



NOTICE OF MEETING AND AGENDA

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, and Chapter 107 of the Session Acts of 2022, notice is hereby given of a public meeting of the **Massachusetts Gaming Commission**. The meeting will take place:

Thursday | January 12, 2023 | 10:00 a.m.
VIA REMOTE ACCESS: 1-646-741-5292
MEETING ID/ PARTICIPANT CODE: 111 492 8950
All meetings are streamed live at www.massgaming.com.

Please note that the Commission will conduct this public meeting remotely utilizing collaboration technology. Use of this technology is intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public. If there is any technical problem with the Commission's remote connection, an alternative conference line will be noticed immediately on www.massgaming.com.

All documents and presentations related to this agenda will be available for your review on the morning of the meeting date by visiting our website and clicking on the News header, under the Meeting Archives drop-down.

PUBLIC MEETING - #423

1. Call to Order – Cathy Judd-Stein, Chair
2. Review of Meeting Minutes
 - a. June 22, 2022 **VOTE**
3. Administrative Update – Karen Wells, Executive Director
 - a. Casino Update – Bruce Band, IEB Assistant Director and Gaming Agents Divisions Chief
 - b. Request for Additional IT Hires – David Muldrew, Chief People and Diversity Officer, Human Resources; Katrina Jagroop-Gomes, Chief Information Officer, Information Technology Services; Derek Lennon, Chief Financial and Accounting Officer; Tim Drain, Infrastructure Manager, Information Technology Services; Kevin Gauvreau, Sr. Converged Engineer, Information Technology Services
 - c. Sports Wagering License Update – Karen Wells, Executive Director
 - i. Temporary Sports Wagering License Request from Plainridge Park Casino
 - ii. Full License Update for Category 1 - Retail



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4. Racing Division – Dr. Alex Lightbown, Director of Racing and Chief Veterinarian
 - a. Plainridge Park Casino Capital Improvements Request - Dr. Alex Lightbown, Director of Racing and Chief Veterinarian; Steve O'Toole, Director of Racing at PPC **VOTE**
5. Community Affairs – Joe Delaney, Chief of Community Affairs
 - a. Community Mitigation Fund Budget Update – Mary Thurlow, Senior Program Manager; Lily Wallace, Program Assistant **VOTE**
6. Legal – Todd Grossman, General Counsel; Carrie Torrisi, Deputy General Counsel; Caitlin Monahan, Deputy General Counsel
 - a. Sports Wagering Regulations:
 - i. 205 CMR 256.00: *Sports Wagering Advertising* – Draft Regulation and Memorandum for Review and Discussion **VOTE**
 - ii. 205 CMR 232.00: *Discipline of Sports Wagering Operators* – Draft Regulation and Small Business Impact Statement for review and approval to commence the promulgation process and/or adoption via emergency. **VOTE**
 - iii. 205 CMR 104.00: *Delegation of Authority* – Amendments to Existing Regulation, and Small Business Impact Statement for review and approval to commence the promulgation process and/or adoption via emergency. **VOTE**
 - iv. 205 CMR 106.00: *Information and Filings* – Amendments to Existing Regulation, and Small Business Impact Statement for review and approval to commence the promulgation process and/or adoption via emergency. **VOTE**
 - v. 205 CMR 107.00: *Professional Practice* – Amendments to Existing Regulation, and Small Business Impact Statement for review and approval to commence the promulgation process and/or adoption via emergency. **VOTE**
 - vi. 205 CMR 109.00: *Authority of the Commission to Act in An Emergency Situation* – Amendments to Existing Regulation, and Small Business Impact Statement for review and approval to commence the promulgation process and/or adoption via emergency. **VOTE**
 - b. Promotional Play discussion continued (from December 12, 2022) and tax implications **VOTE**



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7. Sports Wagering Implementation – Karen Wells, Executive Director
 - a. Approval of Permitted Sports Wagering Events/Catalog – Sterl Carpenter, Regulatory Compliance Manager **VOTE**
 - b. Pre-Launch Marketing and Registration **VOTE**
8. Finance – Derek Lennon, Chief Financial and Accounting Officer
 - a. Daily Fantasy Sports Taxation and Revenue Allocation (Discussion about updates to 205 CMR 240)
9. Other Business - Reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that this Notice was posted as “Massachusetts Gaming Commission Meeting” at www.massgaming.com and emailed to regs@sec.state.ma.us. Posted to Website: January 10, 2023 | 9:00 a.m. EST

January 9, 2023

Cathy Judd-Stein
Cathy Judd-Stein, Chair

If there are any questions pertaining to accessibility and/or further assistance is needed, please email crystal.beauchemin@massgaming.gov.



Massachusetts Gaming Commission

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Massachusetts Gaming Commission

Meeting Minutes

Date/Time: June 22, 2022, 10:00 a.m.
Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 111 608 5663

The Commission conducted this public meeting remotely utilizing collaboration technology. Use of this technology was intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public.

Commissioners Present:

Chair Cathy Judd-Stein
Commissioner Eileen O'Brien
Commissioner Bradford Hill
Commissioner Nakisha Skinner

1. [Call to Order](#) (00:00)

Chair Judd-Stein called to order the 383rd Public Meeting of the Massachusetts Gaming Commission. Roll call attendance was conducted, and all four commissioners were present for the meeting.

2. [Approval of Meeting Minutes](#)

Chair Judd-Stein suggested the drafts of meeting minutes be brought forward during the next public meeting. Commissioner Hill agreed.

3. [Administrative Update](#) (1:15)

a. On-Site Casino Updates

Bruce Band, Assistant Director of the IEB and Gaming Agents Division Chief presented the on-site casino updates for the three gaming establishments in the Commonwealth. He noted that Encore Boston Harbor had no significant events occurring, but that their promotional giveaways were still ongoing. He further noted that MGM had began construction for the relocation of their GameSense office and continued to have *Free Music Fridays* in their plaza. He stated that MGM had begun running 24/7 table games with no issues.

Chair Judd-Stein requested a poker update for both properties. Assistant Director Band noted that MGM was operating fourteen poker tables, seven days a week. He reported that Encore Boston Harbor was operating fifteen poker tables, Monday through Thursday.

Chair Judd-Stein asked if there were any waiting periods for poker tables, to which Assistant Director Band responded that there are waiting periods in the morning when the tables first open. Commissioner O'Brien inquired whether signups for waitlists were done in person or electronically. Assistant Director Band reported that the queue is a physical line at both locations, however, MGM has a check in site for patrons. Chair Judd-Stein requested more information regarding the wait time for poker at both establishments, including the number of patrons, and the average wait time. Assistant Director Band confirmed.

b. [Spirit of Massachusetts and Racing Update](#) (5:17)

Dr. Alex Lightbown, Director of Racing and Chief Veterinarian reported that Plainridge Park Casino's (PPC) licensing department had 100 more license requests than this time last year and had paid out approximately \$4.5 million in purses. She further noted that several fines had been issued regarding whipping regulations.

Dr. Lightbown then presented the plan for the *Spirit of Massachusetts Day* on Sunday July 24, 2022, at PPC. She noted that there was a 2 P.M. post time and that the featured races would occur later in the day. She stated that the planned events included the *Spirit of Massachusetts* trot with a \$250,000 purse, the Clara Barton pace with a \$100,000 purse, and the Bert Beckwith Memorial Pace with a \$50,000 purse geared towards local horsemen. Dr. Lightbown also noted that PPC had hosted a couple of \$100,000 purse races in April and May.

Commissioner O'Brien inquired whom Bert Beckwith was. Dr. Lightbown noted that Mr. Beckwith was a beloved trainer in Massachusetts who had passed away, and that previous memorial races had been held in his honor. The Commission had no further questions or comments and thanked Dr. Lightbown. The *2022 PPC Calendar* was included on page 2 of the Meeting Packet.

4. [Research and Responsible Gaming](#) (9:02)

- a. "Bridging the Research to Practice Gap: Context Matters! Understanding the Life Circumstances of Hispanic Residents of a Casino Neighborhood."

Director of Research and Responsible Gaming Mark Vander Linden introduced: Dr. Rodolfo R. Vega, Senior Consultant at John Snow, Inc.; Ms. Zulmalee Rivera, Member Support & Event Coordinator at Neighbor to Neighbor; and Ms. Andrea Royo, Project Leader at Massachusetts Behavioral Health Partnership. Director Vander Linden noted that while researching the socioeconomic impact of gambling, his research team performed community engaged research and partnered with community stakeholders, rather than researching the community from an external perspective.

Dr. Vega presented the research on the impact the gaming establishment in Springfield on the Hispanic community. Topics covered by the research included implementation, bridging the gap between research and implementation, understanding of community context, community-based participatory research, toxic stress, and theoretical implications.

Dr. Vega further presented his findings on the greater Hispanic community, stating that it suffered from pervasive stress throughout life contexts, maintained both positive and negative views of the casino, believed that crime has been redistributed, and that gambling acted as an intergenerational issue in their community. The *Research Study* and *Slideshow Presentation* were included on pages 4 through 89 of the Meeting Packet.

Commissioner O'Brien requested anecdotal example regarding crime being relocated, in hopes it would guide future research. Dr. Vega provided the example that solicitation had moved from the streets to online services and within the casinos. Ms. Rivera also noted that due to gentrification, populations were relocating, and specific crimes were being relocated to new geographic areas.

Commissioner O'Brien followed up regarding research moving forward, and whether there should be a continued look at the impact around the casinos and a historical assessment of the impact on neighborhoods to begin a deeper conversation regarding how the landscape changed. Dr. Vega responded that crime hasn't changed significantly, but the perception of crime had increased, and that he was unsure how to address the divide between reality and perception. Director Vander Linden noted that traditional public safety research had investigated how to approach the concept of community perception, and that calls to service providers and first responders was the metric used in that research.

Chair Judd-Stein inquired whether members of the community would be likely to call in issues to emergency services, if calls to service was the metric used. Ms. Rivera noted that there was a gap of trust between the community and the police department, and that other interventions that align with the self-interest of the community would need to be implemented.

Commissioner Hill shared concern with the fact that some crimes such as sex work may occur inside the casino and wanted to look at additional data. Ms. Royo noted that as crime has redistributed, resource reallocation to match the redistribution would address some of the concerns. Commissioner Hill stated that the statistics presented looked like there was a decrease in certain crime. Dr. Vega responded that he can only report on the experiences and perceptions of the study participants and not large picture statistics.

Commissioner Skinner sought clarification on how to translate the findings presented into tangible action. Dr. Vega stated that the findings allow the community to make conditional plans to better inform what interventions would address specific issues.

Chair Judd-Stein noted that while there was a small number of contacts, the depth of the research yielded, and trust established was an important beginning. She then asked if there was a way for the Commission to perform more work to address the community's understanding of interventions regarding responsible gaming. Ms. Rivera explained that the issue was deeper than

the casino and involved conditioned behavior and a history of systemic discrimination. Ms. Rivera further noted that trust is an important factor in relationship development with the community, and trust needs to be built. She continued that she did not have a recommendation other than the continued relationship building and allowing the community to be part of the process. Dr Vega recommended establishing a mechanism that enhances the community's ability to participate in informing decisions and providing feedback. In this regard, Ms. Rivera recommended listening sessions to allow the community to speak and increase understanding of their perspectives.

5. [Finance Division](#) (1:23:11)

a. FY23 Budget and Public Comment Update

Chief Finance and Accounting Officer Derek Lennon requested approval for the Commission's FY23 Operational Budget. CFAO Lennon reported that the total operating budget will be \$44.39 million, which funds 104 full time equivalent (FTE) employees and four contract employees. CFAO Lennon noted that assessments on licensees listed are estimates and would be revised when slot counts, and gaming position counts occurred on July 1, 2022. He further noted that Gaming Enforcement Unit overtime and litigation funds were funded at minimum levels as they were in prior years. The *FY23 Budget* and supporting information was included on pages 90 through 153 of the Meeting Packet.

CFAO Lennon reported that the proposed budget had been posted for public comment on June 10, 2022 and had yet to receive any public comments. He further noted that the public comment period would conclude on June 24, 2022, and that he would notify the Commission regarding any additional comments at a subsequent public meeting. Commissioners had no questions or comments for CFAO Lennon.

Commissioner Skinner moved that the Commission approve the FY23 Budget as contained in the Commissioner's Packet, and as discussed today and at previous public meetings. The motion was seconded by Commissioner O'Brien.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously 4-0.

6. [Community Affairs Division](#) (1:28:27)

a. Encore Boston Harbor East Broadway Development -Extension of Time Request

Joe Delaney, Chief of the Community Affairs Division reported that Encore Boston Harbor was requesting an extension of time regarding submission of the plan for the pedestrian bridge at East Broadway Development, which was reviewed at the March 14, 2022, public meeting. He recalled for the Commissioners that the Commission provided Encore with a 90-day deadline to submit the pedestrian bridge plans, which would be required by June 14, 2022. Chief Delaney corresponded with representatives from Encore and learned that the plans were not set to be completed by the June 14, 2022, deadline. He confirmed to Commissioners that the licensee stated that a sixty-day extension would be appropriate, and that if the extension was granted, Encore had agreed to submit all plans to the Commission in advance of sharing them with any other agencies.

Encore's General Counsel Jacqui Krum stated that during the design meetings, they found repositioning the bridge made sense. Chair Judd-Stein inquired whether moving the bridge would shift it to another entryway within the gaming establishment. Ms. Krum noted that it may shift the entrance as Encore was considering two designs, but that the purpose of the reposition was to keep the entirety of the pedestrian bridge within the City of Everett and not over the city line, as it would affect permitting requirements.

Commissioner O'Brien noted that while sixty days seemed reasonable, she voiced her preference that the licensee would submit the documents to the Commission prior to that date, as changing entrance point could require more analysis as a substantive issue. Ms. Krum agreed, stating that Encore wanted to proceed with this project quickly.

Commissioner Hill moved that the Commission amend condition number seven from its May 12, 2022, decision relative to the development East of Broadway, and to grant Wynn MA, LLC an additional sixty days from the original due date to file its plan relative to the pedestrian bridge; with the remainder of the conditions otherwise remaining in full force and effect. He added for the purposes of clarity, the due date would now be August 11, 2022.

Commissioner Skinner sought clarification regarding the date reference in the motion of May 12, as the initial decision occurred on March 14, 2022. General Counsel Todd Grossman noted that the May 12 decision was reference to the approval of the memorandum memorializing the March 14, 2022, public discussions. Commissioner Skinner thanked General Counsel Grossman for the Clarification. She then seconded the motion made by Commissioner Hill.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously 4-0.

- b. [Holyoke Community College Workforce Grant Amendment](#) (1:36:40)

Chief Delaney presented Springfield Technical Community College's (STCC) request for an amendment to redistribute funds leftover from the prior round of grants. He noted that STCC requested to redistribute \$22,521, but Chief Delaney recommended redistribution of \$16,896. Chief Delaney noted that the \$5,625 not being redistributed was intended for para-educator training, which was not related to the hospitality industry, and that the other funds were identified in the grant application. Program Assistant Lily Wallace noted that funds would be reallocated to trainings now offered in Spanish. The *Grant Amendment Memorandum* was included on page 170 of the Meeting Packet.

Commissioner O'Brien sought clarification as initially this grant went to Holyoke Community College (HCC) and STCC and asked if it was a three-part grant. Chief Delaney noted that HCC was the lead agency, and that once funds were disbursed to HCC, they distribute the funds amongst their partnered groups, and that STCC received \$104,000. Commissioner O'Brien thanked Chief Delaney for the clarification.

Commissioner O'Brien moved that the Commission amend the 2021 grant initially awarded to Holyoke Community College, a portion of which was sent to Springfield Technical Community College, by authorizing the redistribution of \$16,896 of the STCC award, continuing the Hampden Prep Workforce Development Program and the inclusion of a bilingual co-instructor. The motion was seconded by Commissioner Hill.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously 4-0.

c. [Community Mitigation Fund Applications](#) (1:41:22)

Chief Delaney presented nine Community Mitigation Fund applications for Commissioners' review. He noted that five applications were for public safety and four were applications for specific impact grants. Chief Delaney stated the public safety applications would be presented first, and then the specific impact applications. The *Community Mitigation Fund Applications* were included on pages 156 through 169 of the Meeting Packet.

The first request was from the City of Boston's Police Department for \$256,300. Chief Delaney noted that the request encompassed three separate uses: additional funds for training and overtime; vehicles for the human trafficking unit; and accident reconstruction equipment and training. The Review Team recommended partial funding of \$106,000, with \$81,000 going to the human trafficking unit and \$25,000 going towards additional patrols. He did not recommend funding for accident reconstruction equipment and training.

The second request was from the City of Everett's Fire Department for \$250,000 for the purchase of an ambulance. The Review Team did not recommend funding for this grant. Chief Delaney noted that the City of Everett received funding from its Host Community Agreement,

designed to mitigate the impact from the casino, and that the Community Mitigation Fund was designed to mitigate the unanticipated impacts of casinos.

The third request was from the City of Malden for \$200,000 to replace traffic signals at four intersections along Broadway. The Review Team did not recommend funding for this grant, as data indicated rates of traffic congestion and accidents occurred at approximately the same rate prior to Encore being built. While Encore supported this application, the review team found no nexus between the impact and the gaming establishment.

The fourth request was from the City of Medford for \$191,000 to purchase three public safety vehicles, an electric vehicle charging station, and a speed trailer. The Review Team recommended partial funding of \$68,300 for the speed monitor trailer and the pickup truck but did not recommend funding for the charging station and two additional vehicles. Chief Delaney noted that the Fire Department provided only anecdotal evidence for their claims requiring two detail vehicles; which was not sufficient to justify a casino impact.

The fifth request was from the Town of Plainville for \$238,700 to purchase hardware and software for virtual and in-person and police trainings. The Review Team recommended partial funding of \$142,200 but did not recommend funding for overtime costs associated with Metropolitan Law Enforcement Council (“MetroLEC”) communities or virtual training materials. Chief Delaney explained that Plainville Police were part of MetroLEC, which was comprised of several Police Departments. Chief Delaney noted the importance that funds from the Community Mitigation Fund be applied to casino-related impacts, and that the other departments were not impacted by casinos. He further explained that the upgrades to equipment and software had no nexus to casino impact.

The sixth request was from the City of Everett’s Fire Department for \$353,000, to purchase public safety communications equipment. Chief Delaney noted that the Fire Department’s existing radios struggled to work inside of the Encore, despite Encore installing signal boosters. The Review Team recommended partial funding for \$122,600 to replace the radios in the Fire Station that primarily responded to incidents at Encore, as well as a few spare radios as well. Chief Delaney noted that the City of Everett had other grants approved that should cover the costs of additional radios.

The seventh request was from the City of Everett for \$309,000 to purchase: additional safety equipment; dual band radios for increased interoperability with the Gaming Enforcement Unit; and to fund additional late-night patrols. The Review Team recommended full funding for this project.

The eighth request was from the Town of Mansfield for \$186,200 to purchase traffic safety equipment. The Review Team recommended partial funding of \$64,600 for speed boards, a trailer, and traffic safety equipment, but did not recommend funding for the pickup truck, motorcycle and crossing beacons. Chief Delaney noted that approximately two percent of casino-goers would use Route 106 to reach the casino, and while there was an impact, it was not proportional to the amount requested. Chief Delaney further reported that the Town of Mansfield offered to put problem gambling awareness messages on the speed boards. Chair Judd-Stein

encouraged the idea of including responsible gaming messages on signage and encouraged Director Vander Linden to explore that as an option in other capacities as well.

The ninth request was from the Town of Plainville for \$171,600 to fund a Community Resource Officer. The Review team did not recommend funding for this project, as the Host Community Agreement would likely address these anticipated issues.

Commissioner Hill moved that the Commission approve the applications from the following applicants for funding from the Community Mitigation Fund for the purposes described in the submitted applications and materials included in the Commissioner's Packet, and for the reasons described therein and discussed here today as follows: the City of Boston for two grants: one for the human trafficking unit for \$81,000; and additional patrols for \$25,000, which would total \$106,000; the City of Medford for \$68,300; the Town of Plainville for \$142,200; the City of Everett for \$122,600; the City of Everett for an additional \$309,000 for police equipment, and the Town of Mansfield for \$64,500; and moved further that the Commission staff be authorized to execute a grant instrument commemorating these awards in accordance with 205 CMR 153.04. The motion was seconded by Commissioner O'Brien.

Roll call vote:

Commissioner O'Brien: *Aye.*

Commissioner Hill: *Aye.*

Commissioner Skinner: *Aye.*

Chair Judd-Stein: *Aye.*

The motion passed unanimously 4-0.

Commissioner Skinner moved that the Commission deny the application for funding from the Community Mitigation Fund for accident reconstruction equipment and training for the Collision Investigation Team submitted by the City of Boston for the reasons described in the memorandum in the Commissioner's packet and discussed here today. The motion was seconded by Commissioner O'Brien.

Roll call vote:

Commissioner O'Brien: *Aye.*

Commissioner Hill: *Aye.*

Commissioner Skinner: *Aye.*

Chair Judd-Stein: *Aye.*

The motion passed unanimously 4-0.

Commissioner O'Brien moved that the Commission deny the following applications for funding from the Community Mitigation Fund, first from the City of Everett for the purchase of an ambulance, second for the City of Malden to replace existing traffic signal equipment, and lastly the Town of Plainville's request for funding for a resource officer, for the reasons in the memorandum and discussed here today. The motion was seconded by Commissioner Hill.

Roll call vote:

Commissioner O'Brien: *Aye.*

Commissioner Hill: Aye.
Commissioner Skinner: Aye.
Chair Judd-Stein: Aye.

The motion passed unanimously 4-0.

Chief Delaney presented an overview of the total applications received for the year. The funded projects totaled \$10.47 million and included \$860,600 for public safety grants, \$1.32 million for specific impact grants, \$945,100 for transportation planning, \$5.72 million for transportation construction, 1 million for workforce development, and \$611,000 for community planning. Chief Delaney reported that more applications were submitted than in previous years. He further noted the Community Mitigation Fund rolls over each year, and that unspent funds will continue to be available for the next year.

7. [Legal Division](#) (3:27:17)

a. Public Records Request Policy, Procedure and Technology

Deputy General Counsel Carrie Torrissi presented an updated procedural flowchart on the Public Records Request Policy, incorporating the changes suggested at the May 12, 2022, public meeting. The changes strengthened the language that directed requestors to the request portal on the Commission website and removed the 100-hour threshold language for the assessment of fees to have a broader scope. The updated *Public Records Request Policy* was included on pages 171 through 184 of the Meeting Packet.

Chair Judd-Stein offered an amendment of the flowchart, adding that issues shall be reported to the Executive Director regarding any risk or complex requests. She further suggested that language be included to work in conjunction with other departments as appropriate. Deputy General Counsel Torrissi confirmed the changes recommended by the Chair could be made. Commissioners had no further questions or comments.

Commissioner O'Brien moved that the Commission adopt the updated public records policy and public records request procedure as included in the Commissioner's Packet and discussed today. The motion was seconded by Commissioner Skinner.

