CHAPTER 217

SELLER OF CHECKS

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217.01 Title. This chapter shall be known and may be cited as the "Seller of Checks Law".

217.02 Definitions. In this chapter, unless the context requires otherwise:

(1) "Authorized agent" is a person who is authorized by a licensee to sell its checks.

(2) "Check" means any check, draft, money order, traveler's check, personal money order or other instrument for the transmission or payment of money.

(2m) "Division" means the division of banking.

(3) "General order" means an order of the division other than a special order.

(4) "Licensee" means a person licensed under this chapter.

(5) "Location" includes each place in this state where business as a seller of checks is conducted, including any office of the licensee and the place of business of any authorized agent of the licensee.

(7) "Personal money order" means any instrument for the transmission or payment of money in relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as the purchaser's or remitter's agent for the receipt, transmission or handling of money, whether such instrument is signed by the seller or by the purchaser or remitter or some other person.

(8) "Sell" means to sell, issue or deliver a check.

(9) "Seller of checks" means a person who, as a service or for a fee or other consideration, engages in the business of selling and issuing checks or the receiving of money for transmission or the transmitting of money, or the transmitting of money to foreign countries.

(10) "Special order" means an order of the division to or affecting a person.

History: 1983 a. 189; 1991 a. 316; 1995 a. 27; 2005 a. 158.

217.03 License required. (1) No person shall, as a service or for a fee or other consideration, engage in the business as a seller of checks without first securing a license from the division to do so.

(2) The licensee shall be liable on checks duly issued for it by each authorized agent and shall furnish each such agent not exempt under s. 217.04 with an authorization in the form approved by the division in lieu of a license from the division, to be displayed in the agent's place of business indicating that it is an authorized agent of the licensee. An agent so authorized by a licensee shall not be required to secure a license.

History: 1991 a. 316; 1995 a. 27.

Wisconsin has a compelling interest in applying statutory regulations to banking activities on Indian reservations. 80 Atty. Gen. 337.

217.04 Exemptions. This chapter does not apply to any of the following:

(1) Banks organized under the laws of this state or authorized to do business in this state with respect to checks sold in a bank.

(2) Credit unions, with respect to checks sold in the credit union office, except as provided in s. 186.113 (22).

(3) Savings and loan associations with respect to checks sold in the savings and loan office, except as provided by s. 215.13 (41).

(4) U.S. post−office money orders.

(5) Savings banks with respect to checks sold in the savings bank office, except as provided under s. 214.04 (20).

History: 1991 a. 221; 1995 a. 151.

217.05 Application and fees. (1) Each application for a license shall be made in writing and under oath to the division and shall contain such information and be in such form as the division prescribes. The application shall state the full name and business address of:

(a) The applicant, if the applicant is an individual.

(b) Every member, if the applicant is a partnership, limited liability company or association.

(c) Every trustee and officer if the applicant is a trust.

(d) The corporation and each officer and director thereof, if the applicant is a corporation.

(1m) (a) In addition to the information required under sub. (1) and except as provided in par. (c), the application shall contain the following:

1. If the applicant is an individual, the applicant's social security number.

2. If the applicant is not an individual, the applicant's federal employer identification number.

(b) The division may not disclose any information received under par. (a) to any person except as follows:

1. The division may disclose information under par. (a) to the department of revenue for the sole purpose of requesting certifications under s. 73.0301 and to the department of workforce development for the sole purpose of requesting certifications under s. 108.227.

2. The division may disclose information under par. (a) 1. to the department of children and families in accordance with a memorandum of understanding under s. 49.857.

(c) 1. If an applicant who is an individual does not have a social security number, the applicant, as a condition of applying for or applying to renew a license, shall submit a statement made or subscribed under oath or affirmation to the division that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of children and families.

2. Notwithstanding s. 217.09 (7), any license issued or renewed in reliance upon a false statement submitted by an applicant under subd. 1. is invalid.

(5) Each application for a license shall be accompanied by:

(a) *Financial statements.* Financial statements reasonably satisfactory to the division.

