

205 CMR 102: CONSTRUCTION AND APPLICATION

102.02: Definitions

As used in 205 CMR 101.00 through 131.00, the following words and phrases shall have the following meaning, unless the context clearly requires otherwise:

Affiliate ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Applicant ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Application ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Bureau ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Bureau Decision ~~is defined as described~~ in 205 CMR 115.03: *Phase 1 Investigation and Recommendations by the Bureau* and 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*.

Bureau Hearing ~~is defined as described~~ in 205 CMR 101.02: *Hearings Before the Bureau*.

Business ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Business Entity Disclosure Form (BED) ~~is defined as described~~ in 205 CMR 111.02: *Business Entity Disclosure Form Category 1 and Category 2 Entity Applicants and Holding/Intermediary Companies*.

Candidate means a person seeking nomination or election to any local, county, or state public office in Massachusetts, but shall not include a person seeking nomination or election to any ~~f~~ederal public office.

Capital Expenditure ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Cashless Wagering System ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Category 1 License ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Category 2 License ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Chair ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Change of Control means a transfer of interest which directly or indirectly results in a person obtaining greater than 50% ownership interest in a gaming licensee or which results in, or is likely to result in, significant change to the management or operation of a gaming licensee.

Cheat ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Cheating and Swindling Device or Cheating and Swindling Game ~~is as~~ defined in M.G.L. c. 23K, § 2.

Chief Executive Officer means:

(a) As to gaming licensees or applicants the natural person who is ultimately responsible for the daily conduct of the gaming establishment business of one or more affiliated gaming licensees or applicants, regardless of the form of business association of the gaming licensee or applicant or the particular title which that person or any other person holds; and

(b) As to gaming vendor licensees or applicants, the natural person who bears ultimate responsibility for the organization and business activities of the enterprise.

Chief Financial and Accounting Officer means the chief financial and accounting officer of the commission.

Close Associate ~~is as~~ defined in M.G.L. c. 23K, § 2.

Commission ~~is as~~ defined in M.G.L. c. 23K, § 2.

Commissioner ~~is as~~ defined in M.G.L. c. 23K, § 2.

Community Contribution means a political contribution or contribution in kind made by an applicant for a gaming license to a municipality or a municipal employee as allowed by M.G.L. c. 23K, § 47.

Competitively-sensitive Information means all records which are, and those portions of records which contain, confidential personal or business information which if made publicly available would have a reasonable likelihood of placing a person at a competitive disadvantage, or be detrimental to or otherwise cause substantial damage or irreparable harm, ~~to the person~~ such as identity theft, industrial espionage, unfair competition, or similar adverse consequences, ~~to the person~~. Competitively-sensitive information includes, without limitation, social security numbers, passport numbers and other unique identifying information, research and development information, financial records, banking or lending records, mortgage and credit history, lists of customers or business contacts, pricing information, marketing information, processes and methods, and any other unique information, methodology, technique, system, or feature which is restricted by appropriate security measures ~~in the ordinary course~~ to the individual or person or to top management, counsel, research and development staff, and expert consultants only ~~in the ordinary course~~.

Complimentary Service or Item ~~is as~~ defined in M.G.L. c. 23K, § 2.

~~Confidential Information means all records which are, and those portions of records which contain:~~

~~(a) trade secrets, competitively sensitive information and other proprietary information provided to the commission, the bureau, and their agents and employees in the course of an application or an investigation; and~~

~~(b) trade secrets and other information protected from public disclosure by a nondisclosure agreement between the gaming licensee and the commission pursuant to M.G.L. c. 23K, § 21(a)(7).~~

~~Confidentiality Claimant means any person who makes a claim that any records, material or information submitted to the commission, the bureau, or their agents and employees constitutes confidential information.~~

Conservator ~~is as~~ defined in M.G.L. c. 23K, § 2.

Contractor Investigator ~~is defined as described~~ in 205 CMR 105.10: *Authority to Retain and Utilize Contractor Investigators*.

Contribution means a payment, transfer or pledge of money or a thing of value to or for the benefit of a candidate or political organization.

