

Dear Senators McKENZIE, Fulcher, Malepeai, and
Representatives LOERTSCHER, Crane, Elaine Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Proposed Idaho State Lottery Commission Rules:

IDAPA 52.01.03 - Rules Pertaining To The Rules Governing Operations of the Idaho State Lottery
(Docket No. 52-0103-1101).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 09/14/2011. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/12/2011.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address or FAX
number indicated on the memorandum enclosed.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate State Affairs Committee and the House State Affairs Committee
FROM: Division Manager - Mike Nugent
DATE: August 25, 2011
SUBJECT: Proposed Idaho State Lottery Commission Rules

IDAPA 52.01.03 - Rules Pertaining To The Rules Governing Operations of the Idaho State Lottery (Docket No. 52-0103-1101)

The State Lottery Commission is proposing to promulgate rules that will eliminate the requirement of ticket stamping of scratch tickets by lottery game retailers. The Commission indicates in its notice of proposed rulemaking that "ticket stamping" pertains to a practice discontinued with advent of Instant Ticket Automation and the ability to cash Lottery Scratch tickets at any location, negating the requirement relating to paying out winning Lottery Scratch tickets." It appears to us that the proposed rules have been promulgated within the scope of statutory authority granted to the State Lottery Commission.

cc: Idaho State Lottery Commission
Jeffrey R. Anderson, Director

IDAPA 52 - IDAHO STATE LOTTERY COMMISSION

52.01.03 - RULES GOVERNING OPERATIONS OF THE IDAHO STATE LOTTERY

DOCKET NO. 52-0103-1101

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-7408(1)(c), (e) and (f), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2011.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

An antiquated practice requires update. IDAPA 52.01.03 (RULE 201.13 – Ticket Stamping) pertains to a practice discontinued with the advent of Instant Ticket Automation (ITA) and the ability to cash Lottery Scratch tickets at any location, negating the requirement relating to paying out winning Lottery Scratch tickets.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of this rulemaking and the need to remove an antiquated, unnecessary requirement from rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeffrey R. Anderson, Director, at (208) 334-2600.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2011.

DATED this 18th day of July, 2011.

Jeffrey R. Anderson, Director
Idaho State Lottery
1199 Shoreline Lane, Ste. 100
Boise, ID 83702
Phone: (208) 334-2600
Facsimile: (208) 334-2610

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NUMBER 52-0103-1101

201. CRITERIA FOR REVIEW OF RETAILER APPLICATIONS AND CONDUCT OF OPERATIONS (RULE 201).

01. Retailer's Application. Any person interested in obtaining a contract for a certificate to sell Lottery tickets must first file an application on forms provided by the Director. The forms will require disclosure of, but are not limited to, an applicant's personal, financial, and criminal history, and an authorization to investigate the applicant's criminal and credit history. (3-26-08)

02. Fees, Procedure, and Criteria Precluding Issuing Contract. (3-26-08)

a. All certificate applications must be accompanied by a minimum, nonrefundable, fee of twenty-five dollars (\$25). If a certificate is awarded, an additional, nonrefundable, certificate fee of one hundred dollars (\$100) must be paid. (3-26-08)

b. Certified retailers may apply for a certificate modification to allow the sale of additional Lottery products. A current retailer may be required to complete an additional application or application supplements. If a current retailer requests that the existing certificate be modified to allow the sale of additional Lottery products, no additional application fee will be charged. (3-26-08)

c. The Lottery may waive the payment of any certificate fee to facilitate an experimental program or a research project. (3-26-08)

03. Provisional Certifications. (3-26-08)

a. The Lottery may issue a provisional certificate to an applicant for a Lottery certificate after receipt of a fully completed certificate application, the authorization of a complete personal background check, completion of a credit check, and completion of a preliminary background check. The provisional certificate will expire at the time of issuance of the requested certificate or ninety (90) days from the date the provisional certificate was issued, whichever occurs first, unless the provisional certificate is extended by the Lottery. (3-26-08)

b. The following criteria preclude the Director from entering into a contract with an applicant. No contract shall be made with an applicant: (3-26-08)

i. Who is under eighteen (18) years of age; (3-26-08)

ii. Who will be engaged exclusively in the business of selling tickets; (3-26-08)

iii. Who is an employee of the Lottery; (3-26-08)

iv. Who is, or is owned or controlled or affiliated with, a supplier of instant tickets or a manufacturer of computer equipment used to operate instant or on-line games, or both; (3-26-08)

v. Who is not a resident of Idaho, or a corporation that is not incorporated in Idaho or not authorized to do business in Idaho; (3-26-08)

vi. Who has been found to have violated any rule, regulation, or order of the Commission or the Director; (3-26-08)

vii. When any person, firm, association, or corporation other than the applicant will participate in the management of the affairs of the applicant. (3-26-08)

