



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 177
OREGON STATE LOTTERY

FILED

12/09/2025 10:38 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Clarifying financial responsibility for lost, stolen, defective, damaged, or destroyed Scratch-it tickets

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/30/2026 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Salem, OR 97301

Filed By:
Kris Skaro
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 01/20/2026

TIME: 10:00 AM - 12:00 PM

OFFICER: Kris Skaro

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 971-323-0081

CONFERENCE ID: 35736893

SPECIAL INSTRUCTIONS:

Written comment can be submitted to Kris Skaro at lottery.adminrules@lottery.oregon.gov until 5 p.m. on Friday, January 30, 2026.

The public may also comment at a virtual hearing over Microsoft Teams. Click the meeting URL above to join online on your computer, tablet, or through the Teams app. You can also join by phone using the call-in information above.

If you have questions about how to attend the hearing or comment, please contact Kris Skaro at lottery.adminrules@lottery.oregon.gov or 503-540-1181.

NEED FOR THE RULE(S)

Lottery needs to amend OAR 177-050-0037 to clarify that retailers are financially responsible for all Scratch-it tickets in their possession—including tickets that are lost, stolen, damaged, or destroyed—except in cases of manufacturer defect or damage occurring during shipment, delivery, or dispensing.

Background & Discussion:

Under the current rule, Lottery may credit or waive charges for Scratch-it tickets that are stolen, damaged, or destroyed

through no fault of the retailer. However, the credit process is time-consuming for both Lottery staff and retailers and typically results in minimal financial reimbursement. For example, Lottery issued only two credits for stolen tickets in the past year.

To reduce administrative burden, streamline operations, and clarify financial responsibility for tickets, Lottery needs to amend OAR 177-050-0037 to eliminate the credit or non-billing option for lost, stolen, damaged, or destroyed tickets. The revised rule would clarify that retailers are financially responsible for such tickets, with limited exceptions like manufacturer defects and damage or destruction that occurs during shipment, delivery, or dispensing. The rule will also be updated to specify timelines for:

- Returning defective or damaged tickets for credit.
- Reporting lost or stolen tickets so Lottery can mark them as ineligible for prize payment.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Lottery reviewed the 2020 Lottery retailer contract and data on reported lost or stolen tickets, stolen ticket affidavits, and stolen ticket credits issued to retailers. They are available upon request to Kris Skaro at lottery.adminrules@lottery.oregon.gov or 503-540-1181.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

Lottery does not have any reason to believe the proposed rule changes would affect racial equity in Oregon.

FISCAL AND ECONOMIC IMPACT:

Lottery estimates amending OAR 177-050-0037 as proposed in this notice will have a small positive fiscal impact on the Lottery but expects no impact to the amount of Lottery revenue transferred to the state and thus no impact to other state agencies or units of local government. A Lottery Scratch-it ticket retailer who would have otherwise not been billed for tickets or who would have otherwise received full or partial credit for lost, stolen, damaged, or destroyed tickets will be negatively impacted by the changes. See Lottery's cost of compliance statement for more information.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) Identify any state agencies, unit of local government, and members of the public likely to be economically affected by the rule(s).

State Agencies & Units of Local Government:

The Lottery estimates amending OAR 177-050-0037 will have a small positive fiscal impact on the Lottery. In 2025, Lottery has issued three credits to retailers for stolen tickets worth \$5,230. If the proposed rule is adopted, Lottery would save any money that would have otherwise been credited to a retailer, but this is unlikely to be a significant amount over the course of any year.

The Lottery estimates no fiscal impact to any other state agencies or units of local government.

The Lottery estimates a small negative fiscal impact to a Lottery Scratch-it ticket retailer who would have otherwise

been eligible to not be charged for tickets or to receive full or partial credit for stolen, damaged, or destroyed tickets. This amount will vary depending on the circumstances and the amount of the loss. The maximum amount of the credit for stolen tickets under the current rule is \$2,500. For context, the three credits Lottery issued to retailers for stolen credit in 2025 were for \$2,500 to two retailers and \$230 to one retailer.

(2) Effect on Small Businesses:

(a) Estimate the number and type of small businesses subject to the rule(s);

Approximately 1,867 businesses contract with the Lottery to sell Scratch-it tickets. Lottery estimates that most but not all of these businesses are small businesses as defined in ORS 183.310. The type of business that sell Scratch-it tickets are grocery stores, gas stations, convenience stores, bars, taverns, pizzerias, bowling alleys, and the like.

(b) Describe the expected reporting, recordkeeping, and administrative activities and cost required to comply with these rule(s);

Currently, OAR 177-050-0037 imposes reporting, recordkeeping, and administrative activities and costs on retailers, such as returning or reporting defective, damaged, or destroyed tickets to Lottery within 30 days and reporting stolen tickets to the Lottery and local law enforcement within 48 hours of discovering the theft.

