



## 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 | December 22, 2022 | 9:30 a.m.**  
**VIA REMOTE ACCESS: 1-646-741-5292**  
**MEETING ID/ PARTICIPANT CODE: 111 000 5870**  
**All meetings are streamed live at [www.massgaming.com](http://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](http://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 - #416

1. Call to Order – Chair Judd-Stein
2. Review of Meeting Minutes- **VOTE**
  - a. March 3, 2022
  - b. March 10, 2022
  - c. September 22, 2022
3. Legal – Todd Grossman, General Counsel; Carrie Torrisi, Deputy General Counsel; Caitlin Monahan, Deputy General Counsel
  - a. Sports Wagering Regulations-
    - i. 205 CMR 247: Uniform Standards of Sports Wagering and Small Business Impact Statement for initial review and possible emergency adoption **VOTE**
    - ii. 205 CMR 248: Sports Wagering Account Management and Small Business Impact Statement for initial review and possible emergency adoption **VOTE**
    - iii. 205 CMR 232: Discipline of Sports Wagering Operators and Other Licensees, and Registrants and Small Business Impact Statement for initial review and possible emergency adoption **VOTE**



Massachusetts Gaming Commission

4. Investigations and Enforcement Bureau – Loretta Lillios, Director
  - a. Preliminary discussion on marketing affiliates and registrations
  
5. Research and Responsible Gaming Division- Mark Vander Linden, Director; Bonnie Andrews, Research Manager
  - a. M.G.L. 23N Sports Wagering Studies Updates-
    - i. M.G.L. 23N Section 20: Research study examining the feasibility of allowing retail locations in the Commonwealth to operate sports wagering kiosks **VOTE**
    - ii. M.G.L. 23N Section 25: A research study on the participation by minority business enterprises, women business enterprises, and veteran business enterprises in the sports wagering industry in the Commonwealth **VOTE**
  
6. Sports Wagering Update - Karen Wells, Executive Director
  - a. Sports Wagering Kiosk Verification Process
  
7. Commissioner Updates
  - a. MGM Springfield litigation and reporting
  
8. 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](http://www.massgaming.com) and emailed to [regs@sec.state.ma.us](mailto:regs@sec.state.ma.us). Posted to Website: December 20<sup>th</sup>, 2022 | 9:00 a.m. EST

December 19, 2022

*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](mailto:crystal.beauchemin@massgaming.gov).*



Massachusetts Gaming Commission



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## Massachusetts Gaming Commission Meeting Minutes

**Date/Time:** March 3, 2022, 10:00 a.m.  
**Place:** Massachusetts Gaming Commission  
VIA CONFERENCE CALL NUMBER: 1-646-741-5292  
PARTICIPANT CODE: 111 504 6388

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 Gayle Cameron  
Commissioner Eileen O'Brien  
Commissioner Bradford Hill

1. [Call to Order](#) (0:00)

Chair Judd-Stein called to order the 372nd public meeting of the Massachusetts Gaming Commission. Roll call attendance was conducted, and all four commissioners were present.

2. [Approval of Minutes](#) (1:45)

- a. June 3, 2021
- b. June 14, 2021
- c. June 24, 2021
- d. August 4, 2021
- e. September 9, 2021

Acting as the Commission's Secretary, Commissioner O'Brien stated that more time was necessary for Commissioners to review the minutes listed on the agenda. She anticipated that the drafts would be ready for presentation and approval at subsequent public meetings on either March 10th or March 14th, respectively.

3. [Administrative Update](#) (2:43)

- a. On-site Casino Updates

Bruce Band, Assistant Director of the IEB, and Gaming Agents Division Chief announced that the City of Springfield lifted MGM Springfield's mask mandate earlier this week. Director Band stated there were no updates to share for updates for Plainridge Park Casino ("PPC") at this time. Director Band concluded by sharing that Encore Boston Harbor would resume their live entertainment promotions within the casino with an event taking place on March 17th, which Commissioners would discuss later in the meeting.

b. [COVID-19 Updates](#) (4:03)

Executive Director Wells reported that the MGC Boston office re-opened the week of February 28th, and employees were happy to be back within the office. Executive Director Wells presented the current mask-wearing protocols within the Commission and explained that consistent with CDC and Health Guidelines, the recommendation was to lift the mask wearing mandate, but recommended mask wearing for individuals with a high risk of illness. Executive Director Wells also noted that employees should feel comfortable to wear their masks and are encouraged to speak to HR or their respective supervisor with questions. Executive Director Wells has also noted that the building where the Commission sits, masks will be lifted on Saturday March 5, 2022

Commissioner Cameron supported the recommendation and extended her gratitude to the MGC working group for feedback they received and utilized in their decision-making process. Commissioner O'Brien agreed and encouraged employees of the Commission to feel comfortable if they still needed or wanted to wear a mask.

Assistant Director Band shared that he would work with the Gaming Agents who are stationed at different gaming establishments and provide Commissioners with an update in the coming days regarding mask wearing at the properties.

c. [Internal Audit and Compliance Working Group Update](#) (9:39)

Executive Director Wells provided an overview of what was accomplished by the working group last year including, the Risk Matrix, the Internal Control plan, and a Compliance Calendar, in partnership with Chief Financial Accounting Officer ("CFAO") Derek Lennon.

Commissioner O'Brien commended Executive Director Wells for her work and being able to utilize the research and analysis in her decision-making. Commissioner Cameron agreed and stated her belief that the Commission was a very high-performance agency and commended Executive Director Wells for her high-quality work.

d. [Encore Boston Harbor Scheduled Event Discussion](#) (19:17)

Executive Director Wells provided an update on the reports of concern pertaining to the ILEV agreements between Encore Boston Harbor and the entertainment venues. She reported that the Commission was made aware of concerns previously, but that this was the first instance that someone had reported to the Commission that an event could be viewed as violative of the relevant provisions of G.L. c. 23K, that pertain to ILEV agreements. Executive Director Wells

shared that this issue may not be ripe for discussion as the MMA event scheduled to occur on March 17 may not be within the 1,000 to 3,500 attendee range to trigger an analysis and review of the provisions.

Chair Judd-Stein thanked Executive Director Wells for the update and agreed that the issue would be more thoroughly discussed once the Commission had more information ideally at a public meeting on March 10 or March 14.

*Transcribers Note: Upon return from the lunch break at 1:30pm Executive Director Wells confirmed that she had received notification from Encore Boston Harbor General Counsel Jacqui Krum and that the MMA event would have less than 1000 people, thus not violating the ILEV agreements.*

#### 4. [Research and Responsible Gaming](#) (24:00)

Before introducing Director Vander Linden, Chair Judd-Stein noted that March was Problem Gambling Awareness Month. She highlighted that the Commission was fortunate to have significant resources and expertise to address responsible gaming and shared that the Commission was continually committed to the mission of this month by increasing public awareness of problem gambling in the areas of prevention, treatment, and recovery services. Chair Judd-Stein recognized the GameSense program and commended the GameSense advisors who provide critical intervention services at all three gaming establishments, adding that their expertise was a key resource to promote responsible gaming in the Commonwealth. She also expressed her gratitude to Governor Baker and Lieutenant Governor Polito for officially declaring March as Problem Gambling Awareness Month in the Commonwealth and issuing an official proclamation, included on page 11 of the meeting packet.

##### a. [Problem Gambling Awareness Month](#) (25:59)

Director Vander Linden reported that the theme for Problem Gambling Awareness Month 2022 was awareness and action. Director Vander Linden added that the theme represented the Commission's commitment to promoting the nation's most comprehensive gaming research agenda, and the Commission drive to organize the findings from the research into programs and services that were aimed at reducing gambling related harm. Director Vander Linden explained that the agenda had been underway for about 10 years and had generated over 50 reports covering all aspects of gambling impacts in Massachusetts, such as social impacts, economic impacts, and the impacts that casino openings had on public safety. Director Vander Linden expressed that the agenda would be used to improve the programs and services that the Commission currently provided through program evaluations.

Chair Judd-Stein and Director Vander Linden thanked the licensees for their full collaboration in the research efforts. Director Vander Linden mentioned that the Play My Way program was a collaboration, and it demonstrated the importance of collaborative relationships when casinos own the tools to support positive play. He reported that PPC had offered the Play My Way program since 2017, and MGM and EBH would be introducing the program later in the year.

Executive Director Wells thanked Director Vander Linden, his team, Marlene Warner, and Chelsea Turner for their efforts.

b. [GameSense Quarterly Report](#) ( 35:30)

Director Vander Linden introduced MA Council on Gaming and Health (“MACGH”) Director of Responsible Gambling Chelsea Turner, and Executive Director Marlene Warner to present provide an update on GameSense. The *GameSense Quarterly Report* was included on pages 12 through 34 of the Meeting Packet.

Director Turner and Executive Director Warner provided an overview of interaction between GameSense Advisors and guests at all three establishments, activities at the centers, for example.

Director Turner and Executive Director Warner thanked the gaming establishments for participating in the program, and the Commission for partnering with MACGH to address problem gambling. Executive Director Warner highlighted that the research resulted in positive play, lower-risk gambling guidelines, the *SEIGMA* and *MAGIC Studies*. Chair Judd-Stein thanked Director Turner and Executive Director Warner for the presentation and added that everyone appreciated the work of the GameSense advisors. Commissioner Cameron stated that the presentation contained so much positive information regarding affirmations, patrons telling the advisors what they had accomplished, and the advisors encouraging the patrons. Commissioner Cameron expressed that the experience of the new GameSense advisors was amazing, and acknowledged the GameSense team’s work with language, and mental health. Commissioner Cameron added that collaboration among all the gaming establishments was difficult at the beginning, but everyone came together. Commissioner Cameron observed that she was very impressed by the work GameSense does. Chair Judd-Stein commented that Commissioner Cameron would not be present for the next GameSense Quarterly Report presentation and would be seeing the presentation from a different perspective. Executive Director Warner noted that it was bittersweet presentation because Commissioner Cameron was always a great supporter of GameSense and provided MACGH with direction when asked. Executive Director Warner added that Commissioner Cameron would be missed. Commissioner Cameron thanked Executive Director Warner for the kind words and expressed that she would miss everyone also.

Commissioner O’Brien agreed with the sentiments expressed by Commissioner Cameron and Executive Director Warner. Commissioner Hill stated that the presentation was excellent. Commissioner Hill added that he and Chair Judd-Stein had the opportunity to tour the facilities, and the staff was very energetic, and provided great information. Commissioner Hill congratulated GameSense on its work with veterans, and the issues they face after returning from conflict. Commissioner Hill also commended the employees at PPC, MGM Springfield and EBH who were named Champion Awardees for their participation in the Mental Health First Aid Training.

Chair Judd-Stein asked if there was a link to the video of “Gambling and Military Service; an Unexpected Risk” available to post on the Commission’s website. Executive Director Warner responded that she should be able to provide a link, but she had to confirm. Chair Judd-Stein

acknowledged Mr. Sherwood's work with geo-fencing and providing ads that address problem gambling. Executive Director Warner stated that the ads had received about 200,000 hits which was remarkable because the cost to amplify the ads was so low, approximately \$250-300, to a targeted group.

5. [Investigations & Enforcement Bureau](#) (1:41:45)

a. VICI-MGP REIT Transaction and Request for Trust Approval

Director Lillios introduced Chief Enforcement Counsel Heather Hall and representatives from VICI and MGM Resorts International and MGM Springfield to discuss the REIT Transaction and Request for Trust Approval. Documents detailing the *REIT Transaction and Request for Trust Approval* were included on pages 35 through 55 of the Meeting Packet. Counselor Hall stated that the documents provided a description of the transaction and the IEB's recommendation of approval to the Commission. Counselor Hall explained that IEB had investigated the suitability of entities and individuals involved with the transaction. Counselor Hall extended her gratitude to attorneys Elena Keil, Pat Madamba, Jon Albano, Mike Fabius, and Jed Nosal for their responsiveness and cooperation throughout the IEB's investigatory process.

Counselor Hall then introduced General Counsel Grossman to offer an overview of the law relating to the transfer of interest involving a Real Estate Investment Trust (REIT). General Counsel Grossman stated that the transaction was similar in nature to two previous transfer of interest transactions that the Commission had recently reviewed. General Counsel Grossman highlighted that Chapter 23K expressly allowed for transfers of interest. General Counsel Grossman added that the Commission has supplemented the statutory provisions within the regulatory framework that outlined the process of review for approval of transfers of interest in G.L. 23K, §§ 116.08 through 116.10. General Counsel Grossman explained that the Commission's review process was designed to:

- i. Ensure that the Commission had the opportunity to determine whether the transfer would result in any new qualifiers, and if so, ensure that the new qualifiers submit to the Commission's FAI suitability process, such that an appropriate investigation could be conducted, and a decision issued by the Commission; and
- ii. Determine whether the transfer would result in any change of control over the gaming license such that the quality of the operation or any licensed conditions, including host and surrounding community agreements, or other commitments would be affected in any way.

General Counsel Grossman observed that while the transaction at issue involved a REIT, it would be unlikely that any evidence regarding change of control would emerge, but that it is an important factor for the consideration. General Counsel Grossman noted that this meeting was not to review for interim authorization or final approval, and that those would occur on future dates. He further noted that the meeting today was to introduce the parties, receive an overview of the proposed transaction, and review the proposed Trust Instrument.

General Counsel Grossman noted that there cannot be a transfer of a gaming license, gaming establishment, or associated structure without notice to the Investigations and Enforcement

Bureau (“IEB”). He noted that this requirement had been performed by the licensee. General Counsel Grossman stated that in the present case, parties asserted no change in control or operation of gaming establishments.

General Counsel Grossman stated that the necessary elements of Trust are contained in 205 CMR 116.10. He further noted that he had reviewed the Trust, and it met all regulatory requirements. The applicant’s request for approval of the Trust was in the Commissioner’s Packet on pages 35 to 37.

General Counsel Grossman noted that Chapter 23K allows for interim authorization with the recognition that full suitability may take a long period of time to complete. He outlined that the next step for the Commission would be to render a decision on interim authorization, and if granted, the closing of the deal may occur prior to a final suitability decision. He noted that if a prospective transferee failed to timely transfer interest to the Trust, they would automatically receive a negative determination of suitability.

Chair Judd-Stein asked for parties to introduce their teams. Jonathan Albano, Counsel to VICI Properties, Inc. from Morgan Lewis, thanked the Commission for the opportunity to address the Trust Instrument. He introduced: Executive Vice President, General Counsel, and Secretary of VICI Properties, Inc, Samantha Sacks Gallagher; VICI Property’s Associate General Counsel, Elaina Otero Keil; Counsel to VICI Properties from Ballard Spahr, Michael Fabius; and Successor Trustee, Carl Sottosanti.

Acting on behalf of MGM Resorts International, Jed Nosal, a partner at Womble Bond Dickinson (US) LLP, introduced Senior Vice President and Legal Counsel of MGM Resorts International Pat Madamba; Senior Vice President and Legal Counsel of MGM Resorts International Laura Norton and Vice President and Legal Counsel of the Northeast Group, which included MGM Springfield General Counsel, Gus Kim.

Counsel Madamba stated that was a \$17.2 billion transaction, which included the assumption of \$5.7 billion in debt. He noted that control would not change, and there would be vertical integration where all entities remain in place, except for MGM Growth Properties, LLC, which would merge into a subsidiary of VICI Properties, Inc.

Counsel for VICI stated that VICI was amending and restating the existing master lease, and that the amended lease was in the Commissioner’s Packet. She noted that MGM would continue to control operations of the property, and capital expenditure requirements would remain the same under the amended restated lease. She further noted that ownership of the structure would rest with VICI Properties, and as the tenant MGM will be responsible for all maintenance.

Commissioner O’Brien sought clarification as to whether VICI Properties Inc.’s interest in Penn National Properties included an interest in Plainridge Park Casino (“PPC”), located in Plainville. Counsel for VICI confirmed that VICI Properties did not have an interest in the property located in Plainville, Massachusetts. Commissioner O’Brien inquired whether there was concern of VICI gaining an interest in multiple licensees as a landlord in the future. General Counsel Grossman



stated that if that situation were to occur, it would require further analysis, but that it was not presently a concern held by the IEB or the Legal Division.

