

CHAPTER 565

STATE LOTTERY

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Cross-reference: See definitions in s. 561.01.

565.01 Definitions. In this chapter:

(1) "Administrator" means the administrator of the lottery division.

(1m) "Beneficial owner" has the meaning given under 17 CFR 240.13d-3.

(3m) "Instant lottery ticket services and supplies" means those lottery products and associated services commonly known as scratch-off or instant games based upon secure, preprinted lottery tickets.

(4) "Major procurement" means a procurement for materials, supplies, equipment or services which are unique to the lottery and not common to the ordinary operations of state agencies, including security services, prize payout agreements or annuity contracts and materials, supplies, equipment or services involving marketing, the printing of lottery tickets or lottery shares, the receiving or recording of a player's selection in any lottery game and the determination of winners of a lottery game.

(4c) "Management consultation services" means any of the following services:

(a) The development of a specification related to a bid or competitive sealed proposal to supply goods or services to the commission.

(b) The evaluation of a bid or competitive sealed proposal to supply goods or services to the commission.

(c) Consultation regarding the administration or supervision of one or more functions relating to lottery management or operations.

(4d) "Minority business" means a business certified by the department of development under s. 560.036 (2).

(4e) "Minority group member" has the meaning given in s. 560.036 (1) (f).

(4g) "On-line services and supplies" means those lottery products and associated services, including computerized transaction processing equipment, computerized retailer vending terminals, and those technologies necessary to maximize lottery revenues and minimize the lottery's total operating costs. The term does not include services related to instant lottery ticket services.

(4r) "Promotional advertising" means advertising which is for the purpose of inducing persons to purchase lottery tickets or lottery shares. "Promotional advertising" does not mean advertising which is designed to provide the public with information on any of the following:

(a) The fact that this state has a state lottery or participates in a multistate lottery.

(b) The locations where lottery tickets or lottery shares are sold.

(c) The price of lottery tickets or lottery shares.

(d) The prizes or prize structure of the lottery.

(e) The type of lottery game and an explanation of how it works.

(f) The time, date and place of conducting the lottery.

(g) The winning numbers, lottery tickets or lottery shares or the identity of winners and the amounts won.

(h) How the lottery is operated or how the net proceeds of the lottery are to be used.

(5) "Relative" means a spouse, child, stepchild, brother, stepbrother, sister, stepsister, parent or stepparent.

(6) "Retailer" means a person who sells lottery tickets or lottery shares on behalf of the commission under the terms of a lottery retailer contract entered into under s. 565.10.

(6m) (a) "The state lottery" means an enterprise, including a multistate lottery in which the state participates, in which the player, by purchasing a ticket, is entitled to participate in a game of chance in which any of the following applies:

1. The winning tickets are randomly predetermined and the player reveals preprinted numbers or symbols from which it can be immediately determined whether the ticket is a winning ticket entitling the player to win a prize as prescribed in the features and procedures for the game, including an opportunity to win a prize in a secondary or subsequent chance drawing or game.

2. The ticket is evidence of the numbers or symbols selected by the player or, at the player's option, randomly selected by a computer, and the player becomes entitled to a prize as prescribed in the features and procedures for the game, including an opportunity to win a prize in a secondary or subsequent chance drawing or game, if some or all of the player's symbols or numbers are selected in a chance drawing or game, if the player's ticket is randomly selected by the computer at the time of purchase or if the ticket is selected in a chance drawing.

(b) "The state lottery" does not include any of the following games or games simulating any of the following games:

1. Any game in which winners are selected based on the results of a race or sporting event.

2. Any banking card game, including blackjack, baccarat or chemin de fer.

3. Poker.

4. Roulette.

5. Craps or any other game that involves utilizing dice.

6. Keno.

7. Bingo 21, bingo jack, bingolet or bingo craps.

8. Any game of chance that is played on a slot machine or any mechanical, electromechanical or electronic device that is generally available to be played at a gambling casino.

9. Any game or device that is commonly known as a video game of chance or a video gaming machine or that is commonly known as or considered to be a video gambling machine, except a video device authorized by the commission to permit the sale of

tickets by retailers in a game authorized under par. (a) if all of the following apply:

a. The device does not determine whether the player has won a prize.

b. The device does not indicate whether the player has won a prize other than by verifying that the player's ticket or some or all of the player's symbols or numbers on the player's ticket have been selected in a chance drawing, or by verifying that the player's ticket has been randomly selected by a central system computer at the time of purchase.

10. Any game that is similar to a game listed in this paragraph.

11. Any other game that is commonly considered to be a form of gambling and is not, or is not substantially similar to, a game that the commission has the authority to conduct under this chapter.

(c) This subsection shall not affect the provisions of any Indian gaming compact entered into before January 1, 1993, under s. 14.035.

(7) "Vendor" means any person who enters into a major procurement contract under s. 565.25.

History: 1987 a 119; 1989 a 31, 99; 1991 a 39, 189, 269, 321.

565.015 Advisory referendum on additional forms of gambling. After January 1, 1993, neither house of the legislature may pass any bill that authorizes the conduct of any game specified in s. 565.01 (6m) (b), 1991 stats., unless, prior to the passage of that bill and during the same legislative session, all of the following occur:

(1) A bill requiring a statewide advisory referendum on the question of whether the legislature should authorize the conduct of such a game has been enacted.

(2) The advisory referendum required under sub. (1) has been held.

History: 1991 a 321.

