

BEFORE THE STATE LOTTERY AND SPORTS WAGERING COMMISSION
DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW)	NOTICE OF PUBLIC HEARING ON
RULES I through IV pertaining to sports)	PROPOSED ADOPTION,
wagering accounts, self-exclusion,)	AMENDMENT, AND REPEAL
responsible gaming and age verification,)	
the amendment of ARM 2.63.203,)	
2.63.204, 2.63.401, 2.63.402, 2.63.403,)	
2.63.404, 2.63.405, 2.63.406, 2.63.407,)	
2.63.603, 2.63.604, 2.63.606, 2.63.609,)	
2.63.611, 2.63.612, 2.63.801, 2.63.1002,)	
2.63.1004, 2.63.1005, 2.63.1201, and)	
2.63.1202 pertaining to general)	
provisions, place of sale, licensing, fees,)	
electronic fund transfers, accounting,)	
retailer commission, notices,)	
investigative cooperation, prizes and)	
redemptions to implement sports)	
wagering, and the repeal of ARM)	
2.63.409 pertaining to forms of payment)	

TO: All Concerned Persons

1. On October 28, 2019, at 10:00 a.m., the Montana Lottery will hold a public hearing at the State Lottery Headquarters, 2525 N. Montana Ave., Helena, Montana, to consider the proposed adoption, amendment, and repeal of the above-stated rules.

2. The Montana Lottery 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, contact the State Lottery Commission no later than 5:00 p.m. on October 21, 2019, to advise us of the nature of the accommodation that you need. Please contact Denise Blankenship, State Lottery, 2525 North Montana Avenue, P.O. Box 6073, Helena, Montana 59604-6073; telephone (406) 444-5801; fax (406) 444-5830; TDD/Montana Relay Service (406) 444-9642; or by e-mail at dblankenship@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The 2019 Legislature enacted Chapter 284, Laws of 2019 (House Bill 725), to allow sports gambling through the state lottery. With the enactment of HB 725, it is necessary for the commission to adopt new rules and amend existing rules to address the addition of sports wagering as an allowable activity.

The commission is amending ARM 2.63.203, 2.63.401, 2.63.402, 2.63.403, 2.63.404, 2.63.405, 2.63.406, 2.63.407, 2.63.603, 2.63.606, 2.63.612, 2.63.801,

2.63.1002, 2.63.1004, 2.63.1005, and 2.63.1202 to replace references to the term "retailer" with the term "sales agent" to conform with the terminology used in HB 725. Reasons for other proposed changes are addressed specifically for those rules.

4. The rules proposed to be adopted provide as follows:

NEW RULE I SPORTS WAGERING ACCOUNTS (1) Only players who have established a sports wagering account as defined in 23-7-103, MCA, may engage in mobile sports wagering.

(2) The lottery may accept anonymous wagers at a sports wagering facility.

(3) The lottery shall record and maintain the information submitted to initially create a sports wagering account.

(4) Before establishing a sports wagering account, the lottery shall:

(a) verify the player's identity by physical or electronic means;

(b) verify the player is 18 years of age or older by physical or electronic means as provided in [NEW RULE IV];

(c) verify the player is not self-excluded from participating in sports wagering by participation in the self-exclusion program as provided in [NEW RULE II];

(d) verify the player is not prohibited from sports wagering by 23-7-302(4), MCA, or otherwise prohibited from participating in sports wagering;

(e) record the document number of the government-issued identification credentials examined, or other methodology for remote, multi-sourced authentication, which may include third-party and governmental databases, as approved by the director; and

(f) record the player's:

(i) acceptance of the terms and conditions and privacy policy; and

(ii) acknowledgment that the information provided is accurate and that the player is prohibited from allowing any other person to access or use their sports wagering account.

(5) Unauthorized access to, or use of, a player's sports wagering account by a person other than the player for whom the sports wagering account was established is prohibited.

(6) A player is allowed only one sports wagering account.

(7) A sports wagering account may be funded using methods described in ARM 2.63.409.

(8) The lottery shall suspend a sports wagering account if a preponderance of evidence indicates:

(a) the account has not been used to make any wagers for a consecutive 18-month period;

(b) illegal activity;

(c) a negative account balance;

(d) fraudulent or multiple failed automated clearing house (ACH) deposit attempts; however, a failed ACH deposit attempt may not be considered fraudulent if the player has successfully deposited funds via an ACH transfer on a previous occasion with no outstanding chargebacks;

(e) the account was issued in error or in violation of statute or rule; or

(f) a violation of the terms and conditions of the sports wagering account that are posted on montanalottery.com and the mobile application.

(9) When a sports wagering account is suspended, the player may not:

(a) wager;

(b) deposit funds;

(c) withdraw funds, unless the reason for the suspension would not prohibit a withdrawal;

(d) change their sports wagering account; or

(e) remove the sports wagering account from the system.

(10) A suspended sports wagering account may be restored:

(a) upon expiration of the time period established by the player as indicated in the self-exclusion program provided for in [NEW RULE II];

(b) upon the lottery's permission; or

(c) when the player is no longer a prohibited sports wagering participant.

(11) Funds may be withdrawn from a sports wagering account for:

(a) wagers;

(b) check or wire transfer by the lottery made payable to the player and issued directly or delivered to the player's address on file;

(c) credits to the player's debit card;

(d) a transaction using sports wagering equipment; or

(e) any other means approved by the lottery.

