

# MINNESOTA RULES 2011

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## CHAPTER 7856 STATE LOTTERY LOTTERY RETAILERS

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### 7856.1000 DEFINITIONS.

Subpart 1. **Terms.** For purposes of this chapter and chapter 7857, the terms defined in this part have the meanings given them.

Subp. 2. **Bank.** "Bank" means a bank, banking association, savings association, trust company, or credit union, organized under the authority of this state or the United States with a place of business within this state.

Subp. 3. [Repealed, L 2001 c 23 s 1]

Subp. 4. **Director.** "Director" means the director of the Minnesota State Lottery.

Subp. 5. [Repealed, 18 SR 1223]

Subp. 6. **Law or state lottery law.** "Law" or "state lottery law" means Minnesota Statutes, chapter 349A.

Subp. 7. **Lottery.** "Lottery" means the Minnesota state lottery operated pursuant to the law.

Subp. 8. **Lottery retailer or retailer.** "Lottery retailer" or "retailer" means a person who has entered into a contract with the director authorizing the retailer to sell lottery tickets.

Subp. 9. **Lottery retailer contract.** "Lottery retailer contract" means the contract entered into between a retailer and the director that authorizes the retailer to sell lottery tickets.

Subp. 10. **Lottery ticket or ticket.** "Lottery ticket" or "ticket" means a lottery ticket issued by the Minnesota State Lottery for sale to the general public.

Subp. 11. **Person.** "Person" means an individual, association, corporation, club, trust, estate, society, company, owner or operator of a business, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary capacity, whether appointed by a court or otherwise, and any other combination of individuals. The term includes agencies and instrumentalities of the state, including counties and municipalities and agencies and instrumentalities of these entities.

Subp. 12. **Settlement date.** "Settlement date" means the date, designated by the director, by which the retailer is to return unsold instant tickets for a particular game.

Subp. 13. **State.** "State" means the state of Minnesota.

**Statutory Authority:** *MS s 349A.05*

**History:** *14 SR 2315; 18 SR 1223; L 1995 c 202 art 1 s 25; L 2001 c 23 s 1*

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**7856.1010 SCOPE.**

This chapter is adopted by the director for the operation of the lottery and other matters pertinent to its administration.

**Statutory Authority:** *MS s 349A.05*

**History:** *14 SR 2315*

**7856.1020 DIRECTOR; POWERS AND DUTIES.**

The director shall have the power and duty to operate and administer the lottery and to have the overall supervisory authority and responsibility of the lottery, including the adoption of rules and game procedures governing its establishment and operation, subject to review and comment by the board as provided by law. Those powers and duties include, but are not limited to, the administration of the following:

- A. the types of lottery games to be conducted;
- B. the price, or prices of tickets;
- C. the number and sizes of prizes on the winning tickets;
- D. the manner of selecting winning tickets;
- E. the manner of payment of prizes to holders of winning tickets;
- F. the frequency of drawings on selections of winning tickets;
- G. the types and numbers of locations at which tickets may be sold;
- H. the manner and amount of compensation to be paid to retailers necessary to provide for adequate availability of tickets to prospective buyers and for the convenience of the public;
- I. the methods to be used in selling tickets;
- J. the contracting with retailers to sell tickets pursuant to the law;
- K. the apportionment of total revenues accruing from the sale of tickets and from other sources as provided by law;
- L. reporting annually to the governor and legislature as required by law;
- M. maintaining full and complete records of the lottery; and
- N. other matters necessary or desirable for the efficient operation and administration of the lottery, for the convenience of the purchasers of tickets and holders of winning tickets, and to ensure the integrity and public confidence in the lottery.

**Statutory Authority:** *MS s 349A.05*

**History:** *14 SR 2315*

**7856.2010 RETAILER APPLICATION.**

Subpart 1. **Application.** A person interested in obtaining a contract as a retailer for the sale of lottery tickets shall file an application to become a lottery retailer with the lottery in the form and manner prescribed by the lottery. A lottery retailer interested in selling lottery tickets at an additional business location not specified in the retailer's current contract may submit an application to amend the lottery retailer's contract to authorize the sale of lottery tickets at the other business location.

