



**MEETING AGENDA
JULY 27, 2020**

1. CALL TO ORDER AND ESTABLISHMENT OF QUORUM
2. CONSIDERATION OF MINUTES FOR MEETING OF MAY 19, 2020
3. RULEMAKING
 - A. RE-ADOPTION OF EMERGENCY RULEMAKING: QUALIFYING HARNESS HORSES
 - B. PROPOSED RULEMAKING: QUICK DRAW MONEY DOTS
 - C. PROPOSED RULEMAKING: PROTECTION OF TRADE SECRETS AND RECORDS ACCESS
 - D. PROPOSED RULEMAKING: EXPANSION OF LOTTERY COURIER RULES
4. ADJUDICATIONS
 - A. IN THE MATTER OF R & V DELI & GROCERY, INC.
5. OLD BUSINESS/NEW BUSINESS
6. ADJOURNMENT

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**New York State Gaming Commission Minutes
Meeting of May 19, 2020**

A meeting of the Commission was conducted by teleconference.

1. Call to Order and Establishment of Quorum

Executive Director Robert Williams called the meeting to order at 2:04 p.m. Establishment of a quorum was noted by Acting Secretary Kristen Buckley. In attendance were Chairman Barry Sample and Commissioners John Crotty, Peter Moschetti, John Poklemba, and Jerry Skurnik. The meeting was conducted in conformity with Governor Andrew M. Cuomo’s Executive Order 202.1, remotely by recorded conference call. Chairman Sample requested and received permission to designate Commissioner Moschetti to act as presiding officer.

2. Consideration of Minutes for Meeting of February 10, 2020

The Commission considered previously circulated draft minutes of the meeting conducted on February 10, 2020. The minutes were accepted as circulated.

3. Rulemaking

A. ADOPTION: SGC-07-20-00002-P, Allow Claimant to Void Claim of Lame Horse

The Commission considered adoption of a rule to void a claim of a Thoroughbred horse that is discovered to have become lame or experienced epistaxis due to exercise induced pulmonary hemorrhage in a claiming race.

**ON A MOTION BY: Commissioner Crotty
APPROVED: 5-0**

B. ADOPTION: SGC-07-20-00003-P, Spanish 21, a Blackjack Variant to be Offered in Commercial Casinos

The Commission considered adoption of a rule to provide an optional Match the Dealer wager in the commercial casino game of Spanish 21.

**ON A MOTION BY: Commissioner Skurnik
APPROVED: 5-0**

C. ADOPTION: SGC-07-20-00004-P, Relating to the Provision of Social Security Numbers

The Commission considered adoption of a rule related to the provision of social security numbers

**ON A MOTION BY: Chairman Sample
APPROVED: 5-0**

D. ADOPTION: SGC-01-20-00006-P, Permit Thoroughbred Horses with Digital Tattoos to Race in New York

The Commission considered adoption of a rule to broaden the requirement of a lip tattoo for a Thoroughbred horse to race in New York to include digital tattoos.

**ON A MOTION BY: Chairman Sample
APPROVED: 5-0**

E. ADOPTION: SGC-11-20-00012-P, Joint Injections in Thoroughbred Racing

The Commission considered adoption of a rule to amend the restricted time period for the use of corticosteroid joint injections to 14 days from the current restriction of seven days before a Thoroughbred horse's next race, amend the restricted time period for the intra-articular injection of any substance to a Thoroughbred horse to match the proposal of a 14-day time period for a corticosteroid joint injection, and require the reporting of every intra-articular joint injection

**ON A MOTION BY: Chairman Sample
APPROVED: 5-0**

F. ADOPTION: SGC-07-20-00014-P, Thoroughbred Pick-Five and Pick-Six Wagers

The Commission considered adoption of a rule to permit a thoroughbred racetrack to disclose publicly combinations wagered upon, amounts wagered on such combinations, numbers of tickets sold or number of tickets still capable of winning a pick-five or pick-six pool.

**ON A MOTION BY: Commissioner Skurnik
APPROVED: 5-0**

G. Proposed Rulemaking: Non-Steroidal Anti-Inflammatory Drug Administration in Thoroughbred Racing

The Commission considered proposal of a rule to restrict the administration to Thoroughbred horses of nonsteroidal anti-inflammatory drugs or NSAIDs such that only one clinical dose may be administered during the week before the horse races and adopt stricter thresholds for the two most commonly used NSAIDs, flunixin and phenylbutazone

**ON A MOTION BY: Chairman Sample
APPROVED: 5-0**

H. Proposed Consensus Rulemaking: Technical Changes to Correct Cross-References

The Commission considered proposal of a consensus rule to correct cross-references in our gaming regulations that were left unchanged when we recently moved the casino gaming self-exclusion provisions from Part 5326 to a new Part 5402.

**ON A MOTION BY: Commissioner Skurnik
APPROVED: 5-0**

I. Adoption of an Emergency and Proposal of a Consensus Rulemaking: Qualifying Harness Horses

The Commission considered emergency adoption of a rule to extend the days upon which a harness horse must qualify from 30 days to a date as determined appropriate by the Commission.

**ON A MOTION BY: Commissioner Skurnik
APPROVED: 5-0**

The Commission considered proposal of a consensus rule to extend the days upon which a harness horse must qualify from 30 days to a date as determined appropriate by the Commission.

**ON A MOTION BY: Commissioner Skurnik
APPROVED: 5-0**

J. Proposed Rulemaking: Furosemide Use and Practice

The Commission considered proposal of a rule to remove certain penal aspects of horses coming off and returning to Lasix administration.

ON A MOTION BY: Commissioner Crotty
APPROVED: 5-0

4. Adjudications

A. In the Matter of Dennis Washington

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had determined upon a 5-0 vote to adopt the factual findings of the Hearing Officer's Report and Recommendations but modify the penalty to impose to a 10-year suspension and a fine of \$5,000.

B. In the Matter of Theresa Love

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had determined upon a 5-0 vote to accept the recommendation of the hearing officer that the applicant's registration denial be sustained.

C. In the Matter of the Disqualification of *Rock N Roll Rosie*

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had determined upon a 5-0 vote to accept the recommendation of the hearing officer that that the decision of the judges to disqualify and unplace the horse *Rock N Roll Rosie*, declare the purse winnings of \$3,650 be forfeited and direct the purse amount to be returned or repaid to Batavia Downs and redistributed to eligible entries, be upheld.

D. In the Matter of Stephen Shoemaker

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had determined upon a 5-0 vote to accept the recommendation of the hearing officer that the applicant's registration be granted. Prior to acceptance, the Commission corrected a typographical error in the last sentence of the Hearing Officer's Report and Recommendations.

5. Old Business/New Business

A. Old Business

The Presiding Officer noted that that crop use discussion continued among racing industry stakeholders and suggested to defer further discussion until the next meeting.

No other old business was discussed.

B. New Business

No new business was discussed.

6. Adjournment

Before adjourning, the Presiding Officer noted that the Commission traditionally has met on the fourth Monday of each month, which for June would be the 22nd. He requested members advise Secretary Buckley as to availability on such date.

