

CHAPTER 22
MANUFACTURERS AND DISTRIBUTORS

491—22.1 to 22.9 Reserved.

491—22.10(99F) Licensing of manufacturers and distributors of implements of gambling games or implements of gambling. It is unlawful for any person or entity to be involved in operating, carrying on, conducting or maintaining any form of manufacture, sale or distribution of any gambling device for use or play in Iowa without having first procured and maintained all required federal and state licenses.

22.10(1) *Manufacturer's license.* A manufacturer's license is required of any entity that designs, assembles, fabricates, produces, constructs or otherwise prepares a product, or a component part of a product, or any implement of gambling usable in the lawful conduct of gambling games pursuant to Iowa Code chapter 99F. A separate distributor's license shall be required if a manufacturer distributes gambling devices or associated gambling equipment to a licensee authorized to conduct gambling games pursuant to Iowa Code chapter 99F.

22.10(2) *Distributor's license.* A distributor's license is required of any entity that sells, markets or otherwise distributes gambling devices or associated gambling equipment which is usable in the lawful conduct of gambling games to a licensee authorized to conduct gambling games pursuant to Iowa Code chapter 99F.

491—22.11(99F) Economic impact. In considering whether a manufacturer or distributor of a new device will be licensed, the commission shall give due consideration to the economic impact of the new device and whether its revenue potential warrants the investigative time and effort required to maintain effective control over the device.

491—22.12(99F) Licensing standards. Standards which may be considered when determining the qualifications of an applicant may include, but are not limited to: financial stability, business ability and experience, good character and reputation of the applicants, as well as all directors, officers, partners and employees, integrity of financial backers and any effect on the Iowa economy.

491—22.13(99F) Application procedure. Application for manufacturer's or distributor's license shall be made to the commission for approval by the administrator. In addition to the application, the following must be completed and presented when the application is filed:

22.13(1) Administrator approval of ownership interest, directors or officers of licensees.

a. An applicant or licensee shall notify the administrator of the identity of each director, corporate officer and owner, partner, joint venturer, trustee or any other person who has any beneficial interest of 5 percent or more, direct or indirect, in the business entity. For any of the above, as required by the administrator, the applicant or licensee shall submit background information on forms supplied by the division of criminal investigation and any other information the administrator may require.

For purposes of these rules, beneficial interest includes all direct and indirect forms of ownership or control, voting power, or investment power held through any contract, lien, lease, partnership, stockholding, syndication, joint venture, understanding, relationship (including family relationship), present or reversionary right, title or interest, or otherwise.

b. For ownership interests of less than 5 percent, the administrator may request a list of these interests. The list shall include names, percentages owned, addresses, social security numbers, and dates of birth. The administrator may request the same information required of those individuals in paragraph "a" above.

22.13(2) Investigative fees.

a. *Advance payment.* The department of public safety may request payment of the investigative fee in advance as a condition precedent to beginning investigation.

b. *Payment required.* The administrator will not take final action with respect to any application until all investigative fees have been paid in full.

22.13(3) A bank or cashier's check made payable to the Iowa Racing and Gaming Commission for the annual license fee as follows:

a. A manufacturer's license shall be \$250.

b. A distributor's license shall be \$1,000.

22.13(4) A copy of each of the following:

a. Articles of incorporation and certificate of incorporation, if the applicant is a corporation.

b. Partnership agreement, if the business entity is a partnership.

c. Trust agreement, if the business entity is a trust.

d. Joint venture agreement, if the business entity is a joint venture.

e. List of employees who may have contact with persons within the state of Iowa, of the aforementioned.

22.13(5) A copy of each of the following where applicable:

a. Purchase agreement(s).

b. Lease agreement(s).

22.13(6) Supplementary information. Each applicant shall promptly furnish the administrator with all additional information pertaining to the application, or the applicant, which the administrator may require. Failure to supply the information requested within five days after the request has been received by the applicant shall constitute grounds for delaying consideration of the application.

22.13(7) Any and all changes in the licensee's legal structure, directors, officers, or the respective ownership interests must be promptly filed with the administrator.