Roll call vote:
Commissioner O'Brien: Aye.
Commissioner Hill: Aye.
Commissioner Skinner: Aye.
Chair Judd-Stein: Aye.

The motion passed unanimously 4-0.

Deputy Counsel Torrissi also noted that there had been an uptick in large scale public records requests. She explained that previously email and data were stored on state servers and the Executive Office of Technology Services and Security (EOTSS) conducted e-discovery searches for the legal division. Associate General Counsel Torrissi elaborated that the Commission had

since migrated their files to their own system, and no longer used EOTSS, as the files were not centralized on state servers. She noted that the legal team has worked with IT to practice searching and attended trainings to optimize searches of the Commission's files. Deputy General Counsel Torrisi recommended the use of a third-party vendor to conduct the more complex searches for records requests as there was no e-discovery expert on staff at the Commission. She clarified however, that the legal division could handle simpler searches, however, requested a third-party service be utilized on an "as-needed" basis for more complicated requests.

Executive Director Karen Wells inquired if there were other options, such as having an in-house e-discovery expert. Deputy General Counsel Torrisi stated that was an option, and that most independent agencies used IT staff to run these searches. Executive Director Wells stated that this could be a mechanism to provide for staff training. Chief Information Officer Katrina Jagroop-Gomes noted that tools were in place for simpler searches to be run internally, but complicated Boolean searches would require more expertise.

Commissioner Hill asked if there was a cost estimate for onboarding a third-party vendor on an "as-needed" basis. Deputy General Counsel Torrisi stated that she did not have an estimate yet, as the Commission was not at that stage of the process. Commissioner Hill asked if someone with this skillset would be easily obtainable to hire as staff. CIO Jagroop-Gomes stated that they could either find an e-discovery expert, or someone who was familiar with the current system the Commission uses who could be trained in e-discovery.

Commissioner O'Brien asked if request production is something doable inhouse, with the option of using a third-party vendor as a lifeline. Deputy Counsel Torrisi replied that that is how the legal department was envisioning it, and that the function of the third-party would not be for frequent use, but only when large requests were submitted.

Commissioner Skinner inquired as to what other responsibilities would fit with an e-discovery expert. CIO Jagroop Gomes noted that the e-discovery tool was in the 365 platform, and knowledge of that program, such as a systems administrator, could coincide with knowledge of e-discovery through 365. Commissioner Skinner voiced her support for hiring a third-party vendor, as she was not convinced there were enough complex requests for hiring a full-time employee within the Commission.

Commissioner Skinner added that the complexity of using the software and extensive training required should not be underestimated, and that the Commission should be cognizant of the fact that the program is not something that can be excelled out without frequent repetition.

Commissioner O'Brien agreed with Deputy General Counsel Torrisi regarding in-house training of staff, with the use of a third-party vendor as backup. She noted that General Counsel Grossman and the legal department already have backlogs and large future projects with sports wagering looming. She further noted that she has used third party consultants for similar searches in her past professions.

Chair Judd-Stein inquired how many records requests the legal department receives per year. Deputy General Counsel Torrisi replied that they receive approximately 75 requests, but some

are complex with as many as 20 components. Chair Judd-Stein asked what percentage of requests are complex enough to go beyond the ten-day response period. Deputy General Counsel Torrisi noted that it was less than ten percent of requests.

Executive Director Wells stated that more research into the options could be done to better inform the Commission prior to deciding. Chair Judd-Stein thanked Executive Director Wells.

b. [205 CMR 133: Voluntary Self Exclusion](#) – And Amended Small Business Impact Statement, For Approval to Finalize the Promulgation Process (4:18:42)

Deputy General Counsel Torrisi presented an updated draft of 205 CMR 133 regarding Voluntary Self Exclusion. She noted that the amended version of this regulation was first presented during the Public Meeting on April 28, 2022, and the Commission voted to begin the promulgation process. She added that the public hearing on the proposed amendment occurred on the morning of April 28, 2022, presided over by Commissioner Skinner, and that no public or written comments were received by the Commission.

Deputy General Counsel Torrisi explained that during the comment period, Commissioner Skinner provided recommendations to the Legal Division to clean up the language and change pronouns for equity and inclusion. The *205 CMR 133: Voluntary Self Exclusion and Amended Small Business Impact Statement* were included on pages 185 through 197 of the Meeting Packet.

Commissioner Skinner moved that the Commission approve the Amended Small Business Impact Statement relative to 205 CMR 133 as included in the Commissioner's Packet, and further moved that the Commission approve the final version of 205 CMR 133 as included in the Commissioner's Packet and as discussed today and authorize the staff to take the steps necessary to file the required documentation with the Secretary of the Commonwealth and finalize the regulation promulgation. The motion was seconded by Commissioner Hill.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously 4-0.

c. [205 CMR 103: Access to and Confidentiality of Commission Records](#) - and Small Business Impact Statement, for approval to begin the promulgation process (4:29:02)

Deputy General Counsel Torrisi stated that as 205 CMR 103 existed, it contained language: that was unnecessary or duplicative of other laws; better used for policies than regulations; and that created redundant or duplicative processes. She then presented proposed changes that would eliminate the regulation in its entirety to prevent confusion and increase efficiency. Deputy

General Counsel Torrisi explained that eliminating this regulation would not eliminate the mechanism for licensee to deem certain types of records to be confidential, and that it would streamline the process as the regulation was less clear than the statutorily defined Non-Disclosure Agreements with all licensees.

Deputy Counsel Torrisi reported that sections 205 CMR 103.03 regarding official custodians, 103.09 regarding information provided in response to requests during phase I and II, and 103.14 regarding security protocols were going to be preserved as Commission policies rather than regulations.

Commissioner O'Brien noted her concern that the language in sections .03, .09, and .14 of 205 CMR 103 were not yet contained elsewhere. Chair Judd-Stein noted that the decision to strike all of 205 CMR 103 could be adopted today, and that the language could be incorporated at a later point. Commissioner Skinned stated that she wanted to put a hold on voting until a document was created and presented to Commissioners that preserved the aforementioned sections.

Deputy General Counsel Torrisi also reported that the legal department was collaborating with IT Division to incorporate policies regarding the security protocols found in 103.14 into the network security plan. Commissioner O'Brien requested a timeline on that policy. CIO Jagroop-Gomes reported that it would take about a month to get the network security plan in front of the Commissioners. Deputy Counsel Torrisi noted that due to the promulgation timeline, even if a vote took place today, the regulation would be in effect until August or September, giving departments time to incorporate language into their policies prior to the final vote.

Commissioner O'Brien stated she would not feel comfortable taking action to finalize the elimination the regulation without the discussed sections being incorporated into policy. Chair Judd-Stein asked if the language could be added to the motion to ensure the adoption of the three sections as formal policy. Commissioner Hill sought clarification as to whether a single motion could be used to rescind 205 CMR 103 and adopt the other sections as policy.

Commissioner Skinner asked if there was a deadline for this process. Deputy General Counsel Torrisi stated that public comment and hearing need to occur within a set timeframe once the promulgation process began, but the final vote could be delayed, so there is no deadline. Chair Judd-Stein stated she was comfortable with the legal department's recommendation as the regulation would not be rescinded immediately upon a vote by the Commission.

Commissioner O'Brien moved that the Commission approve the Small Business Impact Statement as included in the Commissioner's Packet and authorize staff to file all of the necessary documentation with the Secretary of the Commonwealth and proceed with the regulation promulgation process to rescind 205 CMR 103 as presented and discussed here today, subject to the direction that sections .03, .09 and .14 be preserved as policies of the Commission and those policies shall be finalized prior to moving into the final promulgation process. The motion was seconded by Commissioner Skinner.

Roll call vote:

Commissioner O'Brien: *Aye.*
Commissioner Hill: *Aye.*
Commissioner Skinner: *Aye.*
Chair Judd-Stein: *Aye.*
The motion passed unanimously 4-0.

d. [205 CMR 115.01 \(4\): Continuing Duty](#) (5:08:06)

General Counsel Todd Grossman brought forward 205 CMR 115.01(4) for the Commission's review of the regulation and discussion. General Counsel Grossman noted that he had no recommendations for amendments of the regulation at this time but was hoping to have a discussion with Commissioners about its purpose and any changes the Commissioners were interested in seeing. He explained that the regulation provided information as to when Qualifiers were duty bound to provide notice of any adverse action, or investigations impacting their finding of suitability to the Investigations and Enforcement Bureau. General Counsel Grossman noted that it was an older regulation, and the legal department wanted to make sure it still captured what the Commission intended. Regulation 205 CMR 115.01(4) was included on page 220 of the Meeting Packet.

Chair Judd-Stein thanked General Counsel Grossman for the overview presentation and posed the question to her fellow Commissioners that in the interest of time, Commissioners table this agenda item for discussion at a later meeting to allow for a longer discussion. Commissioners agreed.

8. [Approach to Determining Technical Standards and Conducting Compliance Testing in Sports Wagering](#) (5:31:15)

Chair Judd-Stein noted that two pieces of legislation that would legalize sports wagering were being considered before the Legislative Conference Committee, and that each bill designated the Commission as the regulator for sports wagering. She further noted that the Commission could consider neutral policies as a preliminary administrative action to put the Commission in better position to implement sports wagering law, if it did ultimately become legalized.

Executive Director Wells noted that the Commission could not perform certain actions until the legislation passes but reported that some issues have been identified proactively. She stated that the first issue was the adoption of technical standards, and a review of different regulatory models from other states. She stated most states relied upon Gaming Laboratories International (GLI) standards, and that those who internally regulate sports wagering tend to have larger gaming jurisdictions with relevant gaming experts.

Executive Director Wells recommended that the Commonwealth should rely on the GLI Standards for Technical Compliance of Online Platforms; the GLI 19 Interactive Gaming Systems Version 3.0; the GLI Wireless Standards 26, Version 2.0, the GLI 33 Event Wagering System Version 1.1; the Standard Change Management Program Guide Version 1.0; and GLI 20 Kiosk Version 2.0. The *GLI Standards* were included in the Commissioner's Packet. Executive

Director Wells stated that while it was premature to adopt regulations, the Commission could tailor these standards as best practices for Massachusetts in preliminary practice, should sports wagering become legal.

Commissioner Skinner inquired what document would culminate from the review and tailoring of the standards, and if it would take the form of a regulation or a policy. Executive Director Wells confirmed that it would be a regulation adopting the GLI standards. General Counsel Grossman stated that the process was to expedite review of materials if sports wagering were to be approved, and that the staff had reviewed and supported the GLI standards.

Commissioner Hill stated he supported the Commission's use of GLI standards for tech compliance, but also voiced his support for an informed review of other options available. CIO Jagroop-Gomes stated that the IT department has already begun that research, and it was available for internal distribution and review.

Executive Director Wells then presented four options for the approach to technical testing of sports wagering platforms to ensure compliance with Massachusetts law prior to operation. The first option was that the Commonwealth require licensees to contract with outside vendors to provide testing that conformed to Massachusetts standards, and subsequently provide results to the Commission, in addition to auditing those results. The second option was to hire personnel to conduct testing in-house, and to increase the number of IT staff within the Commission. The third option was to contract with a third-party vendor to test directly on behalf of the Commission. The fourth option was to utilize a hybrid model with some testing performed by Commission IT staff, and some tests being performed by a third-party vendor retained as a contractor. Executive Director Wells recommended exploring the option of third-party vendors for initial testing, and once the program was up and running to move towards a hybrid model mentioned under option four. She noted that with this model, the Commission would not be completely reliant on a third-party vendor and would develop experience expertise necessary for long term regulation and inspection.

Chair Judd-Stein appreciated the recommendation and expressed concern with the first two options, as the Commission should not relinquish its statutorily imposed authority, and the second option could prove excessively costly. Executive Director Wells clarified that contracting could not occur until sports wagering was approved, and that presently the Commission was analyzing potential costs. Commissioner O'Brien requested more information regarding third party vendors and posed that it may be too early for a decision on this issue.

Commissioner Hill moved that the Commission direct staff to review the technical GLI standards described in Director Wells' Memorandum for possible adoption should sports wagering become authorized and placed under the jurisdiction of the Commission. The motion was seconded by Commissioner O'Brien.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Chair Judd-Stein: *Aye.*
The motion passed unanimously 4-0.

Commissioner O'Brien expressed her concern regarding the procurement process and engaging third-party vendors at this stage, prior to the legalization of sports wagering. Executive Director Wells explained that the procurement process could be explored without the Commission committing to any vendor. Chair Judd-Stein requested exploration of the landscape to see how difficult it would be to procure a vendor of this kind. CIO Jagroop-Gomes noted that it was a narrow landscape, but the goal was to allow staff to explore options. She elaborated that was unclear if requests for information could be submitted prior to sports wagering being approved. Commissioner Skinner suggested narrowing the definition in the memorandum to have a clearer definition of "explore contracting." Executive Director Wells agreed.

The Commissioners agreed not to vote on this matter until more information was presented later.

9. [Commissioner Updates](#) (6:08:10)

Chair Judd-Stein reported on the interview process for an Executive Assistant for the Commissioners. She further noted that due to public meeting laws, the interviews may need to be conducted in a special public meeting and suggested streaming or recording the meeting, if necessary. Commissioners had no further discussion on this matter.

Hearing no other business, Chair Judd-Stein sought for a motion to adjourn from her fellow Commissioners.

Commissioner O'Brien moved to adjourn. Commissioner Skinner seconded.

Roll call vote:
Commissioner O'Brien: *Aye.*
Commissioner Hill: *Aye.*
Commissioner Skinner: *Aye.*
Chair Judd-Stein: *Aye.*
The motion passed unanimously. Meeting Adjourned.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated June 15, 2022
2. [Commissioner's Packet](#) from the June 22, 2022, meeting (posted on massgaming.com)



TO: Cathy Judd-Stein, Chair
Eileen O'Brien, Commissioner
Brad Hill, Commissioner
Nakisha Skinner, Commissioner
Jordan Maynard, Commissioner

FROM: Katrina Jagroop-Gomes, Chief Information Officer
Tim Drain, Infrastructure Manager
Kevin Gauvreau, Sr. Converged Engineer
Cristian Taveras, Gaming Technical Compliance Manager

CC: Karen Wells, Executive Director
David Muldrew, Chief People and Diversity Officer

DATE: January 4, 2023

RE: ITS Hires

In light of the recent expansion of staff, technological resources, and services due to the regulation of Sports Wagering, the Information Technology Services (ITS) Division has identified the need for five additional FTEs (full-time equivalent) positions: Gaming Technical Compliance Engineer, Business Analyst, Network Engineer, Systems Administrator, and ServiceDesk Specialist. Currently, in most cases, only one or no individual supports the respective areas. Adding these positions aids the ITS division with the necessary redundancy, required skillsets, and distributed workload for greater efficiency and effectiveness.

The Gaming Technical Compliance (GTC) Engineer's responsibilities include but are not limited to reviewing, testing, approval, or rejecting both gaming and sports wagering systems, hardware, and software. The addition of this position will enable the redistribution of workloads, allowing for redundancy and efficiency while providing the manager with the ability to delegate and work on higher-level initiatives.

The (GTC) Business Analyst's responsibilities include but are not limited to being a dedicated resource to sports wagering operators and will provide regulatory oversight, technical evaluations, compliance, change management, analyzing market performance, statistics, and systems logs, and investigating technology failures or anomalies.

The Network Engineer's responsibilities include but are not limited to planning, designing, and maintaining a converged network infrastructure, unified communications, enterprise



Massachusetts Gaming Commission

network, and security, and providing Tier II/III support. The addition of the position will provide the necessary redundancy to ensure the Commission's best security posture and the manager the ability to delegate and assign day-to-day operational tasks.

The Systems Administrator's responsibilities include but are not limited to maintaining the Active Directory environment, Office 365, SharePoint, Email, Security Patches, and Backup processes. This position will allow for faster resolution to customer-facing issues, researching automated solutions to current manual tasks, and function as an escalation point for the Tier I and II support analysts. The addition of the position will provide the necessary redundancy to support and maintain the Commission's infrastructure and related services.

The ServiceDesk Specialist position is the voice and face of the ITS division. Their responsibilities include but are not limited to providing the Commission telephone, email, and in-person technical support. They provide customer service to resolve issues, restore services, and provide Tier I and Tier II support to end users. They triage and prioritize tickets, route tickets to the appropriate escalation resources, and often resolve the most common issues on a first call.

The summarizations of the positions are simplified descriptions of the work and complexity that each position would contribute to the overall division. The ITS ServiceDesk experienced a 46.17% increase in tickets as of September 29, 2022, compared to the same date in the prior year, which does not include all the project work the ITS team regularly performs. We have onboarded over 36 new hires in the last six months, including temporary help, contractors, GEU staff, and FTE headcount.

The new additions would assist with our SLAs (Service Level Agreements) to our internal and external customers, allow time for professional development amongst the team, and create more collaboration opportunities and redistribution of workloads. They would also allow managers to elevate their delivery and customer models and create redundancy for specific job functions to ensure business continuity so that no one person is a single point of failure.



Massachusetts Gaming Commission

101 Federal Street, 12th Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com



TO: Chair Cathy Judd-Stein
Commissioner Brad Hill
Commissioner Jordan Maynard
Commissioner Eileen O'Brien
Commissioner Nakisha Skinner

FROM: Karen Wells, Executive Director

CC: Todd Grossman, General Counsel

DATE: January 9, 2023

RE: Plainville Gaming Redevelopment, LLC's Request for a Temporary License to Conduct Sports Wagering

Pursuant to G.L. c. 23N, §6(c)(2) and 205 CMR 219, I have reviewed Plainville Gaming Redevelopment, LLC's ("PGR") Request for a Temporary License to Conduct Sports Wagering, dated January 5, 2023. After review of said Request, I have determined that PGR is a qualified gaming entity pursuant to c. 23N, §3 and has paid the sports wagering initial licensing fee of \$1,000,000 pursuant to c. 23N, §6(c)(1).

Based on the aforementioned findings, it is my recommendation that the Commission issue PGR the requested temporary license and authorize PGR to conduct sports wagering for a period of one year or until a final determination on its operator license application is made.



Massachusetts Gaming Commission



MASSACHUSETTS GAMING COMMISSION

REQUEST FOR A TEMPORARY LICENS TO CONDUCT SPORTS WAGERING

(PLEASE COMPLETE EACH SECTION OF THIS REQUEST)

BACKGROUND

NAME OF ENTITY: Plainville Gaming Redevelopment, LLC
D/B/A: Plainridge PARK Casino
NAME AND TITLE OF INDIVIDUAL FILING THIS REQUEST: Walter W. Grouse II
DATE FOUND PRELIMINARILY SUITABLE BY MGC: 12/20/2022

(PLEASE CHECK ONE) ENTITY IS A 'QUALIFIED GAMING ENTITY' AS IT:

- ☒ HOLDS A GAMING LICENSE UNDER G.L. c. 23K
☒ IS LICENSED TO CONDUCT LIVE HORSE RACING UNDER G.L. c. 128A
☒ IS A RUNNING HORSE RACING MEETING LICENSEE THAT CONDUCTED SIMULCAST WAGERING AS OF 12/31/20
☐ IS A GREYHOUND MEETING LICENSEE THAT CONDUCTED SIMULCAST WAGERING AS OF 12/31/20
☐ OFFERS AN INTERACTIVE SPORTS WAGERING PLATFORM THROUGH A MOBILE APPLICATION OR OTHER DIGITAL PLATFORM

TEMPORARY LICENSE FEE

A REQUEST FOR A TEMPORARY LICENSE SHALL INCLUDE AN INITIAL LICENSING FEE OF \$1 MILLION PAYABLE TO THE MASSACHUSETTS GAMING COMMISSION. FOR ELECTRONIC WIRING INSTRUCTIONS, PLEASE CONTACT DOUG O'DONNELL AT douglas.odonnell@massgaming.gov.

HAS THE TEMPORARY LICENSE FEE BEEN REMITTED (please check one): Yes ☒ No ☐

SIGNATURE AND INFORMATION

I swear or attest under the pains and penalties of perjury that the information provided as part of this request for a hearing is true and accurate to the best of my knowledge and understanding.

Walter W. Grouse II

Signature of authorized agent of entity

GH20-11

Date

01/05/2023

[If this request is submitted via email, it may be signed electronically by typing the petitioner's name on the signature line above. In that case, the 'signature' must be preceded by /s/ (e.g. - /s/ John S. Doe). Use of an electronic signature permits the Commission to rely upon the signature as if it were handwritten.]

Please submit this request to the Executive Director of the Commission via email at: karen.wells@massgaming.gov.

Please refer to 205 CMR 219 (Temporary Licensing Procedures) and 205 CMR 221 (Sports Wagering License Fees) for further information.



Division of Racing

MEMORANDUM

TO:	Massachusetts Gaming Commission
FROM:	Chad Bourque, Financial Analyst
SUBJECT:	Request for Consideration Harness Horse Capital Improvement Trust Fund
DATE:	January 5, 2023

In accordance with General Laws of Massachusetts, Chapter 128A, Section 5g.

The trustees may expend without appropriation all or any part of the capital trust fund to the appropriate track licensee in proportion to the amount deposited in each fund for use of a capital expenditure for alterations, additions, replacements, changes, improvements, or major repairs to or upon the property owned or leased by the licensee and used by it for the conduct of racing, but not for the cost of maintenance or of other ordinary operations. The trustees shall hire the services of the architectural/engineering consultants as they deem appropriate to advise them and to evaluate proposed capital improvements. The following capital fund request has been reviewed.

HHCITF 2023-01 Request for Consideration:

- Pre-construction services for the proposed renovations to the horse paddock & barn building

Total amount requested for consideration: \$95,000.00

All financial statements required under section 6 shall be accompanied by a statement signed under the pains and penalties of perjury by the chief financial officer of the licensee setting forth the capital improvements completed with funds obtained under this section. All documentation has been submitted and reviewed.

After review and confirmation of the request, with your authorization, we will approve the scope of work to be completed at the licensee facility. The current balance of the HHCITF is \$855,445.

Encl. plainridge_rfc_hhcitf_2023_01_phase_01

Cdb



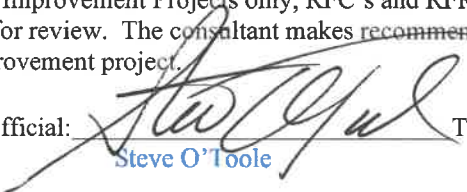
Massachusetts Gaming Commission



PLAINRIDGE PARK
CASINO

Massachusetts Gaming Commission
Harness Horse Capital Improvement Trust Fund
Harness Horse Promotional Trust Fund

1. Date: 1/3/2023
2. Association: Plainville Gaming & Redevelopment, LLC d/b/a/ Plainridge Racecourse
3. Project #: Plainridge HHCITF 2023-1 Phase 1
4. Project Description: Race Paddock Renovations and Expansion
Phase 1 Pre-Construction Design
5. Type of Request: RFC - HHCITF
 - Request for Consideration / RFC
 - Request for Reimbursement / RFR
 - Harness Horse Capital Improvement Fund / HHCIF
 - Harness Horse Promotional Trust Fund / HHPTF
6. Total Project Amount: \$95,000 RFC
 - Estimate / RFC - \$95,000
 - Actual / RFR -
7. RFC – Provide a detailed description of the promotional or capital improvement project including the project objectives, how it will enhance the operations of the association and / or improve attendance and handles at your racetrack:
Capital Improvement – Design stage for upgrades and expansion to the existing Race Paddock. (see project description submitted by Currie Building Systems, Inc.)

