

CHAPTER 805. LICENSES**APPLICATION AND LICENSURE OF LOTTERY SALES AGENTS**

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Cross References

This chapter cited in 61 Pa. Code § 876.2 (relating to definitions).

APPLICATION AND LICENSURE OF LOTTERY SALES AGENTS**§ 805.1. Application.**

Any person interested in obtaining a license as an agent for the sale of lottery tickets shall first file an application for Lottery Sales Agent's License with the Bureau on application forms provided by the Bureau.

§ 805.2. Eligibility for license.

(a) No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in business exclusively as a lottery sales agent. Before issuing such license, the Secretary will consider such factors as the following:

- (1) The financial responsibility and security of the person and his business or activity.
- (2) The honesty and integrity of the applicant.
- (3) The accessibility of his place of business or activity to the public.
- (4) The sufficiency of existing licenses to serve the public convenience.
- (5) The volume of expected sales.
- (6) The veracity of the information supplied in the application for Lottery Sales Agent's License.
- (7) The indebtedness of the applicant to the Commonwealth or local government, if any.

(b) No person under the age of 21 shall be licensed as an agent.

§ 805.3. Residency requirement.

Licenses shall be issued only to any of the following:

- (1) Residents of this Commonwealth.
- (2) Corporations incorporated in this Commonwealth, or authorized to do business in this Commonwealth.
- (3) Partnerships in which at least one of the partners resides in this Commonwealth.
- (4) Unincorporated businesses or other entities which are authorized to do business in this Commonwealth.

§ 805.4. Issuance of license.

(a) The Secretary will, in accordance with the act and the regulations of this part, license as agents to sell lottery tickets such persons as in his opinion will best serve the public convenience and promote the sale of tickets consistent with the experience, character, and general fitness of the applicant. The Secretary may also, in his discretion, suspend or revoke or refuse to renew a license.

(b) An agent's license shall remain in full force and effect until such termination date as is indicated upon said license, unless the license is previously terminated by the Secretary in accordance with the provisions as set forth in this part. The Secretary may extend the initial or any subsequent licensing period in his discretion. The license processing fee for such license shall be \$13 per year. Part of the license processing fee shall be set aside for a loss fund to cover a lottery agent, who may sustain a loss of unsold lottery tickets in the event of burglary, robbery, fire or other similar occurrence. The Bureau may establish internal cleaning procedures pursuant thereto with the approval of the Secretary.

Source

The provisions of this § 805.4 amended through February 6, 1976, effective February 7, 1976, 6 Pa.B. 230.

§ 805.5. License to be displayed.

Every licensed agent shall prominently display his license or a copy thereof in an area visible to the general public. In addition, the authorized lottery agent decal shall be mounted on a prominent place or window of the premises of the agent. The agent shall maintain and display all promotional material in conjunction with ticket sales in accordance with instructions issued by the Director. The agent shall make available at all times during normal business hours current lottery tickets for sale to the public.

§ 805.6. Display of identification card.

The Bureau will issue to each licensed agent a wallet size agent identification card which shall be displayed by him when picking up lottery tickets from or

returning such lottery tickets to authorized banks. No bank shall issue any lottery tickets unless the agent, or his designee as specified in this part, presents the identification card.

§ 805.7. Temporary licenses.

Pending final determination of any criteria under this chapter, the Secretary may issue a temporary license upon such terms and conditions as he may deem necessary, desirable, or proper to effectuate the provisions of the act.

§ 805.8. Conditions for licensing.

Upon issuance of a license, the agent shall agree to the following conditions:

(1) The agent shall agree and be bound by and comply with the provisions of act and any rules, regulations and instructions promulgated pursuant to such act by the Bureau.

(2) The agent shall agree to make available for sale to the public valid lottery tickets during normal business hours.

(3) The agent shall agree to maintain authorized displays, notices, drop boxes and other material used in conjunction with lottery ticket sales in accordance with instructions issued by the Bureau.

