



Virginia  
Regulatory  
Town Hall

## Final Regulation Agency Background Document

<b>Agency Name:</b>	State Lottery Department
<b>VAC Chapter Number:</b>	11 VAC 5-41-10 et seq.
<b>Regulation Title:</b>	Lottery Game Regulations
<b>Action Title:</b>	Promulgate
<b>Date:</b>	03/17/2003

Please refer 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* for more information and other materials required to be submitted in the final regulatory action package.

### Summary

*Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.*

The State Lottery Department is promulgating new regulations that set out the requirements for the conduct of lottery games. These regulations consolidate, revise and replace 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 and On-Line Game Regulations (11 VAC 5-40-10 et seq.), both of which will be repealed.

Subsequent to publication of the proposed regulations, two revisions have been made:

- (i) 11 VAC 5-41-170 regarding voiding winning tickets was deleted. Because of the present use of electronic validation, tickets can no longer be duplicate cashed; therefore, physical voiding of the tickets is not required.

(ii) 11 VAC 5-41-330 A & C now state that winning tickets received in envelopes bearing the postmark of another sovereign nation are subject to the same 180-day redemption period requirement as those received in envelopes bearing the postmark of the U.S. Postal Service.

### Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

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On March 5, 2003, the State Lottery Board unanimously adopted these final regulations.

### 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, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.*

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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 final regulations and that they comport 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 final 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.*

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The final regulations contain procedures specifically related to all types of lottery games, including operational parameters for the conduct of games, validation requirements and payment of prizes. They consolidate, revise and replace 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.

These final regulations 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. The revisions will have no effect on the health, safety or welfare of citizens, other than to simplify the understanding of department regulations.

### 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 of the regulatory action's detail.*

The final regulations set 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 two current regulations, the following additions, not previously included, are contained:

- (i) incorporate 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) add 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) add 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, clarify the meaning of a winning ticket;
- (v) provide flexibility for the director to reimburse lottery retailers for errors that may not be the result of their mistakes;
- (vi) allow flexibility for board-approved ticket price changes;
- (vii) clarify 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) provide that the player assumes all risk for mailing a winning ticket through the mail; and
- (ix) require that all lottery 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 final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the 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.*

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The primary advantage to the public, including approximately 3.5 million lottery players and approximately 5,000 lottery retailers, is that these regulations 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. They 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 is 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 lottery 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 these regulations.

## Statement of Changes Made Since the Proposed Stage

*Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.*

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Subsequent to publication of the proposed regulations, two revisions were made:

- (i) 11 VAC 5-41-170 regarding voiding winning tickets was deleted. Because of the present use of electronic validation, tickets can no longer be duplicate cashed; therefore, physical voiding of the tickets is not required.
- (ii) 11 VAC 5-41-330 A & C now state that winning tickets received in envelopes bearing the postmark of another sovereign nation are subject to the same 180-day redemption period requirement as those received in envelopes bearing the postmark of the U.S. Postal Service.

## Public Comment

*Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.*

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No public comment was received during the public comment period held from December 2, 2002 to February 14, 2003 or during the public hearing held on March 5, 2003.

## 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 crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.*

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**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 lottery 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 lottery 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 from 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** – (deleted from proposed regulation)

**11 VAC 5-41-180** – Lists the circumstances under which lottery 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 certain lottery prizes and collect certain delinquent debts from those prizes, 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 lottery 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. Note: 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 clarifies 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.

### Family Impact Statement

*Please provide an analysis of the regulatory action that assesses the 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.*

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These regulations have no impact upon families.