The meeting was adjourned at 2:34 p.m.

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Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

To: Commissioners

From: Edmund C. Burns

Date: July 10, 2020

Re: Re-adoption of Emergency Rulemaking for Time Extension for Qualification Standards in Harness Racing (9 NYCRR § 4113.5)

The Commission adopted an emergency rulemaking, effective May 19, 2020, to extend the days after which a harness horse must qualify from 30 days to a date as determined appropriate by the Commission in exceptional circumstances, to address difficulties in establishing a qualifying current performance time given the temporary track closures because of the novel coronavirus pandemic. The emergency rulemaking is scheduled to expire on August 17 (90 days from adoption). A copy of this rulemaking, as published in the June 3, 2020 *State Register*, is enclosed.

The public comment period for a companion proposed consensus rulemaking has not yet expired. Because the emergency rule would otherwise expire prior to the Commission's next anticipated meeting, [REDACTED], [REDACTED] This action would ensure the continuation of the rule through the time at which the Commission may consider adoption of the proposed permanent rule.

cc: Robert Williams, Executive Director
Ronald Ochrym, Director, Division of Horse Racing and Pari-Mutuel Wagering

Department of Financial Services

NOTICE OF WITHDRAWAL

Creation of Exemptions from the Waiver Procedures Otherwise Applicable Pursuant to New York Banking Law Section 36.10

I.D. No. DFS-48-19-00002-W

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Notice of proposed rule making, I.D. No. DFS-48-19-00002-P, has been withdrawn from consideration. The notice of proposed rule making was published in the *State Register* on November 27, 2019.

Subject: Creation of exemptions from the waiver procedures otherwise applicable pursuant to New York Banking Law section 36.10.

Reason(s) for withdrawal of the proposed rule: DFS received public comments after its consensus filing and must prepare a new version of the regulation.

NOTICE OF ADOPTION

Enterprise Risk Management and Own Risk and Solvency Assessment; Group-Wide Supervision

I.D. No. DFS-09-20-00008-A

Filing No. 350

Filing Date: 2020-05-15

Effective Date: 2020-06-03

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Part 82 (Regulation 203) of Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202, 302; Insurance Law, sections 110, 301, 302, 308, 1503(b), 1504(c), 1604(b) and 1717

Subject: Enterprise Risk Management and Own Risk and Solvency Assessment; Group-Wide Supervision.

Purpose: To authorize the Superintendent to act as the group-wide supervisor for an internationally active insurance groups.

Text or summary was published in the March 4, 2020 issue of the Register, I.D. No. DFS-09-20-00008-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Joana Lucashuk, Department of Financial Services, One State Street, New York, NY 10004, (212) 480-2125, email: Joana.Lucashuk@dfs.ny.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2023, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

New York State Gaming Commission

EMERGENCY RULE MAKING

Permit Harness Horses to Race Without Qualifying After COVID-19 Shutdown

I.D. No. SGC-22-20-00010-E

Filing No. 358

Filing Date: 2020-05-19

Effective Date: 2020-05-19

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 4113.5(a) of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Finding of necessity for emergency rule: Preservation of public health and general welfare.

Specific reasons underlying the finding of necessity: The Commission has determined that immediate adoption of this rule is necessary for the preservation of the public health and general welfare and that compliance with the requirements of subdivision 1 of Section 202 of the State Administrative Procedure Act would be contrary to the public interest.

The emergency rule would authorize the Commission, as may be appropriate, to allow a horse to resume racing without first participating in a qualifying race following an unspecified period of time while the horse did not race because of interference caused by an unexpected event. The current rule limits this discretion to horses that have raced within the previous 60 days.

A harness horse that does not regularly race must demonstrate its proficiency in a timed workout, called a qualifying race. This ordinarily occurs when the horse has not raced on the typical weekly race schedule due to health or other training issues. The novel coronavirus pandemic ("COVID-19"), however, has interrupted the racing of virtually all harness horses that participate in New York racing without regard to race proficiency. As a result, when the harness racetracks reopen, there would be a logjam of hundreds of horses that would need to requalify before racing could resume at the racetrack.

The congregation of very large numbers of owners, trainers and drivers for the purpose of requalifying the hundreds of their horses that have been unable to race due to the novel coronavirus pandemic would pose a substantial risk to public health. The COVID-19 virus is very contagious and can be spread by asymptomatic persons. It may cause death or serious debilitation to those who contract the infection. The public health risk that would result from making all harness horses requalify is unacceptable, and having the horses requalify a few at a time would prevent the racetracks from reopening.

In the absence of this emergency rulemaking, hundreds of horses would be brought to New York harness racetracks, delaying the resumption of racing that has experienced serious economic damage due to COVID-19 and causing a serious public health risk.

The emergency rule eliminates this prospect and will facilitate the safe resumption of harness racing in New York.

Subject: Permit harness horses to race without qualifying after COVID-19 shutdown.

Purpose: To enhance harness racing in New York and promote a reasonable return for government.

Text of emergency rule: Paragraph (1) of subdivision (a) of section 4113.5 of 9 NYCRR is amended, as follows:

§ 4113.5. Unqualified horses.

(a) A horse shall be deemed unqualified and must qualify once before being allowed to start in any overnight pari-mutuel event for the following reasons:

(1) The horse does not show a charted line of a current performance meeting the qualifying standards at the track for the class of race. Current performance shall be defined as a start within 30 days of the date of the race to which declared. Official workouts shall be acceptable as qualifying performances for this paragraph for horses with previous satisfactory races. The commission may extend the qualifying standards from 30 to as

many [as 60] days *as appropriate to account* for [appropriate reasons, including] track closings, equine sickness, inclement weather or other unexpected events that interfere with the opportunities for otherwise eligible horses to race.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire August 16, 2020.

Text of rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, One Broadway Center, Suite 500, Schenectady, NY 12305, (518) 388-3332, email: gamingrules@gaming.ny.gov

Regulatory Impact Statement

1. Statutory authority: The New York State Gaming Commission ("Commission") is authorized to promulgate these rules pursuant to Racing Pari-Mutuel Wagering and Breeding Law ("Racing Law") Section 103(2) and 104(1, 19). Pursuant to Section 103(2), the Commission is responsible for supervising, regulating and administering all horse racing and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all such gaming activities within the State and over the corporations, associations and persons engaged in such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities.

2. Legislative objectives: To enhance harness racing in New York and generate reasonable revenue for the support of government.

3. Needs and benefits. This emergency rule permits the hundreds of harness horses that have been prevented from racing by the novel coronavirus pandemic ("COVID-19") to resume racing when the harness racetracks reopen without having to requalify before being eligible to enter the races.

Harness horses that fail to race regularly, namely, within the preceding 30 days, are required to demonstrate their competitive proficiency in a timed workout, called a qualifying race, before the horse is eligible to enter races again. 9 NYCRR § 4113.5(a)(1). The current rule provides an exception when unexpected events, such as track closings or equine sickness, have interfered with the opportunity for horses to race. In such circumstances, the Commission may extend the number of days before a horse must requalify, but only for as many as 60 days since the horses raced.

