Memo

Date: February 23, 2018
To: Oregon State Lottery Commissioners
From: Erin Seiler, Rules and Policy Analyst
Subject: Informational: OAR Project – Division 10: Changes in Lottery games definitions

ISSUE
To attract new players and increase revenue, the Oregon Lottery has been working for more than a year to determine how to offer games on mobile devices and introduce games that combine a predominance of chance with some level of skill.

BACKGROUND
The Oregon Lottery Commission has the constitutional authority to define a Lottery but the game must meet the constitutional description of a game “whereby prizes are distributed using any existing or future methods among adults persons who have paid for tickets or shares in that game.” The Commission may define a “gaming device” other than a Video Lottery Game Terminal (VLT) to promote lottery games, by rule.

To allow for gaming on electronic devices, other than a VLT, and to accommodate gaming in Oregon with games that have a predominance of chance with an element of skill, it has been determined that, through rule, the Commission can adopt new definitions for “Gaming devices” and “Gaming Device game”.

To achieve the Lottery objective of offering games on personal mobile devices absent of the statutory restrictions placed upon VLTs, a new definition that would define “gaming device” separate from VLT in statute and rule is necessary. Therefore, the proposed rule differentiates from VLT, which are fixed, publicly owned terminals, and provides the ability to introduce new game device technology. It will allow for growth and interchangability with advancements in game technology.

To accommodate games with a predominance of chance and an element of skill, and allow for the ability to introduce new, future game variations with the advancement of technology, a new definition for a game that could be played on either an gaming device or VLT is necessary. This definition will allow the Commission to place a game that has a predominance of chance with an element of skill on either a gaming device or a VLT.
**DRAFT RULES**
Based upon due diligence by the Oregon Lottery and Oregon State Police; review by the Oregon Department of Justice; and strategic business and revenues goals of the Commission, the following draft rules have been prepared and will be Noticed for Permanent Rulemaking:

Oregon State Lottery Administrative Rules, Chapter 177, Division 10 - General Provisions:
- **New Definitions:**
  - “Gaming device” - means any type of equipment or method, including any electronic or manual equipment or combination thereof, or video device, on which a game authorized by the Oregon Lottery Commission is played. The device must display the amount that may be won, the amount wagered and any play credits available to the player. A gaming device may include a device that is intended primarily for personal or business. A gaming device does not include a Video Lottery game terminal;
  - “Gaming device game” (Non-VLT) - means any procedure authorized by the commission that is a game on a gaming device, whereby the opportunity to win includes a wagering process using a methodology that is based predominantly on chance to determine the outcome of the wager. The outcome of the wager may involve skill, as long as the element of chance plays a predominant role. The methodology used must be testable by an independent testing laboratory.
  - “Video LotterySM game” means any procedure authorized by the Oregon Lottery Commission that is a game on a Video LotterySM game terminal, whereby the opportunity to win includes a wagering process using a methodology that is based predominantly on chance to determine the outcome of the wager. The outcome of the wager may involve skill, as long as the element of chance plays a predominant role. The methodology used must be testable by an independent testing laboratory.

**ACTION ITEMS**
We are here to inform the Commission that we are moving forward with the proposed changes to Oregon State Lottery rules. The next steps in the process are:
- Preparing Notice of Permanent Rulemaking – March 1
- Public Hearing on Proposed Permanent Rules - April 18
- Commission Decision on Proposed rules – April 26