

~~205 CMR:~~ MASSACHUSETTS GAMING COMMISSION
PROPOSED AMENDED REGULATIONS AT 205 CMR 105.00
INVESTIGATIONS AND ENFORCEMENT BUREAU

~~205 CMR 105.00:— INVESTIGATIONS AND ENFORCEMENT BUREAU~~105:
Investigations and Enforcement Bureau

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105.01: Bureau Duties and Responsibilities

- (1) The bureau shall be the primary enforcement agent for regulatory matters under M.G.L. ~~echs. 23K, 23N~~ and 205 CMR 101.00 ~~through 131.00, et seq.~~ and shall have all of the powers and duties of the bureau enumerated in St. 2011, c. 194, M.G.L. c. 23K and 205 CMR 101.00 ~~through 131.00, et seq.~~
- (2) The bureau shall be under the supervision and control of the deputy director who shall be the executive and administrative head of the bureau and shall be responsible for administering and enforcing the laws relative to the bureau and to each administrative unit of the bureau. The duties of the deputy director shall be exercised and discharged subject to the direction, control and supervision of the chair or to the executive director by appropriate delegation of authority pursuant to 205 CMR 104.02: *Delegation of Chair's Authority*.
- (3) The bureau shall be a law enforcement agency and its employees shall have such law enforcement powers as necessary to effectuate the purposes of M.G.L. ~~echs. 23K and 23N~~, including the power to receive intelligence on an applicant or licensee, and to investigate any suspected violations of M.G.L. ~~echs. 23K and 23N~~.
- (4) With respect to the investigation and enforcement of gaming establishments and licensees, and sports wagering temporary licensees and sports wagering operators, the bureau may obtain or provide pertinent information regarding applicants ~~or~~ licensees or operators from or to law enforcement entities or gaming authorities and other domestic, Federal or foreign jurisdictions, including the Federal Bureau of Investigation, and may transmit such information to each other electronically or via other secure methods.
- (5) The bureau shall conduct investigations into the qualifications and suitability of all applicants, qualifiers and other persons required to be registered or investigated in

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connection with any form of license or registration pursuant to M.G.L. ~~echs. 23K, 23N~~ and 205 CMR 101.00 ~~through 131.00, et seq.~~ including without limitation an investigation of qualifications and suitability to hold a gaming or sports wagering operator license pursuant to M.G.L. ~~echs. 23K and 23N~~.

105.02: Subpoena Power

- (1) Pursuant to M.G.L. c. 23K, § 4(31), M.G.L. c. 23N, § 4(h) and M.G.L. c. 30A, § 12, the deputy director is authorized in the name of the commission to issue subpoenas, in the conduct of investigations and adjudicatory proceedings, to compel the attendance of witnesses and to produce documents and records, including, but not limited to, written materials, materials maintained and stored in any form of documentary or electronic media, internet, intranet, other electronic, analog or digital formats, and at any place or virtual location within the Commonwealth of Massachusetts.
- (2) Subpoenas pursuant to 205 CMR 105.02(1) concerning an adjudicatory proceeding shall be issued in accordance with M.G.L. c. 30A, § 12, and 205 CMR 101.00: ~~M.G.L. c. 23K Adjudicatory Proceedings.~~
- (3) Subpoenas pursuant to 205 CMR 105.02(1) may be served by bureau employees and agents, including contractor investigators.
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105.03: Authority to Require Testimony Under Oath

Pursuant to M.G.L. c. 23K, § 4(31), M.G.L. c. 23N, § 4(h) and M.G.L. c. 30A, § 12, the deputy director may designate specific bureau employees and agents, including contractor investigators, to require testimony under oath in bureau investigations and hearings.

105.04: Orders and Directives

The bureau shall have power and authority, without limitation, to issue orders and require compliance pursuant to and in accordance with M.G.L. c. 23K, § 35 and M.G.L. c. 23N, § 4(g).

105.05: Civil Penalties

The bureau shall have power and authority, without limitation, to assess a civil administrative penalty pursuant to and in accordance with M.G.L. c. 23K, § 36.