Hundreds of harness horses will have had no opportunity to race for more than 60 days before New York harness racetracks are permitted to reopen, following the complete closure of these nonessential business to control the spread of the deadly COVID-19 virus.

When these racetracks reopen, all the horses would need to be brought to the racetrack and complete a qualifying race before the racetrack can let any of them be entered in races under the current rule. This would create an enormous impediment to reopening the racetracks because about 100 eligible horses must be entered for each racetrack to be able to schedule a single day of racing. Moreover, the congregation of hundreds of horse owners, trainers and drivers to participate in a qualifying race would not be consistent with the necessary COVID-19 prohibition of large gatherings.

4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: None.

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: There will be no costs to the agency. There will be no cost to local government because the Commission is the only governmental entity authorized to regulate pari-mutuel horse racing.

(c) The information, including the source(s) of such information and the methodology upon which the cost analysis is based: n/a.

5. Local government mandates: None. The Commission is the only governmental entity authorized to regulate harness racing activities.

6. Paperwork: There will be no required paperwork to comply with the rule.

7. Duplication: No relevant rules or other legal requirements of the state and/or federal government exist that duplicate, overlap or conflict with this rule.

8. Alternatives. The Commission considered and rejected the alternative of requiring hundreds of horses to requalify that were all deprived of any opportunity to race by the COVID-19 emergency restrictions. This alternative was rejected because the wagering public is well aware that none of these horses has raced during the pandemic and the benefits that accrue from facilitating a prompt, orderly and safe resumption of harness racing outweigh any disadvantage that may result from horses participating in pari-mutuel races without having raced or completed a qualifying race in the past 60 days.

9. Federal standards: There are no minimum standards of the Federal government for this or a similar subject area.

10. Compliance schedule: The Commission believes that regulated persons will be able to achieve compliance with the rule upon adoption of this rule.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

A regulatory flexibility analysis for small business and local governments, rural area flexibility analysis and job impact statement are not required for this rulemaking because it will not adversely affect small businesses, local governments, rural areas or jobs.

This rulemaking removes an impediment to entering a horse in a harness race without a qualifying race when unexpected events, including without limitation the novel coronavirus pandemic, have interfered with the horses having an opportunity to race for more than 60 days. Under current rules, the requirement to requalify cannot be waived for horses that have not raced for more than 60 days, which is less than how long all racetracks may be closed. The proposed amendment will remove this impediment. This action will have a positive effect on pari-mutuel horseracing, wagering and breeding in New York.

This rule will not impose an adverse economic impact or reporting, record keeping or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. No local government activities are involved.

NOTICE OF ADOPTION

Permit Thoroughbred Horses with Digital Tattoos to Race in New York

I.D. No. SGC-01-20-00006-A

Filing No. 356

Filing Date: 2020-05-19

Effective Date: 2020-06-03

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 4024.1(b)(1) of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Permit Thoroughbred horses with digital tattoos to race in New York.

Purpose: To promote the integrity of racing and derive a reasonable return for government.

Text or summary was published in the January 8, 2020 issue of the Register, I.D. No. SGC-01-20-00006-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, PO Box 7500, Schenectady, New York 12031-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Allow Claimant to Void Claim of Lameness Horse

I.D. No. SGC-07-20-00002-A

Filing No. 357

Filing Date: 2020-05-19

Effective Date: 2020-06-03

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of sections 4038.5 and 4038.17 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Allow claimant to void claim of lameness horse.

Purpose: To enhance horse health and safety in thoroughbred racing.

Text of final rule: Subdivision (a) of section 4038.5 of 9 NYCRR is amended as follows:

§ 4038.5. Requirements for claim; determination by stewards.

(a) All claims shall be in writing, sealed in an envelope and deposited in a locked box provided for this purpose by the racing secretary or the rac-



Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

To: Commissioners

From: Edmund C. Burns

Date: July 23, 2020

Re: Proposed Rulemaking for Quick Draw Money Dots game feature (9 NYCRR Part 5013)

For the Commission's consideration is a proposed rulemaking to add a feature to the Quick Draw game called "Money Dots."

In the Quick Draw game, there is a field of 80 numbers. Players wager on 1 to 10 numbers from that field to play the base wager. Using a random number generator, 20 numbers are drawn from the field of 80, and players win prizes depending on how many of their selected numbers match the 20 winning numbers drawn. A video monitor at the sales agent location displays the field of 80 numbers and shows the winning numbers as those numbers are generated electronically.

The Money Dots feature would allow a player to make a \$1 wager and receive a Money Dots ticket containing eight random numbers from the field of 80 to be played during the same four-minute draw number within which the Quick Draw base wager is determined. This wager would be independent of the Quick Draw base wager. After the 20 winning Quick Draw numbers are revealed, the video display would then dim the 20 winning Quick Draw numbers shown on the display and assign a color and corresponding prize value to each of the remaining 60 numbers in the field. This would be an example:



Once all 60 numbers have been assigned a color on the video display, one randomly selected winning Money Dots number would be displayed, and any player whose Money Dots ticket contained the winning Money Dots number would win the prize amount corresponding to the color of the number drawn.

The Division of Lottery believes that the addition of this feature would increase player interest in the Quick Draw game, attract new players and increase revenue to benefit State education.

The proposal includes some reorganization of the Quick Draw rule, so that substantive game-play rules are collected in a new subdivision and do not appear in the definitions section. Other technical and stylistic revisions are proposed as well.

The text of the proposed amendments is attached.

[REDACTED]

cc: Robert Williams, Executive Director
Gweneth Dean, Director, Division of Lottery

PART 5013

Quick Draw

Section

5013.1 Definitions

5013.2 Quick Draw game play

5013.~~2~~³ Payment of prizes; chances of winning

[5013.3 Ticket sales]

5013.4 Prize funds

§ 5013.1. Definitions.

The definitions [below] in this section apply to the Quick Draw game [herein] described in this Part:

(a) *Quick Draw* means the Quick Draw game played at lottery sales agent locations [with television monitor and controller] as set forth in this Part. The Quick Draw

[(1) *Quick Draw* is a] game [that] has one field of 80 numbers [from which a player selects from one to 10 numbers].

[(2) Prizes for the Quick Draw game will be awarded for tickets on which various numbers of player selections match the winning numbers drawn. Prizes and payouts are set forth in section 5013.2 of this Part.]

(b) *Quick Draw bet ticket* means a bet ticket for either the Quick Draw base wager or a Money Dots wager.

[(b)] (c) *Quick Draw play card* means a card that contains [four] designated areas used by a player to select the number of spots (numbers) such player desires to play for the base wager of Quick Draw games, the specific subset of numbers such player selects, the amount of money such player desires to play per draw, [and] the specific number of consecutive draws such player desires to play and, if the commission so chooses to offer, the Extra wager option. There is a separate play card for the base wager of Quick Draw [game] games.

[(c) *Quick Draw game panel* means the area of the Quick Draw play card that contains 80 bracketed areas numbered one through 80 plus the Quick Pick option.]