565.02 Lottery operations. (1) (a) Prior to appointing an administrator, the commission shall conduct a nationwide search to find the best, most qualified appointee and consider the business management experience, marketing experience, computer experience and lottery management experience of the applicants.

(b) Notwithstanding s. 111.321, no person may serve as the administrator if he or she has been convicted of, or entered a plea of guilty or no contest to, any of the following:

1. A felony, other than a felony conviction for an offense under subds. 2. to 4., during the immediately preceding 10 years, unless the person has been pardoned.

2. A gambling-related offense.

3. Fraud or misrepresentation in any connection.

4. A violation of a provision of this chapter or rule of the commission.

(c) Before appointment of an administrator is made, the commission, with the assistance of the department of justice, shall conduct a background investigation of the proposed administrator. The commission shall require the propose administrator to be photographed and fingerprinted on 2 fingerprint cards each bearing a complete set of the person's fingerprints. The department of justice may submit the fingerprint cards to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions. The commission shall reimburse the department of justice for the department's services under this paragraph.

(2) (a) The administrator shall perform the duties assigned to the administrator under this chapter and by the commission.

(b) The administrator shall appoint and supervise employees, including, outside the classified service, the deputy and assistant of the lottery division, as specified by the commission by rule

under sub. (3) (a), as necessary to carry out the duties of the commission and administrator.

(c) Notwithstanding s. 111.321, no person may be employed under par. (b) if he or she has been convicted of, or entered a plea of guilty or no contest to, any of the following:

1. A felony, other than a felony conviction for an offense under subd. 2. or 3., during the immediately preceding 10 years, unless the person has been pardoned.

2. A gambling-related offense.

3. A violation of a provision of this chapter or rule of the commission.

(d) Before appointment of employees is made under par. (b), the commission, with the assistance of the department of justice, shall conduct a background investigation of the proposed employees. The commission shall require the persons proposed as employees to be photographed and fingerprinted on 2 fingerprint cards each bearing a complete set of the person's fingerprints. The department of justice may submit the fingerprint cards to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions. The commission shall reimburse the department of justice for the department's services under this paragraph.

(2m) No applicant for employment or appointment under sub. (1) or (2) may intentionally make a false statement or material omission in an application for employment or appointment.

(2r) The commission may require a fidelity bond from the administrator or any other employe of the lottery division.

(3) The commission shall promulgate all of the following rules:

(a) Establishing a plan of organizational structure for lottery division employees.

(b) For the selection of retailers for contract which shall be based on objective criteria. The rule may not limit the number of retailers solely on the basis of the population of the city, town or village in which the retailers are located and shall include requirements relating to all of the following:

1. The financial responsibility of the retailer.

2. The security of the retailer and the retailer's business.

3. The accessibility of the location from which the retailer will sell lottery tickets or lottery shares to the public. Restrictions under s. 125.07 relating to presence of underage persons on premises licensed to sell alcohol beverages may not be used under this subdivision to deny a person a lottery retailer contract.

4. The sufficiency of existing retailers to serve public convenience.

5. The volume of expected lottery ticket and lottery shares sales.

6. Qualifications for retailers, in addition to those under this section, as determined by the commission.

7. Ensuring that there will not be an undue concentration of retailers in any geographic area of the state.

(c) Establishing requirements for information to be submitted with a bid or proposal by a person proposing to contract under s. 565.25.

(d) Determining the types of lottery games to be offered under s. 565.27.

(e) Determining the amount of incentive bonuses, if any, to be paid to retailers.

(f) Defining "advertising" for the purposes of s. 565.32 (3).

(g) Defining "lottery shares" for the purposes of this chapter.

(h) Establishing the circumstances and procedures under which a retailer may not be reimbursed if he or she accepts and directly pays a prize on an altered or forged lottery ticket or lottery share.

(i) Providing for terms of lottery retailer contracts for periods that are shorter than 3 years.

(4) The commission may promulgate all of the following rules:

(a) Implementing the provisions of this chapter.

(b) Establishing an amount to be charged as an initial application fee, as an annual fee for contract continuation or as a fee for issuance of a certificate of authority under s. 565.10 (8).

(c) Establishing qualifications for vendors in addition to those specified under s. 565.25 (3).

(d) Requiring fidelity bonds from retailers.

(e) Establishing requirements for advertising of the state lottery, and any multistate lotteries in which the state participates, that are in addition to those specified under s. 565.32.

(f) Providing for payment of a rate of compensation that is higher than 5% for retailers that are nonprofit organizations.

(6) The commission shall deposit all gross lottery revenues, as defined in s. 25.75 (1) (b), in the lottery fund.

(7) Not later than March 1 of each year, the commission shall submit to the joint committee on finance a report that includes an estimate for that fiscal year and for the subsequent fiscal year of the gross revenues from the sale of lottery tickets and lottery shares, the total amount paid as prizes and the prize payout ratio for each type of lottery game offered, and an evaluation of the effect of prize payout ratios of lottery games on lottery sales, lottery operating costs and on maximizing the revenue available for the lottery property tax credit. If, within 14 working days after the date on which the committee receives the report, the cochairpersons of the committee notify the commission that the committee has scheduled a meeting for the purpose of reviewing the commission's proposed prize payouts, the commission may proceed with its plans for the prize payouts for the subsequent fiscal year only upon approval of the plans by the committee. If the cochairpersons of the committee do not notify the commission within 14 working days after the date on which the committee receives the report that the committee has scheduled a meeting for the purpose of reviewing the commission's proposed prize payouts, the commission's plans for the prize payouts for the subsequent fiscal year are considered approved by the committee.

