

RULES AND REGULATIONS

Title 61—REVENUE

DEPARTMENT OF REVENUE

[61 PA. CODE CH. 876]

iLottery Games; Temporary Regulations

The Department of Revenue (Department), under the specific authority in 4 Pa.C.S. § 503(b) (relating to iLottery authorization) and the general authority in section 303(a) of the State Lottery Law (72 P.S. § 3761-303(a)), adds temporary regulations in Chapter 876 (relating to iLottery games—temporary regulations) to read as set forth in Annex A.

Purpose of this Temporary Rulemaking

This temporary rulemaking defines the relevant terms associated with iLottery implementation in this Commonwealth, sets forth iLottery registration and participation requirements, and iLottery self-exclusion requirements.

Explanation of Chapter 876

The act of October 30, 2017 (P.L. 419, No. 42) granted the Secretary of the Department (Secretary) with the authority to offer iLottery games. The Department is responsible for implementing and operating iLottery, which will result in the generation of revenue dedicated to and deposited in the State Lottery Fund.

Chapter 876 provides definitions of terms associated with iLottery implementation in this Commonwealth, sets forth iLottery registration and participation requirements, and iLottery self-exclusion requirements. This temporary rulemaking follows the same general format as regulations enacted for other lottery products, including instant lottery games, raffle lottery games and terminal-based lottery games. Specifically, this temporary rulemaking allows the Department to publish rules applicable to iLottery games by notice. This is consistent with the Department's publication by notice of instant game rules under § 819.203 (relating to notice of instant game rules), raffle lottery game rules under § 874.4 (relating to notice of raffle lottery game rules), terminal-based lottery game rules under § 875.4 (relating to notice of terminal-based lottery game rules) and promotional prizes under § 811.41 (relating to promotional prizes). The Department will post iLottery game descriptions and instructions specific to individual iLottery games with the iLottery games on the iLottery web site for ease of access and use by iLottery players. Additionally, the iLottery regulations allow the Secretary to establish retailer incentive and marketing promotion programs, which is consistent with the Secretary's discretion to offer similar programs for instant lottery games under § 819.222(b) (relating to retailer bonuses and incentive), raffle lottery games under § 874.17 (relating to retailer promotion programs) and terminal-based lottery games under § 875.17 (relating to retailer promotion programs). The efficient and successful operation of the lottery requires that the lottery implement the latest innovations and trends in the industry. The inability to adapt quickly may lead to a reduction in Lottery revenues.

Paperwork Requirements

Chapter 876 requires minimal paperwork for the public or the Commonwealth as registration for and participation in iLottery, in addition to the iLottery self-exclusion process for registered iLottery players, occurs online.

Affected Parties

This temporary rulemaking provides information to the individuals who may participate in iLottery in this Commonwealth.

Fiscal Impact

The Department estimates that the implementation expenses for Chapter 876 will be minimal. Further, the Department has determined that Chapter 876 will not have adverse fiscal impact on the Commonwealth and that the games in Chapter 876 will increase revenues available to older Pennsylvanians.

Statutory Authority and Regulatory Review

Under 4 Pa.C.S. § 503(b)(1), the Secretary has the authority to promulgate temporary regulations to facilitate the prompt implementation of iLottery in this Commonwealth. The temporary regulations adopted by the Secretary are not subject to sections 201—205 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201—1205), known as the Commonwealth Documents Law (CDL), the Regulatory Review Act (71 P.S. §§ 745.1—745.14) and section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732-204(b)).

Under 4 Pa.C.S. § 503(b), these temporary regulations expire no later than 2 years following publication in the *Pennsylvania Bulletin*.

Contact Person

Interested persons are invited to submit in writing comments, suggestions or objections regarding this temporary rulemaking to Mary R. Sprunk, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061 within 30 days after the date of publication in the *Pennsylvania Bulletin*. The Department will consider the comments it receives in developing permanent regulations.

Findings

The Department finds that:

(1) Under 4 Pa.C.S. § 503(b), these temporary regulations are exempt from the Regulatory Review Act, sections 201—205 of the CDL and section 204(b) of the Commonwealth Attorneys Act.

(2) The adoption of the temporary regulations is necessary and appropriate for the implementation and operation of 4 Pa.C.S. § 503.

