IC 4-30-9

Chapter 9. Retailers of Lottery Tickets

IC 4-30-9-1

Terms and conditions for contracting with retailers; adoption of rules

Sec. 1. The commission shall adopt rules under IC 4-22-2 specifying the terms and conditions for contracting with retailers who will best serve the public interest and promote the sale of lottery tickets.

As added by P.L.341-1989(ss), SEC.1.

IC 4-30-9-2

Selection of retailers; considerations

Sec. 2. (a) In the selection of retailers, the commission shall consider factors such as the following:

(1) Financial responsibility.

(2) Integrity.

(3) Reputation.

(4) Accessibility of the place of business or activity to the public.

(5) Security of the premises.

(6) The sufficiency of existing retailers to serve the public.

(7) Convenience.

(8) The projected volume of sales for the lottery game involved.

(b) In consideration of the factors in subsection (a), the commission may require the information it considers necessary of any person proposing to enter into a retailer's contract. However, the commission may not establish a limitation on the number of retailers and shall make every effort to include small business participation as retailers. Retailer selections shall be based on business considerations and public convenience. Retailers shall be selected without regard to political affiliation.

As added by P.L.341-1989(ss), SEC.1.

IC 4-30-9-3

Prohibited retailers

Sec. 3. The commission may not contract with a person as a retailer that:

(1) is less than eighteen (18) years of age;

(2) is engaged exclusively in the business of selling lottery tickets, although this does not preclude the commission from selling lottery tickets;

(3) is on the most recent tax warrant list provided to the commission by the department of state revenue;

(4) has been convicted of, or entered a plea of guilty or nolo contendere to, a felony committed in the preceding ten (10) years, regardless of adjudication, unless the commission

determines that:

(A) the person has been pardoned or the person's civil rights have been restored;

(B) subsequent to the conviction or entry of the plea the person has engaged in the kind of law abiding commerce and good citizenship that would reflect well upon the integrity of the lottery; or

(C) if the person is a firm, an association, a partnership, a trust, a corporation, a limited liability company, or other entity, the person has terminated its relationship with the individual whose actions directly contributed to the person's conviction or entry of the plea; or

(5) is:

(A) a department, an agency, a commission, a division, an authority, a board, a bureau, a hospital, or an office of the state, including a state educational institution;

(B) an entity that performs an essential governmental function;

(C) part of the judicial department of government;

(D) part of the legislative department of government; or

(E) a political subdivision of the state, including an agency, an authority, a board, a bureau, a commission, a committee, a council, a department, a division, an institution, an office, an officer, or other similar body of a political subdivision.

As added by P.L.341-1989(ss), SEC.1. Amended by P.L.32-1990, SEC.4; P.L.8-1993, SEC.36; P.L.2-2007, SEC.62.

IC 4-30-9-4

Certificate of authority

Sec. 4. The commission shall issue a certificate of authority to each person with whom it contracts as a retailer for purposes of display under section 6 of this chapter. The issuance of a certificate does not confer upon the retailer any right apart from that specifically granted in the contract. The authority to act as a retailer is not assignable or transferable.

As added by P.L.341-1989(ss), SEC.1.

IC 4-30-9-5

Suspension or termination of contracts

Sec. 5. A contract executed by the commission under this chapter must specify the reasons for a suspension or termination of the contract by the commission, including the following:

(1) Commission of a violation of this article, IC 35-45-5-3, IC 35-45-5-3.5, IC 35-45-5-4, or a rule adopted under this article.

(2) Failure to accurately account for lottery tickets, revenues, or prizes as required by the commission.

(3) Commission of a fraud, deceit, or misrepresentation.

(4) Insufficient sale of tickets.

(5) Conduct prejudicial to public confidence in the lottery.

(6) A material change in a matter considered by the commission executing the contract with the retailer.

As added by P.L.341-1989(ss), SEC.1. Amended by P.L.227-2007, SEC.1.

IC 4-30-9-6

Displaying of certificate of authority and estimated odds of winning

Sec. 6. Each retailer shall post and keep conspicuously displayed in a location on the premises accessible to the public the following:

(1) Its certificate of authority.

(2) With respect to each game, a statement supplied by the commission of the estimated odds of winning a prize for the game.

As added by P.L.341-1989(ss), SEC.1.

IC 4-30-9-7

Tax clearance statement

Sec. 7. Before the commission may enter into a contract with a retailer, the retailer must provide a tax clearance statement from the department of state revenue that certifies that the retailer does not owe delinquent state taxes.

As added by P.L.341-1989(ss), SEC.1.

IC 4-30-9-8

Sale of lottery tickets; restrictions

Sec. 8. A contract with a retailer may not authorize the sale of lottery tickets at more than one (1) location. The commission may enter into more than one (1) contract with a retailer that has more than one (1) business location. A retailer must have a separate certificate of authority to sell lottery tickets for each business location approved by the commission. A retailer may sell lottery tickets only at the location stated on the certificate of authority.

