

205 CMR: MASSACHUSETTS GAMING COMMISSION  
205 CMR 152.00: INDIVIDUALS EXCLUDED FROM A GAMING  
ESTABLISHMENT

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152.01: Scope and authority

The provisions of 205 CMR 152.00 shall provide for the establishment and maintenance of a list, and associated protocols and procedures, for exclusion of individuals from gaming establishments in accordance with M.G.L. c.23K, §§45(a) through (e) and 45(j). Such list shall be maintained separately from that established and maintained in accordance with M.G.L. c.23K, §45(f) through (h).

152.02: Maintenance and distribution of list

- (1) The Commission shall maintain a list of persons to be excluded or ejected from a gaming establishment which shall be posted on the commission's website.
- (2) Each gaming licensee shall ensure that its accesses and reviews the list on a regular basis and that it is made available to all employees of the gaming establishment.

152.03: Criteria for exclusion

- (1) An individual may be placed on the exclusion list if the commission determines that the individual meets one or more of the following criteria:
  - (a) the individual has been convicted of a criminal offense under the laws of any state or the United States that is punishable by more than 6 months in a state prison, a house of correction or any comparable incarceration, a crime of moral turpitude or a violation of the gaming laws of any state;
  - (b) the individual has violated or conspired to violate M.G.L. c.23K or any laws related to gaming;

- (c) the individual has a notorious or unsavory reputation which would adversely affect public confidence and trust that the gaming industry is free from criminal or corruptive elements;
  - (d) the individual is an associate of an individual who falls into a category identified in 205 CMR 1152.03(1)(a) through (c);
  - (e) there exists the potential of injurious threat to the interests of the commonwealth if the individual is permitted in a gaming establishment.
- (2) In determining whether a there exists the potential of injurious threat to the interests of the commonwealth if an individual is permitted in a gaming establishment in accordance with 205 CMR 152.03(1)(e), the commission may consider the following:
- (a) Whether the individual is a known cheat;
  - (b) Whether the individual has had a license or registration issued in accordance with 205 CMR 134.00, or a like license or registration issued by another jurisdiction, suspended or revoked or has been otherwise subjected to adverse action;
  - (c) Whether the individual poses a threat to the safety of the patrons or employees of a gaming establishment;
  - (d) Whether the individual has a documented history of conduct involving the undue disruption of gaming operations in any jurisdiction;
  - (e) Whether the individual is subject to a no trespass order at any casino or gaming establishment in any jurisdiction.
- (3) The commission shall not base a finding to place an individual on the excluded list on an individual's race, color, religion, national origin, ancestry, sexual orientation, disability or sex.

#### 152.04: Duties of the IEB

- (1) The IEB shall, on its own initiative, or upon referral by the commission or a gaming licensee, investigate any individual who may meet one or more criterion for inclusion on the list in accordance with 205 CMR 152.03.
- (2) If, upon completion of an investigation, the IEB determines that an individual meets one or more criterion contained in 205 CMR 152.03 and should be placed on the exclusion list, the IEB shall refer the matter to the commission by way of a report that identifies the individual and sets forth a factual basis as to why the IEB believes the individual meets one or more criterion for inclusion on the list in accordance with 205 CMR 152.03.

#### 152.05: Procedure for entry of names

- (1) The commission shall consider all reports received from the IEB in accordance with 205 CMR 152.04(2) at a public meeting. After review, the commission may place an individual on the exclusion list upon a finding of good cause shown that the individual meets one or more criterion contained in 205 CMR 152.03 and should be

excluded from gaming establishments. Prior to placing a name on the list, the commission may, in its discretion, schedule a hearing on the matter and provide the individual notice in accordance with 205 CMR 152.05(2).

- (2) Whenever the commission places an individual on the list of excluded persons in accordance with 205 CMR 152.05(1), the commission shall promptly serve written notice upon that individual by personal service, registered or certified mail return receipt requested to the last ascertainable address or by publication in a daily newspaper of general circulation for 1 week. The notice shall contain a description of the cause for the exclusion, notice that the individual is prohibited from being present at and gambling in a gaming establishment, and an explanation of the hearing process and manner in which the individual may request a hearing in accordance with 205 CMR 152.05(3).
- (3)
  - (a) Within 30 days of receipt of service of notice by mail or 60 days after the last publication under 205 CMR 152.05(2), an individual placed on the list of excluded persons may request an adjudicatory hearing before the commission under M.G.L. c.30A and show cause as to why the individual should be removed from the list of excluded persons. Such request shall be made by the individual in writing. Failure to demand a hearing within the time allotted in 205 CMR 152.05(3)(a) shall preclude the individual from having an administrative hearing, but shall not affect the individual's right to petition for judicial review.
  - (b) Upon receipt of a demand for hearing, the commission shall set a time and place for the hearing. This hearing shall be held not later than 30 days after receipt of the demand for the hearing, unless the time of the hearing is changed by agreement of the commission and the individual demanding the hearing. The hearing shall be conducted in accordance with 205 CMR 101.00.
  - (c) If upon completion of the hearing the commission determines that the individual was wrongfully placed on the list of excluded persons, the commission shall remove the individual's name from the list of excluded persons and notify all gaming licensees.
  - (d) A person aggrieved by a final decision of the commission in an adjudicatory proceeding under 205 CMR 152.05 may petition for judicial review under M.G.L. c.30A, §14.
- (4) Upon receipt of notice from a district court that an individual has been prohibited from gaming in gaming establishments in accordance with M.G.L. c.23K, §45(i) the commission shall place the name of an individual on the excluded list.

