

<h2 style="margin: 0;">Regulatory Analysis Form</h2> <p style="margin: 0;">(Completed by Promulgating Agency)</p> <p style="margin: 0; font-size: small;">(All Comments submitted on this regulation will appear on IRRC's website)</p>	<p><b>INDEPENDENT REGULATORY REVIEW COMMISSION</b></p>
<p>(1) Agency</p> <p>Revenue</p>	<p style="writing-mode: vertical-rl; transform: rotate(180deg);">2019 APR 23 P 1 47</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">RECEIVED IRRC</p>
<p>(2) Agency Number: 15</p> <p style="padding-left: 20px;">Identification Number: 460</p>	
<p>(3) PA Code Cite: 61 Pa. Code, Chapter 876</p>	<p>IRRC Number: 3234</p>
<p>(4) Short Title: iLottery Regulations</p>	
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: Maria Miller (717) 783-7524</p> <p>Secondary Contact: Casey Fenstermaker (717) 346-1860</p>	
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> Proposed Regulation</p> <p><input type="checkbox"/> Final Regulation</p> <p><input type="checkbox"/> Final Omitted Regulation</p>	<p><input type="checkbox"/> Emergency Certification Regulation;</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><input type="checkbox"/> Certification by the Attorney General</p>
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less).</p> <p>The purpose of the proposed rulemaking is to promulgate permanent rules associated with iLottery implementation and operation in this Commonwealth. Act 42 of 2017 (P.L. 419, No. 42)(4 Pa.C.S.A. § 501-503) granted the Department of Revenue (hereinafter, "the Department") with the authority to implement iLottery. Temporary regulations were published at 48 Pa.B. 1829 (March 31, 2018).</p> <p>In accordance with the act, the temporary regulations expire no later than 2 years following the publication in the <i>Pennsylvania Bulletin</i>; therefore, the <b><u>Department of Revenue is promulgating permanent regulations required to be effective no later than March 31, 2020.</u></b></p>	
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p>Statutory authority for the regulation is contained in section 503(b) of the Act 42 of 2017 (P.L. 419, No. 42) (4 Pa.C.S.A. § 503). Also, general authority is granted in 72 P.S. § 3761-303(a) (relating to powers and duties of secretary).</p>	
<p>(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.</p> <p>The regulation is mandated by Pennsylvania statute. Act 42 of 2017 (P.L. 419, No. 42) (4 Pa.C.S.A. § 503(a)) granted the Department with the authority to implement and operate iLottery. Temporary</p>	

regulations were published at 48 Pa.B. 1829 (March 31, 2018). The act requires the temporary regulations to expire no later than 2 years following the publication in the *Pennsylvania Bulletin*.

**Deadline for action: By statute, the Department is required to promulgate these permanent regulation to be effective no later than March 31, 2020.**

**(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.**

The Department is responsible for implementing and operating iLottery, which it does through the Bureau. "Bureau" is defined in the Lottery Regulations as the Pennsylvania State Lottery created to administer and operate the lottery. 61 Pa. Code § 801.1, *Definitions*. For purposes of clarification, the definitions for the terms "bureau" and "secretary" are restated in the proposed regulation.

The implementation and operation of iLottery will result in the generation of revenue dedicated to and deposited in the State Lottery Fund. The efficient and successful implementation, operation and administration of the lottery, and iLottery in particular, requires that the Bureau implement the latest innovations and trends in the industry. The inability to adapt quickly may lead to a reduction in revenues generated by the Bureau.

Pennsylvanians who decide to open a lottery account will benefit from the regulation. Pennsylvanians 65 years of age older or disabled Pennsylvanians who receive services funded through the State Lottery Fund will also benefit.

The proposed regulation is required to implement and operate iLottery. The generation of revenue for the benefit of Pennsylvanians 65 years of age or older or disabled Pennsylvanians is the compelling public interest that justifies the regulation.

**Quantify the benefits.**

The primary beneficiaries of the regulation are the various programs that are funded by the sale of lottery products, as well as the individuals who benefit from those programs.

While iLottery sales are exempt from the profit margin requirements of the Act of August 26, 1971 (P.L. 351, No. 91), known as the State Lottery Law, any positive profits from the operation of iLottery will be deposited into the State Lottery Fund.

Detailed below are the five main programs that are funded by the State Lottery Fund, either in whole or in part with revenue generated from the lottery and the contributions made to those programs in fiscal year 2017-18:

PENNCARE which supports Local Services, Senior Centers, and Meals through the PA Department of Aging has received more than \$336 million and has helped to provide 10.7 million meals, averaging more than 29,300 meals for older Pennsylvanians every day.

Low-Cost Prescription Assistance programs PACE and PACENET through the PA Department of Aging have received more than \$152 million and enrollees have received more than 6.25 million prescriptions, averaging nearly 17,200 prescriptions for older Pennsylvanians every day.

Free and Reduced-Fare Transportation through PennDOT has received more than \$164 million to provide nearly 33.6 million free transit rides and 3.4 million shared rides, averaging more than 101,000 free and reduced-fare rides for older Pennsylvanians every day.

Care Services (e.g. long-term care and community-based services) through the PA Department of Human Services has received more than \$205 million for more than 15,000 residents, averaging more than \$684,000 in services delivered to older Pennsylvanians every day.

Property Tax and Rent Rebates (“PTRR”) through the PA Department of Revenue have provided more than \$260.7 million in rebates to more than 548,000 households, averaging nearly \$714,290 in PTRR returned to older and disabled Pennsylvanians every day.

Secondarily, the entire adult population, people 18 years of age and older, of Pennsylvania will benefit as the regulations define the duties, rights and responsibilities related to participating in iLottery, as well as how the Department will operate and administer iLottery. The total adult population is approximately 9.5 million residents. Additionally, any adult, can play iLottery while physically present in Pennsylvania, so nonresidents who choose to participate in iLottery while they are in they are physically present in the Commonwealth benefit as well.

**(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.**

No provisions of this proposed rulemaking are more stringent than federal standards.

**(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania’s ability to compete with other states?**

While some jurisdictions have offered traditional lottery products, such as Powerball® and MegaMillions® over the internet for several years, the availability of internet instant games and other lottery products, commonly referred to as iLottery, is relatively new. As of November 14, 2018, the following jurisdictions offer iLottery: Pennsylvania; Michigan; Georgia; Illinois; New Hampshire and Kentucky. North Carolina recently selected a vendor which will facilitate its iLottery program.

The majority of jurisdictions currently operating iLottery do not have regulations specific to iLottery. Rather, these jurisdictions have authorized iLottery under existing state lottery laws and regulations. The majority of jurisdictions implement their iLottery programs through the use of terms and conditions, terms of use, privacy policies, etc. that establish players’ rights and responsibilities as they relate to use of the iLottery platform and services.

Due to state and federal laws, the Bureau is only authorized to sell lottery products over the Internet within the geographical boundaries of the Commonwealth of Pennsylvania; thus, there is no competition with surrounding states.

**(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.**

No. The regulation will not affect other regulations of the promulgating agency or other state agency.

**(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)**

In conducting informal public outreach, a copy of the proposed regulation was forwarded to the Pennsylvania Bar Association, the Philadelphia Bar Association, the Pennsylvania Institute of Certified Public Accountants, the Pennsylvania Society of Public Accountants, and the Pennsylvania Chamber of Business and Industry.

Copies of the proposed regulation were provided to the following members of the House of Representatives of Pennsylvania: Honorable Matthew Bradford; Honorable Bryan Cutler; Honorable Frank Dermondy; and Honorable Stan Saylor.

Copies of the proposed regulation were also provided to the following members of the Senate of Pennsylvania: Honorable Patrick M. Browne; Honorable Jake Corman; Honorable Jay Costa; Honorable Vincent Hughes.

The Department received questions and comments from Audrey Powell, Policy Director, House Democratic Office of Legislation and Policy, and Tara Hazelwood, Deputy Chief Counsel, House Democratic Caucus, on or about January 8, 2019. No other questions or comments were received by the Department as a result of the informal public outreach.

The regulation is listed in the Quarterly Regulatory Report published on Revenue's website ([www.revenue.pa.gov](http://www.revenue.pa.gov)) and will be forwarded to interested parties upon request.

**(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?**

Adults that choose to open a lottery account will be affected by the regulation. The impact on individual persons is directly determined by the amount of interaction the each person has with the iLottery system and services. For example, any adult age 18 and older can open a lottery account and access the lottery account features, such as responsible gambling tools, account statements, etc. Only adults who have successfully registered for a lottery account and are located within the physical boundaries of the Commonwealth of Pennsylvania are permitted to purchase lottery products through the iLottery system.

