



Oregon State Lottery Annual Legislative Rules Report

Rules Adopted, Amended, Suspended, or Repealed from February 1, 2020 to January 31, 2021

Submitted as Required by [ORS 183.403](#) and [192.245](#)

1. The number of administrative rules adopted, amended, or repealed in accordance with [ORS 183.335 \(2\) and \(3\)](#):

The Lottery adopted, amended, or repealed **48 administrative rules in six permanent rulemaking projects** conducted in accordance with ORS 183.335(2) and (3). Each of the permanent rulemaking projects the Lottery filed during the time period for this report is summarized in the table below. More information about each filing is available upon request to kris.skaro@lottery.oregon.gov or on the Secretary of State filing search page available [here](#) by searching for chapter 177 for the applicable time period.

| Eff. 3/29/20 | Permanent | <i>Rulemaking for Lottery's sports betting game, Scoreboard, and requirements for digital play generally</i> |
|-----------------|-----------|--|
| Number of Rules | 37 | OAR 177-010-0003 Definitions OAR 177-010-0115 Data Privacy and Security Policy OAR 177-046-0015 Definitions OAR 177-046-0020 Sale of Lottery Tickets and Shares OAR 177-046-0022 Player Account OAR 177-046-0027 Funding Account OAR 177-046-0060 Cancellation of Lottery Tickets and Shares OAR 177-046-0090 Validation Requirements OAR 177-046-0100 Ownership of Lottery Tickets and Shares OAR 177-046-0110 Payment of Prizes OAR 177-046-0120 Prizes Payable after Death OAR 177-046-0155 Responsible Gaming OAR 177-046-0170 Governing Law OAR 177-091-0000 Purpose and Disclaimer OAR 177-091-0010 Definitions OAR 177-091-0020 Game Description OAR 177-091-0030 Play Dates and Times OAR 177-091-0040 Price OAR 177-091-0050 Ticket Purchase, Restrictions, and Characteristics OAR 177-091-0060 Cancellation of Tickets OAR 177-091-0070 Prize Structure OAR 177-091-0080 Payment of Prizes; Ticket Validation Requirements |



| | | |
|-----------------|-----------|---|
| | | <p>OAR 177-091-0090 Probability of Winning OAR 177-091-0100 Determination of Winners OAR 177-091-0110 Sporting Event Cancellation, Rescheduling, or Suspension OAR 177-092-0000 Purpose OAR 177-092-0010 Definitions OAR 177-092-0015 General Game Description OAR 177-092-0020 Eligibility OAR 177-092-0025 Purchasing a Share and Placing a Bet OAR 177-092-0030 Price OAR 177-092-0035 Method for Validating Bets and Determining Winners OAR 177-092-0040 Prizes OAR 177-092-0045 Payment of Prizes OAR 177-092-0050 Voided Bets, Refunds, and Resettlements OAR 177-092-0055 Prohibited Conduct OAR 177-092-0060 Decisions of the Director</p> |
| Eff. 5/1/20 | Permanent | <i>Establishes additional Video Lottery application requirements and clarifies Lottery's authority with respect to concentrations</i> |
| Number of Rules | 2 | <p>OAR 177-040-0017 Additional Video Lottery Retailer Application Requirements and Lottery Authority to Prevent and Resolve Concentrations OAR 177-045-0030 Video Lottery Game Terminals</p> |
| Eff. 6/28/20 | Permanent | <i>Updating Lottery Retailer Contract rules to reflect proposed changes to Lottery retailer compensation rates</i> |
| Number of Rules | 3 | <p>OAR 177-040-0024 Compensation Rate Study for Video Lottery Retailers OAR 177-040-0025 Retailer Compensation – Traditional Lottery Games OAR 177-040-0026 Retailer Compensation – Video Lottery Games</p> |
| Eff. 11/10/20 | Permanent | <i>Lottery management of Video Lottery terminals during COVID-19 state of emergency and reopening</i> |
| Number of Rules | 1 | OAR 177-040-0049 Video Lottery Terminal Management During State of Emergency |
| Eff. 12/1/20 | Permanent | <i>Updating rules about second chance drawings to reflect current requirements</i> |
| Number of Rules | 4 | <p>OAR 177-052-0020 Eligibility OAR 177-052-0030 Entry Requirements OAR 177-052-0050 Selection of Winners OAR 177-052-0060 Winner Notification and Claiming of Prizes</p> |



| | | |
|-----------------|-----------|--|
| Eff. 1/1/21 | Permanent | <i>Explaining the requirements for restricting a person's access to Lottery premises</i> |
| Number of Rules | 1 | OAR 177-010-0105 Restriction of Access |

2. The number of rules, adopted, amended, or suspended using the procedure described in [ORS 183.335\(5\)](#):

The Lottery adopted **one administrative rule in one temporary rulemaking project** using the procedure described in ORS 183.335(5). The temporary rulemaking project is summarized in the table below. More information about the rulemaking is available upon request to kris.skaro@lottery.oregon.gov or on the Secretary of State filing search page available [here](#) by searching for chapter 177 for the applicable time period.