RFR – Requests for reimbursement must contain a listing of all project expenditures by date, paid to and check number. A copy of the invoice and cancelled check must support each expenditure.
8. For Capital Improvement Projects only, RFC's and RFR's must be submitted to the Commission's architect engineer consultant for review. The consultant makes recommendations to the Trustees relative to the cost and nature of the capital improvement project.
9. By Track Official:  Title: Director of Racing Date: 1/3/2023
Steve O'Toole
10. Trustee Approval and Date:



December 28, 2022

Steve O'Toole
Plainridge Park Casino
301 Washington Street
Plainville, MA 02762

RE: Horse Paddock and Barn Renovations
Phase 1 Pre-Construction Services

Dear Steve,

We are pleased to submit our proposal to provide Phase 1 Pre-Construction Services for the design and cost estimating for the proposed renovations of the existing 16,000 SF Horse Paddock and 7,000 SF Horse Barn buildings located at the Plainridge Park Casino. The proposed renovations will include the following: renovating horse paddock locker room/men's and women's restrooms/offices/exterior windows; removal of existing stalls and installing new stalls in both buildings; new trench floor drains in both buildings; new concrete floor slabs on grade in both buildings; new addition connecting the paddock and barn buildings. The Phase 1 Pre-Construction Services scope of work and associated costs are outlined as follows:

- Provide civil engineering design services to provide drawings for existing conditions interior and exterior foundation and floor area elevations, existing underground utilities and existing underground storm water drain lines. Provide stamped Site Drawings for proposed tie in of underground drain systems to existing sewer pump station for new work
- Provide architectural design services to design the interior and exterior building renovations to conform to the International Building Code 2015, Massachusetts Building Code 9th Edition and Massachusetts Architectural Access Board requirements. Provide existing conditions floor plan and elevations, building code review and existing building code narrative (Chapter 34 Review). Provide progress drawings for owner review during design development. Provide stamped Architectural Drawings including floor plans, elevations, sections, and schedules and Construction Control Documents (Initial and Final) prepared for building permit and construction
- Provide structural design services to design the reinforced concrete slab on grade in both buildings and foundation/footings for the proposed connector structure between the two buildings. Design to be in accordance to International Building Code 2015 and Massachusetts Building Code 9th Edition Amendments to the IBC 2015. Provide stamped Structural Drawings and Construction Control Documents (Initial and Final) prepared for building permit and construction
- Consult with design build MEP subcontractors and develop scopes of work for all MEP trades including fire protection, plumbing, HVAC, fire alarm and electrical to be used for preliminary design and budgeting purposes. Design services, drawings and construction control documents for permitting and construction for all MEP trades will be provided in Phase 2 Final Design and Construction Phase.



Page 2

Plainridge Park Casino

12/28/2022

- Provide estimating services to complete a comprehensive cost budget for the entire project based on the Phase 1 Pre-Construction design documents and services included in this proposal. Solicit competitive pricing from vendors and subcontractors for all work required to complete the entire project.
- Provide project schedule outlining projected duration of all major trades during the construction phase of the project. Identify long lead items to be procured early in the project to avoid delays in the construction.

Total Phase 1 Pre-Construction Services Fee: \$95,000.00

We are prepared to commence with the Pre-Construction Services immediately upon acceptance of this proposal. We are confident that Currie Building Systems will be an asset to your team with our experience working on multiple successful major projects at the Plainridge Park Casino and our vast experience working in the design build commercial/industrial construction industry.

It is our understanding that the intent is for Plainridge Park Casino and Currie Building Systems to enter into a contract for the Phase 2 Final Design and Construction Services at the completion of the Phase 1 Pre-Construction Services.

We greatly appreciate the opportunity to submit our proposal and we look forward to working with you on this exciting project.

Respectfully Submitted,

William T. Currie, Jr
President



Wayne O. Salo, Founder
Neil R. Dixon, Founder
Jesse G. Hilgenberg, Principal

January 3, 2023

Mr. Chad Bourque, Senior Financial Analyst
Massachusetts Gaming Commission/Racing Division
101 Federal Street
Boston, MA 02110

RE: Plainville Gaming & Redevelopment, LLC d/b/a Plainridge Racecourse
Project Plainridge HHCITF 2023-01, Phase 1 Preconstruction Design
Race Paddock Renovations and Expansion
Request for Consideration

Dear Mr. Bourque:

Attached please find one copy of a Request for Consideration from Plainville Gaming & Redevelopment, LLC to the Massachusetts Gaming Commission/Racing Division in the amount of \$95,000.00 for Phase 1 Pre-Construction Design for the Race Paddock Renovations and Expansion at Plainridge Racecourse.

This first Phase of the project involves the Pre-Construction Design services for the proposed Race Paddock Renovations and Expansion at the Plainridge Racecourse.

Currie Building Systems, Inc., who are a Massachusetts Gaming Commission/Racing Division approved contractor have been selected to assist Plainridge Racecourse in preparing supporting data for this Request. Currie Building Systems, Inc. have satisfactory in the past completed numerous projects at Plainridge Racecourse.

Attached please find the following supporting data for this request:

1. Plainridge Racecourse Project HHCITF 2002-4 Phase 1, Request for Consideration, (1 page)
2. Currie Building Systems, Inc., Outline of services to be included in this Phase 1 Preconstruction Design (2 pages)
3. Tilton & Associates, Existing Conditions Survey (2 pages)

Based upon the above, it is the opinion of this office that the project is an appropriate Capital Improvement Trust Fund Project, and we recommend that this Phase 1, Request for Consideration be approved by the Massachusetts Gaming Commission/Racing Division in the amount of \$95,000.00.

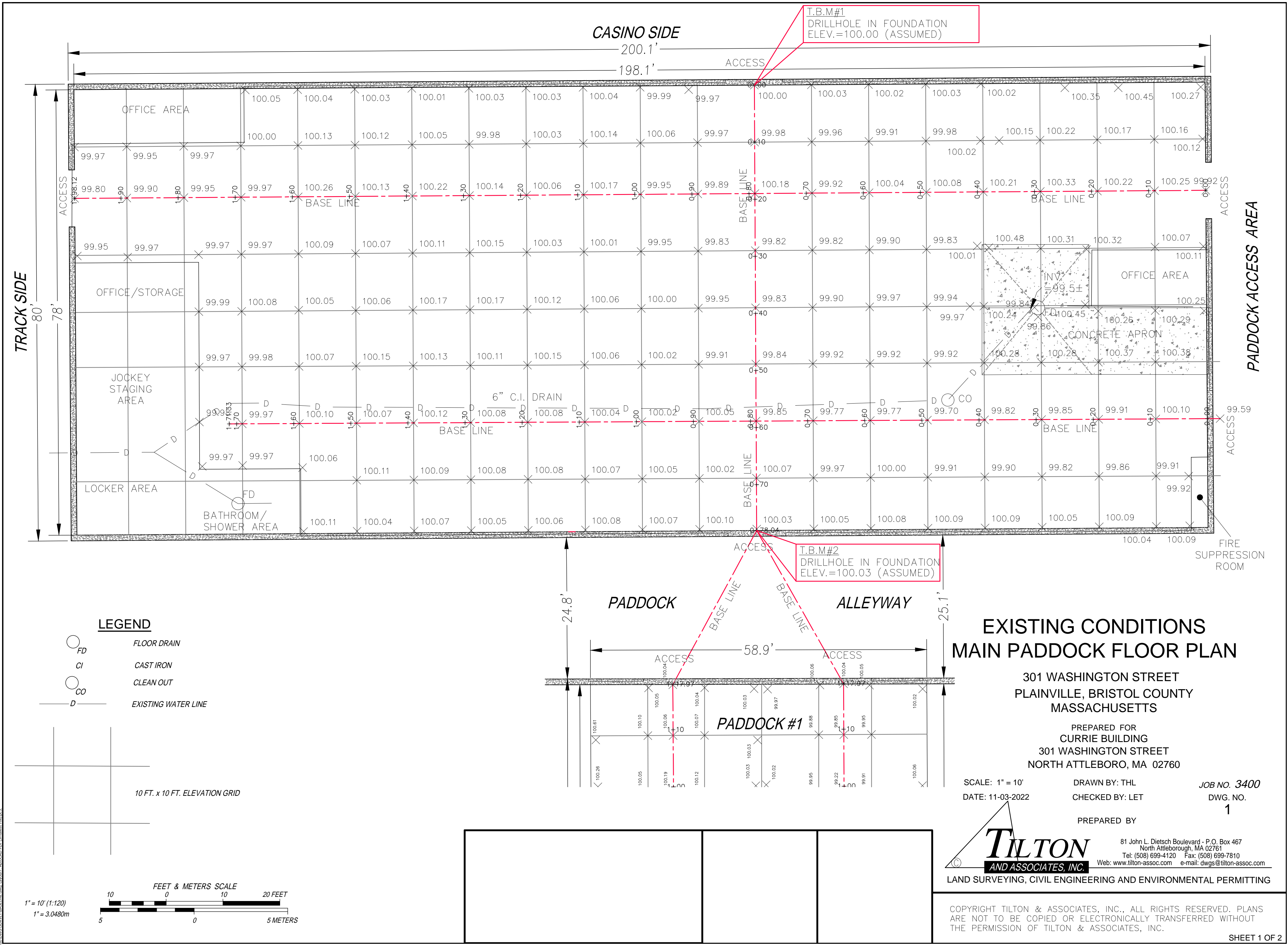
Should you have any questions please do not hesitate to contact this office.

Very truly yours,
DIXON SALO ARCHITECTS, INC.

Neil R. Dixon

Neil R. Dixon,
Founder/Architect
NRD/hs

cc: Steve O'Toole, Plainville Gaming & Redevelopment, LLC
Enclosure: Project Plainridge HHCITF 2023- 01 (RFC)



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TO: Chair Cathy Judd-Stein and Commissioners Eileen O'Brien, Bradford Hill, Nakisha Skinner, & Jordan Maynard

FROM: Joe Delaney, Mary Thurlow, & Lily Wallace

CC: Karen Wells, John Scully, Derek Lennon

DATE: January 5, 2023

RE: **Community Affairs Budget Modification**

The Division of Community Affairs respectfully requests that the Commission vote to amend the FY23 budget to cover the increase in development costs for the Division's Community Mitigation Fund (CMF) database.

When the Division's budget was proposed in June, \$40,000 was set aside for upgrades to the CMF database. At that time, a scope of work had not been developed and therefore, quotes from an IT contractor were not available. This dollar figure was a placeholder until such time as a final scope of work could be developed.

After evaluating the database and reviewing the improvements with the IT department, a final scope of work was developed for the modifications. After receiving a quote and negotiating on the price, the total cost for the work is \$79,437.75. Therefore, the Community Affairs Division is requesting that an additional \$40,000 be transferred to the Community Affairs budget from the CMF. Please see the attached documents for the relevant quote and work order.

205 CMR 153.05 allows the Division of Community Affairs to spend up to 10% of the money available in the CMF for administrative costs associated with the program. The total CMF revenue for FY22 was approximately \$ 15.8 million, 10% of which is about \$1.58 million. For FY23, \$310,057.34 of CMF funds was being used for program administration, or just under 2% of available CMF funds. The addition of \$40,000 to the budget would bring the total up to \$350,057.34, or about 2.2% of the available CMF funds, well below the 10% threshold established in the regulations.



Massachusetts Gaming Commission

WORK ORDER

Work Order No: MAG 004

Date: 12/27/2022

Agreement No: 002

Cloud Development Resources Inc		Customer	
Company Name	Cloud Development Resources Inc. "CDR"	Company Name	Massachusetts Gaming Commission
Representative	Visent Avxhi, Sales Director	Representative	Katrina Jagroop-Gomes, CIO
Telephone	978-457-9807	Telephone	+1 (404) 652-5522
Address for Notices	8130 Lakewood Main Street Suite 103 #322 Lakewood Ranch, FL 34202	Address for Notices	101 Federal Street 12 th Floor Boston, MA 02110
Email	visent.avxhi@clouddevelopmentresources.com	Email	katrina.jagroop-gomes@massgaming.gov

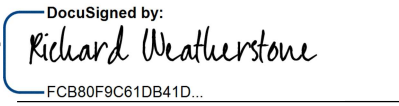
Item	Description								
Project Title	CMF Enhancements								
Estimated Commencement Date	Jan 2, 2023								
Estimated Completion Date	Feb 10, 2023								
Services	OutSystems Professional Development Services								
Estimated Monthly Billing Schedule, and Terms	Monthly Billing Schedule								
		Total	Month 1		Month 2		Month 3		
	Role	Days	Jan		Feb		Mar		
	Delivery Director	3.75	3.1	\$5,156	0.6	\$1,031			
	Client Architect	10.00	10.0	\$23,100	0.0	\$0			
	Business Analyst	15.00	15.0	\$13,860	0.0	\$0			
	UX/UI Designer	10.00	10.0	\$12,100	0.0	\$0			
	Senior Developer	25.00	22.5	\$27,225	2.5	\$3,025			
	Developer	17.50	17.5	\$12,705	0.0	\$0			
	Developer	17.50	17.5	\$12,705	0.0	\$0			
	Quality Analyst	12.50	12.5	\$6,875	0.0	\$0			
			108	\$113,726	3	\$4,056	0	\$0	
		Subtotal	\$117,783						
		Discount	36%						
		WO Total	\$75,655						
	Terms								
	<ul style="list-style-type: none">• This is a time and materials proposal.• Billing will be monthly based on the number of days worked that month• Please note invoices will be sent at the completion of each month.• Payment terms are 30 days• All fees are non-refundable and non-cancellable unless such other agreement in writing.• Fees listed in this Work Order are exclusive of any local tax in Customer’s country. Any such taxes are the responsibility by the Customer								

	<ul style="list-style-type: none">Related expenses for this project are billed at cost
Normal Working Hours	9am to 6pm, Monday to Friday EST
Authorized CDR Representative	Richard Weatherstone, Director
Customer's Authorized Representative	Katrina Jagroop-Gomes, CIO
Location	Remote

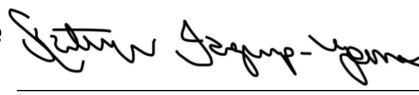
The parties agree as follows:

- This Work Order expressly incorporates by reference the Terms and Conditions of the Master Services Agreement
- This Work Order will not be effective or binding until signed by authorized representative of each of CDR and the Customer.
- This Work Order is not a standing offer to supply any goods or services

Signed for and on behalf of **CDR** in acceptance of the details contained in this Work Order by a duly authorized representative:

Name Richard Weatherstone
Position Director
Signature 
Date 12/27/2022

Signed for and on behalf of **Massachusetts Gaming Commission** in acceptance of the details contained in this Work Order by a duly authorized representative:

Name Katrina Jagroop-Gomes
Position Chief Information Officer
Signature 
Date 12/27/22



PROMOTIONAL PLAY PRESENTATION

MASSACHUSETTS GAMING COMMISSION

DECEMBER 12, 2022



What is promotional play or free play?

Promotional Play or Free Play –

Is a way a casino or online operator can invite a known player to return or a new player to sign-up or create an account. It takes one of many forms of credits toward playing a slot machine, table game, or sports wager. In order to use it a player must wager it and if won it turns into real money from cashing out or it is placed into their account.

Why is it used by operators?

An operator uses promotions to ensure customers are aware of the operator's existence in a competitive market place as well as to achieve the following:

- Increase brand awareness
- Provide appropriate information
- Increase Customer Traffic
- Build sales and profits

Promotions also help operators to introduce products easily in the ever-so-competitive market.

Recent offers found in the Sports Wagering realm

USE PROMO CODE
WIN AND RECEIVE A
\$1,000 DEPOSIT
BONUS.

Bet \$5 get \$200

**\$1,500
bonus for
World Cup**

A & K Presentation

States that allow and don't allow promotional bets to be deducted from the taxable win.

MONTH AND YEAR	NUMBER OF STATES WITH COMMERCIAL SPORTS BETTING	NUMBER OF STATES THAT ALLOW UNTAXED PROMOTIONAL CREDITS	GAMING GROSS REVENUE (GGR)	ADJUSTED GROSS REVENUE (AGR)	DIFFERENCE IN DOLLARS (GGR-AGR)
Feb-22	26	9	\$387,507,164	\$262,989,268	\$124,517,896
Dec-21	26	8	\$375,176,988	\$259,156,688	\$116,020,300
Oct-21	24	8	\$446,890,754	\$334,338,789	\$112,551,965

34.6%

July 2021 - Colorado, Pennsylvania, Michigan, and Virginia stood out as the few that allowed licensees to adjust their revenue by deducting unlimited free play and promotional bets from their taxable base. This has since changed in Colorado and Virginia.

State	Tax Rate		Allow Promo deduction or %
	Retail	Online	
Arizona	8.0%	10.0%	Are allowed to deduct up to 20% of their revenue for promotions such as "free bets" in the first two years they are open.
Colorado	10.0%	10.0%	At first allow total deduction. Now they are tiering it down to eventually 1.75% of their monthly handle
Michigan	8.4%	8.4%	Can deduct all
New Jersey	8.5%	13.0%	A4002 specifies that promotional credits for land-based sportsbooks can only be deducted for betting credits in excess of \$8 million each year. For online books, the tax break kicks in after \$12 million in gaming credits are issued.
New York	Falls under casino's tax rate	51%	No deduction allowed
Pennsylvania	36%	36%	Can deduct all promotional play and bonuses
Virginia	15%	15%	Started with full deduction of promo. Passed law in July 2022 to stop all deductions from the tax responsibilities.

A Change for Colorado

Sports Betting

Colorado Ending Tax Breaks For Sports Betting Promo Spend

Written By
Brad Allen

Updated on
May 24, 2022

<https://www.legalsportsreport.com/70580/no-more-tax-breaks-colorado-sports-betting-promos/#:~:text=Per%20the%20bill%2C%20tax%20write,be%20deducted%20as%20free%20bets.>

Colorado collected just \$6.6 million in its first full year of legal sports betting, equivalent to a 4% net tax rate. (From the previous slide Colorado's tax rate is 10%)

For comparison, New York generated more than \$216 million in tax revenue from sports betting in just four months.

An operator said this equals a more than 100% net tax rate.

The new policy licensees in Colorado must follow

Per the bill, tax write-offs for promo spend will be phased out gradually:

- From January 1, 2023 through June 30 2024, up to 2.5% of an operator's monthly sports betting handle can be deducted as free bets.
- Declines to 2.25% from July 1, 2024 through June 30, 2025.
- Declines to 2% from July 1, 2025 through June 30, 2026.
- Finally, from July 1, 2026 onward, 1.75% of an operator's monthly handle can be deducted as free bets.

Options for Regulating Promotional Play

Included in Gross Sports Wagering Receipts and Not Deducted for Taxation:

- Maximizes Tax Revenue
- Minimizes Profit of Operators
- Not Consistent with Treatment of Promotional Play with Other Tax Applications

Excluded from the Gross Sports Wagering Receipts, and Deduction for Taxation:

- Maximizes Operator Profits
- Potential to Create a Perverse Incentive to Minimize Taxes
- Closer Treatment to Corporate Tax Structure

Partial Exclusion From the Gross Sports Wagering Receipts and Partially Deducted for Taxation:

- A Tool Other Jurisdictions are Utilizing
- Attempts to Balance Operator Profits with Tax Receipts
- Eliminates any Potential Perverse Incentive to Minimize Taxes

c. 23N Statutorily Defined Terms

Adjusted Gross Fantasy Wagering Receipts:

The total gross receipts from fantasy contests as defined in section 11M1/2 of chapter 12, less only the total of all cash prizes paid to participants in the fantasy contests; provided, however, that the total of all cash prizes paid to participants shall not include the cash equivalent of any merchandise or thing of value awarded as a prize.

Adjusted Gross Sports Wagering Receipts:

The total gross receipts from sports wagering less the sum of: (i) the total of all winnings paid to participants; and (ii) all excise taxes paid pursuant to federal law; provided, however, that the total of all winnings paid to participants shall not include the cash equivalent of any merchandise or thing of value awarded as a prize.

Promotional Gaming Credit:

A sports wagering credit or other item issued by an operator to a patron to enable the placement of a sports wager.

Taxation Formulas of Options for Promotional Play

Adjusted Gross Sports Wagering Receipts:

$(\text{Gross Sports Wagering Receipts}) - (\text{Payouts to Players}) - (\text{Federal Excise Tax})$

Included in Gross Sports Wagering Receipts and Not Deducted for Taxation:

- **Gross Sports Wagering Receipts** = (Player Funded Bets) + (Promotional Funded Bets)
- $\text{AGSWR} = ((\text{Player Funded Bets}) + (\text{Promotional Funded Bets})) - (\text{Payouts to Players}) - (\text{Federal Excise Tax})$

Excluded from the Gross Sports Wagering Receipts, and Deduction for Taxation:

- **Gross Sports Wagering Receipts** = (Player Funded Bets) + (Promotional Funded Bets) – (Promotional Funded Bets)
- $\text{AGSWR} = ((\text{Player Funded Bets}) + (\text{Promotional Funded Bets}) - (\text{Promotional Funded Bets})) - (\text{Payouts to Players}) - (\text{Federal Excise Tax})$

Partial Exclusion From the Gross Sports Wagering Receipts and Partially Deducted for Taxation:

- **Gross Sports Wagering Receipts** = (Player Funded Bets) + (Promotional Funded Bets) – (% of Handle)
- $\text{AGSWR} = ((\text{Player Funded Bets}) + (\text{Promotional Funded Bets}) - (\% \text{ of Handle})) - (\text{Payouts to Players}) - (\text{Federal Excise Tax})$

Promotional Play Scenarios (For Discussion Only)

Assumptions for Scenarios of How Treatment of Promotional Play Impacts Taxes

- Handle = \$1,000,000,000
- Player Bets = \$960,000,000
- Promotional Bets = \$40,000,000 (4% of Handle)
- Hold = \$60,000,000 (6% of Handle)
- Partial Deduction for Promotional Play for Taxation Scenario is up to 2.5% of Handle
- Tax Rate of 20% (equal to mobile and digital operators)

Promotional Play Scenarios (For Discussion Only)

Scenario 1: Promo Not Deducted

Revenue	Coupons/ Promotional	Handle (player + promo)	Payouts	Hold	Without Promotional Play Deducted (Total Bet-Player Win)	
Player Bet	Promo Bet	Total Bet	Player Win	Hold	Taxable Base	Taxes
960,000,000.00	40,000,000.00	1,000,000,000.00	940,000,000.00	60,000,000.00	60,000,000.00	12,000,000.00
96.000%	4.000%		94.000%	6.000%		

Scenario 2: Promo Fully Deducted

Revenue	Coupons/ Promotional	Handle (player + promo)	Payouts	Hold	With Promotional Play Deducted (Total Bet-Promo-Player Win)	
Player Bet	Promo Bet	Total Bet	Player Win	Hold	Taxable Base	Taxes
960,000,000.00	40,000,000.00	1,000,000,000.00	940,000,000.00	60,000,000.00	20,000,000.00	4,000,000.00
96.000%	4.000%		94.000%	6.000%		

Scenario 3: Promo Deducted up to 2.5% of Handle

Revenue	Coupons/ Promotional	Handle (player + promo)	Payouts	Hold	With Partial Promotional Play Deducted (Total Bet-2.5% of Handle-Player Win)	
Player Bet	Promo Bet	Total Bet	Player Win	Hold	Taxable Base	Taxes
960,000,000.00	40,000,000.00	1,000,000,000.00	940,000,000.00	60,000,000.00	35,000,000.00	7,000,000.00
96.000%	4.000%		94.000%	6.000%		

Interactive Promotional Play Demonstration

- Demonstrate the Discussion Around Promotional Play Minimizing or Eliminating Taxes.
- Demonstrate the Impact of a Theoretical Multiplier for Use of Promotional Play to the Tax Base.

