



Legal Division

TO: Massachusetts Gaming Commission
FROM: Carrie Torrisi, Staff Attorney
DATE: December 22, 2016
RE: Table Game Rules

M.G.L. c. 23K, § 2, defines “table game” as “a game, other than a slot machine, which is authorized by the commission to be played in a gaming establishment.” Table games include “standard” games such as poker, roulette, craps, and baccarat, as well as any number of more obscure games or game variations. Before Category 1 licensees begin operating casinos in the Commonwealth, it is important that the rules of each and every table game that is authorized for play are clearly defined. To that end, the Commission should establish a process by which it approves and authorizes the rules to be followed in the conduct of table games and a process by which those rules are made available to the public. The Commission should consider (1) how to proceed with respect to the initial promulgation of regulations governing table game rules; and (2) how to proceed with respect to proposed new games or game variations following the initial promulgation of the regulations. Following is a survey of processes followed with respect to table game rules in five jurisdictions: Nevada, New Jersey, Pennsylvania, Ohio, and Maryland.

I. Authorization of Games for Play

All states but Ohio authorize several “standard” games (*e.g.*, poker, blackjack, craps, roulette) by way of a statutory definition of table game.¹

¹ Nevada: “Game” or “gambling game” means any game played with cards, dice, equipment or any mechanical, electromechanical or electronic device or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing, faro, monte, roulette, keno, bingo, fan-tan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck, Chinese chuck-a-luck (dai shu), wheel of fortune, chemin de fer, baccarat, pai gow, beat the banker, panguingui, slot machine, any banking or percentage game or any other game or device approved by the Commission... NRS 463.0152.

New Jersey: "Authorized Game" or "Authorized Gambling Game"-- Roulette, baccarat, blackjack, craps, big six wheel, slot machines, minibaccarat, red dog, pai gow, and sic bo; any variations or composites of such games, provided that such variations or composites are found by the division suitable for use after an appropriate test or experimental period under such terms and conditions as the division may deem appropriate; and any other game which is determined by the division to be compatible with the public interest and to be suitable for casino use after such appropriate test or experimental period as the division may deem appropriate. "Authorized game" or "authorized gambling game" includes gaming tournaments in which players compete against one another in one or more of the games authorized herein or by the division or in approved variations or composites thereof if the tournaments are authorized by the division. N.J.S.A. 5:12-5.



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In Nevada and New Jersey, the rules for games authorized by statutory definition do not go through a rules submission process [discussed below]. In New Jersey, the rules are approved by virtue of publication in the regulations. In Nevada, however, there is no written publication of the rules of statutorily-authorized games. In order to offer games other than those authorized by statute, Nevada and New Jersey require such new game and game variation proposals to go through a rules submission and approval process in order to be deemed authorized for play. In Pennsylvania and Maryland, however, all games must go through a rules submission and approval process regardless of whether any of those games have been authorized by way of a statutory definition.

Unlike those states discussed above, Ohio does not authorize any specific games through its statutory definition of “table game.”² In Ohio, any game that a licensee wishes to operate must go through a rules submission and approval process in order to be authorized for play.

II. Establishment of Rules

All states surveyed use an application and approval process for the establishment of certain table game rules, which is codified in their respective regulations. As discussed above, Nevada and New Jersey do not require statutorily defined and approved games to go through an approval process, but they do require, along with Pennsylvania, Ohio, and Maryland, any proposed new games or proposed game variations to go through an approval process. The process is similar in all states and essentially involves an application; certification from an independent testing laboratory; a review procedure including game trials; and approval, modification, or denial of the game.

A. The Application:³ Although there are minor variations among the states, the application for a proposed new game or game variation generally must contain, at a minimum, the following information:

Pennsylvania: Any banking or nonbanking game approved by the Pennsylvania Gaming Control Board. The term includes roulette, baccarat, blackjack, poker, craps, big six wheel, mini-baccarat, red dog, pai gow, twenty-one, casino war, acey-ducey, sic bo, chuck-a-luck, Panguingue, Fan-tan, Asia poker, Boston 5 stud poker, Caribbean stud poker, Colorado hold'em poker, double attack blackjack, double cross poker, double down stud poker, fast action hold'em, flop poker, four card poker, let it ride poker, mini-craps, mini-dice, pai gow poker, pokette, Spanish 21, Texas hold'em bonus poker, three card poker, two card joker poker, ultimate Texas hold'em, winner's pot poker and any other banking or nonbanking game... 4 Pa.C.S. 1103.

Maryland: “Table game” means roulette, baccarat, blackjack, craps, big six wheel, minibaccarat, poker, pai gow poker, and sic bo, or any variation and composites of such games... MD STATE GOVT § 9-1A-01(w-2).

² “Table game” means any game played with cards, dice, or any mechanical, electromechanical, or electronic device or machine for money, casino credit, or any representative of value. “Table game” does not include slot machines. OH ST § 3772.01(Y).