Pennsylvanians 65 years of age and older and disabled Pennsylvanians may be affected by the regulation if they receive benefits provided with the revenue generated through the implementation and operation of iLottery and deposited into the State Lottery Fund.

Generally, the regulation does not affect businesses, small businesses or organizations. The exception are those businesses, small businesses or organizations that contract with the Department to provide iLottery services. Those businesses, small businesses or organizations would be affected because they would be required to ensure that iLottery is operated in accordance with the regulation.

**(16) List the persons, groups or entities, including small businesses that will be required to comply with the regulation. Approximate the number that will be required to comply.**

Adult individuals who open a lottery account will be required to comply with the regulation.

The Department will be required to comply with the regulation in the implementation, operation and administration of iLottery. The Department contracts with businesses to provide the iLottery system and services required to operate iLottery; as a result, those specific businesses will be required to comply with the regulation. Based on the current contract with Scientific Games International for the iLottery systems and services, as many as 15-20 businesses could be involved in the provision of services related to iLottery.

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**(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations.**

**Evaluate the benefits expected as a result of the regulation.**

The financial and economic impact on individuals is based on individual player use and participation in iLottery. Individuals are required to determine the amount of money they want to spend on the purchase of lottery products. The average rate of return to players is approximately 85% on current iLottery games. The social impact of the regulation on individuals includes the benefits of the self-exclusion tool and the responsible gambling tools to assist plays in playing responsibly.

The regulation will not have a financial, economic or social impact of small businesses, businesses, labor communities or other public and private organizations unless one of the aforementioned groups contracts with the Department to provide services related to the provision of iLottery. Those small businesses, businesses or organizations that do contract with the Department and provide services related to iLottery would see a financial benefit from their respective contracts.

The benefits of the regulation include additional revenues for the State Lottery Fund and therefore services for the benefit of Pennsylvanians 65 years of age and older and disabled Pennsylvanians. The benefits also include responsible gambling tools and self-exclusion options for iLottery players.

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**(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.**

The benefits of the regulation include player awareness of lottery products, lottery accounts and other iLottery features. The regulation sets forth the rules for using the iLottery system and services, including establishing a lottery account, using the features of a lottery account, and claiming a prize through the iLottery system. The regulation also advises iLottery players where to locate other, additional information related to the iLottery system, lottery products and lottery accounts. The iLottery system includes responsible gambling tools and self-exclusion options for registered iLottery players.

The revenues generated from the purchase of lottery products through iLottery are used for the payment of prizes, operating costs, the administration of the Bureau and to fund the State Lottery Fund, which funds programs for Pennsylvanians 65 years of age and older, as well as disabled Pennsylvanians.

The cost of the regulation for individuals is based on whether an individual establishes a lottery account and purchases lottery products through the iLottery system.

The cost of the regulation to the Department is based on the contracts the Department enters into for the services necessary to implement and operate iLottery in accordance with the statutory and regulatory requirements. Other costs associated with iLottery are the administration of iLottery by Bureau

personnel. The administrative costs are negligible as the Bureau relies heavily on existing employees to administer iLottery.

Thus the benefits outweigh any costs or adverse impacts of the regulation.

**(19) Provide a specific estimate of the costs and/or savings to the *regulated community* associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.**

The regulated community includes the individual players who open lottery accounts, along with the Department, including its contractors. For individual players, the proposed regulation does not increase costs or savings of compliance.

Costs to the Department, and more specifically, the Bureau, for compliance with the proposed regulation are negligible, as iLottery-related compliance tasks are assigned to existing employees. Legal, accounting and consulting procedures are consistent with those required for traditional lottery products.

Costs to the Department for compliance are also included in the contract costs for iLottery systems and related services. It is estimated that annual contract costs for iLottery systems and services are between \$6 million and \$8.5 million. These estimates are based on the Bureau's estimate of gross gaming revenue (GGR) and sales that will be generated through the iLottery system, as the contract value is based on a percentage of GGR and sales.

**(20) Provide a specific estimate of the costs and/or savings to the *local governments* associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.**

There are no costs or savings to local governments associated with complying with the regulation. There are no legal, accounting or consulting procedures required of local governments related to the regulation.

**(21) Provide a specific estimate of the costs and/or savings to the *state government* associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.**

Costs to the Department, and more specifically, the Bureau, for the administration of iLottery are negligible, as iLottery-related tasks are assigned to existing employees. Legal, accounting and consulting procedures are consistent with the requirements for traditional lottery products.

For the operation of iLottery, the Department is authorized to enter into contracts for the provision of software and services. It is estimated that annual contract costs for iLottery systems and services are between \$6 million and \$8.5 million. These estimates are based on the Bureau's estimate of gross gaming revenue (GGR) and sales that will be generated through the iLottery system, as the contract value is based on a percentage of GGR and sales.

**(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.**

No legal, accounting, consulting procedures, additional reporting, recordkeeping or other paperwork are required by this regulation for individual players. Legal, accounting and recordkeeping consistent with the Bureau's current processes and procedures for traditional lottery products will be required.

**(22a) Are forms required for implementation of the regulation?**

Electronic forms are required for the implementation of the regulations.

**(22b) If forms are required for implementation of the regulation, *attach copies of the forms here.* If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. *Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.***

The forms required for implementation of this regulation are only required to be completed by individuals who seek to establish a lottery account which will allow the individual to, among other things, purchase lottery products over the Internet.

**Registration Form:** An individual 18 years of age or older who seeks to open a lottery account is first required to register for a lottery account. Registration requires the individual to submit the following information electronically: first and last name; date of birth; all or part of a social security number or comparable equivalent; home address; telephone number; and email address. Individuals registering for a lottery account are required to establish a username and password for the account. Individuals registering for a lottery account are required to agree to the Pennsylvania Lottery's iLottery terms and conditions, which set forth the rules applicable to the use of the lottery account and the iLottery system and related services.

**Payment Information:** Registered iLottery players are required to submit payment information. The information required will depend on the type of payment method chosen by the registered iLottery player, but will likely include first and last name; payment type; credit card number/debit card number/bank account number; and expiration date of credit card or debit card.

**Self-exclusion Information:** Individuals who decide they want to self-exclude from iLottery need to verify certain identification information and acknowledge and agree to specific requirements as set forth in the regulation, such as: first and last name; social security number or comparable equivalent; date of birth; home address; and phone number.

**(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.**

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						

<b>Total Savings</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>COSTS:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Costs</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Please note that these expenditures do not include iLottery funds because iLottery only began in May of 2018.

<b>Program</b>	<b>FY -3</b>	<b>FY -2</b>	<b>FY -1</b>	<b>Current FY</b>
Local Services, Senior Centers and Meals	\$314 million	\$332 million	\$336 million	\$334 million
Free and Reduced- Fare Transportation	\$182 million	\$179 million	\$164 million	\$179 million
Care Services for Older Pennsylvanians	\$305 million	\$304 million	\$205 million	\$305 million
Low-Cost Prescription Assistance	\$175 million	\$169 million	\$152 million	\$155 million
Property Tax and Rent Rebates	\$271 million	\$270 million	\$261 million	\$245 million

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.**
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.**
- (c) A statement of probable effect on impacted small businesses.**
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.**

Small businesses are not subject to the requirements of the proposed regulations unless they choose to contract with the Department for the provision of iLottery services.

**(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.**

Generally speaking, the regulation has been developed to provide the Bureau with the ability to offer both new and traditional types of lottery games through iLottery, with the goal of increasing revenues for the benefit of Pennsylvanians 65 years of age and older and disabled Pennsylvanians.

These proposed regulation includes specific provisions to promote responsible gambling. Specifically, § 876.16 (relating to self-exclusion) provides for the ability of a registered iLottery player to self-exclude from iLottery. Self-exclusion from iLottery prohibits the registered iLottery player from accessing that individual's lottery account and, thereby, limiting entries into second chance drawings and other lottery promotions. The self-exclusion process requires the registered iLottery player to confirm certain personal information which ensures the registered iLottery player is actually the person requesting self-exclusion and allows the player to process the nature and gravity of the request, as self-exclusion is irrevocable during the self-exclusion period.

Additionally, the proposed regulation includes provisions for the implementation of responsible gambling tools. The potential responsible gambling tools available to registered iLottery players are not listed in detail in the regulation, but rather will be described in the iLottery terms and conditions which allows the responsible gambling tool options to increase with the development of new technologies.