Carry Forward of Negative AGSWR

c. 23N Section 14b (4) allows an operator to carry negative amounts of Adjusted Gross Sports Wagering Receipts to subsequent months for purposes of calculating taxes:

(4) When an operator's adjusted gross sports wagering receipts for a month is a negative number because the winnings paid to wagerers and excise taxes paid pursuant to federal law exceed the operator's total gross receipts from sports wagering, the commission shall allow the operator to carry over the negative amount to returns filed for subsequent months. The negative amount of adjusted gross sports wagering receipts shall not be carried back to an earlier month and taxes previously received by the commission shall not be refunded unless the operator surrenders its license and the operator's last return reported negative adjusted gross sports wagering receipts.



Legal Division

TO: Cathy Judd-Stein, Chair
Eileen O'Brien, Commissioner
Brad Hill, Commissioner
Nakisha Skinner, Commissioner
Jordan Maynard, Commissioner

FROM: Carrie Torrisi, Deputy General Counsel
Caitlin Monahan, Deputy General Counsel
Mina Makarious, Anderson & Kreiger
Christina Marshall, Anderson & Kreiger
Lon Povich, Anderson & Kreiger

DATE: January 6, 2023

RE: 205 CMR 256: Sports Wagering Advertising

Enclosed for the Commission's review is a proposed set of regulations at 205 CMR 256.00 governing the advertising of Sports Wagering in the Commonwealth. It implements the requirements of G.L. c. 23N, § 4(c)(ii), and seeks to require explicit disclosure around some frequently used promotional terms, including the word "free," while being mindful of the limitations on the Commission's ability to regulate advertisement and marketing under the First Amendment.

The Sports Wagering statute requires the Commission to promulgate regulations to prohibit specified advertising, marketing and branding activities:

- (A) advertisements, marketing and branding in such a manner that it is deceptive, false, misleading, or untrue, or tends to deceive or create a misleading impression whether directly, or by ambiguity or omission;
- (B) use of unsolicited pop-up advertisements on the internet or by text message directed to an individual on the list of self-excluded persons established pursuant to paragraph (2) of subsection (e) of section 13;
- (C) any form of advertising, marketing or branding that the Commission deems unacceptable or disruptive to the viewer experience at a sports event;



Massachusetts Gaming Commission

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- (D) advertising, marketing and branding deemed to appeal directly to a person younger than 21 years old; and
- (E) advertising on any billboards, or any other public signage, which fails to comply with any federal, state or local law.

In addition, we have reviewed the recent press coverage of advertising for sports gaming websites in other jurisdictions, as reported in The New York Times and The Washington Post. E.g., David Enrich, *Key Findings From the Times' Investigation of Sports Betting*, N.Y. TIMES (Nov. 20, 2022), <https://www.nytimes.com/2022/11/20/business/sports-betting-investigation.html>; Danny Funt, *Sportsbooks call them risk-free bets. Just don't read the fine print.*, WASH. POST. (Dec. 26, 2022), <https://www.washingtonpost.com/sports/2022/12/26/risk-free-bets-mgm-draft-kings-fanduel-caesars/>.

First Amendment Guardrails. The First Amendment protects free speech rights. Restrictions on advertising (“commercial speech”) are governed by the Supreme Court’s 1980 decision in *Central Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n of N.Y.*, 447 U.S. 557 (1980). In *Central Hudson*, the Supreme Court held that although commercial speech is less protected than other types of speech, commercial speech that is lawful and not misleading is still protected by the First Amendment.

The government may restrict commercial speech if the interest to be served by the restriction is substantial. There is a balancing test: the regulation must directly advance the governmental interest but also cannot be more extensive than necessary to serve that interest.

These rules apply to speech restrictions imposed in a government contract or permit under the “unconstitutional conditions” doctrine, meaning that the fact here that these regulations only apply to licensed operators does not lessen the First Amendment considerations. “The government ‘may not deny a benefit to a person on a basis that infringes his constitutionally protected . . . freedom of speech’ even if he has no entitlement to that benefit.” *Board of Cty. Comm’rs, Wabaunsee Cty. v. Umbehr*, 518 U.S. 668, 674 (1996) (quoting *Perry v. Sindermann*, 408 U.S. 593, 597 (1972)); see *44 Liquormart, Inc. v. Rhode Island*, 517 U.S. 484, 513 (1996) (plurality op.) (state’s “power to ban the sale of liquor entirely does not include a power to censor all advertisements that contain accurate and non-misleading information about the price of the product”).

First Amendment As Applied. The Commission’s directive to regulate specified types of advertising and marketing raises different levels of potential First Amendment scrutiny.

Subsection (A)’s prohibition on “deceptive, false, misleading, or untrue” advertising is not protected commercial speech and thus does not raise First Amendment concerns. Similarly, subsection (E)’s prohibition on illegal advertising on billboards would also not raise First Amendment issues.

The remaining subsections (B) through (D) require careful attention to the First Amendment guardrails laid out above. In the below summary of the regulations, we have identified where certain provisions may raise First Amendment concerns.

Proposed Regulations. A summary of the proposed regulation is as follows:

- 256.01, Third Parties, establishes that the regulation’s restrictions on advertising and marketing activities apply to Sports Wagering Operators and any third parties operating on their behalf. It requires there to be a licensed Sports Wagering Operator behind all advertisements for Sports Wagering.
- 256.02, Application, provides that all advertising in the Commonwealth, including national broadcasts, are covered by the regulation. Based on representations from certain sports broadcasters, the Commission may be challenged on subsection (2), which requires that all in-state advertising be conducted by licensed Sports Wagering Operators, or for there to be a disclaimer stating that the offering is not available in state. However, many Sports Wagering advertisements on the airways today already contain such disclaimers for other states. Subsection (3) fulfils the mandate of G.L. c. 23N, § 4(c)(ii)(E).
- 256.03, Internal Controls, requires Sports Wagering Operators to include provisions insuring compliance with this regulation in its internal controls submitted under 205 CMR 138 and 238.
- 256.04, False or Misleading Advertising, implements the requirements of G.L. c. 23N, § 4(c)(ii)(A), and adopts the best practices from other jurisdictions, while remaining compliant with the First Amendment.
 - Subsection (1), a general prohibition on false or misleading advertising, appears in many other state regulations on Sports Wagering (e.g., Colorado, Ohio, Connecticut).
 - Subsection (2), which is a slightly broader prohibition, borrows language from Connecticut and D.C. regulations to prohibit the obscuring of material facts in advertising and marketing.
 - Subsection (3), which comes from Ohio’s regulations, further specifies the requirements for lawful and not misleading advertising in promotions or the odds of winning.
 - Subsection (4) is a combination of Arkansas and Connecticut regulatory language, with some input from the Federal Trade Commission guidelines on the use of the term “free.” It takes a specific, targeted approach to promoting truthful speech, and will promote disclosure of all terms of promotional offers.

- Subsection (5), which appears unique to Illinois at the moment, is consistent with requirements in other Sports Wagering regulations regarding employee behavior and sets a prohibition on employees encouraging a specific wager.
- Subsection (6) is a combination of regulations from DC, Arizona, Ohio, Ontario, Connecticut, and Virginia. These are all intended to reduce the impact of advertising and marketing activities on problem gambling.
- 256.05, Advertising to Youth, implements the requirements of G.L. c. 23N, § 4(c)(ii)(D). The provisions therein are standard across most states, with small variations in wording. We believe these provisions are not vulnerable to a First Amendment challenge. Subsections (1) and (2) are only applicable when the advertiser has the subjective intent of encouraging an illegal transaction, while subsections (3) and (4) effectively require, in any enforcement action, proof that the bulk of actual transactions being advertised are illegal. The inclusion of the 75% threshold in subsection (3) introduce a more objective measure, though this may be somewhat more likely to lead to a First Amendment challenge than the other, more subjective provisions. Subsections (5) and (6) are standard provisions for athletes.
- 256.06, Advertising to Other Vulnerable Persons, partially addresses the requirements in G.L. c. 23N, § 4(c)(ii)(B).
 - Subsection (1) effectively translates the ban on intentionally targeting youth to a “vulnerable person” context. Applying direct targeting, subjective framework here will help in an enforcement action against the most egregious cases.
 - Subsection (2) combines problem gambling language from a number of other jurisdictions. Ontario has other restrictions that are arguably less tightly linked to problem gambling (*e.g.*, limiting ads that “[s]uggest that gaming can enhance personal qualities” or that “[s]uggest peer pressure to gamble”). These may be harder to defend against a constitutional challenge. Subparagraph (2)(h) fulfills the requirements of G.L. c. 23N, § 4(d)(2)(viii).
 - We understand that the DPH may provide specific language for use under Subsection (3) which will be added in at a later time.
- 256.07, Self-Excluded Persons, is narrowly tailored to also address the requirements of G.L. c. 23N, § 4(c)(ii)(B), and to include more general consumer protection tools.
- 256.08, Disruption, is intended to meet the requirements of G.L. c. 23N, § 4(c)(ii)(C). While this section fulfills the Commission’s statutory mandate, they may be on constitutionally shaky ground. Whether the state has a substantial interest in ensuring a pleasant experience at sporting events hasn’t been addressed in First Amendment jurisprudence. On balance, we suggest that compliance with the statutory mandate is a

better approach than trying to change this language to address a not-yet-existent First Amendment challenge.

- 256.09, Endorsement, includes restrictions on endorsements that are drafted to try and avoid First Amendment scrutiny, though this is another untested area. A total ban on endorsements is likely unconstitutional, unless there is strong evidence that a ban is necessary to promote the integrity of sports events. Our proposed language here, which is more targeted, is also more defensible.
- 256.10, Records, is a standard recordkeeping requirement used across most jurisdictions. Section 238 does not contain a specific time period for records retention, so we've suggested six years here for advertising and marketing materials.
- 256.11, Enforcement, is also a standard enforcement requirement in many jurisdictions. Enforcement could be conducted under the Commission's authority pursuant to G.L. c. 23N and 205 CMR 232.

205 CMR 256: SPORTS WAGERING ADVERTISING

Section

256.01:	Third Parties
256.02:	Application
256.03:	Internal Controls
256.04:	False or Misleading Advertising
256.05:	Advertising to Youth
256.06:	Advertising to Other Vulnerable Persons
256.07:	Self-Excluded Persons
256.08:	Disruption
256.09:	Endorsement
256.10:	Records
256.11:	Enforcement

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 and 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) 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 or “free” 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.
- (5) 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.
- (6) Advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall not:
 - (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) 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.
- (2) Advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall not contain images, symbols, celebrity or entertainer endorsements, or language designed to appeal primarily to individuals younger than twenty-one years of age.
- (3) Advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall not 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 75% 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;
 - (e) to any other audience where 75% or more of the audience is presumed to be under twenty-one years of age.
- (4) Sports Wagering advertisements, including logos, trademarks, or brands, shall not 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.
- (5) Advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall not 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.
- (6) Advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall not depict students, schools or colleges, or school or college settings.

- (7) 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.

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.

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 (other than professional athletes who may be minors), 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 205 CMR 232 or any other enforcement method available to the Commission.



TO: Cathy Judd-Stein, Chair
Eileen O'Brien, Commissioner
Brad Hill, Commissioner
Nakisha Skinner, Commissioner
Jordan Maynard, Commissioner

FROM: Caitlin Monahan, Deputy General Counsel
Mina Makarious, Anderson & Krieger
Paul Kominers, Anderson & Krieger

DATE: December 19, 2022

RE: 205 CMR 232: Discipline of Sports Wagering Operators and Other
Licensees and Registrants

Enclosed for the Commission's review is a proposed regulation, 205 CMR 232, describing the process for discipline of Sports Wagering Operators, licensed and registered vendors, and occupational licensees.

The proposed regulation contains two primary sections. The first, 205 CMR 232.01, describes the process for discipline of Sports Wagering Operators. The second, 205 CMR 232.02 describes the process for discipline of other licensees and registrants.

The discipline of Sports Wagering Operators under 205 CMR 232.01 is proposed to proceed in a manner largely consistent with the discipline of gaming licensees under 205 CMR 132.01. If the Bureau finds that a Sports Wagering Operator has engaged in behavior that falls into any one or more of the categories identified in 232.01(1), the Bureau may recommend that the Commission suspend, revoke, or condition the Operator's license. The Bureau may also recommend the imposition of civil administrative penalties. Note that the proposed 205 CMR 232.01 differs slightly from 205 CMR 132, under which the Bureau may assess penalties on its own, subject to appeal to the Commission. If no appeal is taken under 205 CMR 232, the Commission may then approve of the discipline recommended or reject the recommendation and hold a hearing and issue appropriate discipline thereafter.

The discipline of Sports Wagering Vendors and Occupational Licensees mirrors the discipline of gaming vendors and licensees under 205 CMR 134.19. Under 205 CMR 232.02, the Bureau may issue a notice of its decision to suspend, revoke, condition or fine an Occupational Licensee or Sports Wagering Vendor Licensee or Registrant. The licensee or registrant would then be



Massachusetts Gaming Commission

able to seek review and an adjudicatory hearing by the Commission. Otherwise, discipline will issue.

The reason for the distinction in process between 205 CMR 232.01 and 232.02 is due to the anticipated larger volume of discipline for Occupational Licensees and Sports Wagering Vendors, based on the Bureau's experience in the gaming context. It also places Occupational Licensees and Sports Wagering Vendors on equal footing with their gaming counterparts, especially since the same individuals and entities may have obligations under both regulations. We believe this approach reflects a reasonable and efficient distribution of enforcement responsibility between the Commission and Bureau that is within the Commission's authority to make under G.L. cc. 23K, § 4 and 23N, §§ 4 and 9.

205 CMR 232: DISCIPLINE OF SPORTS WAGERING OPERATORS AND OTHER LICENSEES, AND REGISTRANTS

Section

- 232.01 Discipline of a Sports Wagering Operator
232.02 Discipline of Others Involved in Sports Wagering Operations

232.01 Discipline of a Sports Wagering Operator

- (1) Grounds for Action. In addition to the grounds specifically provided throughout 205 CMR, and without limiting the Commission's or Bureau's ability to require compliance with M.G.L. c. 23N or 205 CMR through any other method, a Sports Wagering Operator License may be conditioned, suspended, or revoked, or the Operator assessed a civil administrative penalty, if it is determined that:
- (a) The Operator engaged in an act or practice that caused irreparable harm to the security and integrity of the Sports Wagering Operation or the interests of the Commonwealth in ensuring the security and integrity of Sports Wagering;
 - (b) Circumstances have arisen that render an Operator unsuitable under M.G.L. c. 23N, §§ 6 or 9;
 - (c) An Operator failed to comply with its approved system of Internal Controls;
 - (d) An Operator refused or was unable to separate itself from an unsuitable qualifier;
 - (e) As provided in M.G.L. c. 23N, § 21(b), an Operator:
 - 1. has committed a criminal or civil offense under M.G.L. c. 23N or under any other laws of the commonwealth;
 - 2. is not in compliance with 205 CMR;
 - 3. is under criminal investigation in another jurisdiction;
 - 3. has breached a condition of licensure;
 - 4. has affiliates, close associates or employees that are not qualified or licensed under M.G.L. c. 23N and 205 CMR with whom the Operator continues to conduct business with or employ;
 - 5. is no longer capable of maintaining Sports Wagering operations; or
 - 6. whose business practice, upon a determination by the Commission, is injurious to the policy objectives of M.G.L. c. 23N; or
 - (f) An Operator failed to abide by any provision of M.G.L. c. 23K, 23N or 205 CMR, a condition of the Sports Wagering License, or an order of the Commission.
- (2) Bureau Recommendations of Discipline. If the Bureau finds that an Operator has violated a provision of 205 CMR 232.01(1), it may issue a written recommendation that the Commission suspend, revoke, or condition said Operator's license. Either in conjunction with or in lieu of such

a recommendation, the Bureau may also recommend that the Commission assess a civil administrative penalty upon said Operator in accordance with M.G.L. c. 23N, §§ 16 and 21 and 205 CMR 232.01(3). Such recommendation shall be provided to the Commission and the Operator in writing and shall include:

- (a) a concise statement of the alleged act or omission for which such action is sought to be taken;
 - (b) each law, regulation, order, license or approval that has not been complied with as a result of such alleged act or omission;
 - (c) the proposed action to be taken by the Commission, including the amount that the Commission seeks to assess as a civil administrative penalty for each alleged act or omission;
 - (d) a statement of the Operator's right to an adjudicatory hearing on the proposed action or assessment;
 - (e) the requirements the Operator shall comply with to avoid being deemed to have waived the right to an adjudicatory hearing; and
 - (f) the manner of compliance, including payment of a penalty if the Operator elects to pay the penalty and waive an adjudicatory hearing.
- (3) Commission Decision. An Operator may request a hearing on the Bureau's recommendation within ten (10) business days of the Bureau's issuance of a recommendation pursuant to 205 CMR 232.01(2). Such a review shall proceed as an adjudicatory hearing pursuant to 205 CMR 101.00. If an Operator does not request a hearing within such time, the Commission shall, at its next scheduled meeting, review the Bureau's recommendation and either:
- (a) adopt the recommendation as its final decision; or
 - (b) reject the Bureau's recommendation and issue a notice of its intent to adopt a separate recommendation following an adjudicatory hearing to be conducted in accordance with 205 CMR 101.
- (4) Notice of Commission Decision. The Commission shall cause to be served upon the Operator, by service in hand or by certified mail, return receipt requested a written notice of its decision pursuant to 205 CMR 232.01(3).
- (5) Assessment of Penalties. After written notice of noncompliance or intent to assess a civil administrative penalty has been given by the Commission, each day thereafter during which noncompliance occurs or continues shall constitute a separate offense and shall be subject to a separate civil administrative penalty if reasonable efforts have not been made by the operator to promptly come into compliance.

232.02 Discipline of Others Involved in Sports Wagering.

- (1) Grounds for Disciplinary Action. In addition to the grounds specifically provided throughout 205 CMR, and without limiting the Commission's or Bureau's ability to require compliance with M.G.L. c. 23N or 205 CMR through any other method, any Occupational License or Sports Wagering Vendor license or registration issued under 205 CMR may be conditioned, suspended, or revoked, or a civil administrative penalty assessed, if it is determined that the licensee or registrant has:

- (a) been arrested or convicted of a crime and failed to report the charges or the conviction to the Commission;
 - (b) failed to comply with any provision of M.G.L. c. 23N or 205 CMR pertaining to licensees and registrants, including failure to act in conformance with an applicable provision of the Sports Wagering Operator's system of Internal Controls.
- (2) Bureau Finding and Decision. If the Bureau finds that an Occupational Licensee or Sports Wagering Vendor licensee or registrant has violated a provision of 205 CMR 232.02(1), it may issue a written notice of its intent to reprimand, suspend, or revoke said license or registration, or to assess a civil administrative penalty on a license or registrant. Such notice shall be provided in writing and contain the information required by 205 CMR 232.01(2). It shall further advise the licensee or registrant of their right to a hearing and their responsibility to request a hearing in accordance with 205 CMR 232.02(3), if they so choose, and that failure to do so may result in the discipline automatically being imposed. Mailing of the notice to the address on record with the Commission, or emailing the notice to the address provided to the commission by the licensee/registrant shall be deemed satisfactory service of the notice.
- (3) Review of Bureau Decision. Any person aggrieved by a decision made by the Bureau pursuant to 205 CMR 232.02(2) may request review of said decision within thirty (30) days of receiving the Bureau's decision. Such review shall proceed in accordance with the procedures in 205 CMR 101.00. Failure to request such review may result in the decision automatically being imposed.
- (4) Assessment of Penalties. After written notice of noncompliance or intent to assess a civil administrative penalty has been given by the Bureau, each day thereafter during which noncompliance occurs or continues shall constitute a separate offense and shall be subject to a separate civil administrative penalty if reasonable efforts have not been made by the licensee or registrant to promptly come into compliance.



SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Small Business Impact Statement in accordance with G.L. c. 30A, §2, relative to the proposed promulgation of **205 CMR 232 DISCIPLINE OF SPORTS WAGERING OPERATORS AND OTHER LICENSEES, AND REGISTRANTS**.

This regulation was promulgated as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is primarily governed by G.L. c. 23N, §4. This regulation is intended to establish the process for discipline of Sports Wagering Operators, vendors, and occupational licensees.

This regulation is unlikely to have an impact on small businesses as it is merely an enforcement tool of other Commission regulations. Under G.L. c.30A, §2, the Commission offers the following responses to the statutory questions:

1. Estimate of the number of small businesses subject to the proposed regulation:

This regulation is unlikely to have an impact on small businesses.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation:

There are no projected reporting, recordkeeping, or other administrative costs required for small businesses to comply with this regulation.

3. State the appropriateness of performance standards versus design standards:

No standards applicable to small businesses are set forth. Provided standards are performance standards.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation:

There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.

5. State whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:



Massachusetts Gaming Commission

This amendment is unlikely to have any impact on the formation of new businesses in the Commonwealth.

Massachusetts Gaming Commission
By:

/s/ Caitlin Monahan
Caitlin Monahan, Deputy General Counsel

Dated: December 19, 2022

DRAFT



Massachusetts Gaming Commission

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TO: Chair Cathy Judd-Stein
Commissioner Brad Hill
Commissioner Jordan Maynard
Commissioner Eileen O'Brien
Commissioner Nakisha Skinner

FROM: Mina Makarious, Esq., Anderson & Kreiger
Annie Lee, Esq., Anderson & Kreiger
Caitlin Monahan, Deputy General Counsel

CC: Karen Wells, Executive Director

DATE: January 6, 2022

RE: Administrative Regulations: 104, 106, 107, 109

Enclosed for the Commission's review is a proposed set of amendments to 205 CMR 104: Delegation of Authority, 205 CMR 106: Information and Filings, 205 CMR 107: Professional Practice, and 205 CMR 109: Authority of the Commission to Act in an Emergency Situation.