Mr. Albano noted that the Proposed Trust was an amendment of the previous Trust approved by the Commission in 2021. He discussed relevant provisions of the Trust including transferring property in and out of the Trust and that the amended Trust provided that in the finding of the final negative finding of suitability, the property would return to Blue Tarp Redevelopment, LLC. These provisions remained the same from the previous Trust.

Chair Judd-Stein sought clarification regarding Section 5A of the Trust Instrument, regarding the end of the clause; inquiring whether an “and” was missing from the sentence. Mr. Albano clarified that Clause 5A stated that “property could not be disposed of without a prior determination of Suitability.” He further stated that he would take another look of the provisional language and confirm with the Commission soon.

Chair Judd-Stein asked whether a final Suitability determination had to be made at this point. Chief Enforcement Counsel Hall replied that Commission making an interim suitability determination was the first step, and that IEB would continue the investigation before seeking final approval in the future. General Counsel Grossman noted that the final review was not just regarding Suitability itself, but also whether there had been no change in control and the Trust was properly in place.

Commissioner O’Brien moved that the Commission find that the amended and restated Springfield Nominee Trust discussed here today and appearing in the Commissioner’s Packet will, upon execution, comply with the requirement set out in 205 CMR 116.106. The motion was seconded by Commissioner Cameron.

*Roll call vote:*

*Commissioner Cameron: Aye.*

*Commissioner O’Brien: Aye.*

*Commissioner Hill: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously 4-0.*

## 6. [Legal Division](#) (2:21:10)

General Counsel Todd Grossman introduced Associate General Counsel Judith Young to present proposed amendments to regulations. The Proposed Amendment to Regulations 205 CMR 138.26(4), and 205 CMR 147, and Small Business Impact Statements were included of pages 56 through 67 of the Meeting Packet.

- a. 205 CMR 138.26(4): Key Maintenance and Inventory – and Small Business Impact Statement, for approval to begin the promulgation process

Attorney Young explained that the proposed amendment to regulation 205 CMR 138.26(4) would require key inventory at all three gaming establishments to occur every three months, instead of every 12 months. Chair Judd-Stein inquired about what prompted the amendment. Director Band suggested that the key inventory be conducted more often based on a recommendation from the outside audit team.

Commissioner Cameron moved that the Commission approve the small business impact statement and the amendment to 205 CMR 138 as included in the Commissioners' Packet and authorize the staff to take the steps necessary to file the required documentation with the Secretary of the Commonwealth and to proceed with the regulation promulgation process. The motion was seconded by Commissioner O'Brien.

*Roll call vote:*

*Commissioner Cameron: Aye.*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously 4-0.*

- b. 205 CMR 147: Uniform Standards of Rules of the Games – and Small Business Impact Statement, for approval to begin the promulgation process

Attorney Young explained that the proposed amendment to 205 CMR 147 addressed the procedure the dealer would follow when a patron bet over the table maximum limit. The current procedure was that if the patron bet above or below the table limits, the dealer would acknowledge the bet, and remind the patron of the table limits without touching the patron's chips. Commissioner O'Brien requested clarification regarding the dealer touching the patron's chips. Burke Cain clarified that the patron might stack chips of different values that amount more than the table maximum, and after the hand was dealt, the dealer would return the chips which were over the table maximum. Mr. Cain added that superstitious patrons would not want the dealer to touch the chips before the hand was dealt. Chair Judd-Stein asked whether the casino would take the full amount that was bet if the patron lost. Mr. Carpenter replied that at EBH, the casino would pay the full amount if the patron won, and would take only the table maximum, if the patron lost.

Commissioner O'Brien asked why there was a table minimum and maximum if a statement by the dealer could bypass them. Mr. Carpenter responded that the scenario rarely occurred, however, the properties do recognize the occasion where a patron would wish to wager a higher amount of money, and that patron being allowed to do so at the dealer's discretion. Mr. Carpenter further elaborated that the table maximum and minimum were clearly printed on a sign at every table, and that the proposed amendment was service to superstitious patrons who did not want the dealer to touch the chips. Mr. Carpenter highlighted that the current regulation stated that if the patron bet over the limit, the casino would take the full amount, and the dealer would have to count the chips to remove the excess amount after the dealing the hand. Mr. Carpenter added that the dealer would make the statement when the patron's bet appeared to be close to or over the table limit, but not given upon every hand.

Commissioner Hill moved that the Commission approve the small business impact statement and the amendments to 205 CMR 147 as included in the Commissioners' Packet and authorize the staff to take the steps necessary to file the documentation with the Secretary of the Commonwealth and to proceed with the regulation promulgation process. The motion was seconded by Commissioner Cameron.

*Roll call vote:*

*Commissioner Cameron: Aye.*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously 4-0.*

7. [Research and Responsible Gaming](#) (3:32:26)

a. MGM Play My Way Launch

Director Vander Linden provided an update on the Play My Way launch at MGM Springfield. His report, *The Update of the Implementation of Play My Way at MGM Springfield* was included in the meeting packet on pages 68 through 85. Director Vander Linden provided a brief overview of the Play My Way program's features and explained that the two goals of the program were to: (1) sustain recreational gambling by establishing feasible parameters; and (2) eliminate the regret arising from loss of control. Director Vander Linden shared that the launch of the program will occur at the end of the month. Director Vander Linden explained that Play My Way was a voluntary program that helped patrons set a spend budget, and patrons received notifications as they approached the set budget. The program would not prevent patrons from spending beyond the budget.

Commissioner O'Brien congratulated Director Vander Linden and the Research Team on their efforts to launch the program at MGM Springfield, despite numerous delays, including the pandemic. Commissioner Cameron noted that the communications plan had improved and asked if the evaluation plan was different from the evaluation completed at PPC. Director Vander Linden confirmed that the evaluation plan was different, but comparable to the evaluation of Play My Way at PPC. Director Vander Linden thanked Gaming Technical Compliance Manager Scott Helwig, and the IT Team for their work on the technological aspects of the programs launch, including testing.

Chair Judd-Stein asked if there was information on the number of patrons who overrode their budget at PPC. Director Vander Linden confirmed that the Research Team collected the data, and that there was a significant percentage. Director Vander Linden stated that he would review the data and provide the Commission with the percentage later. Chair Judd-Stein further inquired whether there was feedback from patrons indicating that they did not want to be able override their budget. Director Vander Linden acknowledged that patrons had provided such feedback but stated previously that Play My Way was a voluntary program which did not prevent patrons from playing.

8. Commissioner Updates  
a. [Legislative Update](#) (4:07:11)

Chief Administrative Officer and Special Projects Manager Crystal Beauchemin updated the Commission on the Open Meeting Law Chapter 22 of the Acts of 2022, which allowed the Commission to continue to meet remotely until July 15, 2022.

9. Community Affairs Division

a. [MGM Springfield Quarterly Report](#) (4:09:02)

Chief of Community Affairs Joe Delaney introduced MGM Springfield Director of Compliance Daniel Miller, Executive Director of Finance Arlen Carballo, and Director of Community Affairs Beth Ward to present the Q4 2021 Report. The report was included of pages 86 through 106 of the Meeting Packet. Among the topics discussed, the report included updates on compliance, spend, employment, and development.

Director Miller provided the compliance update. Chair Judd-Stein asked Director Miller to elaborate on incidents concerning minors and underage patrons. Director Miller responded that in one incident, a minor age 19 or 20 entered the gaming area with an adult who was over 21 years old, the adult ordered an alcoholic drink, and gave it to the minor. Director Miller added that MGM staff did not serve the drink to the minor. Director Miller explained that there were two incidents where minors were intercepted gaming. Director Miller stated that on one occasion, security did not check the minor's identification, and on another occasion, the minor used a fraudulent identification. Director Miller remarked that due to these events, the staff members involved were retrained, and disciplined. Chair Judd-Stein expressed appreciation for the family-friendly activities and noted that MGM should make efforts to lower the number of minors accessing the gaming area. Director Miller agreed and mentioned that the number had dropped significantly since 2019.

Executive Director Carballo presented on the spend update. Chair Judd-Stein inquired whether there was a significant change in the operating spend because of the pandemic. Executive Director Carballo responded that there was not a significant change, but there had been a slight deficit which MGM Springfield was addressing.

Director Miller updated the Commission on the employment rates at MGM Springfield and mentioned that although the number of employees were increasing, MGM Springfield did not meet its employment goal for minority and women employees. Commissioner Cameron asked whether the employment numbers were continuing to increase. Director Miller confirmed that the numbers were increasing and added that hiring events for food, and beverage positions were conducted weekly or bi-weekly. He was hopeful that these events would help raise the number of women employed. Commissioner Cameron further inquired about whether efforts were made to identify why MGM Springfield had not met its employment goal for minorities and women. Director Miller stated he would contact human resources regarding the matter and provide a more detailed response later.

Director Ward updated the Commission on the developments underway at the MassMutual Center; adding that the garage was scheduled for demolition in June 2022. Chair Judd-Stein added that the Commissioners looked forward to a tour of the 31 Elm Street development. Commissioners thanked the Mr. Ward and Ms. Carballo for their report.

b. [Executive Session](#) (4:37:24)

Chair Judd-Stein read the following statement into the record, “the Commission anticipates that it will meet in executive session in accordance with G.L. c.30A, §21(a)(7) to comply with G.L. c.23K, § 21(a)(7) for the specific purpose of reviewing the proposed multi-year capital expenditure plan [described in 205 CMR 139.09], and any corresponding materials, submitted relative to MGM Springfield, as discussion of this matter in public would frustrate the purpose of the statute and associated legal authorities. This matter is further governed by 205 CMR 139.02 as the information at issue is covered by a non-disclosure agreement.” The public session of the Commission meeting will not reconvene at the conclusion of the executive session.

Commissioner Cameron moved to adjourn into Executive Session. The motion was seconded by Commissioner O’Brien.

*Roll call vote:*

*Commissioner Cameron: Aye.*

*Commissioner O’Brien: Aye.*

*Commissioner Hill: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously 4-0.*

**List of Documents and Other Items Used**

1. [Notice of Meeting and Agenda](#) dated February 27, 2022
2. [Meeting Packet](#) from the March 3, 2022, Open Meeting.




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## Massachusetts Gaming Commission Meeting Minutes

**Date/Time:** March 10, 2022, 10:00 a.m.  
**Place:** Massachusetts Gaming Commission  
 VIA CONFERENCE CALL NUMBER: 1-646-741-5292  
 PARTICIPANT CODE: 111 748 1097

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 Gayle Cameron  
 Commissioner Eileen O'Brien  
 Commissioner Bradford Hill

#### 1. [Call to Order](#) (0:20)

Chair Judd-Stein called to order the 373rd public meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all four commissioners were present.

#### 2. [Approval of Minutes](#) (1:18)

Commissioner O'Brien stated that there had been a technical glitch in sending the minutes to the other commissioners and asked if the Commission felt comfortable moving on them. Chair Judd-Stein and Commissioner Cameron stated that they had read the minutes, and Commissioner Hill reported that he would abstain from voting on these minutes, as he was not present for the meetings.

##### a. June 24, 2021

Commissioner O'Brien moved that the Commission approve the Public Meeting minutes from June 24, 2021, included in the Commissioners' Packet, subject to any necessary corrections for typographical errors or other non-material matters. The motion was seconded by Commissioner Cameron.

*Roll call vote:*

*Commissioner Cameron: Aye.*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Abstain.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously 3-0, with one abstention.*

b. August 4, 2021

Commissioner O'Brien moved that the Commission approve the Public Meeting minutes from August 4, 2021, included in the Commissioners' Packet, subject to any necessary corrections for typographical errors or other non-material matters. The motion was seconded by Commissioner Cameron.

*Roll call vote:*

*Commissioner Cameron: Aye.*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Abstain.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously 3-0, with one abstention.*

c. September 9, 2021

Commissioner O'Brien moved that the Commission approve the Public Meeting minutes from September 9, 2021, included in the Commissioners' Packet, subject to any necessary corrections for typographical errors or other non-material matters. The motion was seconded by Commissioner Cameron.

*Roll call vote:*

*Commissioner Cameron: Aye.*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Abstain.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously 3-0, with one abstention.*

3. [Development East of Broadway in Everett, MA](#) (4:14)

a. The Commission will consider whether the development proposed across the street from Encore Boston Harbor will be determined as part of the existing gaming establishment and associated issues, including the permissible use of certain areas of the gaming establishment, such as the ballrooms, for the conduct of live entertainment, and MEPA related matters.

Chair Judd-Stein introduced Joe Delaney, Chief of Community Affairs. Chief Delaney recapped the February 10, 2022, public meeting where representatives from Encore Boston Harbor

(“EBH”) presented their development proposal to the Commission. Chief Delaney reported that public comments were compiled, and a public hearing was held on February 28, 2022. He stated that today’s meeting was for the Commissioners to deliberate on whether the proposed development would be considered part of the gaming establishment, thus subject to regulatory oversight by the Commission. Chief Delaney highlighted, however, that if the Commissioners decided there was no regulatory interest in the proposed development, they could address their concerns through conditions placed on EBH’s gaming license.

Chief Delaney introduced General Counsel Todd Grossman to present the elements for the four-part test to determine whether the development is considered part of the gaming establishment. General Counsel Grossman stated that the Commission was afforded great latitude in determining the components of a gaming establishment under G.L. Chapter 23K, § 2. He also stated that the Commission should also consider interplay between the proposed development and the Massachusetts Environmental Policy Act (“MEPA”).

General Counsel Grossman stated that one issue raised at the public hearing was the size of live entertainment venues. He stated that G.L. Chapter 23K, § 9(11) provided a statutory description limiting the number of patrons allowed in gaming licensee’s entertainment venues as less than 1,000 or more than 3,500. He explained that the components for the four-part analysis determining whether an amenity or area is part of the gaming establishment were: that the development was a non-gaming structure; that the development was related to the gaming area; that the development was under common ownership or control by the gaming licensee; and whether the Commission had a regulatory interest in including the development as part of the gaming establishment. He noted that the fourth criterion was only addressed by the Commission if the prior first three criteria are satisfied.

General Counsel Grossman stated that while the proposed development was owned by East Broadway, LLC, and Wynn MA, LLC would oversee the construction. He added that both corporations were wholly owned subsidiaries of the licensee’s parent company, Wynn Resorts, LLC. He stated that it was not ownership, but control of the development that influenced the third factor.

General Counsel Grossman explained that G.L. Chapter 23K § 13 required a gaming licensee to receive a certified and binding vote on a ballot question in the host community in favor of the gaming license. He stated that the City of Everett held the vote on the location of the property on June 22, 2013, and that the area of the proposed development was not included in the description for the vote. He raised the question of whether any area or amenity of the gaming establishment could be located outside the confines approved by voters, and that future developments would need to consider that issue.

Chair Judd-Stein asked if the Commission should consider the four factors for each of the proposed development projects. Chief Delaney stated that the elements do not need to be broken down individually by structure within the development. He stated that some concerns raised at the public hearing were that underage individuals would have to exit through the bridge when they were not allowed entrance to the gaming establishment, but EBH stated they would install stairs and elevators on the elevated bridge to take underage patrons down to the sidewalk.



Chair Judd-Stein stated that it was obvious the other three proposed developments were non-gaming structures, but the bridge had a certain nexus with the casino entrance. Commissioner Cameron agreed with Chair Judd-Stein, and expressed satisfaction in EBH's response of installing alternative exits to the pedestrian bridge.

Commissioner O'Brien added that while she was satisfied the components were non-gaming structures, she had concerns regarding the maintenance and security of the pedestrian bridge. She stated she wanted to see how the walkway would look schematically with the stairs to the ground level. Commissioner Hill stated echoed Commissioner O'Brien's concerns, but stated that his initial concerns were allayed upon learning of the plans to build an alternative exit for patrons. Chair Judd-Stein stated that the bridge was a way to ensure safety and mitigate traffic concerns, but that she had concerns about security on the pedestrian bridge and monitoring of this entrance for minor access.