(d) [*Computer terminal with television monitor and controller* means the device at the lottery sales agent location authorized by the commission for the placing of Quick Draw bets] *Assigned drawing* means a unique multi-digit consecutive number assigned by the central computer system, which corresponds to a particular draw.

(e) *Draw* means the [time at] process in which the winning numbers are drawn for [the] a Quick Draw game. [Draw] Draws will be held daily at intervals during the hours designated by the commission. If for any reason a [drawing] draw cannot be held, the next draw will take place at the next scheduled draw time.

[(f) *Draw postponement* means that if for any reason a particular draw cannot be completed at the appropriate time, an issued bet ticket shall be valid for the next scheduled and completed draw.]

[(g) *Game number* is the [six digit] multi-digit consecutive number assigned by the central computer system designating a particular draw.]

[(h) *Quick Draw wager options* means that on a single play card a player can select a number of spots (numbers) from one to 10, with a wager of \$1, \$2, \$3, \$4, \$5 or \$10 per draw and for one, two, three, four, five, 10 or 20 draws. A single play card total wager amount may not exceed \$100.]

[(i) *Exchange ticket* means a bet ticket issued if a winning ticket is redeemed prior to all drawings referred to thereon being completed.]

[(f) *Money Dots*. Money Dots is a feature of the Quick Draw game in which a player may make a wager on the Money Dots winning number that will be selected after the Quick Draw base-wager winning numbers have been selected in a Quick Draw game.]

[(j)] [(g) *Net sales* means the sum of the dollar purchases (after cancellation) of Quick Draw tickets eligible for a particular game draw.]

[(k)] [(h) *Prize pool* means [60 percent of] the portion of net sales for a particular draw that is allocated for the purpose of paying prizes in that game.]

[(l) *Ticket Cancellation* means that a single draw Quick Draw ticket may be cancelled at the same terminal prior to the drawing only on the day of purchase. A multiple drawing ticket can be cancelled only prior to the Quick Draw ticket's first draw. Exchange tickets cannot be cancelled.]

[(m)] [(i) *Spot* means the [number] quantity of numbers a player chooses to play in the base wager of a Quick Draw game. For example, in a 10-spot [game] wager, the player chooses 10 numbers; in a 9-spot [game] wager, the player chooses nine numbers; etc.]

§ [5013.3. Ticket sales.] § 5013.2. [Payment of prizes; chances of winning.] Quick Draw game play.

[(a) *Game components and draws*. Each Quick Draw game shall have a base-wager component and, if the commission so chooses to offer, a Money Dots wager component. A Quick Draw game draw shall comprise the drawing of the Quick Draw base-wager winning numbers, followed by the drawing on the Money Dots wager winning number, if the commission elects to offer such wager. Each Quick Draw game shall be assigned a unique multi-digit consecutive number by the central computer system, which corresponds to a particular draw. Draws will be held daily at intervals during the hours designated by the commission. If for any reason a draw cannot be held, the next draw will take place at the next scheduled draw time and any issued bet ticket for the draw not held instead shall be valid for the next scheduled and completed draw.

(b) Wager types.

(1) Quick Draw base wager.

(i) To make a Quick Draw base wager, a player selects:

(a) a quantity of spots, from 1 to 10;

(b) a wager of \$1, \$2, \$3, \$4, \$5 or \$10 per draw;

(c) the number of consecutive draws the player wishes to play, beginning with the next scheduled draw;

(d) numbers from a field of 80 numbers in the same quantity of spots selected, or chooses a Quick Pick option, in which the commission's central computer system randomly selects the numbers for the player after the player designates the quantity of spots to play.

(ii) The total wager amount allowed on a single Quick Draw play card may be capped, with the allowable total wager designated by the commission on the Quick Draw play card.

(iii) A single-draw Quick Draw bet ticket may be cancelled at the same computer terminal from which such ticket was issued, but only on the day of purchase and prior to the draw. A multiple-draw ticket may be cancelled only prior to the first draw stated on such ticket.

(iv) If a player redeems a winning Quick Draw base-wager ticket prior to all draws referred to thereon having been completed, an exchange ticket shall be issued, indicating the remaining draws to which the wager applies. An exchange ticket cannot be cancelled.

(v) For each draw, a random-number generator shall select 20 numbers from a field of 80 numbers to constitute the Quick Draw base-wager winning numbers.

(vi) Prizes for winning Quick Draw base wagers will be awarded for tickets on which various numbers of player selections match the winning numbers drawn for the assigned drawing, with prizes and payouts as set forth in section 5013.3 of this Part.

(vii) The commission may offer a Quick Draw Extra feature as an addition to a player's Quick Draw base wager.

(a) A Quick Draw Extra wager shall double the cost of the Quick Draw base wager. For example, if a player purchases a \$1 Quick Draw base wager and Quick Draw Extra is also played, the total cost of the wager shall be \$2 (\$1 for the Quick Draw base wager and \$1 for Quick Draw Extra).

(b) When this feature is active, the randomly selected Extra symbol, with odds of selection as set forth in item (c) of this subparagraph, shall appear on the

video monitor immediately following selection of the winning Quick Draw base-wager numbers.

(c) A player who has made a Quick Draw Extra wager shall win only the player's base-wager prize, if any, when the "No extra" symbol is selected. A player who has made a Quick Draw Extra wager shall win a multiple of the player's base-wager prize, if any, in the multiple indicated by the number associated with the symbol, when one of the following symbols is selected: 2X, 3X, 4X, 5X or 10X.

Symbol Odds of selection, 1 in

<u>No extra</u>	<u>2.5</u>
<u>2X</u>	<u>2.35</u>
<u>3X</u>	<u>16</u>
<u>4X</u>	<u>16</u>
<u>5X</u>	<u>26.67</u>
<u>10X</u>	<u>80</u>

(2) Money Dots wager. The rules set forth in this paragraph shall apply when the commission chooses to offer a Money Dots wager within a Quick Draw game. If a Money Dots wager is offered, a player may make the wager separate from a Quick Draw base wager.

(i) To make a Money Dots wager, a player completes a Money Dots play card to select the number of consecutive draws such player desires to play or requests manual entry. The commission may choose to offer a Quick Draw play card that contains a designated area for a player to make a Money Dots wager, instead of completing a Money Dots play card.

(ii) Play on a Money Dots wager occurs with the next Quick Draw game that is not already in progress at the time the Money Dots wager is registered on the commission's central computer system.

(iii) The price of each bet for a Money Dots wager is \$1 per draw.

(iv) A player making a Money Dots wager shall be issued a bet ticket on which eight randomly assigned numbers from the Quick Draw field of 80 are displayed.

(v) After the 20 Quick Draw base-wager winning numbers are drawn in a Quick Draw game, dollar values of \$5, \$10, \$20 or \$50 shall be randomly assigned to each of the remaining 60 numbers that were not selected as base-wager winning numbers for that Quick Draw game, consistent with the odds set forth in paragraph (2) of subdivision (a) of section 5013.3 of this Part.

