

### **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. This administrative regulation establishes the requirements for issuing licenses, electronically reporting license sale data and license revenue, and suspending or revoking license agent status.

#### Section 1. Issuing Licenses.

- (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.
- (2) A license agent shall not knowingly enter false information while processing a license.

#### Section 2. Agent Commission and Depositing of Funds.

- (1) The license agent shall retain as a commission:
  - (a) Fifty (50) cents for each Peabody permit issued pursuant to 301 KAR 4:100; and
  - (b) Fifty (50) cents each for other transactions.
- (2) A license agent shall promptly deposit transaction fees, less the commissions established in subsection (1) of this section, into the bank account established in 301 KAR 5:010.
- (3) A license agent may elect to print, on any license or permit issued, a coupon or advertisement, pursuant to a department sponsorship established in KRS 45A.097, in lieu of retaining the applicable commissions established in subsection (1) of this section.

#### Section 3. Electronic Transfer of Funds to the Department.

- (1) The department 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 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.

- (1) A license agent may void a license if:
  - (a) The license does not print correctly; or
  - (b) After the license is printed, the purchaser:
    1. Discovers that the issued license is incorrect;
    2. Will not pay for the license; or
    3. Refuses to accept the license.
- (2) An agent shall:
  - (a) Ensure that a license established in subsection (1) of this section is voided in the system; and
  - (b) Destroy all paper copies of the voided license or permit.

#### 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 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 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.
- (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. 12-19-01; 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.)