General Counsel Grossman stated that the language the Commission used for the second factor in prior decisions was "whether the proposed development supported the gaming area, by making the facility a more attractive destination." Commissioner O'Brien stated that in her inspection of the general schematic, she came to the conclusion that the development was related to the gaming area. She stated that while Everett's Urban Renewal Plan was referenced, EBH's first refusal to purchase nearby properties was included in their host agreement, and therefore nearby structures such as this proposed development were therefore related to the gaming area. Commissioner Cameron, Commissioner Hill, and Chair Judd-Stein agreed that the structures would enhance the gaming area at EBH.

Chair Judd-Stein inquired about the proposed owner of the development and the corporate structure. Jacqui Krum, Senior Vice President and General Counsel at Encore Boston Harbor stated that once the structure is built, there will be a landlord and an affiliated entity responsible for maintaining common areas and security between the premises. Chair Judd-Stein inquired whom the lessor would be. Tony Starr, Attorney at Mintz Levin, replied that East Broadway LLC would be the lessor, and that Counselor Krum was their registered agent. Counselor Krum stated that the corporate structure had not been built past that point. The Commissioners reached a consensus that the proposed development was under common ownership and control of the licensee.

General Counsel Grossman stated that in the past, when deciding if the Commission had a regulatory interest in a development, criteria considered included an interest in licensed employees, registered vendors, and surveillance in accordance with Commission regulations.

Chair Judd-Stein noted that during the comment period, the media had inquired why a licensee wouldn't be interested in regulation for their proposed development. Attorney Starr stated that regulation of these additional structures would be a burden upon both the Commission and the licensee, as it would require Commission monitoring of construction, and oversight by the Gaming Enforcement Unit. He stated that the proposed development was already subject to regulatory oversight by the Alcohol Beverages Control Commission and the City of Everett. He

added that the concerns raised by the public and the Commission could be addressed by establishing conditions on EBH's gaming license.

Commissioner Cameron stated that the Commission had consistently addressed its concerns by placing conditions on gaming licenses in the past, and that she did not believe there was a regulatory interest in making the proposed development part of the gaming establishment.

Commissioner O'Brien stated that she partially agreed, but that she wanted more details regarding the pedestrian bridge and the capacity at the live entertainment venues prior to a determination of whether the Commission had a regulatory interest. Chair Judd-Stein sought clarification regarding Commissioner O'Brien's concerns for the pedestrian bridge. Commissioner O'Brien clarified that if the schematics changed after this meeting, it would be a material change in circumstance and wondered where the separation between the bridge and gaming establishment would occur.

Commissioner Hill also echoed Commissioner O'Brien's concerns regarding the statutory limit for capacity at live entertainment venues. He stated that he would like more information regarding security in the garage, as there were reports of patrons leaving children in their cars while gambling. Chair Judd-Stein stated that she did not recognize a regulatory interest that would require strict oversight by the Commission and opined that placing conditions on the gaming license could address the Commissioners' concerns.

Commissioner O'Brien questioned if the employees for the proposed development would have credentials that would allow them back-of-house access at EBH. Chair Judd-Stein highlighted to the public, that access to the back-of-house would require employee licensing. Counselor Krum stated that none of the employees at the development would have access to back-of-house areas or the employee dining room. Commissioner O'Brien asked if the security team for the parking garage would be EBH's existing security. Counselor Krum stated that the lessor would hire a separate security team, employed by a different entity, and that the security staff for the garage would not check in at the employee entrance for EBH. She added that the separate security force would monitor the garage and pedestrian bridge, and that EBH security would intercept people and request identification once they attempted to enter the gaming establishment.

Chair Judd-Stein asked if EBH anticipated any arrangements with the Everett Police Department or state police. Counselor Krum stated that EBH had discussions with the Chief of the Everett Police Department, and that the department was aware of the development. Chair Judd-Stein noted that the Chief of the Everett Police Department submitted a public comment in support of the development. Commissioner O'Brien stated that a small portion of the bridge was in a right of way owned by the City of Boston and asked Counselor Krum if Boston Police Department would need to be consulted. Counselor Krum stated that the burden would be on EBH to secure ties, given the bridge's respective jurisdiction.

Attorney Starr stated that the live entertainment venue's statutory limits on capacity would be followed, and that restaurants in the proximity of the event space would not be allowed to build out in a manner that would exceed the limit. He added that East Broadway, LLC would submit security plans to address children left in vehicles, and would include more details regarding the

elevator and security checkpoints to the Commission. Commissioner O'Brien stated that she would appreciate the further detail and expressed an interest in receiving information from East Broadway as soon as possible to address her concerns as the project progresses.

Chair Judd-Stein inquired about the development of hotels in the future. Chief Delaney stated that the discussion of hotels would have to be brought back before the Commission, as the topics prepared by EBH representatives for this meeting were solely for the event center, parking garage, restaurant space and pedestrian bridge. He stated that the proposal for development did include anticipated traffic numbers for other potential future developments.

Chief Delaney presented the issues raised by the Commission and public comments that would need to be addressed by conditions on EBH's gaming license. The issues included EBH's required MEPA filings; the capacity of the entertainment venues; the potential impact of the entertainment venue on other local entertainment venues and theatres; geographic non-competes for entertainers at the proposed development; ownership and security of the bridge; and the jurisdiction of the bridge.

Chair Judd-Stein asked if there was a way to structure the Commission's decision that would satisfy the licensee and the public. Commissioner O'Brien opined that the conditions would have to be drafted first, as the determination of whether the Commission had a regulatory interest in the project hinged upon the Commission's satisfaction with the conditions for the licensee. Chair Judd-Stein agreed with this assessment. Chair Judd-Stein then inquired what security would resemble in the interior of the building upon entering the gaming establishment, as she had concerns about minors accessing the game floor, and unruly behavior if a patron was asked to exit the way they entered. Counselor Krum stated that the checkpoint next to the pedestrian bridge would be similar in construction to the existing security checkpoints in the gaming establishment.

Commissioner O'Brien stated that there appeared to be a consensus about applying conditions on the licensee's gaming license, but that she would like to review a set of draft conditions prior to a formal vote. Commissioner Cameron shared Commissioner O'Brien's concerns and agreed that draft conditions should be written and circulated as quickly as possible. Commissioner Hill inquired when the Commission would see the bridge design before the decision. Chief Delaney stated that in drafting these conditions, Commission could have the authority to establish deadlines for document production, including: the schematics for the bridge; the security plans for the garage and pedestrian bridge; and the entertainment venue's seating and ticket policy. Commissioner Hill thanked Chief Delaney for the clarification.

Commissioners had no further questions for Ms. Krum and Attorney star. Chair-Judd Stein thanked parties for their work and time on the matter. Parties thanked the Commission as well.

#### 4. [Other Business](#) (2:07:10)

Hearing no other business, Chair Judd-Stein asked for a motion to adjourn.

Commissioner O'Brien moved to adjourn. The motion was seconded by Commissioner Cameron.

*Roll call vote:*

*Commissioner Cameron: Aye.*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously 4-0.*

### **List of Documents and Other Items Used**

1. [Notice of Meeting and Agenda](#) dated March 7, 2022
2. [Meeting Packet](#) from the March 10, 2022, Open Meeting



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## Massachusetts Gaming Commission

### Meeting Minutes

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**Date/Time:** September 22, 2022, 9:00 a.m.  
**Place:** Gardner Auditorium – Massachusetts State House  
24 Beacon Street  
Boston, MA 02108

#### **Commissioners Present:**

Chair Cathy Judd-Stein  
Commissioner Eileen O'Brien (*remotely using collaboration technology*)  
Commissioner Bradford Hill  
Commissioner Nakisha Skinner  
Commissioner Jordan Maynard

1. [Call to Order](#) (10:14)

Chair Judd-Stein called to order the 395<sup>th</sup> Public Meeting of the Massachusetts Gaming Commission (“Commission”). Roll call attendance was conducted, and all five commissioners were present for the meeting. Commissioner O’Brien joined the meeting remotely using collaboration technology.

2. [Welcome and Opening Remarks](#) (11:22) Cathy Judd-Stein, Chair

Chair Judd-Stein stated that the meeting would be streamed on the Commission website. She explained that the sports wagering legislation allowed for up to seven full operating licenses for untethered category three sports wagering operators, and that there would be a competitive process. She stated that the provision related to temporary licensure did not set a limit on the number of temporary licenses that could be awarded. She stated that requiring temporary operators who did not receive full operating licenses would require the temporary operators have a process to dismantle operations. She stated that the meeting was open to the public but was not a public hearing and invited the representatives of the category three applicants to provide five-minute remarks answering two questions. The first question was related to consumer protections in the event of a temporary sports wagering operator not receiving a full operating license, resulting in their operations being shut down and the second question was related to the operator’s preference for a staggered or simultaneous launch.

3. [Commissioners' Round Table on Mobile Sports Wagering](#) (16:46)

Commissioner Maynard stated that the process for temporary licensure would include technical testing, suitability, and the requirement of internal controls. He stated that any experience from other jurisdictions should be included in the answer.

Justin Smith, legal counsel representing Bally's Interactive North America, stated that they did not recommend the implementation of a temporary license scheme for all operator applicants that would require a majority of them to shut down. He explained from the operator perspective it was difficult to manage as customers usually placed wagers months in advance, and the operators would be required to manage substantial payments and withdrawals if they were forced to shut down. He stated that requiring all operators to start on the same date would likely put stress on the Commission. He suggested the Commission designate a date with the onus on the operators to meet that date.

Cynthia Hayes, Vice President of Compliance with BetFred USA Sport, echoed Attorney Smith's concerns, and raised concern related to the potential for bonus abuse among temporary operators. She stated that setup time and required expenses to become operational were prohibitive if the full operator's license was not granted. She stated that her client also recommended a universal launch date for both untethered and tethered category three mobile sports wagering operators. She stated that there was no issue with retail sportsbooks launching prior to mobile wagering.

Ashwim Krishnan, head of legal for Betr, explained that Betr focused on microbetting. He stated that Betr was in favor of consumer choice and providing a variety of platforms, and that they wanted equal footing amongst all operators. He advocated for a simultaneous universal launch date and requested a timeline for technical standards and internal controls.

Mark Hichar, attorney from Greenberg Traurig representing Caesar's sportsbook, stated that the process related to the launch timeline should be clear and transparent.

Chris Cipolla, Senior Director of Legal and Government Affairs at DraftKings, stated that DraftKings was founded in Massachusetts and headquartered in Boston. He stated all operators should be able to launch on the same day, whether retail or mobile, in order to prevent any competitive advantage. He stated temporary licenses had been used effectively in other jurisdictions. He recommended the operators work towards a start date, but if some are not able to operate on that date it should not delay the other operators who were ready.

Alex Smith, Vice President of Regulatory Affairs with Fanatics Betting and Gaming, stated that other jurisdictions had used temporary licenses successfully, but launching more temporary licenses than the market could bear would create consumer protection concerns. He stated that the universal start date had worked well in other jurisdictions.

Cory Fox, Vice President of Product and New Market Compliance at FanDuel, stated that FanDuel operated 27 retail sportsbooks. He explained that a successful launch required significant investment and resources, and he did not believe it was an effective use of resources

to offer more temporary licenses than available final licenses given the investments by both the operators and the Commission. He stated temporary licenses should expedite the launch of those who had already undergone a competitive process while finalizing the suitability investigation. He explained that in Pennsylvania, FanDuel was able to see a prolonged market benefit from an early launch, and that DraftKings had received similar results in Indiana. He recommended the Commission set a universal start date, as that approach had been successful in Arizona, Colorado, Kansas, Michigan, and New York.

Walter Sullivan, legal counsel for FanLogic stated that licensing should not occur until after the regulatory framework was in place. He suggested the Commission look towards the licensing schemes utilized by the Massachusetts Cannabis Control Commission, and that the Commission should not grant temporary licenses in excess of the amount of final operator's licenses. He stated that the Commission had not considered equity in planning, and should give consideration to operators who would promote equity. He stated that the sports wagering legislation did not have the same in-depth licensing requirements the expanded gaming act had, and stated the Commission should include equity requirements. He recommended a staggered launch giving priority for applicants that met equity requirements.

Brian Hall, Director of Regulatory Affairs for FSST Interactive, stated that FSST Interactive was a tribal operated business operated by the Flandreau Santee Sioux Tribe of South Dakota. He stated that due to the significant invest required to enter a market, it would increase risk to the operator if they may be required to shut down within a year. He suggested that if the Commission did decide to follow a temporary license scheme, a caveat should be included that was clear on the pathway to permanent licensure. He stated that more information on the full licensing requirements would help assess the risk of investment. He echoed support for a universal launch date to ensure a level playing field between operators.

Danielle Boyd, Vice President of Regulatory and Compliance from Hard Rock Digital, did not recommend the issuance of temporary licenses to all potential untethered category three applicants due to the time and resources required. She recommended a simultaneous launch on a universal start date, as it would allow for greater competition. She stated that as a regulator for West Virginia and Tennessee she believed Tennessee's success in launching was due to the simultaneous launch date.

Joe Cassole, as a consultant for Maximbet, stated his client was interested in temporary licensing for untethered category three operators. He stated that disruption from the closure of a sportsbook could be mitigated by clear communication to customers through multiple mediums related to the closure; the operator could stop taking bets well before the closure date; all active bets should be voided and returned prior to the shutdown; and the operator could refund all account balances for current players or keep them active after closure to allow for withdrawals. He stated the timeline for operations should be clear, and that revocation of a temporary license within a year can cause uncertainty and distrust in the market. He recommended simultaneous launch dates as even a three-day head start had led to a lasting material impact on market share in the state of Virginia. He stated that staggering the launch of retail and mobile operators was equitable in comparison to staggering mobile launches, as an estimated 90% of all bets would be mobile bets.

Joe Cassole, as a consultant for Novibet, stated that there was risk in the cost of setting up operations prior to knowing if the company would be chosen for a final license. He stated that Novibet would implement controls to notify customers of potential shutdown and maintain cash reserves and guidelines for cancellations of opening wagers should they not receive a final license and be required to shut down. He stated Novibet wanted a simultaneous launch for mobile operators, with retail launching first.

Chair Judd-Stein stated that the next groups called to speak were from category one and category two licensees.

Patrick Hanley, legal counsel for Commonwealth Equine and Agricultural Center LLP, stated that the first question was not relevant to the category one and two operators. He explained that the group he represented intended to apply for a thoroughbred horse racing license pursuant to General Law Chapter 128A, for racing at Great Meadowbrook Farm in Hardwick, Massachusetts. He stated that the expectation was to apply for a sports wagering license if the horse racing license is granted. He stated that delay in eligibility for the sports wagering license should not be a barrier to eligibility, as the plan to develop sports wagering was later in the process due to G.L. Chapter 128A guidelines.

Daniel Miller, Director of Compliance for MGM Springfield, introduced Josh Wyseman, Senior Manager of Licensing from BetMGM. Mr. Miller stated that the untethered temporary license should be equal in number to the final licenses. He stated that having more temporary licenses than final licenses was problematic and unprecedented. He suggested a universal simultaneous launch date for tethered and untethered mobile operators.

North Grounsell, General Manager at Plainridge Park Casino, stated that written comments addressing the two questions had been submitted to the Commission. He noted that getting a temporary license without receiving a permanent license could negatively impact the potential of receiving licenses in other jurisdictions, as it is viewed unfavorably when an operator had withdrawn an application in other jurisdictions. He suggested a staggered launch in phases, first launching retail, then tethered mobile operators, then untethered mobile operators.

Daniel O'Brien, CPA representing Raynham Park, stated that while question one did not affect Raynham Park, there was a risk to the Commonwealth and public perception to grant temporary licenses that would be revoked quickly. He stated that the temporary licensure process as described would divert the Commission's limited resources away from the permanent licensing process and cause delays. He recommended category one and two licenses be permitted to launch prior to category three licenses as those applicants are known operators who had already undergone suitability investigations. He stated that the category one and two operators had invested in facilities for retail sports operators and waiting for category three's competitive process would delay their opening.

Jacqui Krum, General Counsel and Senior Vice President for Encore Boston Harbor, suggested three separate launch phases with a designated universal start date for each phase. She stated



category one and two operators had already been found suitable by the Commission and had most of the required infrastructure in place.

Bruce Barnett, an attorney from DLA Piper representing Suffolk Downs, stated that his client did not have suggestions related to question one. He echoed Encore Boston Harbor and Plainridge Park Casino's interest for three launch dates. He stated that his understanding of the regulatory structure was that mobile operations might require additional regulations, and that retail operations should not be delayed as a result. He stated that the legislature separating tethered licenses from the cap of seven untethered mobile operators suggested that tethered and untethered operators could be treated differently when assigning launch dates.