(vi) After the 60 remaining numbers in the Quick Draw game (which have not been selected as base-wager winning numbers) have been assigned dollar values, a randomly selected Money Dots winning number shall be displayed. A player wins a Money Dots bet, in the dollar amount assigned to the winning number pursuant

to subparagraph (v) of this paragraph, if the Money Dots winning number drawn matches one of the numbers assigned to the player's Money Dots bet ticket for the assigned drawing pursuant to subparagraph (iv) of this subdivision.

[(a)] (c) Price fixed by commission. No person shall sell a Quick Draw bet ticket at a price greater than [that] those fixed by the commission.

[(b)] The price of each bet for the Quick Draw game is \$1, \$2, \$3, \$4, \$5, or \$10.]

[(c)] Bets may be placed either for the next scheduled draw or for two, three, four, five, 10 or 20 consecutive draws, except that the maximum bet on any Quick Draw play card shall be \$100. No other bet durations are available.]

(d) Minimum age.

(1) No [person shall sell a] Quick Draw bet ticket shall be sold to a person under the age of 18 years. [No] On the premises of a licensee who holds a license issued pursuant to the Alcoholic Beverage Control Law to sell alcoholic beverages for consumption on the premises, no Quick Draw bet ticket shall be sold to a person under the age of 21 years [may purchase a Quick Draw ticket] and no person under the age of 21 years may participate in a Quick Draw game], on the premises of a licensee who holds a license issued pursuant to the Alcoholic Beverage Control Law to sell alcoholic beverages for consumption on the premises].

(2) The commission shall penalize a licensee found to have violated paragraph (1) of this subdivision according to the provisions of paragraph (2) of [this] subdivision (c) of section 5001.27 of this Chapter.

(e) Premises. Quick Draw bet tickets may be purchased only at a licensed Quick Draw agent location. Quick Draw tickets shall be sold only on premises satisfying the following, as required by Tax Law section 1612(a)(1)(A):

(1) If the premises are not used for the sale of alcoholic beverages for consumption on the premises, the lottery sales agent must have certified in writing that the premises comprise an area greater than 2,500 square feet.

(2) Exceptions. The provisions of [paragraphs] paragraph (1) [and (2)] of this subdivision relating to 2,500 square feet shall not be applicable to premises used as either:

(i) a commercial bowling establishment; or

(ii) a facility authorized under the Racing, Pari-Mutuel Wagering, and Breeding Law to accept pari-mutuel wagers.

§ [5013.2.] 5013.3. Payment of prizes; chances of winning.

(a) Prize amounts.

(1) Quick draw base wager. Prizes will be paid for all bet tickets on which [the player selections match] a player's Quick Draw base-wager bet ticket matches the winning numbers drawn for the [draw played] assigned drawing. The number of selections that must match the winning numbers drawn, the prizes won for a \$1 bet[,], and the [chances] odds of winning are shown in the [charts] tables below:

(i) [10-Spot Game] 10-spot wager.

Number Matched	Prize	[Chance] <u>Odds of Winning, 1 in</u>
10	\$100,000	[1:]8,911,711.18
9	\$5,000	[1:]163,381.37
8	\$300	[1:]7,384.47
7	\$45	[1:]620.68
6	\$10	[1:]87.11
5	\$2	[1:]19.44
0	\$5	[1:]21.84

Overall [Chance] odds of [Winning] winning in [10 Spot Game] 10-spot wager:
 [1:9.05] 1 in 9.05.

(ii) [9-Spot Game] 9-spot wager.

Number Matched	Prize	[Chance] <u>Odds of Winning, 1 in</u>
9	\$30,000	[1:]1,380,687.65
8	\$3,000	[1: 30,681.11] <u>30,681.95</u>
7	\$125	[1:]1,690.11
6	\$20	[1:]174.84
5	\$5	[1:]30.67
0	\$2	[1:]15.69

Overall [Chance] odds of [Winning] winning in [9-Spot Game] 9-spot wager:
 [1:9.74] 1 in 9.74.

(iii) [8-Spot Game] 8-spot wager.

Number Matched	Prize	[Chance] <u>Odds of Winning, 1 in</u>
8	\$10,000	[1:]230,114.61
7	\$550	[1:]6,232.27
6	\$75	[1:]422.53
5	\$6	[1:]54.64
0	\$2	[1:]11.33

Overall [Chance] odds of [Winning] winning in [8-Spot Game] 8-spot wager:
[1:9.17] 1 in 9.17.

(iv) [7-Spot Game] 7-spot wager.

Number Matched	Prize	[Chance] <u>Odds of Winning, 1 in</u>
7	\$5,000	[1:]40,979.31
6	\$100	[1:]1,365.98
5	\$20	[1:]115.76
4	\$2	[1:]19.16
0	\$1	[1:]8.23

Overall [Chance] odds of [Winning] winning in [7-Spot Game] 7-spot wager:
[1:5.46] 1 in 5.46.

(v) [6-Spot Game] 6-spot wager.

Number Matched	Prize	[Chance] <u>Odds of Winning, 1 in</u>
6	\$1,000	[1:]7,752.84
5	\$55	[1:]323.04
4	\$6	[1:]35.04
3	\$1	[1:]7.70

Overall [Chance] odds of [Winning] winning in [6-Spot Game] 6-spot wager:
[1:6.19] 1 in 6.19.

(vi) [5-Spot Game] 5-spot wager.

Number Matched	Prize	[Chance] Odds of Winning, 1 in
5	\$300	[1:]1,550.57
4	\$20	[1:]82.70
3	\$2	[1:]11.91

Overall [Chance] odds of [Winning] winning in [5-Spot Game] 5-spot wager:
[1:10.34] 1 in 10.34.

(vii) [4-Spot Game] 4-spot wager.

Number Matched	Prize	[Chance] Odds of Winning, 1 in
4	\$55	[1:]326.44
3	\$5	[1:]23.12
2	\$1	[1:]4.70

Overall [Chance] odds of [Winning] winning in [4-Spot Game] 4-spot wager:
[1:3.86] 1 in 3.86.

(viii) [3-Spot Game] 3-spot wager.

Number Matched	Prize	[Chance] Odds of Winning, 1 in
3	\$23	[1:]72.07
2	\$2	[1:]7.21

Overall [Chance] odds of [Winning] winning in [3-Spot Game] 3-spot wager:
[1:6.55] 1 in 6.55.

(ix) [2-Spot Game] 2-spot wager.

Number Matched	Prize	[Chance] Odds of Winning, 1 in
2	\$10	[1:]16.63

Overall [Chance] odds of [Winning] winning in [2-Spot Game] 2-spot wager:
[1:16.63] 1 in 16.63.

(x) [1-Spot Game] 1-spot wager.

Number Matched	Prize	[Chance] Odds of Winning, 1 in
1	\$2	1:4.00

Overall [Chance] odds of [Winning] winning in [1-Spot Game] 1-spot wager:
[1:4.00] 1 in 4.00.