(12) Sports wagering account funds may not be withdrawn unless all conditions are met, including:

(a) successful resolution of player dispute or investigation;

(b) the ACH funding transaction clears or the chargeback period ends; and

(c) the funding of lottery-provided promotional rewards clears.

(13) A player may not transfer funds or rewards between or among sports wagering accounts.

(14) The lottery shall suspend and close a sports wagering account if the account has not been used to make any wagers for a consecutive 18-month period. In such circumstances:

(a) funds within the suspended sports wagering account to be closed are no longer accessible by the player;

(b) funds in the account must be returned to the player; and

(c) the player may only create a new sports wagering account after the suspended account is closed by the lottery.

AUTH: 23-7-202, MCA

IMP: 23-7-102, 23-7-103, 23-7-110, 23-7-202, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: The lottery proposes to adopt this rule to implement, manage, and terminate sports wagering accounts through the use of electronic devices. The use of a sports wagering account will enable a player to electronically participate in sports wagering at a licensed sports wagering facility. The lottery is charged with maximizing revenue and having the

ability to allow for electronic wagers which are used throughout the industry to increase efficiency and ease of play.

The player is limited to one account to discourage potential fraudulent use of an account by another player who may not be eligible to wager. For example, a player with more than one account could create another account under their identity and turn control of the account over to an ineligible player.

It is necessary to verify the identity of the player to ensure compliance with law and assist in responsible gaming efforts. Physical and electronic verification of the player are tools to ensure compliance.

The proposed rule lists grounds for suspending sports wagering accounts to give players notice of events that may lead to account suspension. The identified reasons for suspending an account were selected because they describe circumstances when illegal or fraudulent activity may have occurred, conditions that place the player's account at risk of being compromised, and circumstances that create risk for the lottery.

If an account is suspended, it is necessary to restrict access to all activities associated with that account until the issue triggering the suspension is resolved. This limits potential financial impact to both the player and the lottery and prevents possible criminal activity.

Withdrawals and transfers from established accounts are limited to the methods described in (12) and (13) to ensure that the funds being withdrawn are going to the account holder. These limited methods discourage use by someone other than the verified player and prevents criminal activity, such as money laundering.

Dormant accounts indicate they are abandoned and could be subject to abuse by persons who gain access to the account. The 18-month period was chosen to allow a player the opportunity to only wager on an annual event such as the World Series and events that occur annually but not always at the same time.

Anonymous wagers will be accepted only at a sports wagering facility, thus enabling a player to wager without establishing an account. This will allow persons who are new to sports wagering the ability to experience sports betting without providing personal information. The operator of the sports wagering facility must still verify the player's eligibility.

Through the controls outlined in the proposed rule, the lottery will help ensure the person holding the account is of legal age to place a wager and that the account cannot be used for illegal purposes.

NEW RULE II SELF-EXCLUSION PROGRAM (1) The voluntary self-exclusion program allows persons who wish to refrain from sports wagering to notify the lottery that they accept responsibility for refraining from sports wagering offered by the lottery. Each person seeking placement in the voluntary self-exclusion program acknowledges the responsibility to refrain from engaging in sports wagering.

(2) A person may request placement in the voluntary self-exclusion program by completing the application and following the procedure outlined at montanalottery.com.

(3) A program participant may not create a sports wagering account and may not collect any winnings or recover any losses resulting from any sports wagers under the lottery's control.

(4) The program participant must forfeit all rewards or points earned through any player reward or other promotional programs offered by the lottery.

(5) A person who has self-excluded may request removal from the self-exclusion program by following the procedure outlined at montanalottery.com.

AUTH: 23-7-202, MCA

IMP: 23-7-202, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: The proposed rule for a self-exclusion program for sports wagering helps ensure the lottery is contributing to responsible gaming as directed in 23-7-202(10)(i), MCA. The lottery proposes this approach because self-exclusion programs are a commonly employed strategy for responsible gaming. Research gathered by the National Center for Responsible Gaming and in the Journal of Gambling Studies indicates persons who self-exclude experience benefits, including decreased gambling and increased psychological wellbeing and overall functioning. Ohio, Missouri, Maryland, Pennsylvania, California, and other locations have made self-exclusion programs part of their efforts to combat problem gambling. By implementing a program, the lottery provides persons a recognized tool to help manage their gambling disorder.

NEW RULE III RESPONSIBLE GAMING (1) The lottery shall provide players choices in their sports wagering account to select responsible gaming options, including self-limiting options such as:

(a) a deposit limit offered on a daily, weekly, and monthly basis that specifies the maximum amount of money a player may deposit into their sports wagering account during a particular period of time;

(b) a spending limit offered on a daily, weekly, and monthly basis that specifies the maximum amount of player funds that may be put at risk during a particular period of time; and

(c) a time-based limit, offered daily that specifies the maximum amount of time, measured hourly from the player's log-in to log-off, a player may spend playing on a sports wagering system.

(2) Information about player protection and responsible gaming is available at montanalottery.com.

(3) Players' personally identifiable information is protected in accordance with the privacy policy located at montanalottery.com.

(4) Self-exclusion is allowed as described in [NEW RULE II].

