

## 205 CMR 256: SPORTS WAGERING ADVERTISING

### Section

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### 256.01: Third Parties

- (1) Each Sports Wagering Operator shall be responsible for the content and conduct of any and all advertising, marketing, or branding done on its behalf or to its benefit whether conducted by the Sports Wagering Operator, an employee or agent of the Sports Wagering Operator, or an affiliated entity or a third party pursuant to contract, regardless of whether such party is also required to be licensed or registered as a Sports Wagering Vendor or Non-Sports Wagering Vendor.
- (2) Each Sports Wagering Operator shall provide a copy of the regulations contained herein to all advertising, marketing, branding and promotions personnel, contractors, agents, and agencies retained by the Sports Wagering Operator or its agents and shall ensure and require compliance herewith.
- (3) No Sports Wagering Operator may enter into an agreement with a third party to conduct advertising, marketing, or branding on behalf of, or to the benefit of, the licensee when compensation is dependent on, or related to, the volume of patrons or wagers placed, or the outcome of wagers.
- (4) Any advertisement for Sports Wagering shall disclose the identity of the Sports Wagering Operator.

### 256.02: Application

- (1) The provisions of this section shall apply to all advertising, marketing, and branding for Sports Wagering aimed at, published, aired, displayed, disseminated, or distributed in the Commonwealth.
- (2) Sports Wagering advertisements may only be published, aired, displayed, disseminated, or distributed in the Commonwealth by or on behalf of Sports Wagering Operators licensed to offer Sports Wagering in the Commonwealth, unless the advertisement clearly states that the offerings are not available in the

Commonwealth or otherwise makes clear that the offerings are not intended for use in the Commonwealth. Sports Wagering Operators and their agents, employees, or any third party conducting advertising or marketing on their behalf shall not advertise forms of illegal gambling in the Commonwealth.

- (3) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for Sports Wagering on any billboard, or other public signage, which fails to comply with any federal, state or local law.

256.03:        Internal Controls

Each Sports Wagering Operator shall include in its internal controls submitted pursuant to 205 CMR 138 and 238 provisions to ensure compliance with the requirements of 205 CMR 256.00.

256.04:        False or Misleading Advertising

- (1) No Sports Wagering Operator shall allow, conduct, or participate in any unfair or deceptive advertising, marketing, or branding for Sports Wagering. Advertising, marketing, or branding that is unfair or deceptive includes, but is not limited to, advertising, marketing, or branding that would reasonably be expected to confuse and mislead patrons in order to induce them to engage in Sports Wagering.
- (2) No Sports Wagering Operator shall obscure or fail to disclose any material fact in its advertising, marketing, or branding for sports wagering or use any type, size, location lighting, illustration, graphic, depiction or color resulting in the obscuring of or failure to disclose any material fact in any advertising, marketing, or branding.
- (3) All Sports Wagering advertisements must clearly convey the conditions under which Sports Wagering is being offered, including information about the cost to participate and the nature of any promotions or information to assist patrons in understanding the odds of winning. Any material conditions or limiting factors must be clearly and conspicuously specified in the advertisement.
- (4) No employee or vendor of any Sports Wagering Operator shall advise or encourage individual patrons to place a specific wager of any specific type, kind, subject, or amount. This restriction does not prohibit general advertising or promotional activities.
- (5) A Sports Wagering Operator that engages in any promotion related to Sports Wagering shall clearly and concisely explain the terms of the promotion and adhere to such terms. If a Sports Wagering Operator offers complimentary items or promotional credit that are subject to terms, conditions or limitations in order to claim the item or redeem the item or credit, the Operator shall fully disclose all such terms, conditions or limitations through the following methods:
  - (a) In all advertisements or inducements where the complimentary item or promotion are advertised;

