

Small Business Bill of Rights

Pursuant to A.R.S. §§ 41-1001.01 and 41-1009, a regulated small business has the following rights.

- A. To ensure fair and open regulation by the Arizona Lottery (“Lottery”), a person:
1. Is eligible for reimbursement of fees and other expenses if the person prevails by adjudication on the merits against the Lottery in a court proceeding regarding an agency decision as provided in section 12-348.
 2. Is eligible for reimbursement of the person's costs and fees if the person prevails against the Lottery in an administrative hearing as provided in section 41-1007.
 3. Is entitled to have the Lottery not charge the person a fee unless the fee for the specific activity is expressly authorized as provided in section 41-1008.
 4. Is entitled to receive the information and notice regarding inspections and audits prescribed in section 41-1009.
 5. May review the full text or summary of all rulemaking activity, the summary of substantive policy statements and the full text of executive orders in the register as provided in article 2 of this chapter.
 6. May participate in the rulemaking process as provided in articles 3, 4, 4.1 and 5 of this chapter, including:
 - a. Providing written comments or testimony on proposed Lottery rules as provided in section 41-1023 and having the Lottery adequately address those comments as provided in section 41-1052, subsection D, including comments or testimony concerning the information contained in the economic, small business and consumer impact statement.
 - b. Filing an early review petition with the governor's regulatory review council as provided in article 5 of this chapter.
 - c. Providing written comments or testimony on rules to the governor's regulatory review council during the mandatory sixty-day comment period as provided in article 5 of this chapter.
 7. Is entitled to have the Lottery not base a licensing decision in whole or in part on licensing conditions or requirements that are not specifically authorized by statute, rule or state tribal gaming compact as provided in section 41-1030, subsection B.
 8. Is entitled to have the Lottery not make a rule under a specific grant of rulemaking authority that exceeds the subject matter areas listed in the specific statute or not make a rule under a general grant of rulemaking authority to supplement a more specific grant of rulemaking authority as provided in section 41-1030, subsection C.
 9. May allege that an existing Lottery practice or substantive policy statement constitutes a rule and have that practice or substantive policy statement declared void because the practice or substantive policy statement constitutes a rule as provided in section 41-1033.
 10. May file a complaint with the administrative rules oversight committee concerning:
 - a. A rule's, practice's, or substantive policy statement's lack of conformity with statute or legislative intent as provided in section 41-1047.
 - b. An existing statute, rule, practice alleged to constitute a rule, or substantive policy statement that is alleged to be duplicative or onerous as provided in section 41-1048.
 11. May have the person's administrative hearing on contested cases and appealable agency actions heard by an independent administrative law judge as provided in articles 6 and 10 of this chapter.
 12. May have administrative hearings governed by uniform administrative appeal procedures as provided in articles 6 and 10 of this chapter and may appeal a final administrative decision by filing a notice of appeal pursuant to title 12, chapter 7, article 6.
 13. May have the Lottery approve or deny the person's license application within a predetermined period of time as provided in article 7.1 of this chapter.
 14. Is entitled to receive written notice from the Lottery on denial of a license application:
 - a. That justifies the denial with references to the statutes or rules on which the denial is based as provided in section 41-1076.
 - b. That explains the applicant's right to appeal the denial as provided in section 41-1076.
 15. Is entitled to receive information regarding the license application process before or at the time the person obtains an application for a license as provided in sections 41-1001.02 and 41-1079.
 16. May receive public notice and participate in the adoption or amendment of agreements to delegate Lottery functions, powers or duties to political subdivisions as provided in section 41-1026.01 and article 8 of this chapter.
 17. May inspect all rules and substantive policy statements of the Lottery, including a directory of documents, in the office of the Lottery director as provided in section 41-1091.