History: 1987 a 119, 399; 1989 a 31; 1991 a 39, 269, 323; 1993 a 16

565.05 Conflicts of interest. (1) No member or employe of the commission may do any of the following:

(a) Have a direct or indirect interest in or be employed by any vendor while serving as a commission member or employe or for 2 years following the member's or employe's termination of service.

(b) Have a direct or indirect interest in or be employed by a business which has entered into a retailer contract under s. 565.10.

(d) Accept or agree to accept money or any other thing of value from any vendor, retailer or person who has submitted a bid, proposal or application to be a vendor or retailer.

(2) A vendor selected to provide management consultation services described under s. 565.01 (4c) (a) or (b) may not do any of the following:

(a) Submit a bid or competitive sealed proposal with respect to those goods or services.

(b) Have any ownership interest in or any partners, members or shareholders who have any ownership interest in any vendor that is under contract to supply or that submits a bid or competitive sealed proposal to supply those goods or services.

History: 1987 a 119; 1989 a 99; 1991 a 269; 1993 a 112.

565.10 Retailer contract. (1) **SELECTION OF RETAILERS; RETAILER CONTRACT.** Under rules promulgated by the commission under s. 565.02 (3) (b) and (4) (a), the administrator may contract with a person for the retail sale of lottery tickets or lottery shares. Retailers shall be selected for contract so as to provide adequate

and convenient availability of lottery tickets and lottery shares to prospective buyers.

(2) **AGE RESTRICTION.** No lottery retailer contract may be entered into with any person under 18 years of age. If the retailer is a partnership, this subsection applies to each partner of the partnership. If the retailer is a limited liability company, this subsection applies to each member of the limited liability company. If the retailer is an association or a corporation, this subsection applies to each officer and director of the association or corporation.

(3) **FELONY AND OTHER VIOLATIONS RESTRICTION; DELINQUENT TAXES AND CONTRIBUTIONS RESTRICTION.** (a) Notwithstanding s. 111.321, no lottery retailer contract may be entered into with a person if, during the immediately preceding 10 years, the person has been convicted of, or entered a plea of guilty or no contest to, any of the following, unless the person has been pardoned:

1. A felony.
2. Any gambling-related offense.
3. Fraud or misrepresentation in any connection.
4. A violation of this chapter or any rule promulgated under this chapter.

(b) No lottery retailer contract may be entered into with a person who has been finally adjudged to be delinquent in the payment of taxes under ch. 71, 72, 76, 77, 78 or 139 or who has been found delinquent in the payment of contributions to the unemployment reserve fund under s. 108.16 in a proceeding under s. 108.10 if the person remains delinquent in the payment of those taxes or contributions at the time the person seeks to enter into the lottery retailer contract.

(c) 1. Except as provided in subd. 4, if the retailer is a partnership, pars. (a) and (b) apply to the partnership and each partner of the partnership.

1L. Except as provided in subd. 4, if the retailer is a limited liability company, pars. (a) and (b) apply to the limited liability company and to each of its members.

2. Except as provided in subd. 4, if the retailer is an association, pars. (a) and (b) apply to the association and each officer and director of the association.

3. Except as provided in subd. 4, if the retailer is a corporation, pars. (a) and (b) apply to the corporation, each officer or director of the corporation and each owner, directly or indirectly, of any equity security or other ownership interest in the corporation. In the case of owners of publicly held securities of a publicly traded corporation, pars. (a) and (b) apply only to those persons who are beneficial owners of 5% or more of the publicly held securities.

4. The restrictions under par. (a) do not apply to the partnership, limited liability company, association or corporation if the commission determines that the partnership, limited liability company, association or corporation has terminated its relationship with the partner, member, officer, director or owner who was convicted or entered the plea or with the partner, member, officer, director, owner or other individual whose actions directly contributed to the partnership's, limited liability company's, association's or corporation's conviction or entry of plea.

(3m) **FALSE STATEMENT OR MATERIAL OMISSION.** No retailer or person seeking a contract under this section may intentionally make a false statement or material omission in any disclosure statement required to obtain, retain or renew a retailer contract.

(4) **EXCLUSIVE BUSINESS RESTRICTION.** No lottery retailer contract may be entered into with any person who is engaged in business exclusively as a lottery ticket or lottery share retailer unless one of the following is true:

(a) The retailer contract is a temporary retailer contract.

(b) Subject to approval of each such retailer contract by the commission, the retailer contract is with one of the following:

1. An individual who has a physical or mental disability which constitutes or results in a substantial handicap to his or her employment.

2. A group of individuals who have physical or mental disabilities which constitute or result in substantial handicaps to their employment.

3. A nonprofit organization, as defined in s. 108.02 (19), whose primary purpose is to provide service to or for individuals who have physical or mental disabilities which constitute or result in substantial handicaps to their employment.

(5) STATE AGENCIES; GOVERNMENT PROPERTY (a) In entering into a lottery retailer contract with state agencies, other than the commission, and agencies of local units of government, the administrator shall attempt to minimize the competitive effect of sales by the state or local agencies on other retailers. An application for a retailer contract by a local unit of government shall be approved by the governing body of the local unit of government.

(b) A lottery retailer contract may be entered into with a private person operating activities on state or local government property. The commission shall give preference to an individual, group of individuals or nonprofit organization, as specified under sub. (4) (b), in entering into contracts under this paragraph.

