

205 CMR 134.00: LICENSING AND REGISTRATION OF EMPLOYEES, VENDORS, JUNKET ENTERPRISES AND REPRESENTATIVES, AND LABOR ORGANIZATIONS

Section

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134.01: Key Gaming Employee Licensees

No individual shall be employed by or perform services for a gaming licensee as a key gaming employee, as defined by M.G.L. c. 23K, § 2, unless the individual has been licensed in accordance with M.G.L. c. 23K, § 30 and 205 CMR 134.00. There shall be two categories of key gaming employee licensees: key gaming employee-executive and key gaming employee-standard.

(1) An individual holding one of the following positions, and any person in a similar or equivalent position, regardless of job title, whose employment relates to gaming shall be designated as a key gaming employee-executive:

- (a) Assistant General Manager;
- (b) Chief Internal Audit Officer;
- (c) Gaming Manager;
- (d) Chief Financial Officer;
- (e) Chief of Security;
- (f) General Manager;
- (g) Chief Surveillance Officer;
- (h) Chief Compliance Officer;
- (i) Principal executive Officer;
- (j) Principal operating Officer;
- (k) Principal accounting Officer;
- (l) Chief Information Officer;
- (m) Other executive level employees who are not identified as a key gaming employee-standard in accordance with 205 CMR 134.01(2) as determined by the commission.

(2) An individual holding one of the following positions, and any person in a similar or equivalent position, regardless of job title, whose employment relates directly to a gaming establishment shall be designated as a key gaming employee-standard:

- (a) Controller;
- (b) Electronic gaming device or slot machines manager;
- (c) Human resources manager;
- (d) Information technology manager;

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- (e) Pit boss;
- (f) Shift supervisor of table games, of a slot department, credit department, security, surveillance, accounting department, cage, or player development;
- (g) Credit manager;
- (h) Cage manager;
- (i) Hotel Manager;
- (j) Entertainment Director;
- (k) Food & Beverage Manager;
- (l) Other managerial employees who are not identified as a key gaming employee-executive in accordance with 205 CMR 134.01(1), but who are empowered to make discretionary decisions which impact gaming establishment operations, or as determined by the commission.

(3) Any individual who is a qualifier of a gaming licensee but who does not perform any of the duties of the positions identified in 205 CMR 134.01(1)(a) or (b) does not have to become licensed as a key gaming employee. Such individual does have to be approved as a qualifier and issued a positive determination of suitability in accordance with 205 CMR 111.00: *Phase I Application Requirements*, 115.00: *Phase I Suitability Determination, Standards and Procedures*, and 116.00: *Persons Required to Be Licensed or Qualified*. An individual who has been issued a positive determination of suitability in accordance with 205 CMR 111.00: *Phase I Application Requirements* and who will be performing the responsibilities requiring licensure as a key gaming employee shall apply for licensure in accordance with 205 CMR 134.08(2) subject to the term limitation of 205 CMR 134.16(4).

134.02: Gaming Employee Licensees

No individual shall be employed by or perform services for a gaming licensee as a gaming employee, as defined by M.G.L. c. 23K, § 2, unless the individual has been licensed in accordance with M.G.L. c. 23K, § 30 and 205 CMR 134.00. An individual holding one of the following positions, and any person in a similar or equivalent position, regardless of job title, shall be designated as a gaming employee:

- (a) Boxpersons;
- (b) Cashiers;
- (c) Change personnel;
- (d) Clerks;
- (e) Count room personnel;
- (f) Data processing personnel;
- (g) Dealers and croupiers;
- (h) Floorpersons;
- (i) Gaming Hosts;
- (j) Internal audit and accounting personnel whose duties include reviewing, verifying, and recording gaming revenue entries, the processing or control of active accounting documents related to gaming activity, or that have access to active accounting documents related to gaming activity;
- (k) An individual who is directly connected to the operation or maintenance of a slot machine or game taking place in a gaming establishment (whether employed by the gaming licensee or a vendor licensed in accordance with 205 CMR 134.00);
- (l) Personnel authorized to extend complimentary services, including employees performing functions similar to those performed by a junket representative;
- (m) Junket representative employed by the gaming licensee or affiliate of the gaming license or a junket enterprise licensed as a gaming vendor in accordance with 205 CMR 134.00;
- (n) Personnel authorized to issue credit;
- (o) Personnel authorized to issue promotional play including persons who identify patrons or groups of patrons who shall receive complimentaries based on actual patron play, authorize such complimentaries, or determine the amount of such complimentaries;
- (p) Personnel with security administrator access to a slot machine tracking system;
- (q) Security personnel, including guards and game observers, or an employee with knowledge of security procedures of the gaming establishment;

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- (r) Surveillance personnel, including surveillance equipment maintenance and repair technicians (whether employed by the gaming licensee or a vendor licensed in accordance with 205 CMR 134.00);
- (s) Any employee who conducts or participates in the conduct of gaming, who participates in the transfer or handling of chips, tokens or money, or who participates in audit or accounting functions;
- (t) Any employee who has access to a restricted area of a gaming establishment;
- (u) A person who supervises a person required to be licensed as a gaming employee in accordance with 205 CMR 134.02;
- (v) An employee of a gaming licensee whom the Bureau deems necessary to be licensed to ensure compliance with the M.G.L. c. 23K and 205 CMR, and to protect the public and ensure the credibility and integrity of gaming in the Commonwealth.

134.03: Gaming Service Employees

- (1) (a) An individual employed by a gaming licensee who is not classified as a key gaming employee in accordance with 205 CMR 134.01, or a gaming employee in accordance with 205 CMR 134.02, shall be designated as a gaming service employee and shall register in accordance with 205 CMR 134.09 prior to engaging in the provision of employment services. An individual employed by a vendor of a gaming establishment for work in a gaming establishment shall be considered a gaming service employee unless otherwise specified in 205 CMR 134.02.
  - (b) Pursuant to St. 2017, c. 110, § 3, the commission may, in its discretion, exempt certain gaming service employees by job position from the registration requirement. The commission, or its designee, may require a gaming licensee to produce any information deemed necessary to evaluate the essential functions of a job position. The commission may at any time, in its discretion, revisit any job position.
  