1. Name and address of petitioner(s);⁴
 2. The name of the game, which must be different than the name of a game currently approved;⁵
 3. The reason why the game is being proposed;⁶
 4. A list of other jurisdictions in which the new game is currently being offered;⁷
 5. Whether the game is a variation of an authorized game, a composite of authorized games, or a new game;⁸
 6. A description of the new game including game objective, rules of play, table layout and betting position, dealing procedures, gaming accessories (including a sketch or picture of the equipment used to play the game), and a proposed payout schedule;⁹
 7. Whether the game, its name, or any equipment used to play it is covered by any copyrights, trademarks, or patents;¹⁰
 8. Agreement from a licensee to participate in field trials of the game at the gaming facility;¹¹ and
 9. A fee for investigatory expenses.¹²
- B. Certification from an Independent Testing Laboratory: All states surveyed other than New Jersey require that the game be certified by an independent testing laboratory.
- C. Game Trials: Nevada, New Jersey, and Ohio include field trials of the game as part of the review and approval process. Trials are optional in Ohio, but are required in Nevada and New Jersey. In Nevada, the field trial must begin within 30 days of receipt of the New Game Evaluation Procedure Form and will generally last 45-180 days. In evaluating the field trial, the Nevada Gaming Control Board may consider game approvals and play statistics from other jurisdictions. Upon satisfactory

³ Maryland allows only the casino operator to submit an application for a new game or game variation, while the remaining states surveyed seem to allow other “applicants,” such as game manufacturers.

⁴ Nevada and New Jersey

⁵ Nevada

⁶ Pennsylvania and Maryland

⁷ Pennsylvania and Maryland

⁸ New Jersey, Pennsylvania, and Maryland

⁹ All states [note that this is not an exhaustive list of details related to the game rules and procedures]

¹⁰ New Jersey, Pennsylvania, and Maryland [note that Nevada requires as part of the application a copy of a filing receipt from the US Patent and Trademark Office]

¹¹ Nevada and New Jersey

¹² Nevada and New Jersey. Though other states might charge a fee, as well, only Nevada and New Jersey list a fee in the regulatory application requirements.

completion of the trial, the Enforcement Division submits a Request for Final Approval to the Board and the Nevada Gaming Commission.

In New Jersey, the form of the field trials is largely dictated by the petitioner(s). Following preliminary approval by the Division, petitioner(s) are required to submit the names of the casino(s) where the trial will take place; the dates and times when the trial will take place and the tables or equipment that will be involved; proposed signage to be posted at the entrance(s) to the casino(s) where the trial is to be conducted; criteria proposed to be used in determining the success of the trial and methods proposed for documenting it, including any necessary forms; and any other materials or information requested.

In Ohio, the form of the field trial is dictated by the Commission, which may set any requirements or conditions on conduct of the trial period, including duration of the trial.

III. Publication of Rules

A survey of the process of rule publication in Nevada, New Jersey, Pennsylvania, Ohio, and Maryland reveals the following potential routes:

1. Publish the rules on the state agency website (Nevada¹³ and Maryland¹⁴)
2. Publish the rules on the casino website (Ohio)
3. Publish the rules in the regulations (New Jersey and Pennsylvania)

IV. Patron Access

New Jersey, Pennsylvania, and Maryland require casinos to maintain at a security podium or other approved location a printed copy of the complete text of the rules of authorized games, which shall be made available to patrons upon request. In Ohio, casino operators must prominently post and provide a copy of the rules and payoff schedules for any table upon request by a patron.

Additionally, Nevada requires that the rules of each game be posted and clearly legible from each table and designate (1) the maximum rake-off percentage, time buy-in, or other fee charged; (2) the number of raises allowed; (3) the monetary limit of each raise; and (4) the amount of ante. New Jersey, Pennsylvania, and Maryland similarly require signs to be posted at particular

¹³ Nevada publishes rules for approved new games and game variations, but does not publish anywhere the rules for standard or big games (*e.g.*, poker, blackjack, craps, roulette).

¹⁴ Until recently, rules of the games were published in the Maryland regulations at COMAR 36.05.04 through 36.05.19. These regulations were repealed on October 10, 2016.

gaming tables advising patrons of the rules in effect at the table. Ohio requires only that all minimum and maximum wagers be posted at each table.

V. Next Steps for the Commission

Before promulgating the Commission's table game regulations, the following questions should be considered:

- a. Will the Commission require that all games (including so-called "standard" games) go through an approval process in order to be authorized for play, or will it authorize particular games for play by some other method (e.g., authorization by regulation)? If the Commission does require an approval process for all games, what will that approval process be?
- b. Will the Commission publish written rules for the "standard" games (e.g., poker, blackjack, craps, roulette)?
- c. What will be the application process for new table game rules and modified table game rules? Will parties other than licensees be permitted to submit applications?
- d. What will be the Commission's process for review and approval of new and modified table game rules?
- e. Will the Commission publish table game rules in its regulations, on its website, or in some other way? In answering this question, consider why it's important to make the rules available to the public and whether the rules are a subject that would benefit from the public comment period of the regulation promulgation process or are appropriately addressed outside of the regulation promulgation process. If the Commission determines that the rules will not be published in the regulations, an option remains to include a review and comment period for licensees in the administrative table game regulations.
- f. Will the Commission permit reciprocity for game rules that have been approved in other jurisdictions? If so, will those game rules then be completely exempt from an approval process or will they be subject to a modified approval process?
- g. As the regulations are drafted, how would the Commission like to conduct its review (e.g., groupings of particular games or all at once)?