(7) LENGTH AND SALES AUTHORIZATION OF CONTRACT (a) Except as provided in par. (b), a lottery retailer contract shall be for a period of 3 years and shall specify whether the retailer is authorized to conduct lottery ticket sales on a year-round, seasonal or temporary basis.

(b) The administrator may, under rules promulgated by the commission, contract for a period that is shorter than 3 years in order to stagger lottery retailer contract expiration dates throughout a 3-year period.

(8) CONTRACT FEES A contract entered into under this section may require payment of a nonrefundable initial application fee or a nonrefundable annual fee for continuation, or both, in an amount promulgated by the commission by rule under s. 565.02 (4) (b). A separate nonrefundable fee, in an amount specified in rules promulgated under s. 565.02 (4) (b), may be required for each certificate of authority issued under sub. (11).

(8m) PAYMENT TO COMMISSION OR CONTRACTOR Payment by a retailer to the commission or to any contractor for lottery tickets or lottery shares shall be by check, bank draft, electronic fund transfer or other recorded means, as determined by the administrator. No payment under this subsection may be in cash.

(9) CONTRACT NOT ASSIGNABLE OR TRANSFERABLE A lottery retailer contract may not be assigned or transferred from one person or location to another.

(10) LOCATION OF SALES A retailer may sell lottery tickets or lottery shares only at locations specified in the contract entered into under this section.

(11) CERTIFICATE OF AUTHORITY; REQUIRED DISPLAY The commission shall issue to each retailer a separate certificate of authority for each location from which the retailer may sell lottery tickets or lottery shares. Each retailer shall conspicuously display the certificate of authority on the premises where retail sales of lottery tickets or lottery shares are authorized under the certificate in a location which is accessible for public inspection.

(12) CERTIFICATE OF AUTHORITY NOT ASSIGNABLE OR TRANSFERABLE A certificate of authority may not be assigned or transferred from one person or location to another.

(13) BOND The commission may by rule under s. 565.02 (4) (d) require fidelity bonds from retailers. In lieu of a bond, the commission may purchase blanket bonds covering all or selected retailers or may allow a retailer to deposit and maintain with the commission interest-bearing or interest-accruing securities approved by the commission. Such securities shall be held in trust by the commission and shall have at all times a market value at least equal to the amount required by the commission.

(14) COMPENSATION (a) In this subsection, "nonprofit organization" means a religious, charitable, service, fraternal or veterans' organization or any organization, other than the state or a political subdivision of the state, to which contributions are deductible for federal income tax purposes or state income or franchise tax purposes, which meets all of the following criteria:

1. Is incorporated in this state as a nonprofit corporation or organized in this state as a religious or nonprofit organization.

2. Has been in existence for at least 3 years immediately preceding its application for a contract under this subsection.

3. Has at least 15 members in good standing.

4. Operates without profit to its members and no part of the net earnings of the organization inure to the benefit of any private shareholder or individual.

5. Conducts activities within this state in addition to selling lottery tickets or lottery shares.

(b) The basic compensation to be paid to a retailer is 5% of the retail price of lottery tickets or lottery shares sold by the retailer. The commission may, in the rules promulgated under s. 565.02 (4) (f), provide for the payment of a higher rate of compensation to nonprofit organizations making sales under a contract issued on a temporary basis than the rate of compensation paid to other retailers.

(c) The commission shall by rule under s. 565.02 (3) (e) determine the amount of incentive bonuses, if any, to be paid to retailers.

(15) REMITTING PROCEEDS A retailer shall, on a daily basis, unless another basis, but not less than weekly, is provided by the commission by rule, remit to the commission the lottery proceeds from the sale of lottery tickets or lottery shares. The amount of compensation deducted by the retailer, if any, shall be indicated as a deduction from the total remitted.

History: 1987 a 119, 399; 1989 a 172; 1991 a 39, 269; 1993 a 112

565.12 Retailer contract termination or suspension.

(1) A lottery retailer contract entered into under s. 565.10 may be terminated or suspended for a specified period if the commission finds that the retailer has done any of the following:

(a) Violated this chapter or any rule promulgated under this chapter.

(b) Failed to meet any of the qualifications for being a retailer under s. 565.10 or rules promulgated under s. 565.02 (3) (b) or as specified by contract.

(c) Endangered the security of the lottery.

(d) Engaged in fraud, deceit, misrepresentation or other conduct prejudicial to public confidence in the lottery.

(e) Failed to account accurately for lottery tickets, revenues or prizes or lottery shares, as required by the commission, or is delinquent in remitting lottery ticket or lottery share revenues.

(f) Performed any action constituting a reason for termination or suspension as specified in the contract, which shall include the following:

1. The intentional sale of lottery tickets or lottery shares to any person under the age of 18.

2. A violation of this chapter or any rule promulgated under this chapter.

(2) If the administrator determines that the immediate suspension or termination of a lottery retailer contract entered into under s. 565.10 is necessary to protect the public interest or the security, integrity or fiscal responsibility of the lottery, the administrator may, without prior notice or hearing, suspend for a specified period or terminate the lottery retailer contract by mailing to the retailer a notice of suspension or termination that includes a statement of the facts or conduct that warrant the suspension or termination and a notice that the retailer may, within 30 days after the date on which the notice of suspension or termination is mailed, have the suspension or termination reconsidered by the adminis-

trator. If, upon reconsideration, the administrator affirms the determination to suspend or terminate the lottery retailer contract, the retailer shall be afforded an opportunity for a hearing before the commission to review the determination of the administrator.

(3) The commission shall render the final decisions under s. 227.47 for all terminations and suspensions under subs. (1) and (2).