- (2) During the pre-opening phase of a gaming establishment, and continuing for up to 30 days from the date an Operation Certificate is issued in accordance with 205 CMR, a gaming licensee may temporarily allow an individual(s) who is employed at a gaming property which is owned and/or operated by it, its parent, or an affiliated company to assist with gaming establishment employee training and related purposes for up to 60 days without those individuals having to become licensed or registered in accordance with 205 CMR 134.00, provided that the gaming licensee does the following:
  - (a) Supplies the Bureau a reasonable time in advance of arrival with the name of the individual, name of the gaming property at which they are employed, the position at the gaming property at which they are employed, a description of the reason for the individual being at the gaming establishment including the services to be performed, the anticipated duration of their stay, and any other information requested by the Bureau;
  - (b) Ensures all individuals performing services under 205 CMR 134.03(2) carry identification and wear a badge issued by the gaming licensee that is distinguishable from those that are issued to employees of the gaming establishment and that is clearly visible at all times while at the gaming establishment;
  - (c) If the individual is licensed, certified, or otherwise approved for employment by the jurisdiction which the gaming property in which they are employed is located, an individual licensed as a key gaming employee in accordance with 205 CMR 134.00 shall attest in writing that the individual is in good standing in that jurisdiction; and
  - (d) Ensures that the individual is accompanied by an individual who is licensed or registered in accordance with 205 CMR 134.00 anytime they are in a restricted area of the gaming establishment.

134.04: Vendors

No person shall conduct business with a gaming licensee as a vendor unless such person has been licensed as a gaming vendor, as defined by M.G.L. c. 23K, § 2, or registered as a non-gaming vendor, as defined by M.G.L. c. 23K, § 2, in accordance with 205 CMR 134.00. A person shall be considered to be conducting business upon commencement of performance of a contract or provision of a good or service.

A subcontractor to a vendor shall not be required to obtain licensure or registration under 205 CMR 134.00. For purposes of 205 CMR 134.00, a subcontractor shall be considered a person that contracts with a licensed or registered vendor to provide goods or services necessary to fulfill the licensed or registered vendor's contract with a gaming licensee. As part of the application process, vendors shall be required to identify all of its known or anticipated subcontractors and shall have a continuing duty to update the Bureau relative to the identification of any new subcontractors. The Bureau may, at its discretion, require the submission of additional information and documents including, but not limited to, the Subcontractor Information Form as provided in 205 CMR 134.07(11).

(1) Gaming Vendors.

(a) Gaming Vendors-primary. A person who conducts business with a gaming applicant or gaming licensee on a regular or continuing basis for provision of goods or services which directly relates to gaming, as defined by M.G.L. c. 23K, § 2 including, but not limited to, a person who does any of the following, shall be designated as a gaming vendor-primary:

1. Manufactures, sells, leases, supplies, or distributes devices, machines, equipment (except gaming table layouts), accessories, or items that meet at least one of the following conditions:
  - a. are designed for use in a gaming area as defined by M.G.L. c. 23K, § 2;
  - b. are designed for use in a simulcast wagering area;
  - c. are used in connection with a game in the gaming area;
  - d. have the capacity to affect the calculation, storage, collection, electronic security, or control of the gaming revenues from a gaming establishment.
2. provides maintenance services or repairs gaming or simulcast wagering equipment, including slot machines;
3. acts as a junket enterprise; or
4. provides items or services that the Bureau has determined are used in or are incidental to gaming or to an activity of a gaming facility.

Exception. Any person, by submission of a written petition, may request a determination from the Bureau that despite meeting a description contained in 205 CMR 134.04(1)(a) they need not be licensed as a Gaming Vendor-primary on the grounds that they are not providing services on a regular or continuing basis or that they do not directly relate to gaming.

(b) Gaming Vendors-secondary. Any person who regularly conducts over \$250,000 in gross sales with any one gaming licensee within a 12 month period or a person who conducts over \$100,000 in gross sales with any one gaming licensee within a three month period, and who does not otherwise qualify for designation as a Gaming Vendor-primary in accordance with 205 CMR 134.04(1)(a), may be designated a Gaming Vendor-secondary by the Division of Licensing after consultation with the Bureau regardless of the type of goods or services being provided. The procedure for making this designation is set forth in 205 CMR 134.04(3).

(2) Non-gaming Vendors. A person who offers to a gaming licensee goods or services which are not directly related to gaming, as defined by M.G.L. c. 23K, § 2 including, but not limited to any of the following, shall be designated as a non-gaming vendor:

- (a) construction company;
- (b) vending machine provider;
- (c) linen supplier;
- (d) garbage handler;
- (e) maintenance company;
- (f) limousine service company;
- (g) food purveyor;
- (h) supplier of alcoholic beverages;
- (i) a person that sells, distributes, tests, or repairs antique slot machines as described in M.G.L. c. 271, § 5A;
- (j) suppliers of gaming table layouts.

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(3) The Division of Licensing, after consultation with the Bureau, may designate a person as a gaming vendor-secondary. In making the determination to designate a vendor as a gaming vendor-secondary, the following factors may, without limitation, be considered: the total dollar amount by which the vendor's business with the gaming licensee is reasonably expected to exceed the thresholds set forth in M.G.L. c. 23K, § 31(c) and 205 CMR 134.04(1)(b); the relative value of the contract compared to the gaming licensee's overall disbursements to vendors; whether the goods or services are limited to the pre-opening phase of the gaming establishment; the duration of the contract; whether the vendor will be providing goods or services on-site at the gaming establishment; the number of subcontractors involved in the performance of the vendor's contract with the gaming establishment; whether the vendor is licensed, registered or certified and regulated by a governmental or quasi-governmental body or board; the nature of the goods or services; and public safety considerations. If the Division of Licensing determines that the non-gaming vendor is a gaming vendor-secondary, it shall forward notice of such to the vendor of its obligation to submit an application for licensure as a gaming vendor-secondary. Within 45 days of service of the notice, the vendor shall submit a completed Business Entity Disclosure Form-gaming Vendor-secondary as set forth in 205 CMR 134.07(3)(b) for licensure as a gaming vendor-secondary or file a written request to the Division of Licensing for reconsideration from the determination requiring filing of an application for licensure as a gaming vendor-secondary.

