



Memo

Date:	November 9, 2023
To:	Oregon State Lottery Commissioners
From:	Kris Skaro, rules and policy analyst
Subject:	Motion to Adopt OAR 177-040-0051 (prohibit purchasing winning tickets and cash slips from players)

Background:

The Lottery was notified that some retailer employees have been purchasing winning tickets or cash slips from players at a discounted price. Some prize winners are selling their winning cash slips because they were misled regarding prize claim requirements whereas others may be selling their winning cash slips to avoid legally required withholdings and debt offsets. Either way, Lottery does not believe this practice is consistent with the fairness, integrity, security, and honesty of the Lottery.

While Lottery's rules clearly prohibit retailers from processing Video Lottery jackpot prize slips and, additionally, prohibit retailers from charging a fee for paying a prize, nevertheless, the current rules lack clarity about whether the specific conduct described is prohibited. The Lottery proposed to amend OAR 177-040-0051 to clearly prohibit retailers and their employees from purchasing winning tickets and cash slips from players.

Rulemaking Process and Public Comment:

The Lottery filed notice of the proposed rule change on September 15, 2023 with the Oregon Secretary of State and notified interested parties, media contacts, certain legislators, and the Lottery retailer email list serve. The Lottery provided six weeks for the public to comment in writing and held a public hearing on Monday, October 16, 2023 to take comments over Teams.

The Lottery received five written comments. The comments were provided to Director Wells and the Commission for their consideration. The comments are summarized in the enclosed Rulemaking Report.

Enclosures and Director's Recommendation:

The rulemaking report and draft Permanent Administrative Order are enclosed. Director Wells has reviewed the enclosed materials and considered all comments received. He recommends the Commission adopt the rules as presented to be effective December 1, 2022.

Thank you, and please reach out to me or Director Wells if you have any questions.



Rulemaking Report

Date:	October 30, 2023
Prepared By:	Kris Skaro, rules and policy analyst
Rule Caption:	Prohibiting Lottery retailer and employees from certain conduct relating to winning tickets and shares

Overview

This report summarizes the rulemaking process for the proposed amendment to OAR 177-040-0051, Designated Employees and Payment of Prizes. Retail Contracts recommended amending the rule to prohibit retailers and their employees from purchasing winning tickets and cash slips from players. Players may sell their winning tickets and shares for a variety of reasons, but two reasons include if they received misinformation regarding prize claim requirements or if they are trying to avoid tax withholding and debt offsets. Lottery does not think retailers should be engaging in either activity. Therefore, Lottery is clarifying its rule to prohibit this conduct. (This conduct is partially addressed in Lottery’s current rules (e.g., retailers may not process Jackpot Prizes and they may not charge a fee for validating and paying a prize claim) but the amendment removes doubt as to whether this conduct is prohibited.)

Notice of Proposed Rulemaking

The Lottery filed a Notice of Proposed Rulemaking with the Oregon Secretary of State on September 15, 2023. The notice indicated that Lottery proposed to amend OAR 177-040-0051 to prohibit retailers and their employees from purchasing winning tickets and cash slips from players:

Amend: [OAR 177-040-0051](#), Designated Employees and Payment of Prizes

Rulemaking Timeline

Date	Rulemaking Activity
9/15/23	Lottery filed a Notice of Proposed Rulemaking with the Oregon Secretary of State.
9/15/23	Lottery notified Interested Parties, legislators, and media contacts.
9/23/23	Proposed rule listed on Commission agenda. Draft rule and notice included in public meeting materials. Lottery presented proposed rule to Commission.
9/25/23	Sent proposed rule to Lottery’s retailer email list serve that includes most but not all current Lottery retailers.
10/1/23	Notice published in the Oregon Bulletin.
10/16/23	Lottery held a public rulemaking hearing.
10/27/23	Written comment period closed at 5 p.m.

11/17/23	Lottery will present the final recommended rule to the Commission and ask the Commission to adopt as presented. Rulemaking Report and draft Permanent Administrative Order showing final proposed rule text will be included in public meeting materials.
TBD	Lottery will file a Permanent Administrative Order with the Oregon Secretary of State if approved by the Lottery Commission.
12/1/23	Proposed rule will take effect.

