



Proposed Regulation Agency Background Document

Agency name	State Lottery Department
Virginia Administrative Code (VAC) citation	11VAC5-41
Regulation title	Lottery Game Regulations
Action title	Promulgate review and update of Lottery Game Regulations
Date this document prepared	1-9-2012

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

The existing regulation will be amended to reflect a general review by the State Lottery Department of this chapter. All sections were reviewed for content, accuracy and clarity.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

N/A

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

The State Lottery Department is adopting amended administration regulations pursuant to Chapters 575 and 321, 2008 Acts of Assembly (<http://leg1.state.va.us/cgi-bin/legp504.exe?081+ful+CHAP0575> and <http://leg1.state.va.us/cgi-bin/legp504.exe?081+ful+CHAP0321>).

Section 58.1-4007 states The Board shall have the power to adopt regulations governing the establishment and operation of a lottery. The regulations governing the establishment and operation of the lottery shall be promulgated by the Board after consultation with the Director. Such regulations shall be in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.).

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

It has been over nine (9) years since this chapter has been reviewed for changes and/or updates. In an effort to become more transparent to our consumers, we are focused on updating and clarifying our games offered to our citizens.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)

Many definitions were amended; added or deleted that refers to the Department's games. The objective was to avoid potential confusion to our citizens. Further clarified how and where claims can be validated. Added language that will allow flexibility as to how taxes will be calculated based on the IRS requirements at the time of payment. Amended language to extend redemption period for a "free ticket" to 180 days.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 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 the regulatory action poses no disadvantages to the public or the Commonwealth, please indicate.

Advantages: The proposed amendments to this chapter will further enhance our transparency to our citizens and add additional clarification to our games.

Disadvantages: The agency does not foresee any disadvantages to the citizens and businesses of the Commonwealth.

Other: No other impact is anticipated.

Requirements more restrictive than federal

Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements of the proposed amendments that exceed federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

The proposed amendments will be applicable to the entire state. No locality will be singularly affected by the proposed amendments.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email or fax to Mitch Belton, 900 E. Main Street, Richmond, VA 23219, phone: (804) 692-7136, fax: (804) 692-7603, email mbelton@valottery.com. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last day of the public comment period.

A public hearing will not be held.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirements creates the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.	None
Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.	None
Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.	None
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	None
All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.	There are no projected costs associated with the amended regulation for individuals, business, or other entities.
Beneficial impact the regulation is designed to produce.	The proposed amendments to this chapter will further enhance our transparency to our citizens and add additional clarification to our regulations.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The proposed regulations were evaluated by the Department for accuracy and further clarification/transparency to our citizens. No anticipated cost of the proposed regulations was identified for small businesses.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The proposed regulations do not impact any existing compliance or reporting requirements. In addition, no further compliance or reporting requirements were added.

Small business impact review result

In order to minimize the economic impact of regulations on small businesses, please include, pursuant to Code of Virginia § 2.2-4007.1 E and F, a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency’s determination of whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

All sections of this chapter were reviewed for the continued need by the Department. It has been over 9 years since the regulations were reviewed. Section 11VAC5-41-190 was modified to include reference to the Federal and State taxes and the Virginia Department of Taxation. Section 11VAC5-41-230 was modified to refer to the Code of Virginia for further clarification. Again, while reviewing this chapter, the Department’s goal was to reduce and simplify our regulations. There are no projected costs or small business impact associated with the amended regulation for individuals, business, or other entities.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

No public comments were received.

Commenter	Comment	Agency response
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Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent 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 regulatory action will have no impact on the institution of the family or family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all differences between the **pre**-emergency regulation and this proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulation(s), use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
	11VAC5-41-10		Deleted definition for “Barcode”. Deleted definition for “Certified drawing”. Added a definition for “Cashing retailer”. Added a definition for “Computer gaming system”. Added a definition for “Coupon”. Amended definition for “Instant game”. Amended definition for “Misprinted ticket”. Deleted definition for “On-line system”.