(4) The agent shall agree that all lottery tickets accepted from the Bureau of State Lotteries or its distributor or safekeeping depositories, are deemed to have been purchased by the agent at the price established by the Bureau, less the appropriate commission discount, if any, unless unsold tickets are returned to the authorized distributor or safekeeping depository on or before the settlement date. The agent shall agree to be responsible for lost or missing tickets or loose tickets not returned in sequential order.

(5) The agent shall agree to maintain current and accurate records of all operations in conjunction with lottery ticket sales in conformity with the provisions of this part.

(6) The agent shall agree to make available to representatives of the Bureau upon their request, for inspection and audit, those records he is required to maintain.

(7) The agent shall agree that the license issued to him may be revoked, suspended or its renewal rejected for any or all of the following reasons, but not necessarily limited to such reasons:

(i) Whenever the agent knowingly uses false or misleading information in obtaining the license.

(ii) Whenever the agent violates any of the provisions of the act or the provisions of this part.

(iii) Whenever it is determined by the Secretary that the agent fails to meet minimum sales or volume requirements considering the marketing locale of the agent.

(8) It shall be agreed by the agent that he shall hold the Bureau and the Commonwealth harmless from any liability arising in connection with operating and conducting lottery ticket sales.

(9) The agent shall agree to provide, upon request of the Secretary, a certificate of insurance running to the Bureau or Commonwealth with respect to any liability which may arise as a result of his activities as a licensee for the sale of lottery tickets.

(10) The agent shall agree that, in his capacity as a licensee to sell lottery tickets, he is not acting on behalf of the Bureau or the Commonwealth as an agent, officer, or employe thereof, but is acting in the capacity of an independent contractor, and, as such, shall further agree that any contractual or tortious liability he may incur in connection therewith shall be his sole responsibility.

(11) The agent understands that the license issued to him shall be issued and renewed on an annual basis unless such licensing period shall be extended or changed at the discretion of the Secretary. It is further understood and agreed by the agent that he shall not conduct any business or hold himself out as a lottery sales agent unless a renewal license is timely granted.

Source

The provisions of this § 805.8 amended March 9, 1973, effective March 10, 1973, 3 Pa.B. 449.

§ 805.9. Bonding of agents.

The Bureau may require a surety bond from any licensed agent in such amount as it may be determined consistent with its conclusion of the financial stability of such agent, so as to avoid any monetary loss to this Commonwealth because of the activities of an agent in the sale of lottery tickets. The requirement for bonding may be requested of any person who may become a licensed agent which may also include a financial statement with respect to the financial character of the person who is a sales agent. In lieu of any surety bond which the Bureau may require, it may also seek any other guarantee or surety consistent with the provisions of the act including a blanket bond.

§ 805.10. Compensation.

(a) All licensed agents shall be entitled to a commission of 5.0% of the price of each ticket sold by them. The Secretary, in his discretion, may also establish an agent's incentive award or bonus for those agents selling winning lottery tickets.

(b) No licensed agent or employe of a licensed agent shall request, demand, or accept gratuities or similar compensation other than as specifically authorized in subsection (a) in exchange for the performance of duties authorized pursuant to the Lottery agent's license.

Source

The provisions of this § 805.10 amended through August 14, 1981, effective August 15, 1981, 11 Pa.B. 2856. Immediately preceding text appears at serial page (45971).

§ 805.11. Nontransferability of license.

A lottery license issued pursuant to this part shall not be transferable. If the business to which a license is issued or the ownership substantially changes, the Secretary reserves the right to terminate the lottery license. The Secretary shall be notified in writing at least ten days prior to any proposed business change or change in ownership thereof. A substantial change in ownership under this part shall mean a transfer of 50% or more of the equity of any business licensed pursuant to this part. If the business to which a license is issued changes its business location, such license shall terminate as of the date of the change and a new application for agent's license shall be filed and acted upon by the Secretary. Every such change of business location shall be reported in writing to the Secretary at least ten days prior to such change.