Subp. 2. **Fee.** Each retailer application for an initial contract must be accompanied by a nonrefundable fee of \$100. The initial application fee is valid for persons who reapply to be retailers and who have not previously contracted with the lottery absent any material change in the information contained in the initial application. An application to amend a contract to authorize the sale of lottery tickets at an additional business location must be accompanied by a nonrefundable fee of \$100 per business location. A renewal of a contract must be accompanied by a nonrefundable fee of \$20.

**Statutory Authority:** *MS s 349A.02; 349A.05*

**History:** *14 SR 2315; 21 SR 147*

**7856.2020 SELECTION OF RETAILERS.**

Subpart 1. **Eligibility.** An applicant for a lottery retailer contract must:

- A. be at least 18 years of age;
- B. not propose to be in business solely as a seller of lottery tickets;
- C. not owe \$500 or more in delinquent taxes as defined in Minnesota Statutes, section 270C.72;
- D. not have been convicted within the previous five years of a felony, gross misdemeanor, a crime involving fraud or misrepresentation, or a gambling-related offense;
- E. not have an officer, director, or person who owns more than five percent of the business of the applicant who has within the previous five years been convicted of a felony, gross misdemeanor, or crime involving fraud or misrepresentation, or a gambling-related offense except as provided under Minnesota Statutes, section 349A.06, subdivision 2, clause (c); and
- F. not be a member of the immediate family residing in the same household as the director, board member, or employee of the lottery.

Subp. 2. **Factors to be considered.** Before selecting a lottery retailer or selecting an additional business location for a lottery retailer, the director shall consider:

- A. the financial responsibility of the retailer;
- B. the honesty and integrity of the retailer;
- C. the accessibility of the place of business of the retailer;
- D. the sufficiency of existing lottery retailers to serve the public convenience;
- E. the volume of expected retailer sales;
- F. the veracity of the information supplied in the application;
- G. the length of time the retailer has been in business; and
- H. the nature and type of business engaged in by the retailer.

Subp. 3. **Residency requirements.** Contracts shall be issued only to any of the following:

- A. residents of the state;
- B. corporations incorporated in this state, or authorized to do business in this state;
- C. partnerships authorized to do business in this state; and
- D. unincorporated businesses or other entities which are authorized to do business in this state.

**Statutory Authority:** *MS s 349A.02; 349A.05*

**History:** *14 SR 2315; L 1991 c 233 s 109; 18 SR 1223; 21 SR 147; L 2005 c 151 art 1 s 116*

**7856.3010 ISSUANCE OF CONTRACT.**

Subpart 1. **General.** Retailer contracts may be entered into or amended by the director without limitation, except that the director may, at the director's discretion, determine that a sufficient number of retailers or locations exists within a given marketing area to adequately serve the public convenience and necessity or that the addition of lottery retailers or locations would not result in a sales increase sufficient to warrant contracting with that retailer or amending the retailer's contract authorizing the retailer to sell lottery tickets at an additional business location.

Subp. 2. **Issuance.** The director will, according to the law and rules of this chapter, contract with retailers to sell lottery tickets to persons who in the director's opinion will best serve the public convenience and promote the sale of tickets consistent with the experience, character, and general fitness of the applicant.

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Subp. 3. **Contract.** A retailer's contract will remain in full force and effect until the termination date as provided by law, unless the contract is previously canceled or suspended by the director according to the provisions of the law and the rules of this chapter. The director may renew any contract at the end of a term for an additional term.

Subp. 4. **Types of contracts.** Contracts entered into between the lottery and a retailer under this part may be distinguished by game type or by the number of business locations at which the lottery retailer is authorized to sell lottery tickets, as determined by the director. The contract may be altered, amended, suspended, or canceled, in whole or in part, pursuant to the law, this chapter, game procedures, and the terms of the contract.