Chair Judd-Stein stated that written comments had been submitted and would be read into the record by Executive Director Wells. The comments were included on pages 4 through 12 of the Commissioner's Packet.

Executive Director Karen Wells read the written comments from G3 Esports LLC. They stated that the significant time and financial expense required to operate mobile sports wagering operations would be a risk if the operator was forced to shut down, and that there would be substantial market and consumer confusion if an operator had their temporary license revoked within a year. They stated that revoking temporary licenses can erode consumer trust and risk player data being used in non-desired ways. They stated there would be a severe material impact on smaller operators that would preclude minority owned companies from entering the Massachusetts market in a sufficient manner. G3 Esports LLC recommended temporary licenses should be for up to three years, and that companies who did not receive final licensure should receive their \$1 million deposit back. They stated that staggered launches would allow for better early consumer adoption and better monitoring by the Commission.

General Counsel Todd Grossman read the written comments from Digital Gaming USA. They stated that they had never encountered licensing implementation similar to what the Commission had suggested in other jurisdictions. They stated that temporary licenses should have a preliminary assessment investigation. They stated that while allowing for more temporary licensing would increase the speed to market, it would disincentivize businesses from applying due to the high risk of expending funds without receiving a full license. They recommended designating a universal start date to allow stakeholders time to prepare and ensure fairness.

Executive Director Wells read the written comments from Victory Game Challenge Inc. They recommended the Commission look towards the Third Party Providers of Propositional Players concept from California's retail gambling law. They explained that a similar collaboration could occur where temporary operators would forward any future wagers to an operator who was awarded a full license, which would incentivize both sides with predetermined compensation to help offset the initial investments. They supported simultaneous sports wagering launch dates.

Crystal Beauchemin, Chief Administrative Officer to the Chair and Special Projects Manager, read the written comments from Fubo Gaming. They noted an interest in the opportunity for temporary licensure. They said that consumer protection safeguards could be implemented through messages notifying customers of shutdowns, limits on future wagers, and a way to return

account balances to customers. They stated that simultaneous launch would be the best environment for consumers, as staggered launches give advantage to those operators who launch sooner and create market confusion.

a. [Commissioner Follow-up Questions](#) (2:04:23)

Commissioner O'Brien asked Cynthia Hayes from BetFred how much time operators would require internally prior to launching and taking bets. Ms. Hayes stated that it depended on the regulations and the development that would need to occur, but that it would likely be a 9-12 month process.

Commissioner O'Brien asked Danielle Boyd from Hard Rock Digital her opinion as a former regulator related to consumer protection impacts of launching retail sports wagering prior to mobile sports wagering. Ms. Boyd stated that some retail operators had everything in order and operational controls reviewed in order to launch. She stated that operator's promotions could be reviewed and approved and that operational controls should be in place. She stated that processes existed to protect consumers regardless of whether the launch is simultaneous or staggered.

Commissioner Hill asked Ms. Hayes and Mr. Cassole if they were accepting of launching retail sports wagering prior to launching mobile sports wagering. Ms. Hayes stated that BetFred was receptive to allowing retail sports wagering launch first provided tethered and untethered category three operators launched on the same date. Mr. Cassole stated that both Novibet and Maximbet were in favor of separate launch dates for retail and mobile operations.

Chair Judd-Stein stated that she had heard opposition to allowing retail sports wagering to launch earlier than mobile and invited Mr. Cipolla from DraftKings to comment. He stated that he agreed with putting mobile operators on the same playing field, and that retail should be treated the same way. He stated other jurisdictions had launched both retail and mobile wagering at the same time, and that it is possible to have a simultaneous launch.

Commissioner Skinner inquired as to whether other jurisdictions had required temporary operators to shut down if not extended a full operating license. Mr. Cipolla stated that to his knowledge no other jurisdiction had implemented temporary licenses in that way, and that the competitive process typically took place prior to the temporary licensure. Commissioner Skinner asked if he was aware of any mobile operator required to shut down for other reasons. Mr. Cipolla replied that he was uncertain and would have to return to the Commission with that information.

Commissioner Skinner sought clarification from Mr. Hall related to the risk of investment for mobile operators and asked if there was a risk on the technical side of operations. Mr. Hall stated that the risk was largely in customer acquisition. He stated that technical risk would be whether the technology aligned with the technical certification requirements, and that development costs depended upon the rules and regulations and if they were similar to other jurisdictions. He explained that customer acquisition was a larger risk as costs were front-heavy and the operators would not see returns on investment for years.

Commissioner Maynard asked if other jurisdictions had operated on a staggered launch with mobile sports wagering operators tied to retail locations launching at a different time from the retail location. Josh Pearl, Senior Director of New Markets and Strategic Initiative from Penn Interactive, stated that Massachusetts was unique in the way tethered and untethered licenses work. He stated that the most similar jurisdiction was Illinois, where retail operations went live three months before mobile operations.

Chair Judd-Stein asked if other entities would like to respond to Commissioner Hill's question related to launching retail sports wagering prior to mobile operations. There were no further comments in opposition.

Chair Judd-Stein stated that the Commission understood that the licensing process under G.L. Chapter 23K required significant capital investment and asked how category one and two operators investments should be addressed. Mr. Cipolla stated that it would be most equitable to have both tethered and untethered operators launch at the same time. He noted that DraftKings was not an existing licensee but they had also made a significant investment in the Commonwealth with their headquarters employing 1,500 employees. Chair Judd-Stein asked if the 1,500 employees were in Massachusetts. Mr. Cipolla stated that the DraftKings headquarters on Boylston Street employed 1,500 employees, and that there may be more employees elsewhere in Massachusetts.

Chair Judd-Stein stated that she believed the lack of a limit on temporary licenses was an inadvertent development and that the Commission wants to meet the standards the legislature expected. She asked how the operators would protect customers if their entity was not granted a full license and required to shut down. Mr. Cipolla stated that other jurisdictions had conducted the competitive process prior to awarding temporary licenses. Chair Judd-Stein asked how the companies would protect consumers if the Commission chose to allow more than seven temporary licenses. Mr. Cipolla stated that safeguards could be built into the sports wagering platforms, and that they would be centered on clear communications with the customers. He stated that clear parameters should be available to both operators and consumers.

Commissioner Maynard asked if Mr. Cipolla would be comfortable in limiting temporary licenses to seven. Mr. Cipolla responded that would be preferable as it was a process used in other jurisdictions who performed the competitive process to narrow the applicants down prior to granting temporary licenses. He stated this method worked efficiently in other jurisdictions.

Chair Judd-Stein asked Mr. Fox from FanDuel how he would notify customers regarding the risk of addressing future bets if there was a possibility of shutdown. Mr. Fox stated that FanDuel would look to the Commission for guidance and would ensure users could access their funds. He stated that it would be up to the Commission whether the operators could settle future bets upon shutdown. He stated that investments made in year one are typically designed to receive return on investment after several years.

Commissioner Skinner asked for the applicants to submit information related to any operator required to shut down for Commission consideration. Commissioner O'Brien asked the applicants to submit responses to the questions asked if they had further comment.

Executive Director Wells stated that Commissioner O'Brien's question related to timelines may be helpful for all applicants to answer as it would inform the Commission of the operators' expectations of a timeline. She stated that a competitive process prior to temporary licensure would extend the timeline, and that the operator's expectations would inform the Commission's timeline for regulations.

Commissioner Hill moved to adjourn. The motion was seconded by Commissioner Skinner.

*Roll call vote:*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously 5-0, the meeting was adjourned.*

#### **List of Documents and Other Items Used**

1. Notice of Meeting and Agenda dated September 19, 2022
2. [Meeting Packet](#) from the September 22, 2022, Open Meeting



*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  
Mina Makarious, Anderson & Krieger  
Paul Kominers, Anderson & Krieger

DATE: December 15, 2022

RE: 205 CMR 247: Uniform Standards of Sports Wagering

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Enclosed for the Commission's review is a proposed regulation, 205 CMR 247, governing permissible Sports Wagers. This regulation provides the general parameters for Sports Wagers that may be offered by Sports Wagering Operators. The regulation includes the following provisions:

- 247.01 identifies the sporting events on which Operators may offer opportunities to wager, and those which are prohibited (e.g., certain collegiate and events; high school sports; and virtual sports events; greyhound races).
- 247.02 implements the mandate in G.L. c. 23N, § 10 that Operators adopt comprehensive House Rules for Sports Wagering. The House Rules must be made readily available to patrons and posted in a conspicuous place in a Sports Wagering Facility or on a Sports Wagering platform. House Rules set out the basics of what the Operator will permit wagering on, anticipate situations such as changes in event schedules or odds, how Sports Wagers are to be made or paid out.
- 247.03 provides a process by which an Operator may request the Commission approve wagering on new Sporting Events or a category of wagering.
- 247.04 provides a process by which a Sports Governing Body can request the Commission prohibit or restrict wagering on a particular type, form, or category of Sports Wagering. The Commission must then review the request and determine whether there is good cause to grant the request.



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- 247.05 provides that Sports Wagering Operators may use licensed data to determine the results of Sports Wagers and provides parameters for the kind of data that is deemed acceptable.
- 247.06 requires a Sports Wagering Operator to obtain permission from the Commission before offering wagers on a particular tournament, contest or pool and explains the process for such requests.
- 247.07 and 247.08 explains the process by which Operators may accept and process wagers, including how they may be paid for and the information that must be collected on patrons making a wager.
- 247.09 requires Sports Wagering Operators to maintain a record of all promotional offers related to Sports Wagering and to fully and accurately disclose the terms of such offers.
- 247.10 governs exchange wagering and other peer-to-peer wagering, and requires Commission approval for such wagering.

## 205 CMR 247: UNIFORM STANDARDS OF SPORTS WAGERING

## Section

247.01:	Authorized and Prohibited Sporting Events and Wager Categories
247.02:	House Wagering Rules and Patron Access
247.03:	Petition for a Sporting Event or Wager Category
247.04:	Prohibiting Wagers for Good Cause
247.05:	Data Sources and Official League Data
247.06:	Sports Wagering Tournaments/Contests/Pools
247.07:	Acceptance of Sports Wagers
247.08:	Minimum and Maximum Wagers; Additional Wagering Requirements
247.09:	Promotional Offers
247.10:	Exchange Wagering and Other Peer-to-Peer Wagering

247.01: Authorized and Prohibited Sporting Events and Wager Categories

- (1) A Sports Wagering Operator may offer Sports Wagering only for those Sporting Events and Wager Categories authorized by the Commission and posted on the Commission's website.
- (2) An Operator shall not offer Sports Wagering on:
  - (a) Any Collegiate Sport or Athletic Event:
    1. With an outcome dependent on the performance of an individual athlete, including, but not limited, to in-game or in-play wagers;
    2. Involving any collegiate teams from the Commonwealth, unless the teams are involved in a Collegiate Tournament.
  - (b) Any eSports event that:
    1. Is not sanctioned by an approved Sports Governing Body or equivalent as authorized by the Commission; and
    2. Has not been endorsed by the Commission pursuant to the procedures set forth in 205 CMR 247.03;
  - (c) Any virtual sports event unless:
    1. A Random Number Generator (RNG), certified by an independent testing laboratory, is used to determine the outcome(s);
    2. A visualization of the virtual sports event is offered to all patrons which displays an accurate representation of the result(s) of the virtual sports event; and
    3. The virtual sports event is approved pursuant to the procedures set forth in 205 CMR 247.03;
  - (d) Any horse or greyhound races;
  - (e) Any injuries, penalties, player discipline, or replay review;
  - (f) Any high school or youth sports or athletic events;
  - (g) Any fantasy contest unless offered pursuant to M.G.L. c. 12, § 11M½ and 940 CMR 34.00: *Daily Fantasy Sports Contest Operators in Massachusetts*;
  - (h) Any Sporting Event or Wager Category in which the outcome has already been determined and is publicly known; or

- (i) Any other Sporting Event or Wager Category until the Sporting Event or Wager Category has been approved by the Commission in accordance with 205 CMR 247.03.

247.02: House Wagering Rules and Patron Access

- (1) In accordance with M.G.L. c. 23N, § 10(a), the Sports Wagering Operator shall adopt comprehensive House Rules for Sports Wagering. The Sports Wagering Operator shall not conduct Sports Wagering until the Commission has approved the House Rules and the Sports Wagering Operator shall not conduct Sports Wagering in a manner inconsistent with approved House Rules.
- (2) In accordance with M.G.L. c. 23N, § 10(b), the Sports Wagering Operator shall make copies of its House Rules readily available to patrons and shall post the same as required by the Commission, including on a prominent place on the Sports Wagering Operator's public website, mobile application or other digital platform, and where applicable, prominently within the Sports Wagering Facility or Sports Wagering Area.
- (3) The House Rules must address the following items regarding Sports Wagers, at a minimum:
  - (a) Types of Sports Wagers accepted;
  - (b) Minimum and maximum Sports Wagers;
  - (c) Description of the process for handling incorrectly posted events, odds, Sports Wagers, or results;
  - (d) Methods for the calculation and payment of winning Sports Wagers;
  - (e) Effect of schedule changes;
  - (f) Methods of notifying patrons of odds or proposition changes;
  - (g) Whether the Operator accepts Sports Wagers at other than posted terms;
  - (h) Procedures related to pending winning Sports Wagers;
  - (i) Methods of contacting the Sports Wagering Operator for questions and complaints including information explaining how complaints can be filed, how complaints are resolved, and how the patron may submit a complaint to the Commission;
  - (j) Description of prohibited persons pursuant to 205 CMR 238.49, restricted patrons pursuant to 205 CMR 238.48, and Sporting Events and Wager Categories on which Sports Wagers may not be accepted under M.G.L. c. 23N and 205 CMR 247.02;
  - (k) Methods of funding a Sports Wager;
  - (l) Maximum payouts; however, such limits must only be established through limiting the amount of a Sports Wager and cannot be applied to reduce the amount paid to a patron as a result of a winning Sports Wager;
  - (m) Parlay-Wager-related rules;
  - (n) The Operator's policy for canceling or voiding Sports Wagers, including for obvious errors;
  - (o) The Operator's policy for when an event or any component of an event on which Sports Wagers are accepted is canceled or suspended, including the handling of Sports Wagers with multiple selections, such as parlays, where one or more of these selections is canceled; and



- (p) Any additional content for House Rules outlined in 205 CMR 243.01: *Standards for Sports Wagering Equipment*.
- (4) The Sports Wagering Operator shall not change or modify the House Rules without the prior written approval of the Commission. Failure by an Operator to act in accordance with its House Rules may result in disciplinary action.