History: 1987 a. 119; 1991 a. 39, 269

565.15 Commission retail outlet. The commission may establish and operate a lottery ticket or lottery share retail sales outlet or sell lottery tickets or lottery shares to the public at a special event. In considering whether to engage in direct retail sales, the commission shall attempt to minimize the competitive effects of its sales on sales by other retailers.

History: 1987 a. 119; 403; 1991 a. 269

565.17 Limitations on ticket and share sales and purchases. (1) WHO MAY SELL. Lottery tickets or lottery shares may not be sold by any person other than a retailer or the commission.

(2) PRICE. No person may sell lottery tickets or lottery shares at a price other than the retail sales price established by the administrator under s. 565.27 (1) (b), except to the extent of any discount authorized by the administrator or the commission.

(3) CASH SALES. Lottery tickets or lottery shares may be sold only for cash.

(4) AGE (a) A person under 18 years of age may not purchase a lottery ticket or lottery share. This paragraph does not prohibit a person 18 years of age or older from giving a lottery ticket or lottery share to a person under 18 years of age.

(b) No person may sell a lottery ticket or lottery share to a person under 18 years of age or to any other person knowing that the lottery ticket or lottery share is being purchased for a person under 18 years of age other than as a gift.

(c) No person may pay a prize for a winning lottery ticket or lottery share to any person knowing that the purchaser was under 18 years of age or knowing that the lottery ticket or lottery share was purchased for a person under 18 years of age other than as a gift.

(5) COMMISSION MEMBERS AND EMPLOYEES (a) No member or employe of the commission or any relative residing in the same household with a member or employe of the commission may purchase a lottery ticket or lottery share.

(b) No person may sell a lottery ticket or lottery share to a person knowing that the purchaser is prohibited from purchasing a lottery ticket or lottery share under par. (a).

(c) No person may pay a prize for a winning lottery ticket or lottery share to any person knowing that the purchaser was prohibited from purchasing a lottery ticket or lottery share under par. (a).

History: 1987 a. 119; 1991 a. 269

See note to 100.16, citing 77 Atty. Gen. 303

565.20 Retailer rental payments. If a retailer's rental payment for the premises described in a contract entered into under s. 565.10 is contractually computed, in whole or in part, on the basis of a percentage of retail sales and the computation of retail sales is not expressly defined, under the rental contract, to include sales of lottery tickets or lottery shares in the lottery under this chapter, any compensation received by the retailer under s. 565.10 (14) shall be considered the amount of the retail sales from the lottery tickets or lottery shares for the purposes of computing the rental payment.

History: 1987 a. 119.

565.25 Contracting authority and purchasing procedures. (1) DEFINITION. In this section, "department" means the department of administration.

(1m) SCOPE OF AUTHORITY. Subject to approval by the commission, the administrator may determine whether lottery func-

tions shall be performed by commission employes or by one or more persons under contract with the department, except that no contract may provide for the entire management of the lottery or for the entire operation of the lottery by any private person. The department may contract for management consultation services to assist in the management or operation of the lottery. The department may not contract for financial auditing or security monitoring services. If the department delegates under s. 16.71 (1) to the commission the authority to make a major procurement, the commission shall assume the powers and duties of the department and the administrator shall assume the powers and duties of the secretary of administration under this section and ss. 16.70 to 16.77, except under ss. 16.72 (4) (a), 16.76 (1) and 16.77 (1).

(2) PURCHASING PROCEDURES. (a) 1. Except as provided under s. 16.71 (1), the department shall make major procurements.

2. Notwithstanding the provisions of s. 16.75 (1) (a) relating to the lowest responsible bidder and s. 16.75 (2m) (g) relating to the most advantageous proposal, all contracts or orders under s. 16.75 (1) and (2m) shall be awarded on the basis of a formula specified by the department that weighs all of the following factors, to the extent applicable:

- a. The cost of the bid or proposal.
- b. The technical capability and expertise of the proposed vendor.
- c. The integrity, reliability and expertise of the proposed vendor in providing the items covered by the bid or proposal.
- d. The security for lottery operations provided under the bid or proposal.
- e. The financial stability of the proposed vendor.

3. In addition to the provisions of ss. 16.75 (3m) and 16.765 that apply to purchasing or contracting state agencies, in awarding orders or contracts, the department shall give preference to a bidder if at least 5% of the individuals employed by the bidder and any subcontractors to produce, distribute, supply or sell the materials, supplies, equipment or services under the order or contract are minority group members and are employed in the state.

4. The administrator shall develop specifications for major procurements. If security is a factor in the materials, supplies, equipment, property or services to be purchased in any major procurement, then invitations for bids or competitive sealed proposals shall include specifications related to security. The administrator shall submit specifications for major procurement to the commission for review and approval before the department releases the specifications in invitations for bids or competitive sealed proposals. The department shall require separate bids or separate competitive sealed proposals for each of the following supplies and services if the supplies or services are provided under contract as provided in sub. (1m):

- a. Management consultation services.
 - c. Instant lottery ticket services and supplies.
 - d. On-line services and supplies.
5. The vendor shall disclose such information as is required by the department, by rule, with the vendor's submission of a bid or proposal for a major procurement.

6. If the department delegates under s. 16.71 (1) to the commission the authority to make a major procurement, the award of the major procurement contract is subject to approval by the commission and to the requirements in ss. 16.72 (4) (a) and 16.76 (1). Copies of requisitions and contracts for major procurements shall be maintained by the administrator and shall be subject to inspection and copying under subch. II of ch. 19.