04. Criteria That May Be Grounds for Refusal. Before contracting with an applicant, the Director will consider the factors set out below. In considering these factors, the Director will seek to determine which applicants will best serve the economical and efficient operation of a statewide Lottery through their ticket sales. If any of these factors lead the Director to determine that contracting with the applicant would not promote the economical and efficient operation of a statewide Lottery consonant with the public interest, or would not serve the

public interest, convenience, or trust, the Director may deny the application. (3-26-08)

a. The Director must consider the financial responsibility and security of the person and the person's business or activity. The Director must consider the person's credit worthiness and integrity in past financial transactions. The Lottery may investigate the credit worthiness of the applicant by using the services of a commercial credit reporting agency. The Director may also consider the physical security of the applicant's place of business to determine whether tickets that will be sold to the applicant and the proceeds from ticket sales will be kept safe. (3-26-08)

b. The Director must consider the accessibility to the public of an applicant's place of business or activity. The Director will contract only with applicants who have regular contact with significant numbers of persons at the applicant's place of business. Before contracting with any organization that has restricted membership policies, the Director must determine whether the restrictions are generally acceptable to the public and whether contracting with that group or organization or similar groups or organizations would best serve the interests of the Lottery. (3-26-08)

c. The Director must consider the sufficiency of existing retailers to serve the public interest. The Director may seek to maximize total ticket sales by encouraging retailers with the highest potential volume in a particular area or neighborhood. (3-26-08)

d. The Director must consider the volume of expected sales by the applicant. In determining the anticipated actual sales volume of the applicant, the Director may rely upon the experience and knowledge of the Lottery's staff as well as any other available professional expertise. The Director must determine whether the volume of an applicant's sales is likely to be sufficient that contracting with the applicant will be economically feasible. (3-26-08)

e. The Director must consider the types of products, services, or entertainment offered at the applicant's place of business. The Director must determine whether the applicant's products, services, or entertainment are generally acceptable to the public and whether they would bear adversely upon the general credibility, integrity, and reputation of the Lottery. (3-26-08)

f. The Director must consider the experience, character, or general fitness of the applicant. Entering into a contract with the applicant must be consistent with the public interest, convenience, and trust. (3-26-08)

g. The Director must consider the veracity and completeness of the information submitted with the retailer's application. The Director must consider the criminal history of the applicant and any person whose name is required to be disclosed under Section 67-7412, Idaho Code, of the Act and may refuse to enter into a contract with any applicant when the applicant or such person has been convicted of violating any of the gambling laws of this state, general or local, or has been convicted at any time of any crime other than traffic infraction. (3-26-08)

05. Duplicate Certificate. Upon the loss, mutilation, or destruction of any certificate issued by the Lottery, application for a duplicate must be made. The Lottery may require a statement signed by the retailer that details the circumstances under which the certificate was lost, mutilated, or destroyed. (3-26-08)

06. Reporting Changes in Circumstances of the Retailer. Every change of business structure of a certificated business, such as from a sole proprietorship to a corporation, and every change in the name of a business, must be reported to the Lottery before the change. Substantial changes in the ownership of a certificated business must also be reported to the Lottery before the change. A substantial change of ownership is defined as the transfer of ten percent (10%) or more equity in the certificated business from or to another single individual or legal entity. If a change involves the addition or deletion of one (1) or more existing owners or officers, the certificate holder must submit a certificate application reflecting the change and any other documentation that the Lottery may require. All changes will be reviewed by the Lottery to determine if the existing certificate should be continued. (3-26-08)

07. Certificate Not a Vested or Legal Right. The possession of a certificate issued by the Lottery to any person to act as a retailer in any capacity is a privilege personal to that person and is not a vested or legal right. The possession of a certificate issued by the Lottery to any person to act as a retailer in any capacity does not automatically entitle that person to sell tickets or obtain materials for any particular game. (3-26-08)

08. Suspension or Revocation of a Certificate. The Lottery may suspend or revoke any certificate issued pursuant to these rules for one (1) or more of the following reasons: (3-26-08)

a. Failing to meet or maintain the eligibility criteria for certificate application and issuance established by Title 67, Chapter 74, Idaho Code, or these rules; (3-26-08)

b. Violation of any of the provisions of Title 67, Chapter 74, Idaho Code, these rules, or the certificate terms and conditions; (3-26-08)

c. Failing to file any return or report or to keep records required by the State Lottery; (3-26-08)

d. Failing to maintain an acceptable level of financial responsibility as evidenced by the financial condition of the business, incidents of failure to pay taxes or other debts, or by the giving of financial instruments which are dishonored; (3-26-08)

e. Fraud, deceit, misrepresentation, or other conduct prejudicial to the public confidence in the Lottery; (3-26-08)

f. If the public convenience is adequately served by other certificate holders, failure to sell a minimum number of tickets as established by the Lottery; (3-26-08)

