

**238.560 Investigation of complaints -- Administrative actions against violators.**

- (1) The department may investigate allegations of wrongdoing upon complaint or upon its own volition. The department by administrative regulation shall establish procedures for receiving and investigating complaints in an expeditious manner.
- (2) In carrying out its enforcement responsibilities, the department may:
  - (a) Inspect and examine all premises in which or on which charitable gaming is conducted or charitable gaming supplies or equipment are manufactured or distributed;
  - (b) Seize and remove from premises and impound charitable gaming supplies and equipment for the purposes of examination and inspection pursuant to an appropriate court order;
  - (c) Demand access to, inspect, and audit books and records of licensees for the purpose of determining compliance with laws and administrative regulations relative to charitable gaming; and
  - (d) Conduct in-depth audits and investigations, when warranted.
- (3)
  - (a) As used in this subsection, "willful" means that the conduct constituting the violation was committed with intent, not accidentally or inadvertently.
  - (b) The department may take appropriate administrative action against any person licensed under this chapter for any violation of the provisions of this chapter or administrative regulations promulgated thereunder subject to the conditions established by this subsection.
  - (c) The department may deny a license, suspend or revoke a license, issue a cease and desist order, place a license holder on probation, issue a letter of reprimand or letter of warning, and levy a fine. An administrative fine shall not exceed one thousand dollars (\$1,000) for each offense. The department may deny the issuance of a license or a license renewal if the applicant or licensee has failed to pay a fine levied by the department. The department shall by administrative regulation classify types of offenses and the recommended administrative action. The type of action to be taken shall be based on the history of previous violations and the nature, severity, and frequency of the offense. Administrative action authorized in this section shall be in addition to any criminal penalties provided in this chapter or under other provisions of law.
  - (d)
    1. Notwithstanding any other provisions of this section, the department shall review, within two (2) months of receipt, timely filed organization quarterly reports that include payment of the fee due as reflected on the organization quarterly report. If the department discovers reporting errors that are not willful, the department shall, prior to taking any other administrative action, issue a letter of warning to the licensee and allow the licensee thirty (30) days from the issuance of the letter to correct the identified violation. The purpose of this subparagraph is for the department to identify correctable reporting errors in a timely manner, and to notify the licensee of the errors prior to the due date of the next

organization quarterly report so that the errors are corrected and are not repeated in subsequent organization quarterly reports.

2. A review conducted under subparagraph 1. of this paragraph shall not be considered an audit or final review and acceptance of an organization quarterly report and payment. The department shall have four (4) years from the date of filing to fully audit and review an organization quarterly report, and may pursue administrative actions against the licensee related to an organization quarterly report or the information reported on an organization quarterly report within the four (4) year period if violations or errors that are not willful are discovered. This subparagraph shall not be construed to require records that are not needed to audit or review an organization quarterly report to be kept longer than is required elsewhere in this chapter or in any related administrative regulations.
  3. Notwithstanding the provisions of subparagraph 2. of this paragraph, for a violation that is determined to be willful, the department may pursue the administrative actions authorized by this section at any time.
  4. A letter of warning issued under this section shall:
    - a. Identify the violation;
    - b. Describe the corrective action necessary;
    - c. Identify the administrative actions that can be taken if the violation is not addressed; and
    - d. Provide that the person shall have thirty (30) days to correct the action leading to the violation.
- (4) The department may reinstate a license that has been revoked at any time after two (2) years from the date of revocation. A license may be reinstated only upon a finding that the violations for which the license was revoked have been corrected.
  - (5) All departments, divisions, boards, agencies, officers, and institutions of the Commonwealth of Kentucky and all subdivisions thereof, in particular local law enforcement entities, shall cooperate with the department in carrying out its enforcement responsibilities.
  - (6) The department shall report any activity or action which would constitute a criminal offense to the appropriate authorities in the county where the activity or action occurred and to the Attorney General.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 546, effective July 15, 2010. -- Amended 2007 Ky. Acts ch. 120, sec. 2, effective June 26, 2007. -- Amended 2000 Ky. Acts ch. 374, sec. 14, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 331, sec. 12, effective April 10, 1996. -- Created 1994 Ky. Acts ch. 66, sec. 13, effective March 16, 1994.