These amendments insert references to G.L. c. 23N in the Commission's existing regulations on delegation of authority, information and filings, professional practice, and the Commission's authority to act in an emergency situation so as to incorporate sports wagering activity, operators and facilities.



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205 CMR 104.00: DELEGATION OF AUTHORITY

Section

104.01: Delegation of Commission Authority

104.02: Delegation of Chair's Authority

104.01: Delegation of Commission Authority

(1) Subject to M.G.L. chs. 23K, 23N and 30A, the commission may, in its discretion, delegate the authority of the commission to perform any of its functions under M.G.L. c. 23K, 23N or 205 CMR 101.00, et seq. through 131.00, with the exception of final decisions regarding Phase 1 and Phase determinations of qualification for gaming licenses, and sports wagering operator licenses, to a commissioner or commissioners, or to the executive director, the bureau, the deputy director, or any other employee of the commission, on such terms and conditions as the commission may specify. Any action taken and determination made pursuant to such delegation shall not require further approval, ratification or other action by the commission.

(2) All delegations of commission authority made pursuant to 205 CMR 104.01(1) shall remain in effect until amended, suspended, modified or revoked by the commission.

(3) The commission may review, reconsider, amend, modify, suspend or revoke any action taken or determination made pursuant to such delegation.

(4) Whenever M.G.L. chs. 23K, 23N or 205 CMR 101.00, et seq. through 131.00 requires that the commission provide notice of an action taken or determination made, and such action is taken or determination is made pursuant to delegation pursuant to 205 CMR 104.01(1), such notice shall be provided by the individual or entity exercising delegated authority.

(5) In any delegation to the bureau, pursuant to M.G.L. c. 23K, § 4(32), the commission shall not place any restriction upon the bureau's ability to investigate or prosecute violations of M.G.L. chs. 23K, 23N or 205 CMR.

104.02: Delegation of Chair's Authority

(1) The chair may, in his or her the chair's discretion, delegate to another commissioner or commissioners or to the executive director the authority of the chair to perform any of his or her the chair's duties and responsibilities under M.G.L. chs. 23K, 23N or 205 CMR.

(2) All delegations of authority made pursuant to 205 CMR 104.02(1) shall remain in effect until amended, suspended, modified or revoked by the chair.

(3) The chair may, on ~~the chair's~~~~his or her~~ own initiative, review, reconsider, amend, modify, suspend or revoke any action taken or determination made pursuant to such delegation.

(4) Whenever M.G.L. ~~chs.~~ 23K, 23N or 205 CMR 101.00, ~~et seq. through 131.00~~ requires that the chair provide notice of an action taken or determination made, and such action is taken or determination is made pursuant to delegation pursuant to 205 CMR 104.02(1), such notice shall be provided by the individual exercising delegated authority.



SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Small Business Impact Statement in accordance with G.L. c. 30A, §2, relative to the proposed amendment of **205 CMR 104 DELEGATION OF AUTHORITY**.

This regulation was amended as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is primarily governed by G.L. c. 23K, § 5 and G.L. c. 23N, § 4.

The amendment of 205 CMR 104 applies to potential sports wagering operators and the Commission. Accordingly, this regulation is unlikely to have an impact on small businesses. Under G.L. c.30A, §2, the Commission offers the following responses to the statutory questions:

1. Estimate of the number of small businesses subject to the proposed regulation:

This regulation is unlikely to have an impact on small businesses.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation:

There are no projected reporting, recordkeeping, or other administrative costs required for small businesses to comply with this regulation.

3. State the appropriateness of performance standards versus design standards:

No standards applicable to small businesses are set forth. Provided standards are performance standards.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation:

There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.

5. State whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

This amendment is unlikely to have any impact on the formation of new businesses in the Commonwealth.



Massachusetts Gaming Commission

Massachusetts Gaming Commission

By:

/s/ Caitlin W. Monahan

Caitlin W. Monahan, Deputy General Counsel

Dated: January 6, 2023



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205 CMR 106.00: INFORMATION AND FILINGS

Section

- 106.01: Offices; Hours
- 106.02: Communications; Notices
- 106.03: Electronic Filing by Applicants during RFA-1 and RFA-2 Processes
- 106.04: Petitions for Adoption, Amendment or Repeal of Regulations
- 106.05: Advisory Services and Advisory Rulings

106.01: Offices; Hours

The commission will post on its website and update the address of the main office and the office hours of the commission and the bureau and the address and contact information for public information about the commission.

106.02: Communications; Notices

- (1) Except as otherwise provided by 205 CMR 101.00, ~~et seq. through 131.00~~ or as specified by the commission on its website, all applications, papers, process or correspondence relating to the commission or the bureau shall be addressed to, submitted to, filed with or served upon the commission or the bureau, respectively, at its main office.
- (2) Service of process upon the commission or the bureau shall be made in accordance with Mass. R. Civ. P. 4(d)(3).
- (3) Service of all papers, documents, notices and pleadings in adjudicatory proceedings conducted by or on behalf of the commission or the bureau shall be made in accordance with 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*.
- (4) Except as set forth in 205 CMR 106.03, all other applications, papers, documents, notices, correspondence or filings shall be deemed to have been received by the commission when delivered to the main office of the commission or to the chair, a commissioner, or such employee or employees of the commission as may be designated by the chair and posted on the commission's website. Except as set forth in 205 CMR 106.03, all other applications, papers, documents, notices, correspondence or filings shall be deemed to have been received by the bureau when delivered to the main office of the bureau or to the deputy director or such employee, employees, or agents of the bureau as may be specified by 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings* or as may be designated by the deputy director as posted on the commission's website.
- (5) Except as otherwise specifically provided by M.G.L. ~~chs. 23K, 23N~~ or 205 CMR 101.00, ~~et seq. through 131.00~~, the commission or the bureau as applicable:

(a) will send any notice of public hearing and any decision of the commission or the bureau concerning a specific applicant, licensee or registrant to the applicant, licensee or registrant either by in hand delivery, by mail, or by electronic mail to the address shown in the most recent application or notice of change of address received from such person; and

(b) may send any other papers, documents, notices, or correspondence by any method specified in 205 CMR 106.02(5)(a) or by first class mail, postage prepaid. Notices from the commission or the bureau shall be deemed to have been received upon the earlier of in hand delivery, electronic mail transmission, or deposit in the United States mail, postage prepaid, and the time specified in any such notice shall commence to run from that date.

(6) Any applicant or person or entity holding a license or registration issued by the ~~Commission~~ shall have an ongoing duty to report any change of mailing address, email address, or other contact information to the ~~Commission~~. The contact information on file at the ~~Commission~~ shall be deemed accurate for purposes of service of any notification required to be provided including that required by 205 CMR, M.G.L. c.30A, and/or M.G.L. ~~chs. 23K and 23N~~.

(7) Any applicant, licensee or registrant who desires to have notices or other communications from the commission or the bureau sent to an address other than that specified in the most recent application or notice of change of address on file with the commission and the bureau shall file with the commission and the bureau a written notice of change of address, and, within a reasonable time after receipt thereof by the commission and the bureau, subsequent notices and other communications from the commission or the bureau will be sent to the applicant, licensee or registrant at such address.

106.03: Electronic Filing by Applicants during RFA-1 and RFA-2 Processes

(1) The commission shall develop and post on its website administrative procedures pursuant to which all applications, papers, documents, correspondence and other information submitted by an applicant to the commission or the bureau during the RFA-1 process pursuant to 205 CMR 115.00: *Phase 1 Suitability Determinations, Standards and Procedures* and the RFA-2 process described in 205 CMR 110.00: *Issuance of Request for Category 1 and Category 2 License Applications* must be filed by electronic means as provided therein. Any document required by 205 CMR 101.00, ~~et seq. through 131.00~~ to be signed or notarized shall be signed or notarized, scanned and submitted in PDF form. All applicants must comply with those administrative procedures.

(2) All such electronic submissions shall be made in PDF format. Subject to technological limitations, all such submissions shall be machine-readable and text searchable.

(3) In accordance with the administrative procedures, electronic submission may be made via the internet or by filing at the main office of the commission or the bureau, as applicable, a disk containing the electronic submission. For electronic submissions via the internet, the commission or the bureau will electronically transmit a Notice of Electronic Filing which will constitute confirmation of the filing of the submission with the commission or the bureau as applicable. In the event the applicant does not receive a Notice of Electronic Filing, it is the applicant's duty to take appropriate measures to confirm timely receipt of the electronic submission by the commission or the bureau as applicable.

(4) Electronic filing via the internet will be generally available 24 hours a day; however, that availability shall not alter any filing deadline, whether set by regulation, commission or bureau order, or the RFA itself. All electronic submissions of documents must be completed prior to 5:00 P.M. to be considered timely filed that day.

106.04: Petitions for Adoption, Amendment or Repeal of Regulations

(1) Any interested person may file a petition with the commission pursuant to M.G.L. c. 30A, § 4, for the adoption, amendment or repeal of any regulation. Such petition shall be in writing, be signed by the petitioner or petitioner's attorney, be submitted to the commission at its main office, and include the following information:

- (a) The name and address of the petitioner and the petitioner's attorney;
- (b) The substance of the requested adoption, amendment or repeal of a regulation;
- (c) The reasons for the request;
- (d) The specific interest of the petitioner affected by the requested regulation;
- (e) Reference to the statutory authority under which the commission may take the requested action; and
- (f) Such data, views and arguments as the petitioner thinks pertinent to the request.

(2) After receipt of a petition for the adoption, amendment or repeal of a regulation submitted in accordance with 205 CMR 106.04(1), the commission may consider the petition at an open meeting pursuant to M.G.L. c. 30A, § 20, and determine, in its discretion, whether or not to take any action on or as a result of the petition. At the meeting the commission may, but shall not be required to, entertain comments or questions from members of the public pursuant to M.G.L. c. 30A, § 20(f). Within 20 days after the meeting, the commission will notify the petitioner as to its determination, if any, concerning the petition. The commission may, but is not required to, explain the reasons for any determination on a petition.

(3) The submission of a petition for the adoption, amendment or repeal of any regulation pursuant to 205 CMR 106.04(1), and any action, inaction, determination or notice by the commission pursuant to 205 CMR 106.04(2) with respect thereto, shall not constitute a regulation and shall confer no legal rights, duties or privileges whatsoever on the petitioner or any other person. 106.05: Advisory Services and Advisory Rulings The commission may, in its discretion, provide advisory services pursuant to M.G.L. c. 23K, § 4(7), or make advisory rulings pursuant to M.G.L. c. 30A, § 8.



SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Small Business Impact Statement in accordance with G.L. c. 30A, §2, relative to the proposed amendment of **205 CMR 106 INFORMATION AND FILINGS**.

This regulation was amended as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is primarily governed by G.L. c. 23K, § 5 and G.L. c. 23N, § 4.

The amendment of 205 CMR 106 applies to potential sports wagering operators and the Commission. Accordingly, this regulation is unlikely to have an impact on small businesses. Under G.L. c.30A, §2, the Commission offers the following responses to the statutory questions:

1. Estimate of the number of small businesses subject to the proposed regulation:

This regulation is unlikely to have an impact on small businesses.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation:

There are no projected reporting, recordkeeping, or other administrative costs required for small businesses to comply with this regulation.

3. State the appropriateness of performance standards versus design standards:

No standards applicable to small businesses are set forth. Provided standards are performance standards.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation:

There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.

5. State whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

This amendment is unlikely to have any impact on the formation of new businesses in the Commonwealth.



Massachusetts Gaming Commission

Massachusetts Gaming Commission

By:

/s/ Caitlin W. Monahan

Caitlin W. Monahan, Deputy General Counsel

Dated: January 6, 2023



Massachusetts Gaming Commission

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205 CMR 107.00: PROFESSIONAL PRACTICE

Section

- 107.01: General Provisions
- 107.02: The Practice of Law
- 107.03: Notice of Appearance by Attorney

107.01: General Provisions

No person may practice law, accountancy, architecture, professional engineering, land surveying or any other profession or occupation regulated by the laws of the Commonwealth of Massachusetts before the commission in any manner other than in accordance with law, the ethical standards applicable to the particular profession and 205 CMR 101.00, ~~et seq. through 131.00~~. Practice shall include any matter connected with the representation of the interest of a client, including the making of any appearance and the preparing or filing of any necessary written document, correspondence or other paper relative to such interests.

107.02: The Practice of Law

(1) No individual, other than a member, in good standing, of the bar of the Commonwealth of Massachusetts, shall practice law before the commission; provided, that a member of the bar, in good standing, of any other state may appear and practice, by permission of the commission, in any particular matter before the commission as set forth in 205 CMR 107.02(2).

(2) Notwithstanding 205 CMR 107.02(1), an attorney who is a member of the bar of the highest court of any state may appear and practice before the commission in a particular matter by leave granted in the discretion of the commission, provided ~~he or she~~ the attorney files a certificate that:

(a) ~~he or she~~ the attorney is a member of the bar in good standing in every jurisdiction where ~~he or she~~ the attorney has been admitted to practice;

(b) there are no disciplinary proceedings pending against ~~him or her~~ the attorney as a member of the bar in any jurisdiction; and

(c) ~~he or she~~ the attorney has read and is familiar with M.G.L. ~~chs.~~ chs. 23K, 23N and 205 CMR 101.00, ~~et seq. through 131.00~~; and provided further, that the attorney's ~~his or her~~ application for leave to practice before the commission is on request of a member, in good standing, of the bar of the Commonwealth of Massachusetts, who shall:

1. represent the client concurrently as its local counsel on the same particular matter;

2. appear of record in the particular matter; and

3. be responsible for the conduct of the out-of-state attorney in the particular matter; and provided further that both such attorneys shall sign all papers submitted or filed by counsel with the commission on behalf of their mutual client.

(3) A natural person who is not a member of the bar and to whom 205 CMR 107.02(1) and (2) are not applicable may appear and practice before the commission only in ~~his or her~~ the person's own behalf.

107.03: Notice of Appearance by Attorney

(1) Each attorney practicing law before the commission shall promptly file with the commission a notice of appearance in each particular matter and on behalf of each client represented and may be required to file evidence of ~~his~~ the attorney's authority to act in such capacity. The address of each attorney, telephone number, and e-mail address shall be stated. The signature of an attorney to a document shall constitute an appearance by the attorney who signs it, unless the paper states otherwise, and shall constitute a certificate that the attorney has read the document and that to the best of ~~his or her~~ the attorney's knowledge, information, and belief there is a good ground to support it.

(2) In the event of a change in the attorney's ~~an attorney changes his or her~~ address during a particular matter in which ~~he or she~~ the attorney has appeared, the attorney shall immediately notify the commission in writing. Unless otherwise provided by 205 CMR 107.00, an attorney may withdraw from a particular matter by filing written notice of withdrawal with the commission, together with proof of service on ~~his or her~~ the attorney's client and any other parties to the particular matter.



SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Small Business Impact Statement in accordance with G.L. c. 30A, §2, relative to the proposed amendment of **205 CMR 107 PROFESSIONAL PRACTICE**.

This regulation was amended as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is primarily governed by G.L. c. 23K, § 5 and G.L. c. 23N, § 4.

The amendment of 205 CMR 107 applies to potential sports wagering operators and the Commission. Accordingly, this regulation is unlikely to have an impact on small businesses. Under G.L. c.30A, §2, the Commission offers the following responses to the statutory questions:

1. Estimate of the number of small businesses subject to the proposed regulation:

This regulation is unlikely to have an impact on small businesses.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation:

There are no projected reporting, recordkeeping, or other administrative costs required for small businesses to comply with this regulation.

3. State the appropriateness of performance standards versus design standards:

No standards applicable to small businesses are set forth. Provided standards are performance standards.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation:

There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.

5. State whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

This amendment is unlikely to have any impact on the formation of new businesses in the Commonwealth.



Massachusetts Gaming Commission

Massachusetts Gaming Commission

By:

/s/ Caitlin W. Monahan

Caitlin W. Monahan, Deputy General Counsel

Dated: January 6, 2023



Massachusetts Gaming Commission

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205 CMR 109.00: AUTHORITY OF THE COMMISSION TO ACT IN AN EMERGENCY SITUATION

Section

109.01: Authority of the Commission to Act in an Emergency Situation

109.01: Authority of the Commission to Act in an Emergency Situation

(1) Consistent with the principles outlined in M.G.L. c. 23K, § 1 and M.G.L. c. 23N, § 4 and in furtherance of the Commission's broad superintendence powers established in M.G.L. c. 23K, § 1, ~~and~~ M.G.L. c. 23K, § 4 and M.G.L. c. 23N, § 4, in an emergency situation the Commission ~~and/or~~ the Bureau may, in furtherance of the provisions of M.G.L. c. 23K, §§ 23(b) and 35 and M.G.L. c. 23N, §§ 4(g), 16(i) and 21(b), in its discretion, take any action it deems necessary to preserve the health and safety of its employees, the gaming licensees, sports wagering operators and their employees, ~~and/or patrons of the gaming establishments~~. An emergency situation may include, but not be limited to:

(a) A state of emergency declared by the Governor of the Commonwealth pursuant to St. 1950, c. 639, § 5;

(b) A national emergency declared by the President of the United States pursuant to 50 U.S.C. 1601 et seq.;

(c) A local, national, or global public health emergency as declared by the Massachusetts Department of Public Health, the Federal Centers for Disease Control and Prevention, the World Health Organization, or a similarly situated local or national agency or organization having expertise in public health;

(d) A natural disaster; or

(e) Any situation that presents an immediate threat of serious physical harm to the health or well-being of the public that requires action without delay.

(2) During Such Emergency Situation.

(a) The Bureau may issue an order to cease and desist activity pursuant to M.G.L. c. 23K, § 35(a) or § 35(e) and M.G.L. c. 23N, §§ 4(g), 16(i) and 21(b) or an order of suspension of the gaming or sports wagering operator license pursuant to M.G.L. c. 23K, § 35(e) and M.G.L. c. 23N, §§ 4(g), 16(i) and 21(b), and may make recommendations to the Commission to issue orders to condition, suspend, or revoke a gaming or sports wagering operator license pursuant to M.G.L. c. 23K, § 35(d) and M.G.L. c. 23N, §§ 4(g), 16(i) and 21(b); ~~and/or~~

(b) The Commission may issue orders and/or establish procedures to be followed by the gaming licensees and sports wagering operators as a condition of licensure pursuant to M.G.L. c. 23K, §§ 21(a)(19) and (c) M.G.L. c. 23N, §§ 4(a) – (b) and as a requirement of its operations certificate pursuant to M.G.L. c. 23K, § 25 and M.G.L. c. 23N, § 5 that may include, but not be limited to, orders regarding operations relative to gaming, ~~and non-gaming activity,~~ sports wagering and non-sports wagering activity at the gaming establishment, sports wagering facility or sports wagering platform. The Commission may also issue orders that include, but are not limited to, cessation of gaming, ~~or non-gaming,~~ sports wagering or non-sports wagering activities or closure of the gaming establishments, sports wagering facility or sports wagering platforms in whole or in part.

(3) Hearings.

(a) If the Bureau takes action pursuant to 205 CMR 109.01(1) and (2), and M.G.L. c. 23K, § 35 and M.G.L. c. 23N, §§ 4(g), 16(i) and 21(B), it may take such action immediately and, in the event of a closure of the gaming establishment, sports wagering facility, or sports wagering platform shall coordinate with the licensee to execute a safe and orderly closure. If the Bureau issues an order to cease and desist activity pursuant to M.G.L. c. 23K, § 35(a) or § 35(e), M.G.L. c. 23N, §§ 4(g), 16(i) and 21(b) or an order of suspension of the gaming or sports wagering operator license pursuant to M.G.L. c. 23K, § 35(e) or M.G.L. c. 23N, §§ 4(g), 16(i) and 21(b), the licensee shall have the right to an adjudicatory hearing before the Commission on such order in accordance with M.G.L. c. 30A ~~and M.G.L. c. 23K, § 35(f)~~. Such hearing shall be convened as soon as practicable, but in no case later than seven days from the date of the Bureau's action ~~in accordance with M.G.L. c. 23K, § 35(f)~~.

(b) If the Commission intends to take action pursuant to 205 CMR 109.01(1) and (2), ~~and~~ M.G.L. c. 23K, § 23(b)(v) and M.G.L. c. 23N, §§ 16(i)(vi) and 21(b)(vi) that will limit or cease gaming, ~~or non-gaming,~~ sports wagering and non-sports wagering operations or result in closure of the gaming establishment, sports wagering facility, or sports wagering platform in whole or in part, it shall provide reasonable notice of hearing in accordance with M.G.L. c. 30A. In the event of an emergency situation, notice shall be deemed reasonable if it is provided as promptly as the emergency allows.



SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Small Business Impact Statement in accordance with G.L. c. 30A, §2, relative to the proposed amendment of **205 CMR 109 AUTHORITY OF THE COMMISSION TO ACT IN AN EMERGENCY SITUATION**.

This regulation was amended as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is primarily governed by G.L. c. 23K, § 5 and G.L. c. 23N, § 4.

The amendment of 205 CMR 109 applies to potential sports wagering operators and the Commission. Accordingly, this regulation is unlikely to have an impact on small businesses. Under G.L. c.30A, §2, the Commission offers the following responses to the statutory questions:

1. Estimate of the number of small businesses subject to the proposed regulation:

This regulation is unlikely to have an impact on small businesses.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation:

There are no projected reporting, recordkeeping, or other administrative costs required for small businesses to comply with this regulation.

3. State the appropriateness of performance standards versus design standards:

No standards applicable to small businesses are set forth. Provided standards are performance standards.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation:

There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.

5. State whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:



Massachusetts Gaming Commission

This amendment is unlikely to have any impact on the formation of new businesses in the Commonwealth.

Massachusetts Gaming Commission
By:

/s/ Caitlin W. Monahan
Caitlin W. Monahan, Deputy General Counsel

Dated: January 6, 2023



Massachusetts Gaming Commission

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TO: Chair Cathy Judd-Stein
Commissioner Bradford R. Hill
Commissioner Jordan Maynard
Commissioner Eileen O'Brien
Commissioner Nakisha Skinner

FROM: Sterl Carpenter – Regulatory Compliance Manager

CC: Karen Wells – Executive Director

DATE: January 3, 2023

RE: Commission approval for Sports Wagering Events and Wagers

Objective:

The goal of this memo is to inform the commissioners of the approval process in other jurisdictions. Outline the applicable sections of 23N on events and wagers. Introduce our recommended process. Finally, to show how to find all the information in the excel catalog.

Policy approach by other jurisdictions:

The catalog is a mix of several other jurisdictions. Our model was a mix of Colorado and Michigan due to its ease of access and listing properties. The goal of this catalog is to be able to easily navigate its tabs for patrons and licensees to view what is approved and not. Other jurisdictions studied perform this differently and/or not as transparent and clear.

What makes a jurisdiction restrictive or not for this memo is whether their process is clear and transparent or whether they need regulatory approval to add different wagers and events. To be more specific, in regard to different wagers, does the regulator state *proposition wagers* and anything labeled that by a licensee going forward is approved. Whereas for other regulators, it might be thought of as exotic. Finally, most regulators require a submission to the regulator to approve a new event or wager. How they determine the criteria is not apparent in most jurisdictions.

