



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	State Lottery Department
VAC Chapter Number:	11 VAC 5-41-10 et seq.
Regulation Title:	Lottery Game Regulations
Action Title:	Promulgate
Date:	09/27/2002

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The State Lottery Department is proposing a new regulation that sets out the requirements for the conduct of lottery games. The new regulation consolidates, revises and replaces provisions regarding lottery games that currently are contained in the department's Instant Game Regulations (11 VAC 5-30-10 et seq.) and On-Line Game Regulations (11 VAC 5-40-10 et seq.), both of which will be repealed.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the

specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Section 58.1-4007 of the Code of Virginia authorizes the State Lottery Board to promulgate regulations governing the operation of the lottery, and to amend, repeal or supplement the regulations as necessary. In addition, this section specifies certain matters related to the conduct of lottery games that are required in regulations, including but not limited to types of games, price of tickets, ticket sales, drawings and payment of prizes. The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The proposed regulation contains procedures specifically related to all types of lottery games, including operational parameters for the conduct of games, validation requirements and payment of prizes. It consolidates, revises and replaces the requirements for the conduct of lottery games that currently are contained in the department's Instant Game Regulations (11 VAC 5-30-10 et seq.) and On-Line Game Regulations (11 VAC 5-40-10 et seq.), both of which will be repealed. This proposed regulation will reduce or eliminate duplication of similar provisions for different types of games and will update the language based upon provisions of the law and department operational practices that have occurred since 1996, when the two existing regulations were last revised.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

The proposed regulation sets out many of the same provisions as currently are contained in the department's Instant Game and On-Line Game Regulations. In addition to combining most of the game requirements from the current two regulations, the following additions, not previously included, are proposed:

- (i) incorporates the instant ticket full redemption program, facilitated by the use of barcoding (not available when the current Instant and On-Line Game regulations

- were last revised in 1996) that permits players to cash winning tickets at any lottery retail location or lottery office rather than at the place of purchase;
- (ii) adds reference to “natural person” to comply with the 1999 amendment to the Code (§ 58.1-4019 B) that provides that only a natural person, not a company, corporation, etc., may claim a lottery prize;
 - (iii) adds provisions for player selection of “cash option” as a jackpot prize payment choice (not available to players until 1997);
 - (iv) as a result of recent litigation, clarifies the meaning of a winning ticket;
 - (v) provides flexibility for the director to reimburse lottery retailers for errors that may not be the result of their mistakes;
 - (vi) allows flexibility for board-approved ticket price changes;
 - (vii) clarifies that invalid free ticket prizes resulting from tickets purchased by individuals who are ineligible to play the lottery games will revert to the State Lottery Fund;
 - (viii) provides that the player assumes all risk for mailing a winning ticket through the mail; and
 - (ix) requires that all retailers must cash winning tickets up to \$601 regardless of the location from which the winning ticket was purchased. Previously the retailer could elect to cash any prize amount less than \$601.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term “issues” means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The primary advantage to the public, including approximately 3.5 million lottery players and approximately 5,000 lottery retailers, is that the proposed regulation will replace two existing, obsolete regulations (Instant Game Regulations 11 VAC 5-30-10 et seq. and On-Line Game Regulations 11 VAC 5-40-10 et seq.) and will be issued as one single source for lottery game requirements. It will reflect current provisions of the law as well as current department practice. Language duplication in the two existing regulations and the burden of multiple regulations will be eliminated.

Also, in order to perform department functions in an enterprise environment and to simplify the regulations, operating procedures not specifically required by the Code of Virginia to be included

in regulations are not included and are contained in retailer manuals or contracts, which each retailer receives. Operational revisions that have been made due to technological advances make it easier and more convenient for the department, retailer and player to participate in lottery games and have resulted in no negative effect or comment received from the public.

There are no disadvantages to the public, the agency or the Commonwealth by the promulgation of this regulation.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

Because the policy or procedural revisions made to department operations are already in place, no significant economic impact is projected. This regulation will affect approximately 3.5 million lottery players, 5,000 lottery retailers, the five members of the State Lottery Board and employees of the State Lottery Department.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

11 VAC 5-41-10 – Defines certain lottery game-related terms.

11 VAC 5-41-20 – Authorizes the director to select, operate, and contract for the operation of lottery games.

11 VAC 5-41-30 – Requires that each lottery game prize structure be approved in advance by the lottery board, and that lottery prizes may be cash or noncash.