§ 805.12. Access of agent records.

Each licensed agent shall grant access to its books and records, together with any and all papers and information requested for the purpose of the annual auditing of licensees and at such other times as deemed appropriate by the Bureau.

§ 805.13. Location of sales and purchase.

The sale of lottery tickets shall be made only pursuant to a license of a lottery agent at a specific location named therein or at such other locations as the Secretary may determine which are consistent with the provisions of the act.

§ 805.14. Inspection of licensed premises.

All licensed agents shall allow inspections of their premises at any time upon request of authorized inspectors of the Bureau to determine whether such agents are complying with the provisions of the act and the regulations of the Bureau. Such inspections shall be made with or without notice to such agent during the normal business hours of the agent.

§ 805.15. Special licenses.

The Secretary may, upon proper application, license special lottery agents. A special license may be issued subject to such special conditions or limitations as the Secretary in his discretion may deem prudent and determines to be consonant with the dignity of the Commonwealth, the general welfare of the people, and the dignity and integrity of the State lottery. These limitations or conditions may include, but are not limited to the following:

- (1) The length of the licensure period.
- (2) The hours or days of sale.

- (3) The location of sale.
- (4) The specific persons who may sell lottery tickets.
- (5) Specific sporting, charitable, social, or other special events where lottery tickets may be sold or the Reserve Ticket Plan as provided in this part. Agents holding special lottery licenses shall be subject to all rules and regulations of the Secretary not inconsistent with this section.

Source

The provisions of this § 805.15 amended December 7, 1973, effective December 8, 1973, 3 Pa.B. 2792.

§ 805.16. Sales by Bureau directly.

The Bureau may itself sell lottery tickets at any branch office it establishes in this Commonwealth.

§ 805.17. Revocation of license.

(a) The license of the agent may be suspended, revoked or its renewal rejected for any one, or any combination, of the following reasons:

- (1) Whenever the application of the agent for a license contains false or misleading information.
- (2) Whenever the agent violates any of the provisions of the act or the rules, regulations and instructions of the Secretary.
- (3) Whenever the average weekly sale of tickets of an agent is below the minimum established by the Secretary.
- (4) Whenever the business address of the agent is changed.
- (5) Whenever an agent commits an act which seriously impairs his reputation for honesty and integrity.
- (6) Whenever the agent does not display lottery point-of-sale material in a manner which is readily seen by and available to the public.
- (7) Whenever the agent does not make purchase of lottery tickets convenient and readily accessible to the public.
- (8) Whenever the agent has been convicted of a crime involving a moral turpitude.
- (9) Whenever the agent has engaged in bookmaking or other form of illegal gambling.
- (10) Whenever the agent has been found guilty of any fraud or misrepresentation in any connection.
- (11) Whenever the Secretary finds that the experience, character, and general fitness of the agent are such that his participation as a lottery sales agent is inconsistent with the public interest, convenience and necessity, or for any other reason within the discretion of the Secretary.
- (12) Whenever the agent is indebted to the Commonwealth or local government.

(b) Upon termination of the license of an agent for any reason, the agent shall appear at his assigned bank on a date designated by the Bureau for the purpose of rendering his final lottery accounting, surrender his agent's license and other lottery property, and the bank shall thereupon complete the termination portion of the identification certificate. In such case, the bank shall deliver one copy thereof to the Bureau. Upon the failure of any agent to settle his account on or before the designated date, the bank shall immediately notify the Bureau which will at once take steps to impose such penalties and to exercise such enforcement powers as may be provided for by law.

Source

The provisions of this § 805.17 amended December 12, 1980, effective December 13, 1980, 10 Pa.B. 4666. Immediately preceding text appears at serial page (45974).

Notes of Decisions

The holder of a lottery license has a legitimate protected property right and is entitled to due process protection. *Lee v. Department of Revenue*, 492 A.2d 451 (Pa. Cmwlth. 1985); appeal denied 538 A.2d 878 (Pa. 1988).

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