(5) As described in [NEW RULE IV], the lottery shall reasonably ensure a player under the age of 18 is prohibited from participating in sports wagering by verifying the age of each person who obtains a sports wagering account and by informing licensees of their responsibility to verify the legal age of persons placing a sports wager.

AUTH: 23-7-202, MCA

IMP: 23-7-202, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: The lottery is proposing this rule to allow players to set self-imposed limits on placing sports wagers and to protect the player's identity. Player-set limits are utilized nationally to encourage responsible gambling. Research published in the Responsible Gambling Review indicates that self-imposed limits contribute to responsible gaming. A self-limiting program for sports wagering allows the lottery to contribute to responsible gaming as directed in 23-7-202(10)(i), MCA, by ensuring a fair and safe gaming experience that protects the players from the adverse consequences of sports wagering. The responsible gaming limits included in the proposed rule reflect responsible gaming principles accepted within the industry and the lottery believes following these principles rather than creating its own makes sense.

NEW RULE IV AGE VERIFICATION (1) Each sales agent shall ensure all persons purchasing or cashing lottery products are 18 years of age or older.
(2) All persons selling lottery products must be 18 years of age or older.
(3) The lottery shall verify the age of all persons establishing a sports wagering account to ensure they are 18 years of age or older by:
(a) physical verification of a government-issued identification as described in ARM 2.63.1201(1); or
(b) electronic verification of information provided by the player.

AUTH: 23-7-202, MCA

IMP: 23-7-202, 23-7-302, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: NEW RULE IV imposes age verification requirements on sales agents to ensure the purchase of lottery tickets and sports wagers is restricted to persons 18 years of age and older as provided in 23-7-302(2), MCA. Sale of lottery tickets and sports wagers is restricted to persons who are 18 years of age or older by 23-7-301(3)(b), MCA. The responsibility to verify the age of the player falls to both the retailer and the lottery. Section (3) clarifies it is the lottery's duty to verify the age of persons establishing sports wagering accounts. Government-issued identification review allows the lottery to verify the identity and age of the player to assess the player's suitability and ensure compliance with existing law. All references to age restrictions were placed into this rule in one location to help avoid confusion.

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

2.63.203 DEFINITIONS In addition to the definitions found in 23-7-103, MCA, the following definitions apply to this chapter:

(1) through (4) remain the same.

(5) "Player" means a person who:

(a) has purchased a lottery game ticket, chance, wager, or bet; and

(b) is not restricted from purchase under 23-7-302, MCA.

(5) remains the same but is renumbered (6).

~~(6) "Retailer" means a licensed ticket or chance sales agent provided for in 23-7-301, MCA.~~

(7) and (8) remain the same.

AUTH: 23-7-202, MCA

IMP: 23-7-301, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: The commission proposes to delete the term "retailer" because it was replaced by the term "sales agent" in 23-7-103(6), MCA, as amended by HB 725. With the inclusion of "sales agent" in statute, a separate definition in rule is not necessary. The term "player" is added to distinguish a person who is legally playing a lottery game from those who are not eligible to play a lottery game.

2.63.204 GENERAL PROVISIONS (1) The lottery shall provide lottery tickets ~~and, promotional coupons, and sports wagering~~ to the public whenever the director, with the commission's concurrence, finds it feasible and in the state's best interest.

(2) through (5) remain the same.

(6) The director shall adopt parameters for sports wagering games, including but not limited to:

(a) holding fixed odds wagering;

(b) bettor participation in wagering games;

(c) minimum and maximum wager limits;

(d) bet acceptance;

(e) bet cancellation;

(f) event results;

(g) winning bets;

(h) winnings payouts;

(i) maximum winnings;

(j) disputes and complaints; and

(k) sports and bet types.

~~(6) (7)~~ The director may conduct a grand prize event ~~in conjunction with the games~~. The procedures for conducting preliminary drawings and for the grand prize event shall be determined by the director, subject to 23-7-102, MCA.

AUTH: 23-7-202, MCA

IMP: 23-7-110, 23-7-202, 23-7-211, 23-7-212, 23-7-301, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: The proposed amendments are necessary to implement sports wagering. The director will provide parameters or game specifications describing how specific sports wagering games will operate. Parameters are unique and change in every new game. All new games and game parameter changes are presented to the commission quarterly for approval.

Parameters are necessary to ensure the fairness and integrity of the sports wagering product. By having a fair product, the lottery will encourage players to purchase wagers and maximize the revenue generated. Sports wagering is another product of the lottery and will be subject to similar provisions as other lottery products. The parameters required by this proposed amendment will address all aspects of sports wagering.

Other jurisdictions, including Delaware, the District of Columbia, British Columbia, and the Western Canada Lottery Commission have required parameters to address the issues and considerations identified in (6). As in these jurisdictions, the lottery anticipates establishing parameters regarding the listed issues will ensure the lottery's sports wagering products are fair. Furthermore, under 23-7-305, MCA, the lottery is required to make adequate disclosure of the odds or payoffs of all lottery products, and therefore it is necessary to have parameters for fixed odds wagering.

Information regarding sports wagering parameters will be available at montanalottery.com and the sports wagering account mobile application.