(b) *Locations.* A list of the locations in this state at which the applicant or its authorized agents, listing them by name, is engaged or proposes to engage in the business of selling checks but such list shall not be required of an applicant which tenders the maximum license fee and agrees to file or deposit, and does file or deposit, a bond or securities in the maximum sum of $300,000 as provided in s. 217.06.

(c) *Investigation fee.* A nonrefundable fee of $300 to the division for investigating the application. If the cost of the investigation exceeds $300, the applicant shall, upon demand of the division, pay the excess cost. No investigation fee shall be required for renewal of a license.

(d) *License fee.* An annual license fee of $500 plus $5 for each location within this state at which a licensee sells or issues checks, with a maximum annual fee of $1,500.

History: 1993 a. 112; 1995 a. 27; 1997 a. 191, 237; 1999 a. 9, 32; 2007 a. 20; 2013 a. 36.

217.06 Licenses, how granted; conditions. Every license issued shall be in the form prescribed by the division and shall be issued to the applicant if:

(1) The applicant has filed the required application and paid the required fee.

(2) The financial responsibility, financial condition, business experience, character and general fitness of the applicant are such, in the opinion of the division, as to command the confidence of the public and to warrant belief that the business will be conducted honestly and efficiently. The division may investigate and consider the qualifications, character and general fitness of officers and directors or others associated with the applicant in determining whether this qualification has been met.

(3) (a) A surety bond issued by a bonding company or insurance company authorized to do business in this state has been filed in the minimum principal sum of $10,000 for the first location and an additional sum of $5,000 for each additional location unless the division determines that a bond in such amount is insufficient in which event it may require a bond in a larger sum, but in no event shall the bond exceed $300,000. The bond shall be in a form satisfactory to the division and shall run to the state for the benefit of any claimants against the applicant or the applicant's agents to secure the faithful performance of the obligations of the applicant and the applicant's agents with respect to the receipt, handling, transmission and payment of money in connection with the sale of checks and to reimburse the division for any examination or liquidation expense. The aggregate liability of the surety in no event shall exceed the principal sum of the bond. The surety shall have the right to cancel such bond upon giving not less than 60 days' written notice to the division, but such cancellation shall not release the surety from any liability that may arise with respect to obligations of the licensee outstanding on or prior to the effective day that such bond is canceled. Such claimants against the applicant or the applicant's agents may themselves bring suit directly on the bond, or the attorney general may bring suit thereon in behalf of such claimants, either in one action or successive actions.

(b) In lieu of such corporate surety bond, or of any portion of the principal thereof as required by this section, the applicant may deposit with such banks or trust companies in this state as the applicant designates and the division approves, interest−bearing obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state, or of a city, county, town, village, school district or instrumentality of this state, or guaranteed by this state, to an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the required corporate surety bond or portion thereof. The securities shall be held to secure the same obligations as would the surety bond but the depositor shall be entitled to receive all interest thereon, shall have the right with the approval of the division to substitute other securities for those deposited, and shall be required to do so on written order of the division. The licensee shall pay all expenses of maintaining the deposit of obligations deposited in lieu of a corporate surety bond.

(4) The applicant has provided all information required under s. 217.05 (1m) (a).

(5) The applicant has not been certified under s. 73.0301 by the department of revenue to be liable for delinquent taxes.

(5m) The applicant has not been certified under s. 108.227 by the department of workforce development to be liable for delinquent unemployment insurance contributions.

(6) If the applicant is an individual, the applicant has not failed to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and families or a county child support agency under s. 59.53 (5) and related to paternity or child support proceedings and is not delinquent in making court−ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse, as provided in a memorandum of understanding entered into under s. 49.857.

History: 1991 a. 316; 1995 a. 27; 1997 a. 191, 237; 1999 a. 9; 2007 a. 20; 2013 a. 36.

217.07 Order denying application. If the division is not satisfied as to all matters specified in s. 217.06, it shall enter a special order denying the application for a license and shall return the license fee to the applicant and retain the investigation fee. The division shall make findings of fact as part of and in support of its orders denying any application for a license.

History: 1995 a. 27.