(2) Money Dots wager. Prizes will be paid for all bet tickets on which one of the Money Dot issued numbers matches the winning Money Dot number selected for the assigned drawing. The odds of winning prizes on a \$1 Money Dot wager for a draw are as follows:

<u>Prize</u>	<u>Odds of Winning, 1 in</u>
<u>\$50</u>	<u>400.00</u>
<u>\$20</u>	<u>266.67</u>
<u>\$10</u>	<u>88.89</u>
<u>\$5</u>	<u>17.39</u>

Overall odds of winning in Money Dots wager: 1 in 13.33.

(b) Total prize amount limitation. For any draw in which there are more than 50 Quick Draw base wagers of \$1 in which the player selections match 10 winning numbers, the total prize amount available for payment of Quick Draw prizes on such winning base wagers shall be limited to \$5,000,000[;], and the amount of the prize payable to the holder of each bet ticket for such a wager shall be determined by dividing \$5,000,000 by the number of such winning wagers of \$1.

(c) Payment of winning tickets. Valid winning Quick Draw bet tickets valued at \$600 or less [and presented for payment] may be presented to any lottery sales agent for payment. [Quick Draw tickets may be purchased only at a Quick Draw agent location.]

(d) Highest prize applies. The holder of a winning Quick Draw base-wager bet ticket may win only one prize per game in connection with the winning numbers drawn for a particular Quick Draw base-wager draw, but shall be entitled to the highest prize won by those numbers.

(e) Reserve. A Quick Draw reserve will be created using the funds made available as a result of draws in which the total prizes paid are less than the 60 percent prize pool. This reserve will be used to pay prizes for any draw in which the prize liability exceeds 60 percent of net sales for that draw and may be used, at the option of the lottery director, to increase any or all prize levels. Such increases [may be permanent or] shall be for a specific period of time.

§ 5013.4. Prize funds.

[(a) Sixty percent of sales receipts for each Quick Draw game draw shall be available for the payment of prizes.]

[(b)] In the event of termination of the Quick Draw game for any [cause] reason, any prize monies remaining may be used for prizes in other lottery games at the discretion of the commission.



Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

To: Commissioners

From: Edmund C. Burns

Date: July 10, 2020

Re: Proposed Rulemaking for Protection of Trade Secrets and Records Access (9 NYCRR §§ 5400.2 and 5400.3)

Public Officers Law section 87(4)(a) directs State agencies to promulgate rules to prescribe the manner in which the agency will safeguard against any unauthorized access to records containing trade secrets submitted to the agency. For Commission consideration is a proposed rulemaking to address this requirement.

The proposal also conforms the time to determine records access appeals within the agency to the time prescribed by statute, allows for the delivery of appeal decisions by electronic mail and adds cross-references to statutory requirements.

The text of the proposed rule is attached.

[REDACTED]

attachment

cc: Robert Williams, Executive Director

Section 5400.2 of Title 9 of NYCRR would be amended to read as follows:

§ 5400.2. Appeals of denial of access to records.

* * *

(b) The appeal must be made within 30 days of the denial of access, as required by Public Officers Law section 89(4)(a).

* * *

(d) The records access appeals officer shall, within [seven] 10 business days of the receipt of a written appeal, review the matter and affirm, modify or reverse the denial, as required by Public Officers Law section 89(4)(a).

* * *

(f) If the records access appeals officer affirms or modifies the denial, the records access appeals officer shall communicate his or her reasons in writing by either first class mail or [certified mail, return receipt requested] electronic mail, if the person making the appeal has provided an electronic mail address, to the person making the appeal and inform such person of such person's right of judicial appeal.

Section 5400.3 would be added to Title 9 of NYCRR to read as follows:

§ 5400.3. Protection of records containing trade secrets, confidential commercial information and critical infrastructure.

(a) The records access officer may deny access to records or portions of records that constitute trade secrets; that are maintained for the regulation of a commercial enterprise and, if disclosed, would cause substantial injury to the competitive position of the subject enterprise; or that constitute critical infrastructure information.

(1) For purposes of this section, *trade secret* means information of a commercial enterprise:

(i) that is not generally published or divulged;

(ii) that gives such commercial enterprise an opportunity to obtain an advantage over competitors who do not know or use it; and

(iii) the disclosure of which would:

(a) cause substantial injury to the competitive position of the commercial enterprise; or

(b) if openly disclosed, permit an unfair advantage to competitors of the subject enterprise, including any record including, without limitation: any proprietary data concerning past, present or planned future distribution, sales volumes,

costs, or prices; customer or client lists; devices; processes or plans; formulas; patterns; procedures; studies; analyses, plans, and surveys; compounds; cost records; and compilations of information and other confidential or proprietary information.

(2) For purposes of this section, *critical infrastructure* means systems, assets, places or things, whether physical or virtual, so vital to the State that the disruption, incapacitation or destruction of such systems, assets, places or things could jeopardize the health, safety, welfare or security of the State, its residents or its economy.

(b) A person may, at the time of submission of a record to the commission, request that the commission designate all or a portion of such record as a trade secret and that the commission except such record from disclosure pursuant to Public Officers Law sections 87(2)(d) and 89(5)(a)(1). A person may, at any time, request that the commission designate all or a portion of such record as critical infrastructure information and that the commission except such record from disclosure pursuant to Public Officers Law section 87(2) and 89(5)(a)(1-a). The record for which a trade secret designation is sought shall be labeled using such words as "trade secret," "confidential," "proprietary information" or words of similar import. Such request shall be in writing, identify the record for which a designation and exception from disclosure is being requested, and state the reasons why the information should be excepted from disclosure. Requests for designation and exception from disclosure of trade secrets shall indicate, if appropriate:

- (1) the specific record requested to be considered a trade secret, including, where applicable, the page, form, line, chart or table designation;
- (2) the confidential nature of the record, including a description of the nature and extent of the injury to the commercial enterprise's competitive position, such as unfair economic or competitive damage, that would be caused if the record is disclosed;
- (3) whether the record is treated as confidential by the commercial enterprise, including whether the record has been made available;
- (4) whether any patent, copyright or similar legal protection exists for the record;
- (5) whether the public disclosure of such record is otherwise restricted by law, and the specific source and contents of such restrictions;
- (6) the date upon which such record will no longer need to be kept confidential, if applicable;
- (7) whether the request itself constitutes a record that, if disclosed, would defeat the purpose for which trade secret status is sought;
- (8) whether the record is known outside of the business of the submitting commercial enterprise and the extent to which the record is known by its employees and others involved in the business of the commercial enterprise;

- (9) the value of the record to the commercial enterprise and to its competitors;
- (10) the amount of effort or money expended by the commercial enterprise in developing the records;
- (11) the ease or difficulty with which the record could be properly acquired or duplicated by others; and
- (12) any other factors considered relevant.

(c) When a record is submitted to the commission that a commercial enterprise deems to be a trade secret or to include critical infrastructure information, the record shall be excepted from disclosure. Each of the directors of the divisions of the commission, or their designees, shall be responsible for the custody of such records. Each commission employee who has custody of records containing designated trade secrets or critical infrastructure information shall take appropriate measures to safeguard such records and to protect against unauthorized disclosure. Records containing designated trade secrets or critical infrastructure information may be copied, distributed and evaluated only as required by authorized employees involved in the proper conduct of their State duties.