247.03: Petition for a Sporting Event or Wager Category

- (1) Any Person may petition the Commission for approval of a new Sporting Event or Wager Category.
- (2) A proposed new Sporting Event or Wager Category may be a variation of an authorized Sporting Event or Wager Category, a composite of authorized Sporting Events or Wager Categories, or a new Sporting Event or Wager Category.
- (3) A petition for a proposed new Sporting Event or Wager Category shall be in writing and must include, at a minimum, the following information:
  - (a) The name(s) and address(es) of petitioner(s);
  - (b) The name of the Sporting Event or Wager Category;
  - (c) Whether the Sporting Event or Wager Category is a variation of an authorized Sporting Event or Wager Category, a composite of authorized Sporting Events or Wager Categories, or a new Sporting Event or Wager Category;
  - (d) The name of any Sports Wagering Operator sponsoring the petition;
  - (e) A complete and detailed description of the Sporting Event or Wager Category for which approval is sought, including:
    - 1. A summary of the Sporting Event or Wager Category and the manner in which Sports Wagers would be placed and winning Sports Wagers would be determined;
    - 2. A draft of the proposed House Rules, including a description of any technology that would be utilized to offer Sports Wagering on the Sporting Event or Wager Category;
    - 3. Any rules or voting procedures related to the Sporting Event or Wager Category;
    - 4. Assurance that the Sporting Event or Wager Category meets the requirements of 205 CMR 247.03(4);
  - (f) If the proposed Sporting Event or Wager Category is based on eSports activities, complete information about:
    - 1. The proposed location(s) of the eSports event(s);
    - 2. The video game used for the eSports event, including, without limitation, the publisher of the video game;
    - 3. The eSports event operator, whether the eSports event operator is approved to host events by the video game publisher, and whether the eSports event operator has any affiliation with the video game publisher;
    - 4. The manner in which the eSports event is conducted by the eSports event operator, including, without limitation, eSports event rules and certification from a third party, such as an eSports event operator or the game publisher, that the

eSports event meets the Commission's event integrity requirements;

- (g) The name of any Sports Governing Body or equivalent organization, as authorized by the Commission;
  - (h) To the extent known by the petitioner(s), a description of policies and procedures regarding event integrity;
  - (i) Any other information or material requested by the Bureau or Commission.
- (4) The Commission shall not grant the petition and authorize the Sporting Event or Wager Category unless the following minimum criteria are met:
- (a) The outcome is not determined solely by chance;
  - (b) The outcome can be verified;
  - (c) The Sporting Event generating the outcome is conducted in a manner that ensures sufficient integrity controls exist so the outcome can be trusted;
  - (d) The outcome is not likely to be affected by any Sports Wager placed; and
  - (e) The Sporting Event is conducted in conformity with all applicable laws.
- (5) The Commission will consider the request, all provided materials, and any relevant input from the Sports Governing Body or the conductor of the Sporting Event prior to authorizing a Sporting Event or Wager Category.
- (6) In its sole discretion, the Commission may require an appropriate test or experimental period, under such terms and conditions as the Commission may reasonably require, before granting final approval to a Sporting Event or Wager Category.
- (7) In its sole discretion, the Commission may subject any technology that would be used to offer a Sporting Event or Wager Category to testing, investigation, and approval.
- (8) The Commission may grant, deny, limit, restrict, or condition a request made pursuant to this rule, and may revoke, suspend, or modify any approval granted under this rule.
- (9) The Commission shall notify all Sports Wagering Operators of any changes to authorized Sporting Events and Wager Categories.
- (10) The Commission may prohibit the acceptance of any Sports Wagers, and may order the cancellation of Sports Wagers and require refunds on any Sporting Event or Wager Category, for which wagering would be contrary to the interests of the Commonwealth.
- (11) If a Sports Wagering Operator offers an unauthorized or prohibited Sporting Event or Wager Category, the Sports Wagering Operator must immediately cancel and refund all Sports Wagers associated with the unauthorized or prohibited Sporting Event or Wager Category. The Sports Wagering Operator must notify the Commission promptly after cancelling and refunding the Sports Wagers.
- (12) The Commission may use any information it considers appropriate, including, but not limited to, information received from a Sports Governing Body, in determining whether to authorize or prohibit wagering on a particular Sporting Event or Wager Category.

247.04: Prohibiting Wagers for Good Cause

- (1) Pursuant to M.G.L. c. 23N, § 11(b), a Sports Governing Body, equivalent organization, as authorized by the Commission, or related Players Association may

request in writing that the Commission restrict, limit or exclude a certain type, form or category of Sports Wagering with respect to Sporting Events of the Sports Governing Body, if the Sports Governing Body or Players Association believes that such type, form or category of Sports Wagering with respect to Sporting Events of the Sports Governing Body:

- (a) Is contrary to public policy;
  - (b) Is unfair to patrons;
  - (c) May undermine the perceived integrity of the Sports Governing Body, Sporting Events of the Sports Governing Body, or the athletes participating therein; or
  - (d) Affects the integrity of the Sports Governing Body, Sporting Events of the Sports Governing Body, or the athletes participating therein.
- (2) The request must be submitted in the form and manner prescribed by the Commission and must include, at a minimum, all of the following:
- (a) The identity of the requestor, and contact information for at least one individual who shall be the primary point of contact for questions related to the request;
  - (b) A description of the Sporting Event or Wager Category that is the subject of the request;
  - (c) Information explaining why the requestor believes the requirements of 205 CMR 247.04(1) are met; and
  - (d) Any other information required by the Commission.
- (3) The Commission shall grant the request upon good cause shown, or deny the request otherwise; provided, however, that if the Commission determines that the requestor is more likely than not to make a showing of good cause, the Commission may provisionally grant the request until the Commission makes a final determination as to whether the requestor has shown good cause.
- (4) If the request concerns a particular Sporting Event, it must be sent to the Commission at least ten days before the event, unless the request involves allegations of match-fixing, the manipulation of an event, misuse of inside information, or other prohibited activity, in which case it must be sent to the Commission as soon as is reasonably practical.
- (5) The Commission shall grant or deny any request concerning a particular Sporting Event, received at least ten days before the event, before the event. Otherwise, the Commission shall grant or deny any request within fourteen days;
- (6) Upon receiving a complete request under 205 CMR 247.04(1), the Commission shall request comment from Sports Wagering Operators on all such requests in writing. The request shall include the date by which any written responses must be submitted to the Commission. All Sports Wagering Operators must be given an opportunity which is reasonable under all the circumstances to respond to the request.
- (7) A Sports Wagering Operator may continue to offer Sports Wagering on any Sporting Event that is the subject of a request until the Commission provisionally grants or grants the request.

247.05: Data Sources and Official League Data

- (1) Except as otherwise provided in 205 CMR 247.05, a Sports Wagering Operator may use any licensed data source to determine the results of all tier 1 Sports Wagers and tier 2 Sports Wagers, subject to all of the following conditions:

- (a) The data source and corresponding data must be complete, accurate, reliable, timely, and available.
  - (b) The data source must be appropriate to settle the types of events and types of wagers for which it is used.
  - (c) The data is not obtained directly or indirectly from live event attendees who collect the data in violation of the terms of admittance to an event, or through automated computer programs that compile data from the Internet in violation of the terms of service of any website or other Internet platform.
  - (d) The proprietor or manager of any data source that provides data directly to a Sports Wagering Operator must be licensed by the Commission as a Sports Wagering Vendor.
  - (e) The data source and corresponding data must meet any other conditions set by the Commission.
- (2) A Sports Wagering Operator shall report to the Commission the data source that it uses to resolve Sports Wagers. The Commission may disapprove of a data source for any reason.
- (3) In accordance with M.G.L. c. 23N, § 4(c)(i), a Sports Wagering Operator shall not purchase or use any personal biometric data.
- (4) A Sports Governing Body headquartered in the United States may notify the Commission that it desires Sports Wagering Operators to use official league data to settle tier 2 Sports Wagers on the Sports Governing Body's Sporting Events. The notification shall be made in the form and manner required by the Commission and must include, at a minimum, all of the following:
- (a) Identification information for the Sports Governing Body;
  - (b) Identification and contact information for at least one specific individual who will be the primary point of contact for issues related to the provision of official league data and compliance with the act and these rules;
  - (c) Identification and contact information for any designees that are or will be expressly authorized by the Sports Governing Body to provide official league data in Massachusetts;
  - (d) Copies of any contracts relevant to the provision of official league data in Massachusetts, including all of the following:
    1. Copies of any contracts between the Sports Governing Body and any designees that are or will be expressly authorized by the Sports Governing Body to provide official league data in Massachusetts; and
    2. Copies of any contracts between the Sports Governing Body or its designees and Sports Wagering Operators in Massachusetts;
    3. A description of the official league data the Sports Governing Body desires to provide; and
  - (e) Any other information required by the Commission.
- (5) A Sports Governing Body may not submit a notification under 205 CMR 247.05(4) unless the Commission has authorized Sports Wagering Operators to accept tier 2 wagers on athletic events of the Sports Governing Body.
- (6) Within 5 days of receipt of the notification, the Commission shall notify each Sports Wagering Operator of the requirement to use official league data to settle tier 2

Sports Wagers. If a Sports Governing Body does not notify the Commission of its desire to supply official league data, a Sports Wagering Operator may use any data source for determining the results of any and all tier 2 Sports Wagers on Sporting Events of the Sports Governing Body.

- (7) Within 60 days of the Commission issuing a notification pursuant to 205 CMR 247.05(4), or such longer period as may be agreed between the Sports Governing Body and the applicable Sports Wagering Operator, a Sports Wagering Operator shall use only official league data to determine the results of tier 2 Sports Wagers on Sporting Events of that Sports Governing Body, unless:
- (a) The Sports Governing Body or its designee cannot provide a feed of official league data to determine the results of a particular type of tier 2 Sports Wager, in which case a Sports Wagering Operator may use any data source for determining the results of the applicable tier 2 Sports Wager until such time a data feed becomes available from the Sports Governing Body on commercially reasonable terms and conditions; or
  - (b) A Sports Wagering Operator can demonstrate to the Commission that the Sports Governing Body or its designee will not provide a feed of official league data to the Sports Wagering Operator on commercially reasonable terms and conditions.
- (8) In evaluating whether official league data is offered on commercially reasonable terms and conditions for purposes of 205 CMR 247.05(7)(a), the Commission may consider:
- (a) The availability of official league data to a Sports Wagering Operator from more than one authorized source and whether it is offered under materially different terms;
  - (b) Market information, including, but not limited to, price and other terms and conditions of Sports Wagering Operators' purchases of comparable data in the Commonwealth and other jurisdictions;
  - (c) The characteristics of the official league data and any alternate data sources, including:
    1. The nature, quantity, quality, integrity, completeness, accuracy, reliability, availability, and timeliness of the data;
    2. The quality, complexity, integrity, and reliability of the process used to collect the data; and
    3. Any other characteristics the Commission deems relevant;
  - (d) The availability and cost of comparable data from other authorized data sources;
  - (e) Whether any terms of the contract or offer sheet are uncompetitive in nature, are economically unfeasible, or otherwise unduly burden the Sports Wagering Operator; and
  - (f) Any other factors the Commission deems relevant.
- (9) Notwithstanding 205 CMR 247.05(7) or any provision of 205 CMR 247.05 to the contrary, during the pendency of the determination of the Commission as to whether a Sports Governing Body or its designee may provide official league data on commercially reasonable terms, a Sports Wagering Operator may use any data source to determine the results of tier 2 Sports Wagers. The determination shall be made within 120 days of the Sports Wagering Operator notifying the Commission that it requests to demonstrate that the Sports Governing Body or its designee will not provide a feed of official league data to the Sports Wagering Operator on commercially reasonable terms.

- (10) The Commission shall maintain, and may publish, a list of all Sports Governing Bodies that provide official league data under 205 CMR 247.05.
- (11) At any time, a Sports Governing Body may give written notification to the Commission and all Sports Wagering Operators to which the Sports Governing Body or its designee provides official league data that the Sports Governing Body intends to stop providing official league data. The written notification shall specify in the date on which the Sports Governing Body shall stop providing official league data. Said date shall be no fewer than seven days later than the date of the written notification. On receipt of the written notification, a Sports Wagering Operator may use any data source that meets the requirements of 205 CMR 247.05(1) to determine the results of tier 2 Sports Wagers on athletic events of the Sports Governing Body.
- (12) If a Sports Governing Body does not notify the Commission of its desire to supply official league data under 205 CMR 247.05, a Sports Wagering Operator may use any data source that meets the requirements of 205 CMR 247.05(1) for determining the results of any and all tier 2 Sports Wagers on Sporting Events of the Sports Governing Body.
- (13) A Sports Governing Body may enter into commercial agreements with a Sports Wagering Operator or other entity in which such Sports Governing Body may share in the amount wagered or revenues derived from Sports Wagering on Sporting Events of the Sports Governing Body. A Sports Governing Body shall not be required to obtain a license or any other approval from the Commission to lawfully accept such amounts or revenues.

247.06: Sports Wagering Tournaments/Contests/Pool

- (1) No Sports Wagering tournament, contest, or pool shall be conducted unless the Sports Wagering Operator, before the first time a given type of tournament, contest, or pool is offered, files a written request with the Commission to offer that type of tournament, contest, or pool, and the Commission grants the request.
- (2) The request must provide a detailed description of the type of tournament, contest, or pool and must include the rules of the tournament, contest, or pool, the requirements for entry, the entry fees, the rake, and potential payouts. The request must also indicate whether or not the proposed type involves a shared liquidity pool available to patrons in Massachusetts and other jurisdictions with the prize pool comprising entry fees collected from patrons in multiple jurisdictions.
- (3) Once a Sports Wagering Operator receives approval to offer a type of tournament, contest, or pool, the Sports Wagering Operator shall not be required to seek additional approvals from the Commission for each subsequent type that has only variations to the size, number of entries permitted, entry fee, or prize structure, or other minor variations as allowed by the Commission.
- (4) Each Sports Wagering Operator must maintain a record of each tournament, contest, or pool it offers, which must address, at a minimum, all of the following:
  - (a) Name or identification of the tournament, contest, or pool;
  - (b) The date and time the tournament, contest, or pool occurred or will occur (if known);
  - (c) Relevant Sporting Events and Wager Categories;
  - (d) Rules concerning play or participation in the tournament, contest, or pool;
  - (e) For each registered patron:
    1. The patron's unique identifier;

2. The amount of entry fees collected from the patron, including any Promotional Gaming Credits, and the date collected;
  3. The patron's scorings/rankings; and
  4. Any payouts to the patron, including any Promotional Gaming Credits, and the date paid;
- (f) Total rake, Commission, or fees collected;
  - (g) Funding source amount or amounts comprising the prize pool, including buy-ins, re-buys, or add-ons;
  - (h) Prize structure of payouts;
  - (i) The methodology for determining winner or winners; and
  - (j) The current status of the tournament, contest, or pool.
- (5) The Sports Wagering Operator's rake collected from patrons located within the Commonwealth who enter a tournament, contest, or pool (less any rake adjustment, if applicable), is Sports Wagering revenue subject to all taxes and tax requirements outlined in 205 CMR 240: *Sports Wagering Revenue Tax Remittance and Reporting*, and:
- (a) At no time shall the calculation resulting from a rake or rake adjustment be negative; and
  - (b) For a tournament, contest, or pool which utilizes shared liquidity available to patrons in Massachusetts and other jurisdictions, the rake rate must be the same for all jurisdictions participating.

247.07: Acceptance of Sports Wagers

- (1) Available Sports Wagers must be displayed to the public. The display must include the odds and a brief description of the Sporting Event and wagering proposition.
- (2) A Sports Wagering Operator may not accept a Sports Wager on a Sporting Event unless the availability of that Wager is posted in accordance with 205 CMR 247.07(1).
- (3) A Sports Wagering Operator may not set lines or odds or offer wagering propositions designed for the purposes of ensuring that a patron will win a Sports Wager or a series of Sports Wagers, unless the lines, odds, or wagering propositions are offered in connection with a promotional offer made in accordance with 205 CMR 247.09.
- (4) Sports Wagers may only be placed from:
  - (a) A sports wagering counter or other counter locations within a Sports Wagering Facility or Sports Wagering Area as approved by the Commission;
  - (b) A Sports Wagering Kiosk, within a Sports Wagering Facility or Sports Wagering Area and in a location approved by the Commission;
  - (c) A designated counter in the cashier's cage within a Sports Wagering Facility or Sports Wagering Area for the redemption of winning sports wagering tickets or vouchers; or
  - (d) A mobile application or digital platform approved by the Commission.
- (5) Sports wagers within a Sports Wagering Facility or Sports Wagering Area may only be conducted with chips, tokens, electronic cards, or:

- (a) Cash or cash equivalents;
  - (b) Foreign currency and coin converted to US currency;
  - (c) Digital, crypto and virtual currencies converted to cash;
  - (d) Electronic funds transfers (EFTs), including online and mobile payment systems;
  - (e) Debit instruments, including debit cards and prepaid access instruments;
  - (f) Promotional gaming credits;
  - (g) Winning sports wagering tickets or vouchers;
  - (h) Sports Wagering Accounts; or
  - (i) Any other means approved by the Commission or its designee.
- (6) Sports wagering transactions using a mobile application or other digital platform may only be conducted by a patron physically located within the Commonwealth, using their Sports Wagering Account.
- (7) A Sports Wagering Operator shall prohibit any use of credit cards in placing Sports Wagers.
- (8) A Sports Wagering Operator shall record the personally identifiable information required to register for a Sports Wagering Account under 205 CMR 248.03(1) before accepting anonymous Sports Wagers in excess of \$10,000 or issuing payouts on anonymous Sports Wagers in excess of \$10,000.
- (a) The Sports Wagering Operator shall not knowingly allow, and shall take reasonable steps to prevent, the circumvention of reporting requirements through a patron making a structured, including multiple Sports Wagers or a series of Sports Wagers that are designed to accomplish indirectly that which could not be accomplished directly. A Sports Wager or wagers need not exceed the dollar thresholds at any single Sports Wagering Operator in any single day in order to constitute prohibited structuring.
  - (b) The Sports Wagering Operator shall not knowingly assist, encourage or instruct a player in structuring or attempting to structure Sports Wagers.
  - (c) 205 CMR 247.07(8) does not prohibit a Sports Wagering Operator from informing a player of the regulatory requirements imposed upon the Sports Wagering Operator, including the definition of structured Sports Wagers.
- (9) A Sports Wagering Operator must provide for the patron's review and finalization of a Sports Wager before the Sports Wagering Operator accepts it. Neither the patron nor the Sports Wagering Operator shall change a Sports Wager after the patron has reviewed and finalized the wager.
- (10) A Sports Wagering Operator may, in its discretion, cancel an accepted Sports Wager for an obvious error. An obvious error must be defined in the system of internal controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02.
- (11) Except as otherwise provided in 205 CMR 238.51: *Cancelled or Void Wagers*, a Sports Wagering Operator may not unilaterally cancel an accepted Sports Wager without prior written approval of the Commission. A Ticket Writer, as defined in 205 CMR 238.01, may not cancel a Sports Wager for which the Ticket Writer assisted the patron for wager placement and must instead call a supervisor to cancel the Sports Wager.
- (12) A Sports Wagering Operator shall have no obligation to accept a Sports Wager if unable to do so due to equipment failure.