Order

The Department, acting under the authorizing statute, orders that:

(1) The regulations of the Department, 61 Pa. Code, are amended by adding temporary §§ 876.1—876.18 to read as set forth in Annex A.

(2) The Secretary shall submit this order and Annex A to the Office of General Counsel for approval as to form and legality as required by law.

(3) The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(4) These temporary regulations shall take effect upon publication in the *Pennsylvania Bulletin* and expire no later than 2 years following publication.

C. DANIEL HASSELL,
Secretary

Fiscal Note: 15-460. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 61. REVENUE

PART V. STATE LOTTERIES

CHAPTER 876. iLOTTERY GAMES—TEMPORARY REGULATIONS

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§ 876.1. Scope.

This chapter establishes procedures for the notification of iLottery game rules, iLottery registration and participation requirements, and iLottery self-exclusion requirements.

§ 876.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

iLottery—A system that provides for the distribution of lottery products through numerous channels that include web applications, mobile applications, mobile web, tablets and social media platforms that allows players to interface through a portal for the purpose of obtaining lottery products and ancillary services, such as account management, game purchase, game play and prize redemption.

iLottery game—

(i) Internet instant games and other lottery products offered through iLottery.

(ii) The term does not include games that represent physical, Internet-based or monitor-based interactive lottery games which simulate casino-style lottery games, specifically including poker, roulette, slot machines and blackjack.

Internet instant game—A lottery game of chance in which, by the use of a computer, tablet computer or other mobile device, a player purchases a play, with the result of play being a reveal on the device of numbers, letters or symbols indicating whether a lottery prize has been won according to an established methodology as provided by the Lottery.

Lottery account—An account established by an individual with the Bureau that shall be used to register for and participate in iLottery.

Play—An opportunity, for a predetermined price, to participate in an iLottery game.

Registered iLottery player—An individual who created a lottery account with the Bureau, registered for iLottery and is approved for participation in iLottery.

§ 876.3. Notice of iLottery game rules.

The Secretary will publish a notice in the *Pennsylvania Bulletin* with the following minimum information about iLottery game rules:

- (1) Definitions.
- (2) Operation of the iLottery game.
- (3) Price range for a play.
- (4) Eligibility requirements.
- (5) Procedures for purchasing a play.
- (6) Procedures for claiming and payment of prizes.
- (7) Funding for prizes.
- (8) Retention of unclaimed prizes.
- (9) Purchase and prize restrictions.
- (10) Governing law.
- (11) Termination of the game.
- (12) Applicability.

§ 876.4. iLottery game description.

The Secretary will post an iLottery game descriptions on the Pennsylvania Lottery's iLottery web site for each iLottery game with the following minimum information:

- (1) The name of the iLottery game.
- (2) The purchase price of a play for the iLottery game.
- (3) The chances of winning the iLottery game and the prizes which can be won.
- (4) iLottery game instructions.
- (5) The existence of a finalist, grand prize, second chance or other offering, if applicable, and the procedure for the conduct of the same, if applicable.
- (6) The existence of a bonus game, mini-game or a game within a game, if applicable, and the procedure for conduct of the same, if applicable.
- (7) Other information necessary for the conduct of the iLottery game.

§ 876.5. Price.

The purchase price of a play for each iLottery game will be included in the iLottery game description for each game, as provided for under § 876.4 (relating to iLottery game description).

§ 876.6. Governing law.

By registering to participate in iLottery, the registered iLottery player agrees to comply with and abide by Federal and State law, this chapter, the terms and conditions for registration and participation in iLottery, and final decisions of the Secretary. Revenues generated by iLottery games will be apportioned as provided by 4 Pa.C.S. § 503(f) (relating to iLottery authorization) and section 311 of the State Lottery Law (72 P.S. § 3761-311).

§ 876.7. General provisions.

(a) An individual shall establish a lottery account and register for iLottery as provided for under § 876.10 (relating to iLottery registration and participation) to purchase plays.

(b) An individual shall accept, consent, acknowledge and agree to the iLottery terms and conditions as provided for under § 876.9 (relating to iLottery terms and conditions) to register for iLottery and purchase a play.

(c) An individual shall be located in this Commonwealth to purchase a play.

(d) An individual shall be 18 years of age or older to register for iLottery or to purchase a play.

§ 876.8. Applicability.

