

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amended at ARRS Committee)

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

RELATES TO: KRS 45.345, 64.840, 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 5:022 and applicable agent fees 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 Fees and Depositing of Funds.

- (1) If applicable, a license agent shall be permitted to charge and retain:
 - (a) An agent commission of three (3) percent of the product price; and
 - (b) Payment processing fees consistently charged by license agents for non-cash payments for all products, both department products and non-department products, through the ordinary course of business, including those identified in KRS 45.345(2) for state agencies, KRS 64.840(3) for county agencies, and any fees incurred by license agents that are private entities.
- (2) A license agent shall deposit the full amount of the product price into the account established in 301 KAR 5:010.

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) A license agent shall 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. A requirement of KAR Title 301.

(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 the 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 the agent bank account;

(d) Closes the business seasonally without notifying the licensing section supervisor in writing by surface mail, fax, or e-mail and settling the 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 the commissioner's designee to show cause why the 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. If the suspension or revocation decision is upheld by the commission, the agent may then appeal the decision to the Franklin Circuit Court. An appeal shall be in accordance with KRS Chapter 13B and KRS 150.195.

(4) The department's commission shall issue a final order pursuant to KRS Chapter 13B.

(22 Ky.R. 1748; Am. 2000; eff. 5-16-1996; 25 Ky.R. 600; 1035; eff. 11-18-1998; 26 Ky.R. 2025; 27 Ky.R. 79; eff. 7-17-2000; 28 Ky.R. 920; eff. 12-19-2001; 29 Ky.R. 521; 929; eff. 10-9-2002; 30 Ky.R. 2345; 31 Ky.R. 33; eff. 7-14-2004; 44 Ky.R. 1394, 1822; eff. 3-9-2018; 49 Ky.R. 1662, 2093; eff. 6-8-2023; 50 Ky.R. 1368, 1886; eff. 6-4-2024.)

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