(4) Gaming Vendor Qualifier.

(a) Persons designated as gaming vendor qualifiers must establish their qualifications in accordance with 205 CMR 134.09 and 134.10.

(b) Gaming Vendors-primary. The following persons shall be designated as gaming vendor-primary qualifiers:

1. If the gaming vendor-primary is a sole proprietor: The owner.
2. If the gaming vendor-primary is a corporation:
  - a. Each officer;
  - b. Each inside director;
  - c. Any person owning more than 5% of the common stock of a company applying for licensure as a gaming vendor-primary as provided by 205 CMR 134.04(1)(a), or a holding, intermediary or subsidiary company of such company;
  - d. In the judgment of the Division of Licensing after consultation with the Bureau any person with significant and substantial responsibility for the applicant's business under the jurisdiction of the commission.
3. If the applicant is a limited liability corporation:
  - a. Each Member;
  - b. Each transferee of a Member's interest;
  - c. Each Manager;
  - d. In the judgment of the Division of Licensing after consultation with the Bureau any person with significant and substantial responsibility for the applicant's business under the jurisdiction of the commission.
4. If the applicant is a limited partnership:
  - a. Each General Partner;
  - b. Each Limited Partner;
  - c. In the judgment of the Division of Licensing after consultation with the Bureau any person with significant and substantial responsibility for the applicant's under the jurisdiction of the commission.
5. If the applicant is a partnership:
  - a. Each Partner;
  - b. In the judgment of the Division of Licensing after consultation with the Bureau any person with significant and substantial responsibility for the applicant's business under the jurisdiction of the commission.

(c) Gaming Vendors-secondary.

1. If the gaming vendor-secondary applicant is a sole proprietor, the Owner shall be designated as a qualifier.

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2. If the gaming vendor-secondary applicant is a corporation, limited liability corporation, limited partnership, or partnership:
  - a. Each Officer, Member, Partner or functional equivalent expected to exercise operational control over the business under the jurisdiction of the commission shall be designated as a qualifier;
  - b. Any person owning more than 5% of the common stock of a company applying for licensure as a gaming vendor-secondary shall be designated as a qualifier;
  - c. In the judgment of the Division of Licensing, after consultation with the Bureau, any person with significant and substantial responsibility for the applicant's business under the jurisdiction of the commission shall be designated as a qualifier;
  - d. The Division of Licensing, after consultation with the Bureau, may designate any person owning more than 5% of the common stock of a holding or intermediary company of an applicant for licensure as a gaming vendor-secondary as a qualifier.
  - e. The Division of Licensing, after consultation with the Bureau, may designate any inside director as a qualifier.

(d) In all cases, any person who, in the opinion of the Division of Licensing, after consultation with the Bureau, can exercise control or provide direction to a gaming vendor or applicant for a gaming vendor license or holding, intermediary or subsidiary companies thereof may be designated a gaming vendor qualifier.

(e) Other Qualifiers. The Division of Licensing, after consultation with the Bureau, may, at its discretion, require other persons that have a business association of any kind with the applicant for a gaming vendor license to be subject to the qualification requirements as a qualifier. These persons include, but are not limited to, an affiliate or holding, intermediary or subsidiary company of the applicant for a gaming vendor license.

An applicant may appeal any determination made by the Bureau, in accordance with 205 CMR 134.04(4), to the commission by filing a petition on a form prescribed by the commission. The commission shall decide the appeal at a public hearing on the matter at which it may allow representatives of the petitioner and Bureau to testify.

(5) Waiver. Upon written petition, the commission may waive the requirement to be licensed as a gaming vendor qualifier for:

(a) Institutional investors holding up to 15% of the stock of the gaming vendor or applicant for a gaming vendor license, or holding, intermediary or subsidiary company thereof, upon a showing by the person seeking the waiver that it purchased the securities for investment purposes only and does not have any intention to influence or affect the affairs or operations of the gaming vendor or applicant for a gaming vendor license or a holding, intermediary or subsidiary company thereof. Provided, however, any institutional investor granted a waiver which subsequently determines to influence or affect the affairs or operations of the gaming vendor or applicant for a gaming vendor license, or a holding, intermediary thereof shall provide not less than 30 days' notice to the commission of such intent and shall file an application and be subject to the licensing requirements of 205 CMR 134.00 before taking any action that may influence or affect the affairs of the gaming vendor or applicant for a gaming vendor license or a holding, intermediary or subsidiary company. Any person holding over 15% of a gaming vendor or applicant for a gaming vendor license, or a holding, intermediary or subsidiary company thereof, shall be required to apply for a license before doing business in the Commonwealth; or

(b) Any person who, in the opinion of the Bureau or the commission, cannot exercise control or provide direction to a gaming vendor or applicant for a gaming vendor license or a holding, intermediary or subsidiary company thereof. Provided, however, a person who is not an institutional investor and who holds more than 5% of the common stock of a company, or holding, intermediary or subsidiary company of such a company may not petition for waiver in accordance with 205 CMR 134.04(5)(b).

(6) Exemptions. For purposes of 205 CMR 134.04, the following persons engaged in the following fields of commerce who provide goods or services to a gaming applicant or gaming licensee, and that are not otherwise required to be licensed as a key gaming employee, gaming employee, or gaming service employee, shall not be deemed to be conducting business for purposes of M.G.L. c. 23K, § 31 and accordingly shall not be required to obtain licensure or registration as a vendor:

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- (a) insurance companies and insurance agencies;
  - (b) television, radio, newspaper, internet or other similar media outlets used for advertising purposes;
  - (c) transactions with a governmental entity;
  - (d) legal, accounting, lobbying and financial services;
  - (e) physicians;
  - (f) labor organizations, unions, or affiliates registered in accordance with 205 CMR 134.00;
  - (g) utility companies;
  - (h) telecommunications companies;
  - (i) training seminars, publication subscriptions, conference registration or membership dues for professional associations intended to directly contribute to the work performance or professional development of an employee;
  - (j) nonprofit charitable corporations or organizations, provided that no consideration is received for the contribution;
  - (k) court order or stipulation of settlement or for settlement of guest losses or guest refunds;
  - (l) payments for freight charges to freight transporters select by the vendor for delivering goods;
  - (m) professional entertainers and/or celebrity appearances;
  - (n) any person that, by submission of a written petition, can demonstrate to the Division of Licensing after consultation with the Bureau that registration as a non-gaming vendor is not necessary to protect the public interest;
  - (o) Upon submission of a written certification by a gaming licensee, any person providing goods or services not directly related to gaming to whom the gaming licensee reasonably expects to pay an amount less than \$10,000 within a 12-month period.
- (7) Qualification of New Qualifiers for Gaming Vendors-primary.
- (a) No person requiring qualification pursuant to 205 CMR 134.04(4)(b) may perform any duties or exercise any powers relating to the position that said qualifier is seeking to assume for a Gaming Vendor-primary licensee unless the person notifies the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by a completed *Key Gaming Employee - Standard Application Form*. Following such notification and submission of the completed Form, the person may continue to perform duties and exercise powers relating to the position pending qualification.
  - (b) A person with reason to believe that his or her new position with a Gaming Vendor-primary may require qualification pursuant to 205 CMR 134.04(4)(a) shall notify the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by a summary of the responsibilities and/or features of the position. The Bureau shall determine whether the person shall be designated a qualifier pursuant to 205 CMR 134.04(4) and shall notify the person of such designation in writing. Within 30 days of designation as a qualifier, the person shall submit a completed *Key Gaming Employee - Standard Application Form*. Following submission of the completed Form, the person may continue to perform duties and exercise powers relating to the position pending qualification.
  - (c) The Bureau shall review the Forms submitted by the new qualifier, as well as such other information that the Bureau may request, and, upon completion of its investigation, shall make a determination or recommendation to the commission in accordance with 205 CMR 134.09(1)(c) whether the new qualifier meets the standards for suitability.
  - (d) Upon notification by the Bureau of a determination that reasonable cause exists to believe the qualifier may not ultimately be found suitable, a gaming vendor licensee shall promptly remove the qualifier from his or her position until such time as the commission makes its final determination on suitability.
- (8) Review of Decision. Any person aggrieved by a decision made by the bureau in accordance with 205 CMR 134.04 may request review of said decision in accordance with 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings.*

134.05: Labor Organizations

(1) Each labor organization, union or affiliate seeking to represent employees who are employed at a gaming establishment shall register with the commission in accordance with 205 CMR 134.05.

(2) Within 30 days of the date on which it begins organizing activities directed at the employees who are employed in a gaming establishment, a labor organization, union or affiliate shall file with the Division of Licensing a labor organization registration statement in accordance with 205 CMR 134.08. Organizing activities shall include, without limitation, soliciting membership by means of any direct personal contact, or any public notices such as the posting or distribution of fliers, posters or advertisements.

(3) Neither a labor organization, union, or affiliate, nor its officers who are not otherwise licensed or registered as a key gaming employee, gaming employee, gaming service employee, gaming vendor, gaming vendor qualifier, or non-gaming vendor, may hold any financial interest in a gaming establishment whose employees are represented by the labor organization, union, or affiliate.

(134.06: Junket Enterprises and Junket Representatives: Reserved)

134.07: Forms

(1) (a) Key Gaming Employee and Gaming Employee License Application Forms. Every individual applying for a key gaming employee license or a gaming employee license shall be obligated to complete and submit an application to the Division of Licensing. Said application forms shall be created by the Bureau, subject to the approval of the commission. The Division of Licensing may make non-material changes to the form. The license application forms for key gaming employees and gaming employees shall require, at a minimum, the following information:

1. the name of applicant;
2. the address of applicant;
3. A detailed employment history of the applicant, as prescribed by the Bureau;
4. the fingerprints of the applicant;
5. the criminal and arrest record of the applicant; and
6. any civil judgments obtained against the applicant pertaining to antitrust or security regulation.

(b) The Bureau may require the applicant to provide additional information, as set forth in the application forms, including, but not limited to:

1. information related to the financial integrity of the applicant;
2. bank accounts and records of the applicant;
3. bank references for the applicant;
4. business and personal income and disbursement schedules of the applicant;
5. tax returns and other reports filed by government agencies regarding the applicant; and
6. business and personal accounting check records and ledgers of the applicant.

(2) Gaming Service Employee Registration Form. Every individual seeking to register as a Gaming Service Employee shall be obligated to complete and submit a registration form to the Division of Licensing. The registration form shall be created by the Bureau and shall request the disclosure of the information deemed necessary by the Bureau. Any changes to the gaming service employee registration form must be approved by the Director of the Bureau.

(3) Gaming Vendor License Application Form.

(a) Every person applying for a gaming vendor license shall be obligated to complete and submit a business entity disclosure form to the Division of Licensing. Said forms shall be created by the Bureau, subject to the approval of the commission. The Division of Licensing may make non-material changes to the form. The license application forms for gaming vendors shall require, at a minimum, the following information:

1. The name of applicant;



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(6) Scope of Duties. An employee of a gaming establishment may, where otherwise qualified, engage in the following duties without further licensure by the commission:

- (a) A person who is licensed as a Key Gaming Employee-executive may, where otherwise qualified, engage in the performance of duties of a Key Gaming Employee-standard, gaming employee or gaming service employee.
- (b) A person who is licensed as a Key Gaming Employee-standard may, where otherwise qualified, engage in the performance of duties of a gaming employee or gaming service employee.
- (c) A person who is licensed as a gaming employee may engage in the performance of duties of a gaming service employee.

134.09: Investigation, Determination, and Appeals for Gaming Establishment Employees and Vendors

(1) Upon receipt of an application for a key gaming employee license in accordance with 205 CMR 134.01, a gaming employee license in accordance with 205 CMR 134.02, a gaming service employee registration in accordance with 205 CMR 134.03, a gaming vendor license in accordance with 205 CMR 134.04(1), a non-gaming vendor registration in accordance with 205 CMR 134.04(4), or the disclosure materials from a gaming vendor qualifier in accordance with 205 CMR 134.04(4), the Division of Licensing shall conduct a review of each for administrative completeness and then forward the application or submission to the Bureau which shall conduct an investigation of the applicant. In the event an application or submission is deemed incomplete, the Division of Licensing may either request supplemental information from the applicant or qualifier, or administratively close the application in accordance with 205 CMR 134.14. For individuals, the investigation shall include obtaining and reviewing criminal offender record information from the Department of Criminal Justice Information Services (DCJIS) and exchanging fingerprint data and criminal history with the Massachusetts Department of State Police and the United States Federal Bureau of Investigation. The investigation shall be conducted for purposes of determining whether the applicant is suitable to be issued a license or registration in accordance with 205 CMR 134.10 and 134.11.