247.08: Minimum and Maximum Wagers; Additional Wagering Requirements

- (1) Unless otherwise directed by the Commission, there is no limitation as to the minimum or maximum wager a Sports Wagering Operator may accept. This rule does not preclude a Sports Wagering Operator from establishing its own minimum or maximum wagers or limiting a patron's Sports Wager for reasons considered necessary or appropriate by the Sports Wagering Operator.
- (2) A Sports Wagering Operator shall provide notice of the minimum and maximum wagers in effect for each Sporting Event or Wager Category and any changes thereto in accordance with 205 CMR 247.03(3).
- (3) Notwithstanding 205 CMR 247.08(2), a Sports Wagering Operator may, in its discretion, permit a player to wager below the established minimum wager or above the established maximum wager unless otherwise directed by the Commission.
- (4) Nothing in 205 CMR 247.08 shall preclude a Sports Wagering Operator from establishing additional wagering requirements that are consistent with the House Rules, provided that the Sports Wagering Operator satisfies the notice requirements of 205 CMR 247.03(3).

247.09: Promotional Offers

- (1) A Sports Wagering Operator must maintain a record of all promotional offers related to Sports Wagering. For each promotional offer, the Operator must document, at a minimum, the following:
  - (a) The name or identification of the promotional offer;
  - (b) The terms of the promotional offer, as specified in 205 CMR 247.09(2);
  - (c) The date(s) and time(s) the promotional offer was or is scheduled to be available;
  - (d) The date and time the promotional offer was or is scheduled to become discontinued; and
  - (e) The current status of the Promotional offer.
- (2) Sports Wagering Operators shall fully and accurately disclose the material terms of all promotional offers at the time such offers are advertised, and provide full disclosures of the terms of and limitations on the offer before the patron provides anything of value in exchange for the offer. If the material terms of a promotional offer cannot be fully and accurately disclosed within the constraints of a particular advertising medium, the promotional offer may not be advertised in that medium. The terms disclosed according to this 205 CMR 247.09(2) must include, at a minimum, all of the following:
  - (a) The date and time advertisements for the offer are being presented;
  - (b) The date(s) and time(s) the offer is available;
  - (c) The date and time the offer becomes discontinued;
  - (d) Any requirements for a patron to be eligible;
  - (e) Any associated restriction on withdrawals of funds;
  - (f) Wagering requirements and limitations on Sporting Events or Wager Categories;
  - (g) How the patron will be notified when they have received an award;
  - (h) The order in which funds are used for wagers;

- (i) Eligible Sporting Events or Wager Categories; and
  - (j) Rules regarding cancellation.
- (3) No promotional offer available to new patrons may contain terms that delay its full implementation by the Sports Wagering Operator for a period of longer than ninety (90) days, regardless of the amount of Sports Wagering in that period by the patron.
  - (4) A Sports Wagering Operator must provide a clear and conspicuous method for a patron to cancel their participation in a bonus or promotional offer that utilizes restricted wagering credits that cannot be cashed out until a wagering requirement or other restrictions associated with the credits is met:
    - (a) Upon request for cancellation, the Sports Wagering Operator shall inform the patron of the amount of unrestricted funds that will be returned upon cancellation and the value of restricted wagering credits that will be removed from the Sports Wagering Account; and
    - (b) If a patron elects to proceed with cancellation, unrestricted funds remaining in a patron's Sports Wagering Account must be returned according to the terms of a promotional offer.
  - (5) Once a patron has met the terms of a promotional offer, a Sports Wagering Operator must not limit payouts earned while participating in the offer.

247.10: Exchange Wagering and Other Peer-to-Peer Wagering

- (1) Prior to offering exchange wagering or other peer-to-peer wagering, a Sports Wagering Operator must obtain approval from the Commission. The rake taken on such wagers shall be considered Sports Wagering revenue and is subject to all taxes and tax requirements outlined in 205 CMR 240: *Sports Wagering Revenue Tax Remittance and Reporting*.
- (2) One or more Sports Wagering Operators may, with prior approval of the Commission, participate in a sports wagering network in accordance with a written agreement that has been executed by each Sports Wagering Operator. The agreement shall:
  - (a) Designate the party responsible for the operation and administration of the network;
  - (b) Identify and describe the role, authority, and responsibilities of each participating Sports Wagering Operator and, if applicable, any Sports Wagering Vendor;
  - (c) Include a description of the process by which significant decisions that affect the operation of the network are approved and implemented by each Sports Wagering Operator; and
  - (d) Allocate the gross sports wagering receipts and tax liability between the participating Sports Wagering Operators to ensure the accurate reporting thereof.
- (3) Each party to an agreement to participate in a sports wagering network shall be jointly and severally liable for any acts or omissions in violation of M.G.L. c. 23N, 205 CMR, or the policies of the Commission.



**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 247 UNIFORM STANDARDS OF SPORTS WAGERING**.

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 parameters for permissible sports wagers in the Commonwealth.

The regulation 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  
By:

/s/ Carrie Torrissi  
Carrie Torrissi, Deputy General Counsel

Dated: December 15, 2022

DRAFT



Massachusetts Gaming Commission



*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  
Mina Makarious, Anderson & Krieger  
Paul Kominers, Anderson & Krieger

DATE: December 15, 2022

RE: 205 CMR 248: Sports Wagering Account Management

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Enclosed for the Commission's review is a proposed regulation, 205 CMR 248, governing management of Sports Wagering accounts, whether created and used at Sports Wagering Facilities or on Sports Wagering Platforms. The regulation includes the following provisions:

- 248.01 sets the basic rules regarding Sports Wagering Accounts, including that they may only be established in the name of the patron and are not transferable.
- 248.02 permits an Operator to refuse to open a Sports Wagering Account, accept a wager, or accept a deposit, including because a potential patron is on a self-exclusion list or is prohibited from Sports Wagering under G.L. c. 23N or 205 CMR.
- 248.03 and 248.04 provide the details on account registration, including how information is collected and verified.
- 248.05 limits accounts to one per patron.
- 248.06 requires disclosure of terms and conditions of accounts, as well as the Operator's privacy policies.
- 248.07 explains how patrons may access accounts.
- 248.08 - 248.14 provide details on the financial management of an account, including how withdrawals and credits are made.
- 248.15 requires the Operator to maintain records of all account transactions.



Massachusetts Gaming Commission

- 248.16 provides that patrons must be permitted to set self-imposed limitations on their account including deposit and wager limits.
- 248.17 provides the conditions under which an account may be suspended by a patron, the Commission, or an operator. It also provides a method for restoring account access.
- 248.18 provides that an Operator must allow a patron to close an account.
- 248.19 includes applicable provisions regarding abandoned funds in an account and dormant accounts, which track state law with respect to abandoned property

## 205 CMR 248.00: SPORTS WAGERING ACCOUNT MANAGEMENT

248.01:	General Account Wagering
248.02:	Account Refusals
248.03:	Account Registration
248.04:	Age and Identity Verification
248.05:	Limitation to One Account Per Patron
248.06:	Terms and Conditions and Privacy Policies
248.07:	Account Access
248.08:	Sufficient Account Balance
248.09:	Financial Transactions
248.10:	Account Deposits
248.11:	Failed Electronic Funds Transfers (EFTs)
248.12:	Account Withdrawals
248.13:	Account Adjustments
248.14:	Account Credits
248.15:	Account Records and Statements
248.16:	Responsible Gaming Limits
248.17:	Account Suspension and Restoration
248.18:	Account Closure
248.19:	Abandoned Funds and Dormant Accounts

248.01: General Account Wagering

- (1) A Sports Wagering Operator may offer a system of account wagering to its patrons whereby Wagers are debited from and payouts credited to a sum of money, deposited in a Sports Wagering Account by the patron held by the Sports Wagering Operator.
- (2) A Sports Wagering Account may only be established in the name of a patron and is not transferable.
- (3) A Person may only place a Wager through a mobile application or other digital platform using funds from a Sports Wagering Account.
- (4) No Sports Wagering Operator may charge any fee to maintain or administer any Sports Wagering Account.

248.02: Account Refusals

A Sports Wagering Operator may reserve the right to, at any time, refuse to open a Sports Wagering Account, accept a wager, or accept a deposit. The Sports Wagering Operator shall not establish or maintain an account for any Person who has self-excluded or otherwise been excluded from Sports Wagering pursuant to M.G.L. c. 23N, § 13(e) or 205 CMR.

248.03: Account Registration

- (1) Any Person registering for a Sports Wagering Account shall provide personally identifiable information to the Sports Wagering Operator. That information shall include, at a minimum, the following:
  - (a) Full legal name;
  - (b) Date of birth;
  - (c) Physical address of the Person's principal residence, which address shall not be a post office box;
  - (d) Social Security Number, or the last four (4) digits of the Social Security Number, or an equivalent Federal Identification Number for a noncitizen patron, such as a passport or taxpayer identification number; and
  - (e) Any other information sufficient to verify the registrant's identity and to prove the registrant is at least twenty-one (21) years of age.
- (2) During the registration process, the registrant shall:

- (a) Not be permitted to register for a Sports Wagering Account if they submit a birth date which indicates that they are under the age of twenty-one (21);
  - (b) Be informed on the account application which information fields are “require,” which are not, and the consequences of not filling in the “required”;
  - (c) Be required to agree to the terms and conditions and privacy policies of the Sports Wagering Operator;
  - (d) Be required to acknowledge that they are prohibited from allowing any other person to access or use their Sports Wagering Account;
  - (e) Be required to consent to the monitoring and recording of the use of their Sports Wagering Account by the Sports Wagering Operator and the Commission; and
  - (f) Be required to affirm that the personally identifiable information provided in accordance with 205 CMR 248.03(1) is accurate.
- (3) For each Sports Wagering Account, the Sports Wagering Operator must establish and maintain an electronic patron file, which must, at a minimum, include the following for each patron:
- (a) Unique patron ID and, if different from the patron ID, the patron’s username;
  - (b) The information provided in accordance with 205 CMR 248.03(1) to register the patron and create the Sports Wagering Account;
  - (c) The date and method of identity verification, including, where applicable, the document number of the government issued identification credential examined and its date of expiration, if applicable, or, if a government issued identification credential is not required for registration, the electronic record documenting the process used to confirm the patron’s identity;
  - (d) The date of the patron’s agreements to the terms and conditions and privacy policies in 205 CMR 248.06;
  - (e) Account details and current balance, including any incentive credits, provided, that all restricted wagering credits and unrestricted funds that may expire shall be maintained separately;
  - (f) The date on, and method by which, the Sports Wagering Account was registered;
  - (g) Every date on, time at which, and IP address from which the Sports Wagering Account is accessed; and
  - (h) The current status of the Sports Wagering Account (e.g., active, dormant, closed, suspended, excluded, etc.).
- (4) The following information maintained as part of the electronic patron file shall be stored in encrypted form:
- (a) The patron’s social security number, taxpayer identification number, passport number, other government identification number(s), or portion(s) thereof;
  - (b) The patron’s password(s), PIN(s), or other authentication credential(s); and
  - (c) The patron’s debit instrument number(s), debit card number(s), bank account number(s) or other personal financial information.

248.04: Age and Identity Verification

- (1) No Sports Wagering Operator shall allow any individual who is either under twenty-one (21) years of age, or is a prohibited person, as defined in 205 CMR 238.49, to create a Sports Wagering Account. This section shall not be construed to prevent a restricted patron, as defined in 205 CMR 238.48, from creating a Sports Wagering Account and depositing funds to such an account.



- (2) The Sports Wagering Operator shall employ electronic verification with respect to each patron's name, date of birth and Social Security number, or the last four (4) digits of the Social Security number, or other Federal Identification Number, at the time of account establishment, by a Commission-approved national independent reference company or another independent technology approved by the Commission which meets or exceeds the reliability, security, accuracy, privacy and timeliness provided by individual reference service companies.
- (3) The Sports Wagering Operator shall refuse to establish an account if it finds that any of the information supplied is untrue or incomplete.
- (4) A Sports Wagering Operator must document and use commercially reasonable standards to confirm that an individual attempting to create a Sports Wagering Account is not a prohibited Person.
- (5) Upon developing reasonable suspicion that the patron's identification has been compromised, a Sports Wagering Operator must re-verify the patron's identification within a reasonable time.

#### 248.05: Limitation to One Account per Patron

- (1) No Sports Wagering Operator shall allow a patron to establish more than one username or more than one Sports Wagering Account with the Operator.
- (2) The system of internal controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238 shall implement procedures to terminate all accounts of any patron that establishes or seeks to establish more than one account, whether directly or by use of another Person as proxy. Such procedures may allow a patron that establishes or seeks to establish more than one username or more than one account to retain one account provided that the Sports Wagering Operator investigates and makes a good-faith determination that the patron's conduct was not intended to obtain a competitive advantage.