Finally, registered iLottery players are required to have a lottery account and are required to be 18 years of age or older pursuant to § 876.7 (relating to general provisions).

**(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.**

There are no non-regulatory alternatives associated with the proposed regulation. One alternative regulatory provision considered relates to section 876.14a (relating to withdrawals from lottery account), in which lottery account holders are permitted to withdraw moneys from their lottery accounts. In the majority of the jurisdictions reviewed by the Bureau in developing this regulation, the overwhelming majority prohibited the withdrawal of moneys once they were deposited by a player. Only prizes or winnings could be withdrawn. The Bureau determined that while there would be a variety of benefits to the Bureau to impose such a restriction, it was not be in the best interest of players. The least burdensome acceptable alternative has been selected for the benefit of the iLottery player.

**(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:**

Small businesses are not subject to the requirements of the proposed regulations unless they choose to contract with the Department for the provision of iLottery services.

**(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.**

No scientific data or studies are used to justify this regulation. The Bureau referenced and reviewed internet lottery programs and corresponding regulations, if any, from the other jurisdictions in the United States in which similar programs, or components thereof, are legal. In particular, the Bureau reviewed the lottery account terms and conditions in various jurisdictions. The following is a link to the lottery account terms and conditions that were reviewed by the Bureau, which may have been updated or amended since they were originally viewed by the Bureau:

Michigan Lottery Terms and Conditions

<https://www.michiganlottery.com/buy-online-terms-and-conditions>

Georgia Lottery Terms and Conditions

<https://www.galottery.com/en-us/content/termsandconditions.html>

North Carolina Lottery Online Game Rules

<https://rewards.nclottery.com/account/displaytos>

**(29) Include a schedule for review of the regulation including:**

- |   |   |
|---|---|
| A. The length of the public comment period:                                 | <u>30 days</u>  |
| B. The date or dates on which any public meetings or hearings will be held: | <u>NA</u>   |
| C. The expected date of delivery of the final-form regulation:              | <u>3rd Quarter, 2019</u>  |
| D. The expected effective date of the final-form regulation:                | <u>Upon final publication in the Pennsylvania Bulletin &amp; no later than March 31, 2020</u> |

E. The expected date by which compliance with the final-form regulation will be required:

Upon final publication in  
the *Pennsylvania Bulletin*.

F. The expected date by which required permits, licenses or other approvals must be obtained:

NA

**(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.**

This regulation is scheduled for review within five years of final publication. No sunset date has been assigned.

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FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)



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<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>By: <u><i>Ang M. Sheet</i></u> (Deputy Attorney General)</p> <p><u>APR 18 2019</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>PA Department of Revenue</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>15-460</u></p> <p>DATE OF ADOPTION _____</p> <p>BY <u><i>C. Daniel Hassell</i></u> C. Daniel Hassell TITLE <u>Secretary of Revenue</u> (Executive Officer, Chairman or Secretary)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies</p> <p>BY <u><i>B. L. Evers</i></u></p> <p><u>MAR 14 2019</u> DATE OF APPROVAL</p> <p>(Deputy General Counsel) (Chief Counsel-Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General Approval or objection within 30 days after submission.</p>
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NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF REVENUE

61 Pa. Code §§ 876.1 - 876.20

Chapter 876. iLottery

## PREAMBLE

The Pennsylvania Department of Revenue (Department), is proposing permanent regulations to facilitate its responsibilities for iLottery implementation in this Commonwealth under authority contained in Act 42 of 2017 (P.L. 419, No. 42) (4 Pa.C.S.A. § 503) that granted the Secretary of the Department with the authority to offer iLottery games and under the general authority in 72 P.S. § 3761-303(a) (relating to powers and duties of secretary). Under section 503(b) of the act (relating to iLottery authorization), the Department proposes amendments to the temporary regulations at 61 Pa. Code, Chapter 876 (relating to iLottery Games - Temporary Regulations) for permanent regulations as set forth in Annex A.

The act requires that the temporary regulations will expire no later than 2 years following the publication in the Pennsylvania Bulletin. The temporary regulations were published at 48 Pa.B. 1829 (March 31, 2018); therefore, the temporary regulations will expire no later than March 31, 2020.

### Purpose of Regulation

The purpose of this proposed rulemaking is to promulgate permanent rules associated with iLottery implementation in this Commonwealth. The Department, through the Secretary, is

responsible for implementing iLottery, which will result in the generation of revenue dedicated to and deposited in the State Lottery Fund. Specifically, the Pennsylvania State Lottery, defined in the regulation as the "Bureau," is responsible for the administration and operation of the lottery. The efficient and successful operation of the lottery requires that the Bureau implement the latest innovations and trends in the industry. The inability to adapt quickly may lead to a reduction in lottery revenues.

#### Explanation of Regulatory Requirements

The creation of Chapter 876 during the temporary regulations process addressed certain statutory requirements of the act, including iLottery terms and conditions and self-exclusion requirements. The temporary regulations also addressed iLottery games and the rules associated with those games. The permanent regulations provide for rules which were previously only referenced in the iLottery terms and conditions. Registered iLottery player requirements, self-exclusion requirements, along with categories of games and their associated rules will be addressed in permanent rules to be promulgated in this proposed rulemaking.

Changes to the temporary regulations include:

The title of the chapter is changed to iLottery to clarify that this section of the regulations provides for more than information related to iLottery games.

Section 876.2 (relating to definitions) is amended to add new definitions for terms used in the regulation: "bonus money," "bureau," "cash-out games," "drawing," "fixed payouts," "instant win game," "lottery products," "lotto game," "numbers game," "pari-mutuel," "prize or lottery prize," "prize pool or pools," "prize tiers," "progressive," "purchase price," "randomizer," "random number generator," "responsible gambling tools," "secretary," "subscription services," "top prize," "traditional lottery products," "winning play" and "winning numbers." It is also amended to modify the following definitions for clarity: "iLottery," and "lottery account."

Section 876.2a (relating to lottery products available through iLottery) is an entirely new section and reiterates the power vested with the Secretary pursuant to 72 P.S. 3761-303 (relating to powers and duties of secretary) to determine the type of lottery to be conducted.

Section 876.2b (relating to traditional lottery products) is an entirely new section, which establishes that traditional lottery products sold through iLottery may be electronically delivered to the registered iLottery player's

lottery account. Further, it clarifies that traditional lottery products sold through iLottery will be governed by the applicable traditional lottery regulations.

Section 876.2c (relating to categories of iLottery games) is an entirely new section, which sets forth the categories of iLottery games that the Secretary may authorize and that the Bureau may offer, the ways in which the winners or outcomes of a game or a play are determined, how often iLottery game outcomes are determined, and iLottery game prize structures. iLottery games may combine any number of the characteristics set forth in subsections (a) through (d) of the regulations, which is provided for under subsection (e).

Section 876.2d (relating to iLottery game rules by category of game offered) replaces section 876.3 and describes how the Bureau will notify players of new games offered by the Bureau, which may include any combination of the criteria described in section 876.2c regarding categories of iLottery games.

Section 876.2d (relating to iLottery game rules by category of game offered) replaces section 876.3.

Section 876.3 (relating to notice of iLottery game rules) is rescinded in its entirety.

Section 876.4 (relating to iLottery game description) is amended to remove the phrase "Pennsylvania Lottery's iLottery" web site and replace it with a reference to the Bureau's web site generally, in addition to the Bureau's mobile application.

Section 876.4(2) is amended to provide for a range of purchase prices for an iLottery game play.

Section 876.4(6) is amended to remove the word "procedure" and replace it with the more accurate term "instructions." Additionally, section 876.4(6) is revised to include the phrase "if applicable" at the beginning of the subparagraph and to remove it from elsewhere in the subsection.

Section 876.7 (relating to general provisions) is amended for clarity to include within subsections (a), (b) and (d), the phrase "and to purchase lottery products using a lottery account."

Section 876.8 (relating to applicability) is amended for clarity to include both iLottery and the sale of lottery products.