In determining the weight to be afforded any information bearing on suitability in accordance with 205 CMR 134.10 and 134.11, the Division of Licensing, Bureau, or commission, as applicable, shall consider: the relevance of the information to employment in a gaming establishment or doing business with a gaming establishment in general, whether there is a pattern evident in the information, and whether the applicant is likely to be involved in gaming related activity. Further, the information will be considered in the light most favorable to the applicant unless the information cannot be so viewed pursuant to M.G.L. c. 23K or the information obtained does not otherwise support such view. For purposes of 205 CMR 134.00 and M.G.L. c. 23K, § 16 an adjudication of delinquency shall not be considered a conviction. Such a finding may, however, be considered for purposes of determining the suitability of an applicant. Records of criminal appearances, criminal dispositions, and/or any information concerning acts of delinquency that have been sealed shall not be considered for purposes of making a suitability determination in accordance with 205 CMR 134.00 and M.G.L. c. 23K.

- (a) Keys Gaming Employee-executive, Key Gaming Employee-standard, and Gaming Employees. Upon completion of the investigation conducted in accordance with 205 CMR 134.09(1) the Bureau shall either approve or deny the application for a key gaming employee-executive license, key gaming employee-standard license or a gaming employee license pursuant to 205 CMR 134.10. If the application for a Key Gaming Employee-standard license or Gaming Employee license is approved, the Bureau shall forward a written approval to the Division of Licensing which shall issue a license to the applicant on behalf of the Commission. If the Bureau approves the application for a Key Gaming Employee-executive, the decision shall be forwarded to the Commission as a recommendation along with the application materials for review and issuance of the license. If the application is denied, the Bureau shall forward the recommendation for denial and reasons therefor to the Division of Licensing which shall issue a written decision to the applicant explaining the reasons for the denial. The decision shall include an advisory to the applicant that they may appeal the decision in accordance with 205 CMR 101.00: *M.G.L. c.23K Adjudicatory Proceedings*. If the denial is based upon information contained in the individual's criminal record, the decision shall also include an advisory that the individual will be provided with a copy of their criminal record upon request and that they may challenge the accuracy of any relevant entry therein. The decision may be served *via* first class mail or *via* email to the addresses provided by the applicant on the application.

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(b) Gaming Service Employees. The Division of Licensing shall issue a gaming service employee registration to the applicant on behalf of the commission in accordance with 205 CMR 134.11(1). In the event that the Bureau determines upon completion of the investigation conducted in accordance with 205 CMR 134.09(1) that the applicant should be disqualified from holding a registration or is otherwise unsuitable in accordance with 205 CMR 134.11, it shall forward the results of the investigation to the Division of Licensing which shall issue a written notice to the registrant denying or revoking the registration. The notice shall include an advisory to the applicant that they shall immediately cease employment at the gaming establishment and may request an appeal hearing in accordance with 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*. If the denial is based upon information contained in the individual's criminal record, the decision shall also include an advisory that the individual will be provided with a copy of their criminal record upon request and that they may challenge the accuracy of any relevant entry therein. The notice may be served *via* first class mail or *via* email to the addresses provided by the applicant on the application.

(c) Gaming Vendors. Upon completion of the investigation, conducted in accordance with 205 CMR 134.09(1), the Bureau shall either approve or deny the application for a gaming vendor license pursuant to 205 CMR 134.10. If the Bureau approves the application for a Gaming Vendor, the Bureau shall forward a written approval to the Division of Licensing which shall issue a license to the applicant on behalf of the commission. If the application is denied, the Bureau shall forward the determination of denial and reasons therefor to the Division of Licensing which shall issue a written decision to the applicant explaining the reasons for the denial. The decision shall include an advisory to the applicant that they may appeal the decision in accordance with 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*. If the denial is based upon information contained in a person's criminal record, the decision shall also include an advisory that the person will be provided with a copy of their criminal record upon request and that they may challenge the accuracy of any relevant entry therein. The decision may be served *via* first class mail or *via* email to the addresses provided by the applicant on the application.

(d) Non-gaming Vendors. The Division of Licensing shall issue a non-gaming vendor registration to the applicant on behalf of the commission in accordance with 205 CMR 134.11(1). In the event that the Bureau determines, upon completion of the investigation conducted in accordance with 205 CMR 134.09(1), that the applicant should be disqualified from holding a registration or is otherwise unsuitable in accordance with 205 CMR 134.11, it shall forward the results of the investigation to the Division of Licensing which shall issue a written notice to the registrant denying or revoking the registration. The notice shall include an advisory to the applicant that they shall immediately cease doing business with the gaming establishment and may request an appeal hearing in accordance with 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*. If the denial is based upon information contained in the person's criminal record, the decision shall also include an advisory that the person will be provided with a copy of their criminal record upon request and that they may challenge the accuracy of any relevant entry therein. The notice may be served *via* first class mail or *via* email to the addresses provided by the applicant on the application.

(e) Labor Organizations. The Bureau shall issue a Labor Organization registration to the applicant on behalf of the commission in accordance with 205 CMR 134.11(1).

134.10: Affirmative License Standards for the Licensing of Employees and Vendors of the Gaming Establishment

(1) An applicant for a key gaming employee license, gaming employee license, gaming vendor license, and a gaming vendor qualifier shall establish its individual qualifications by clear and convincing evidence.

