



INTEROFFICE MEMO

Ryan Mindell, Executive Director

LaDonna Castañuela, Charitable Bingo Operations Director

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

Approved

Denied

From: Bob Biard, General Counsel

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

Date: March 4, 2025

Re: Consideration of and possible discussion and/or action, including proposal, on amendments to 16 TAC §§ 401.158 (Suspension or Revocation of License), 401.160 (Standard Penalty Chart), and 401.355 (Restricted Sales).

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 promote and ensure integrity, security, honesty, and fairness in the operation and administration of the Texas Lottery by prohibiting the use of lottery ticket courier services that, by any remote means, such as telephone, Internet application, or mobile application, accept and fulfill, for a fee or compensation, orders to purchase lottery tickets on behalf of another person not present to effect an in-person sale (couriers). The Texas Lottery Commission (Commission) intends to exercise this authority through administrative enforcement proceedings to revoke the lottery ticket sales agent license of a retailer that works in concert with a courier, whether under a common ownership arrangement or otherwise.

The Commission will hold a public hearing to receive comments on this proposal at 10:00 a.m. on April 3, 2025, at 1801 Congress Ave., George H. W. Bush Building, 4th Floor, Board Room 4.300, Austin, Texas 78701.

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.

1 The Texas Lottery Commission (Commission or TLC) proposes amendments to 16 TAC
2 §§ 401.158 (Suspension or Revocation of License), 401.160 (Standard Penalty Chart), and 401.355
3 (Restricted Sales). The purpose of the proposed amendments is to promote and ensure integrity,
4 security, honesty, and fairness in the operation and administration of the Texas Lottery by
5 prohibiting the use of lottery ticket courier services that, by any remote means, such as telephone,
6 Internet application, or mobile application, accept and fulfill, for a fee or compensation, orders to
7 purchase lottery tickets on behalf of another person not present to effect an in-person sale
8 (couriers). The TLC intends to exercise this authority through administrative enforcement
9 proceedings to revoke the lottery ticket sales agent license of a retailer that works in concert with
10 a courier, whether under a common ownership arrangement or otherwise.

11 Robert Tirloni, Lottery Operations Director, has determined that for each year of the first
12 five years the proposed amendments will be in effect, the anticipated public benefits are the
13 promotion of the integrity, security, honesty, and fairness of the Texas Lottery, and helping to
14 ensure that Texas Lottery retailers will clearly understand that their license will be revoked for
15 knowingly selling lottery tickets to, working with, or otherwise assisting couriers, which will result
16 in enhanced protection of the public from potential crime and other harms.

17 Sergio Rey, Chief Financial Officer, has determined that for each year of the first five years
18 the proposed amendments will be in effect, there will be no significant fiscal impact for state or
19 local governments as a result of the proposed amendments. There will be no adverse effect on rural
20 communities or local or state employment. Those retailers that are small- or micro-businesses
21 whose licenses will be revoked for not abiding by these amendments will be negatively impacted.
22 The Commission is aware of eight licensed retailers that are small businesses, as defined in the
23 Texas Government Code §2006.001(2), that will be negatively impacted by the amendments (out

1 of over 21,000 retailers statewide), and has determined there is no legal and feasible alternative to
2 reduce the negative impact on these retailers and continue to achieve the purpose of the proposed
3 amendments. The impact to small- or micro-business retailers who properly conduct business
4 under a retailer license will vary based on the customer response to their localities. This impact is
5 unquantifiable.

6 Pursuant to Texas Government Code §2001.0221, the Commission provides the following
7 Government Growth Impact Statement for the proposed amendments. For each year of the first
8 five years the proposed amendments will be in effect, Sergio Rey, Chief Financial Officer, has
9 determined the following:

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

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

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

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

17 (5) The proposed amendments do create new regulations.

18 (6) The proposed amendments expand an existing regulation.

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

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

22 The Commission requests comments on the proposed amendments from any interested
23 person. Comments may be submitted to Bob Biard, General Counsel, by mail at Texas Lottery

Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at *legal.input@lottery.state.tx.us*. Comments must be received within 30 days after publication of this proposal in the *Texas Register* to be considered. The Commission will also hold a public hearing to receive comments on this proposal at 10:00 a.m. on April 3, 2025, at 1801 Congress Ave., George H. W. Bush Building, 4th Floor, Board Room 4.300, Austin, Texas 78701.