(d) On the initiative of the commission at any time, or upon the written request of any person for access to a record to which trade secret or critical infrastructure information status pursuant to subdivision (b) of this section has been granted or is pending, the commission shall follow the determination procedure set forth in Public Officers Law section 89(5).



Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

To: Commissioners

From: Edmund C. Burns

Date: July 23, 2020

Re: Proposed Rulemaking for Lottery Courier Instant Ticket Fulfillment (9 NYCRR Part 5014)

For the Commission's consideration is a proposed rulemaking to allow licensed lottery courier services to purchase and deliver instant tickets to customers, in addition to draw game tickets.

The Commission's current regulations allow a licensed lottery courier service to accept orders to purchase only draw game lottery tickets on behalf of a courier customer. The courier service would then cash lower-level prizes on behalf of the customer and credit the customer's account and deliver to the customer the purchased ticket for any higher-level prize, for the customer to claim directly with the Commission. The proposed amendment would allow a licensed courier service also to accept orders for the purchase of tickets in instant lottery games, which the courier service would then be required to deliver to the customer without having played the game or cashed any winning ticket.

The proposed amendments would also enhance the required warnings to customers to include that the Commission is not responsible for acts, omissions or errors on the part of a lottery courier service that may cause a purchased ticket to fail the Commission's validation requirements; require an incident report to the Commission in the event a customer reports that a courier service has delivered a ticket that does not comply with the Commission's ticket validation requirements; and sets forth a retention policy for bet tickets that are required to be cancelled if a courier service has not accomplished timely ticket processing.

The text of the proposed amendments is attached.

[REDACTED]

cc: Robert Williams, Executive Director
Gweneth Dean, Director, Division of Lottery

Part 5014 of Title 9 of the NYCRR would be amended as follows:

PART 5014

Courier Services

Section	
5014.1	License requirement
5014.2	Courier license application and evaluation
5014.3	Conditions and requirements of licensure
5014.4	Display of license
5014.5	Disclosure of games offered
5014.6	Courier customer agreements
5014.7	Requirements for network
5014.8	Prevention of use by prohibited persons
5014.9	Independent third-party testing
5014.10	Courier customer accounts
5014.11	Ticket sale occurrence
5014.12	Courier service fulfillment
5014.13	Ticket ownership
5014.14	Notification of and payment of prizewinners <u>in draw games</u>
5014.15	Audit and financial controls
5014.16	Internal Controls
5014.17	Advertising and marketing
5014.18	Courier customer complaints
5014.19	Fees
5014.20	License suspension or revocation

* * *

§ 5014.3. Conditions and requirements of licensure.

(a) *Conditions.* A courier service shall, as a condition of licensure:

* * *

(7) offer for delivery only [draw] games[, each as] approved by the commission for delivery by such licensee; and

* * *

§ 5014.6. Courier customer agreements.

By creating an account using the network of a courier service to place a request for courier services, a courier customer agrees:

(a) to be bound by the commission's regulations;

(b) to release and hold harmless the courier service, the State and the commission from any liability related to a request for courier services to purchase tickets that is not

completed before the drawing cutoff and never results in the generation of the tickets requested; and

(c) that, in the event a dispute occurs as to whether a ticket generated to complete a draw game ticket purchase request in connection with a request for courier services placed through a network would have been a winning ticket had the ticket purchase occurred and no prize is paid, the commission may, at the commission's option, replace the ticket with a ticket equal in value to the price [paid for] of the ticket that is the subject of the dispute, which remedy shall be the sole and exclusive remedy of the claimant against the commission.

§ 5014.7. Requirements for network.

* * *

(f) *Ticket confirmation to the courier customer.* The network shall employ a mechanism to provide a user with the following:

(1) immediately following a request for courier services [or issuance of a ticket pursuant to a lottery promotion], [an email] a secure confirmation of the [purchase or procurement of the ticket] request including the relevant game, applicable [draw] request data and player's name;

(2) immediately following ticket processing of a draw game ticket or issuance of a ticket pursuant to a lottery promotion, [an email] a secure confirmation of the ticket processing including the serial number of the ticket and the relevant game, applicable data and player's name;

(3) for a draw game ticket, an image of the front and back of an issued ticket in its entirety, which image shall contain a watermark [of] on the ticket. Such mechanism shall ensure that the image is available within the time frame required for ticket processing as set forth in subdivision (a) of section 5014.12 of this Part and only for the purchaser of the ticket to view through the network, and is not accessible by any other user of the network.

(4) immediately following ticket processing of a printed instant ticket, a secure confirmation of the ticket processing including the instant ticket game, pack and ticket number of the ticket, applicable data and player's name;

(5) for a printed instant ticket, an image of the front and back of an issued ticket in its entirety and relevant shipment tracking information. Such mechanism shall ensure that the image and tracking information is available no later than 4:00 a.m. Eastern Time the day after ticket is shipped.

(g) *Record of courier customer purchases.* Each courier service shall provide to the commission, in an electronic format acceptable to the commission, the following data: [in]

(1) In regard to each drawing for which such courier service provides a ticket:

- [(1)] (i) lottery game;
- [(2)] (ii) drawing date and time;
- [(3)] (iii) full name of the courier customer as set forth in such customer's account;
- [(4)] (iv) customer account number;
- [(5)] (v) electronic mail address of the courier customer;
- [(6)] (vi) date the ticket was issued;
- [(7)] (vii) lottery transaction identification number for the purchase transaction;
- [(8)] (viii) location of the purchase; and
- [(9)] (ix) time of the purchase.

Such data shall be submitted to the commission no later than 15 minutes before the drawing to which such data relates. The provisions of such data to the commission does not constitute ticket processing and shall not be sufficient evidence of a purchased ticket. Ticket processing must occur pursuant to the requirements of section 5014.12 of this Part in order to generate a ticket that may be submitted for a prize claim.

(2) In regard to each instant game for which such courier service provides a printed ticket:

- (i) the name and game number of the instant lottery game;
- (ii) full name of the courier customer as set forth in such customer's account;
- (iii) customer account number;
- (iv) electronic mail address of the courier customer;
- (v) date the ticket was purchased;
- (vi) date the courier service shipped the ticket to the customer;
- (vii) location of the purchase; and
- (viii) time of the purchase.

Such data shall be submitted to the commission daily, no later than 4:00 a.m. Eastern Time for the prior day's shipments. The provisions of such data to the commission does not constitute ticket processing and shall not be sufficient evidence of a purchased ticket. A prize claim shall present the printed instant ticket purchased from the lottery sales agent, which must meet the validation requirements set forth in section 5006.8 of this subchapter in order to claim the prize.

(h) *Incident notice.* A licensee shall report immediately all significant incidents related to the operation of such licensee's platform, either personally or by telephone, within one hour of the discovery of the incident, followed by a letter addressed to the lottery director of operations within 24 hours of the incident. At a minimum, the licensee shall provide a written report for each of the following types of events:

* * *

(8) customer reports that the courier service delivered a bet ticket that failed to meet the validation requirements set forth in section 5003.2 of this subchapter, in the case of a draw game bet ticket, or in sections 5003.2 and 5006.8 of this subchapter, in the case of an instant lottery ticket.