#### 248.06: Terms and Conditions and Privacy Policies

- (1) All terms and conditions and privacy policies for Sports Wagering Accounts shall be readily accessible to the patron before and after registration. Sports Wagering Operators shall inform patrons of any material changes or updates to said terms and conditions or privacy policies.
- (2) All terms and conditions for Sports Wagering Accounts must address all aspects of the Sports Wagering operation, including, but not limited to all of the following:
  - (a) A statement that only individuals over the age of twenty-one (21) and located in the authorized geographic boundaries within the Commonwealth may participate in Sports Wagering;
  - (b) Advice to the patron to keep their authentication credentials secure;
  - (c) All processes for dealing with lost authentication credentials, forced password changes, password strength and other related items as required by the Commission;
  - (d) Full explanation of all rules applicable to dormant Sports Wagering Accounts, including the conditions under which an account may be declared dormant and what actions will be undertaken on the account once this declaration is made;
  - (e) Actions that will be taken on the patron's pending wagers placed prior to any exclusion or suspension, including the return of all wagers, or settling all wagers, as appropriate;
  - (f) Information about timeframes and limits regarding deposits to, or withdrawals from, the Sports Wagering Account, including a clear and concise explanation of all fees, if applicable; and
  - (g) Statements indicating that the Sports Wagering Operator has the right to:

1. Refuse to establish a Sports Wagering Account for what it deems good and sufficient reason;
  2. Refuse deposits to, or withdrawals from, Sports Wagering Accounts for what it deems good and sufficient reason; and
  3. Unless there is a pending investigation or patron dispute, suspend or close any Sports Wagering Account at any time, provided such suspension or closure is in accordance with the terms and conditions between the Sports Wagering Operator and the patron, G.L. c. 23N, and 205 CMR.
- (3) All privacy policies for Sports Wagering Accounts must address all aspects of the personally identifiable information protection, including, at a minimum any measures required by M.G.L. c. 93H and any other applicable law, and the following:
- (a) The personally identifiable information required to be collected;
  - (b) The purpose and legal basis for personally identifiable information collection and of every processing activity for which consent is being sought;
  - (c) The period in which the personally identifiable information is stored, or, if no period can be possibly set, the criteria used to set this. It is not sufficient for the Sports Wagering Operator to state that the personally identifiable information will be kept for as long as necessary for the legitimate purposes of the processing;
  - (d) The conditions under which personally identifiable information may be disclosed;
  - (e) An affirmation that measures are in place to prevent the unauthorized or unnecessary disclosure of the personally identifiable information; and
  - (f) The identity and contact details on the Sports Wagering Operator who is seeking the consent, including any Sports Wagering Vendor(s) which may access and or use this personally identifiable information;
  - (g) That the patron has a right to:
    1. Access, export, or transfer their personally identifiable information;
    2. Rectify, erase, or restrict access to their personally identifiable information;
    3. Object to the personally identifiable information processing;
    4. To withdraw consent, if the processing is based on consent;
  - (h) The rights of a patron to file a complaint concerning the use or storage of the patron's personally identifiable information to the Commission, the Office of Consumer Affairs and Business Regulation, the Office of the Attorney General, or any other law enforcement entity regarding the use of the of the patron's personally identifiable information;
  - (i) For personally identifiable information collected directly from the patron, whether there is a legal or contractual obligation to provide the personally identifiable information and the consequences of not providing that information;
  - (j) Where applicable, information on the Sports Wagering Operator's use of automated decision-making, including profiling, and at least in those cases, without hindering compliance with other legal obligations:
    1. Sufficient insight into the logic of the automated decision-making;
    2. The significance and the envisaged consequences of such processing for the patron; and

3. Safeguards in place around solely automated decision-making, including information for a patron on how to contest the decision and to require direct human review or intervention.

#### 248.07: Account Access

- (1) Upon opening a Sports Wagering Account, the Sports Wagering Operator shall allow each patron to establish a password to be used in conjunction with a username, or an alternative secure authentication credential, for use by the patron to assure that only the patron has access to the Sports Wagering Account. The Operator may make more than one permitted method of authentication available for a patron to access their account.
- (2) If the system does not recognize the authentication credentials when entered, an explanatory message shall be displayed to the patron which prompts the patron to try again. The error message shall be the same regardless of which authentication credential is incorrect.
- (3) A multi-factor authentication process shall be employed for the retrieval or reset of a patron's forgotten authentication credentials.
- (4) Current account balance information, including any restricted wagering credits and unrestricted funds, and transaction options shall be available to the patron once the patron has been authenticated. All restricted wagering credits and unrestricted funds that may expire shall be identified separately.
- (5) The Operator shall employ a mechanism allowing for an account to be locked in the event that suspicious authentication activity is detected, including (but not limited to) three consecutive failed access attempts in a thirty-minute period. A multi-factor authentication process shall be employed for the account to be unlocked.

#### 248.08: Sufficient Account Balance

Wagers and withdrawals will not be accepted which would cause the available balance of a Sports Wagering Account to fall below \$0. Any account not updated when a transaction is completed shall be inoperable until the transaction is posted and the account balance updated.

#### 248.09: Financial Transactions

Operators shall provide a patron written confirmation or denial of every financial transaction initiated using the patron's Sports Wagering Account, including:

- (a) The type of transaction (deposit/withdrawal);
- (b) The transaction value; and
- (c) For denied transactions, a descriptive message as to why the transaction did not complete as initiated.

#### 248.10: Account Deposits

- (1) A Sports Wagering Account may be funded using approved methods which shall produce a sufficient audit trail for verification of the source of the wagers.
- (2) Approved methods for funding Sports Wagering Accounts include:
  - (a) Cash or cash equivalents;
  - (b) Foreign currency and coin converted to US currency;
  - (c) Digital, crypto and virtual currencies converted to cash;
  - (d) Electronic funds transfers (EFTs), including online and mobile payment systems;
  - (e) Debit instruments, including debit cards and prepaid access instruments;

- (f) Promotional Gaming Credits;
  - (g) Sports Wager Payouts;
  - (h) Adjustments made by the Sports Wagering Operator with documented notification to the patron; and
  - (i) Any other means approved by the Commission or its designee.
- (3) No deposits may be made by credit card, either directly or indirectly, including without limitation through an account funded by credit card, and no Wagering on credit is allowed.
  - (4) The Sports Wagering Account shall be credited for any deposit in accordance with the system of internal controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.
  - (5) The proceeds of a check may first need banker's clearance. Holding periods will be determined by the Sports Wagering Operator and communicated to the patron.
  - (6) For debit cards and EFTs, the patron may be liable for any charges imposed by the transmitting or receiving Sports Wagering Operator. Such charges may be deducted from the patron's Sports Wagering Account.

#### 248.11: Failed Electronic Funds Transfers (EFTs)

- (1) The Sports Wagering Operator shall have security measures and controls to prevent EFT fraud where financial transactions are conducted through EFT. A failed EFT attempt is not considered fraudulent if the patron has successfully performed an EFT on a previous occasion and has no outstanding chargebacks. Otherwise, the Sports Wagering Operator shall:
  - (a) Temporarily block the patron's Sports Wagering Account for investigation of fraud after five (5) consecutive failed EFT attempts within a ten-minute period. If there is no evidence of fraud, the block may be vacated; and
  - (b) Suspend the patron's Sports Wagering Account after five (5) additional consecutive failed EFT attempts within any subsequent ten-minute period.

#### 248.12: Account Withdrawals

- (1) The Sports Wagering Operator shall implement procedures that:
  - (a) Prevent unauthorized withdrawals from Sports Wagering Accounts by the Sports Wagering Operator or others;
  - (b) Establish a protocol by which patrons can withdraw funds maintained in their Sports Wagering Accounts, whether such accounts are open or closed, except as otherwise provided in 205 CMR, or any other applicable state, local or federal law.
- (2) Pursuant to M.G.L. c. 23N, § 4(d)(2)(vi), a patron must be allowed to withdraw the funds maintained in his or her Sports Wagering Account, without further solicitation or promotion in the manner in which the funds were deposited.
- (3) A Sports Wagering Operator must employ a mechanism that can detect and prevent any withdrawal activity initiated by a patron that would result in a negative balance of the Sports Wagering Account.
- (4) A Sports Wagering Operator shall not allow a Sports Wagering Account to be overdrawn unless caused by payment processing issues outside the control of the Sports Wagering Operator.
- (5) Except as otherwise provided in 205 CMR 248.12(5)(a), requests for withdrawals must be honored by the later of five (5) business days of the request or ten (10) business days of submission of any tax reporting paperwork required by law.

- (a) If the Sports Wagering Operator believes in good faith that the patron engaged in either fraudulent conduct or other conduct that violate or would put the Sports Wagering Operator in violation of 205 CMR, the Sports Wagering Operator may decline to honor the request for withdrawal for a reasonable investigatory period until its investigation is resolved if it provides notice of the nature of the investigation to the patron.
  - (b) For purposes of the timing requirements of 205 CMR 248.12(5), a request for withdrawal will be considered honored if it is processed by the Sports Wagering Operator but delayed by a payment processor, debit card issuer or by the custodian of a financial account.
- (6) The Sports Wagering Operator shall not be liable for any unauthorized withdrawal of funds from a Sports Wagering Account where such unauthorized withdrawal is not caused by the negligence or intentional misconduct of the Sports Wagering Operator. It is the patron's responsibility to protect deposits in the account by keeping their authentication credentials strictly confidential.

#### 248.13: Account Adjustments

The Sports Wagering Operator shall perform periodic reviews of all adjustments to Sports Wagering Accounts for amounts of five hundred dollars or less by supervisory personnel. All adjustments of more than five hundred dollars must be authorized by supervisory personnel before being entered.

#### 248.14: Account Credits

When a Sports Wagering Account is entitled to a payout or refund, said monies will be credited to the respective account, thus increasing the credit balance. It is the responsibility of the patron to verify their balance and notify the Sports Wagering Operator of any discrepancy or dispute within the time frame specified in the terms and conditions. Unresolved disputes may be forwarded to the Commission by the Sports Wagering Operator or the patron. The Commission will consider no such claim unless submitted in writing and accompanied by supporting evidence.

#### 248.15: Account Records and Statements

The Sports Wagering Operator must maintain complete records of every deposit, withdrawal, wager, and payout for each Sports Wagering Account. In accordance with M.G.L. c. 23N, § 4(d)(2)(iv), upon request of the patron, the Sports Wagering Operator shall offer patrons access to a statement detailing their account history and account details for the past year.

#### 248.16: Responsible Gaming Limits

- (1) In accordance with M.G.L. c. 23N, § 13(e)(3), a Category 3 Sports Wagering Operator shall allow the patron to set self-imposed limitations on sports wagering at any time, including when the patron signs up for a Sports Wagering Account.
  - (a) The Operator must offer daily, weekly and monthly deposit limits, which shall specify the maximum amount of money a patron may deposit into his or her Sports Wagering Account during a particular period of time.
  - (b) The Operator must offer daily, weekly and monthly wager limits, which shall specify the maximum amount of patron funds that may be put at risk during a particular period of time.
- (2) Any decrease to these limits shall be effective immediately or at a point in time (e.g., next login, next day) that was clearly indicated to the patron. Any increase to these limits shall become effective only after the time period of the previous limit has expired, and the patron reaffirms the requested increase.

#### 248.17: Account Suspension and Restoration

- (1) A Sports Wagering Account shall be suspended under the following conditions:
  - (a) When requested by the patron for a specified period of time, which must not be less than seventy-two hours;

- (b) When required by the Commission;
  - (c) When a Sports Wagering Operator determines that the patron is a prohibited Person; or
  - (d) When a Sports Wagering Operator has evidence that indicates any of the following:
    - 1. That the account has been used for illegal activity;
    - 2. That the account has a negative balance; or
    - 3. That the patron has violated the account's terms and conditions.
- (2) When a Sports Wagering Account is suspended, the Sports Wagering Operator must do all of the following:
- (a) Prevent the patron from placing Sports Wagers;
  - (b) Prevent the patron from depositing funds unless the account is suspended due to having a negative Sports Wagering Account balance, but only to the extent the account balance is brought back to zero dollars;
  - (c) Prevent the patron from withdrawing funds from a Sports Wagering Account, unless the Sports Wagering Operator determines that the funds have cleared, and that the reason(s) for suspension would not prohibit a withdrawal;
  - (d) Prevent the patron from making changes to his or her Sports Wagering Account;
  - (e) Prevent the patron from permanently closing their Sports Wagering Account; and
  - (f) Prominently display to the patron that the Sports Wagering Account is suspended, the restrictions placed on the Sports Wagering Account, and any further course of action needed to lift the suspension.
- (3) A suspension may be lifted for any of the following reasons:
- (a) Upon expiration of the time period established by the patron;
  - (b) If authorized by the Commission;
  - (c) When the patron is no longer a prohibited Person; or
  - (d) When the Sports Wagering Operator has investigated the evidence of illegal activity, a negative account balance, or a violation of the account's terms and conditions, and determined that the suspension should be lifted.
- (4) Each Sports Wagering Operator shall, on a monthly basis, provide the Commission with a list of suspended accounts, including the reasons why the account is in suspended mode, and an explanation of the lifting of any suspension under 205 CMR 248.17(3)(d).

#### 248.18: Account Closure

The Sports Wagering Operator shall permit a patron to permanently close a Sports Wagering Account registered to the patron on any or all platforms owned or operated by the Sports Wagering Operator at any time and for any reason unless the account is in suspended mode pursuant to 205 CMR 248.17. The Sports Wagering Operator may also close a Sports Wagering Account when the patron makes repeated attempts to operate with an insufficient balance. Upon closing an account, the Sports Wagering Operator shall refund the remaining balance to the patron within five business days, provided that the Sports Wagering Operator acknowledges that the funds have cleared.

#### 248.19: Abandoned Funds and Dormant Accounts

- (1) Subject to the provisions of M.G.L. c. 200A, §§ 7 and 8A, and 960 CMR 4.00: *Procedures for the Administration of Abandoned Property*, the Sports Wagering Operator shall presume that the funds in any account without any activity for a period of three years after the balance in that account became payable or

deliverable to the patron to have been abandoned. For purposes of this 205 CMR 248.19(1), the term “activity” means Sports Wagers, deposits, or withdrawals.

- (2) The Sports Wagering Operator shall report and deliver all Sports Wagering Accounts presumed abandoned to the Treasurer of the Commonwealth as provided for by M.G.L. c. 200A, §§ 7 and 8A, and 960 CMR 4.03: *Reporting Abandoned Property*.
- (3) Subject to M.G.L. c. 200A, 7A and 960 CMR 4.03: *Reporting Abandoned Property*, at least 60 days prior to reporting any Sports Wagering Accounts to the Treasurer, the Sports Wagering Operator shall provide notice to the patron’s last known address and conduct reasonable due diligence to locate the patron. During this time period the account shall be deemed dormant. In addition, the Operator shall:
  - (a) Allow access to a dormant account only after performing additional identity verifications; and
  - (b) Protect dormant accounts that contain funds from unauthorized access, changes or removal.



## **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 248 SPORTS WAGERING ACCOUNT MANAGEMENT**.

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 requirements that Sports Wagering Operators must follow with respect to patron accounts.

The regulation 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/ Carrie Torrissi  
Carrie Torrissi, Deputy General Counsel

Dated: December 15, 2022

DRAFT



Massachusetts Gaming Commission



*Legal Division*

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

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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



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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





TO: Chair Judd-Stein, Commissioners O'Brien, Hill, Skinner and Maynard

FROM: Mark Vander Linden, Director of Research and Responsible Gaming,  
Dr. Bonnie Andrews, Research Manager

DATE: December 22, 2022

RE: Sports wagering studies

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At the open meeting on December, 9, 2022, the Research and Responsible Gaming Division presented for review research plans for two studies that are included in the 2022 Act to Regulate Sports Wagering (House Bill No. 5164), and M.G.L Chapter 23N:

- M.G.L. 23N Section 20: Research study examining the feasibility of allowing retail locations in the Commonwealth to operate sports wagering kiosks. The attached document outlines a comprehensive scope for research to be undertaken following a competitive procurement process beginning in January 2023.
- Act Regulating Sports Wagering, Section 25: A research study on the participation by minority business enterprises, women business enterprises, and veteran business enterprises in the sports wagering industry in the Commonwealth. The attached document outlines a comprehensive scope of research that can be undertaken after the launch of sports wagering in the Commonwealth, and sufficient time has passed to assess the industry.

Following feedback from the Commissioners received at this meeting, the Research and Responsible Gaming Division has made requested edits to the documents (detailed in the table below) and have attached revised versions of each research plan.

Below are the requested changes from the Commissioners and the responses to those changes.

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**Research plan for a prospective study of the feasibility and impact of sports wagering kiosks in retail locations**

Comment	Response from RRG Division
Are veterans' facilities or organizations (or fraternal organizations) included among the	Added: Methodology should include consultation with retailers, convenience stores, restaurants, <a href="#">applicable business</a>

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Massachusetts Gaming Commission

retail locations discussed in this document?  
(B. Hill)

associations, veterans' organizations, fraternal organizations, the MGC Investigations and Enforcement Bureau, women and minority owned businesses, small business owners, experts from the Massachusetts Lottery, and experts from the Office of the Treasurer and Receiver General, including the Alcoholic Beverages Control Commission.

Added: On various types of retail locations? For example, retail establishments that serve alcoholic beverages for on premises consumption, such as restaurants and bars; retail establishments that sell alcohol for off-premises consumption, such as package stores; veterans' and fraternal organizations, or retail establishments that do not sell alcohol?

Will the researchers be consulting with restaurateurs and people of these organizations (restaurant associations)? Has received calls from interested parties wanting to be part of conversation. (B. Hill)

Added: Methodology should include consultation with retailers, convenience stores, restaurants, applicable business associations, veterans' organizations, fraternal organizations, the MGC Investigations and Enforcement Bureau, women and minority owned businesses, small business owners, experts from the Massachusetts Lottery, and experts from the Office of the Treasurer and Receiver General, including the Alcoholic Beverages Control Commission.