7. No bill or statement for any purchase or engagement for the commission may be paid until the bill or statement is approved by the administrator.

(c) A major procurement contract under this subsection may be for any term deemed to be in the best interests of the state lottery or the multistate lottery in which the state participates, but the term

and any provisions for renewal or extension shall be incorporated in the bid specifications or proposal solicitation and the contract document.

(3) VENDOR QUALIFICATIONS (a) No contract for a major procurement may be entered into with a person if, during the immediately preceding 10 years, the person has been convicted of, or entered a plea of guilty or no contest to, any of the following, unless the person has been pardoned:

1. A felony.
2. A gambling-related offense.
3. Fraud or misrepresentation in any connection.
4. A violation of this chapter or any rule promulgated under this chapter.

(b) 1. Except as provided in subd. 4., if the vendor is a partnership, par. (a) applies to the partnership and each partner of the partnership.

1L. Except as provided in subd. 4., if the vendor is a limited liability company, par. (a) applies to the limited liability company and to each of its members.

2. Except as provided in subd. 4., if the vendor is an association, par. (a) applies to the association and each officer and director of the association.

3. Except as provided in subd. 4., if the vendor is a corporation, par. (a) applies to the corporation, each officer or director of the corporation and each owner, directly or indirectly, of any equity security or other ownership interest in the corporation. In the case of owners of publicly held securities of a publicly traded corporation, par. (a) only applies to those persons who are beneficial owners of 5% or more of the publicly held securities.

4. The restrictions under par. (a) do not apply to the partnership, limited liability company, association or corporation if the department determines that the partnership, limited liability company, association or corporation has terminated its relationship with the partner, member, officer, director or owner who was convicted or entered the plea or with the partner, member, officer, director, owner or other individual whose actions directly contributed to the partnership's, limited liability company's, association's or corporation's conviction or entry of plea.

(c) No contract for a major procurement may be entered into unless the contract provides that the vendor has established or will, within a period of time specified in the contract, establish an office within the state from which the vendor will process, produce, distribute, supply or sell materials, supplies, equipment or services under the contract.

(d) The vendor shall meet any additional qualifications established by rule under s. 565.02 (4) (c).

(3m) FALSE STATEMENT OR MATERIAL OMISSION. No person proposing to contract for a major procurement may intentionally make a false statement or material omission in any disclosure statement required under sub. (2) (a) 5.

(4) BACKGROUND INVESTIGATIONS. The commission, with the assistance of the department of justice, shall conduct a background investigation of any person proposing to contract or contracting for a major procurement and of all partners, members, officers, directors, owners and beneficial owners identified under sub. (3) (b). The commission may require the person and partners, members, officers, directors and shareholders identified under sub. (3) (b) to be photographed and fingerprinted on 2 fingerprint cards each bearing a complete set of the person's fingerprints. The department of justice may submit the fingerprint cards to the federal bureau of investigation for the purposes of verifying the identity of the persons fingerprinted and obtaining records of their criminal arrests and convictions. If the results of the background investigation disclose information specified in sub. (3) (a) with respect to the person, partner, member, officer, director, owner or beneficial owner, a contract with the vendor, if entered into prior to the disclosure, is void and the vendor shall forfeit any amount filed, deposited or established under sub. (5) (b). The commission

shall reimburse the department of justice for the department of justice's services under this subsection and shall obtain payment from the person proposing to contract or the vendor in the amount of the reimbursement.

(5) FINANCIAL RESPONSIBILITY (a) In this subsection, "financial institution" has the meaning specified in s. 705.01 (3).

(b) For a major procurement, the department may require from a person proposing to contract on a bid, conditioned upon signing the contract if awarded to the person, or on a contract award, conditioned upon performance under the contract or payment of subcontractors, any of the following:

1. The deposit with the department of a bond payable to the department, in an amount required by the department.

2. The deposit and maintenance with the department of interest-bearing or interest-accruing securities approved by the department, which shall be held in trust by the department and shall have at all times a market value equal to at least the amount required by the department.

3. The filing with the department of an irrevocable letter of credit payable to and for the benefit of the department, in an amount required by the department.

4. The establishment with a financial institution of an escrow account, the terms, conditions and amount of which are established for the benefit of the department, in an amount required by the department.

History: 1987 a 119, 399; 1989 a 31, 56, 99, 172, 345, 359; 1991 a 39, 269, 315; 1993 a 112.

565.27 Lottery games. (1) GAME FEATURES AND PROCEDURES Subject to this section, the rules promulgated under s. 565.02 (3) (d) and (4) (a) and commission approval, the administrator shall determine the particular features of and procedures for each lottery game offered. The administrator shall recommend to the commission for promulgation by rule under s. 565.02 (3) (d) the types of state or multistate lottery games to be offered. The features and procedures shall be in writing, shall be accessible to the public and shall include all of the following:

- (a) The theme and name of the game.
- (b) The price of lottery tickets or lottery shares and any discount authorized for the price.
- (c) The prize structure, including the number and value of prizes.
- (d) The frequency of drawings or other winner selections.
- (e) The method of selecting winners.
- (f) The method of making payment to winners.

(2) SELECTING WINNERS (a) The actual selection of any winning lottery ticket or lottery share may not be performed by an elected or appointed official or a member or employe of the commission.