217.08 License procedures. (1) LICENSE POSTING. Every license issued shall state the office either within or without the state, where the records are maintained. The license and the authorizations as agent shall be kept conspicuously posted at the respective locations, and no such license or authorization shall be transferable or assignable. Nothing herein shall prevent a licensee from appointing new agents or from terminating the authorization of any existing agent.

(2) ANNUAL LICENSE FEE; ADDITIONS AND DELETIONS OF LOCATIONS. Each licensee shall file with the division on or before December 1 of each year a statement listing the locations of the offices of the licensee and the names and locations of the agents authorized by the licensee. Every licensee shall also on or before December 1 of each year file a financial statement of its assets and liabilities as of a date not earlier than the preceding August 31 or, if the licensee is audited annually by an independent certified public accountant licensed or certified under ch. 442 at the end of each fiscal year, the licensee may submit financial statements certified by the certified public accountant for the licensee's latest fiscal year. Such statement shall be accompanied by the annual licensee fee for the calendar year beginning the following January 1 in an amount determined under s. 217.05. The amount of the surety bond or deposit of securities required by s. 217.06 shall be adjusted to reflect the number of such locations. Licensees which do not pay the maximum license fee under s. 217.05 and which do not maintain a bond or deposit of securities in the maximum sum of $300,000 as provided in s. 217.06 shall also file a supplemental statement setting forth any changes in the list of offices and agents with the division on or before April 1, July 1 and October 1 of each year, and the principal sum of the corporate surety bond or deposit of securities required by s. 217.06 shall be adjusted to reflect any increase or decrease in the number of such locations. Any additional license fees which may become due under s. 217.05 shall be paid to the division.

(3) REMOVAL CONSENT. Whenever a licensee changes its single or principal office location to another location it shall give

written notice thereof to the division, which shall amend the license accordingly without charge.

History: 1995 a. 27; 2001 a. 16.

217.09 Revocation; suspension; reinstatement and term of licenses. (1) The division shall, after complaint, notice and hearing, following the procedure in s. 217.19 so far as applicable, revoke any license in the following cases:

(a) If the licensee has failed to pay any examination cost, the license fees or to file a bond or deposit securities in lieu of a bond;

(b) If the licensee has violated this chapter or any valid order issued hereunder;

(c) If any fact or condition exists which, if it had existed at the time of the original application for such license, clearly would have warranted the division to refuse to issue such license.

(1m) The division shall restrict or suspend any license issued under this chapter to an individual, if the individual fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and families or a county child support agency under s. 59.53 (5) and related to paternity or child support proceedings or is delinquent in making court−ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse, as provided in a memorandum of understanding entered into under s. 49.857. A licensee whose license is restricted or suspended under this subsection is entitled to a notice and hearing only as provided in a memorandum of understanding entered into under s. 49.857 and is not entitled to any other notice or hearing under this chapter.

(1r) The division shall revoke any license issued under this chapter if the department of revenue certifies under s. 73.0301 that the licensee is liable for delinquent taxes. A licensee whose license is revoked under this subsection for delinquent taxes is entitled to a notice under s. 73.0301 (2) (b) 1. b. and hearing under s. 73.0301 (5) (a) but is not entitled to any other notice or hearing under this chapter.

(1t) The division shall revoke any license issued under this chapter if the department of workforce development certifies under s. 108.227 that the licensee is liable for delinquent unemployment insurance contributions. A licensee whose license is revoked under this subsection for delinquent unemployment insurance contributions is entitled to a notice under s. 108.227 (2) (b) 1. b. and hearing under s. 108.227 (5) (a) but is not entitled to any other notice or hearing under this chapter.

(2) If the division finds cause for revocation of a license, it shall issue a special order revoking the license, which includes its findings of fact upon which such order is based.

(3) The division may, for reasonable cause and after a hearing on 5 days' notice, suspend any license for a period not exceeding 30 days, pending further investigation, and in so doing shall issue a special order including its findings of fact upon which such order is based.

(4) The division shall revoke or suspend only the authorization to operate at the location with respect to which grounds for revocation or suspension apply, but if the division finds that such grounds for revocation or suspension apply to more than one location operated by such licensee, then the division shall revoke or suspend all of the authorizations of the licensee to which such grounds apply. Suspensions under sub. (1m) and revocations under sub. (1r) or (1t) shall suspend or revoke the authorization to operate at all locations operated by the licensee.