Public Comment Opportunities and Summary of Comment Received

The Lottery provided six weeks for the public to comment in writing. The Lottery also held a public rulemaking hearing. The Lottery received five written comments. The comments were provided to the Director and Commission for their review and consideration. To summarize for this report, three retailers wrote to express support for the rule change. One retailer wrote to oppose the rule change, arguing that players can make their own choice about what to do with their winning tickets or cash slips. Lastly, one former retailer wrote to express negative views of Lottery’s approach to retailer compliance but did not comment specifically to the rule other than to say the rule is not needed.

Director's Recommendation and Commission Motion to Adopt

Director Wells reviewed the rule and considered all comment received. He recommends the Commission adopt the rule as presented to the Commission on November 17, 2023 to be effective on December 1, 2023.

Enclosed:

1. Draft Permanent Administrative Order showing tracked changes.

PERMANENT ADMINISTRATIVE ORDER

CHAPTER 177
OREGON STATE LOTTERY

FILING CAPTION: Prohibiting Lottery retailer and employees from certain conduct relating to winning tickets and shares

EFFECTIVE DATE: 12/01/2023

AGENCY APPROVED DATE: Pending Commission Approval

CONTACT:

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AMEND: 177-040-0051

RULE TITLE: Designated Employees and Payment of Prizes

RULE SUMMARY: The Lottery is amending OAR 177-040-0051 about designated employees and payment of prizes. The amendment prohibits retailers and their employees from purchasing winning tickets or cash slips from players. The Lottery also updated the statutory citations section of the rule.

RULE TEXT:

[177-040-0051](#)

Designated Employees and Payment of Prizes

- (1) Designated Employees: A traditional Lottery retailer must designate employees authorized to redeem winning Lottery tickets and shares. A Video Lottery retailer must designate employees authorized to redeem Video Lottery cash slips as defined in [OAR 177-200-0005\(1\)](#).
- (2) Traditional Lottery Retailers: A traditional Lottery retailer must redeem winning Lottery tickets and shares during all of the retailer's designated hours of redemption.
- (3) Video Lottery Retailers: Except for those cash slips required to be validated and paid by the Lottery, during all business hours of operation a Video Lottery retailer must redeem any Video Lottery cash slip presented for payment that was issued at that retailer's location, except as follows:

- (a) In the event of exceptional circumstances, a retailer may delay validation and payment of a cash slip for a period of time not to exceed 24 hours from the time the cash slip is initially submitted to the retailer for payment. "Exceptional circumstances" means rare and unforeseen circumstances beyond the reasonable control of the retailer; and
 - (b) Within 48 hours from the time the cash slip is initially submitted to the retailer for payment, the retailer must submit to the Lottery a written report of the delay of payment and the exceptional circumstances that required the delay.
 - (c) The Director may review claims of exceptional circumstances and determine whether delayed payment was appropriate under the circumstances. Upon the Director's request, the retailer must provide the Director with evidence supporting a claim of exceptional circumstances. If a retailer fails to comply with a request or fails to adequately support a claim of exceptional circumstances, the Director shall find that the delay was not appropriate.
 - (d) If the Director finds that the delay was not appropriate, the retailer's delay of payment shall be considered a failure to perform contract duties or requirements, and the Lottery may take appropriate action including termination of the retailer contract. The Director's decision is final.
- (4) Payment: Except as provided in section (3) of this rule, a retailer must immediately pay prizes in cash or by check, or any combination thereof, when a winning Lottery ticket or share meeting the requirements of these rules is presented for payment, including a Video Lottery cash slip. A retailer must not pay prizes in tokens, chips, or merchandise or charge a fee for paying a prize or for issuing payment.
- (5) A retailer and their employees may not purchase winning tickets or cash slips from players or provide misinformation to players about prize claim requirements or aid a prize claimant in avoiding tax withholding or debt offsets required by law.
- ~~(56)~~ Validation: Notwithstanding section (3) of this rule, once a Lottery retailer validates a winning ticket or share, including a Video Lottery cash slip, the retailer must immediately pay it. The Lottery's terminal will not validate a cash slip issued for a Jackpot Prize.

Statutory/Other Authority: [Or. Const. Art. XV, § 4\(4\)\(a\)](#), [ORS 461.120, 461.217, 461.250, 461.300, 461.715 & 461.719](#)

Statutes/Other Implemented: [Or. Const. Art. XV, § 4\(4\)](#), [ORS 316.194, 461.120, 461.217, 461.250, 461.300, 461.715, 461.719 & 461.560](#)