- (b) If being added to a Sports Wagering Account, through the use of a pop-up message either while the complimentary item or promotional credit is being added or when the patron next logs in to the Account, whichever is earlier; and
  - (c) If the offer requires the patron to Wager a specific dollar amount to receive the complimentary item or promotional credit, the amount that the patron is required to Wager of the patron's own funds shall be disclosed in the same size and style of font as the amount of the complimentary item or promotional credit, and the complimentary item or promotional credit shall not be described as free.
- (6) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall:
- (a) Promote irresponsible or excessive participation in Sports Wagering;
  - (b) Suggest that social, financial, or personal success is guaranteed by engaging in event wagering;
  - (c) Imply or promote Sports Wagering as free of risk in general or in connection with a particular promotion or Sports Wagering offer;
  - (d) Describe Sports Wagering as "free", "cost free" or "free of risk" if the player needs to incur any loss or risk their own money to use or withdraw winnings from the Wager;
  - (e) Encourage players to "chase" losses or re-invest winnings;
  - (f) Suggest that betting is a means of solving or escaping from financial, personal, or professional problems;
  - (g) Portray, suggest, condone or encourage Sports Wagering behavior as a rite of passage or signifier of reaching adulthood or other milestones;
  - (h) Portray, suggest, condone or encourage Sports Wagering behavior that is socially irresponsible or could lead to financial, social or emotional harm;
  - (i) Imply that the chances of winning increase with increased time spent on Sports Wagering or increased money wagered;
  - (j) Be placed on any website or printed page or medium devoted primarily to responsible gaming;
  - (k) Offer a line of credit to any consumer.

256.05: Advertising to Youth

- (1) Advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall state that patrons must be twenty-one years of age or older to participate.
- (2) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for Sports Wagering that is aimed at individuals under twenty-one years of age.
- (3) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall contain images, symbols, celebrity or entertainer endorsements, or language designed to appeal primarily to individuals younger than twenty-one years of age.
- (4) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall be published, aired, displayed, disseminated, or distributed:
  - (a) in media outlets, including social media platforms, that are used primarily by individuals under twenty-one years of age;
  - (b) at events aimed at minors or where 25% or more of the audience is reasonably expected to be under twenty-one years of age;
  - (c) at any elementary, middle, and high school, or at any sports venue exclusively used for such schools;
  - (d) on any college or university campus, or in college or university news outlets such as school newspapers and college or university radio or television broadcasts; or
  - (e) to any other audience where 25% or more of the audience is presumed to be under twenty-one years of age.
- (5) No sports Wagering advertisements, including logos, trademarks, or brands, shall be used, or licensed for use, on products, clothing, toys, games, or game equipment designed or intended for persons under twenty-one years of age.
- (6) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall depict an individual who is, or appears to be, under twenty-one years of age, except live footage or images of professional athletes during sporting events on which sports wagering is permitted. Any individual

under the age of twenty-one may not be depicted in any way that may be construed as the underage individual participating in or endorsing sports gaming.

- (7) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall depict students, schools or colleges, or school or college settings.

256.06: Advertising to Other Vulnerable Persons

- (1) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for Sports Wagering that is aimed exclusively or primarily at groups of people that are at moderate or high risk of gambling addiction. A Sports Wagering Operator shall not intentionally use characteristics of at-risk or problem bettors to target potentially at-risk or problem bettors with advertisements.
- (2) Advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall include a link to and phone number for the Massachusetts Problem Gambling Helpline using language provided by the Department of Public Health and such other information regarding responsible gaming as required by the Commission (“Responsible Gaming Messaging”).
- (3) Such advertising, marketing, branding and other promotional materials shall not use a font, type size, location, lighting, illustration, graphic depiction or color obscuring conditions or limiting factors associated with the advertisement of such Problem Gambling Helpline Information.
- (4) Information regarding the Problem Gaming Helpline and any other required responsible gaming information (“Responsible Gaming Messaging”) must also meet the following requirements:
  - (a) For signs, direct mail marketing materials, posters and other print advertisements, the height of the font used to advertise Responsible Gaming Messaging must be the greater of:
    - i. The same size as the majority of the text used in the sign, direct mail marketing material, poster or other print advertisement; or
    - ii. 2% of the height or width, whichever is greater, of the sign, direct mail marketing material, poster or other print advertisement.
  - (b) For billboards, the height of the font used for Responsible Gaming Messaging must be at least 5% of the height or width, whichever is greater, of the face of the billboard.

(c) For digital billboards, Responsible Gaming Messaging must be visible for the entire time the rest of the advertisement is displayed.