As added by P.L.341-1989(ss), SEC.1.

IC 4-30-9-9

Retailers whose rental payments for premises are contractually computed on basis of a percentage of retail sales; amount of retail sales for lottery tickets

Sec. 9. With respect to a retailer whose rental payments for premises are contractually computed in whole or in part on the basis of a percentage of retail sales, and where the computation of retail sales is not explicitly defined to include the sale of tickets in a lottery, for purposes of such a computation the amount of retail sales for lottery tickets by the retailer may not exceed the amount of the compensation received by the retailer from the commission.

As added by P.L.341-1989(ss), SEC.1.

IC 4-30-9-10
Bond or letter of credit; alternatives

Sec. 10. (a) The commission may require each retailer to post an appropriate bond or provide a letter of credit as determined by the commission, using an insurance company acceptable to the commission. The amount of the bond or letter of credit may not exceed two (2) times the average lottery ticket sales of the retailer for the period during which the retailer is required to remit lottery funds to the commission. For the first ninety (90) days of sales for a new retailer, the amount of the bond or letter of credit may not exceed two (2) times the average estimated lottery ticket sales for the period during which the retailer is required to remit lottery funds to the commission. This subsection does not apply to lottery tickets that are prepaid by the retailer.

(b) Instead of a bond or letter of credit, the commission may purchase blanket bonds or a crime insurance policy endorsed to include faithful performance covering all or selected retailers, or may allow a retailer to deposit and maintain with the treasurer of state securities that are interest bearing or accruing and that, with the exception of those specified in subdivisions (1) and (2), are rated in one (1) of the four (4) highest classifications by an established nationally recognized investment rating service. Securities eligible under this subsection are limited to the following:

(1) Certificates of deposit issued by solvent banks or savings associations organized and existing under Indiana law or under the laws of the United States and having their principal place of business in Indiana.

(2) United States bonds, notes, and bills for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest.

(3) General obligation bonds and notes of a political subdivision of the state.

(4) Corporate bonds of a corporation that is not an affiliate or subsidiary of the depositor.

These securities shall be held in trust and must have a market value at least equal to an amount required by the commission.

(c) Instead of a bond, letter of credit, blanket bond, or crime insurance policy endorsed to include faithful performance, the commission may establish a self-insurance fund to provide protection to the commission for a breach of contract by a retailer. The fund shall be administered by the treasurer of state. The commission may charge a fee to a retailer for deposit into the fund. The fee shall be reasonably calculated to cover the cost of administering the fund, must be reasonably proportionate to the risk of loss under the contract with the retailer, as determined by the commission, and must be sufficient to maintain an appropriate balance in the fund in the

determination of the commission. The expenses of administering the fund shall be paid from the fund, from the collections of all claims against retailers for which withdrawals had been made, and by the receipt of all interest and other earnings of the insurance fund from any source. All fees, interest, income, or other money or property paid to the fund is exempt from all taxes imposed by the state or a political subdivision. All fees assessed by the commission under this section shall be delivered to the treasurer of state and shall be deposited into an investment account at the bank providing depository services to the commission. Money in the fund at the end of a state fiscal year does not revert to the state general fund, and the money in the fund is continually appropriated to the commission for the purposes specified in this section. Money in the fund shall be paid to the commission by the treasurer of state in reimbursement of monetary loss, costs, or expense, including attorney's fees, incurred by the commission as a result of a breach of contract by a retailer. The fees paid by retailers and the money reimbursed to the commission by the treasurer of state under this section do not constitute money received by the commission under IC 4-30-15-1.

(d) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

As added by P.L.341-1989(ss), SEC.1. Amended by P.L.32-1990, SEC.5; P.L.49-1995, SEC.2.

IC 4-30-9-11

Liquidated damages

Sec. 11. Each contract entered into by the commission under this chapter must contain a provision for payment of liquidated damages to the commission for a breach of contract by the retailer.

As added by P.L.341-1989(ss), SEC.1.

IC 4-30-9-12

Warrantless searches; prohibition

Sec. 12. A contract entered into by the commission under this chapter may not include a provision allowing for warrantless searches.

As added by P.L.341-1989(ss), SEC.1.

IC 4-30-9-13

Accounting of tickets sold; procedures; sale of tickets; payments to commission; reports; service charges; interest and penalties

Sec. 13. The commission shall establish procedures by which each retailer must account for all tickets sold by the retailer and account for all funds received by the retailer from sales. The contract with each retailer must include provisions relating to the sale of tickets, payments of money to the commission, reports, service charges, and interest and penalties, if necessary, that the commission considers appropriate.

As added by P.L.341-1989(ss), SEC.1.

IC 4-30-9-14

Payments to commission for tickets; form

Sec. 14. A payment by a retailer to the commission for tickets may not be in cash. All payments must be in the form of a check, bank draft, electronic funds transfer, or other financial instrument authorized by the director.

As added by P.L.341-1989(ss), SEC.1.