Credit Card ~~is as~~ defined in M.G.L. c. 23K, § 2.

Credit Instrument ~~is as~~ defined in M.G.L. c. 23K, § 2.

Dependent Person means a person who is:

- (a) An employee or co-employee of a prohibited person;
- (b) An employee or co-employee of a person affiliated with a prohibited person;
- (c) An enterprise or firm, or an officer, director, partner, owner, or principal employee of an enterprise or firm, that is a party to any contract with, or is bidding for or seeking to enter any contract with, or regularly represents or provides services to, a prohibited person; or
- (d) A child residing with a prohibited person or who is claimed as a dependent by a prohibited person for Federal tax reporting purposes.

Deputy Director means the deputy director of the bureau.

Director of Gaming Enforcement means the assistant attorney general designated by the attorney general as the director of gaming enforcement pursuant to M.G.L. c. 12, § 11M(b).

Director of Security means an employee of a gaming establishment in charge of, and with overall supervisory responsibility for, security of the gaming establishment.

Director of Surveillance means an employee of a gaming establishment in charge of, and with overall supervisory responsibility for, surveillance at the gaming establishment.

Division **is as** defined in M.G.L. c. 23K, § 2.

Executive Director **is as** defined in M.G.L. c. 23K, § 2.

Financial Stability **is defined as described** in 205 CMR 117.00: *Phase I Determination of Financial Stability*.

Gambling **is as** defined in M.G.L. c. 23K, § 2.

Game **is as** defined in M.G.L. c. 23K, § 2.

Gaming **is as** defined in M.G.L. c. 23K, § 2.

Gaming Area **is as** defined in M.G.L. c. 23K, § 2.

Gaming Device or Gaming Equipment is defined in M.G.L. c. 23K, § 2.

Gaming Employee **is as** defined in M.G.L. c. 23K, § 2.

Gaming Enforcement Unit means the gaming enforcement unit established by the colonel of state police pursuant to M.G.L. c. 22C, § 70.

Gaming Establishment **is as** defined in M.G.L. c. 23K, § 2.

Gaming License **is as** defined in M.G.L. c. 23K, § 2.

Gaming Licensee **is as** defined in M.G.L. c. 23K, § 2.

Gaming Position **is as** defined in M.G.L. c. 23K, § 2.

Gaming Service Employee **is as** defined in M.G.L. c. 23K, § 2.

Gaming Vendor **is as** defined in M.G.L. c. 23K, § 2.

Gaming Vendor License **is as** defined in M.G.L. c. 23K, § 2.

General Counsel means the person designated by the commission as its general counsel or acting general counsel.

Governing Body **is as** defined in M.G.L. c. 23K, § 2.

Gross Revenue or Gross Gaming Revenue **is as** defined in M.G.L. c. 23K, § 2.

Holding Company ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Host Community ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Impacted Live Entertainment Venue is defined in M.G.L. c. 23K, § 2.

Institutional Investor ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Intermediary Company ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Investigatory Material means any document, record, transcript, complaint, evidentiary material of any nature, correspondence, memoranda, report, work product, or other information concerning any examination, any investigation (whether formal or informal), or any related litigation, which pertains to or may disclose:

(a) the possible violation by any person of any provision of any statute, rule, or regulation administered by the commission or the bureau, by any other ~~F~~ederal, state, local or foreign governmental authority, by any professional association, or by any securities industry self-regulatory organization as well as all written communications from, or to, any person complaining of or otherwise furnishing information ~~respecting~~ **with respect to** such possible violations;

(b) information relating to an ongoing ~~investigaton~~ **investigation** that could **potentially** ~~potentially alert~~ **alert** subjects to the activities of investigative officials;

(c) confidential investigative techniques, the disclosure of which would prejudice future law enforcement efforts;

(d) any details in witness statements, which if released create a grave risk of directly or indirectly identifying a private citizen who volunteers as a witness; and

(e) the background of any person the disclosure of which would constitute an unwarranted invasion of personal privacy.