(d) For video and television, Responsible Gaming Messaging must be visible for either:

i. The entire time the video or television advertisement is displayed, in which case the height of the font used for Responsible Gaming Messaging must be at least 2% of the height or width, whichever is greater, of the image that will be displayed.

ii. From the first time Sports Wagering Equipment, a Sports Wagering Facility, a Sports Wagering Area or Sports Wagering is displayed or verbally referenced, and on a dedicated screen shot visible for at least the last three (3) seconds of the video or television advertisement. If the Operator elects to utilize this option, the height of the font used for Responsible Gaming Messaging:

1. During the advertisement must be at least 2% of the height or width, whichever is greater, of the image that will be displayed.

2. On the dedicated screen shot must be at least 8% of the height or width, whichever is greater, of the image that will be displayed.

(e) For web sites, including social media sites:

i. Responsible Gaming Messaging must be posted in a conspicuous location on each webpage or profile page and on a gaming related advertisement posted on the webpage or profile page.

ii. The height of the font used for Responsible Gaming Messaging must be at least the same size as the majority of the text used in the webpage or profile page.

iii. For advertisements posted on the webpage or profile page, the height of the font used for Responsible Gaming Messaging must comply with the height required for signs, direct mail marketing materials, posters and other print advertisements,

256.07: Self-Excluded Persons

(1) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for sports wagering that is aimed at persons who have enrolled in a Self-Exclusion Program pursuant to 205 CMR 233.

(2) No Sports Wagering Operator shall direct text messages or unsolicited pop-up advertisements on the internet to an individual in the Self-Exclusion Program or

shall allow any employee or agent of the Sports Wagering Operator, or affiliated entity or a third party pursuant to contract, to take such actions.

- (3) All direct advertising, marketing, or promotional materials shall include a clear and conspicuous method allowing patrons to unsubscribe from future advertising, marketing, or promotional communications.

256.08: Disruption to Viewers

- (1) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for Sports Wagering that obscures the game play area of a sporting event or obstructs a game in progress.
- (2) Advertisements for Sports Wagering may not be placed at a sports event with such intensity and frequency that they represent saturation of that medium or become excessive.

256.09: Endorsements

- (1) An advertisement for Sports Wagering shall not state or imply endorsement by minors, persons aged 18 to 20 (other than professional athletes), collegiate athletes, schools or colleges, or school or college athletic associations.
- (2) An individual who participates in Sports Wagering in the Commonwealth under an agreement with a Sports Wagering Operator for advertising, branding or promotional purposes may not be compensated in promotional credits for additional wagers.

256.10: Records

- (1) Each Sports Wagering Operator shall retain a copy of all advertising, marketing, branding and other promotional materials intended to promote any Sports Wagering within the Commonwealth, including a log of when, how, and with whom, those materials have been published, aired, displayed, or disseminated, for six (6) years. A Sports Wagering Operator shall also grant the Commission access to all social media platforms utilized by the licensee.
- (2) All advertising, marketing, branding, and other promotional materials related to Sports Wagering and the log described in subsection (1) shall be made available to the Commission or its agents upon request.

256.11: Enforcement

- (1) A Sports Wagering Operator shall discontinue or modify as expeditiously as possible the use of a particular advertisement, marketing, or branding material in the Commonwealth or directed to residents in this state upon receipt of written notice that the Commission has determined that the advertisement, marketing, or branding material in question does not conform to the requirements of 205 CMR

256.00 or the discontinuance or modification of which is necessary for the immediate preservation of the public peace, health safety, and welfare of the Commonwealth.

- (2) A failure to adhere to the rules of 205 CMR 256.00 may be grounds for disciplinary action under any enforcement method available to the Commission, including emergency enforcement orders to immediately cease and desist such advertising pursuant to 205 CMR 109.
- (3) The Commission may, in addition to, or in lieu of, any other discipline, require an Operator that violates this section 205 CR 256 to provide electronic copies of all advertising, marketing and promotional materials developed by or on behalf of the Operator to the Commission at least ten (10) business days prior to publication, distribution or airing to the public.

#### REGULATORY AUTHORITY

G.L. c. 23N, §4