2.63.401 RETAILER SALES AGENT PLACES OF SALE (1) remains the same.

(2) Sports wagering may be offered at any place of business in Montana:

(a) that is licensed by the lottery;

(b) that is under the control of a person in possession of a gambling operator license as defined in 23-5-177, MCA;

(c) whose owner has the appropriate alcoholic beverage license as defined in 23-5-119, MCA;

(d) that has a unique address assigned by the local government in which the premises is located;

(e) that is not engaged in a business exclusively as a sports wagering sales agent;

(f) that is financially responsible;

(g) that is accessible to the public and meets ADA standards;

(h) whose owner has not been convicted of a felony or gambling-related offense;

(i) whose owner does not have a financial interest in any gaming supplier;
and

(j) whose owner is not a person prohibited from receiving a license pursuant to 23-7-301, MCA.

AUTH: 23-7-202, 23-7-301, MCA

IMP: 23-7-301, 23-7-306, 23-7-307, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: The catchphrase is being amended to conform with the terminology used in HB 725. Rule text is being amended to include sports wagering. The rule will subject sports wagering locations to the same restrictions placed on other lottery sales agents with several additional requirements to ensure the integrity of the product. HB 725 describes a sports

wagering facility as a location licensed as a gambling operator as described in 23-5-177, MCA.

During legislative hearings on HB 725, there was testimony requesting that sports wagering be limited to taverns. As a result, an amendment to the legislation was offered and accepted to require a gambling operator license to limit sports wagering to locations with gambling. The lottery intends to clarify this further by specifying that, in addition to the gambling operator license, an appropriate alcoholic beverage license as defined in 23-5-119, MCA, is also required. The lottery has taken this approach because by limiting eligibility to locations that possess the appropriate alcoholic beverage license for certain gambling activities, the lottery will ensure a sufficient number of locations to offer sports wagering and help limit any adverse impacts of an overabundance of locations. Since the distribution of alcoholic beverage licenses is based upon population, linking sports wagering to both license requirements ensures a similar balanced distribution of the sports wagering licenses.

A unique business address for a location allows the lottery to identify where the sales agent will operate from. The record will allow the lottery to locate the sales agent to deliver and maintain equipment and supplies. A location that plans to operate a business exclusively offering sports wagers would not be eligible with the addition made to 23-7-301, MCA in HB 725.

The fiscal responsibility of the sales agent will be determined through investigation by lottery staff utilizing, in part, information supplied by the applicant. Sales agents are entrusted with funds from the sale of lottery products from the time of sale until the funds are transferred to the lottery. Therefore, the lottery is required to determine the financial responsibility of the applicant to minimize potential financial risk to the state. If the applicant is determined to be a risk, the director may choose to require a bond as provided for in 23-7-301, MCA.

The lottery is proposing other criteria in (2) to ensure sports wagering licensees meet the financial responsibility, security, accessibility, and public convenience requirements in 23-7-301, MCA. Restrictions regarding persons who are involved in professional and collegiate sports are included and are required by 23-7-301(3)(d), MCA.

2.63.402 RETAILER SALES AGENT RESIDENCY (1) remains the same.

AUTH: 23-7-301, MCA

IMP: 23-7-301, MCA; Chapter 284, section 1, L. 2019.

2.63.403 RETAILER SALES AGENT APPLICATIONS AND FEES (1) A person interested in obtaining a license as a retailer sales agent shall:

(a) complete an eStop application and pay the required licensing fee on the state licensing system portal at www.eStop.mt.gov; and

(b) ~~file a traditional or Montana sports action (MSA) lottery retailer an~~ application for a license using the application forms on ~~the Montana Lottery website at www.montanalottery.com/en/view/retailers~~ montanalottery.com; and

(c) indicate license type:

(i) lottery only; or

(ii) sports wagering only.

(2) There is a one-time non-refundable \$50 application fee for a traditional license.

~~(3) There is an additional annual fee for an MSA license as provided in ARM 8.22.3902(2)(c), which is collected for and transferred to the Board of Horse Racing. To apply for an MSA license, a retailer must first have a current gaming license.~~

(4) remains the same but is renumbered (3).

AUTH: 23-7-202, MCA

IMP: 23-7-202, 23-7-301, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: In general, the proposed amendments are needed to restructure licenses with the addition of sports wagering. With the enactment of HB 725, use of the term "traditional license" is no longer appropriate as there are now two types of licenses available. The lottery proposes to adopt (1)(c) to require applicants to identify which of the two available license types the applicant is seeking.

With the addition of sports wagering, the lottery is proposing to delete (3) to avoid potential confusion between parimutuel betting licenses, also known as sports action licenses, and the sports wagering licenses authorized by HB 725. ARM 8.22.3902 governs licensure for parimutuel betting. The lottery will continue to collect and remit the pari-mutuel license fee for the Board of Horse Racing; however, it is unnecessary to address pari-mutuel licensing in both ARM 8.22.3902 and in this rule regarding lottery sales agent licensing.

The lottery is not changing the application fee collected to defray the expense of processing and administering licenses. No sports wagering licenses have been issued to date; however, the Department of Justice reports there are 1,400 licensed gambling operators who would be eligible to apply for a sports wagering license. If the gambling operators licensed currently apply for sports wagering licenses, the cumulative revenue increase for the lottery will be \$70,000.