152.06: Information contained on list

The following information and data, where available, shall be provided for each excluded individual:

- (1) The full name and all aliases the individual is believed to have used;

- (2) A description of the individual's physical appearance, including height, weight, type of build, color of hair and eyes and any other physical characteristics which may assist in the identification of the individual;
- (3) The individual's date of birth;
- (4) The effective date of the order mandating the exclusion of the individual;
- (5) A photograph, if obtainable, and the date thereof; and
- (6) Such other information deemed necessary by the commission for the enforcement of 205 CMR 152.00.

152.07: Duty of gaming licensee

- (1) Upon identification, a gaming licensee shall exclude or eject from its gaming establishment any individual who has been placed on the list in accordance with 205 CMR 152.00.
- (2) If an excluded individual enters, attempts to enter, or is in a gaming establishment and is recognized by the gaming licensee, the gaming licensee shall immediately notify the IEB.
- (3) It shall be the continuing duty of a gaming licensee to inform the commission in writing of the names of individuals it believes are appropriate for placement on the exclusion list.
- (4) The commission may revoke, limit, condition, suspend or fine a gaming licensee if it knowingly or recklessly fails to exclude or eject from its gaming establishment any individual placed by the commission on the list of excluded persons.

152.08: Petition to remove name from exclusion list

- (1) An individual who has been placed on the list in accordance with 205 CMR 152.00 may petition the commission in writing to request that their name be removed from the list. Such a petition may not be filed sooner than 5 years from the date an individual's name is initially placed on the list.
- (2) The individual shall state with particularity in the petition the reason why the individual believes they no longer satisfy one or more criterion for inclusion on the list in accordance with 205 CMR 152.03.
- (3) The commission shall schedule a hearing on any properly filed petitions and provide written notice to the petitioner identifying the time and place of the hearing. Such a hearing shall be conducted in accordance with 205 CMR 101.00.
- (4) An individual who was placed on the excluded list by virtue of an order of the district court in accordance with M.G.L. c.23K, §45(i) may not petition for removal in accordance with 205 CMR 152.08.

152.09: Forfeiture of winnings

- (1) An individual who is on the excluded list shall not collect any winnings or recover losses arising as a result of prohibited gaming in a gaming establishment and such winnings shall be forfeited to the commission and deposited into the Gaming Revenue Fund pursuant to M.G.L. c.23K, §§45(j) and 59.
- (2) Upon verification that an individual who is present in its gaming establishment is on the excluded list, a gaming licensee shall take steps to:
  - (a) Remove the individual from the gaming establishment;
  - (b) Where possible, lawfully cause the individual to forfeit any winnings or things of value obtained from engaging in a gaming transaction including:
    - (1) gaming chips, gaming plaques, slot machine tokens and vouchers, and gaming vouchers;
    - (2) any electronic gaming device or slot machine jackpot won by the individual;
    - (3) any cashable credits remaining on an electronic gaming device or slot machine credit meter be played by the individual.
  - (c) Deliver any winnings or things of value obtained from the individual to the cashiers' cage, where they shall be converted into cash, and the cash value transmitted to the commission for deposit in the Gaming Revenue Fund.
  - (d) In conjunction with a forfeiture of winnings or things of value, a gaming licensee shall prepare a form known as a Notice of Forfeiture, which shall include, without limitation, the name of the individual on the list and the manner in which the individual's identity was established, the total value of the forfeited winnings or things of value, the date, time, and a description of the incident leading to the forfeiture. The Notice of Forfeiture shall be signed and attested to by the prohibited individual, unless the individual refuses to sign or is unknown, the employee delivering the winnings or things of value to the cashiers' cage, and the cashiers' cage employee who received the winnings or things of value.
- (3) If an individual wishes to contest the forfeiture of winnings or things of value, the individual may request a hearing in writing with the commission within 15 days of the date of the forfeiture. The request shall identify the reason why the winnings or things of value should not be forfeited. The commission shall schedule a hearing on such request and provide notice to the petitioner.

152.10: Elected officials of a host community

Elected officials of a host community in which a gaming establishment is located shall not place a wager in that gaming establishment. Provided, such an elected official shall not be prohibited from being present in said gaming establishment.

REGULATORY AUTHORITY

205 CMR 152: M.G.L. c. 23K, §§4(28), 4(37), and 45

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