

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

301 KAR 5:010. License agent applications and agreements.

RELATES TO: KRS 150.175

STATUTORY AUTHORITY: KRS 150.195

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.195 requires the department to provide for the control of the design, issuance, distribution, and other matters relating to licenses and permits issued by the department. This administrative regulation establishes the application procedures for becoming a department license agent.

Section 1. License Agent Applications and Agreements.

(1) Before receiving authorization to serve as license agents, persons, government entities other than the department, businesses, or organizations shall:

- (a) Complete and submit a License Agent Application Form;
- (b) Enter into a formal contract with the department by agreeing to the provisions of, and signing, the License Agent Contractual Agreement, 2023 Edition; and
- (c) Complete an Electronic Funds Transfer Request Form that authorizes the department or its vendor to make electronic fund transfers from an account into which the license agent shall deposit the proceeds from transactions, or establish and agree upon the process for license agent-initiated fund transfers to the department or vendor.

(2) State agencies, other than the department, serving as license agents shall remit payment through the state accounting system.

(3) The department shall not appoint as an agent a business that does not:

- (a) Possess a valid federal identification number;
- (b) Possess a Kentucky sales tax number, except if it is outside Kentucky; and
- (c) Post a surety bond of \$5,000 if it is an out-of-state, private business.

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "License Agent Application Form", 2023;
- (b) Electronic Funds Transfer Request Form, 2023; and
- (c) License Agent Contractual Agreement, October 2023 Edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or online at:

- (a) https://fw.ky.gov/Licenses/Documents/LICENSE_AGENT_APPLICATION_FORM.pdf for the "License Agent Application Form";
- (b) https://fw.ky.gov/Licenses/Documents/EFT_TRANSFER_FORM.pdf for the "Electronic Fund Transfer Authorization Form"; and
- (c) <https://fw.ky.gov/Licenses/Documents/licenseagentagreement.pdf> for the "License Agent Contractual Agreement."

RICH STORM, Commissioner

APPROVED BY AGENCY: November 14, 2023

FILED WITH LRC: November 15, 2023 at 10:45 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 31, 2024, at 1:00 p.m., 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 January 31, 2024. 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: 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Gilbert

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This regulation establishes the methods for application and operation of license agents.

(b) The necessity of this administrative regulation:

This regulation is necessary to create a network of license agents to partner with the department to effectuate the sale and distribution of the department's licenses, permits, and other items sold by the department.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 150.195 authorizes the department to name license agents and promulgate regulations to establish which items to be sold, the fees retained by agents, and other matters related to the sale of those items.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This regulation establishes the rules for license agent applications and agreements as authorized in KRS 150.195.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This regulation establishes updated contractual language in the document incorporated by reference.

(b) The necessity of the amendment to this administrative regulation:

The amendment is necessary to update the license agent application and contract process to be consistent with changes in other 301 KAR, Chapter 5 regulations.

(c) How the amendment conforms to the content of the authorizing statutes:

KRS 150.195 authorizes the department to promulgate regulations establishing license agents, the fees retained, and matters relating to license sales.

(d) How the amendment will assist in the effective administration of the statutes:

The amendment will assist in contracting with parties to become and remain license agents consistent with the requirements of the other regulations in 301 KAR, Chapter 5.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

All license agents which currently is numbered at 510 throughout the state.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

The entities will need to complete updated paperwork.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

The cost will be minimal.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The entities will be able to participate as license agents which will increase customer traffic into their establishments and generate a nominal commission of three (3%) of the product price.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

There will no added costs to the agency initially.

(b) On a continuing basis:

There will be no continuing costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The Fish and Game Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase in fees or funding will be necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This regulation does not increase any fees. All related fees are established in 301 KAR 5:020.

(9) TIERING: Is tiering applied?

Tiering is not applied as all entities are treated equally as there is no limitation regarding how many entities can be license agents or participate in the couponing sponsorship opportunity.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

County clerks, State Parks, the Department of Fish and Wildlife Resources and any other divisions that choose to participate as license agents.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 150.195

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

This regulation will not directly impact the agency's expenditures or revenues.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This amendment will not directly impact any revenues initially.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This amendment will not directly impact any revenues initially.

(c) How much will it cost to administer this program for the first year?

This amendment will not increase any costs to administer the program.

(d) How much will it cost to administer this program for subsequent years?

This amendment will not increase any costs to administer the program.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

This regulation will not result in any direct cost savings.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

This regulation will not result in any direct cost savings.

(c) How much will it cost the regulated entities for the first year?

This regulation will not impact the cost to entities.

(d) How much will it cost the regulated entities for subsequent years?

This regulation will not impact the cost to entities.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This amendment will not have a direct economic impact. The economic portions of the license agent program are found in other regulations.