

BEFORE THE MONTANA LOTTERY COMMISSION
DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 2.63.204, 2.63.611, and) AMENDMENT
2.63.1201 pertaining to general)
provisions, revocation or suspension of) NO PUBLIC HEARING
license, and prizes) CONTEMPLATED

TO: All Concerned Persons

1. On October 31, 2016, the State Lottery Commission proposes to amend the above-stated rules.

2. The State Lottery Commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, please contact the State Lottery Commission no later than 5:00 p.m. on October 14, 2016, to advise us of the nature of the accommodation that you need. Please contact Denise Blankenship, Montana Lottery, 2525 North Montana Avenue, P.O. Box 200544, Helena, Montana 59601; telephone (406) 444-5801; fax (406) 444-5830; TDD/Montana Relay Service (406) 444-9642; or by e-mail at dblankenship@mt.gov.

3. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

2.63.204 GENERAL PROVISIONS (1) The lottery shall provide scratch ~~ticket~~ and terminal-issued lottery games and promotional coupons to the public whenever the director, with the commission's concurrence ~~of the commission~~, finds it feasible and in the state's best interest ~~of the state~~.

(2) through (2)(g) remain the same.

(3) The director shall determine, with the commission's concurrence, the length of each ~~scratch~~ lottery game or promotional coupon. The starting date and closing date of each game or coupon shall must be publicly announced.

(4) through (4)(f) remain the same.

(5) Game and promotional coupon rules are subject to the commission's concurrence ~~of the commission~~.

(6) and (7) remain the same.

AUTH: 23-7-202, MCA

IMP: ~~23-7-101, 23-7-102, 23-7-103~~, 23-7-110, 23-7-202, 23-7-211, 23-7-212, 23-7-301, MCA

STATEMENT OF REASONABLE NECESSITY: When this rule was first written, the lottery did not offer terminal-issued games or promotional coupons. With

the advent and success of terminal-issued games and promotional coupons, these rule changes are proposed to clearly establish the standard to be used for marketing a Montana Lottery promotional coupon. Over the last five years, the Montana Lottery has marketed an increasing number of coupon offerings as a tool to enhance the number of new players and as a way to reward existing players. These couponing efforts also increase brand awareness and improve sales for a specific product when required. Lottery coupons as delivered for these purposes are very effective, and we are witnessing an increase in the expectation levels of our customers for more of these types of marketing methods. These coupon campaigns require measuring since their cash value must be accounted for and documented. These rule changes will provide legal authorization to the Montana Lottery to not only amass the required accounting reports, but to also develop reports to allow the lottery to evaluate the methods used for delivering coupons and which coupons work best for our market.

These rule changes also clarify that the commissioners must handle coupons in the same manner as other lottery product offerings. These changes reflect industry practices for the establishment of controls on promotional coupons; therefore, the inclusion of these changes is reasonable and necessary. In addition, the legislative auditor has expressed that more controls be in place to manage coupons.

Additional statutes implemented by this rule are being added to clarify the rule's effect. Minor amendments are included to improve language and readability. These proposed changes will not affect Montana business owners.

2.63.611 REVOCATION OR SUSPENSION OF LICENSE (1) through (1)(b) remain the same.

(c) endangered the security of the lottery; or

(d) sold any ticket at a higher price than that set by ~~rule of the commission~~

rule-;

(e) intentionally or knowingly initiated or accepted an offer of compensation from another person to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation, or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize with the intent to defraud a creditor by means of fraud, deceit, or misrepresentation;

(f) intentionally preprinted multiple terminal-issued draw game or raffle tickets with the objective of gaining an advantage over other lottery sales locations while benefiting financially, either directly or indirectly, from sale of those tickets; or

(g) intentionally amassed packs of scratch tickets to gain an advantage over other lottery sales locations while benefiting financially, either directly or indirectly, from sale of those tickets.

(2) through (4) remain the same.

(5) In circumstances where the licensee owns or is a partner in multiple locations, the restriction, suspension, or termination of one location associated with the licensee is grounds for restriction, suspension, or termination of all locations.