Junket ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Junket Enterprise ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Junket Representative ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Key Gaming Employee ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

License ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

List of Excluded Persons ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Lottery ~~is as~~ defined in M.G.L. c. 23K § 2.

Major Policymaking Position ~~is as~~ defined in M.G.L. c. 23K, § 2.

Massachusetts Supplement Form (PHD-MA-SUPP) ~~is defined as described~~ in 205 CMR 111.04: *Massachusetts Supplemental Form*.

MEPA means the Massachusetts Environmental Policy Act.

Minority Business Enterprise (MBE) ~~A means~~ a minority-owned business that has been certified by either the Massachusetts Supplier Diversity Office within the Operational Services Division, the Greater New England Minority Supplier Development Council, or both.

Money means cash or instruments that are convertible to cash in any negotiable currency.

Multi-jurisdictional Personal History Disclosure Form (PHD-MA) ~~is defined as described~~ in 205 CMR 111.03: *Multi-jurisdictional Personal History Form*.

Non-gaming Vendor ~~is as~~ defined in M.G.L. c. 23K, § 2.

Operation Certificate ~~is as~~ defined in M.G.L. c. 23K, § 2.

Person ~~is as~~ defined in M.G.L. c. 23K, § 2.

Political Contribution means a contribution as defined in M.G.L. c. 55, § 1, except for a community contribution as defined in 205 CMR 102.02: Community Contribution.

Political Organization means any committee of any political party in the Commonwealth of Massachusetts, as structured and defined in accordance with M.G.L. c. 23K, §§ 46 and 47, or any group, committee, or association organized in support of such political party or any candidate. Political Organization shall not include a national party committee or the committee of a ~~F~~ federal candidate for the United States Senate or House of Representatives, unless such a committee contributes to a state candidate from its general receipts.

Prohibited Person means any officer, director, key gaming employee, qualifier, or principal employee of an applicant for a gaming license or of any holding, intermediary, or subsidiary company thereof.

Promotional Gaming Credit ~~is as~~ defined in M.G.L. c. 23K, § 2.

Proprietary Information means all records which are, and those portions of records which contain, personal or business information which, owing to its confidential nature, is in the ordinary course subjected to strict measures to preserve its confidentiality, including confidentiality agreements, non-competition agreements, encryption and password protection for electronic information, restriction of access to those with a need-to-know, and other policies,

procedures, security measures, or markings designed to protect the secrecy of information and to keep the information strictly confidential.

Publicly Traded Corporation means a person, other than an individual, which:

(a) has a class or series of securities registered under the Securities and Exchange Act of 1934 (48 Stat 881, 15 U.S.C. § 78a_ *et seq.*);

(b) is a registered management company under the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 *et seq.*); or

(c) is subject to the reporting obligations imposed by section 15(d) of the Securities and Exchange Act of 1934 by reason of having filed a registration statement which has become effective under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C. § 77a_ *et seq.*) or by reason of an indenture entered into pursuant to an exemption from registration under the Securities Act of 1933.

Qualification or Qualified ~~is as~~ defined in M.G.L. c. 23K, § 2.

Qualifier ~~is as~~ defined as a person whose qualification must be established in evaluating the suitability of an applicant in accordance with the standards and criteria set forth in M.G.L. c. 23K, § 12(a), and 205 CMR 115.01: *Phase I Determination Standards* and 205 CMR 116.02: *Persons Required to be Qualified*.

~~Record means a book, paper, map, photograph, recorded tape, financial statement, statistical tabulation, or any other documentary material or data, regardless of physical form or characteristics.~~

Restricted Area means a part of the gaming establishment that is not open to the public as determined by the commission.

Rewards Card ~~is as~~ defined in M.G.L. c. 23K, § 2.

RFA-P1 or RFA-1 Process ~~is defined as described~~ in 205 CMR 110.00: *Issuance of Request for Category 1 and Category 2 License Applications*.

RFA-2 ~~is defined as described~~ in 205 CMR 110.00: *Issuance of Request for Category 1 and Category 2 License Applications*.