22.13(8) The administrator may deny, suspend or revoke the license of an applicant or licensee in which a director, corporate officer, or holder of a beneficial interest includes or involves any person or entity which would be, or is, ineligible in any respect, such as through want of character, moral fitness, financial responsibility, professional qualifications or due to failure to meet other criteria employed by this administrator, to participate in gaming regardless of the percentage of ownership interest involved. The administrator may order the ineligible person or entity to terminate all relationships with the licensee or applicant, including divestiture of any ownership interest or beneficial interest at acquisition cost.

22.13(9) Disclosure. Disclosure of the full nature and extent of all beneficial interests may be requested by the administrator and shall include the names of individuals and entities, the nature of their relationships, and the exact nature of their beneficial interest.

22.13(10) Public disclosure. Disclosure is made for the benefit of the public, and all documents pertaining to the ownership filed with the administrator shall be available for public inspections.

491—22.14(99F) Temporary emergency license certificates.

22.14(1) A temporary license certificate may be issued at the discretion of the administrator.

22.14(2) Temporary licenses—period valid. Upon submission of reasons why a temporary license certificate should be issued, the administrator may grant the certificate. Any certificate issued at the discretion of the administrator shall only be valid for a maximum of 90 calendar days from the date of issue.

Failure to obtain a permanent license within the designated time may result in the automatic revocation of the license eligibility, and may result in a fine or suspension for the affiant that has failed to comply.

491—22.15(99F) Inspections, investigation of gambling devices.

22.15(1) *Approval of gambling devices.* Prior to offering to distribute, operate or sell a gambling device in the state of Iowa, a manufacturer or distributor must request the administrator to inspect, investigate and approve the gambling device. The request for inspection, investigation and approval must include the following:

a. One copy each of prints, schematics, block diagram, circuit analysis and a complete explanation of the method of operation, pay procedure, odds determination and all or any other pertinent information of the device.

b. Three copies each of the following, where applicable:

- (1) Purchase agreement(s).
- (2) Lease agreement(s).
- (3) Bill(s) of sale.
- (4) Management agreement(s).
- (5) Participation agreement(s).

Prototype testing in other jurisdictions may be accepted as meeting the provisions of this subrule. However, the administrator reserves the right to require prototype testing.

22.15(2) *Transportation of gambling devices for testing.* The administrator may require transportation of the gambling device to the offices of the Iowa racing and gaming administrator or to such other location as the administrator might direct for inspection or investigation. This inspection or investigation may include the entire dismantling of the device. The administrator may designate a third party to receive the payment for inspection and investigation costs. The cost of any inspection, testing or investigation, including the time and material required to make the inspection, test or investigation, shall be borne by the applicant.

22.15(3) *Trial period.* Upon completing inspection and investigation of a gambling device, the administrator may require up to 180-day trial period to test the gambling device in a licensed gaming establishment. During the trial period, minor changes in the operation or design of the gambling device may be made with prior approval of the administrator. During the trial period, the manufacturer shall not be entitled to receive revenue of any kind whatsoever from the operation of that gambling device.

491—22.16(99F) Methods of operation.

22.16(1) Responsibility for assembly. The responsibility for final assembly and initial operation of a gambling device in the manner approved by the administrator rests either with the manufacturer or distributor. Changes in the manner of final assembly or initial operation of a gambling device will be deemed unsuitable unless prior to the institution of the change the manufacturer or distributor has obtained approval from the administrator in accordance with the following procedures:

a. Any request for changes to be made in gambling devices shall be submitted to the administrator for prior approval. Accompanying the request for a change, where appropriate, or when requested, must be a print schematic, block diagram or machine analysis which contains details of the proposed change. Further, a reason for the change must be set forth.

b. In emergency cases, when a change is deemed necessary to prevent cheating or malfunction, verbal approval may be requested of the administrator prior to making the change. This approval must be followed within 15 days by a written request noting the verbal approval and containing the additional material as described in paragraph 22.25(1) "a."

22.16(2) Public notice. All gaming devices, which include any mechanical, electrical, electronic device or machines used in connection with gaming, shall clearly represent its rules of play and payoff schedule to the playing public.