AUTH: 23-7-202, MCA

IMP: 23-7-301, MCA

STATEMENT OF REASONABLE NECESSITY: This change to the rule is a proactive measure to ensure the public is treated with dignity and honesty when purchasing a lottery product from a retailer. From complaints received, we have ascertained that preprinting tickets brings into question the integrity of the Montana Lottery for allowing retailers to engage in this type of activity. Preprinting mass quantities of tickets by a licensed retailer also lends itself to theft if not controlled, and increased monetary burdens owed the Montana Lottery by the retailer if they find themselves holding tickets past a drawing. Changes also reflect the desire of the Montana Lottery's legislative oversight committee, which advocated that a Montana Lottery licensee should not be allowed to counsel a customer to engage or assist a customer in conduct that the licensee knows or reasonably should know is criminal or fraudulent. In addition, the Montana Lottery's rules must be in the public interest. As the Montana Lottery's agent, a licensee must conform to a higher standard of requirements when engaged in the sale of Montana Lottery game products. No financial impact to business owners in Montana will result from these changes.

2.63.1201 PRIZES (1) Winning tickets will be redeemed:

(a) by any retailer up to an amount and in a manner determined by the commission for tickets valued up to \$600; or

(b) if the ticket value is greater than \$600, by presenting the ticket and a claim form provided by the director to the lottery, either by mail or in person. Playslip and sales receipt may not be used to claim a prize.

(2) through (14) remain the same.

(15) A valid, unexpired photo identification is required to claim Montana lottery prizes. Acceptable types of identification include:

(a) driver license;

(b) government-issued identification card;

(c) military identification card;

(d) passport;

(e) permanent resident card;

(f) Department of Veterans Affairs medical benefits card; and

(g) tribal government-issued identification card.

AUTH: 23-7-202, MCA

IMP: 23-7-202, 23-7-211, MCA

STATEMENT OF REASONABLE NECESSITY: The addition to (1) is necessary to clarify that only a lottery ticket is considered the bearer instrument acceptable to claim a lottery prize. Players have sometimes attempted to claim a prize using playslips or receipts as proof of winning, but only a ticket or ticket and claim form is accepted. In addition, since federal gambling law specifies the \$600 limit on retailer-redeemed tickets, the commission finds it reasonable to specify this amount in rule.

The addition of (15) is reasonable and necessary to ensure a person's true identity when claiming a winning prize. We have reviewed procedures from other

lotteries as part of our consistent effort to improve business practices. Those reviews indicate the requirement to produce a photo ID is a common industry standard. This is partially due to the number of individuals in other states claiming to be someone they were not to avoid child support or other offsets of winnings. In Montana, we have two codified offsets (child support and unemployment insurance) now as opposed to none when the rule was originally written. The legislative auditors have also indicated we need to follow the best practices of other states regarding winner claims. To allow otherwise could compromise the integrity of the Montana Lottery. No financial impact to business owners in Montana will result from these changes.

4. Concerned persons may present their data, views, or arguments concerning the proposed actions to John Tarr, Security Director for the Montana Lottery, at 2525 North Montana Avenue, Helena, Montana 59601; telephone number (406) 444-5804; fax (406) 444-5830; or by e-mail to JTarr@mt.gov; and must be received no later than 5:00 p.m. on October 21, 2016.

5. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to John Tarr at the above address no later than 5:00 p.m. on October 21, 2016.

6. If the commission receives requests for a public hearing on the proposed actions from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed actions; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 95 persons based on the 950 licensed lottery retailers in the state.

7. The State Lottery Commission maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail address, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding commission rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the commission.

8. An electronic copy of this proposal notice is available through the Department of Administration's web site at <http://doa.mt.gov/administrativerules.mcp>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a

discrepancy exists between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the commission has determined the proposed rule amendments will not significantly and directly impact small businesses.

By: /s/ Wilbur Rehmann
Wilbur Rehmann, Chair
Montana Lottery Commission

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State September 12, 2016.