(2) In determining whether an applicant for licensure is suitable for purposes of being issued a key gaming employee license, gaming employee license or gaming vendor license, or having any of these licenses renewed, the Bureau shall evaluate and consider the overall reputation of the applicant and qualifiers, if any, including, without limitation:

- (a) the integrity, honesty, good character and reputation of the applicant and qualifiers;
- (b) the financial stability, integrity and background of the applicant and qualifiers;
- (c) whether the applicant and its qualifiers have a history of compliance with gaming licensing requirements in other jurisdictions;

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- (d) whether the applicant or any qualifier, at the time of application, is a defendant in litigation;
  - (e) whether the applicant is disqualified from receiving a license under 205 CMR 134.10(3);
  - (f) whether the applicant or any qualifier has been convicted of a crime of moral turpitude;
  - (g) whether, and to what extent, the applicant or any qualifier has associated with members of organized crime and other persons of disreputable character;
  - (h) the extent to which the applicant and qualifiers have cooperated with the Bureau in connection with the background investigation;
  - (i) (for vendors) the integrity, honesty, and good character of any subcontractor.
- (3) The Bureau and commission shall deny an application for a key gaming employee license, gaming employee license or gaming vendor license, if the applicant:
- (a) has been convicted of a felony or other crime involving embezzlement, theft, fraud or perjury; except that for such disqualifying convictions under M.G.L. c. 23K, § 16 and 205 CMR 134.10(3)(a) which occurred before the ten-year period immediately preceding submission of the application for licensure, the Bureau may, in its discretion, approve the issuance of a gaming employee license to an applicant who affirmatively demonstrates rehabilitation in accordance with 205 CMR 134.10(4);
  - (b) submitted an application for a license under M.G.L. c. 23K, § 30 and 205 CMR 134.00 that willfully, knowingly or intentionally contains false or misleading information;
  - (c) committed prior acts which have not been prosecuted or in which the applicant was not convicted but form a pattern of misconduct that makes the applicant unsuitable for a license; or
  - (d) has affiliates or close associates that would not qualify for a license or whose relationship with the applicant may pose an injurious threat to the interests of the Commonwealth in awarding a gaming license to the applicant.
- (4) Rehabilitation.
- (a) An applicant for a Key gaming employee license, gaming employee license, gaming vendor license or a gaming vendor qualifier may provide proof of rehabilitation from a criminal conviction as part of the application for licensure.
  - (b) An applicant for a Key gaming employee license may not appeal a decision made by the Bureau that was based upon a disqualifying prior conviction in accordance with 205 CMR 134.10(3)(a) on the basis that they wish to demonstrate rehabilitation.
  - (c) An applicant for a Gaming employee license or gaming vendor qualifier license may appeal a decision made by the Bureau based upon a disqualifying prior conviction in accordance with 205 CM R 134.10(3)(a) on the basis that they wish to demonstrate rehabilitation only if the conviction occurred before the ten year period immediately preceding the date of submission of the application for licensure or registration.
  - (d) A Gaming employee license or Gaming vendor qualifier license may be issued to an applicant who can affirmatively demonstrate rehabilitation. In considering the rehabilitation of an applicant, the following shall be considered:
    1. the nature and duties of the position of the applicant;
    2. the nature and seriousness of the offense or conduct;
    3. the circumstances under which the offense or conduct occurred;
    4. the date of the offense or conduct;
    5. the age of the applicant when the offense or conduct was committed;
    6. whether the offense or conduct was an isolated or repeated incident;
    7. any social conditions which may have contributed to the offense or conduct; and
    8. any evidence of rehabilitation, including recommendations and references of persons supervising the applicant since the offense or conduct was committed.
  - (e) Any applicant may appeal a decision made by the Bureau based upon a conviction for a crime of moral turpitude as set forth in 205 CMR 134.10(2)(f). A Key gaming employee license, Gaming employee license, or gaming vendor qualifier license may be issued to an applicant who can affirmatively demonstrate rehabilitation. In considering the rehabilitation of an applicant, the factors outlined in 205 CMR 134.10(4)(d) shall be considered.
  - (f) An applicant for a license or registration shall be at least 18 years of age at the time of application.

134.11: Affirmative Registration Standards for the Registration of Employees and Vendors of the Gaming Establishment and Labor Organizations

(1) Upon submission of an administratively complete registration form as a gaming service employee or non-gaming vendor, the Division of Licensing shall issue the registration on behalf of the commission in accordance with 205 CMR 134.09(1). A registration may be denied or subsequently revoked if it is determined that the applicant is disqualified in accordance with 205 CMR 134.11(2) or unsuitable for any criteria identified in 205 CMR 134.11(3).

(2) The Bureau and commission shall deny and/or revoke a registration as a gaming service employee or non-gaming vendor if the person:

(a) has been convicted of a felony or other crime involving embezzlement, theft, fraud or perjury; except that for such disqualifying convictions under M.G.L. c. 23K, § 16 and 205 CMR 134.11(2)(a) which occurred before the ten-year period immediately preceding submission of the registration, the Bureau may, in its discretion, decline to deny or revoke the registration of a person who affirmatively demonstrates rehabilitation in accordance with 205 CMR 134.11(4).

(b) submitted a registration form under M.G.L. c. 23K, § 30 and 205 CMR 134.00 that willfully, knowingly or intentionally contains false or misleading information;

(c) committed prior acts which have not been prosecuted or in which the registrant was not convicted but form a pattern of misconduct that makes the registrant unsuitable; or

(d) has affiliates or close associates that would not qualify for a license or whose relationship with the registrant may pose an injurious threat to the interests of the Commonwealth in awarding a registration.

(3) In determining whether a registrant is suitable for purposes of being issued a gaming service employee registration or non-gaming vendor registration, or having a registration renewed, the Bureau may evaluate and consider the overall reputation of the registrant including, without limitation:

(a) the integrity, honesty, good character and reputation of the registrant;

(b) the financial stability, integrity and background of the registrant;

(c) whether the registrant has a history of compliance with gaming licensing requirements in other jurisdictions;

(d) whether the registrant, at the time of submission of the registration form, is a defendant in litigation;

(e) whether the registrant is disqualified from receiving a registration under 205 CMR 134.11(2);

(f) whether the registrant has been convicted of a crime of moral turpitude;

(g) whether, and to what extent, the individual has associated with members of organized crime and other persons of disreputable character;

(h) the extent to which the individual has cooperated with the Bureau in connection with the background investigation;

(i) (for vendors) the integrity, honesty, and good character of any subcontractor.

(4) Rehabilitation.