[(8)] (9) other conditions as defined by a memorandum of understanding;

[(9)] (10) any situation [which] that may cause the general public to become alarmed and/or [which] that may damage the integrity or public image of the commission.

* * *

§ 5014.11. Ticket sale occurrence.

(a) *Receipt is not a ticket.* No courier customer request for courier service and no receipt or acknowledgment of any such request constitutes evidence of a validly issued lottery ticket. A ticket, in order to be a validly issued ticket, shall be generated by a lottery terminal authorized by the commission or be a printed instant ticket produced by the commission for sale. A ticket is not deemed validly issued when a request for purchase is made of a courier service, when such a request is acknowledged or when a courier customer makes a payment to a courier service.

(b) *Required disclosures to courier customers.* A courier service shall disclose prominently on such licensee's network:

(1) [A courier service shall disclose prominently on such licensee's network] the text of subdivision (a) of this section[.];

(2) [A courier service shall disclose prominently on such licensee's network] the text of subdivision (c) of section 5004.9 of this subchapter;

(3) the text of section 5006.6 of this subchapter;

(4) a warning to customers to take care to ensure the safekeeping of lottery tickets and not to risk claim complications by disseminating images of purchased tickets[.];

(5) that the commission is not responsible for the courier service's failure to deliver or delay in delivering any lottery ticket to a courier customer; and

(6) that the commission is not responsible for any acts, omissions or errors a courier service may make that cause a lottery ticket to fail to meet the commission's ticket validation requirements.

§ 5014.12. Courier service fulfillment.

(a) *Time requirements.*

(1) Completion of ticket processing. For each request for courier services through a network placed during normal business hours, a courier service shall complete ticket processing by:

(i) the sooner of 30 minutes before the relevant [drawing] drawing cutoff or within 24 hours of the placement of the request, for a draw game ticket; or

(ii) within 24 hours of the placement of the request, for an instant lottery game ticket available for sale by a lottery sales agent.

(2) Cutoff for accepting requests for a draw game ticket. A courier service shall cease accepting requests for courier services for a draw game ticket no more than two hours and no less than a time period prior to the drawing cutoff, as specified by the commission. A platform shall provide a message to all courier customers who attempt to place requests after the drawing cutoff but prior to the drawing, informing such courier customers that the ticket purchase associated with the request will be fulfilled for the next available drawing, unless such courier customer chooses to cancel the request.

(3) Cutoff for accepting requests for an instant lottery game ticket. A courier service shall not accept a request for courier services for an instant lottery game ticket after the announced end of the game relating to such ticket.

(4) A courier service shall not accept a request to purchase an instant game ticket that is not available for sale to the public by a lottery sales agent at the time such request is made.

(b) *Required cancellation.* A network shall cancel a request for courier services automatically, notify the courier customer and refund any payment, including any courier customer fee, in the event ticket processing is not complete prior to:

(1) the drawing cutoff, for a draw game ticket; or

(2) the announced end of the game, for an instant lottery game ticket.

* * *

(e) *Storage of tickets.* Each courier service shall store each physical draw game ticket purchased on behalf of a courier customer securely in a safe or vault with a minimum fire rating of Class 150-1 Hour issued by Underwriter Laboratories Inc., or such equivalent rating approved by the commission. The premises housing such safe or vault shall be protected by a burglary alarm system with 24-hour central station monitoring.

(f) *Retention requirements.* Each courier service shall retain each draw game ticket issued for a courier customer until at least 90 days have passed from the expiration of the applicable period in which a prize claim validly may be made to the commission in regard

to such ticket. In the event of a required cancellation pursuant to subdivision (b) of this section, the courier service shall destroy, prior to the drawing cutoff, the bet ticket for which ticket processing had not been completed and shall notify the commission within 24 hours of such action, providing in such notice the information set forth in paragraph (1) of subdivision (g) of section 5014.7 of this Part with respect to such ticket.

(g) *Instant lottery game tickets.* A courier service shall deliver each printed instant lottery game ticket to the courier customer who requested and paid for the purchase of such ticket. The commission shall not be responsible for any acts, omissions or errors a courier service may make in revealing an instant ticket's prize symbols or validation data or anything else that may cause such ticket to fail to meet the validation requirements set forth in sections 5003.2 or 5006.8 of this subchapter. The commission shall not pay any prize on an instant lottery game ticket that does not meet the validation requirements set forth in sections 5003.2 or 5006.8 of this subchapter.

§ 5014.13. Ticket ownership.

A courier service that purchases a lottery ticket on instruction from a courier customer holds such ticket in trust for such courier customer and acquires no ownership interest in such ticket. Notwithstanding such lack of ownership, a courier service may destroy a draw game lottery ticket so long as such courier service complies with the retention requirements set forth in subdivision (f) of section 5014.12 of this chapter.

§ 5014.14. Notification of and payment of prizewinners in draw games.

(a) *Notification.* A licensee shall notify a courier customer on whose behalf such licensee has purchased a winning draw game ticket of the amount of the prize within one hour of the commission's publication of the winning numbers and prize amounts. Such notification shall be made electronically through the network, secure electronic mail or other method approved by the commission. If the prize is more than \$600, the licensee shall also notify the commission promptly of the identity of the prizewinner, the prize amount, the type of game, the date of the drawing and, for a draw game conducted more than once per day, the time of the drawing.

(b) *[Prizes] Draw game prizes at or below threshold.* For a draw game prize of \$600 or less, a courier service shall validate the winning ticket and redeem the prize on behalf of the courier customer. Such prize amount shall be disbursed to the [player] courier customer by crediting the courier customer's account, direct deposit to the courier customer's bank account, redeemed for cash or by other means approved by the commission.

(c) *[Prizes] Draw game prizes above threshold.*

(1) For a draw game prize of more than \$600, a courier service shall [validate the winning ticket, attach the claim receipt and] deliver the physical winning ticket to the courier customer.

(2) A courier service shall provide electronically a courier customer who is a draw game prizewinner with a digitally completed claim form, tax withholding form and any

other documentation required to redeem such prize, which the courier customer may use to claim the prize.

(3) A courier service shall provide the commission with all information the commission may request in regard to a draw game prize of more than \$600.

(4) In all respects, payment of such draw game prize shall be in accordance with Part 5002 of this subchapter.

(5) The commission shall not be responsible for any acts, omissions or errors a courier service may make that cause a draw game bet ticket to fail to meet the validation requirements set forth in section 5003.2 of this subchapter. The commission shall not pay any prize on a draw game bet ticket that does not meet the validation requirements set forth in section 5003.2 of this subchapter.

(d) *Printing prizewinner name on ticket.* Within a reasonable time after notifying a courier customer of winning a draw game prize of more than \$600, a courier service shall print the prizewinner's full name, as set forth in such prizewinner's account, on the back of the draw game ticket.

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