The proposed rule continues to require that a retailer return defective, damaged, or destroyed tickets to the Lottery within 30 days and requires retailers to report lost or stolen tickets to Lottery within 48 hours. The reporting and administrative requirements relating to the stolen ticket credit process are removed, such as the requirement to report the theft to local law enforcement and submit a notarized affidavit to the Lottery.

(c) Estimate the cost of professional services, equipment, supplies, labor, and increased administration required to comply with the rule(s).

The rule does not necessarily place new requirements on retailers but being financially responsible for all tickets in their possession may incentivize a retailer to take more care with their inventory, such as training staff to lock up tickets or obtaining insurance to cover future losses associated with lost, stolen, damaged, or destroyed tickets. These may lead to additional costs for the retailer. We welcome feedback from retailers on this.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Lottery will send the proposed rule to all affected Lottery retailers who sell Scratch-it tickets (most Scratch-it ticket retailers are small businesses) to make them aware of the proposed changes and the opportunity to comment.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Lottery did not consult an administrative rule advisory committee. To obtain input from affected persons on the proposed rule, Lottery will send the proposed rule to all affected Lottery retailers who sell Scratch-it tickets to make them aware of the proposed changes and the opportunity to comment.

AMEND: 177-050-0037

RULE SUMMARY: The Lottery is proposing to amend OAR 177-050-0037 about lost, stolen, defective, damaged, and destroyed Scratch-it tickets to limit and clarify the circumstances under which Lottery will not bill or credit a retailer for lost, stolen, defective, damaged, or destroyed tickets. Under the proposed rule, the retailer is financially responsible for

all tickets in their possession with limited exceptions. This includes responsibility for tickets that are damaged or destroyed through no fault of the retailer (except for defective tickets or tickets damaged or destroyed during shipment, delivery, or dispensing) and for tickets that are lost or stolen regardless of the activation status of the tickets at the time they are lost or stolen.

The draft rule language Lottery is proposing to adopt is provided in this notice. The Lottery may change the rule text after further analysis or in response to information or public comment received during the rulemaking process. The Lottery may also make non-substantive edits during the public rulemaking process to update statutory and rule citations; improve grammar, organization, or ease of reading; or otherwise improve the clarity and accuracy of the rule.

CHANGES TO RULE:

177-050-0037

~~Stolen, Destroyed, and Damaged~~Defective, Damaged, Destroyed, Lost, or Stolen Scratch-It Tickets ¶¶

(1) Defective, Damaged, or Destroyed Tickets: A Lottery retailer will not be billed for non-activated Scratch-itSM tickets that are defective, damaged, or destroyed, or the Lottery may credit a retailer's EFT account for activated Scratch-itSM tickets that are defective, damaged, or destroyed;~~under the following conditions:¶¶~~

~~(a) Manufacturing Defect: The defect is a result of a manufacturing error or damage during shipment; or¶¶~~

~~(b) Reasonable Control: The damage or destruction is due to circumstances beyond the retailer's reasonable control, such as a structure fire, flood, or other natural disaster; and if the defect is a result of a manufacturing error or the damage or destruction occurred during shipment, delivery, or dispensing.¶¶~~

~~(e)~~ Time Limitation: Damaged or defective Scratch-itSM tickets ~~are~~must be returned to the Lottery within 30 days of discovering the damage or defect. When the Scratch-itSM tickets cannot be returned because they are completely destroyed or damaged beyond recognition, within 30 days of when the tickets were destroyed or damaged the retailer must submit, on a form provided by the Lottery, a signed and notarized affidavit which describes the circumstances of how the Scratch-itSM tickets were destroyed or damaged. The Lottery's Finance and Accounting department will review inventory and sales records and confirm the value of the destroyed or damaged Scratch-itSM tickets.¶¶

~~(d)~~ Director's Approval: Credit for defective, damaged, or destroyed Scratch-itSM tickets may be given only upon approval of the Director.¶¶

~~(2) Theft of Activated Tickets: The Lottery may credit a retailer's EFT account for one-half of the uninsured loss of activated Scratch-itSM tickets that are stolen from the retailer's premises subject to the following: or designee.¶¶~~

~~(a2) Loss Amount: The theft results in a loss of \$150 or more of activated Scratch-itSM tickets.¶¶~~

~~(b) Security Measures: The retailer has in place and was using at the time of the theft, reasonable security measures to prevent the theft of Scratch-itSM tickets. The Director will, in the Director's sole discretion, determine if a retailer was using reasonable security measures at the time of the theft. For purposes of this rule, "reasonable security measures" means that at a minimum, the retailer:¶¶~~