2.63.404 RETAILER SALES AGENT REQUIRED RULE READING

(1) Each licensed retailer sales agent and any employee of the retailer sales agent ~~who will be~~ involved in the sale, bookkeeping, or any other aspect of the lottery and sports wagering shall:

(a) read and understand the ~~lottery~~ laws and commission rules concerning retail lottery and sports wager licenses ~~and be familiar with these laws and rules;~~ and

(b) sign all official application forms indicating that the retailer sales agent is familiar with the laws and commission rules and agrees not to violate these laws or rules.

AUTH: 23-7-202, MCA

IMP: 23-7-202, 23-7-301, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: The lottery proposes to amend this rule to provide style corrections and improve clarity. It is important for

the sales agent to understand and follow the statutory obligations and restrictions, because a violation could result in a criminal conviction and loss of license. The lottery believes that emphasis on these obligations is important.

2.63.405 RETAILER SALES AGENT ELECTRONIC FUNDS TRANSFER AND ACCOUNTING (1) ~~A retailer~~ An applicant shall, before being licensed, authorize the debiting and crediting of an account in the ~~retailer's~~ applicant's name for the purpose of electronic funds transfer to or from the state's collection account, as provided in ARM 2.63.801.

(2) ~~The retailer~~ sales agent shall execute all forms required by the lottery director, the ~~retailer's~~ sales agent's bank, or the initiating bank.

(3) The lottery shall provide to the sales agent the means to track sales, cashing, adjustment, and invoicing activity for bookkeeping purposes.

AUTH: 23-7-202, MCA

IMP: 23-7-301, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: The lottery currently provides sales agents the ability to track all aspects of business conducted with the lottery. The additional proposed language describes the financial tracking tools the lottery provides to sales agents. These tools will allow both parties to have a common point of reference while working to resolve issues. Identifying issues early on gives the lottery the best opportunity to limit any potential loss.

2.63.406 RETAILER SALES AGENT BONDING (1) The director may require a surety bond from the owner or corporation making the application to the lottery to become a lottery ~~retailer~~ sales agent. ~~A determination for this bonding requirement is made based on the applicant's credit risk score exceeding a maximum allowable score of 30. The bond amount is determined by:~~

(a) if the location was previously licensed, the sales total for the six months prior to closing;

(b) for a new location, the sales of a similarly sized sales agent in a community of approximately the same population for the six months before the application date.

(2) The sales agent shall maintain the bond for two years.

AUTH: 23-7-202, 23-7-301, MCA

IMP: 23-7-301, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: This rule, which applies to all lottery games offered by sales agents, is being amended to implement 23-7-301 MCA, which states the amount of bond will be provided for in rule. The former rule utilized a scoring system that is no longer in use in the industry. The proposed methodology will protect the lottery from potential risk by providing a bond against potential loss. Research by JP Morgan indicates approximately 1/3 of small businesses stop operating within two years. Based on this research, the commission believes two years is a reasonable time.

2.63.407 RETAILER SALES AGENT COMMISSION (1) Retailers Sales agents who sell lottery scratch or terminal-issued tickets are entitled to a 5 percent base commission of the face value of tickets sold.

(2) Retailers Sales agents who sell scratch tickets may increase the scratch ticket commission up to an additional 5 percent.

(a) Each retailer sales agent is assigned a scratch ticket sales base. The scratch ticket sales base is determined using the prior fiscal year's average scratch ticket pack activations minus pack returns.

(b) For each sales quarter, the retailer's sales agent's scratch tickets are measured against the assigned base by scratch tickets activated and not returned to the lottery.

(c) For each 2 percent increase in retailer's sales agent's sales over the established base sales during the sales quarter, the retailer's sales agent's commission must be increased by an additional 0.5 percent, not to exceed a 10 percent total commission for any quarter.

(3) Retailers Sales agents who sell terminal-issued tickets designated in lottery policy may increase the terminal-issued commission for participating games up to an additional 5 percent.

(a) Each retailer sales agent is assigned a terminal-issued ticket sales base for participating games. The terminal-issued ticket quarterly sales base is determined by a retailer's sales agent's previous year's sales performance. Retailers Sales agents with quarterly revenue greater than \$1,000 are eligible for this bonus program.

(b) For each sales quarter, the retailer's sales agent's terminal-issued tickets are measured against the assigned base by gross sales for participating games.

(c) Retailers Sales agents who achieve the minimum sales quarter growth requirement must receive an additional bonus rate commission for participating terminal-issued games, not to exceed a 10 percent total commission for any quarter.

(4) Retailer Sales agent ticket sales bases, minimum requirements, and bonus rates may be adjusted annually at the discretion of the commission.

(5) remains the same.

(6) Sales agents who offer sports wagers are entitled to a 6 percent base commission of the value of sports wagers made.

AUTH: 23-7-202, 23-7-301, MCA

IMP: 23-7-202, 23-7-301, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: The lottery proposes to amend this rule to reflect the requirement for the lottery commission to address sales agents' commissions, as reflected in 23-7-202 and 23-7-301, MCA. The rule currently addresses commissions for other lottery products. With the addition of sports wagering, the sales agent's commission for this product is required to be added. The lottery is proposing a 6 percent commission for sports wagering, because a sales incentive program for sports wagering is not offered.