105.06: Seizure of Unlawful Devices, Games or Machines

Pursuant to M.G.L. c. 23K, § 42, any device, game-~~or~~, gaming device, or equipment or material used for sports wagering possessed, used, manufactured, distributed, sold or serviced in violation of M.G.L. ~~chs.~~ 23K, 23N or 205 CMR 101.00, et seq. shall be subject to seizure and forfeiture by the division or the bureau. Forfeiture proceedings shall be conducted as provided in M.G.L. c. 94C, § 47(b) through (j). For purposes of M.G.L. c. 94C, § 47(d) and M.G.L. c. 271A, § 3, the commission shall be considered a police department and shall be entitled to a police ~~department's~~ departments distribution of forfeiture proceedings.

105.07: Coordination with the Massachusetts State Police

The bureau will coordinate with the Gaming and Enforcement Unit in accordance with the provisions of M.G.L. c. 22C, § 70, M.G.L. c. 23K, § 6, M.G.L. c. 23N, §§ 11(d) and M.G.L. c. 12, § 11M.

105.08: Coordination with the Massachusetts Attorney General

The bureau will coordinate with the division in accordance with the provisions of M.G.L. c. 12, § 11M, M.G.L. c. 22C, § 70, and M.G.L. c. 23K and M.G.L. c. 23N, §§ 4(g) and 11(d).

105.09: Coordination with the Massachusetts Alcoholic Beverages Control Commission

The bureau will coordinate with the Gaming Liquor Enforcement Unit of the Massachusetts Alcoholic Beverages Control Commission in accordance with the provisions of M.G.L. c. 10, § 72A and M.G.L. c. 23K.

105.10: Authority to Retain and Utilize Contractor Investigators

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- (1) The commission may, pursuant to M.G.L. c. 23K, § 4 and M.G.L. c. 23N, § 6(d), and any applicable procurement procedures, retain qualified contractor investigators, either directly or pursuant to a contract or contracts with a private investigative business or businesses, to assist the bureau in conducting initial suitability, qualification, and background investigations of license applicants and qualifiers in accordance with the criteria set forth in M.G.L. ~~echs.~~ 23K, 23N and 205 CMR 101.00 through 117.00.
- (2) In retaining contractor investigators, the commission may establish minimum qualifications in terms of education, training, and experience in Federal, state or local, civil or criminal, law enforcement, regulatory and investigative matters.
- (3) Prior to entering a contract with the commission, each prospective contractor investigator and, if applicable, ~~his or her~~ the investigator's related business shall be subject to an expedited background inquiry by the bureau through the gaming and enforcement unit, which shall include, without limitation, an examination of prior criminal history, financial stability, reputation for integrity, honesty, good character; and education, training, and experience in ~~Federal~~ federal, state or local, civil or criminal, law enforcement, regulatory and investigative matters. If a contractor investigator and, if applicable, ~~his or her~~ the investigator's business entity is deemed suitable and qualified by the bureau in its discretion based on this expedited background inquiry, then the commission on behalf of the bureau may enter into a contract for the professional services of the contractor investigator in a form and with terms such acceptable to the commission.

~~105.10: continued~~

- (4) Once retained, each contractor investigator shall be provided with the necessary authority and credentials to serve as an official agent of the bureau in conducting initial suitability, qualification, and background investigations of license applicants and qualifiers in accordance with the criteria set forth in M.G.L. ~~echs.~~ 23K, 23N and 205 CMR.
- (5) Immediately on being retained each contractor investigator shall be sworn to the faithful performance of ~~his or her~~ the investigator's official duties under M.G.L. ~~echs.~~ 23K, 23N and 205 CMR. Before a contractor investigator can participate in any investigation under M.G.L. ~~echs.~~ 23K, 23N or 205 CMR, the investigator shall execute a certification acknowledging ~~his or her~~ the investigator's full understanding and acceptance of the authority given, applicable confidentiality provisions, and the limits to such an investigative authority.
- (6) Each contractor investigator shall report to the deputy director of the bureau or the deputy director's designee. In the case of an absence or vacancy in the office of the deputy director, each contractor investigator shall report to an interim supervisor designated by the chair to supervise such investigators and investigations.

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(7) Any contract entered by the commission for the services of any contractor investigator may be terminated by the commission, without cause, liability or recourse.

~~REGULATORY AUTHORITY~~

~~205 CMR 105.00: St. 2011, e. 194; M.G.L. c. 10, § 72A; e. 12, § 11M; e. 22C, § 70; e. 23K~~

~~§§ 4(37), 5, 6, 35, 36, 42; e. 30A, § 12; and e. 94C, § 47.~~

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