- 1) Least restrictive / non-transparent

New Jersey – Pennsylvania – Maryland - **Kansas**



Massachusetts Gaming Commission

The jurisdictions of *New Jersey* and *Pennsylvania* ask the operators to submit what they wish to offer for events and wagers and their regulatory bodies review and approve/deny. I was unable to see any particulars in these jurisdictions.

As for *Maryland*, I include their regulation regarding this topic below:

Maryland's approval of wagers

.02 Commission Approval of Specific Bet Types.

- A. A sports wagering licensee shall submit to the Commission for approval the events and types of wagers it proposes offering to bettors prior to accepting any sports wagering bets.
- B. The Commission may permit a sports wagering licensee to offer wagering on any approved sporting event.
- C. The Commission may permit a sports wagering licensee on behalf of a sports wagering licensee to offer the any of the following types of wagers on the events contained in §B of this regulation:
 - (1) Exchange wagers;
 - (2) In-game wagers;
 - (3) Parlay wagers;
 - (4) Proposition wagers;
 - (5) Straight wagers; and
 - (6) Other types of wagers as approved by the Commission.
- D. A sports wagering licensee shall make available to bettors a clear explanation of all types of wagers permitted by the Commission and events on which those wagers are permitted.
- E. A sports wagering licensee may place a layoff wager with another sports wagering licensee or located in the State for the purpose of offsetting bettor wagers provided that:
 - (1) The sports wagering licensee placing the layoff wager discloses its identity to the sports wagering licensee receiving the layoff wager; and
 - (2) The receiving sports wagering licensee agrees to accept the layoff wager after receiving notification of the identity of the sports wagering licensee placing the layoff wager.

In *Kansas*, as of this memo, they currently have no formal Regulations or Internal Controls. Kansas has four retail sports betting operations at their casinos and mobile apps tethered to their casinos.

2) Mid-range

In *Indiana*, they have a similar regulation for wagers as Maryland, and they list their approved events in a PDF online (below):



IN-Approved-League
s-and-Events.pdf



Massachusetts Gaming Commission

In *Virginia*, they provide a list similar to Indiana and it's provided (below). For their approved wagers they list it on the same page as their catalog which is also located (below).



virginia events
cat.pdf

Authorized Sports Events, Leagues, and Bet Types

The purpose of this document is to provide guidance to sports wagering operators on approved leagues and events as well as acceptable wager types. This directive is authorized by 11 VAC 70-170, is subject to change, and may be updated from time to time. It is the policy of the Department that sports wagering may only occur on events and leagues which have integrity policies.

Unless specifically prohibited below, sport wagering operators may offer wagers (pre and/or in-game & futures/outrights) or proposition bets (which means wagers on a single specific action, statistic, occurrence, or non-occurrence to be determined during a sporting event and includes any such action that does not directly affect the final outcome of the sporting event to which it relates) for all leagues and events where the results are determined on the field of play and can be confirmed by a box score or statistical analysis.

Examples of approved wagers and bet types include:

- Single game bets
- Moneyline
- Teaser bets
- Parlays
- Over-Under
- Pools
- Exchange Wagering
- In-Game Wagering
- In-Play Bets
- Proposition Bets
- Straight Bets

Prohibited Events/Wagers include:

- Wagers on youth sports, proposition bets on college sports and bets on Virginia college sports. For youth sports and Virginia college sports, prohibited wagers are limited to the single game or match in which a youth sports or a Virginia college sports team is a participant.
- Proposition wagers on any type of possible injury, unsportsmanlike conduct or any other officiating call. Examples of impermissible player propositions include but are not limited to wagers that are:
 - Injury related, such as will a player suffer an injury, how many games will an injured player miss.



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- Officiating calls, such as when will the first penalty flag be thrown, when will the first foul be called, what will be the game's first penalty.
- Wagering on the outcome of subjective trophy awards such as MLB Cy Young, MVP, Heisman Trophy, etc.
- Wagers on drafts (e.g, MLB, NBA, NHL, NFL, WNBA, etc.).

In *Arizona*, the responsible party shall submit a catalogue to the Department of the events on which it intends to accept wagers and types of wagers it intends to offer. The catalogue and any changes shall be submitted to the Department (Arizona) prior to implementation. They update their catalog and post it on their website.

3) Most restrictive / transparent

Michigan is in this section mostly for its transparency. Their Sports Wagering Catalog Submissions page has an excel form similar to the one being recommended. It is here that licensees can download forms for new leagues, wagers, or events requests. Also located here is the request for a licensee to change their house rules.

Colorado is one of the most restrictive for their process of approving new wagers. Any new wager not addressed in their events' tab must be submitted and approved by the regulator. This catalog is accessible to the licensee and consumer on their website. Any new event must also go through this process.

All regulators have similar processes to address the approval of events and wagers in their state. The main differences is the access to see which events and wagers are approved, the format used to display these results, and whether the wagers in an event are detailed and specific or general for each event.

Applicable sections of 23N:

Mass. General Laws c.23N § 3

“Sports wager”, a wager on a sporting event or a portion of a sporting event.

“Sports wagering”, the business of accepting wagers on sporting events or portions of sporting events, other events, the individual performance statistics of athletes in a sporting event or other events or a combination of any of the same by any system or method of wagering approved by the commission including, but not limited to, mobile applications and other digital platforms; provided, that sports wagering shall not include the acceptance of any wager:

- (i) with an outcome dependent on the performance of an individual athlete in any collegiate sport or athletic event, including, but not limited, to in-game or in-play wagers;



Massachusetts Gaming Commission

- (ii) on a high school or youth sporting event;
- (iii) on injuries, penalties, player discipline or replay review; and provided further, that sports wagering shall not include fantasy contests as defined in section 11M½ of chapter 12.

Sports wagering shall include, but shall not be limited to, single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets and straight bets.

*Note the above highlighted wagers are all included in the catalog's 'guidelines and comments' tab.

Mass. General Laws c.23N § 4

(d)(1) The commission may promulgate rules and regulations including, but not limited to, those governing the acceptance of wagers on a sports event, other event or a series of sports events; types of wagering receipts which may be used; methods of issuing receipts; methods of accounting to be used by operators; types of records to be kept; types of systems for wagering; and any other sports wagering-related issues.

Mass. General Laws c.23N § 13

(a) Holders of category 1 and category 2 licenses may accept wagers on sports events and other events authorized pursuant to this chapter in person at authorized facilities.

(b) Holders of an operator license may accept wagers on sports events and other events authorized pursuant to this chapter from individuals physically located within the commonwealth using mobile applications or digital platforms approved by the commission, through the patron's sports wagering account. The branding for each mobile application or digital platform shall be determined by the operator. All bets authorized pursuant to this section must be initiated, received and otherwise made within the commonwealth. Consistent with the intent of the federal Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. section 5361 to 5367, inclusive, the intermediate routing of electronic data related to a lawful intrastate wager authorized pursuant to this chapter shall not determine the location or locations in which the wager is initiated, received or otherwise made.

(c) An operator may:

(i) accept wagers placed by other operators and

(ii) place wagers with other operators; provided, that any operator that places a wager with another operator shall inform the operator accepting the wager that the wager is being placed by an operator and shall disclose the operator's identity.

(d) An operator shall not accept:



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- (i) a wager from a person who is less than 21 years of age; or*
- (ii) a credit card.*

Reviewing and finding information in the catalog:

On January 12, 2023, the Commission will be voting to approve sports wagering events and wagers for the Commonwealth. The Commissioners will be presented a catalog of events and wagers to approve. The hope is that the Commissioners will be voting on the events and the wagers listed in the catalog as a whole. If there is a particular event, event's governing body, or a particular wager in which one does not wish to approve, one will approve it as a whole with the noted exception(s).

The catalog is set up in which governing body and specific wagers are located in each events tab. The events page will be used to navigate to each individual event's tab. The 'guidelines and comments' tab should be the first tab viewed.

Two versions of the catalog are still a draft version. Once voted on and determinations have been made by the Commission, the catalog will be finalized and posted on the massgaming.com site. When viewing the catalog please proceed in the following order. First tab would be 'Guidelines and comments.' Second tab would be the Index. The order after that does not matter.

When reviewing the first tab the information will be the general subjects of wagers, in-game, drafts, special games, impermissible wagers, NCAA and Massachusetts teams, wagers on award types, and pool wagers. All these areas are recommended except for the awards voted on by coaches, the press, or something similar. These awards are brought to the attention of the Commission to make a determination on whether or not to allow wagering on them.

Prior to receiving this catalog, a document outlining the types of wagers and their definitions was sent. I have also included it below if a refresher is needed.




Please reach out if you have any questions on the catalog via email or cell. Below are sample screen shots of the catalog.



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A	B	C
1	Post-season betting is permitted provided the league and corresponding bet types are approved.	
2	Licensed Sport Betting Operators or licensed Platform providers must receive commission approval for any new league, events, or wagers. Approvals are granted at the discretion of the commission. Once new leagues/events are approved, and published on the commission's website, they may be offered by any licensed platform provider. Unless otherwise prohibited, for all approved leagues, operators may offer <u>any wager type</u> where the results are determined on the field of play and can be verified by a box score or statistical analysis. Any other wager or wager types that do not meet these criteria must be submitted to the commission for approval the first time it is offered and may not be available for wagering until approved by the commission.	2A
3	For all approved leagues, in-game wagers are wagers placed on the outcome of an athletic event or proposition wagers made after the athletic event has started and can continue during the course of live play of the athletic event.	3A
4	In-game wagering is approved for wager-types which are explicitly stated as approved for each league on the sport tabs.	
Wagers may be accepted on an approved player draft subject to all of the following conditions:		
Guidelines & Comments Index Australian Rules Football Badminton Baseball Basketball Biathlon Bowling		

A	B	C																														
 <h2>Official Catalog of Events and Wagers</h2> <p><i>Revised</i></p> <table> <thead> <tr> <th colspan="2">Leagues and Events</th><th>Approved</th></tr> </thead> <tbody> <tr><td>1</td><td>Australian Rules Football</td><td></td></tr> <tr><td>2</td><td>Badminton</td><td></td></tr> <tr><td>3</td><td>Baseball</td><td></td></tr> <tr><td>4</td><td>Basketball</td><td></td></tr> <tr><td>5</td><td>Biathlon</td><td></td></tr> <tr><td>6</td><td>Bowling</td><td></td></tr> <tr><td>7</td><td>Boxing</td><td></td></tr> <tr><td>8</td><td>Bowls</td><td></td></tr> <tr><td>9</td><td>Chess</td><td></td></tr> </tbody> </table>			Leagues and Events		Approved	1	Australian Rules Football		2	Badminton		3	Baseball		4	Basketball		5	Biathlon		6	Bowling		7	Boxing		8	Bowls		9	Chess	
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	A	B	C
	Sport	Governing Body	
1	Winter Athletics	ESPN	
2		European Athletic Association	
3		Fédération Internationale de Ski (FIS, International Ski Federation)	
4	Return to Index	International Association of Athletics Federation (IAAF)	
5		International Bobsleigh and Skeleton Federation (IBSF)	
6		International Luge Federation (FIL)	
7		International Skating Union (ISU)	
8		World Curling Federation (WCF)	
9		X-Games	
0		Four Hills Tournament	
1			
2			
3			
4			
5			
<div>◀ ▶ Guidelines & Comments Index Australian Rules Football Badminton Baseball</div>			



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TO: Chair Cathy Judd-Stein
Commissioner Bradford R. Hill
Commissioner Jordan Maynard
Commissioner Eileen O'Brien
Commissioner Nakisha Skinner

FROM: Sterl Carpenter – Regulatory Compliance Manager

CC: Karen Wells – Executive Director

DATE: January 6, 2023

RE: Events and Wagers requests

Introduction:

The category 1 retail licensees of the Commonwealth have submitted a request for specific wagers and events to be allowed by the commission. The wagers and events will be added to the catalog, subject to commission approval. The requested wagers and their definitions are as follows:

Wagers:

From the Statute

Single-game bets - You place a single bet on a single outcome of an event. If your bet is correct, you win. If your bet is incorrect, you lose.

For example:

Baseball Team B loses the first game but wins games two and three, so you win the bet.

You win your original stake, plus the winnings.

Teaser bets – Teasers and pleasers are versions of parlay or combined wagers that allow the bettor to adjust point spreads in exchange for a lower potential return. In some ways, teasers and pleasers are opposite sides of the same coin. One works in your favor for a reduced payout, while the other goes against your favor for potentially larger payouts and improved odds of winning.

Parlays – A 'Parlay' bet is a bet placed on multiple outcomes to occur. For a Parlay bet to win, all outcomes within the Parlay must be selected correctly. The odds for each pick are multiplied by one another to determine the odds for the Parlay.



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Over-under - A bet on the over means you think both teams will combine to score more goals, points, or runs than the total listed. Conversely, an under bet means you think there will be less than the total listed.

Moneyline - A moneyline wager is simply a bet type that only includes Odds, as in “Odds to win”. Example: a moneyline of +150, is just +150 odds (\$100 to win \$150) for the listed team to win

Pools - are a fixed price point form of betting where wagers are placed against other bettors who have entered the same event. Each winner's prize depends on the number of other players in the pool and the number of winners.

Exchange wagering - Exchanges operate similarly to the stock market, with customers buying and selling sports outcomes instead of shares of companies. The exchange operator takes a commission for brokering the transaction, typically around 2% of the net profit of the winning side of the wager.

In-game wagering - is simply wagering on a **game** while it's happening. Sportsbook odds for the in-game will usually only change during a timeout or commercial break.

In-play wagering - is betting on a game already in progress. Bettors will find that many of the most popular pregame bets morph into an in-play form once the bell sounds.

Proposition bets – or prop bet is basically a wager on a game not directly tied to the actual outcome of the contest. There are props that have to do with a game as a whole, as well as on the performance of the teams involved. Many of the most popular props revolve around the accomplishments of individual players.

Straight bets - is as simple as it sounds, a single wager on an event.

Requested by Licensees

Point spreads - the value of the point spread is added to the team's total as part of the wager. Bettors who choose the underdog win their wager when that team either wins the event outright OR loses by an amount less than the point spread.

Pleasers – See teasers definition above.

Round Robin - A round robin in sports betting is really just a series of smaller parlays created from a larger list of bets.

A round robin gets its name from a round robin tournament, in which every team plays every other team in its group. The idea is the same. Instead of playing each other, the teams form parlays together.



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When you select multiple games to bet, your sportsbook will give you the option to create a series of smaller parlays made up of your selected games.

Cash out - A Cash Out, otherwise known as a Buy Out, is a feature that allows sports bettors the ability to settle a bet — and accept a payout less than the full potential win — before the competition ends. The upside, if you take the offer, is locking up some profit that is yours to keep regardless of how the score/event ultimately plays out.

Because Cash Outs tend to be most commonly offered while an event is running and before it ends, Cash Outs can be viewed as a live in-game betting feature. But Cash Outs may be offered mid-season on long-term futures bets as well, such as a wager on the NFL Rookie of the Year, or NBA Champion, for example.

3-way - Simply put, three-way betting odds offer three wagering options that focus on regulation time results only. They differ from two-way odds as a TIE is added as a third betting choice. Three-way lines are offered in most competitions where a draw is a possible outcome.

Spread/handicap - markets are when it is possible to bet on whether the chosen outcome will win by more than a specific number of points, or lose by less than a specific number of points. The bet will be declared void if the outcome is tied once the spread has been applied.

Totals - An over/under in sports betting is a wager on the total number of points in a game. It's also called "the total." A bettor can wager on whether or not the combined points/goals/runs scored by both teams will go over or under a predetermined amount. You're not trying to guess the exact amount.

Player-game-team props - wagers on a particular player performing certain value in a category – game Team A and Team B will pass for over 500 yards in the game – team Team A will pass for over 225 yards

Futures/outrights - An outright bet is a futures market that requires you to wager on events that will take place after a specific period of time - the end of the season, the start of the playoffs, etc. It is one of the most common betting markets in sports such as Basketball, Soccer, and Football.

Virtual Match Ups - The outcomes from each match or event are generated by a computer algorithm that picks the winner in a non-bias way.

*** This is not recommended at this time due to it being more of an iGaming product rather than a sports wager.**

Next Occurrence – the next goal scored, the next play will be a pass, the next shot will be a 3-pointer

Yes/no – This market type refers to wagering on the occurrence or nonoccurrence of a specific proposition that can be determined on the field of play or by statistical analysis. The customer is



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given a choice to select “yes” or “no.” Some example markets include: (1) Will Team X score a Touchdown in the first quarter - yes or no; and (2) Will the game go to overtime - yes or no.

Win/Place/Each Way - Generally associated with horse racing, a win/place bet – otherwise known as a win/show or each way bet – allows patrons to cover the possibility of a selection either winning or placing in a certain position. You can think of a win/place bet as two separate bets: to win and to show. In the US, most horse racing betting sites allow customers to place combination straight bets. However, you may only be offered Win/Place, which isn’t a pure win/place wager as the Place bet only covers positions 1 and 2. EachWay-When you bet a golfer (and even some other sports) at a number of United States sportsbooks, you may see a little box next to their name.

“Each Way” or “E/W”, followed by a fraction and some numbers.

This is a popular betting concept in Europe but hasn’t quite become mainstream in the U.S. yet. It’s used most often in golf, but it also applies to other sports with big fields, like motor sports or horse racing.

Awards – wagers on teams or individuals winning accolades from performance or **voting**.

Events requested by the licensees:

The licensees have requested the following 47 events be added to the catalog. We highlight several events for review that the commission should turn their attention to when reviewing.

1. Athletics

- World Athletics (formerly known as International Association of Athletics Federations (IAAF))

2. Australian Rules Football

- Australian Football League

3. Badminton

- Badminton World Federation Grade 1 events (international) and Grade 2 events (World Tour)

4. Baseball/Softball

- Major League Baseball (MLB)
- NCAA Baseball and Softball
- World Baseball Classic (WBC)
- Minor League Baseball (MiLB) – Triple A
- Japan Nippon Professional Baseball
- Chinese Professional Baseball League
- Korean KBO League
- Athletes Unlimited Softball
- Northwoods League



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- Texas Collegiate League
- Mexican Baseball League (LMB)
- Baseball Series de Caribe (CBC)

5. Basketball

- National Basketball Association (NBA)
- Women's National Basketball Association (WNBA)
- NCAA
- Euro League/Euro Cup
- International and domestic events sanctioned by FIBA or FIBA member federations
- The Basketball Tournament (TBT)
- Big Three

6. Biathlon

- International Biathlon Union (IBU)

7. Billiards

- World Pool Billiard Association Sanctioned Events

8. Bowling

- Professional Bowlers Associations (PBA)

9. Bowls

- Professional Bowls Association
- World Bowls

10. Bull Riding/Rodeo

- Professional Bull Riders (PBR)
- Professional Rodeo Cowboys Association (PRCA)

11. Boxing

- World Boxing Association (WBA)
- World Boxing Council (WBC)
- World Boxing Organization (WBO)
- International Boxing Federation (IBF)
- British Board of Boxing Control (BBBoC)
- Sanctioned by Association of Boxing Commissions and Combative Sports associated commission or other US State Association
- Bare Knuckle Fighting Championship
- African Boxing Union (WB)
- British & Irish Boxing Authority (BIBA)
- Global Boxing Union (GBU)
- International Boxing Association



Massachusetts Gaming Commission

- International Boxing Organization (IBO)
- International Boxing Union (IBU)
- Irish Athletic Boxing Association (IABA)
- Women's International Boxing Association (WIBA)
- World Boxing Federation (WBF)
- World Boxing Union (WBU)

12. Chess

- International Chess Federation (FIDE)
- PlayMagnus AS

13. Cornhole (question on their oversight)

- American Cornhole League (ACL Pro Division)

14. Cricket

- International and domestic events sanctioned by the International Cricket Council (ICC) or ICC member federations

15. Cycling

- Union Cycliste International (UCI) Sanctioned Events

16. Darts

- Professional Darts Corporation (PDC) Sanctioned Events
- British Darts Organization (BDO) Sanctioned Events
- MODUS Events
- World Dart Federation (WDF)

17. Disc

- American Ultimate Disc League

18. eSports

- Call of Duty League
- Counterstrike Global Offensive (CS:GO)
 - o Blast Premier League
 - o Electronic Sports League Sanctioned Events (ESL)
 - o DreamHack Sanctioned Events
 - o Intel Extreme Masters (IEM)
- League of Legends (LoL)
 - o LCK – League of Legends Champions Korea
 - o LCS – League of Legends Champions Series
 - o LEC – League of Legends European Championship
 - o Riot Games Sanctioned Events
 - o World Championships



Massachusetts Gaming Commission

- Dota 2
 - o Valve Sanctioned Events
- NBA 2k League
- Overwatch League
- Rainbow 6
 - o Ubisoft Sanctioned Events
- Valorant
- o Riot Games Sanctioned Events

19. Floorball

- International and domestic events sanctioned by Floorball Federation (IFF) or IFF or IFF member federations

20. Football

- National Football League (NFL)
- NCAA
- Canadian Football League (CFL)
- College Senior Bowl
- USFL
- XFL
- Indoor Football League (IFL)

21. Futsal

- International and domestic events sanctioned by FIFA or FIFA member federations

22. Golf

- Events sanctioned by the International Federation of PGA Tours or its members
- International Events (i.e. Ryder Cup, Solheim Cup, Presidents Cup)
- The Match Series
- Major Championships

23. Handball

- International and domestic events sanctioned by the International Handball Federation Events (IHF) or IHF member federations
- European Championship League

24. Hockey – Field

- International Hockey Federation (FHI) Sanctioned Event

25. Hockey - Ice

- National Hockey League (NHL)
- International and domestic events sanctioned by the International Ice Hockey Federation (IIHF) or IIHF member federations



Massachusetts Gaming Commission

- NCAA
- American Hockey League (AHL)

26. Jai-Alai

- Magic City Jai Alai

27. Lacrosse

- NCAA
- Premier Lacrosse League
- National Lacrosse League
- World Lacrosse Sanctioned Events (Country v Country)

28. Mixed Martial Arts (MMA)

- Ultimate Fighting Championship (UFC)
- Road to UFC
- Dana White's Contender Series
- Bellator MMA
- ONE Championship
- Professional Fighters League (PFL)
- PFL Challenger Series
- Cage Warriors
- Glory
- Invicta Fighting Championship
- KSW
- Legacy Fighting Alliance (LFA)
- Spectation Sports
- Sanctioned by Association of Boxing Commissions and Combative Sports associated commission or other US State Association

29. Olympics (including trials)

- Summer Olympics
- Winter Olympics

30. Racing

- NASCAR:
 - o Xfinity Series
 - o Camping World Truck Series
 - o NASCAR Cup Series
- Fédération Internationale de l'Automobile (FIA) Sanctioned Events
- Fédération Internationale de Motocyclisme (FIM) Sanctioned Events
- Indy Racing League (Indy Car)
- Superstar Racing Experience (SRX)
- National Hot Rod Association (NHRA)



Massachusetts Gaming Commission

- United States Auto Club (USAC) Sanctioned Events

31. Netball

- ANZ Premiership
- Super Netball

32. Pesapallo

- Finnish Superpesis
- Finnish Ykkospesis

33. Rowing

- University Boat Race

34. Rugby League

- International and domestic events sanctioned by International Rugby League (IRL) or IRL member federations

35. Rugby Union

- International and domestic events sanctioned by World Rugby or World Rugby member federations
- SANZAAR Sanctioned Events

36. Sailing

- Americas Cup
- Prada Cup Challenger Selection Series

37. Snooker

- World Snooker Sanctioned Events
- World Professional Billiards and Snooker Association (WPBSA) Sanctioned Events
- World Pool-Billiard Association (WPA) Sanctioned Events
- International World Games Association (IWGA) Sanctioned Events

38. Soccer

- International and domestic events sanctioned by FIFA or FIFA member federations
- Audi Cup
- International Champions Cup
- NCAA

39. Soccer – Beach

- Euro Beach Soccer League
- Beach Soccer Worldwide Intercontinental Cup

40. **Special Events**



Massachusetts Gaming Commission

- Academy Awards (Oscars)
- Emmy Awards
- Nathan's Famous Hot Dog Eating Contest
- Major League Eating Sanctioned Events

41. Summer Athletics

- Commonwealth Games
- X-Games
- World Athletics Championships
- World Athletics Indoor Tour
- World Athletics Continental Tour
- European Athletics Championships

42. Swimming

- Federation Internationale de Natation (FINA) World Championships

43. Table Tennis

- International and domestic events sanctioned by the International Table Tennis Federation (ITTF) or ITTF member federations
- TT Elite Series Poland
- TT Star Pro Series
- Challenger Sao Paolo
- TT Trophy Hungary
- Armenia ITT Cup League
- Challenger Series Betiebs GmbH.