**Statutory Authority:** *MS s 349A.02; 349A.05*

**History:** *14 SR 2315; 21 SR 147*

**7856.3011 DENIAL OF APPLICATION; RECONSIDERATION.**

If an application is denied, the lottery shall notify the applicant in writing of the denial along with a brief statement of the reason for denial. The applicant will be notified that the applicant may, within 30 days, request reconsideration of the application. The application may be reconsidered by filing with the lottery a written statement setting forth the applicant's legal, factual, or equitable arguments, along with any supporting documents. The lottery may request that the applicant submit additional facts or documents prior to making a decision within 45 days after receiving all necessary information. The director, after considering any additional facts or documents submitted by the applicant, will make a decision whether to deny or grant a contract or deny or grant the application to amend the contract to authorize the sale of lottery tickets at an additional business location to the applicant.

**Statutory Authority:** *MS s 349A.02; 349A.05*

**History:** *14 SR 2315; 21 SR 147*

**7856.3020 CERTIFICATE.**

Subpart 1. **Issuance.** Upon issuance of a contract or an amendment to a contract authorizing a retailer to sell lottery tickets, the director shall issue a certificate to the retailer for each of the business locations at which the sale of lottery tickets is authorized.

Subp. 2. **Display.** A lottery retailer shall prominently display the certificate issued under this part in an area visible to the general public at each business location at which the retailer's contract authorizes the sale of lottery tickets. The lottery retailer shall also mount a decal provided by the lottery at each business location at which the retailer's contract authorizes the sale of lottery tickets in a prominent place on the window or entrance to the business.

Subp. 3. **Surrender.** Every certificate issued under this part must be surrendered by the retailer upon cancellation, suspension, or nonrenewal of the retailer's contract.

**Statutory Authority:** *MS s 349A.02; 349A.05*

**History:** *14 SR 2315; 21 SR 147*

**7856.3030 TEMPORARY CONTRACTS.**

Pending final determination of any criteria under this chapter, the director may enter into a temporary contract for a period not to exceed 90 days.

**Statutory Authority:** *MS s 349A.05*

**History:** *14 SR 2315*

**7856.4010 CONDITIONS OF RETAILER CONTRACT.**

Subpart 1. **Terms.** A lottery retailer contract must include, but is not limited to, the conditions specified in this part.

Subp. 2. **Rules and law.** The lottery retailer shall agree to be bound by and comply with the provisions of the law, and any rules, instructions, and orders issued by the director.

Subp. 3. **Sale of lottery tickets.** The lottery retailer shall agree to make available for sale to the public valid lottery tickets during normal business hours.

Subp. 4. **Displays.** The lottery retailer shall agree to maintain displays, notices, and materials supplied by the lottery according to instructions issued by the lottery.

Subp. 5. **Acceptance of tickets.** The lottery retailer shall agree that all lottery tickets accepted from the lottery or its distributor are considered to have been purchased by the lottery retailer at the price established by the lottery, less appropriate retailer commission, unless unsold tickets are returned to the lottery on or before the final settlement date.

Subp. 6. **Lost or missing tickets.** The lottery retailer shall agree to be responsible for lost, stolen, or missing tickets.

Subp. 7. **Records.** The lottery retailer shall agree to maintain current and accurate records of all lottery operations in conformance with the law and as further directed by the lottery.

Subp. 8. **Access to records.** The lottery retailer shall agree to make available to employees of the lottery, and to employees of the Department of Public Safety, Alcohol and Gambling Enforcement Division upon their request, for inspection and audit, the records the retailer maintains relating to lottery operations.

Subp. 9. **Payment of prizes.** The lottery retailer agrees to validate and pay winning tickets consistent with normal business hours or as agreed to between the lottery and the retailer.

Subp. 10. **Liability for proceeds.** The lottery retailer shall agree to be personally liable for all proceeds from the sale of lottery tickets and that the proceeds constitute a trust fund in favor of the lottery until paid to the lottery.

Subp. 11. **Hold harmless.** The lottery retailer shall agree to hold the lottery and the state of Minnesota harmless from any liability arising in connection with conducting the sale of lottery tickets.

Subp. 12. **Status.** The lottery retailer shall agree that, in its capacity as a contractor to sell lottery tickets, the retailer is not acting on behalf of the lottery or the state as an agent, officer, or employee, but is acting in the capacity of an independent contractor.