Section 876.9 (relating to iLottery terms and conditions) is amended in subsection (a) to include the applicability of the terms and conditions to a lottery account. Further, this section is amended to state that the

iLottery terms and conditions will be published in the Pennsylvania Bulletin. Two paragraphs are added to subsection (a), which explain where copies of the terms and conditions and amendments thereto can be located. Subsection (b) is amended to include the applicability of the terms and conditions to lottery accounts. Subsection (b)(1)(vi) is revised to remove the phrase "forfeiture and escheatment of" and replace it with a reference to abandoned and unclaimed property, which is language taken directly from the Fiscal Code at 72 P.S. § 1301.1 et seq. Subsection (b)(1)(vi) is also revised to remove the phrase "that account has been dormant for" and replace with a more accurate description of the action or inaction that will result in the funds becoming abandoned or unclaimed property. Subsection (b)(1)(vii) involving account closure is revised to include subparagraphs (C)-(E) for consistency throughout the regulation. Subsection (b)(1)(xi) is revised to change the section name referenced within the subsection. Subsection (b)(1)(xiii) is revised to broaden the possible responsible gambling tools that may be available to registered iLottery players and communicated through the iLottery terms and conditions. Subsection (b)(1)(xiv) is revised to indicate that a registered iLottery player's self-exclusion may have an impact on the individual's ability to access or use their lottery account.

Subsection (b)(1)(xxi) is added to address the provision in the State Lottery Law which allows individuals to purchase lottery tickets for the benefit of another person. Subsection (b)(2)(iii) is revised to clarify that the prohibition against the use of software during participation in iLottery shall not prohibit the use of adaptive technologies for a registered iLottery player with a disability as defined by the Americans with Disabilities Act. Subsection (b)(2)(vi) is revised for purposes of clarification. Throughout section 876.9 (relating to iLottery terms and conditions), the term "fund" is replaced with the term "moneys" for clarification.

Section 876.10 (relating to iLottery registration and participation) is amended at subsection (c) for clarity to include the establishment of a lottery account in addition to the registration for iLottery. Additionally, the phrase "the individual's" is added to most of the paragraphs for clarifying whose information is required. The phrase "for a foreign person such as a passport or taxpayer identification number" was removed and replaced with the more encompassing phrase "comparable equivalent." Subsection (d) is amended to include the phrase "as set forth in the iLottery terms and conditions" to indicate where a registered iLottery player may locate information regarding supporting documentation and how it can be submitted. Subsection (f) is amended to remove

the phrase "lottery account user" which was replaced with the defined term "registered iLottery player." Subsection (g) is amended for consistency and clarification to include that the prohibition extends to the establishment of a lottery account. Subsection (h) is amended to include the phrase "chance or share or purchase lottery products using a lottery account" for purposes of consistency and to include the word "that" for clarification. Subsection (i) is amended to include a second sentence for purposes of clarification. Subsection (k) is included to provide for communications related to lottery accounts and iLottery to occur electronically. Subsection (l) is added to clarify that lottery accounts must be created through the Bureau's web site or the Bureau's mobile application. Subsection (m) is included to inform registered iLottery players that they may close their accounts at any time. Subsection (n) is included to inform registered iLottery players who close their accounts that their information may be retained for fraud prevention measures. Subsection (o) is added to inform registered iLottery players about the process of closing their lottery account.

Section 876.10a (relating to lottery account requirements) is added to expand upon the lottery account requirements, which previously appeared in the terms and

conditions. Subsections (1) and (2) require registered iLottery players shall be subject to the end user license agreements for software and services used in the provision of iLottery. Subsection (3) requires the confirmation of the registered iLottery player's age and identity. Subsection (4) requires the registered iLottery player to provide true and correct information to the Bureau. Subsection (5) and (6) subject the registered iLottery player to the continuous monitoring and recording of account information, including transactions and physical location. Subsection (7) provides for the suspension or closure of a lottery account under the circumstances listed therein. Subsection (8) requires a registered iLottery player to comply with all applicable laws, statutes, regulations and the iLottery terms and conditions. Subsection (9) requires a registered iLottery player

Section 876.11 (relating to purchase and prize restrictions) is amended to include paragraph (d), which prohibits the cancellation of a play or lottery product by a registered iLottery player once a play or product has been purchased.

Section 876.11a (relating to methods to fund a lottery account) is added to include requirements that were previously only addressed in the iLottery terms and

conditions. Subsection (a) is added to clarify that a registered iLottery player is required to deposit money in their account prior to purchasing a play or other lottery product through a lottery account. Subsection (b) is added to specify that the Secretary will determine which specific payment methods will be available and where that information can be located. Subsection (c) is added to list the wide array of payment methods available and clarifies that the available payment options are at the discretion of the Secretary. Subsection (d) is added to allow the Secretary to establish limits related to different types of deposit methods. Subsection (e) is added to allow for a minimum deposit amount.

Section 876.11b (relating to lottery account moneys and credits) is added to include requirements which were previously only set forth in the iLottery terms and conditions. Subsection (a) is added to clarify that moneys and credits deposited in a lottery account can be used to purchase plays and other lottery products. Subsection (b) is added to state that moneys deposited in lottery accounts will not earn interest. Subsection (c) is added to indicate that moneys remaining in a dormant account will be considered abandoned and unclaimed property.

Section 876.12 (relating to prizes) is amended to add subsections (b) through (f), which include requirements that

were previously only set forth in the iLottery terms and conditions. Subsection (b) is included to state that the Bureau will report taxable prizes and events to relevant taxing authorities. Subsection (c) is added to state that the Commonwealth and its agents shall not be liable upon payment of a prize. Subsection (d) is added to state that prizes will be reduced by the required tax withholding and legally required deductions. Subsection (e) is added to state that some prizes may be withheld until the Bureau can confirm there are no outstanding liabilities that must be deducted from the prize. Subsection (f) is added to state that winning plays are based on the information maintained by the Bureau.

Section 876.12a (relating to prize claims) is added to include requirements, which were previously only set forth in the iLottery terms and conditions. Specifically, this section is added to address the claims process requirements, formerly addressed only in the iLottery terms and conditions. Subsection (a) explains that the Bureau will generate applicable tax forms for reportable gambling and lottery winnings. Subsection (b) states that the Bureau may use the lottery account information provided by the registered iLottery player to complete the applicable tax forms. Subsection (c) states that the Bureau may require a registered iLottery player to complete a claim form and submit it at one

of the Bureau's claim centers. Subsection (d) states that prizes requiring a claim form will not be credited to a player's lottery account until the claim form is properly completed and submitted to the Bureau. Subsection (e) provides for the expiration of certain lottery prizes if a required claim form is not properly completed or received.

Section 876.14 (relating to deductions required by law) is amended to include requirements that were previously only set forth in the iLottery terms and conditions. Specifically, this section is amended to include paragraphs (1) and (2), which list the specific statutes that require lottery prizes to be intercepted and reduced by outstanding obligations. Additionally, the term "prize" is made plural in this section.

Section 876.14a (relating to withdrawals from a lottery account) is added to include requirements, which were previously only set forth in the iLottery terms and conditions. Specifically, this section is added to address withdrawal requirements and limitations that were previously only addressed in the iLottery terms and conditions. Subsection (a) states that registered iLottery players may make withdrawals from their lottery accounts. Subsection (b) allows the Secretary to establish a minimum balance in the lottery account before a withdrawal will be processed. Subsection (c) states that the withdrawal request is not

required to occur immediately. Subsection (d) allows the Bureau to request information from a registered iLottery player to verify the player's withdrawal request. Subsection (e) prohibits a registered iLottery player from withdrawing bonus money. Subsection (f) provides for a registered iLottery player's withdrawal to be credited to whatever payment types are authorized by the Secretary. Subsection (g) allows the Bureau to make adjustments to a registered iLottery player's account if money or bonus money is mistakenly credited. Subsection (h) allows the Bureau to deduct the purchase price of a lottery product from the registered iLottery player's lottery account.

Section 876.16 (relating to self-exclusion from iLottery) is amended to include additional requirements, which were previously only included in the iLottery terms and conditions. Specifically, subsections (b) and (c) are amended to allow for multiple ways in which an individual may request self-exclusion. Subsection (d) is revised to include the phrase "shares or chances" for clarification and consistency. Subsection (f) allows the Bureau to request certain identifying information from a registered iLottery player upon a request for self-exclusion. Subsection (g) requires a registered iLottery player, who is requesting self-exclusion, to acknowledge and agree to certain statements before the

self-exclusion is processed. Subsection (h) prohibits a registered iLottery player from accessing their lottery account until the self-exclusion period expires. Subsection (i) allows a registered iLottery player to request the release of moneys in their lottery account. Subsection (j) provides for the immediate effectiveness of the self-exclusion request. Subsection (k) makes the self-exclusion request irrevocable. Subsection (l) requires a self-excluded, registered iLottery player to contact the Bureau before access to their lottery account is authorized. Subsection (m) provides for the availability of responsible gambling tools through a lottery account. Subsection (n) provides that a self-excluded, registered iLottery player may be prohibited from participating in certain promotions, second chance drawings and other events available through a lottery account.