| | | |
|-------------------|-----------|--|
| Eff. 5/14/20 | Temporary | <i>Requirements for re-enabling video Lottery terminals during COVID-19 state of emergency</i> |
| Number of Rules | 1 | OAR 177-040-0049 Video Lottery Terminal Management During State of Emergency |
| Statement of Need | | <p>On March 17, 2020, Governor Brown issued Executive Order 20-07 prohibiting on-site consumption of food and drink at restaurants, bars, and other food establishments statewide to protect public health during the COVID-19 state of emergency.</p> <p>In response, on the same day, the Lottery disabled all Video Lottery terminals (VLT) to align with the social distancing and restrictions of patrons on the premises required by the order. (VLTs are only placed in OLCC-licensed establishments such as bars, restaurants, and taverns.)</p> <p>After paying prizes, Video Lottery games generate about \$19 million per week. The loss of Video Lottery game proceeds, thus, represented a significant economic loss to the Lottery, Video Lottery retailers, and the public programs that rely on Lottery funding.</p> <p>Governor Brown announced in early May 2020 that counties meeting certain criteria could apply, beginning May 8, 2020, to enter "Phase One" of reopening, which would allow for the slow resumption of some sectors of economic activity in alignment with public health guidance issued by the Oregon Health Authority (OHA). The OHA "Phase One Reopening Guidance" issued May 7, 2020, included protocols specific to the safe operation of VLTs and</p> |

| | |
|--|--|
| | <p>stated that the Lottery would not re-enable VLTs until the Lottery was satisfied that each VLT could be operated and maintained safely and consistent with the OHA guidance.</p> <p>The Lottery, therefore, would be playing an active role in the reopening phases of this public health emergency. This rule was urgently needed to provide transparency and further guidance to retailers and the public on the enabling and management of VLTs during the various phases of reopening in order to support the safe, timely, and orderly resumption of Video Lottery games in Oregon counties that were reopening. The rule met those needs by: committing the Lottery to enforcing VLT-specific guidance from OHA; explaining the retailer responsibilities related to VLT operations to protect public health and maintain social distancing; and describing how the Lottery would respond to reports of non-compliance and possible consequences for failure to comply.</p> |
| <p>Justification for Temporary Rulemaking (agency's findings that a failure to act promptly would result in serious prejudice to the public interest of parties concerned)</p> | <p>The Lottery found that failure to act promptly to adopt this rule would result in serious prejudice to the Lottery, Video Lottery retailers and their patrons, and the public programs that rely on Lottery funding. Failure to clearly commit to actively enforce the OHA guidance about safe operation of VLTs and to clearly communicate requirements to Video Lottery retailers could have delayed the Lottery's ability to safely re-enable VLTs in counties that are approved to reopen because retailers might have been unclear about how to implement the OHA requirements and how to protect the health of their patrons. Each day of delay would have compounded the economic loss to the Lottery, Video Lottery retailers, and the public programs that rely on Lottery funding.</p> <p>The Lottery's ability to meet its constitutional mission to raise money for important public programs required the prompt and safe reintroduction of Video Lottery games in Oregon counties that were ready and able to safely and slowly resume normal economic activity. Additionally, many Video Lottery retailers (bars, restaurants, taverns, etc.) had suffered significant economic losses during the public health emergency and these business owners and their employees would benefit if Video Lottery games could be safely reintroduced in counties authorized to begin a safe and slow phased return to normal economic activity. The health and safety of Lottery retailer patrons would also be protected by providing clear guidance on the placement and operation of VLTs as a requirement for re-enabling the machines.</p> |

| | |
|--|---|
| | <p>Therefore, the Lottery needed to take action to immediately adopt this rule because the rule supported the safe, timely, and orderly resumption of Video Lottery games in Oregon counties that were ready to reopen by implementing the OHA VLT-specific guidance through the communication of specific requirements to retailers and ensuring the Lottery may actively manage VLTs to protect public health and safety while raising revenue for important public programs.</p> |
| <p>Explanation of why proceeding under ORS 183.335(5) (i.e. adopting temporary rules) was the most appropriate method for adopting, amending, or suspending the rule and why it was not appropriate to proceed in accordance with ORS 183.335(2) and (3) (i.e. permanent rulemaking process with opportunity for notice and comment)</p> | <p>The Lottery determined proceeding under ORS 183.335(5) (temporary rulemaking) was the most appropriate method because of the time sensitivity of reopening businesses in the midst of the COVID-19 state of emergency, which had caused significant financial loss to Video Lottery retailers and public programs that rely on Video Lottery revenue. For Lottery, permanent rulemaking takes at least two months because we need to give legislative notice (49 days minimum), interested parties notice (28 days minimum), as well as informing the Commission and requesting Commission adoption of rules (60 days minimum over two separate Commission meetings). Our retailers, many of whom are small restaurants, bars, and taverns, needed clear standards for reopening immediately upon having their county approved to enter phase one. Additionally, the Lottery needed to communicate to the public and to retailers the importance of retailer compliance with OHA VLT guidance and the role of the Lottery in enforcing such compliance. Therefore, the Lottery took immediate action to ensure a safe, timely, and orderly reintroduction of Video Lottery in those counties approved to reopen. The Lottery communicated with interested parties, legislators, and Video Lottery retailers immediately upon adoption of the temporary rule as required by OAR 137-001-0080.</p> <p>When it became clear that this rule would be needed longer than the 180 days allowed by ORS 183.335(5), the Lottery began the permanent rulemaking process, informing interested parties, certain legislators, and Video Lottery retailers of the Lottery's intention to adopt OAR 177-040-0049 permanently and the opportunity to submit comment to the Lottery. The Oregon State Lottery Commission approved permanent adoption of the rule effective November 10, 2020, upon expiration of the temporary rule. See permanent rulemaking project described in the table in section 1 for more information.</p> |