Subp. 13. **Liability.** The lottery retailer shall agree that any contractual or tortious liability incurred by the retailer in connection with the sale of lottery tickets shall be the retailer's sole responsibility.

Subp. 14. **Renewal.** The lottery retailer shall not conduct any business or hold itself out as a lottery retailer unless a renewal contract is timely granted.

Subp. 15. **Place tickets are sold.** The lottery retailer agrees to sell lottery tickets only on the premises described in the contract.

Subp. 16. **Cash.** The lottery retailer shall agree to sell lottery tickets only for cash. For the purposes of this subpart, "cash" means coin, currency, money orders, and checks.

Subp. 17. **Restrictions on sale of tickets.** The lottery retailer shall agree not to condition the sale of lottery tickets upon the purchase of any other item or service, or impose any similar restriction upon the sale of a lottery ticket.

**Statutory Authority:** *MS s 349A.05*

**History:** *14 SR 2315; L 1997 c 129 art 2 s 15; 30 SR 478*

#### **7856.4020 BONDING OF RETAILERS.**

The lottery shall require a bond, securities, or an irrevocable letter of credit from each lottery retailer in an amount the lottery determines, consistent with its conclusion of the financial stability of the retailer, to avoid monetary loss to the state because of the activities of a retailer in the sale of lottery tickets. The bond must be in a form provided by the lottery and through a company authorized to do business in this state and approved by the director. If securities are deposited or an irrevocable letter of credit filed, the securities or letter of

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credit must be of a type or in the form provided under Minnesota Statutes, section 349A.07, subdivision 5, paragraphs (b) and (c).

**Statutory Authority:** *MS s 349A.02; 349A.05*

**History:** *14 SR 2315; 21 SR 147*

**7856.4030 COMPENSATION.**

Subpart 1. **Commission.** Retailers shall receive a commission of five and one-half percent of the price of each ticket sold by that retailer. Retailers shall also receive a commission of one percent on the amount of each winning ticket cashed by that retailer.

Subp. 2. **Incentive program.** The director may establish lottery retailer incentive programs for retailers and their employees.

Subp. 3. **Acceptance of other money prohibited.** A lottery retailer or employee of a retailer may not request, demand, or accept gratuities or similar remuneration in exchange for the performance of duties authorized under the lottery retailer's contract with the lottery other than as specifically authorized by the director.

**Statutory Authority:** *MS s 14.388; 349A.05*

**History:** *14 SR 2315; 23 SR 205*

**7856.4050 NONTRANSFERABILITY AND NONASSIGNABILITY OF CONTRACT.**

A retailer contract issued under this chapter may not be transferred or assigned. If the nature of the business or location to which a contract is issued or the ownership substantially changes, the director reserves the right to approve or cancel the contract. The retailer must notify the director in writing at least 30 days before any proposed business or location change or change in ownership. A substantial change in ownership under this part means a transfer of 50 percent or more of the equity of the retailer.

**Statutory Authority:** *MS s 349A.02; 349A.05*

**History:** *14 SR 2315; 21 SR 147*

**7856.5010 LOCATION OF SALES AND PURCHASE.**

The sale of lottery tickets may be made only pursuant to a contract of a lottery retailer and only at the specific location named in the contract or at other locations as the director may determine under the law.

**Statutory Authority:** *MS s 349A.05*

**History:** *14 SR 2315*

**7856.5020 INSPECTION OF PREMISES.**

Retailers shall allow inspection of their premises at any time upon request of the lottery to determine whether the retailer is complying with the provisions of the law, rules, game procedures of the lottery, and terms of the contract. Inspection may be made with or without notice to the retailer during normal business hours.