2.63.603 DISPLAY OF LICENSE, NOTICES, AND RESTRICTIONS

(1) Each ~~retailer~~ sales agent shall prominently display the license in each licensed place of business in an area visible to the general public and in a manner that prevents theft or defacement of the license.

(2) Each sales agent shall post a notice that persons must be 18 years of age to play.

(3) A sales agent operating a sports wagering facility shall also post information from the lottery including:

(a) sports wagering game conditions that are available through the official website;

(b) responsible gambling resources approved by the director that are dedicated to helping persons with potential gambling problems; and

(c) information governing self-imposed responsible gaming limits and the ability for the player to establish those limits.

AUTH: 23-7-301, MCA

IMP: 23-7-301, 23-7-302, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: The lottery is amending this rule to ensure persons under the age of 18 are aware that they cannot place a wager as stated in 23-7-302, MCA. The commission believes this emphasis is important given the Legislature's mandate. The listing of the game conditions, information regarding potential gambling problems, and self-imposed limits will increase awareness of responsible gaming and help protect the consumer. The information will also promote public confidence in the integrity of lottery products. If the public has confidence in the product, they will continue to play, allowing the lottery to maximize revenue.

2.63.604 LICENSE LOCATIONS (1) remains the same.

(2) Each person shall submit a separate application for each location at which the person intends to sell lottery tickets or offer sports wagering.

(3) and (4) remain the same.

AUTH: 23-7-202, 23-7-301, MCA

IMP: 23-7-301, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: The lottery is amending this rule to include sports wagering locations consistent with 23-7-301, MCA. By adding sports wagering locations to the rule, the lottery is dealing with these locations in a similar fashion as other locations selling lottery products.

2.63.606 DUPLICATE LICENSES (1) Upon the loss, mutilation, or destruction of any license issued by the director, the ~~retailer~~ sales agent shall submit a written request to replace the license to the director.

(2) remains the same.

(3) The request for a duplicate license must be accompanied by a nonrefundable fee of \$40 25.

(4) and (5) remain the same.

AUTH: 23-7-202, MCA

IMP: 23-7-211, 23-7-301, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: The lottery is proposing to amend this rule to increase the allowable fee to provide a duplicate license. The increase will help cover the additional costs of verifying the license owner information, status of the license, production, and the mailing. The increase will only affect a person who has lost a license. The amount of a duplicate license has remained the same since the inception of the lottery in 1986, and the commission believes this amount is reasonable and will cover the administrative cost of providing a duplicate license. On average, the lottery replaces approximately 20 licenses per year. This change would result in an additional \$300 annually.

2.63.609 CHANGE OF LOCATION (1) The change of a business address for any ~~retail~~ licensee is not considered to be the assignment or transfer of the license if all of the following criteria are met:

- (a) remains the same;
- (b) the old location ceases all business activity by the licensee and not merely the sale of ~~lottery tickets, chances, wagers, or bets;~~
- (c) through (2) remain the same.

AUTH: 23-7-202, MCA

IMP: 23-7-301, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: With the addition of sports wagering as a lottery product, the lottery has the obligation to ensure that each location is properly licensed. The lottery proposes to amend the current rule to include sports wagering language into the existing rule and use consistent terminology throughout the rule. By adding sports wagering locations to the rule, the lottery is dealing with these locations in a similar fashion as other locations selling lottery-only products.

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

(d) sold any ticket, chance, wager, or bet at a higher price than that set by commission rule;

(e) intentionally or knowingly initiated or accepted an offer of compensation from another person, or agreed to aid another person or persons, to claim all or a share of a lottery prize or a share of a lottery prize sports wager winnings 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 or taken other intentional actions to gain an advantage over other lottery sales locations while benefiting financially, either directly or indirectly, from sale of those tickets; or
 - (h) tampered with any equipment used for lottery or sports wagering.
 - (2) through (2)(d) remain the same;
 - (e) knowingly selling to or cashing a lottery or sports wager ticket to for a person under the age of 18 years;
 - (f) allowing an employee under the age of 18 to sell or cash lottery or sports wager tickets;
 - (g) ~~failure~~ failing to redeem prizes lottery prize or sports wager winnings as directed by the lottery;
 - (h) ~~the refusal~~ refusing to acquire or display any materials required by the director; or
 - (i) the ~~licensee~~ sales agent is ineligible for a license ~~under the Montana Lottery Act~~ and the facts giving rise to such ineligibility occurred or were discovered subsequent to the issuance of a license.
- (3) Upon notice of revocation or suspension, the ~~retailer~~ suspended sales agent shall give a final accounting to the lottery and surrender the license, ~~lottery material, equipment, paper,~~ and tickets to the lottery. The ~~retailer~~ sales agent is liable for all money still owed the lottery.
- (4) remains the same.
- (5) In circumstances where the ~~licensee~~ suspended sales agent owns or is a partner in multiple locations, the restriction, suspension, or termination of one location associated with the ~~licensee~~ suspended sales agent is grounds for restriction, suspension, or termination of all locations.

AUTH: 23-7-202, MCA

IMP: 23-7-301, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: The lottery proposes to amend this rule to provide style corrections and improve clarity. The addition of sports wagering to the rule will allow the lottery to treat sports wagering licenses in a manner consistent with existing lottery licenses.