Section 876.18 (relating to agent promotion programs) is amended to change the word "retailer" to the term "agent" for purposes of consistency.

Section 876.19 (relating to subscription services) is added to address the availability of subscription services.

Section 876.20 (relating to confidential information) is added to expand upon the provisions in 4 Pa.C.S.A § 503(e) (relating to lottery confidential proprietary information).

### Affected Parties

This proposed rulemaking provides information to the individuals who may register to use a lottery account and purchase products through iLottery in this Commonwealth.

### Fiscal Impact

The Department has determined that the proposed regulation will generate revenue for the Commonwealth. Further, the Department has determined that the permanent regulation will have no adverse fiscal impact on the Commonwealth and that the iLottery features, such as lottery accounts and iLottery games, described by the regulation will increase revenue for the State Lottery Fund, which in turn benefits Pennsylvanians age 65 and older, in addition to disabled Pennsylvanians.

### Paperwork

The proposed regulation will require minimal paperwork for the public or the Commonwealth. Registration for and participation in iLottery, in addition to the iLottery self-exclusion process for registered iLottery players are completed online.

### Effectiveness/Sunset Date

The regulation will become effective upon final publication in the Pennsylvania Bulletin. The regulation is

scheduled for review within 5 years of final publication. No sunset date has been assigned.

Public Comments and Contact Person

Interested persons are invited to submit in writing any comments, suggestions, or objections regarding the proposed amendments to Maria L. Miller, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, Pennsylvania 17128-1061, within 30 days after the date of the publication of this notice in the Pennsylvania Bulletin.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 23, 2019, the Department submitted a copy of these proposed regulation to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. In addition to submitting the proposed regulation, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

The Committees may, at any time prior to the submittal of the final-form regulation, convey to the agency and IRRC, their comments, recommendations and objections to the proposed

regulation. The IRRC may, within 30 days of the close of the public comment period, submit to the Department and Committees any comments, recommendations and objections to the proposed regulation. The notification shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

C. DANIEL HASSELL  
SECRETARY OF REVENUE

4/12/2019

ANNEX A

Title 61. Revenue, Part V. State Lotteries, Chapter 876.  
iLottery [Games-Temporary Regulations]

CHAPTER 876. iLottery [Games]

Editor's note: The Department is proposing to make permanent the Temporary Regulations published at 48 Pa.B. 1829 (March 31, 2018) as required by Act 42 of 2017 (P.L. 419, No. 42) (4 Pa.C.S.A. § 503).

§ 876.1. Scope.

This chapter establishes procedures for the notification of iLottery game rules, iLottery registration and participation requirements, lottery account requirements and iLottery self-exclusion requirements.

§ 876.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Bonus money - Credit issued to registered iLottery players that does not have a cash value, but which can be converted to a predetermined cash value as further detailed in § 876.14a.

Bureau - The Pennsylvania State Lottery created to administer and operate the lottery by order of the Executive Board.

Cash-out games - A type of iLottery game in which the registered iLottery player is given the option to end the game early for a predetermined amount of money.

Drawing - The process of selecting the numbers, letters or symbols that determine the winning numbers or the outcome of an iLottery game or an individual play. Drawings may be conducted by a mechanical device using balls, a random number generator, a randomizer or by using any other method authorized by the Secretary. Drawings may be on demand or at a predetermined date and time as established by the Secretary.

Fixed payouts - The numbers and amounts of prizes established for an iLottery game, regardless of how many plays are sold.

iLottery - A system that provides for the distribution of lottery products through numerous channels that include, but are not limited to, web applications, mobile applications, mobile web, tablets and social media platforms that [allows] allow players to interface through a portal for the purpose of obtaining lottery products and ancillary services, such as account management, game purchase, game play and prize redemption.

iLottery game -

(i) Internet instant games and other lottery products offered through iLottery.

(ii) The term does not include games that represent physical, Internet-based or monitor-based interactive lottery games which simulate casino-style lottery games, specifically including poker, roulette, slot machines and blackjack.

Instant win game - A type of iLottery game in which the result of a play is the display of numbers, letters or symbols indicating whether a prize has been won. Unlike internet instant games, no reveal is required to determine whether a prize has been won.

Internet instant game - A lottery game of chance in which, by the use of a computer, tablet computer or other mobile device, a player purchases a play, with the result of play being a reveal on the device of numbers, letters or symbols indicating whether a lottery prize has been won according to an established methodology as provided by the Lottery.

Lottery account - An account established by an individual with the Bureau that shall be used to register for iLottery [and participate in] and to participate in iLottery. A lottery account may be used to purchase or use lottery products, to participate in lottery promotions and second chance drawings and for lottery communications.

Lottery products - Plays, shares or chances offered by the Bureau as well as lottery property that may be exchanged

for plays, shares or chances. The term includes instant tickets, terminal-based tickets, raffle games, play-for-fun games, lottery vouchers, subscription services and gift cards authorized for sale under the State Lottery Law.

Lotto game - A type of iLottery game in which a registered iLottery player chooses "X" numbers from a field of "Y" numbers. The field of "Y" numbers is established by the Bureau. Winning plays are those in which the registered iLottery player matches a designated combination of numbers, letters, symbols, or a specified combination thereof, with the winning numbers, letters or symbols randomly drawn by the Bureau. Examples of lotto games include Powerball and MegaMillions® and similar games in which multiple "Y" numbers are chosen from a single set of numbers.

Numbers game - A type of iLottery game in which a registered iLottery player chooses "X" numbers from multiple fields of "Y" numbers. The player must choose whether to purchase a straight play or a box play. A straight play requires the registered iLottery player to match the numbers in the same order as the winning numbers are drawn by the Bureau. A box play requires the registered iLottery player to match all of the winning numbers drawn by the Bureau, but in any order. Examples of numbers games include Pick 4 and Pick

5 and similar games in which "Y" numbers are chosen from multiple sets of numbers.

Pari-mutuel - A prize structure in which the total available prize pool is split between all winners at a particular prize level or levels.

Play - An opportunity, for a predetermined price, to participate in an iLottery game. May also be referred to as a chance or a share.

Prize or lottery prize - The item or money that can be won in each iLottery game as determined by the prize structure for that iLottery game. A prize or lottery prize may also be referred to as lottery winnings.

Prize pool or pool - Amount of money designated for payments of prizes for an iLottery game.

Prize tiers - One or more different levels, amounts or types of prizes for an iLottery game.

Progressive - An iLottery game prize structure in which the top prize available begins with a minimum prize amount, as determined by the Bureau, which grows at a pre-determined rate every time a play is purchased and then resets to the minimum prize amount whenever a top prize winning play is purchased.

Purchase price - The cost of a play, share or chance for an iLottery game.

Randomizer - A device or program that generates a random set of numbers.

Random number generator - A secured computerized system, which draws random numbers to determine the outcome of an individual play or an iLottery game.

Registered iLottery player - An individual who created a lottery account with the Bureau, registered for iLottery and is approved for participation in iLottery.

Responsible gambling tools - Settings available to a registered iLottery player through iLottery that promote responsible gambling.

Secretary - The Secretary of Revenue of the Commonwealth.

Subscription services - A payment, advance payment or promise of payment for multiple lottery products over a specified period of time, including payment through iLottery.

Top prize - The highest prize available to be won in an iLottery game.

Traditional lottery products - Lottery products offered by the Bureau pursuant to 61 Pa. Code §§ 801-875.

Winning play - A play, chance or share that has been validated by the Bureau and qualifies for a prize.

Winning numbers - The numbers, letters or symbols selected in a particular iLottery game that have been

validated by the Bureau and will be used to determine the winning plays for that particular iLottery game.

§ 876.2a. Lottery products available through iLottery.

The Secretary shall authorize and determine the availability of lottery products through iLottery and for purchase using a lottery account.

§ 876.2b. Traditional lottery products.

(a) The Secretary may authorize the sale of traditional lottery products through iLottery and for purchase using a lottery account.

(b) Traditional lottery products delivered through a lottery account may be delivered to a registered iLottery player electronically and in a form and manner determined by the Bureau.

(c) Traditional lottery products offered through iLottery are governed by applicable regulations and corresponding notices published in the *Pennsylvania Bulletin*, unless otherwise noted by the Bureau in the notice for the applicable traditional lottery product.

§ 876.2c. Categories of iLottery games.

(a) In addition to traditional lottery products, the Secretary may authorize and the Bureau may offer categories of iLottery games which include the following types of iLottery games:

- (1) Numbers games.
- (2) Instant win games.
- (3) Lotto games.
- (4) Internet instant games.
- (5) Cash-out games.