~~(A) Approved Dispensers: Keeps Lottery Scratch-itSM tickets in Lottery approved dispensers, ITVMs, or stored in a locked container inaccessible to customers and unauthorized employees if the tickets are not yet being offered for sale;¶¶~~

~~(B) Inventory Control Process: Has an inventory control process in place, including adequate record keeping, Scratch-itSM ticket access controls, and ticket activation controls; and¶¶~~

~~(C) Accounting Procedures: Uses accounting or bookkeeping procedures that alert the retailer to the theft of activated Scratch-itSM tickets within seven business days of the theft.¶¶~~

~~(c) Reporting Requirements: The retailer must:¶¶~~

~~(A) Report the theft to a local law enforcement agency and to the Lottery within 48 hours of discovering the theft. The report must include the game, pack, and Scratch-itSM ticket numbers of the stolen tickets; and¶¶~~

~~(B) Submit to the Lottery a copy of a police report showing the theft was reported to the local law enforcement agency.¶¶~~

~~(d) Retailer Affidavit: The retailer must submit to the Lottery, on an affidavit form provided by the Lottery, a signed and notarized statement:¶¶~~

~~(A) Describing the circumstances of the theft, the game, pack, and Scratch-ItSM ticket numbers of the stolen tickets, the total loss claimed, and a statement whether the retailer is self-insured or is covered by third-party insurance; and¶¶~~

~~(B) The retailer must attach to the statement a copy of any documents substantiating the theft or loss, including, but not limited to, any inventory control records related to the stolen tickets and any financial records showing~~

the monetary loss.¶¶

(e) Third Party Insurance: If the loss is fully covered by third-party insurance, the retailer is not eligible to receive a credit for the stolen tickets. If the loss is not entirely covered by third-party insurance, then the retailer may receive a credit for one-half of the balance of the loss if the retailer provides a letter from the insurance company setting forth the amount of loss claimed by the retailer and the amount paid to the retailer by the insurance company. The retailer must provide any other information needed by the Lottery to determine the amount of insurance coverage and the amount paid to the retailer for the loss.¶¶

(f) Cooperation: The retailer must fully cooperate with the Lottery and provide any documents or information requested. The retailer must cooperate fully in the prosecution of any criminal case resulting from the theft of the tickets or in any civil lawsuit for recovery of the amount of the loss paid to the retailer by the Lottery under this rule.¶¶

(g) Restitution from Criminal Prosecution or Judgment in Civil Action: The Director will not credit the retailer's EFT account for any amount of the loss that a court orders repaid as restitution or that is awarded to the retailer in a civil judgment or settlement. The Director may delay crediting the retailer for the loss claimed until criminal proceedings related to the theft of the tickets are concluded. The Lottery may recover from the retailer any amount ordered as restitution in a criminal case or received by the retailer pursuant to a civil judgment or settlement agreement.¶¶

(h) Employee Theft: In no event will the Director authorize credit to a retailer when the retailer is the victim of employee theft.¶¶

(i) Time Limitation: Notwithstanding the 48-hour reporting requirement of subsection (c) of this section, the Director may authorize a credit upon a showing that the failure to timely report was beyond the retailer's reasonable control. In no event will a retailer receive a credit for a theft that occurred more than 30 days prior to the date that the retailer reported the theft to the Lottery and the local law enforcement agency as set forth in subsection (b) of this section.¶¶

(j) Limit on Credit Amount: In no event may a retailer receive credit for a loss resulting from theft in an amount greater than \$2500 during the term of the retailer contract.¶¶

(3) Theft of Non-Activated Tickets: The Lottery will not bill a retailer for Scratch-itSM tickets received but not activated that are stolen from the retailer's premise if the theft results in the loss of \$150 or more of non-active Scratch-itSM tickets and the retailer complies with the requirements of subsections (2)(b) through (2)(h) of this rule. The limitations set forth in subsections (2)(g) through (2)(j) of this rule apply to the theft of non-activated Scratch-itSM tickets. Theft of Tickets: The retailer must report the loss or theft to the Lottery within 48 hours of discovering the loss or theft. The report must include the game, pack, and Scratch-it ticket numbers of the lost or stolen tickets. The Lottery will bill the retailer for non-activated tickets when they are reported lost or stolen.

Statutory/Other Authority: Or Const, Art XV, § 4(4)(a), ORS 461.120, 461.150, 461.190, 461.210, 461.260, 461.300

Statutes/Other Implemented: Or Const, Art XV, § 4(4), ORS 461.120, 461.150, 461.190, 461.210, 461.260, 461.300