Equipment and paper were added to the items to be returned as they both are controlled items and can impact the integrity of the lottery if utilized for criminal activity. Unauthorized access to these items could result in attempts to create fraudulent tickets or access to the lottery system.

By limiting the circumstances when a prize can be claimed, the lottery is limiting potential illegal activity. By limiting illegal activity, the lottery is enhancing the integrity of lottery products and promoting public confidence in the products offered.

By not allowing a sales agent to claim a prize for another person, the lottery can fulfill its responsibility to prevent fraud and assist in collecting certain debts.

2.63.612 TEMPORARY LICENSES (1) The director may issue a special temporary license to a licensed ~~retailer~~ lottery-only sales agent upon conditions considered necessary including, but not limited to:

- (a) through (e) remain the same.

(2) No temporary licenses will be issued for sports wagering.

AUTH: 23-7-202, MCA

IMP: 23-7-301, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: Given the nature and complexity of sports wagering, the lottery proposes that no temporary sports wagering licenses be granted to help ensure the integrity of product. The sports wagering product includes the use of an electronic sports wagering account that allows for the player to place a wager from within a licensed location. It would be technically difficult and cost prohibitive to enable a temporary location. Given the transient nature of the locations and time period they would be open, the expenditure of resources for temporary locations is not justified.

2.63.801 ELECTRONIC FUNDS TRANSFER (1) As a condition of licensing, a ~~retailer~~ sales agent shall agree to participate in the lottery's electronic funds transfer system.

(2) The director may determine the schedule for debiting (sweeping) the ~~retailer's~~ sales agent's account, subject to concurrence of the commission. The director may allow deviation from the schedule for the first game and in other special circumstances.

(3) The ~~retailer~~ sales agent shall bring any accounting error, bank account change, or dispute to the attention of the lottery before the next scheduled sweep.

(4) A ~~retailer~~ sales agent must pay the amount of any nonsufficient fund sweep immediately by certified check, cashier's check, or money order. If a ~~NSF is not covered~~ the debt is not paid, the ~~retailer~~ sales agent shall immediately surrender all tickets, equipment, paper, and other lottery material and is subject to license revocation proceedings.

(5) remains the same.

AUTH: 23-7-202, 23-7-301, MCA

IMP: 23-7-301, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: The lottery proposes to include the addition of equipment and paper to the items to be surrendered. Both items are the lottery's property. Each of the items plays a part in the security and integrity of the lottery and needs to be controlled by the lottery if they are no longer in use by the sales agent.

2.63.1002 LOTTERY TICKET PRICE (1) The price of a lottery ticket is determined by the lottery commission. A ~~retailer~~ sales agent may not sell a lottery ticket for more than the price printed on the ticket. A ~~retailer~~ sales agent may give away tickets.

AUTH: 23-7-202, MCA

IMP: 23-7-202, 23-7-301, MCA

2.63.1004 LOTTERY TICKETS - RETAILER SALES AGENT (1) The ~~retailer sales agent~~ is responsible for all lottery tickets after acceptance and bears the burden of any loss, including theft or damage.

AUTH: 23-7-202, MCA

IMP: 23-7-202, 23-7-301, MCA; Chapter 284, section 1, L. 2019

2.63.1005 NOTIFICATION OF LOST, DAMAGED, OR STOLEN TICKETS OR EQUIPMENT AND INVESTIGATIVE COOPERATION (1) ~~Retailers Sales agents~~ shall immediately report the theft, loss, or damage of any ~~lottery tickets, paper,~~ or equipment to the director and local law enforcement authorities. ~~The retailer shall cooperate in any investigation conducted by the lottery, its employees, the attorney general, legislative auditor or local law enforcement authorities.~~

(2) Sales agents shall contact the lottery to report any suspicious activity that could affect the integrity of the lottery, including but not limited to:

(a) an offer of compensation from another person to claim a lottery prize or wager winnings;

(b) any attempt to influence winning a prize through the use of coercion, fraud, deception, or tampering with equipment and materials; or

(c) persons seeking technical information regarding the operation of lottery equipment.

(3) The sales agent and any employee shall cooperate in any investigation conducted by the lottery, the attorney general, legislative auditor, or local law enforcement authorities.

(4) The lottery shall monitor and review transaction activity to ensure system integrity and for potential criminal violations.

AUTH: 23-7-202, MCA

IMP: 23-7-212, 23-7-411, MCA

STATEMENT OF REASONABLE NECESSITY: The proposed changes reflect the efforts of the lottery to help ensure the integrity of all lottery games and prevent possible illegal activity. It is essential for information regarding any attempt to influence the outcome of any lottery product be reported so that the lottery can work with law enforcement to prevent this from happening. By being aware of attempts to influence the outcome of a lottery product, the lottery can work with sales agents to resolve issues and prevent them from happening in the future and at other locations.

2.63.1201 PRIZES (1) Winning lottery and sports wager tickets will be redeemed:

(a) by any ~~retailer sales agent~~ for lottery and sports wager tickets less than \$600; or

(b) if the lottery ticket or sports wager ticket value is \$600 or more, by presenting the ticket, a claim form, and valid, unexpired photo identification to the lottery, either by mail or in person. ~~Playslip~~ Play slip ~~and~~ or sales receipt may not be

used to claim a prize. Acceptable types of identification include an original or copy of:

- (i) driver license;
- (ii) government-issued identification card;
- (iii) military identification card;
- (iv) passport;
- (v) permanent resident card;
- (vi) Department of Veterans Affairs medical benefits card; and
- (vii) tribal government-issued identification card.