			<p>Deleted definition for “On-line terminal” or “terminal”.</p> <p>Deleted definition for “On-line ticket”.</p> <p>Deleted definition for “Pack”.</p> <p>Amended definition for “Prize”</p> <p>Amended definition for “Prize structure”</p> <p>Amended definition for “Probability game”.</p> <p>Added definition for “Promotion”.</p> <p>Amended definition for “Roll stock” or “ticket stock”.</p> <p>Amended definition for “Scratch ticket”.</p> <p>Amended definition for “Share”.</p> <p>Added definition for “Terminal”.</p> <p>Added definition for “Terminal ticket”.</p> <p>Amended definition for “Ticket number”.</p> <p>Deleted definition for “Validation number”.</p> <p>Added definition for “Validation Barcode”.</p> <p>Amended definition for “Winning ticket, winning wager or wining”.</p>
	11VAC5-41-30		<p>Deleted language that refers to cash or noncash prizes.</p>
	11VAC5-41-40		<p>Amended this section to include chances of winning may be in electronic or printed form.</p>
	11VAC5-41-50		<p>Amended section to remove retailers’ ability to offer free tickets for merchandise.</p> <p>Further clarification that retailers shall sell tickets at fixed prices by the board.</p>

	11VAC5-41-60		Amended item C. for use of the new definition of "Terminal" added in 11VAC5-41-10.
	11VAC5-41-70		Amended section title to refer to the new definition of "Terminal ticket" added in 11VAC5-41-10.
	11VAC5-41-80		Amended section title to refer to the new definition of "Scratch ticket" added in 11VAC5-41-10. Updated language to require departmental authorization for credit of unsold tickets. Added clarification that the retailer is responsible for all tickets once accepted, unless authorized by department.
	11VAC5-41-100		Amended requirements for validation of tickets or plays. Added item (1) to define the process of validation if a physical ticket is required by the game rules. Added item (2) for validation of tickets or plays generated from a terminal that do not require a physical ticket as defined by the game rules. Added item (3) to include other requirements that may be necessary for winners to collect prizes. Deleted "B". The Lottery cannot validate a ticket that has been sold to someone ineligible to play; therefore, the issue of a cash prize or free ticket would be moot.
	11VAC5-41-110		Amended the use of play slips to allow for electronically printed material if authorized by the department.
	11VAC5-41-130		Amended title of this section to include the new definition of "Terminal" added in section VAC5-41-10.

	11VAC5-41-140		Added specific locations or venues where a winner may claim prizes.
	11VAC5-41-150		Amended item (3) to specify retailers with operational validation equipment can pay a prize \$600.00 or less. This was amended to align with the added definition of "Cashing retailer" in VAC5-41-10. Deleted language that refers to the IRS Code. This is a Federal Government requirement not the Departments. This should allow for flexibility in the future.
	11VAC5-41-160		Added language to further clarify the department's procedures to minimize retailer payments for prize claims made in error.
	11VAC5-41-170		Added validation of a claim can be performed at the department's headquarters. Amended item (3) to define where and how prize amounts more than \$600 will be paid. Added item (4), an electronic entry or record is permitted to claim a prize.
	11VAC5-41-180		Added language to include merchandise and experiential prizes in item "C" and "D".
	11VAC5-41-190		Added clarification when defining threshold for notification to the IRS and Virginia Department of Taxation (Item "A"). Added reference to state and federal taxes will be calculated based on the tax regulations in effect at that time (Item "A", 2).
	11VAC5-41-200		Added capability for a person to enter a validation code through an electronic process considering them the owner of the ticket.
	11VAC5-41-210		Amended payment process to clarify requirements as determined in game rules.

	11VAC5-41-230		Added reference to the Virginia Code (§ 58.1-4013 (D)), which contains the Director's procedures for payment of a claim where ownership is challenged. Added verbiage to further define dispute.
	11VAC5-41-250		Deleted entire section and completely reworded to include the use of technology.
	11VAC5-41-260		Deleted entire section. The agency no longer follows these procedures which were developed when we televised our drawings.
	11VAC5-41-280		Added text to refer to a cash option exception for payment of prizes based on the rules of a specific game.
	11VAC5-41-310		Deleted reference to redemption period in number (2). Added redemption period in number (4).
	11VAC5-41-320		Amend item (C) to extend redemption period for prizes that are "free tickets" to 180 days to stay consistent with item (A). Modified item (F) to reference the updated ACT that is referenced.
	FORMS (11VAC5-41)		Deleted all forms with the exception of "Agreement to Share Ownership and Proceeds of Lottery Ticket". This is the only form referenced in our regulations.

If a new regulation is being promulgated, use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements

Enter any other statement here