**Statutory Authority:** *MS s 349A.05*

**History:** *14 SR 2315*

**7856.6010 CANCELLATION, SUSPENSION, AND NONRENEWAL OF CONTRACT.**

Subpart 1. **Mandatory.** A contract or authorization for a lottery retailer to sell lottery tickets at a particular business location must be canceled if the retailer has been determined by the director to have:

- A. been convicted of a felony or gross misdemeanor or a gambling related offense;
- B. committed fraud, misrepresentation, or deceit;
- C. provided false or misleading information to the lottery; or

D. acted in a manner prejudicial to the public confidence in the integrity of the lottery.

Subp. 2. **Discretionary.** A contract or authorization for a lottery retailer to sell lottery tickets at a particular business location may be canceled, suspended, or not renewed if it is determined by the director that the retailer:

- A. changed business location;
- B. failed to account for lottery tickets received;
- C. failed to account for proceeds from the sale of lottery tickets;
- D. violated a provision of the law, rule, game procedures, or any order issued by the director;
- E. failed to comply with any term or condition of the lottery retailer's contract;
- F. failed to comply with the bond requirements of part 7856.4020;
- G. failed to maintain assigned minimum levels of sales;
- H. committed an act which impairs the retailer's reputation for honesty and integrity;
- I. failed to properly display lottery point-of-sale material;
- J. did not have the financial stability or responsibility to act as a lottery retailer;
- K. acted in a manner that the director finds that the retailer's participation as a lottery retailer is inconsistent with the public interest, convenience, and necessity;
- L. sold lottery tickets to a person who the retailer knows or has reason to know will resell the tickets to other persons;
- M. had an employee who has been involved in the sales of lottery tickets who has been convicted of a gambling-related offense or crime of moral turpitude, if contracting with that retailer would endanger the security or integrity of the lottery; or
- N. sold, bartered, furnished, or given alcoholic beverages to a person under 21 years of age in violation of Minnesota Statutes, section 340A.503, subdivision 2, clause (1), two or more times within a two-year period.

Subp. 3. **Material change.** A retailer may be canceled, suspended, or not renewed if it is determined by the director that there has been a material change in any of the qualifications for a retailer's contract or factors to be considered under part 7856.2020.

**Statutory Authority:** *MS s 349A.02; 349A.05*

**History:** *14 SR 2315; 21 SR 147; 30 SR 478*

#### **7856.7010 DEPOSIT OF FUNDS.**

Lottery retailers shall deposit in a bank account all money received by the retailer from the sale of lottery tickets, less the amount retained as compensation for the sale of tickets and credit for direct payment of prizes. The lottery shall have access through electronic funds transfer (EFT) to all money required to be deposited by lottery retailers.

**Statutory Authority:** *MS s 349A.05*

**History:** *14 SR 2315; 30 SR 478*

#### **7856.7020 INTEREST.**

If a retailer fails to pay any amount due to the lottery within the time required, the retailer shall owe interest on the unpaid amount due during each fiscal year at the rate of five percent in excess of the discount rate on 90-day commercial paper in effect on the previous July 1 at the Federal Reserve Bank in the Federal Reserve District encompassing Minnesota.

**Statutory Authority:** *MS s 349A.05*

**History:** *14 SR 2315*

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**7856.7030** [Repealed, 30 SR 478]

## **7856.7040 AGENTS RESPONSIBLE FOR TICKETS.**

Tickets accepted by the retailer from the lottery, or its authorized representatives, are considered to have been purchased by the retailer, unless returned within the time specified. The retailer is responsible for lost, stolen, or missing tickets.

**Statutory Authority:** *MS s 349A.05*

**History:** *14 SR 2315; 30 SR 478*

## **7856.7050 TICKETS UNACCOUNTED FOR.**

Tickets that are not accounted for by the retailer on the final settlement date, regardless of reason, shall be deemed to have been sold to the retailer.

**Statutory Authority:** *MS s 349A.05*

**History:** *14 SR 2315*

## **7856.7060 CONSIGNMENT OF TICKETS.**

Lottery tickets delivered by the lottery on consignment to the retailer must be returned to the lottery upon cancellation, suspension, or nonrenewal of the contract, or upon demand by the director.

**Statutory Authority:** *MS s 349A.05*

**History:** *14 SR 2315*

## **7856.7070 PRICE RESTRICTIONS.**

A retailer may not sell a lottery ticket at a price other than the price set by the director under the game procedures for the game.

**Statutory Authority:** *MS s 349A.05*

**History:** *14 SR 2315*