This chapter applies only to iLottery as offered by the Department and the Bureau.

§ 876.9. iLottery terms and conditions.

(a) The terms and conditions for registration and participation in iLottery will be available on the Pennsylvania Lottery's iLottery web site and other locations as determined by the Secretary.

(b) The terms and conditions for registration and participation in iLottery will include all of the following:

(1) Acknowledgment, consent, agreement and acceptance by the individual to all of the following:

(i) Confirmation by the Bureau of the applicant's age and identity.

(ii) The use of a mechanism by the Bureau to detect the physical location of a registered iLottery player in compliance with 4 Pa.C.S. § 503(h)(1) (relating to iLottery authorization).

(iii) The terms of the end user license agreement for the software and terms and conditions of any third-party services used for the implementation and operation of iLottery and the provision of iLottery games.

(iv) The monitoring and recording by the Department or the Bureau of any iLottery communications and geographic location information.

(v) The jurisdiction of the Commonwealth to resolve disputes arising out of the conduct of iLottery.

(vi) The forfeiture and escheatment of funds remaining on deposit in the registered iLottery player's account if that account has been dormant for 3 years.

(vii) The registered iLottery player's account may be suspended or closed for reasons established by the Secretary, including any of the following:

(A) Violations of the iLottery terms and conditions as provided for under this chapter.

(B) The registered iLottery player has been charged with or convicted of an offense under 18 Pa.C.S. §§ 4106, 5111 and 5512—5514 or 4 Pa.C.S. (relating to amusements) or conspiracy to commit offenses under 18 Pa.C.S. § 903 (relating to criminal conspiracy), or equivalent crimes under Federal law or the law of another state.

(viii) Other terms and conditions that may apply related to registration and participation in iLottery.

(ix) Lottery winnings are subject to Federal and State withholding taxes, and prizes awarded to the registered iLottery player will be reduced by the amount of withholding required under applicable law.

(x) Lottery winnings are subject to certain deductions as required by law and that prizes awarded to the registered iLottery player will be reduced by any amount required to be deducted under applicable law.

(xi) To receive certain iLottery prizes, as identified and described in the iLottery game rules provided for under § 876.3 (relating to notice of iLottery game rules) or iLottery game description as provided for under § 876.4 (relating to iLottery game description) or promotional prize notices provided for under § 811.41 (relating to promotional prizes), the registered iLottery player may be

required to take additional measures to claim a prize, including to appear in person at a specified Pennsylvania Lottery claim center.

(xii) Use of electronic communications to establish a lottery account, for iLottery registration, communications regarding the lottery account and other communications related to iLottery as determined by the Bureau.

(xiii) Ability of the registered iLottery player to establish responsible gambling limits including a deposit limit, spend limit or time-based limit, as available, through the lottery account.

(xiv) Ability of the registered iLottery player to self-exclude from iLottery.

(xv) Methods by which funds or credits may be deposited and under what circumstances funds or credits may be deposited into the registered iLottery player's lottery account.

(xvi) Moneys or credits deposited and held in the registered iLottery player's account do not earn interest.

(xvii) Methods by which funds or credits may be withdrawn and under what circumstances funds or credits may be withdrawn from the registered iLottery player's lottery account.

(xviii) Reporting of suspected fraudulent or unlawful activity related to the operation of iLottery.

(xix) Dispute resolution procedures related to iLottery.

(xx) Information provided to the Department during the establishment, use, access or closure of the lottery account is true and correct.

(2) Rules and obligations applicable to the registered iLottery player, other than rules of individual games, including all of the following:

(i) Prohibition from allowing another person to access or use the registered iLottery player's account.

(ii) Prohibition from purchasing a play unless the registered iLottery player is physically located in this Commonwealth.

(iii) Prohibition against utilizing automated computerized software or other equivalent mechanisms to engage in iLottery.

(iv) Prohibition against participation in iLottery by a person under 18 years of age.

(v) Prohibition of a person who self-excluded from iLottery from participating in iLottery.

(vi) Prohibition against the sale of a play or the award of a prize as follows:

(A) To an officer or employee of the Bureau.

(B) To a spouse, child, brother, sister or parent residing as a member of the same household as an officer or employee of the Bureau.

(C) To an officer or employee of a contractor or subcontractor who is directly involved in the operation of iLottery or the provision of iLottery related services.