Each device shall operate and play in accordance with the representation made to the administrator and the public at all times.

491—22.17(99F) Appearance of applicant. The administrator may appoint a board which has the authority to summon any person named in an application to appear and testify at such time and place as may be designated. All such testimony must be under oath and embrace any matter which the board may deem relevant to the application. Failure to so appear and testify fully at the time and place designated, unless excused, shall constitute grounds for denial of the application without further consideration by the commission.

491—22.18(99F) Record keeping.

22.18(1) Record storage required. Distributors and manufacturers shall maintain, in a place secure from theft, loss or destruction, adequate records of business operations which shall be made available to the administrator or administrator's designee upon request. These records shall include:

a. All correspondence with the administrator and other governmental agencies on the local, state, and federal level.

b. All correspondence between the licensee and any of its customers who are applicants or licensees under Iowa Code chapter 99F.

c. Copies of all promotional material and advertising.

d. A personnel file on each employee of the licensee, including sales representatives.

e. Financial records of all transactions with excursion gambling boat licensees and all other licensees under these regulations.

22.18(2) Records retention. The records listed in "a" above shall be held for at least five years. A permanent personnel file shall be maintained for each employee for ten years following the separation of the employee from employment, unless a claim is filed which identifies the state as liable, in which case the file will be maintained until the claim is settled.

491—22.19(99F) Disciplinary procedures.

22.19(1) Unauthorized modifications. Any changes or modifications found in a gambling device or its circuitry that have not been approved by the administrator will be cause for sealing or seizing any or all of the gambling devices manufactured or distributed by a licensee and, further, will be cause for inviting disciplinary penalties which include limiting, conditioning, restricting, suspending or revoking the license, fining the licensee, or a combination of any of the above.

22.19(2) Before all machines of a manufacturer or distributor are seized, the administrator shall make a reasonable effort to determine if the change has occurred in all or in part of the machines and provide the opportunity for an investigative hearing.

22.19(3) Investigative hearing. Efforts will be made to provide an opportunity for an investigative hearing as soon as possible when devices are sealed or seized. If no cause is found, devices will be unsealed or returned to the licensee immediately.

491—22.20(99F) Violation of laws or regulations. Violation of any provision of any laws of the state of Iowa or of the United States of America or of any administrative rules of the commission may constitute an unsuitable method of operation, subjecting the licensee to limiting, conditioning, restricting, revoking, suspending the license, fining the licensee or any combination of the above.

491—22.21(99F) Competition. The administrator shall have the power to regulate, control and prevent economic concentration in gaming operations and in gaming service industries so as to encourage and preserve competition.

491—22.22(99F) Consent to inspections, searches and seizures. Each manufacturer or distributor licensed under this chapter shall consent to inspections, searches or seizures deemed necessary by the administrator and authorized by law in order to enforce licensing requirements.

491—22.23(99F) Withdrawal of application. A written notice of withdrawal of application may be filed by an applicant at any time prior to final action. No application shall be permitted to be withdrawn unless the administrator determines the withdrawal to be in the public interest. No fee or other payment relating to any application shall become refundable by reason of withdrawal of the application.

These rules are intended to implement Iowa Code chapter 99F.

[Filed 9/28/90, Notice 5/16/90—published 10/17/90, effective 11/21/90]

[Filed 2/15/91, Notice 1/9/91—published 3/6/91, effective 4/10/91]

[Filed 12/6/91, Notice 10/16/91—published 12/25/91, effective 1/29/92]

[Filed 2/12/92, Notice 1/8/92—published 3/4/92, effective 4/8/92]

[Filed 5/22/92, Notice 4/15/92—published 6/10/92, effective 7/15/92]

[Filed 10/30/92, Notice 9/16/92—published 11/25/92, effective 1/6/93]

[Filed 7/22/94, Notice 6/8/94—published 8/17/94, effective 9/21/94]

[Filed 5/18/95, Notice 3/29/95—published 6/7/95, effective 7/12/95]

[Filed 3/6/98, Notice 12/17/97—published 3/25/98, effective 4/29/98]