~~Secretary means the secretary of the commission.~~

Secretary of EOEEA means the Secretary of the Executive Office of Energy and Environmental Affairs.

~~Security Protocols means the system for securing and preserving the confidentiality of records in accordance with 205 CMR 103.14: *Security Protocols; Restricted Access*.~~

Slot Machine ~~is~~ as defined in M.G.L. c. 23K, § 2.

Solicitation means a request, suggestion or recommendation made to a particular person, by any means of communication, that the person make a contribution; provided, however, that a statement to a person expressing support for or opposition to the election of any candidate, or support for or opposition to any political organization, which is made without reference to a contribution or a statement intended for and given public dissemination encouraging all persons to make contributions to any candidate or political organization, is not a solicitation.

State Police ~~is~~ as defined in M.G.L. c. 23K, § 2.

Subsidiary ~~is~~ as defined in M.G.L. c. 23K, § 2.

Surrounding Communities ~~is~~ as defined in M.G.L. c. 23K, § 2.

Table Game ~~is~~ as defined in M.G.L. c. 23K, § 2.

Thing of Value means:

- (a) An item of real, personal or intellectual property that may be converted into money by selling it or pledging it as security for a loan or other advance of funds;
- (b) A loan of assets, property, personnel, or facilities for use by a candidate or political organization, such as, without limitation, office space, automobiles, telephones or telephone services, or the time and effort of employees or consultants who are paid by the person making the contribution;
- (c) A personal or professional service that is not incidental to the expression of a person's ideological beliefs or membership in a political organization, and that has a value to the candidate or political organization;
- (d) A non-reimbursed expense that is not incidental to the expression of a person's ideological beliefs or membership in a political organization, and is of the type normally incurred by the candidate or political organization; or
- (e) ~~Any~~ thing, service, expense, or other item of value similar to that identified in ~~205-CMR 102.02 this chapter, :- Thing of Value(a) through (d)~~ which may be identified by the commission in an advisory ruling or other appropriate proceeding.

Trade Secret means all records which are, and those portions of records which contain, anything tangible or intangible or electronically kept or stored, which constitutes, represents, evidences, or records a secret scientific, technical, merchandising, production, manufacturing, or management information, design, process, procedure, formula, invention, method, or improvement which its owner considers to be and treats as confidential and which is not available to the public by any

other source. Trade Secret shall include anything which is a trade secret pursuant to M.G.L. c. 266, § 30(4).

Transfer ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Veteran Business Enterprise (VBE): ~~means a A Veteran Business Enterprise shall have the same meaning as~~ “Veteran-owned small business concern” as defined by 38 CFR 74.1, the status of which can be verified by Vendor Information Pages on the U.S. Department of Veterans Affairs Office of Small & Disadvantaged Business Utilization website or by the Licensing Division of the Massachusetts Gaming Commission. Veteran Business Enterprise is inclusive of the ~~S~~service-disabled veteran-owned business as defined in 15 USC § 632. Additionally, VBE shall include any entity certified as a VBE, as defined by M.G.L. c. 7, § 58, by the Massachusetts Supplier Diversity Office within the Operational Services Division pursuant to regulations promulgated in accordance with M.G.L. c. 7, §61(a).

Notwithstanding the foregoing, for purposes of 205 CMR 135.02(8) and 205 CMR 139.04(3), effective upon the issuance of an operation certificate to a gaming licensee, for vendors associated with that licensee, VBE shall only include those entities certified as such by the Supplier Diversity Office, or verified with the U.S. Department of Veterans Affairs. (Note: vendors previously verified by the Licensing Division will continue to be recognized until the end of their existing contract.)

Vulnerable Populations means groups of people that studies have shown to be more susceptible to gambling problems than others, including people with a history of alcohol or other drug abuse, people with a history of mental health issues, low income patrons of gaming establishments, and older adults.

Wager ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Women Business Enterprise (WBE): ~~means a A~~ women-owned business that has been certified by either the Massachusetts Supplier Diversity Office within the Operational Services Division, the Women's Business Enterprise National Council (or its local affiliate, Center for Women & Enterprise), or both.