(b) The outcomes of iLottery games or plays, chances or shares of iLottery games may be determined on demand or at a predetermined date and time established by the Secretary.

(c) The outcomes of iLottery games or plays of iLottery games may be determined by one or more of the following methods:

- (1) Randomizer.
- (2) Random number generator.
- (3) Drawing.

(d) Prize structures for iLottery games may include one or more of the following:

- (1) Pari-mutuel.
- (2) Prize tiers.
- (3) Progressive.
- (4) Fixed-payout.
- (5) Prize pool or pools.

(e) Categories of iLottery games may contain any combination of the characteristics described in subsections (a) - (d).

§ 876.2d. iLottery game rules by category of game offered.

For each category of iLottery game authorized under sections 876.2a (relating to lottery products available through iLottery), 876.2b (relating to traditional lottery products) and 876.2c (relating to categories of iLottery games), the Secretary will publish a notice in the Pennsylvania Bulletin with the following minimum information, as applicable:

- (1) iLottery game type or types pursuant to 876.2c(a) and § 876.2b(c).
- (2) Definitions.
- (3) Whether the outcome of iLottery games or plays of iLottery games are determined on demand or at a predetermined date and time established by the Secretary pursuant to §876.2c(b)and § 876.2b(c).
- (4) How the outcome or winning numbers of the Lottery game or play are determined pursuant to 876.2c(c).
- (5) Prize structure of the iLottery game pursuant to §876.2c (d).
- (6) Purchase price or range of purchase prices for a play, share or chance of the iLottery game.
- (7) Availability.
- (8) Other relevant information as determined by the Secretary.

§ 876.3 [Notice of iLottery game rules.] Reserved.

[The Secretary will publish a notice in the Pennsylvania Bulletin with the following minimum information about iLottery game rules:

- (1) Definitions.
- (2) Operation of the iLottery game.
- (3) Purchase Price price for a play.
- (4) Eligibility requirements, if applicable.
- (5) Procedures for purchasing a play.
- (6) Procedures for claiming and payment of prizes.
- (7) Funding for prizes.
- (8) Retention of unclaimed prizes.
- (9) Purchase and prize restrictions.
- (10) Governing law.
- (11) Termination of the game.
- (12) Applicability.]

§ 876.4. iLottery game description.

The Secretary will post [an] iLottery game descriptions on the [Pennsylvania Lottery's iLottery] Bureau's web site, including the Bureau's mobile application, for each iLottery game with the following minimum information:

- (1) The name of the iLottery game.
- (2) The purchase price or range of purchase prices of a play for the iLottery game.

(3) The chances of winning the iLottery game and the prizes which can be won.

(4) iLottery game instructions.

(5) The existence of a finalist, grand prize, second chance or other offering, if applicable, and the procedure for the conduct of the same, if applicable.

(6) [The] If applicable, the existence of a bonus game, mini-game or a game within a game, [if applicable, and] the [procedure] instructions for conduct of the same and the chances of winning the bonus game, mini-game or game within a game and the prizes which can be won[, if applicable].

(7) Other information necessary for the conduct of the iLottery game.

§ 876.5. Price. The purchase price of a play for each iLottery game will be included in the iLottery game description for each game, as provided for under § 876.4 (relating to iLottery game description).

§ 876.6. Governing law.

By registering to participate in iLottery, the registered iLottery player agrees to comply with and abide by Federal and State law, this chapter, the terms and conditions for registration and participation in iLottery, and final decisions of the Secretary. Revenues generated by iLottery games will be apportioned as provided by 4 Pa.C.S. § 503(f)

(relating to iLottery authorization) and section 311 of the State Lottery Law (72 P.S. § 3761-311).

§ 876.7. General provisions.

(a) An individual shall establish a lottery account and register for iLottery as provided for under § 876.10 (relating to iLottery registration and participation) to purchase a [plays] play, chance or share and to purchase lottery products using a lottery account.

(b) An individual shall accept, consent, acknowledge and agree to be legally bound by the iLottery terms and conditions as provided for under § 876.9 (relating to iLottery terms and conditions) to register for iLottery, to [and] purchase a play, chance or share and to purchase lottery products using a lottery account.

(c) An individual shall be located in this Commonwealth to purchase a play.

(d) An individual shall be 18 years of age or older to register for iLottery, to purchase a play or to purchase lottery products using a lottery account.

§ 876.8. Applicability.

This chapter applies [only] to iLottery and the sale of lottery products as offered by the Department and the Bureau.

§ 876.9. iLottery terms and conditions.

(a) The terms and conditions for the establishment of a lottery account and for the registration and participation in iLottery will be [available on the Pennsylvania Lottery's iLottery website and other locations as determined by the Secretary] published in the Pennsylvania Bulletin.

(1) Amendments to the terms and conditions will be published in the Pennsylvania Bulletin.

(2) The terms and conditions will be available on the Bureau's web site and other locations as determined by the Secretary.

(b) The terms and conditions for the establishment of a lottery account and for registration and participation in iLottery will include all of the following:

(1) Acknowledgment, consent, agreement and acceptance by the individual to all of the following:

(i) Confirmation by the Bureau of the applicant's age and identity.

(ii) The use of a mechanism by the Bureau to detect the physical location of a registered iLottery player in compliance with 4 Pa.C.S. § 503(h) (1) (relating to iLottery authorization).

(iii) The terms of the end user license agreement for the software and terms and conditions of any

third-party services used for the implementation and operation of iLottery and the provision of iLottery games.

(iv) The monitoring and recording by the Department or the Bureau of any iLottery communications and geographic location information.

(v) The jurisdiction of the Commonwealth to resolve disputes arising out of the conduct of iLottery.

(vi) [The forfeiture and escheatment of funds] Any moneys remaining on deposit in the registered iLottery player's account as abandoned and unclaimed property if the registered iLottery player has not logged into their lottery account using their username and password in more than [that account has been dormant for] 3 years.

(vii) The registered iLottery player's account may be suspended or closed for reasons established by the Secretary, including any of the following:

(A) Violations of the iLottery terms and conditions as provided for under this chapter.

(B) The registered iLottery player has been charged with or convicted of an offense under 18 Pa.C.S. §§ 4106, 5111 and 5512-5514 or 4 Pa.C.S. (relating to amusements) or conspiracy to commit offenses under 18 Pa.C.S. § 903 (relating to criminal conspiracy), or equivalent crimes under Federal law or the law of another state.

(C) A self-exclusion request pursuant to § 876.16 (relating to self-exclusion from iLottery).

(D) The application of a responsible gambling tool, as described in the iLottery terms and conditions, which limits the ability of the registered iLottery player to log into his lottery account.

(E) Other reasons as determined by the Secretary.

(viii) Other terms and conditions that may apply related to registration and participation in iLottery.

(ix) Lottery winnings are subject to Federal and State withholding taxes and prizes awarded to the registered iLottery player will be reduced by the amount of withholding required under applicable law.

(x) Lottery winnings are subject to certain deductions as required by law and that prizes awarded to the registered iLottery player will be reduced by any amount required to be deducted under applicable law.

(xi) To receive certain [iLottery]prizes, as identified and described in the iLottery game rules provided for under [§ 876.3 (relating to notice of iLottery game rules)] § 876.2(c) (relating to categories of iLottery games) or iLottery game description as provided for under § 876.4 (relating to iLottery game description) or promotional prize

notices provided for under § 811.41 (relating to promotional prizes), the registered iLottery player may be required to take additional measures to claim a prize, including to appear in person at a specified [Pennsylvania Lottery] Bureau claim center.

(xii) Use of electronic communications to establish a lottery account, for iLottery registration, communications regarding the lottery account and other communications related to iLottery as determined by the Bureau.

(xiii) Ability of the registered iLottery player to [establish] use the responsible gambling tools available through iLottery [limits including a deposit limit, spend limit or time-based limit, as available, through the lottery account].

(xiv) Ability of the registered iLottery player to self-exclude from iLottery and the extent to which the self-exclusion applies to use of the registered iLottery player's lottery account.

(xv) Methods by which [funds] moneys or credits may be deposited and under what circumstances [funds] moneys or credits may be deposited into the registered iLottery player's lottery account.

(xvi) Moneys or credits deposited and held in the registered iLottery player's account do not earn interest.

(xvii) Methods by which [funds] moneys or credits may be withdrawn and under what circumstances funds or credits may be withdrawn from the registered iLottery player's lottery account.

(xviii) Reporting of suspected fraudulent or unlawful activity related to the operation of iLottery.

