lottery ticket purchases using a debit card and/or requires a minimum dollar amount for debit card purchases of only lottery tickets.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation
24.	Licensee sells tickets at a location that is not licensed.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation
25.	Licensee intentionally or knowingly sells a ticket by extending credit or lends money to enable a person to buy a ticket.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation
<del>26.</del>	<del>[Licensee intentionally or knowingly sells a ticket to a person that the licensee knows is younger than 18 years.]</del>	<del>[10-90 day Suspension to Revocation]</del>	<del>[10-90 day Suspension to Revocation]</del>	<del>[30-90 day Suspension to Revocation]</del>
<del>26.</del> [27.]	Licensee intentionally or knowingly sells a ticket and accepts anything for payment not specifically allowed under the State Lottery Act.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation
<del>27.</del> [28.]	Licensee sells tickets over the telephone or, via mail order sales, establishes or promotes a group purchase or pooling arrangement under which tickets are purchased on behalf of the group or pool and any prize is divided among the members of the group or pool, and the licensee intentionally or knowingly: (A) uses any part of the funds solicited or accepted for a purpose other than purchasing tickets on behalf of the group or pool; or (B) retains a share of any prize awarded as compensation for establishing or promoting the group purchase or pooling arrangement.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation
<del>28.</del> [29.]	Licensee intentionally or knowingly alters or forges a ticket.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation
<del>29.</del> [30.]	Licensee intentionally or knowingly influences or attempts to influence the selection of a winner of a lottery game.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation

<u>30.</u> <del>[31.]</del>	Licensee intentionally or knowingly claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation
<u>31.</u> <del>[32.]</del>	Licensee intentionally or knowingly tampers with, damages, defaces, or renders inoperable any vending machine, electronic computer terminal, or other mechanical device used in a lottery game, or fails to exercise due care in the treatment of commission property.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation
<u>32.</u> <del>[33.]</del>	Licensee: (A) induces another person to assign or transfer a right to claim a prize; (B) initiates or accepts an offer to sell the right to claim a prize; (C) initiates or accepts an offer of compensation from another person to claim a lottery prize; or (D) purchases, for anything of value, a lottery ticket from a person who is not a licensed lottery retailer.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation
<u>33.</u> <del>[34.]</del>	Licensee intentionally or knowingly makes a statement or entry that the person knows to be false or misleading on a required report.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation
<u>34.</u> <del>[35.]</del>	Licensee fails to maintain or make an entry the licensee knows is required to be maintained or made for a required report.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation
<u>35.</u> <del>[36.]</del>	Licensee knowingly refuses to permit the director of the Lottery Operations Division, the executive director, commission, the lottery operator, the employees or agents of the lottery operator, or the state auditor to examine the agent's books, records, papers or other objects, or refuses to answer any question authorized under the State Lottery Act.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation
<u>36.</u> <del>[37.]</del>	Licensee intentionally or knowingly makes a material and false or incorrect, or deceptive statement, written or oral, to a person	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation

	conducting an investigation under the State Lottery Act or a commission rule.			
37. [38.]	Licensee commits an offense of conspiracy as defined in the State Lottery Act.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation
38. [39.]	Licensee sells or offers for sale any interest in a lottery of another state or state government or an Indian tribe or tribal government, including an interest in an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of the interest.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation
<b>3rd Tier Violations</b>				
39.	<u>Licensee intentionally or knowingly sells or offers to sell a ticket to a person that the licensee knows is younger than 18 years.</u>	<u>Revocation</u>	<u>n/a</u>	<u>n/a</u>
40.	Licensee incurs four (4) notices of nonsufficient fund transfers or non-transfer of funds within a 12-month period.	Revocation	n/a	n/a
41.	Licensee fails to pay the full amount of money owed to the commission after a nonsufficient funds transfer or non-transfer of funds to the commission's account.	Revocation	n/a	n/a