

*****DRAFT - NOT FOR FILING*****

3770:2-3-03 Video lottery licenses; issuance of license.

- (A) If after a review of an application and consideration of factors deemed relevant to the efficient and proper administration of video lottery, and provided that the director determines that a video lottery applicant has met the requirements for issuance of a video lottery license, the director may license a video lottery applicant as a video lottery sales agent on such terms and conditions, and for such length of time, deemed appropriate, including issuance of a temporary license.
- (B) No video lottery license ~~shall~~will be issued until licensing fees are paid in accordance with and in the amount set forth in rules promulgated by the commission under Chapter 3770:2-11 of the Administrative Code.
- (C) No video lottery license ~~shall~~will be issued to an entity that is not a permit holder. An entity that has submitted an application to the racing commission to become a permit holder may apply for a video lottery sales agent license. No video lottery sales agent license ~~shall~~will be issued unless and until the application to become a permit holder is granted by the racing commission.
- (D) Video lottery licenses are subject to suspension, modification, revocation or fines as authorized by the Lottery Act, rule, regulation, policy order or directive of the commission or director. Further, as necessary for reasons related to public safety, convenience or trust which ~~require~~warrant immediate action, the director may order the immediate and indefinite disabling of all or a portion of the video lottery operations and/or removal of video lottery equipment at a video lottery sales agent's video lottery facility. In the event of such action, the director ~~must~~will continue to comply with the requirements of the Administrative Procedure Act in affording the video lottery sales agent a subsequent opportunity for an adjudication hearing.
- (E) License transfer.
- (1) A video lottery license is not transferable without regulatory review and approval by the director. Any person or entity holding an ownership interest in the video lottery applicant or holding, directly ~~of or~~ indirectly, an ownership interest through a holding company of the video lottery applicant, as of the date of issuance of an operating license to the video lottery sales agent, may increase such ownership interest thereafter and any such increase or increases ~~shall~~will not be considered a transfer of license under this rule.
- (2) Any ownership interest in the video lottery sales agent or ownership, directly or indirectly, through a holding company of a video lottery sales agent, that is acquired after the date of issuance of an operating license to the video lottery sales agent by a person or entity not previously holding an ownership interest, which would result in such person or entity obtaining control of the video lottery applicant ~~shall~~will be considered a license transfer and ~~must~~will be submitted to the director for regulatory review and approval prior to such a transfer.
- (3) Any changes in ownership under paragraph (E)(1) or (E)(2) of this rule ~~shall~~will be subject to supplemental requirements set forth in paragraph (B) of rule 3770:2-3-01 of the Administrative Code or in a transfer application.
- (4) As used in this paragraph, "control" means either of the following:

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- (a) Holding fifty per cent ~~of or~~ more of the outstanding voting securities of an applicant; or having the right in the event of dissolution to fifty per cent or more of the assets of the applicant; or, for an unincorporated applicant, having the right to fifty per cent or more of the profits of the applicant; or
- (b) Having the contractual power presently to designate fifty per cent or more of the directors of a for-profit or not-for-profit corporation; ~~or,~~ in the case of trusts described in paragraphs (c)(3) to (5) of 16 C.F.R. 801.1 (2011), the trustees of such a trust.
- (5) If the director permits a transfer under this subsection, ~~a reduction of the director may also reduce, but shall not be required to reduce,~~ any fee otherwise payable under division 3770:2 of the Administrative Code, is subject to the director's discretion.
- (F) The relationship between the lottery and a video lottery sales agent is one of trust and a video lottery sales agent collects funds as a fiduciary on behalf of and in trust for the lottery through the sale of video lottery tickets for which a video lottery sales agent receives compensation.
- (G) Video lottery games sold and video lottery terminals operated by a licensed video lottery sales agent ~~must~~will be approved by the director, commission or commissioners, as applicable.
- (H) A video lottery license ~~shall~~will authorize a video lottery sales agent to offer video lottery games for sale and engage in authorized video lottery activity.
- (I) Upon issuance of a video lottery license, a video lottery sales agent ~~shall~~will be obligated to comply with the applicable provisions of the Lottery Act, all rules, regulations, policies and directives of the commission or director and all terms and conditions of the license as set forth in the application, or any amendments or modifications thereto. Failure to comply with any and all obligations ~~required~~ of a video lottery sales agent may subject the video lottery sales agent's video lottery license to suspension or revocation as set forth in rule 3770:2-3-05 of the Administrative Code, or to imposition of monetary penalties as set forth in rule 3770:2-3-06 of the Administrative Code. A temporary video lottery license, if issued, does not guarantee the issuance of a video lottery license.
- (J) In addition to selling video lottery games, a video lottery sales agent ~~shall be required~~is also obligated to sell other lottery games authorized by the commission and allocated to the video lottery sales agent by the director.
- (K) ~~There shall not be~~ No more than seven video lottery sales agent licenses will be issued to permit holders at any one time during the ~~ten-year~~ ten-year period following the issuance of the first video lottery sales agent license.