(2) In lieu of the methods described in (1), a winning sports wager ticket may be redeemed to the player's account when the sports wager is managed through the player's account.

~~(2)~~ (3) A winning lottery or sports wager ticket may be redeemed only by an organization with a federal employer's identification number or by ~~an individual~~ a person.

(3) remains the same but is renumbered (4).

~~(4)~~ (5) Unless otherwise provided in the parameters for a specific game, a claimant shall sign the back of a winning lottery or sports wager ticket.

~~(5)~~ (6) The lottery may deny a claim for a winning lottery or sports wager ticket if the ticket:

(a) through (c) remain the same.

(6) remains the same but is renumbered (7).

~~(7)~~ (8) A lottery or sports wager ticket is a bearer instrument until signed.

The person who signs the lottery or sports wager ticket is the bearer of the ~~lottery~~ ticket. Payment of any prize may be made to the bearer, and all liability of the lottery terminates upon such payment.

(8) remains the same but is renumbered (9).

~~(9)~~ (10) A lottery or sports wager ticket not passing all validation checks is invalid and no prize may be paid on such ticket.

(10) through (13) remain the same but are renumbered (11) through (14).

~~(14)~~ (15) An owner or employee of a licensed lottery ~~retailer~~ sales agent shall identify themselves as such to lottery officials when claiming a prize at the lottery office or through the claim mail process. This information must be recorded on the claim form maintained by the lottery as part of the prize file.

AUTH: 23-7-202, MCA

IMP: 23-7-202, 23-7-211, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: The current rule outlines how lottery prizes are claimed by the public. The proposed amendments allow for sports wagers to be claimed the same way. In addition, winning sports wagers can be credited to the sports wagering account as defined in 23-7-103(8), MCA. The lottery is subjecting sports wagering winnings to the same rule as other lottery products. The current rule allows the lottery to ensure the identity of the person collecting the prize. With the information collected, the lottery can comply with Internal Revenue Service rules on reporting income and assist in the collection of child support for the

Department of Public Health and Human Services and any debt owed to the Department of Labor and Industry for overpayment of unemployment insurance.

2.63.1202 LOTTERY TICKET WINNER REDEMPTIONS (1) ~~Retailers~~ Sales agents are responsible for the security of all winning lottery tickets and sports wagers they redeem. ~~Retailers~~ Sales agents will bear the burden of any loss incurred as a result of:

- (a) multiple redemptions of winning lottery and sports wager tickets;
- (b) nonwinning lottery and sports wager tickets redeemed in error as winning lottery and sports wager tickets; or
- (c) failure to redeem winning lottery and sports wager tickets in the manner determined by the director.

AUTH: 23-7-202, MCA

IMP: 23-7-202, MCA; Chapter 284, section 1, L. 2019

STATEMENT OF REASONABLE NECESSITY: The proposed addition of sports wagers to the rule will allow the lottery to treat sports wagering in a manner consistent with existing lottery practices. The lottery took this approach to protect the interests of the state and to hold sales agents accountable for the products they are selling. Like other products offered by retailers the producer of that product is not responsible for the theft of the product once it arrives at the retailer. By holding the sales agent responsible for the agent's own errors, the lottery is protecting the revenue that has been generated and maximizing the benefit to the state. In addition, the rule gives sales agents a strong financial incentive to use caution and follow lottery requirements in redeeming winning tickets.

6. The commission proposes to repeal the following rule:

2.63.409 ACCEPTABLE FORMS OF PAYMENT, found on ARM page 2-6519.

AUTH: 23-7-202, MCA

IMP: 23-7-202, MCA

STATEMENT OF REASONABLE NECESSITY: The lottery is proposing to repeal this rule because all forms of payment identified in the rule are already listed in 23-7-302, MCA, and administrative rule may not unnecessarily duplicate statute.

7. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Bryan Costigan, Montana Lottery, 2525 N. Montana Ave., Helena, Montana 59601; telephone (406) 444-5804; fax (406) 444-5830; or e-mail bcostigan@mt.gov, and must be received no later than 5:00 p.m., November 4, 2019.

8. Bryan Costigan, Montana Lottery, has been designated to preside over

and conduct this hearing.

9. The 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 mailing list shall make a written request which includes the name and mailing address or e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding Montana Lottery 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 7 above or may be made by completing a request form at any rules hearing held by the department.

10. An electronic copy of this proposal notice is available through the department's website at doa.mt.gov/administrativerules. The department strives to make its online version of the notice conform to the official published version, but advises all concerned persons that if a discrepancy exists between the official version and the department's online version, only the official text will be considered. In addition, although the department works to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

11. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor, Representative Ryan Lynch, was contacted on July 1, 2019 by mail.

12. The commission has determined that under 2-4-111, MCA, the proposed adoptions, amendments, and repeal will not significantly and directly affect small businesses.

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

By: /s/ Don Harris
Don Harris, Rule Reviewer
Department of Administration

Certified to the Secretary of State September 24, 2019.