18. May file a complaint with the office of the ombudsman-citizens aide to investigate administrative acts of agencies as provided in chapter 8, article 5 of this title.
 19. Unless specifically authorized by statute, may expect the Lottery to avoid duplication of other laws that do not enhance regulatory clarity and to avoid dual permitting to the extent practicable as prescribed in section 41-1002.
- B. A Lottery investigator, auditor, or other representative who enters any premise of a regulated person for the purpose of conducting an inspection or audit shall, unless otherwise provided by law:
1. Present photo identification on entry of the premises.
 2. On initiation of the inspection or audit, state the purpose of the inspection or audit and the legal authority for conducting the inspection or audit.
 3. Disclose any applicable inspection or audit fees.
 4. Afford an opportunity to have an authorized on-site representative of the regulated person accompany the Lottery inspector, auditor or representative on the premises, except during confidential interviews.
 5. Provide notice of the right to have on request:
 - a. Copies of any original documents taken by the Lottery during the inspection or audit if the agency is permitted by law to take original documents.
 - b. A split of any samples taken during the inspection if the split of any samples would not prohibit an analysis from being conducted or render an analysis inconclusive.
 - c. Copies of any analysis performed on samples taken during the inspection.
 - d. Copies of any documents to be relied on to determine compliance with licensure or regulatory requirements if the Lottery is otherwise permitted by law to do so.
 6. Inform each person whose conversation with the Lottery inspector, auditor or representative during the inspection or audit is tape recorded that the conversation is being tape recorded.
 7. Inform each person who is interviewed during the inspection or audit that:
 - a. Statements made by the person may be included in the inspection or audit report.
 - b. Participation in an interview is voluntary, unless the person is legally compelled to participate in the interview.
 - c. The person is allowed at least twenty-four hours to review and revise any written witness statement that is drafted by the Lottery inspector, auditor or representative and on which the Lottery inspector, auditor or representative requests the person's signature.
 - d. The Lottery inspector, auditor or representative may not prohibit the regulated person from having an attorney or any other experts in their field present during the interview to represent or advise the regulated person.
 8. On initiation of an audit or an inspection of any premises of a regulated person, an Lottery inspector, auditor or representative shall provide the following in writing:
 - a. The rights described in 1 through 7 above.
 - b. The name and telephone number of a contact person who is available to answer questions regarding the inspection or audit.
 - c. The due process rights relating to an appeal of a final decision of the Lottery based on the results of the inspection or audit, including the name and telephone number of a person to contact within the Lottery and any appropriate state government ombudsman.
 - d. A statement that the Lottery inspector, auditor or representative may not take any adverse action, treat the regulated person less favorably or draw any inference as a result of the regulated person's decision to be represented by an attorney or advised by any other experts in their field.
 - e. A notice that if the information and documents provided to the Lottery inspector, auditor or representative become a public record, the regulated person may redact trade secrets and proprietary and confidential information unless the information and documents are confidential pursuant to statute.
 - f. The time limit or statute of limitations applicable to the right of the Lottery inspector, auditor or representative to file a compliance action against the regulated person arising from the inspection or audit, which applies to both new and amended compliance actions.
 9. A Lottery inspector, auditor or representative shall obtain the signature of the regulated person or on-site representative of the regulated person on the writing required in 8 above, indicating that the regulated person or on-site representative of the regulated person has read the writing prescribed in section 41-1009, subsection B and section 41-1001.01, subsection C, if applicable, and is notified of the regulated person's or on-site representative of the regulated person's inspection or audit and due process rights. If a regulated person or on-

site representative of the regulated person is not at the site or refuses to sign the writing prescribed in section 41-1009, subsection B and section 41-1001.01, subsection C, if applicable, the Lottery inspector, auditor or representative shall note that fact on the writing prescribed in section 41-1009, subsection B and section 41-1001.01, subsection C, if applicable.

10. When the Lottery conducts an inspection the Lottery inspector, auditor or representative shall give a copy of the inspection report to the regulated person or on-site representative of the regulated person either:
 - a. At the time of the inspection or
 - b. Within thirty working days after the inspection.
11. The inspection report shall contain deficiencies identified during an inspection. Unless otherwise provided by state or federal law, the Lottery shall provide the regulated person an opportunity to correct the deficiencies unless the Lottery documents in writing as part of the inspection report that the deficiencies are:
 - a. Committed intentionally.
 - b. Not correctable within a reasonable period of time as determined by the Lottery.
 - c. Evidence of a pattern of noncompliance.
 - d. A risk to any person, the public health, safety or welfare or the environment.
12. A Lottery decision pursuant to an 11 above is not an appealable Lottery action.
13. At least once every month after the commencement of the inspection, the Lottery shall provide a regulated person with an update on the status of any Lottery action resulting from an inspection of the regulated person. The Lottery is not required to provide an update after the regulated person is notified that no Lottery action will result from the Lottery inspection or after the completion of Lottery action resulting from the Lottery inspection.

A complaint may be lodged with:

Sherri L. Zendri
Director of Legal Services
Arizona Lottery
4740 E. University Drive
Phoenix, AZ 85034
480-921-4401
szendri@azlottery.gov

Complaints may also be lodged with the Office of Ombudsman-Citizens Aide
as provided in A.R.S. §§ 41-1371 to 1383:

Arizona Ombudsman-Citizens' Aide
3737 N. 7th Street, Suite 209
Phoenix AZ 85014
(602) 277-7292
1-800-872-2879 (Arizona outside Phoenix metro area)
Fax: (602) 277-7312
e-mail at: ombuds@azoca.gov

For a complete recitation of your rights, refer to A.R.S. § 41-1001.01 and § 41-1009. The Arizona Revised Statutes may be found at <http://www.azleg.gov/ArizonaRevisedStatutes.asp>.