These amendments are proposed under Texas Government Code §466.015(c)(15)(A), which authorizes the Commission to adopt rules to promote and ensure the integrity, security, honesty, and fairness of the operation and administration of the lottery; 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) – (26) (No change.)

(27) licensee sells tickets over the telephone or Internet, [~~internet~~,] or via mail order sales; or 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

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2 (B) retains a share of any prize awarded as compensation for establishing or
3 promoting the group purchase or pooling arrangement;

4 (28) – (40) (No change.)

5 (41) licensee fails to pay the full amount of money owed to the commission after a
6 nonsufficient funds transfer or non-transfer of funds to the commission's account (revocation
7 only); [Ø]

8 (42) licensee knowingly sells tickets to, works with, or otherwise assists a lottery ticket
9 courier service (revocation only); or

10 (43) [(42)] licensee has violated a provision of the State Lottery Act, Government Code,
11 Chapter 466, or a commission rule adopted under the State Lottery Act.

12 (c) For purposes of this chapter, the term “lottery ticket courier service” means a service that, by
13 any remote means, such as telephone, Internet application, or mobile application, accepts and
14 fulfills, for a fee or compensation, orders to purchase lottery tickets on behalf of another person
15 not present to effect an in-person sale.

16 §401.160. Standard Penalty Chart.

17 (a) – (g) (No change.)

18 (h) Standard Penalty Chart.

1 Figure: 16 TAC §401.160(h)

2 [Figure: 16 TAC §401.160(h)]

| TEXAS LOTTERY COMMISSION RETAILER REGULATORY VIOLATIONS AND RELATED PENALTIES | | | | |
|---|--|---|----------------------|------------------------------------|
| No. | DESCRIPTION OF VIOLATION | 1st OCCURRENCE | 2nd OCCURRENCE | 3rd OCCURRENCE |
| 1st Tier Violations | | | | |
| 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 |

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| 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 |

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| 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 |
| 2nd Tier Violations | | | | |
| 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 |

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| 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, requires an additional purchase with 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 |
| 26. | 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 |
| 27. | Licensee sells tickets over the telephone or <u>Internet</u> , [internet ,] or via mail order sales; or 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 |
| 28. | Licensee intentionally or knowingly alters or forges a ticket. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |

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| 29. | 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 |
| 30. | 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 |
| 31. | 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 |
| 32. | 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 |
| 33. | 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 |
| 34. | 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 |
| 35. | 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 |

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| 36. | Licensee intentionally or knowingly makes a material and false or incorrect, or deceptive statement, written or oral, to a person conducting an investigation under the State Lottery Act or a commission rule. | 10-90 day Suspension to Revocation | 30-90 day Suspension to Revocation | Revocation |
| 37. | 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. | 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 |
| 3rd Tier Violations | | | | |
| 39. | Licensee intentionally or knowingly sells or offers to sell a ticket to a person that the licensee knows is younger than 18 years. | Revocation | n/a | n/a |
| 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 |
| 42. | <u>Licensee knowingly sells tickets to, works with, or otherwise assists a lottery ticket courier service.</u> | <u>Revocation</u> | <u>n/a</u> | <u>n/a</u> |

1 §401.355 Restricted Sales.

2 (a) Retailers shall not sell lottery tickets via the Internet [~~internet~~] or by mail, phone, fax, or other
3 similar method of communications. Retailers shall not sell a lottery ticket or any other document
4 evidencing a right, privilege, or share in a lottery ticket from another jurisdiction by any means.

5 (b) Retailers shall not knowingly sell tickets to, work with, or otherwise assist a lottery ticket
6 courier service.

7 (c) [~~(b)~~] Retailers shall not sell tickets to persons under the age of 18. Any ticket purchased by or
8 sold to an individual under the age of 18 years shall be void and the prize otherwise payable on
9 the ticket is treated as an unclaimed prize under Texas Government Code §466.408.

10 (d) [~~(c)~~] Retailers shall not sell a ticket or pay a lottery prize to another person that the retailer
11 knows is:

12 (1) an officer or an employee of the commission;

13 (2) an officer, member, or employee of a lottery operator;

14 (3) an officer, member, or employee of a contractor or subcontractor that is excluded by
15 the terms of its contract from playing lottery games;

16 (4) the spouse, child, brother, sister, or parent of a person described by paragraph (1), (2),
17 or (3) of this subsection who resides within the same household as that person.

18 (e) [~~(d)~~] Retailers shall not sell tickets from a game after the game's closing date.