(5) Any licensee may surrender any license by giving written notice to the division that the licensee surrenders such license and returns the license therewith.

(6) Except for a license revoked under sub. (1r) or (1t), the division may on its own motion issue a new license when a license has been revoked.

(7) Every license shall remain in force until it expires or is revoked or suspended or surrendered by the licensee.

History: 1971 c. 211; 1973 c. 3; 1991 a. 316; 1995 a. 27; 1997 a. 191, 237; 2007 a. 20; 2013 a. 36; 2013 a. 168 s. 21.

217.10 Powers of division. The division may:

(1) Issue general or special orders in execution of this chapter, but not in conflict therewith, to prevent deceptive practices of licensees;

(2) Investigate, at any time, the business and examine the books, accounts, records and files used therein of every licensee or agent thereof. The cost of each such examination shall be paid by every licensee so examined within 30 days after demand therefor by the division, and the state may maintain an action for recovery of such costs in any court of competent jurisdiction;

(3) Make such rules not inconsistent with this chapter as it deems necessary for the administration of this chapter.

History: 1995 a. 27.

217.11 Duties of licensees. (1) Every check sold by any licensee shall bear the name of the licensee clearly imprinted thereon, including the words authorized under s. 221.0402 (2) if applicable.

(2) Any money received by a seller of checks to be transmitted to a foreign country shall be so transmitted within 5 days from the receipt thereof.

(3) Every licensee shall furnish a customer with a receipt or other acknowledgment upon receiving funds from such customer. Such receipt or other acknowledgment shall be numbered serially.

(4) Each licensee shall have at all times a minimum of $1,000 of its own cash funds available for the uses and purposes of its business which minimum sum shall be exclusive of and in addition to funds received for exchange or transfer and in addition thereto each such licensee who does not maintain a bond in the maximum sum of $300,000 or securities in lieu of such bond as required by s. 217.06 (3) shall have at all times an amount of liquid funds which may include investments readily convertible into cash sufficient to pay on demand all outstanding money orders issued by it.

(5) If a licensee ceases to do business in this state, the licensee shall deposit the licensee's records and proceeds of checks and remittances relating to checks sold in this state with the secretary of revenue. On claim and submission of proof of ownership satisfactory to the secretary of revenue, the secretary of revenue shall pay such amount of the funds deposited as are owing to a person. Such funds as are not paid out within 20 years from date of deposit shall escheat to and become the property of the state, and shall be paid by the secretary of revenue and be dealt with in the same manner as other escheated property.

History: 1981 c. 259; 1991 a. 316; 1995 a. 336; 2013 a. 20.

217.12 Prohibitions. (1) LICENSEE FORBIDDEN TO ACT AS DEPOSITORY. No licensee may accept money or evidences of money as a deposit to be returned to the depositor or upon the depositor's order except as permitted by this chapter, and no seller of checks may act as bailee or agent for persons to hold money or evidences of money or proceeds therefrom for the use and benefit of the owners and to deliver such money, evidences or proceeds upon request of the owner. Nothing in this subsection shall prevent a seller of checks from selling or issuing checks as authorized under this chapter.

(2) TOKENS. No licensee shall issue scrip or tokens other than checks to be used in lieu of money for the purchase of goods or services from any enterprise.

(3) OTHER BUSINESS FORBIDDEN. No seller of checks shall conduct its business, directly or through agents, on the same premises with a business whose chief source of revenue is derived from the sale of alcohol beverages for consumption on the premises.

(4) NAME, FORBIDDEN USE. No company shall use a name which indicates that it is a branch, unit or agency of the state or federal government.

History: 1981 c. 79 s. 17; 1995 a. 27; 1997 a. 35.

217.13 Other statute applicable. Section 220.06 applies to this chapter.

History: 1973 c. 3; 1987 a. 252; 1997 a. 27.

217.14 Liability of licensees. Each licensee shall be liable for the payment of all checks which it sells, in whatever form and whether directly or through an agent, as the maker or drawer of the check according to the negotiable instrument laws of this state.