(xix) Dispute resolution procedures related to iLottery.

(xx) Information provided to the Department during the establishment, use, access or closure of the lottery account is true and correct.

(xxi) Methods by which a registered iLottery player may purchase lottery products as a gift or for the benefit of another person.

(2) Rules and obligations applicable to the registered iLottery player, other than rules of individual games, including all of the following:

(i) Prohibition from allowing another [person] individual to access or use the registered iLottery player's account.

(ii) Prohibition from purchasing a play unless the registered iLottery player is physically located in this Commonwealth.

(iii) Prohibition against [utilizing] using automated computerized software or other equivalent mechanisms to engage in iLottery. Nothing in this section shall prohibit the use of adaptive technologies for registered iLottery players with a disability as defined in the Americans with Disabilities Act of 1990 (42 U.S.C.A. §§ 12101-12213).

(iv) Prohibition against participation in iLottery by [a person] an individual under 18 years of age.

(v) Prohibition of [a person] an individual who self-excluded from iLottery from participating in iLottery.

(vi) Prohibition [against the sale of a] against purchasing a play or receiving [the award of] a prize if the registered iLottery player is [as follows]:

(A) [To an] An officer or employee of the Bureau.

(B) [To a] A spouse, child, brother, sister or parent residing as a member of the same household as an officer or employee of the Bureau.

(C) [To an] An officer or employee of a

contractor or subcontractor who is directly involved in the operation of iLottery or the provision of iLottery related services.

(D) [To a] A spouse, child, brother, sister or parent residing in the same household as an officer or employee of a contractor or subcontractor who is directly involved in the operation of iLottery and the provision of iLottery related services.

(3) Any other terms and conditions the Secretary deems necessary and relevant for the conduct of iLottery.

§ 876.10. iLottery registration and participation.

(a) An individual may not participate in iLottery without first creating a lottery account and registering to participate in iLottery through the Bureau as described in this chapter.

(b) A registered iLottery player agrees to be bound by the terms and conditions in § 876.9 (relating to iLottery terms and conditions).

(c) [The following information will be required to register for iLottery] To establish a lottery account and register for iLottery, an individual shall provide the following information:

(1) The individual's [Name] name as it appears on a valid government-issued identification or [on] tax documents.

(2) The individual's [Date] date of birth.

(3) The [Entire] entire or last four digits of the individual's Social Security [number] Number, or comparable equivalent [for a foreign person such as a passport or taxpayer identification number].

(4) The individual's [Home] address.

(5) The individual's [Telephone] telephone number.

(6) The individual's [E-mail] e-mail address.

(7) Any other information as determined by the Secretary to be necessary to verify the age and identity of the individual.

(d) An individual may be required to provide additional information or documentation, as provided for in the iLottery terms and conditions, to establish a lottery account or register for iLottery. The information may be used for iLottery registration or to confirm information provided by that individual during the registration process.

(e) The lottery account will require a username and password.

(f) Access to the lottery account and participation in iLottery is limited to the [lottery account user] registered iLottery player.

(g) An individual will be prohibited from establishing a lottery account and from registering for iLottery if one or more of the following occurs:

(1) The Department is unable to verify the age of the individual.

(2) The Department [in] is unable to verify the identity of the individual.

(3) The individual fails to agree to the iLottery terms and conditions as provided for under § 876.9.

(4) The information provided to the Bureau is false or misleading.

(5) Other reasons [as] set forth in the terms and conditions as provided for under § 876.9.

(h) A registered iLottery player may not purchase a play, chance or share or purchase lottery products using a lottery account if the Bureau is unable to verify that the registered iLottery player is physically located within the geographical borders of this Commonwealth.

(i) An individual may not open, access, maintain or otherwise [utilize] use more than one lottery account for participation in iLottery. This will not prohibit a

registered iLottery player that closes their lottery account from reopening their lottery account or creating a new account, as applicable, at a later date.

(j) An individual may not register or attempt to register for iLottery [utilizing] using more than one account.

(k) By establishing a lottery account and registering for iLottery, a registered iLottery player agrees that all communications related to the establishment and use of the lottery account may be through electronic communication. All electronic communications from the Bureau may be directed to a registered iLottery player based on the lottery account information provided by the registered iLottery player and verified by the Bureau.

(l) An individual must create a lottery account and register for iLottery through the Bureau's web site or the Bureau's mobile application.

(m) A lottery account may be closed by the registered iLottery player at any time.

(n) A registered iLottery player's lottery account information may be retained by the Bureau to prevent another individual from using the same lottery account information to open a different lottery account.

(o) To close the registered iLottery player's lottery account, the registered iLottery player is required to

contact the Bureau. The Bureau may require the registered iLottery player to confirm lottery account information prior to closing the lottery account.

876.10a. Lottery account requirements.

A registered iLottery player is subject to all of the following:

(1) The end user license agreement or agreements for software used in the provision of iLottery.

(2) The terms and conditions of any third-party service providers used in the provision of iLottery, including electronic payment processors, electronic payment transmitters and financial institutions.

(3) The confirmation of the individual's age and identity.

(4) To at all times provide true and correct information to the Department during the establishment, access, use or closure of the registered iLottery player's lottery account.

(5) The continuous monitoring and recording of information communicated and transactions conducted through iLottery, including electronic communications.

(6) The use of a mechanism by the Bureau to detect the physical location of a registered iLottery player in

compliance with 4 Pa.C.S. 503(h)(1) (relating to iLottery authorization).

(7) A registered iLottery player's lottery account may be suspended or closed for any of the following reasons:

(i) Violations of the iLottery terms and conditions as provided under § 876.9 (relating to iLottery terms and conditions).

(ii) A self-exclusion request pursuant to § 876.16 (relating to self-exclusion from iLottery).

(iii) The application of a responsible gambling tool which limits access to the registered iLottery player's lottery account as provided for in the iLottery terms and conditions.

(iv) The determination that the registered iLottery player has been charged or convicted of an offense under 18 Pa.C.S. §§ 4106, 5111 and 5512-5514 or 4 Pa.C.S. (relating to amusements) or conspiracy to commit offenses under 18 Pa.C.S. § 903, or equivalent crimes under Federal law or the law of another state.

(v) Other reasons as determined by the Secretary.

(8) A registered iLottery player's use of iLottery and software or third-party services used by the Bureau in the provision of iLottery shall comply at all times with all

applicable laws, statutes, regulations and the iLottery terms and conditions.

(9) The iLottery privacy policy.

§ 876.11. Purchase and prize restrictions.

(a) Individuals must be at least 18 years of age to register for iLottery or to purchase a play.

(b) Registered iLottery players shall be located within the geographical boundaries of this Commonwealth to purchase a play.

(c) A play may not be purchased by and a prize may not be awarded to the following:

(1) An officer or employee of the Bureau.

(2) A spouse, child, brother, sister or parent residing in the same household as an officer or employee of the Bureau.

(3) An officer or employee of a contractor or subcontractor who is directly involved in the operation of iLottery or the provision of iLottery related services.

(4) A spouse, child, brother, sister or parent of an officer or employee of a contractor who is directly involved in the operation of iLottery or the provision of iLottery related services.

(d) A registered iLottery player is prohibited from cancelling the purchase of a play, chance, share or lottery product.

§ 876.11a. Methods to fund a lottery account.

(a) A registered iLottery player shall deposit moneys or credits in the lottery account prior to purchasing a play or purchasing other lottery products using a lottery account.

(b) The Secretary, in his sole discretion, will determine the methods by which registered iLottery players may fund a lottery account and purchase iLottery products. The Bureau will describe those methods in the iLottery terms and conditions.

(c) Methods for funding a lottery account may include the following:

(1) A registered iLottery player's credit card or debit card, including prepaid cards.

(2) Gift cards, as authorized by the Secretary.

(3) Player cards issued by agents, as authorized by the Secretary.

(4) Automated clearing house transfers.

(5) Bonus money, credits or promotional prizes issued by the Bureau.

(6) Prizes received from a winning play.

(7) Payment processors or payment transmitters.

(8) Any other method authorized by the Secretary.

(d) The Secretary may establish conditions of purchase applicable to credit card and debit card transactions, such as daily deposit limits.

(e) The Secretary may establish a minimum deposit amount.

876.11b. Lottery account moneys and credits.

(a) Moneys or credits deposited into a registered iLottery player's lottery account may be used to purchase plays and lottery products as authorized by the Secretary.

(b) Moneys or credits deposited and held in a registered iLottery player's lottery account will not earn interest.

