

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 5:020. License agent requirements and responsibilities.

RELATES TO: KRS 150.175, 150.990

STATUTORY AUTHORITY: KRS 150.195

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.195 requires the department to promulgate administrative regulations governing the issuance of licenses and permits. This administrative regulation establishes the requirements for issuing licenses and permits, electronically reporting license and permit sale data and revenue, and suspending or revoking license agent status.

Section 1. Issuing Licenses and Permits.

(1) A license agent shall issue a license or permit to a person who completes the registration process with the agent and pays the appropriate license or permit fee as established in 301 KAR 3:022 and applicable issuance and operational fee as established in this administrative regulation.

(2) A license agent shall not knowingly enter false information while processing a license, permit or other transaction.

Section 2. Agent Issuance Fee and Depositing of Funds.

(1) The license agent shall retain as an issuance fee :

(a) Three (3) percent of the total sale ; or

(b) Print or display, on the initial license or permit issued, a coupon or advertisement, pursuant to a department sponsorship as established in KRS 45A.097, in lieu of retaining the applicable issuance fee.

(2) A license agent shall promptly deposit transaction fees, less the issuance fee established in subsection (1) of this section, into the account established in 301 KAR 5:010.

(3) License Agents are prohibited from requiring or encouraging particular payment methods.

Section 3. Electronic Transfer of Funds to the Department.

(1) The department or its vendor shall provide each license agent with a schedule of dates when electronic fund transfers will be initiated.

(2) On the day of a scheduled electronic fund transfer, a license agent shall have sufficient funds in the account to cover the amount of the transfer.

(3) A license agent shall contact the department or its vendor prior to the day of a scheduled electronic fund transfer if there are any discrepancies or concerns that need to be resolved.

Section 4. Voiding Licenses and Permits.

(1) A license agent may, within four (4) hours of issuing a license or permit, void a license or permit if the purchaser::]

(a) Discovers that the issued license or permit is incorrect;

(b) .] Will not pay for the license or permit; or

(c) Refuses to accept the license or permit.

(2) An agent shall:

(a) Ensure that a license or permit established in subsection (1) of this section is voided in the system; and

(b) Destroy all paper copies of the voided license or permit.

(3) Refund license or permit cost as established in 301 KAR 5:030, section 3(2)(a).

Section 5. Suspensions and Revocation of Agent Status.

- (1) In addition to any penalties provided by KRS 150.990, and except as established in subsection (2) of this section, the department shall suspend for one (1) to five (5) years a license agent who twice in a twelve (12) month period:
 - (a) Causes an electronic fund transfer failure; or
 - (b) Violates a provision of:
 1. KRS 150.195; or
 2. An administrative regulation adopted pursuant to KRS 150.195.
- (2) The department shall permanently revoke the agent status of a license agent who:
 - (a) Commits an offense for which the license agent has been previously suspended;
 - (b) Does not deposit the required funds in his agent bank account within twenty-four (24) hours of notification by the department of insufficient funds;
 - (c) Fails to notify the department prior to closing his agent bank account;
 - (d) Closes his business seasonally without notifying the licensing section supervisor in writing by surface mail, fax, or e-mail and settling his account; or
 - (e) Knowingly issues a license or permit containing false information.
- (3) Before issuing a final order suspending or revoking the status of an agent, the department shall:
 - (a) Notify the agent by registered mail that the agent's status is under review; and
 - (b) Afford the agent the opportunity for an informal meeting with the commissioner or his designee to show cause why his agent status should not be suspended or revoked.
- (4) A suspension or revocation shall become effective upon receipt of notification from the department.
- (5) A suspended or revoked agent shall:
 - (a) Allow the department access to financial records dealing with license and permit sales; and
 - (b) Immediately pay all funds owed to the department.

Section 6. Appeal of Suspension or Revocation of Agent Status.

- (1) A license agent who wishes to appeal a suspension or revocation shall request a hearing in writing, postmarked or delivered in person to the department no later than ten (10) days after notification of suspension or revocation.
- (2) Upon receipt of the request for a hearing, the department shall conduct a suspension or revocation hearing pursuant to KRS Chapter 13B and KRS 150.195.
- (3) The hearing officer's findings of fact, conclusions of law, and recommended order shall be considered by the department's commission at the commission meeting immediately following the deadline for the parties' exceptions pursuant to KRS Chapter 13B.
- (4) The department's commission shall issue a final order pursuant to KRS Chapter 13B.

RICH STORM, Commissioner

APPROVED BY AGENCY: January 13, 2023

FILED WITH LRC: January 13, 2023 at 11:35 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 28, 2023, at 1:00pm, at KDFWR Administration Building, 1 Sportsman's Lane, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed

administrative regulation. Written comments shall be accepted through March 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, (502) 564-3400, fax: (502) 564-0506, email: fwpubliccomments@ky.gov