217.15 Delinquent seller of checks. The division may take possession of any insolvent seller of checks under the circumstances and utilizing the procedure prescribed in s. 218.04 (9m), so far as applicable.

History: 1995 a. 27.

217.16 Penalties. Any person who directly or through another violates or attempts to violate this chapter may be fined not more than $500 or imprisoned not more than 6 months or both. Each transaction in violation of this chapter and each day that a violation continues is a separate offense.

217.17 Testimonial powers. (1) The division may, in relation to any matter within the division's powers, issue subpoenas and take testimony.

(2) Witnesses shall be entitled to the same fees as are allowed to witnesses in courts of record. Such fees shall be audited and paid by the state in the same manner as other expenses of the division are audited and paid. No witness subpoenaed at the instance of any party other than the division shall be entitled to payment of fees by the state, unless the division certifies that the testimony of such witness was material to the hearing or proceeding.

(3) No person shall, without reasonable cause, fail to comply with a subpoena issued under this section, nor refuse to be sworn or to be examined, or to answer a proper question, or produce a pertinent document, when ordered to do so by the official conducting the investigation or proceeding.

History: 1973 c. 3 s. 10; Stats. 1973 s. 217.17; 1995 a. 27.

217.18 Power to secure evidence. (1) The division may, by general or special order require licensees to file with the division at such time and in such manner as it may direct, sworn or unsworn reports, or sworn or unsworn answers in writing to specific questions as to any matter upon which the division may demand information under this chapter.

(2) The division or any official, employee or agent authorized by it may, for purposes within the division's powers, have access during business hours to the offices and places of business, books, accounts, papers, records, files, safes and vaults of persons engaged in business as a seller of checks, whether licensees or not.

(3) No person shall refuse, neglect or fail to render any reports or answer required under this section at such time and in such manner as the division may prescribe. No person shall willfully make any false entry or statement in any report or answer, nor shall willfully fail to make full and true entries and statements in any report or answer required under authority of this chapter.

History: 1973 c. 3 s. 11; Stats. 1973 s. 217.18; 1995 a. 27.

217.19 Division orders; rules of procedure. (1) The division, prior to the issuance of any general order under this chapter, shall hold a public hearing.

(2) The division, prior to the issuance of any special order, shall serve a complaint, prepared in the name of the division, upon the person against whom the complaint is made and shall accompany such complaint by notice of a public hearing to be held in the matter not sooner than 10 days after such service. The person against whom the complaint is made shall be entitled to be heard in person, or by agent or attorney, and shall have the benefit of subpoena process to compel the attendance of witnesses.

(4) The division shall serve a copy of any special order upon the person against whom the order is issued and such an order shall be effective upon such service, unless otherwise indicated in the order.

(5) A complaint, notice of hearing, subpoena, special order or any other process issued by the division may be served in the same manner that process in a civil action is served.

(6) The division shall make its own rules of practice and procedure for the conduct of hearings and other proceedings before it, not inconsistent with any provision of this chapter or with any other provision of law governing such practice or procedure.

History: 1973 c. 3 s. 12; Stats. 1973 s. 217.19; 1995 a. 27.

217.20 Court review. Orders of the division under this chapter shall be subject to review in the manner provided in ch. 227.

History: 1973 c. 3 s. 13; Stats. 1973 s. 217.20; 1995 a. 27.

217.21 Records; reports. (1) The licensee shall keep and use in the licensee's business such books, accounts and records as the division, by general or special order, may find to be necessary and require to enable it to determine whether such licensee is complying with this chapter and with the lawful orders issued hereunder.

(2) Each licensee shall annually, on or before March 15, file a report with the division giving such reasonable and relevant information as the division may, by general or special order, require concerning the business and operations conducted by such licensee within the state. Such report shall be made under oath and shall be in the form prescribed by the division and shall be subject to public inspection in the discretion of the division. The division shall make and publish annually an analysis and recapitulation of such reports.

(3) Reports and records referred to in this section shall be maintained for not less than 6 years by each licensee.

History: 1973 c. 3 ss. 13, 17; Stats. 1973 s. 217.21; 1991 a. 316; 1995 a. 27.