(b) If drawings are used to select among winning numbers, to select among entries or to select among finalists, all of the following requirements shall be met:

1. The drawings shall be witnessed by an independent certified public accountant.
2. The drawings shall be open to the public.
3. The drawings shall be recorded on both videotape and audiotape.
4. Any equipment used for the drawing must be inspected by a certified public accountant and a commission employe before and after the drawing.

(3) TICKET AND SHARE NUMBERS Every lottery ticket and lottery share shall have a unique number that distinguishes the ticket or share from every other ticket or share in the lottery game.

(4) LOTTERY TICKET APPEARANCE No name of an elected or appointed official may appear on the lottery tickets of any lottery game.

History: 1987 a 119; 1989 a 31; 1991 a 269, 321.

565.30 Lottery prizes. (1) **PAYMENT OF PRIZES.** The administrator shall direct the payment of a prize to the holder of the winning lottery ticket or lottery share or to a person designated under sub. (2), except that a prize may be paid to another person under a court order or to the estate of a deceased prize winner. The commission, administrator, state and any contractor for materials, equipment or services of the game in which the prize is won are discharged of all liability upon payment of the prize to the holder of a winning lottery ticket or lottery share.

(2) **PAYMENT OF PRIZES TO MINORS.** If the prize for a winning lottery ticket or lottery share given to a minor is less than \$1,000, the administrator may make payment of the prize by delivering to an adult member of the minor's family, or to the minor's guardian, a check or draft payable to the minor. If the prize is \$1,000 or more, the administrator shall make payment to the minor by paying or delivering the money to a broker or financial institution under s. 880.65 (1) (b).

(2m) **PRIZES OVER YEARS.** If the prize for a winning lottery ticket or lottery share is monetary and is payable in instalments over a period of years, any informational material about the lottery must state the number of years over which the prize shall be paid.

(3) **UNCLAIMED PRIZES.** (a) *Period to claim.* The holder of a winning lottery ticket or lottery share may claim a prize within 180 days after the drawing or other selection in which the prize is won or within 180 days after the game's end date, as determined by the administrator, whichever is later.

(b) *Retailer bonuses.* Any bonuses offered by the board to retailers who sell winning lottery tickets or lottery shares shall be paid to the retailer regardless of whether the prize is claimed if the retailer can be identified as the seller of the winning ticket or share.

(3m) **VALUE OF CERTAIN PRIZES.** A prize that is a lottery ticket or lottery share in the same lottery game in which the prize is won or in another lottery game shall, for prize structure accounting purposes, be valued at the same percentage of the retail price, as specified under s. 25.75 (3) (a), as are other prizes in the same lottery game in which the prize is won.

(4) **WITHHOLDING OF INCOME TAXES.** The administrator shall withhold from lottery winnings any federal income taxes required to be withheld under 26 USC 3402 (q) (3) (B) and any state taxes required to be withheld under s. 71.67 (4) (a).

(4m) **CARRY OVER OF PRIZE MONEY.** The commission may carry over unexpended lottery prize money that is not unclaimed lottery prize money from one drawing of a game to another drawing of the same game.

(5) **WITHHOLDING OF DELINQUENT STATE TAXES, CHILD SUPPORT OR DEBTS OWED THE STATE.** The administrator shall report the name, address and social security number of each winner of a lottery prize equal to or greater than \$1,000 to the department of revenue to determine whether the payee of the prize is delinquent in the payment of state taxes under ch. 71, 72, 76, 77, 78 or 139 or in court-ordered payment of child support or has a debt owing to the state. Upon receipt of a report under this subsection, the department of revenue shall first ascertain based on certifications by the department of health and social services under s. 46.255 (2) whether any person named in the report is currently delinquent in court-ordered payment of child support and shall next certify to the administrator whether any person named in the report is delinquent in court-ordered payment of child support or payment of state taxes under ch. 71, 72, 76, 77, 78 or 139. Upon this certification by the department of revenue or upon court order the administrator shall withhold the certified amount and send it to the department of revenue for remittance to the appropriate agency or person. At the time of remittance, the department of revenue shall charge its administrative expenses to the state agency that has received the remittance. The administrative expenses received by the department of revenue shall be credited to the appropriation under s. 20.566 (1) (h). In instances in which the payee of the prize is delinquent both in payments for state taxes and in court-ordered payments of child support, or is delinquent in one or both of these

payments and has a debt owing to the state, the amount remitted to the appropriate agency or person shall be in proportion to the prize amount as is the delinquency or debt owed by the payee.

(5m) **WITHHOLDING OF CHILD SUPPORT, SPOUSAL SUPPORT, MAINTENANCE OR FAMILY SUPPORT.** The administrator shall report to the department of health and social services the name, address and social security number of each winner of a lottery prize that is payable in instalments. Upon receipt of the report, the department of health and social services shall certify to the administrator whether any payee named in the report is obligated to provide child support, spousal support, maintenance or family support under s. 767.02 (1) (f) or (g), 767.10, 767.23, 767.25, 767.26, 767.261, 767.465 (2m), 767.51 (3), 767.65 (24) [ch. 769] or 948.22 (7) and the amount required to be withheld from the lottery prize under s. 767.265. The administrator shall withhold the certified amount from each payment made to the winner and remit the certified amount to the department of health and social services.

NOTE: The bracketed language indicates the replacement of s. 767.65, which was repealed by 1993 Wis. Act 326, with ch. 769, which was created by 1993 Wis. Act 326.

(6) **NONASSIGNABILITY.** The right of any person to a prize may not be assigned.

(7) **PAYMENT FROM TERMINALS PROHIBITED.** If computer terminals or other devices are used to play lottery games, no coins or currencies may be dispensed, as prizes, to players from the terminals or devices.