(c) Moneys or credits remaining on deposit in a registered iLottery player's lottery account will be considered abandoned and unclaimed property if the registered iLottery player has not logged into their lottery account using their username and password for more than 3 years.

§ 876.12. Prizes.

(a) Prizes may be awarded by check, draft or electronically through the registered iLottery player's lottery account or other means as authorized by the Secretary.

(b) The Bureau will report taxable prizes and events to relevant taxing authorities based on established statutory thresholds.

(c) The Commonwealth and its agents, officers and employees shall be discharged of liability upon payment of a prize.

(d) Prizes will be reduced by required tax withholding and any deductions for outstanding liabilities as required by law, including those set forth in § 876.14 (relating to deductions required by law).

(e) A registered iLottery player may be prohibited from accessing a prize until the Department determines whether there are outstanding liabilities that must be deducted from the prize, including those set forth in § 876.14 (relating to deductions required by law).

(f) Prize winning plays will be determined based on the iLottery game rules as established in § 876.2d (relating to iLottery game rules by category of game offered) and by the data recorded by the Bureau on its system or systems of record.

876.12a. Prize Claims.

(a) The Bureau will generate applicable tax forms for reportable gambling and lottery winnings as required by state and Federal laws and regulations.

(b) The Bureau may use lottery account information provided by a registered iLottery player and verified by the

Bureau to generate applicable tax forms for reportable gambling and lottery winnings.

(c) The Bureau may require a registered iLottery player to complete a claim form and to submit it in person at a claim center designated by the Bureau.

(d) A prize requiring the completion of a claim form will not be credited to the registered iLottery player's lottery account until a properly completed claim form is submitted to the Bureau.

(e) If a registered iLottery player fails to complete a claim form as required by this section, the prize money will be retained for payment to the prize winner for 1 year after the prize is won. If a claim form is not completed within that period, the ability to claim the prize will expire and the prize money will be used consistent with the State Lottery Law.

#### § 876.13. Withholding.

Federal and State withholding taxes will be withheld by the Bureau from prize payments as required by law.

#### § 876.14. Deductions required by law.

In addition to any withholding required by Federal and State law, the Department will deduct amounts from [iLottery] prizes [winnings] as required by law[.], including those amounts required under:

(1) 23 Pa.C.S.A. § 4308 (relating to lottery winnings intercept).

(2) 72 P.S. § 215 (relating to lottery winnings intercept).

§ 876.14a. Withdrawals from a lottery account.

(a) A registered iLottery player may withdraw moneys from the registered iLottery player's lottery account.

(b) The Secretary may require a minimum balance in the registered iLottery player's lottery account prior to authorizing a withdrawal.

(c) The Bureau shall not be required to grant a withdrawal request immediately. A withdrawal request from a registered iLottery player's lottery account may be delayed for reasons consistent with these regulations and as provided for in the iLottery terms and conditions.

(d) A registered iLottery player may be required to provide the Bureau with information to verify the details of a withdrawal request before the withdrawal request from the registered iLottery player's lottery account is processed.

(e) A registered iLottery player shall be prohibited from withdrawing bonus money from their lottery account where the registered iLottery player fails to convert bonus money into cash in conformance with the promotional terms and conditions issued under § 876.17 (relating to iLottery

promotional prizes) and \$811.41 (relating to promotional prizes).

(f) A registered iLottery player may request that a withdrawal from the registered iLottery player's lottery account be credited to any payment type authorized by the Secretary.

(g) The Bureau may make adjustments to a registered iLottery player's lottery account if the Bureau determines that moneys or bonus moneys are mistakenly credited to a registered iLottery player's lottery account.

(h) The Bureau will deduct the purchase price of a lottery product from a registered iLottery player's lottery account following the purchase of a lottery product.

§ 876.15. Termination of a game.

The Secretary may terminate an iLottery game at any time and without notice.

§ 876.16. Self-exclusion from iLottery.

(a) A registered iLottery player may request self-exclusion from iLottery under this section.

(b) A registered iLottery player may request self-exclusion through the registered iLottery player's lottery account or through other means authorized by the Secretary.

(c) A registered iLottery player may select from the predetermined periods of self-exclusion offered [through the lottery account] by the Secretary.

(d) During a period of self-exclusion, a self-excluded, registered iLottery player may not purchase plays, shares or chances, deposit [or withdraw] funds [from] into the registered iLottery player's account, or otherwise participate in iLottery and iLottery promotions prior to the conclusion of the self-exclusion period.

(e) During a period of self-exclusion, a registered iLottery player elects not to receive e-mails or other communications about iLottery.

(f) The Bureau may require a registered iLottery player to verify any of the following lottery account information to request self-exclusion:

(1) The individual's name as it appears on a valid government-issued identification or tax documents.

(2) The individual's date of birth.

(3) Social Security Number or comparable equivalent.

(4) The individual's address.

(5) The individual's telephone number.

(6) The individual's e-mail address.

(7) Any other information as determined by the Secretary to be necessary to verify the age and identity of the individual.

(g) To request self-exclusion, a registered iLottery player must:

(1) Acknowledge and agree that self-exclusion is requested voluntarily.

(2) Acknowledge and agree that self-exclusion applies to iLottery but may apply to other lottery products, promotions and drawings as provided for in the iLottery terms and conditions.

(3) Acknowledge and agree to waive and release the Commonwealth and its agents and employees from all liability relating to the processing and enforcement of self-exclusion.

(h) A self-excluded, registered iLottery player shall be prohibited from logging into their lottery account using their username and password until the self-exclusion period expires.

(i) A self-excluded, registered iLottery player may request the release of moneys in the registered iLottery player's lottery account as provided for in the iLottery terms and conditions.

(j) The self-exclusion period will become effective immediately upon submission and verification of the request.

(k) A request for self-exclusion is irrevocable.

(l) At the conclusion of any period of self-exclusion, a self-excluded, registered iLottery player must contact the Bureau to reinstate the registered iLottery player's account.

(m) The Bureau may offer responsible gambling tools applicable to iLottery and the purchase of lottery products through a lottery account as provided for in the iLottery terms and conditions.

(n) During any period of self-exclusion or through the use of responsible gambling tools, a registered iLottery player may be prohibited from participating in second chance drawings, promotions offered by the Bureau and marketing communications from the Bureau.

§ 876.17. iLottery promotional prizes.

The Secretary may authorize iLottery promotions and issue the terms and conditions related thereto under this part and § 811.41 (relating to promotional prizes).

§ 876.18. [Retailer] Agent promotion programs.

[Retailer] Agent incentive and marketing promotion programs may be implemented at the discretion of the Secretary. Funds for the programs, if needed, will be drawn from the Lottery Fund.

§ 876.19. Subscription services.

(a) The Bureau may offer subscription services for lottery products as determined by the Secretary.

(b) The subscription services will be governed by the iLottery terms and conditions.

(c) Details of subscription services purchased through iLottery will be available electronically through a registered iLottery player's lottery account.

§ 876.20. Confidential information.

The following information about a registered iLottery player is confidential, exempt from being disclosed and will be maintained as such by the Bureau:

(1) The individual's last name.

(2) The individual's address.

(3) The individual's telephone number.

(4) The individual's financial information.

(5) The individual's self-exclusion information.

(6) The individual's Social Security Number or comparable equivalent.

(7) Information related to the individual's use of responsible gambling tools.

(8) The individual's play history, including information related to wins and losses.

(9) The individual's play tendencies.

4/12/2019

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

**I.D. NUMBER:** 15-460  
**SUBJECT:** iLottery  
**AGENCY:** DEPARTMENT OF REVENUE

**RECEIVED**  
  
**APR 23 2019**  
  
 Independent Regulatory  
 Review Commission

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a. With Revisions
  - b. Without Revisions

**FILING OF REGULATION**

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
		<i>HOUSE COMMITTEE ON FINANCE</i>
4/23/19	B. Dysard	MAJORITY CHAIR <u>Michael Peifer</u>
4/23/19	J. Barton	MINORITY CHAIR <u>Jake Wheatley, Jr.</u>
		<i>SENATE COMMITTEE ON FINANCE</i>
4/23/19	K. Bingaman	MAJORITY CHAIR <u>Scott Hutchinson</u>
4/23/19	C. Updegraff	MINORITY CHAIR <u>John P. Blake</u>
4/23/19	Ana Cormack	<i>INDEPENDENT REGULATORY REVIEW COMMISSION</i>
		<del>ATTORNEY GENERAL (for Final-Omitted only)</del>
4/23/19	Beth Pappas	<i>LEGISLATIVE REFERENCE BUREAU (for Proposed only)</i>
4/23/19	✓	