11 VAC 5-41-40 – Requires that overall chances of winning a prize be publicized and printed on lottery tickets and other informational material.

11 VAC 5-41-50 – Provides that the sale price of a lottery ticket is determined by the board, and that ticket prices may not be discounted or provided free as a promotion with the sale of tickets.

11 VAC 5-41-60 – Authorizes the department director to determine the drawing and selling times.

11 VAC 5-41-70 – Provides that lottery tickets may be cancelled only in accordance with the rules for each game.

11 VAC 5-41-80 – Establishes policy for ticket returns.

11 VAC 5-41-90 – Establishes provisions for announcement of the end of a game.

11 VAC 5-41-100 – Sets out ticket validation requirements for winning lottery tickets.

11 VAC 5-41-110 – Provides for the use and validity of playslips.

11 VAC 5-41-120 – States that the department may replace a misprinted ticket.

11 VAC 5-41-130 – Describes a winning lottery ticket and provides that when there is more than one ticket issued with the same winning number, the holder of each ticket is entitled only to his share of the prize, regardless of whether the holders of the other winning tickets claim their portion of the prize.

11 VAC 5-41-140 – Establishes that winners may claim prizes from a retailer or the department, as specified in game rules.

11 VAC 5-41-150 – Describes procedures for prize payments by retailers.

11 VAC 5-41-160 – States that the department may, under certain circumstances, reimburse retailers for prizes paid in error.

11 VAC 5-41-170 – Requires that a retailer physically void a winning ticket after the prize is paid.

11 VAC 5-41-180 – Lists the circumstances under which prizes are claimed from the department.

11 VAC 5-41-190 – Describes department action on prize claims submitted to the department.

11 VAC 5-41-200 – Requires that the department report or withhold state and federal taxes from lottery prizes and collect certain delinquent debts, when appropriate.

11 VAC 5-41-210 – States that a lottery ticket is a bearer instrument until it is signed, at which time the person who signed the ticket is considered the bearer.

11 VAC 5-41-220 – States that prize payment is made to the bearer of the ticket, unless otherwise specified.

11 VAC 5-41-230 – Requires that a prize claim must be entered in the name of a natural person.

11 VAC 5-41-240 – Lists circumstances under which the department may delay payment of a prize.

11 VAC 5-41-250 – States that prize payments may not be accelerated unless under specified circumstances, such as if a dispute arises or if the identity of the claimant or the validity of the ticket is in question.

11 VAC 5-41-260 – Gives the department the option to require prize winners to participate in press conferences and to use winners’ names, photographs and their resident city, town or county for public information purposes and to foster the integrity of the games. This option is vital to assure the public that prizes are disbursed in a legitimate manner to real people (based upon the intention of the General Assembly in the “natural persons” bill passed in 1999 to prevent winners from hiding their identity behind business entities). The language was revised to clarify that the release of information is for public information.

11 VAC 5-41-270 – Establishes general criteria for a grand prize event.

11 VAC 5-41-280 – Describes prize payments made over time.

11 VAC 5-41-290 – Sets out when prizes are payable for “life.”

11 VAC 5-41-300 – States that all liability of the department ends with final payment of a lottery prize.

11 VAC 5-41-310 – Prohibits marking of a ticket except to play the game, to claim a prize or to void the ticket.

11 VAC 5-41-320 -- States that the department is not liable for lost, stolen or destroyed tickets, but, under certain limited circumstances, it may honor a prize claim of a person who does not possess the original ticket.

11 VAC 5-41-330 – Establishes procedures for handling unclaimed prizes.

11 VAC 5-41-340 -- Authorizes the director to postpone lottery drawings, as necessary.

11 VAC 5-41-350 -- Establishes that the director’s decision regarding ticket validation is final.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

The agency received no public comment in response to the Notice of Intended Regulatory Action.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The agency, through examination of the regulation, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

Although the agency is exempt from this requirement, it will conduct periodic reviews of the regulation to determine its continued effectiveness.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulation has no impact upon families.