44. Tennis

- ATP Tour Events; including Challenger Tour
- Grand Slam Events
- International Tennis Federation (ITF) Sanctioned Events (including country v. country)
- United States Tennis Association (USTA) Sanctioned Events
- World Team Tennis
- WTA Tour Events

45. Volleyball

- International and domestic events sanctioned by the Federation International de Volleyball (FIVB) or FIVB member federations
- Leagues and Events organized by FIVB member federations
- AVP Pro Beach Volleyball
- NCAA

46. Waterpolo

- FINA World Championships



Massachusetts Gaming Commission

- FINA World Cup
- FINA World League
- Ligue Européenne de Natation (LEN) European Championships
- LEN Champions League
- Adriatic League
- Italian Serie A1

47. Winter Athletics

- X-Games
- International Skating Union (ISU) World Championships and World Cup
- International Bobsleigh and Skeleton Federation (IBSF) World Championships
- International Luge Federation (FIL) World Championships
- Fédération Internationale de Ski (FIS, International Ski Federation) World Cup
- Four Hills Tournament

* The highlighted events have been brought to the commissions' attention due to questions on either the betting, league oversight, integrity question, or whether it can be considered a sporting event.



Massachusetts Gaming Commission



Official Catalog of Events and Wagers

Revised

Leagues and Events		Approved
1	<u>Australian Rules Football</u>	
2	<u>Badminton</u>	
3	<u>Baseball</u>	
4	<u>Basketball</u>	
5	<u>Biathlon</u>	
6	<u>Bowling</u>	
7	<u>Boxing</u>	
8	<u>Bowls</u>	
9	<u>Chess</u>	
10	<u>Cornhole</u>	
11	<u>Cricket</u>	
12	<u>Cycling</u>	
13	<u>Darts</u>	
14	<u>Disc</u>	
15	<u>eSports</u>	
16	<u>Floorball</u>	
17	<u>Football - Pro American</u>	
18	<u>Futsal</u>	
19	<u>Golf</u>	
20	<u>Handball</u>	
21	<u>Hockey - Field</u>	
22	<u>Hockey - Ice</u>	
23	<u>Jai-Alai</u>	
24	<u>Lacrosse</u>	
25	<u>MMA</u>	

26	<u>Motorsports</u>	
27	<u>NCAA Baseball</u>	
28	<u>NCAA Basketball</u>	
29	<u>NCAA Football</u>	
30	<u>NCAA Hockey</u>	
31	<u>NCAA Lacrosse</u>	
32	<u>NCAA Soccer</u>	
33	<u>NCAA Softball</u>	
34	<u>NCAA Beach Volleyball</u>	
35	<u>NCAA Volleyball</u>	
36	<u>Netball</u>	
37	<u>Olympics (Winter and Summer)</u>	
38	<u>Pesapallo</u>	
39	<u>Pool</u>	
40	<u>Rodeo</u>	
41	<u>Rowing</u>	
42	<u>Rugby League</u>	
43	<u>Rugby Union</u>	
44	<u>Sailing</u>	
45	<u>Snooker</u>	
46	<u>Soccer</u>	
47	<u>Soccer Beach</u>	
48	<u>Special Events</u>	
49	<u>Softball</u>	
50	<u>Summer Athletics</u>	
51	<u>Swimming</u>	
52	<u>Table Tennis</u>	
53	<u>Tennis</u>	
54	<u>Volleyball</u>	
55	<u>Volleyball beach</u>	
56	<u>Waterpolo</u>	
57	<u>Winter Athletics</u>	

[illegible]

[illegible]



BETMGM

To:	Massachusetts Gaming Commission
Subject:	Event and Wager-Type Catalog
Date Submitted:	November 11, 2022

BetMGM, in conjunction with PENN Entertainment and WynnBET, provides the following proposal to the Massachusetts Gaming Commission regarding the Massachusetts Gaming Commission approved event and wager-type catalog and processes for Massachusetts sports wagering:

Catalog, Directive & Procedures for Approved Events and Wager-Types

Permitted Events

A Sports Wagering Operator ("Operator") shall not accept any wager on an event unless the Operator has received written permission from the Massachusetts Gaming Commission ("the Commission"). Operators are considered to have written approval to offer any event that appears on the Approved Event List published by the Commission. Further, the Commission reserves the right to prohibit the acceptance of wagers and may order the cancellation of wagers and require refunds on any event for which wagering would be contrary to the public policies of the Commonwealth of Massachusetts.

To provide the Commission sufficient time to review a submission of a request to approve a new event, Operators shall submit the request to the Commission no less than 72 hours in advance of the day the Operator desires to accept wagers from the public on the new event.

A request to the Commission must include:

1. The name of the governing body in charge of administering the event; and
2. A description of the policies and procedures regarding the event's integrity

Professional league drafts are approved for the MLB, NBA, NHL, NFL, and WNBA. In-draft (in-play) betting may be offered up to 2 selections prior to the actual occurrence on the draft broadcast(s). For example, "Pick #25 of the draft to be player x" would need to be placed prior to the announcement of pick #23".

Unless otherwise specified, the following are authorized for approved leagues:

- Exhibition, pre-season, regular season, post-season, and all-star contests;
- Both men's and women's events; and
- Qualifying rounds

Once an event has been approved by the Commission, it is available to all Operators under the conditions approved. The Commission shall notify all Operators when an update is made to the Commission's approved list.



BETMGM

Permitted Wager and Market Types

Unless otherwise specified, for all approved events, Operators may offer any market where the results are decided based on an outcome or outcomes determined because of an event or events sanctioned by a sports governing body approved by the Commission, based on the performance of a single or group of rostered or otherwise registered athletes, and determined on the field of play and can be proven by a box score, aggregation of box scores, or other statistical analysis.

Additionally, the Commission has pre-approved awards for all approved leagues where such awards are based on statistics, or votes, provided that the votes are collected in a manner that maintains the confidentiality of the outcome until the award is announced.

Approved Wager Types include the following:

- Single
- Parlay
- Teasers/Pleasers
- Round Robin
- Cash Out
- Pools
- Exchange Wagers

Approved Market Types include the following:

- Moneyline
- 3-Way
- Spread/Handicap
- Totals
- Player Props
- Game Props
- Team Props
- Futures/Outrights
- In-game/In-play
- Virtual Match Ups
- Next Occurrence
- Win/Place/Each Way
- Yes/No
- Awards

Any other type of wager must be sent to the Commission for approval the first time it is offered and may not be made available for wagering until approved by the Commission.

Once a wager or market type has been approved by the Commission, it is available to all Operators under the conditions approved.



BETMGM

Prohibitions

Prohibited Sports Events:

- High school and youth sports or athletic events.
- A collegiate sport or athletic event involving one or more collegiate teams from the Commonwealth unless they are involved in a collegiate tournament involving four or more collegiate teams.

Prohibited Sports Wagers:

- An outcome dependent on the performance of an individual athlete in any collegiate sport or athletic event, including, but not limited, to in-game or in-play wagers.
- Wagers on injuries, penalties, player discipline or replay review.
- Fantasy contests as defined in section 11M½ of 163 Chapter 12.



BETMGM

Catalog of Approved Events

1. Athletics
 - World Athletics (formerly known as International Association of Athletics Federations (IAAF))
2. Australian Rules Football
 - Australian Football League
3. Badminton
 - Badminton World Federation Grade 1 events (international) and Grade 2 events (World Tour)
4. Baseball/Softball
 - Major League Baseball (MLB)
 - NCAA Baseball and Softball
 - World Baseball Classic (WBC)
 - Minor League Baseball (MiLB) – Triple A
 - Japan Nippon Professional Baseball
 - Chinese Professional Baseball League
 - Korean KBO League
 - Athletes Unlimited Softball
 - Northwoods League
 - Texas Collegiate League
 - Mexican Baseball League (LMB)
 - Baseball Series de Caribe (CBC)
5. Basketball
 - National Basketball Association (NBA)
 - Women's National Basketball Association (WNBA)
 - NCAA
 - Euro League/Euro Cup
 - International and domestic events sanctioned by FIBA or FIBA member federations
 - The Basketball Tournament (TBT)
 - Big Three
6. Biathlon
 - International Biathlon Union (IBU)
7. Billiards
 - World Pool Billiard Association Sanctioned Events
8. Bowling
 - Professional Bowlers Associations (PBA)
9. Bowls
 - Professional Bowls Association
 - World Bowls
10. Bull Riding/Rodeo
 - Professional Bull Riders (PBR)
 - Professional Rodeo Cowboys Association (PRCA)



BETMGM

11. Boxing

- World Boxing Association (WBA)
- World Boxing Council (WBC)
- World Boxing Organization (WBO)
- International Boxing Federation (IBF)
- British Board of Boxing Control (BBoc)
- Sanctioned by Association of Boxing Commissions and Combative Sports associated commission or other US State Association
- Bare Knuckle Fighting Championship
- African Boxing Union (WB)
- British & Irish Boxing Authority (BIBA)
- Global Boxing Union (GBU)
- International Boxing Association
- International Boxing Organization (IBO)
- International Boxing Union (IBU)
- Irish Athletic Boxing Association (IABA)
- Women's International Boxing Association (WIBA)
- World Boxing Federation (WBF)
- World Boxing Union (WBU)

12. Chess

- International Chess Federation (FIDE)
- PlayMagnus AS

13. Cornhole

- American Cornhole League (ACL Pro Division)

14. Cricket

- International and domestic events sanctioned by the International Cricket Council (ICC) or ICC member federations

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- Union Cycliste International (UCI) Sanctioned Events

16. Darts

- Professional Darts Corporation (PDC) Sanctioned Events
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- MODUS Events
- World Dart Federation (WDF)

17. Disc

- American Ultimate Disc League

18. eSports

- Call of Duty League
- Counterstrike Global Offensive (CS:GO)
 - Blast Premier League
 - Electronic Sports League Sanctioned Events (ESL)
 - DreamHack Sanctioned Events



BETMGM

- Intel Extreme Masters (IEM)
- League of Legends (LoL)
 - LCK – League of Legends Champions Korea
 - LCS – League of Legends Champions Series
 - LEC – League of Legends European Championship
 - Riot Games Sanctioned Events
 - World Championships
- Dota 2
 - Valve Sanctioned Events
- NBA 2k League
- Overwatch League
- Rainbow 6
 - Ubisoft Sanctioned Events
- Valorant
 - Riot Games Sanctioned Events

19. Floorball

- International and domestic events sanctioned by Floorball Federation (IFF) or IFF or IFF member federations

20. Football

- National Football League (NFL)
- NCAA
- Canadian Football League (CFL)
- College Senior Bowl
- USFL
- XFL
- Indoor Football League (IFL)

21. Futsal

- International and domestic events sanctioned by FIFA or FIFA member federations

22. Golf

- Events sanctioned by the International Federation of PGA Tours or its members
- International Events (i.e. Ryder Cup, Solheim Cup, Presidents Cup)
- The Match Series
- Major Championships

23. Handball

- International and domestic events sanctioned by the International Handball Federation Events (IHF) or IHF member federations
- European Championship League

24. Hockey – Field

- International Hockey Federation (FHI) Sanctioned Events

25. Hockey - Ice

- National Hockey League (NHL)



BETMGM

- International and domestic events sanctioned by the International Ice Hockey Federation (IIHF) or IIHF member federations
- NCAA
- American Hockey League (AHL)

26. Jai-Alai

- Magic City Jai Alai

27. Lacrosse

- NCAA
- Premier Lacrosse League
- National Lacrosse League
- World Lacrosse Sanctioned Events (Country v Country)

28. Mixed Martial Arts (MMA)

- Ultimate Fighting Championship (UFC)
- Road to UFC
- Dana White's Contender Series
- Bellator MMA
- ONE Championship
- Professional Fighters League (PFL)
- PFL Challenger Series
- Cage Warriors
- Glory
- Invicta Fighting Championship
- KSW
- Legacy Fighting Alliance (LFA)
- Spectation Sports
- Sanctioned by Association of Boxing Commissions and Combative Sports associated commission or other US State Association

29. Olympics (including trials)

- Summer Olympics
- Winter Olympics

30. Racing

- NASCAR:
 - Xfinity Series
 - Camping World Truck Series
 - NASCAR Cup Series
- Fédération Internationale de l'Automobile (FIA) Sanctioned Events
- Fédération Internationale de Motocyclisme (FIM) Sanctioned Events
- Indy Racing League (Indy Car)
- Superstar Racing Experience (SRX)
- National Hot Rod Association (NHRA)
- United States Auto Club (USAC) Sanctioned Events

31. Netball



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- ANZ Premiership
- Super Netball
- 32. Pesapallo
 - Finnish Superpesis
 - Finnish Ykkospesis
- 33. Rowing
 - University Boat Race
- 34. Rugby League
 - International and domestic events sanctioned by International Rugby League (IRL) or IRL member federations
- 35. Rugby Union
 - International and domestic events sanctioned by World Rugby or World Rugby member federations
 - SANZAAR Sanctioned Events
- 36. Sailing
 - Americas Cup
 - Prada Cup Challenger Selection Series
- 37. Snooker
 - World Snooker Sanctioned Events
 - World Professional Billiards and Snooker Association (WPBSA) Sanctioned Events
 - World Pool-Billiard Association (WPA) Sanctioned Events
 - International World Games Association (IWGA) Sanctioned Events
- 38. Soccer
 - International and domestic events sanctioned by FIFA or FIFA member federations
 - Audi Cup
 - International Champions Cup
 - NCAA
- 39. Soccer – Beach
 - Euro Beach Soccer League
 - Beach Soccer Worldwide Intercontinental Cup
- 40. Special Events
 - Academy Awards (Oscars)
 - Emmy Awards
 - Nathan's Famous Hot Dog Eating Contest
 - Major League Eating Sanctioned Events
- 41. Summer Athletics
 - Commonwealth Games
 - X-Games
 - World Athletics Championships
 - World Athletics Indoor Tour
 - World Athletics Continental Tour
 - European Athletics Championships



BETMGM

42. Swimming

- Federation Internationale de Natation (FINA) World Championships

43. Table Tennis

- International and domestic events sanctioned by the International Table Tennis Federation (ITTF) or ITTF member federations
- TT Elite Series Poland
- TT Star Pro Series
- Challenger Sao Paolo
- TT Trophy Hungary
- Armenia ITT Cup League
- Challenger Series Betiebs GmbH.

44. Tennis

- ATP Tour Events; including Challenger Tour
- Grand Slam Events
- International Tennis Federation (ITF) Sanctioned Events (including country v. country)
- United States Tennis Association (USTA) Sanctioned Events
- World Team Tennis
- WTA Tour Events

45. Volleyball

- International and domestic events sanctioned by the Federation International de Volleyball (FIVB) or FIVB member federations
- Leagues and Events organized by FIVB member federations
- AVP Pro Beach Volleyball
- NCAA

46. Waterpolo

- FINA World Championships
- FINA World Cup
- FINA World League
- Ligue Européenne de Natation (LEN) European Championships
- LEN Champions League
- Adriatic League
- Italian Serie A1

47. Winter Athletics

- X-Games
- International Skating Union (ISU) World Championships and World Cup
- International Bobsleigh and Skeleton Federation (IBSF) World Championships
- International Luge Federation (FIL) World Championships
- Fédération Internationale de Ski (FIS, International Ski Federation) World Cup
- Four Hills Tournament

This Catalog, Directive and Procedures for Approved Events and Wager Types is subject to revision at any time in the sole discretion of the Commission.



MEMORANDUM

DATE: January 9, 2023

TO: Chair Cathy Judd-Stein
Commissioner Brad Hill
Commissioner Jordan Maynard
Commissioner Eileen O'Brien
Commissioner Nakisha Skinner

FROM: Karen Wells, Executive Director

RE: Sports Wagering Pre-launch Marketing Account Registration

The MGC has received inquiries from prospective on-line sports wagering operators regarding the permissibility of pre-launch marketing and account registration. The Commission requested that I inquire of our prospective operators regarding whether they have taken any action on marketing or registration at this point. Six of the eleven operators responded to my inquiry as of the time of drafting this memo. Of the respondents, only betMGM indicated they engaged in Massachusetts-specific marketing by putting up signage at the Springfield casino and sending out a mailer to existing customers indicating that betMGM was "coming soon." Certain operators have national ads which may be seen on television, but the respondents indicated that no advertising was specifically targeting Massachusetts residents.

Most of the respondents indicated that they had not engaged in any pre-registration activities, but two noted that they have an established mechanism nationally where an account could be preliminarily set up and could later be finalized should the operator be allowed to take wagers in Massachusetts. Both those operators indicated that customers are permitted to fund their "generic" accounts at this time.

GLI has indicated to us that, particularly for operators who are licensed in other US jurisdictions, the companies already have the infrastructure in their systems to set up accounts, regardless of where the customer is located, to then go through the KYC process, including Geolocation, of the new jurisdiction when the market is live before any bets can be placed. Jurisdictions vary as



Massachusetts Gaming Commission

to whether to allow for pre-launch state-specific registration and the loading of funds in that account.

If the Commission wants to allow Massachusetts-specific pre-registration which allows for funds to be deposited in an account, one possible option to mitigate risk is for the Commission to require the operator post a bond for an amount equal or greater than the Massachusetts resident deposits. This would ensure that any deposits could be refunded should there be an issue occur with those accounts.



DAILY FANTASY SPORTS REVENUE ALLOCATION FOR TAXATION

MASSACHUSETTS GAMING COMMISSION

JANUARY 12, 2023



Request for Revenue Allocation Model

Two daily fantasy sports (DFS) operators have requested that the Commission utilize the “Resident/Location Percentage Allocation” methodology for calculating and taxing Adjusted Gross Fantasy Wagering Receipts (AGFWR). The rationale for this request is the following:

- Aligns with other jurisdictions taxing DFS
- DFS contests are not state specific and have entrants and winners from varying states in the same contest
- Eliminates huge swings in taxes based on where winners are located

(Other states taxing based on Resident/Location Percentage Allocation-- Alabama; Arizona; Arkansas; Connecticut; Delaware; Iowa; Louisiana; Maine; Maryland; Michigan; Missouri; Mississippi; New Jersey; New York; Pennsylvania; and Tennessee)



c. 23N Statutory Definition

Adjusted Gross Fantasy Wagering Receipts:

The total gross receipts from fantasy contests as defined in section 11M1/2 of chapter 12, less only the total of all cash prizes paid to participants in the fantasy contests; provided, however, that the total of all cash prizes paid to participants shall not include the cash equivalent of any merchandise or thing of value awarded as a prize.