History: 1987 a. 119, 399; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 359; 1991 a. 269; 1993 a. 16, 481; s. 13.93 (1) (b)

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565.32 Promotional advertising; advertising, ticket and share contents. (1) **PROMOTIONAL ADVERTISING PROHIBITION.** The expenditure by the commission or any other state agency of public funds or of revenues derived from lottery operations to engage in promotional advertising of the state lottery or any multistate lottery is prohibited.

(2) **PROMOTIONAL ADVERTISING BY RETAILERS OR VENDORS.** (a) A retailer or a combination of retailers, a vendor or a combination of vendors or a combination of retailers and vendors may engage in promotional advertising of the state lottery or any multistate lottery in which the state participates.

(b) Promotional advertising by vendors under par. (a) shall clearly indicate that the advertising is paid for by the vendor.

(3) **REQUIRED CONTENTS OF ADVERTISING, TICKETS AND SHARES.** (a) Any advertising, as defined by the commission by rule under s. 565.02 (3) (f), of the lottery which describes a specific lottery game and each lottery ticket and lottery share shall include:

1. Except for the games under subd. 2., the prize structure, the prize amounts and the odds of a specific lottery ticket or lottery share being selected as the winning lottery ticket or lottery share for each prize amount.

2. For games in which the amount of the winnings and the odds of winning are determined by the number of participants in the game, all of the following:

a. An explanation that the amount of the winnings and the odds of winning are determined by the number of participants in the game.

b. An explanation of the prize structure.

c. Estimates of the amounts of prizes and the odds of a particular lottery ticket or lottery share winning each prize. The estimates of the prize amounts and the odds of a particular lottery ticket or lottery share winning each prize may be given as a range of values.

History: 1987 a. 119; 1989 a. 31; 1991 a. 269

See note to Art. IV, sec. 24, citing 79 Atty. Gen. 14.

565.37 Audits, financial reports and odds verification. (1) **FINANCIAL AND PERFORMANCE AUDITS.** The commission shall annually contract with the legislative audit bureau to conduct a financial audit of the transactions and accounts of the state lottery, and, to the extent of the commission's participation, of any multistate lotteries in which the state participates, for the

preceding fiscal year and shall biennially contract with the legislative audit bureau for a performance audit of the state lottery and, to the extent of the commission's participation, of those multistate lotteries.

(2) **INDEPENDENT POSTAUDIT.** At no less than 3-year intervals, the commission may retain an independent certified public accountant to conduct a postaudit of all the lottery division's accounts and transactions. The commission shall provide copies of each such postaudit to the legislative audit bureau and the department of justice.

(3) **COMMISSION REPORT.** The commission shall submit quarterly reports on the operation of the lottery to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2) and to the governor, attorney general, state treasurer, secretary of state and state auditor.

(4) **ADMINISTRATOR REPORT.** The administrator shall submit monthly financial reports to the commission.

(5) **VERIFICATION OF ODDS.** The commission shall contract with the legislative audit bureau to verify the odds on winning a lottery game that are represented by the commission, a contractor or a retailer.

(6) **AUDIT OF LOTTERY SECURITY.** By July 1, 1990, and at least biennially thereafter, the commission shall hire an independent firm to perform an audit of lottery security that is independent of any other audit under this section.

History: 1987 a 119; 1989 a 31; 1991 a 269.

565.40 Department of justice enforcement authority.

(1) **INVESTIGATIONS.** The department of justice may investigate any activities by the commission, vendors, or lottery division employees, including the administrator, which affect the operation or administration of the state lottery or any multistate lottery in which the state participates, and shall report suspected violations of state or federal law to the appropriate prosecuting authority.

(1m) **SUBPOENA POWER.** For the purpose of an investigation under sub. (1), the attorney general may issue a subpoena to compel the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the attor-

ney general deems relevant or material to the investigation. Section 885.12 shall apply to any failure to obey a subpoena under this subsection.

(2) **PROSECUTIONS.** The attorney general and district attorneys have concurrent jurisdiction to commence prosecutions for alleged violations of this chapter.

History: 1987 a 119; 1989 a 31; 1991 a 269.

565.45 Report on expense limitation. Before January 1, 1992, and every 2 years thereafter, the commission shall submit a report to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), on the effects on the operation of the lottery of the 15% expense limitation under s. 25.75 (3) (b).

History: 1987 a 119; 1991 a 269.

565.46 Minority advertising, procurements, retailers and hiring. The commission shall promulgate rules establishing goals that attempt to increase the total amount of expenditures by the commission for advertising, public relations and other procurements that are directed to minority businesses, the number of retailers that are minority businesses and the number of employees of the lottery division who are minority group members.

History: 1991 a 39, 269.

565.50 Penalties. (1) Any person who violates s. 565.02 (2m), 565.05, 565.10 (3m), 565.17, 565.25 (3m) or 565.32 (1), (2) (b) or (3) or any rule promulgated under s. 565.02 (2m), 565.05, 565.10 (3m), 565.17, 565.25 (3m) or 565.32 (1), (2) (b) or (3) shall be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

(2) Any person who alters or forges a lottery ticket or share or intentionally utters or transfers an altered or forged lottery ticket or share shall be fined not more than \$10,000 or imprisoned for not more than 5 years or both.

(3) Any person who possesses an altered or forged lottery ticket or share with intent to defraud shall be fined not more than \$10,000 or imprisoned for not more than 2 years or both.

History: 1987 a 119.