(D) To a spouse, child, brother, sister or parent residing in the same household as an officer or employee of a contractor or subcontractor who is directly involved in the operation of iLottery and the provision of iLottery related services.

(3) Any other terms and conditions the Secretary deems necessary and relevant for the conduct of iLottery.

§ 876.10. iLottery registration and participation.

(a) An individual may not participate in iLottery without first creating a lottery account and registering to participate in iLottery through the Bureau as described in this chapter.

(b) A registered iLottery player agrees to be bound by the terms and conditions in § 876.9 (relating to iLottery terms and conditions).

(c) The following information will be required to register for iLottery:

(1) Name as it appears on a valid government-issued identification or on tax documents.

(2) Date of birth.

(3) Entire or last four digits of the individual's Social Security number, or equivalent for a foreign person such as a passport or taxpayer identification number.

(4) Home address.

(5) Telephone number.

(6) E-mail address.

(7) Any other information as determined by the Secretary to be necessary to verify the age and identity of the individual.

(d) An individual may be required to provide additional information or documentation to establish a lottery account or register for iLottery. The information may be used for iLottery registration or to confirm information provided by that individual during the registration process.

(e) The lottery account will require a username and password.

(f) Access to the lottery account and participation in iLottery is limited to the lottery account holder.

(g) An individual will be prohibited from registering for iLottery if one or more of the following occurs:

(1) The Department is unable to verify the age of the individual.

(2) The Department is unable to verify the identity of the individual.

(3) The individual fails to agree to the iLottery terms and conditions as provided for under § 876.9.

(4) The information provided to the Bureau is false or misleading.

(5) Other reasons as set forth in the terms and conditions as provided for under § 876.9.

(h) A registered iLottery player may not purchase a play if the Bureau is unable to verify the registered iLottery player is physically located within the geographical borders of this Commonwealth.

(i) An individual may not open, access, maintain or otherwise utilize more than one lottery account for participation in iLottery.

(j) An individual may not register or attempt to register for iLottery utilizing more than one account.

§ 876.11. Purchase and prize restrictions.

(a) Individuals must be at least 18 years of age to register for iLottery or to purchase a play.

(b) Registered iLottery players shall be located within the geographical boundaries of this Commonwealth to purchase a play.

(c) A play may not be purchased by and a prize may not be awarded to the following:

(1) An officer or employee of the Bureau.

(2) A spouse, child, brother, sister or parent residing in the same household as an officer or employee of the Bureau.

(3) An officer or employee of a contractor or subcontractor who is directly involved in the operation of iLottery or the provision of iLottery related services.

(4) A spouse, child, brother, sister or parent of an officer or employee of a contractor who is directly involved in the operation of iLottery or the provision of iLottery related services.

§ 876.12. Prizes.

Prizes may be awarded by check, draft or electronically through the registered iLottery player's account.

§ 876.13. Withholding.

Federal and State withholding taxes will be withheld by the Bureau from prize payments as required by law.

§ 876.14. Deductions required by law.

In addition to any withholding required by Federal and State law, the Department will deduct amounts from iLottery prize winnings as required by law.

§ 876.15. Termination of a game.

The Secretary may terminate an iLottery game at any time and without notice.

§ 876.16. Self-exclusion from iLottery.

(a) A registered iLottery player may request self-exclusion from iLottery under this section.

(b) A registered iLottery player may request self-exclusion through the registered iLottery player's lottery account.

(c) A registered iLottery player may select from the predetermined periods of self-exclusion offered through the lottery account.

(d) During a period of self-exclusion, a self-excluded registered iLottery player may not purchase plays, deposit or withdraw funds from the registered iLottery player's account, or otherwise participate in iLottery and iLottery promotions prior to the conclusion of the self-exclusion period.

(e) During a period of self-exclusion, a registered iLottery player elects not to receive e-mails or other communications about iLottery.

§ 876.17. iLottery promotional prizes.

The Secretary may authorize iLottery promotions and issue the terms and conditions related thereto under this part and § 811.41 (relating to promotional prizes).

§ 876.18. Retailer promotion programs.

Retailer incentive and marketing promotion programs may be implemented at the discretion of the Secretary. Funds for the programs, if needed, will be drawn from the Lottery Fund.

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