(a) The holder of a Gaming service employee registration or non-gaming vendor registration may appeal a decision made by the Bureau based upon a disqualifying prior conviction in accordance with 205 CMR 134.11(2) on the basis that they wish to demonstrate rehabilitation only if the conviction occurred before the ten-year period immediately preceding application for licensure or registration.

(b) A Gaming service employee registration or a non-gaming vendor registration may be issued to an applicant who can affirmatively demonstrate rehabilitation. In considering the rehabilitation of an applicant, the following shall be considered:

1. the nature and duties of the position of the applicant;

2. the nature and seriousness of the offense or conduct;

3. the circumstances under which the offense or conduct occurred;

4. the date of the offense or conduct;

5. the age of the applicant when the offense or conduct was committed;

6. whether the offense or conduct was an isolated or repeated incident;

7. any social conditions which may have contributed to the offense or conduct; and

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8. any evidence of rehabilitation, including recommendations and references of persons supervising the applicant since the offense or conduct was committed.
- (c) Any applicant may appeal a decision made by the Bureau based upon a conviction for a crime of moral turpitude as set forth in 205 CMR 134.11(3). A Gaming service employee registration or non-gaming vendor registration may be issued to an applicant who can affirmatively demonstrate rehabilitation. In considering the rehabilitation of an applicant, the factors outlined in 205 CMR 134.11(4)(b) shall be considered.
- (5) An applicant for a registration shall be 18 years of age or older at the time of application.
- (6) The Bureau may deny an application for registration as a non-gaming vendor if it determines that the applicant formed the applicant entity for the sole purpose of circumventing 205 CMR 134.04(1)(b).

NON-TEXT PAGE

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- (i) Replacement/Name or Address Changes. \$10.00.
- (j) Late Fee. a 10% late fee will be assessed to the initial application fee if a renewal application is not received by the commission by the due date.

(2) The application fee for a license or registration may be increased to the extent that the cost of the background investigation relating to an applicant exceeds the application fee set forth in 205 CMR 134.15(1). The commission shall advise the applicant in writing that an additional application fee is required and the manner in which the additional fee was calculated. Once an applicant is directed to submit an additional application fee, the commission will take no additional steps with respect to the application until the increased application fee is paid. In the event that an application fee is not promptly paid without just cause, the application may be denied.

(3) All fees must be submitted to the Bureau in the form of a certified check, cashier's check, personal check or electronic funds transfer payable to the Commonwealth of Massachusetts.

(4) A processing fee of \$30 will be assessed for return of dishonored checks.

(5) Payroll Deduction. Licensing fees for applicants for a Gaming Employee license in accordance with 205 CMR 134.15(1)(b) and a Gaming Service Employee registration in accordance with 205 CMR 134.15(1)(c) shall be submitted on behalf of the applicant by the gaming establishment or vendor with which the individual is employed. The gaming establishment or vendor may recover the cost of the fee by way of deduction from the individual's periodic salary payment.

134.16: Term of Licenses

(1) Licenses and registrations issued in accordance with 205 CMR 134.00 shall be valid for the following terms:

- (a) Key Gaming Employees. Key Gaming employee licenses shall be for an initial term of five years. The initial term of a key gaming employee license shall expire and be renewable on the last day of the month on the fifth anniversary of the issuance date. Key gaming employee license renewals shall be for a term of three years.
- (b) Gaming Employees. Gaming employee licenses shall be for an initial term of five years. The initial term of a gaming employee license shall expire and be renewable on the last day of the month on the fifth anniversary of the issuance date. Gaming employee license renewals shall be for a term of three years.
- (c) Gaming Service Employees. Gaming service employee registrations shall be for an initial term of five years. The initial term of a Gaming service employee registration shall expire and be renewable on the last day of the month on the fifth anniversary of the issuance date. Gaming service employee registration renewals shall be for a term of five years.
- (d) Gaming Vendors and Gaming Vendor Qualifiers. Gaming vendor licenses and gaming vendor qualifier licenses shall be for an initial term of three years. The initial term of a Gaming vendor license and gaming vendor qualifier license shall expire and be renewable on the last day of the month on the third anniversary of the issuance date. Gaming vendor license and gaming vendor qualifier license renewals shall be for a term of three years.
- (e) Non-gaming Vendors. Non-gaming vendor registration shall be for an initial term of five years. The initial term of a Non-gaming vendor license shall expire and be renewable on the last day of the month on the fifth anniversary of the issuance date. Non-gaming vendor registration renewals shall be for a term of three years.
- (f) Labor Organizations. Labor organization registrations shall be for an initial term of one year. The initial term of a Labor organization registration shall expire and be renewable on the last day of the month on the first anniversary of the issuance date.

(2) Notwithstanding 205 CMR 134.16(1), licenses and registrations issued in accordance with 205 CMR 134.00 may be issued with a conditional expiration date to coincide with any employment authorization issued by the United States which is less than the term of the license or registration. A license or registration that is issued with such a conditional expiration date may be extended upon the presentation of proof of United States citizenship or authorization to work in the United States beyond the previous expiration date. Provided, however, no expiration date shall be extended beyond the term for which such a license would have been issued in accordance with 205 CMR 134.16(1).

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(3) If a licensee or registrant has, in accordance with 205 CMR 134.17, made timely and sufficient application for a renewal, their license or registration shall not expire and the applicant shall remain in good standing until the Bureau has issued a decision on the application. If a renewal application is received after the renewal date and the license expires before the commission issues a new license, the person shall not be employable nor conduct business with the gaming establishment until a new license is issued.

(4) A license for a person for whom a positive determination of suitability was issued in accordance with 205 CMR 115.05(3) as part of the RFA-1 process and who filed an application in accordance with 205 CMR 134.08(2) in lieu of the complete application for the position for which they seek licensure shall be issued *nunc pro tunc* to the date of the suitability finding.

(5) All licenses and registrations issued in accordance with 205 CMR 134.00 shall be valid for employment with any Massachusetts gaming licensee.

134.17: Renewals

(1) At a minimum of 150 days prior to expiration, each Key gaming employee licensee, gaming employee licensee, gaming vendor licensee, and gaming vendor qualifier licensee shall submit a new and updated application in accordance with 205 CMR 134.08.

(2) At a minimum of 30 days prior to expiration, each gaming service employee registrant and non-gaming vendor registrant shall submit a new and updated application in accordance with 205 CMR 134.08.