g. A history of thefts or other forms of losses of tickets or revenue from the business; (3-26-08)

h. Violating federal, state, or local law or allowing the violation of any of these laws on premises occupied by or controlled by any person over whom the retailer has substantial control; (3-26-08)

i. Obtaining a certificate by fraud, misrepresentation, concealment or through inadvertence or mistake; (3-26-08)

j. Making a misrepresentation of fact to the Commission or the Lottery on any report, record, application form, or questionnaire required to be submitted to the Commission or the Lottery; (3-26-08)

k. Denying the Lottery or its authorized representative, including authorized local law enforcement agencies, access to any place where a certificate activity is conducted; (3-26-08)

l. Failing to promptly produce for inspection or audit any book, record, document, or other item required to be produced by law, these rules, or the terms of the certificate; (3-26-08)

m. Systemically pursuing economic gain in a manner or context that is in violation of the criminal or civil public policy of this state if there is cause to believe that the participation of such person in these activities is inimical to the proper operation of the authorized Lottery; (3-26-08)

n. Failing to follow the instructions of the Lottery for the conduct of any particular game or special event; (3-26-08)

o. Failing to follow security procedures of the Lottery for the management of personnel, handling of tickets, or for the conduct of any particular game or special event; (3-26-08)

p. Misrepresenting a fact to a purchaser, or prospective purchaser, of a ticket, or to the general public with respect to the conduct of a particular game or special event; (3-26-08)

q. Allowing activities on the licensed premises that could compromise the dignity of the state. (3-26-08)

09. Surrender of Certificate Upon Revocation. Upon revocation or suspension of a retailer's certificate, the retailer must surrender to the Lottery, by a date designated by the Lottery, the certificate and all other

Lottery property. (3-26-08)

10. Certified Retailers. All Lottery retailers must be certified in the manner provided in these rules. Retailers are required to abide by all applicable laws and administrative rules, the terms and conditions of the contract and certificate, and all other directives and instructions issued by the Lottery. (3-26-08)

11. Requirements for the Sale of Tickets. (3-26-08)

a. Retailers must be knowledgeable about the Lottery and Lottery products and may be required to take training in the operation of Lottery games. Retailers must make the purchase of tickets convenient to the public. (3-26-08)

b. Tickets must be sold at the price designated by the Lottery. Retailers cannot sell tickets for a greater amount than the amount specified by the Lottery. Retailers may sell tickets for a lesser amount for promotional purposes if authorized by the Lottery. (3-26-08)

c. No retailer or any employee or member of a retailer shall attempt to identify a winning ticket before sale of the ticket. (3-26-08)

d. When a retailer is required by its contract with the Lottery to pay a prize to a winner, the retailer must pay the prize whenever the winner tenders a winning ticket during the retailer's normal business hours at the location designated on the retailer's certificate. (3-26-08)

e. Retailers are prohibited from purchasing tickets previously sold by the retailer. (3-26-08)

12. Display of Certificate and Other Materials. Retailers must display the Lottery certificate in an area visible to the general public wherever tickets are being sold. Retailers must also display point-of-sale material provided by the Lottery in a manner that is readily seen by and available to the public. Retailers may advertise and use or display other appropriate promotional and point-of-sale material. The Lottery may require the removal of objectionable material or the discontinuance of objectionable advertising that may have an adverse impact on the Lottery. (3-26-08)

~~**13. Ticket Stamping.** On the back of each scratch ticket sold by a retailer, the retailer must stamp the retailer's name, address, and retailer number in the area provided for retailer identification using the equipment provided by the Lottery. (3-26-08)~~

143. Dishonored Checks and Electronic Fund Transfers. Any payment made to the Lottery by an applicant for a certificate or by a certificated retailer either by a check that is dishonored or by an electronic funds transfer (EFT) that is not paid by the depository, is grounds for immediate denial of the application for a certificate or for suspension or revocation of an existing certificate. The Lottery may assess a surcharge of ten dollars (\$10) for each dishonored check or EFT. The Lottery may also alter the payment terms of a retailer's certificate and require a retailer to reimburse the Lottery for costs that occur as a result of a dishonored check or EFT. (3-26-08)

154. Retailer Identification Card. The Lottery may issue to each retailer an identification card which must be presented by its authorized representative when taking delivery of tickets. If the identification card is lost or otherwise misplaced or mutilated, the retailer must immediately notify the State Lottery. (3-26-08)

165. Inspection of Lottery Materials and Retailer Premises. Retailers must allow the Lottery to enter upon the retailer's certificated premises in order to inspect Lottery materials, tickets, and the premises. All books and records pertaining to the retailer's Lottery activities must be available to the Lottery for inspection and copying during the normal business hours of the retailer and between 8 a.m. and 5 p.m., Monday through Friday. All books and records pertaining to the retailer's Lottery activities are subject to seizure by the Lottery without prior notice. (3-26-08)