Location/Resident Percentage Allocation Example (For Discussion Only)

Facts for Impacts of Location/Resident Percentage Allocation Methodology vs. State Specific. (these examples were submitted by a DFS operator)

- Total DFS Entry Fees (All States) = \$1,000,000
- Total Payouts (All States) = \$900,000
- AGFWR All States = \$100,000
- Total DFS Entry Fees (MA Residents) = \$50,000



Location/Resident Percentage Allocation Example

Cont. (For Discussion Only)

Scenario #1 MA Players Win 10% of Total Payouts			
MA Entry Fees and Payouts Only Impact		Resident/Location Allocation Impact	
Total DFS Entry Fees (MA Only)	50,000.00	Total DFS Entry Fees (All States)	1,000,000.00
Total DFS Payouts (MA Only)	90,000.00	Total DFS Payouts (All States)	900,000.00
AGFWR (MA Only)	(40,000.00)	AGFWR (All States)	100,000.00
15% Tax on AGFWR	(6,000.00)		
		MA Total DFS Entry Fees	50,000.00
		MA Entry Fees as % of Total Fees	5.00%
		MA AGFWR	
		(MA Entry Fee % X AGFWR All States)	5,000.00
		15% Tax on AGFWR	750.00
Scenario #2 MA Players Win 2.5% of Total Payouts			
MA Entry Fees and Payouts Only Impact		Resident/Location Allocation Impact	
Total DFS Entry Fees (MA Only)	50,000.00	Total DFS Entry Fees (All States)	1,000,000.00
Total DFS Payouts (MA Only)	22,500.00	Total DFS Payouts (All States)	900,000.00
AGFWR (MA Only)	27,500.00	AGFWR (All States)	100,000.00
15% Tax on AGFWR	4,125.00		
		MA Total DFS Entry Fees	50,000.00
		MA Entry Fees as % of Total Fees	5.00%
		MA AGFWR	
		(MA Entry Fee % X AGFWR All States)	5,000.00
		15% Tax on AGFWR	750.00



Submitted By	Business/Entity Name	Name (First)	Name (Last)	Email	Regulation	Subsection	Comments	Entry Date
Operator (Applicant or Licensed)	FanDuel	Andrew	Winchell	andrew.winchell@fanduel.com	205 CMR 240	240.02	<p>FanDuel suggests adding a new subdivision (e) to 205 CMR 240.02(2) which clarifies that the amount of Adjusted Gross Fantasy Wagering Receipts subject to taxation is Massachusetts's proportionate share of nationwide fantasy contest receipts. This would ensure that Massachusetts taxation of fantasy contests is consistent with the other sixteen states, including: Connecticut; Maine; New York; New Jersey; and Pennsylvania, which provide for taxation of fantasy contest receipts.</p> <p>Language to be added:</p> <p>(e) The amount of Adjusted Gross Fantasy Wagering Receipts subject to the tax in 205 CMR 240.01(3) shall equal the total Adjusted Gross Fantasy Wagering Receipts from all participants entering fantasy contests, multiplied by the Location Percentage. The "Location Percentage" means the percentage, rounded to the nearest tenth of a percent, of the total entry fees collected from all fantasy contest players located in the commonwealth, divided by the total entry fees collected from all fantasy contest players in fantasy contests.</p>	11/22/2022 7:54
Operator (Applicant or Licensed)	Plainridge Park Casino and Penn Interactive Sports	lisa	mckenney	lisa.mckenney@pennentertainment.com	205 CMR 240 Adjusted Gross Sports Wagering and Adjusted Gross Fantasy Wagering Receipts Tax Remittance and Reporting	205 CMR 240.03	<p>Section 205 CMR 240.03 of the Sports Wagering Regulations requires a Sports Wagering Operator to file a tax remittance report, and simultaneously remit the tax due, to the Commission by 5:00 P.M. on the 15th calendar day of each month. Both M.G.L. c. 23N, Section 3, and 205 CMR 202.02 define an "Operator" as any entity permitted to offer sports wagering in the Commonwealth through a Category 1, Category 2, or Category 3 Sports Wagering License. As the definition of "Operator" contemplates Category 1, Category 2, and Category 3 licensees, PENN would like to confirm its understanding that a tethered Category 3 sports wagering licensee may handle these tax reporting and remittance requirements directly with the Commission, in situations where it offers mobile sports wagering on behalf of a Category 1 sports wagering licensee.</p>	#####
Operator (Applicant or Licensed)	BetMGM	Robyn	Bowers	robyn.bowers@betmgm.com	205 CMR 240.02 : Computation of Adjusted Gross Sports Wagering and Adjusted Gross Fantasy Wagering Receipts	205 CMR 240.02 (1)	<p>Are bonuses, freebets and other promotional play considered a "thing of value" under M.G.L. c. 23N, § 3? Thus making them subject to tax? This may be worth clarifying in the regulation.</p>	#####

Submitted By	Business/Entity	Name	Name (Last)	Email	Regulation	Subsection	Comments	Entry Date
Operator (Applicant or Licensed)	FFPC, LLC.	Michael	Petropoulos	mike@myffpc.com	205 CMR 240:00 - Adjusted Gross Sports Wagering & Adjusted Gross Fantasy Wagering Receipts Tax Remittance & Reporting	205 CMR 240:00 - 240.01 Description of Tax, (3)	<p>My name is Michael Petropoulos, I am the Head of Compliance for the Fantasy Football Players Championship (FFPC), a a privately owned, small business, season-long fantasy football operator that has been operating since 2008. We are licensed in several jurisdictions across the country including New York, Pennsylvania, Virginia, New Jersey and many more.</p> <p>I am contacting you today kindly requesting consideration from the Massachusetts Gaming Commission to decrease the proposed 15% tax of Adjusted Gross Fantasy Wagering Receipts for persons or entities offering fantasy sports contests in the state.</p> <p>Many small operators in the industry have been forced to exit states in the past due to excessive and unfair cost requirements. States like Delaware, Indiana and Vermont all have required taxes and/or application fees that are not manageable and highly burdensome for the small operators in the industry.</p> <p>Missouri, on the other hand, took the opposite approach and have made several amendments to their fantasy operator rules to accommodate and ease costs for smaller operators in the state. One of the several accommodations they have made includes decreasing the annual operating fee to six- and one-half percent, down from eleven percent.</p> <p>The FFPC hopes that Massachusetts can be the next state to stand behind small businesses in the fantasy operator industry.</p> <p>While there are states across the country requiring a 15% tax on fantasy revenue, namely New York, Pennsylvania and Delaware, these states are in the minority among the licensed states by requiring such a high percentage tax. Furthermore, New York and Pennsylvania are in the top five most populated states across the country, while Delaware is an outlier that has effectively closed their doors to small fantasy operators due to their egregious cost requirements.</p> <p>States that most resemble Massachusetts in terms of state population that require operators to pay taxes on revenue include Arizona, Tennessee, and Missouri (Missouri requires an operation fee, not a tax, but it based on a percentage of revenue, nonetheless, so it serves the same purpose). These three states have established tax revenue percentages of 5%, 6% and 6.5%, respectively.</p> <p>The FFPC hopes that the Massachusetts Gaming Commission will consider adjusting the tax of Adjusted Gross Fantasy Wagering Receipts for persons or entities offering fantasy sports contests to a more comparable and manageable percentage as discussed above. A more reasonable tax cost would ensure small operators that Massachusetts embraces parity among all operators, no matter the size.</p>	11/17/2022 10:08



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November 18, 2022

BY EMAIL ONLY (caroline.torrisi@massgaming.gov)

Massachusetts Gaming Commission
c/o Caroline Torrissi, Esq.
Deputy General Counsel
101 Federal Street, 12th Floor
Boston, Massachusetts 02210

Re: Regulation Comment

Dear Members of the Massachusetts Gaming Commission:

As one of the largest gaming establishments in the Commonwealth and a prospective Category 1 sports wagering license applicant, MGM Springfield submits this rulemaking comment on 205 CMR 240:00 *et seq.*, governing the computation of adjusted gross sports wagering revenue. We appreciate the opportunity to provide input and urge the Commission to adopt policies that will promote and ensure the success of the Commonwealth's future sports wagering industry.

Such policies include providing the Commonwealth's prospective sports betting operators the tools necessary to compete, not just with bordering states that have legalized sports betting industries, but also with a fully entrenched illegal market that continues to take wagers from Massachusetts residents. In particular, we strongly advocate exclusion from the definition of taxable "gross sports wagering revenues" the dollar value of bonuses or promotions extended by a regulated operator to bettors as an incentive to place a wager or as a result of their having placed sports betting wagers.

Clarifying such a tax exclusion in the regulations is 1) consistent with generally acceptable accounting practices, 2) removes a disincentive to operators to promote and market their legal products, 3) puts Massachusetts operators on an even playing field vis-à-vis out-of-state operators and illegal platforms, and 4) ultimately benefits brick-and-mortar gaming establishments, such as MGM Springfield, which stand to benefit from a robust and successful regulated sports betting market in the Commonwealth.

First, a free bet extended to bettors comes from the operator's own treasury funds. If the wager is in turn lost by the bettor – thus *recovered* by the operator, it is not recognized as "revenue," based upon how that term is defined under generally accepted accounting principles (GAAP) or by the Securities and Exchange Commission (SEC). No monies actually exchanged hands in that scenario; the promotional credit is not fungible;¹ the patron cannot withdraw the

¹ In typical promotional campaigns, bettors are awarded free plays with a number of conditions, including a prohibition on withdrawing the dollar amount of the free bets, unless they are first wagered and won; an expiration date on the validity of the promotion; and any minimum-odds restrictions.



promotional credit and convert it to actual cash, without first wagering and winning it; and the operator does not collect actual revenue from bettors in place of any promotional credit. This concept is not dissimilar from the tax treatment of free play in the casino gaming context: Under Massachusetts law, the dollar value of promotional gaming credits received from a patron as a wager is not included in computation of gross gaming revenue (GGR).²

It is also important to note that, if the bettor wins a wager using promotional credits, the operator is on the hook to pay the bettor with actual money. Therefore, free bets must be excluded from taxable revenue in order to ensure fairness and that an operator is being taxed only for the money that it actually collects from patrons.

As illustrated in Table 1, not permitting operators to exclude promotional credits translates to a significant increase in the operator's effective tax rate, since the operator would be liable to pay taxes on its *own* money. In the example provided below, the effective tax rate doubles, to 30% (if the wager is made in person) or 40% (if the wager is made online).

Table 1. In the following scenario, the bettor loses a \$100 wager, of which \$50 was from the bettor's own cash funds and \$50 from the operator's own money in the form of promotional credits.

	Operators allowed to exclude promo play	No tax exclusions
Cash from bettor	\$50.00	\$50.00
Promo credit from operator	\$50.00	\$50.00
Handle	\$100.00	\$100.00
Promo tax exclusion	-\$50.00	0
Taxable revenue	\$50.00	\$100.00
Retail tax (15%)	\$7.50	\$15.00
Online tax (20%)	\$10.00	\$20.00
Retail effective tax rate if promo is not excluded		30%
Online effective tax rate if promo is not excluded		40%

A regime that does not permit tax exclusions for promo play would essentially exact significant penalties on operators for promoting and developing their legal products. Taxing promotional play also distorts economic incentives in a way that severely undermines the state's public policy objectives in legalizing and regulating sports wagering in the first place, including capturing to the greatest extent possible existing demand that is currently flowing into the illegal sports betting market.

Unregulated operators do not pay taxes, do not invest in responsible gaming programs, do not provide consumer protections, and do not face the same regulatory, integrity, and compliance overhead costs that licensed operators take on. Faced with minimal cost pressures, illegal operators are well positioned to deploy and concentrate resources toward marketing and product

² 205 CMR 140.02(e)



development, including attracting customers with generous promotions. Thus, a tax treatment that effectively penalizes Massachusetts-licensed operators for awarding promotional credits and free play makes channeling demand into the legal market – and away from unregulated operators – all the more challenging.

We also would like to underscore the importance of developing a successful and robust sports wagering industry in Massachusetts that is competitive with our neighboring states. Such an industry benefits, not just sports betting operators, but also generates positive economic impacts for brick-and-mortar gaming establishments, like MGM Springfield, and their employees. When Massachusetts legalized sports wagering last legislative session, and casino gambling nearly a decade ago, it did so in an effort to repatriate gaming and sports wagering revenues that were going out of state. As a Massachusetts gaming establishment situated in proximity to the Connecticut border, we are particularly keen on re-capturing demand for online and retail sports betting that currently flows out of state. Connecticut has legalized and launched sports wagering as well as online casino gaming. Sports betting operators in the state are subject to a tax rate of 13.75 percent and are allowed certain tax exclusions for promotional gaming credits. The Commission has an opportunity through this rulemaking to adopt a tax treatment on promotions that keeps the Commonwealth's own operators competitive vis-à-vis their out-of-state counterparts. If Massachusetts operators cannot offer competitive sports betting promotions, we risk losing sports bettors who, once in Connecticut, may also engage in online casino gaming, instead of patronizing retail gaming establishments in Massachusetts.

In anticipation of the exciting opportunities sports wagering will undoubtedly bring, we are partnered with BetMGM, a world-class sports betting and online gaming operator. We also have undertaken significant capital expenditures at our gaming establishment, including a \$4 million investment in building out our state-of-the-art sports book, a sports lounge on our casino floor, and a VIP viewing area at our sports bar. Based upon the experience of other legalized jurisdictions, restaurants, bars, hotels and other retail establishments stand to gain from the increased economic activity, spend, and fan engagement that sports betting generates around games and sporting events. In our sister MGM Resorts properties, from Las Vegas to Detroit, retail sports books serve as an anchor to bars and restaurants and have increased visitation and foot traffic into hotels and casino gaming facilities.

At MGM Springfield, we will be ready to seize these exciting opportunities the moment sports betting is finally greenlit and launched in our Commonwealth. But we will not be able to unlock the full economic potential of sports betting unless we are fully competitive with neighboring states and their operators. We and our sports betting partner need a conducive tax regime in which we are not penalized for attracting customers to our platforms and retail outlets, or else we will lose patrons to neighboring states and the illegal market.



We appreciate and thank you for the opportunity to provide our comments on this important regulatory and policy issue. Please do not hesitate to contact us should you have any questions about any points raised in this comment or any other outstanding rulemaking issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "Augustine Kim", is written over the word "Sincerely,".

Augustine Kim
Vice President and Legal Counsel

November 22, 2022

Cathy Judd-Stein, Massachusetts Gaming Chair
Massachusetts Gaming Commission
101 Federal St., 12th Floor
Boston, MA 02110

Re: Fanatics Betting & Gaming Comments on the Massachusetts Gaming Commission's Proposed Adoption of 205 CMR 240

Dear Ms. Judd-Stein:

Thank you, to you and your staff for your diligent efforts in this momentous endeavour of preparing regulations for the newest sports betting market in New England! Please know that Fanatics Betting & Gaming ("FBG") is excited to partner with Massachusetts and introduce our online sports wagering product to Bay Staters.

We are looking forward to working with the Massachusetts Gaming Commission (the "Commission") and as such, hope that you will consider our recommendations to proposed regulation 205 CMR 240: Adjusted Gross Sports Wagering and Adjusted Gross Fantasy Wagering Receipts Tax Remittance and Reporting, as you promulgate sports wagering regulations.

We believe that it is in the best interest of the Commonwealth, sports wagering operators, and consumers, to create a sustainable and robust online sports wagering market. To this end, regulations should: (1) allow for the use of promotional credits; and (2) exclude such promotional credits from any calculation of tax liability. I am sure many operators will echo this policy recommendation, but it is particularly important for FBG as a *second mover* in the market with intentions on capitalizing on our unique consumer base.

While other online sports wagering operators attract players from their existing Daily Fantasy Sports ("DFS") or casino userbases, FBG brings the ability to tap into our over two million Massachusetts consumers within our existing *commerce* space. Many who have purchased licensed sportswear, memorabilia, NFT's, and other merchandise from our retail outlets, but may not have been otherwise introduced to the online sports wagering market. To achieve this full potential for both our organization and the state, we need to be able to operate equitably with other national operators who have had years to build brand recognition and familiarize consumers with their platforms.

As you are aware, gaming operators in both the retail and online sector regularly utilize promotional wagering credits to introduce new consumers to our regulated entertainment industry. In fact, thanks to 205 CMR 140.02(e), promotional wagering credits are currently enhancing the success of the retail casino industry in Massachusetts. The online sports wagering market is no different, platform familiarity is a powerful tool, and promotions are essential to enhance market growth and encourage consumers to transition from illegal operators into a regulated market. Although, offering such promotions delays an operator's immediate revenue, the investment significantly expands the consumer base, which results in long term market success and an overall increase in tax revenues.

Additionally, we believe that for the purposes of calculating tax liability, promotional credits should not be classified as revenue. A state that taxes promotional play imposes a tax burden on nonexistent money, exponentially increasing the effective tax rate to an operator.

For example: Consumer X deposits \$10 into a new FBG account, during a period in which FBG issues a promotion matching X's deposit with an additional \$10 of promotional play. X decides to bet the \$10 deposited *and* the \$10 of promotional play on the Patriots to win the Super Bowl. If X loses, a tax on promotional deductions would require (1) FBG to report that it received \$20 from the wager even though it only received \$10 of actual cash revenue; and (2) FBG to pay a 20% tax on both the \$10 wager of X's cash play and the \$10 of nonexistent "promotional" money. In this example, FBG is receiving \$10 in revenue, but paying \$3 in tax revenue (30%) despite the 20% stated tax rate.

In sum, when a consumer places a wager using promotional credits and loses the wager - *no money changes hands between the consumer and the operator*. The operators' offer allowing the consumer to place a bet without staking money simply goes away. As such, promotional credits are not revenue and should be excluded from any calculation of tax liability. While all gaming operators recognize the significance of investment through promotional credits, this tool will be especially important for FBG, who is both entering the market as a *second mover* and engaging with consumers who may be generally less familiar with gaming and sports statistics than that of operators with casino or DFS roots.

Therefore, in an effort to maximize the potential size of the Massachusetts online sports wagering market, encourage new operators to enhance competition, and drive innovation, we urge the Commission to modify its proposed regulations to: (1) allow for the use of promotional credits; and (2) exclude such promotional play from any calculation of tax liability.

Again, thank you for your diligent efforts and consideration of this important issue.

Sincerely,

Brandt Iden
Vice President, Government Affairs
Fanatics Betting & Gaming



November 21, 2022

Via Electronic Mail (caroline.torrissi@massgaming.gov)

Massachusetts Gaming Commission

101 Federal Street, 12th Floor

Boston, MA 02110

Attn: Ms. Caroline Torrissi, Deputy General Counsel

**RE: 205 CMR 240:02: Computation of Adjusted Gross Sports Wagering and
Adjusted Gross Fantasy Wagering Receipts**

Dear Ms. Torrissi:

In response to the regulations proposed by the Massachusetts Gaming Commission (“Commission”), DraftKings, Inc. (“DraftKings”) submits the following comments for consideration.

Rule Reference: 205 CMR 240:02(1), Sports Wagering

Rationale: DraftKings respectfully requests that the Commission explicitly exclude promotional gaming credits¹ from Adjusted Gross Sports Wagering Receipts. Including promotional gaming credits would result in the Commonwealth levying taxes on totals that do not reflect actual revenue earned by a sports wagering operator. Excluding promotional credits is the fairest way to tax sports wagering operators, and is the policy chosen by a significant number of online sports wagering states.

Promotional gaming credits in the sports wagering context refers to bonuses or promotional credits provided to players by sports wagering operators in order to encourage players to place wagers on an operator’s platform and transition players from (and keep them off of) the illegal sports wagering market.

When the Massachusetts sports wagering market launches, sports wagering operators will undoubtedly offer different types of bonuses to players. A typical example of such a promotion is a deposit match, in which a player making a deposit would receive some amount of corresponding promotional credits. For example, a 1:1 deposit match, could result in a player depositing \$100 receiving \$100 of promotional credits. These credits have no actual dollar value to the operator. A player may not exchange promotional credits for cash. As such, an operator receives no revenue from a wager placed with promotional credits.

Excluding promotions from the “adjusted gross sports wagering receipts” definition would place sports wagering operators on equal footing to other gaming licensees in the Commonwealth.²

¹ Defined in Mass. General Laws c.23N § 3

² Mass General Laws c.23K § 2 defines “gross gaming revenue” with a baseline of “the total of all sums actually received by a gaming licensee less the total of all sums paid out as winnings to patrons...” The wording of that

Many states that license online sports wagering have granted operators tax relief on promotional play, especially during the first few years of operation, and without an explicit deduction, Massachusetts would be an outlier.

Furthermore, the exclusion of promotions is authorized under the law, and the Commission has precedent to exclude the value of a “promotional gaming credit” from an adjusted gross revenue calculation similar to how the Commonwealth’s current gaming operations are taxed. This analysis also practically aligns with the definition of “adjusted gross sports wagering receipts”,³ as promotional credits do not carry any cash equivalent value, nor do payouts of cash equivalents have any value awarded as a prize until they are actually cash in a player’s sports wagering account.

Exclusion is also supported by important policy arguments, many of which were foundational in discussions by the General Court in passing sports wagering. Artificially increasing an operator’s effective tax rate is especially concerning when comparing the framework codified in the enabling legislation to status quo sports wagering in the Commonwealth, which is done through the illegal market. Promotions are a vital way to transition players to the regulated legal market and sustain their presence. Illegal operators effectively offer promotions to attract bettors to their unregulated platforms and including promotional credits in the tax base would further disadvantage licensed sports wagering operators, as they would be required to pay taxes on actual revenue **and** phantom promotional revenue, while illegal operators pay on neither. Additionally, when bettors place wagers with a legal operator, law and regulation ensure they are provided consumer protections that are unavailable to those betting with illegal operators. Legal operators also provide tax revenue to the Commonwealth, while illegal operators provide none.

For the foregoing reasons, DraftKings respectfully requests the Commission consider the below amendment to the relevant provision of the proposed regulations.

Existing Rule Language/Proposed Rule Language:

*(1) Sports Wagering: In accordance with M.G.L. c. 23N, § 3, Adjusted Gross Sports Wagering Receipts shall be the total gross receipts from sports wagering less the sum of: (i) the total of all winnings paid to participants; **(ii) promotional gaming credits;** and ~~(ii)~~**(iii)** all excise taxes paid pursuant to federal law; provided, however, that the total of all winnings paid to participants shall not include the cash equivalent of any merchandise or thing of value awarded as a prize.*

Rule Reference: 205 CMR 240:02(2), Fantasy Contests

Rationale: DraftKings respectfully requests that the Commission correct the taxation model applied to fantasy contests to align with all other jurisdictions.

definition could be interpreted as precedent that the Commonwealth intends to only tax actual revenue in other gaming verticals.

³ Mass. General Laws c.23N § 3

Fantasy sports contests differ from sports wagering in that fantasy contests are conducted on an interstate basis. Participants join the same contests from various jurisdictions, resulting in total entry fees collected (and thus total prizes distributed to the winners) not being equal across all jurisdictions. For example, imagine a fantasy contest with a top prize of one million dollars and a total of two hundred thousand entries, only one of which is from Massachusetts. If that Massachusetts player wins the prize, Massachusetts would see a significant loss under the current revenue calculation because the entry fee received from that one player would be significantly less than the one million dollars in prizes received.

The solution, which every other fantasy contest jurisdiction has adopted, is to accurately reflect the adjusted gross fantasy contest receipts by only calculating those entries that came from within Massachusetts. By applying the tax based on the location of the entry, as opposed to the location of the payout, the tax obligation is appropriately allocated. This avoids a scenario where one jurisdiction may have a small number of actual entrants and an outsized tax payout, or many entrants but without correlated tax payment because of a significant payout within the jurisdiction. For these reasons, DraftKings respectfully requests the Commission consider the below amendment to the relevant provision of the proposed regulations.

Recommended Amendment to the Emergency/Proposed Rule Language:

(2) Fantasy Contests: In accordance with M.G.L. c. 23N, § 3, Adjusted Gross Fantasy Wagering Receipts shall be the total gross receipts from fantasy contests as defined in section 11M ½ of chapter 12, less only the total of all cash prizes paid to participants in the fantasy contests; provided, however, that the total of all cash prizes paid to participants shall not include the cash equivalent of any merchandise or thing of value awarded as a prize.

(a) Adjusted Gross Fantasy Wagering Receipts shall be calculated daily and in accordance with the person or entity offering fantasy contests' approved system of internal controls.

(b) Any amount that a person or entity offering fantasy contests is unable to collect pursuant to any credit issued to a patron to take part in fantasy contests in accordance with 205 CMR, et seq. shall be deemed an amount actually received for purposes of calculating gross fantasy wagering receipts.

(c) Adjusted Gross Fantasy Wagering Receipts shall not include any amount received by a person or entity offering fantasy contests from credit extended or collected by the person or entity for purposes other than fantasy contests.

(d) The accrual method of accounting shall be used for the purposes of calculating the amount of the tax owed.



(e) Adjusted Gross Fantasy Wagering Receipts subject to tax in 205 CMR 240.01(3) shall equal the total Adjusted Gross Fantasy Wagering Receipts from all participants entering fantasy contests, multiplied by the Location Percentage. The “Location Percentage” means the percentage, rounded to the nearest tenth of a percent, of the total entry fees collected from all fantasy contest players located in the Commonwealth, divided by the total entry fees collected from all fantasy contest players in fantasy contests.

* * * * *

Thank you for your consideration of DraftKings’ comments regarding the Commission’s proposed regulations. Please feel free to contact us should you or anyone else at the Commission have any questions about our submission, or our experience in other regulated jurisdictions.

Sincerely,

DraftKings Inc.