(3) It shall be the responsibility of the licensee or registrant to ensure that their license or registration is current.

134.18: Duties of Applicants and Licensees

(1) All applicants, licensees, and registrants shall have the continuing duty to provide any assistance or information required by the commission or the Bureau and to cooperate in any inquiry or investigation conducted by the commission or the Bureau. Refusal to answer or produce information, evidence or testimony by an applicant, licensee, or registrant may result in denial of the application or suspension or revocation of the license or registration.

(2) No applicant, licensee, registrant shall willfully withhold information from, or knowingly give false or misleading information to, the commission or the Bureau. If the commission or Bureau determines that an applicant, or a close associate of an applicant, has willfully provided false or misleading information, such applicant shall not be eligible to receive a license or registration under 205 CMR 134.00. Any licensee or registrant who willfully provides false or misleading information shall have its license conditioned, suspended or revoked by the commission.

(3) Notification of Changes by Employees. Each key gaming employee applicant or licensee, gaming employee applicant or licensee, and gaming service employee registrant shall have a continuing duty to notify and update the commission, in writing, within ten days of the occurrence of the following:

- (a) Any denial, suspension or revocation by a government agency in any jurisdiction of a license, registration, certification, permit or approval held by or applied for by the individual;
- (b) Any discipline imposed upon the individual by a government agency in any jurisdiction;
- (c) Any arrest, indictment, charge or criminal conviction of the individual in any jurisdiction;
- (d) Any reports, complaints or allegations of which the individual is or should be aware involving conduct of that individual that could lead to potential criminal charges, including but not limited to allegations of theft or embezzlement; and
- (e) Any exclusion or barring of the individual from any casino, gaming establishment or gambling/gaming related entity in any jurisdiction.



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(4) Notification of Changes by Gaming Vendors. Each gaming vendor applicant or licensee shall have a continuing duty to promptly notify and update the commission, in writing, within ten days of the occurrence of the following:

- (a) The proposed appointment, appointment, proposed nomination, nomination, election, hiring, intended resignation, resignation, removal, firing, incapacitation or death of any person required to be a qualifier under 205 CMR 134.04(4);
- (b) Any denial, suspension or revocation by a government agency of a license, registration, certification, permit or approval held by or applied for by the vendor or any qualifying entity or individual;
- (c) Any indictment, charge or criminal conviction of the vendor or any qualifying entity or individual;
- (d) Any civil litigation in which the vendor is named as a party if damages are reasonably expected to exceed \$100,000, except for claims covered by insurance; and
- (e) Any judgments or petitions by or against the vendor, any qualifying entity or individual or any holding or intermediary company of the vendor for bankruptcy or insolvency.

(5) Notification of Changes by Non-gaming Vendors. Each non-gaming vendor registrant shall have a continuing duty to notify the commission, in writing, of the name, residence address, social security number, and date of birth of each relevant person within ten days of the occurrence of the following:

- (a) Any denial, suspension or revocation by a government agency of a license, registration, certification, permit or approval held by or applied for by the vendor or any qualifying individual;
- (b) Any indictment, charge or criminal conviction of the vendor or any qualifying individual;
- (c) The sales representative(s) or other person(s) who solicit(s) business from a gaming licensee; and
- (d) Any person authorized to sign any agreement with the gaming licensee on behalf of the vendor.

(6) Notification of Change of Ownership of Vendor Entities. Each gaming vendor applicant or licensee and each non-gaming vendor registrant shall have a continuing duty to promptly notify and update the commission, in writing, prior to or immediately upon becoming aware of any proposed or contemplated change of ownership which involves more than 5% of the vendor. This duty includes, without limitation, the duty to specify whether the transaction involving the change in ownership will result in a consolidation involving the vendor and another entity, including by merger or acquisition.

(7) Commission Referral to the Bureau. Upon receipt of a notice under 205 CMR 134.18(3) through (6), the commission shall refer the matter to the Bureau for appropriate handling, which may include, without limitation, a notice to the applicant, licensee or registrant requiring the filing of an appropriate application or information and the subsequent investigation of that application or information.

134.19: Disciplinary Action

(1) Grounds for Disciplinary Action. Any employee or vendor license or registration issued under 205 CMR 134.00 may be conditioned, suspended, or revoked, or a civil administrative penalty assessed, if the Bureau finds that a licensee or registrant has:

- (a) been arrested or convicted of a crime while employed by a gaming establishment and failed to report the charges or the conviction to the commission;
- (b) failed to comply with M.G.L. c. 23K, § 13; or
- (c) failed to comply with any provision of M.G.L. c. 23K or 205 CMR pertaining to licensees and registrants, including failure to act in conformance with an applicable provision of the gaming licensee's system of internal controls approved in accordance with 205 CMR 138.02.

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(2) Finding and Decision. If the Bureau finds that a licensee or registrant has violated a provision of 205 CMR 134.19(1), it may issue a written notice of its intent to reprimand, suspend, or revoke said license or registration. Such notice shall be provided in writing and contain a factual basis and the reasoning in support the decision, including citation to the applicable statute(s) or regulation(s) that supports the action. It shall further advise the licensee or registrant of their right to a hearing and their responsibility to request a hearing in accordance with 205 CMR 134.19(4), if they so choose, and that failure to do so may result in the decision automatically being imposed. Mailing of the notice to the address on record with the commission, or emailing the notice to the address provided to the commission by the licensee/registrant shall be deemed satisfactory service of the notice. The Bureau may alternatively issue an order temporarily suspending a license in accordance with M.G.L. c. 23K, § 35(e).

(3) Civil Administrative Penalties. The Bureau may assess a civil administrative penalty on a licensee or registrant in accordance with M.G.L. c. 23K, § 36 for a violation of 205 CMR 134.19(1).

(4) Review of Decision. Any person aggrieved by a decision made by the Bureau, in accordance with 205 CMR 134.19(2) or (3), may request review of said decision in accordance with 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*. Failure to request such review may result in the decision automatically being imposed.

#### REGULATORY AUTHORITY

205 CMR 134.00: M.G.L. c. 23K §§ 3, 12, 16, 30 and 31.

(PAGES 471 THROUGH 480 ARE RESERVED FOR FUTURE USE.)