Based on conversation with EBH, planning to put in certain kiosks where they have keno—can base by machine what frequency is and decrease in play and move kiosk if negatively impacting keno--could also use information from category 1 licensees to determine impact on lottery (E. O'Brien)

Added: The successful applicant should consider multiple sources of information including but not limited to studies conducted as part of the MGC research agenda, other academic and non-academic literature, key informant interviews, economic data from MGC licensees, and other economic reports and data.



Massachusetts Gaming Commission

Obtain input from IEB in terms of ability to oversee the integrity of those kiosks (E. O'Brien; also affirmed by C. Judd-Stein)

Added: Methodology should include consultation with retailers, convenience stores, restaurants, applicable business associations, veterans' organizations, fraternal organizations, the MGC Investigations and Enforcement Bureau, women and minority owned businesses, small business owners, experts from the Massachusetts Lottery, and experts from the Office of the Treasurer and Receiver General, including the Alcoholic Beverages Control Commission.

In terms of public safety related concerns, what about those related to use of cash, where these might be? (E. O'Brien)

Added: 7. What are the anticipated security, safety, and potential crime-related impacts of sports wagering kiosks at retail locations?

- Crime related to cash transactions?

Look to IEB for guidance related to integrity piece, security, surveillance, and also with that comes cost associated with that. Will be economic driver for businesses, but will also come with challenges, and with right resources may rise to the occasion. (C. Judd-Stein)

Added: Methodology should include consultation with retailers, convenience stores, restaurants, applicable business associations, veterans' organizations, fraternal organizations, the MGC Investigations and Enforcement Bureau, women and minority owned businesses, small business owners, experts from the Massachusetts Lottery, and experts from the Office of the Treasurer and Receiver General, including the Alcoholic Beverages Control Commission.

Added: 8. What are the costs associated with regulation, monitoring, investigation, and enforcement related to sports wagering kiosks?

- For the MGC Investigations and Enforcement Bureau?
- For other agencies—in the Commonwealth?



Massachusetts Gaming Commission

Should there be specific question about access to kiosks for people on VSE list, particularly considering anonymous nature of kiosks? (N. Skinner). C. Judd-Stein noted could be sub-bullet under question 7, but does not have to be.

Added: 6. What are the anticipated public health impacts of sports wagering kiosks at retail locations, and particularly public health impacts for populations most at-risk for problem gambling?

- What kinds of measures should be considered to promote responsible gaming in order to minimize gambling-related harm and maximize player choice?
- **What kinds of measures should be considered to restrict access to kiosks for people on the Voluntary Self-Exclusion list?**

Noted would not change draft any, was wondering how broad is a retail location? Gas stations? How broad is it? (J. Maynard)

Move forward without defining retail locations and breadth of what that may include. Noted legislation does not define retail locations.

**Research plan for the study of the participation by minority, women and veteran business enterprises in the Sports wagering industry in Massachusetts**

Comment

Response from RRG Division

Coordinate with Crystal if reaching out for information from All-In Diversity Project

We will coordinate with Crystal Beauchemin in an ongoing way to obtain available information concerning diversity, equity, and inclusion in the sports wagering industry.

Last couple of bullets: do not mention veterans. (C. Judd-Stein) This was from the legislation. Director Vander Linden noted there is nothing stopping us from adding veterans as a group as well as women and minorities.

Added:

The study must include methods for increasing racial and gender diversity, **as well as diversity in terms of veteran status**, in the workforce in the sports wagering industry, including whether to set reasonable and appropriate goals and procedures for



increasing the number of minority business enterprises, women business enterprises, and veteran business enterprises providing sports wagering industry-related services to sports wagering licensees and employers.

What is the level of participation by minority-owned, veteran-owned, and women-owned businesses that contract with or provide services to sports wagering licensees and employers?

What are the barriers to employment of women, ~~and~~ minorities, and veterans in the sports wagering industry?

Following feedback and approval by the Commission, the Research and Responsible Gaming Division is prepared to deliver to the Legislature by December 31, 2022, as required by statute.



Massachusetts Gaming Commission



## *Research Plan for a Prospective Study of the Feasibility and Impact of Sports Wagering Kiosks in Retail Locations*

### *Background*

The Massachusetts Gaming Commission is responsible for creating a fair, transparent, and participatory process for implementing the expanded gaming law (2011) and Act to Regulate Sports Wagering (2022). In its creation, the commission established processes designed to:

- ensure that its decision-making and regulatory systems earn the confidence of the public and participants,
- provide the greatest possible economic development benefits and revenues to the people of the Commonwealth,
- reduce to the maximum extent possible the potentially negative or unintended consequences of gambling,
- allow an appropriate return on investment for gaming providers that assures the operation of casino-resorts of the highest quality.

The 2011 Gaming Act required that the commission establish an “annual research agenda” to understand the social and economic effects of expanding gaming in the commonwealth and to obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology and etiology of gambling. For a full text of the Gaming Act please visit <http://massgaming.com/about/expanded-gaming-act/>. The 2022 Act to Regulate Sports Wagering (House Bill No. 5164) Section 23 extends the scope of the research agenda to include an understanding of the effects of sports wagering in the commonwealth.

### *Study of the Feasibility of Sports Wagering Kiosks*

The Act to Regulate Sports Wagering Section 20 requires the MGC to conduct a study into the feasibility of allowing retail locations in the commonwealth to operate sports wagering kiosks.

As required by the new law, this study should address the feasibility, and the potential economic, public health, and safety impacts of such a decision. It should include a discussion and/or evidence-based recommendations that address whether to do so and how to do so in a way that will maximize benefits and minimize negative consequences, including ways to understand and incorporate diversity, equity and inclusion considerations for retailers, consumers, and communities.

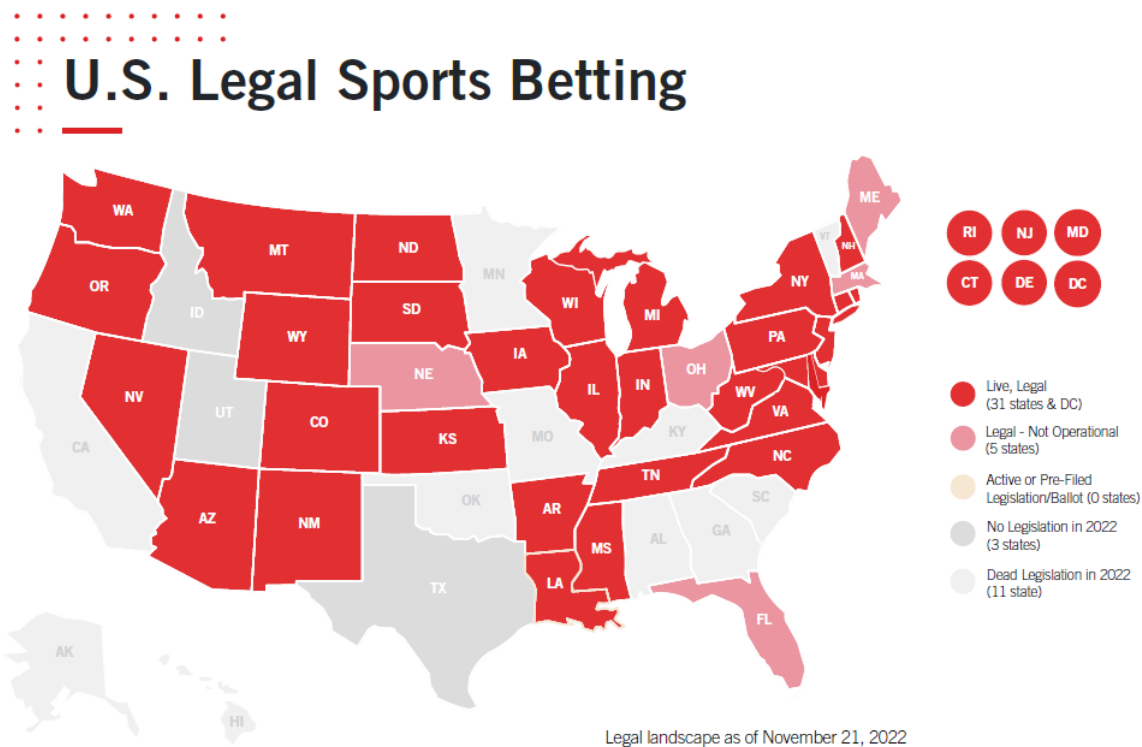
### *What is a Sports Wagering Kiosk*

Sports Betting Kiosks provide users with a self-service way to legally place bets, access handicapping services, obtain sports information, and view locally advertised promotions. Traditional sports books have

limited hours of operation and a limited number of locations in high traffic areas. Customers may have to travel long distances and/or wait in long lines at peak betting times. Sports Betting Kiosks can deliver expanded (24/7) and more convenient access. Sports Betting Kiosks can accept cash, winning tickets, and vouchers, and grant full access to all sports propositions and pari-mutuel horse racing. The kiosks include tools for compliance with currency transaction reports and book wagering reports.<sup>1</sup>

*Survey of Sports Wagering Kiosks in the U.S.* According to the American Gaming Association<sup>2</sup>, as of November 21, 2022 sports betting is legal in 36 states and live in 31 states (see map below).

Only nine states (Arizona, Connecticut, Delaware, Kansas, Louisiana, Maryland, Montana, Ohio, and Washington DC) allow for kiosks in non-gaming settings such as a restaurants or bars. Please see the Appendix to this document for a review of relevant legislation in these jurisdictions.



Map from the American Gaming Association,  
<https://www.americangaming.org/research/state-gaming-map/>

### *Study Requirements*

The MGC will seek the services of at least one qualified entity to conduct a prospective study on the feasibility, and potential impact, of allowing retail locations in the commonwealth to operate sports wagering kiosks.

<sup>1</sup> <https://kiosk.com/applications/sports-betting/>

<sup>2</sup> <https://www.americangaming.org/research/state-gaming-map/>

The successful applicant should consider multiple sources of information including but not limited to studies conducted as part of the MGC research agenda, other academic and non-academic literature, key informant interviews, economic data from MGC licensees, and other economic reports and data. Applicants are also encouraged to think more expansively by including a review of studies showing the impacts of implementation of similar technology; for example, video lottery terminals. Methodology should include a review of jurisdictions with kiosk availability, including the structure, implementation and, where available, data or evaluations on the anticipated and actual impacts of such kiosks to date. Methodology should include consultation with retailers, convenience stores, restaurants, applicable business associations, veterans' organizations, fraternal organizations, the MGC Investigations and Enforcement Bureau, women and minority owned businesses, small business owners, experts from the Massachusetts Lottery, and experts from the Office of the Treasurer and Receiver General, including the Alcoholic Beverages Control Commission.

### *Research Questions*

The study should answer, at a minimum, the following **research questions**:

1. What is the economic impact of the existing sports wagering market on retail establishments that serve alcoholic beverages for on premises consumption, such as restaurants and bars?
2. What are the essential requirements for a retail setting to host a sports wagering kiosk? Including but not limited to:
  - Capacity to comply with social responsibility and other regulatory requirements, including monitoring and data collection requirements
    - Applicability of pre-existing licenses and related compliance infrastructure in retail locations that provide restricted products such as alcohol for on-premises consumption
  - Money-handling capacity and methods for accepting wagers and providing payouts and winnings
  - Human resources capacity and requirements, including skills and training
3. What types of retail settings may be best suited to hosting sports wagering kiosks?
4. What are the anticipated economic impacts of sports wagering kiosks at retail locations?
  - On various types of retail locations? For example, retail establishments that serve alcoholic beverages for on premises consumption, such as restaurants and bars; retail establishments that sell alcohol for off-premises consumption, such as package stores; veterans' and fraternal organizations, or retail establishments that do not sell alcohol?
  - For other population groups such as minority communities, or those living far from in-person wagering locations?
  - For minority-owned businesses?
  - For the Commonwealth?
  - For retail locations that do not offer sports wagering kiosks?
5. What are the anticipated impacts on the Massachusetts Lottery, particularly in the context that many of the potential retail locations would likely offer both lottery products and sports wagering?
  - Is there evidence indicating that cannibalization of the lottery by sports wagering kiosks may occur?
  - What is the projected impact on the Lottery's contribution to unrestricted local aid to cities and towns?



- What are recommendations to mitigate adverse impact to the Lottery's contribution to unrestricted local aid (if adverse impact is projected?)
6. What are the anticipated public health impacts of sports wagering kiosks at retail locations, and particularly public health impacts for populations most at-risk for problem gambling?
    - What kinds of measures should be considered to promote responsible gaming in order to minimize gambling-related harm and maximize player choice?
    - What kinds of measures should be considered to restrict access to kiosks for people on the Voluntary Self-Exclusion list?
  7. What are the anticipated security, safety, and potential crime-related impacts of sports wagering kiosks at retail locations?
    - Crime related to cash transactions?
    - For consumer protection and enforcement of age restrictions?
  8. What are the costs associated with regulation, monitoring, investigation, and enforcement related to sports wagering kiosks?
    - For the MGC Investigations and Enforcement Bureau?
    - For other agencies in the Commonwealth?
  9. What is the anticipated market recapture from the black market if sports wagering kiosks are available at retail locations?
    - What are the anticipated economic and public health impacts of market recapture, particularly in communities far from authorized in-person sports wagering?
  10. What is the anticipated impact on minors of sports wagering kiosks at retail locations which allow persons under the age of 21 to enter?
    - What measures should be considered to prevent persons under the age of 21 accessing a sports wagering kiosk in a restaurant or bar which permits persons under the age of 21 to enter?
  11. What if any, are the anticipated cannibalization effects on casino and sports wagering operators licensed by the MGC?
  12. If kiosks are implemented in retail settings, how frequently should public health, safety, and economic impacts of sports wagering kiosks be reassessed by the Commission?

Additional research questions or topics are welcome, provided they address the issues of feasibility and impact of sports wagering kiosks at retail locations.

**The proposal should clearly detail how the proposed methods will answer each research question.**

### *Budget*

Anticipated funding available for this feasibility study will be approximately \$100,000-\$150,000.

### *Research Team Qualifications*

The teams and individuals selected to carry out the research should have the following qualifications and experience:

- In-depth knowledge of research methods in the related subject areas
- Experience and expertise in qualitative and quantitative research
- Experience and expertise garnering community input and understanding for research impacting communities
- Experience and expertise in the analysis of factors and covariant indicators of economic development
- Understanding of the gambling landscape in Massachusetts
- Understanding the mission and goals of the Massachusetts Gaming Commission
- Demonstrated experience in knowledge translation for a range of target audiences
- Understanding the associations and influence of social determinants of health on behaviors, behavioral outcomes, and health outcomes
- Knowledge of other bodies of research work in the areas of problem gambling and economic development
- Demonstrated experience designing, managing and coordinating complex research projects
- Illustration of a commitment to diversity through composition of research team and/or participants, partnerships, and/or use of certified diverse vendors/subcontractors on the project

### *Timeline*

This scoping document will inform the development of a competitive RFR with an anticipated release in January 2023.

*Appendix: Statutes and Regulations Pertaining to Sports Wagering Kiosks in Non-Gaming Settings such as Restaurants and Bars*

Methodology: A search was conducted using the “Odds on Compliance” database about what state statutes and regulations exist permitting sports wagering kiosks to be placed/used in a non-gaming setting like a restaurant or a bar. Research was limited to the following nine states that the American Gaming Association (AGA) identified as allowing these kinds of kiosks: Arizona, Connecticut, Delaware, Kansas, Louisiana, Maryland, Montana, Ohio, and Washington DC.

Each state’s individual page in the database and was reviewed, and the search focused on the documents listed under the headings, “Statute” and “Regulation.” Within those documents, there was a search for keywords that are relevant to this issue. “Kiosk” was referenced in different ways depending on the state, so also included is a column in the chart below about alternative terms used to reference “kiosk” in statutes and regulations. Examples include “equipment,” “machine,” and “electronic.” Then once language (if any) was found that referenced kiosks, a further search was completed for any mention of a “bar,” “restaurant” or “public accommodation.”

To be noted is that some states had minimal statutes and regulations referencing kiosks in non-casino settings, though the AGA initially identified them as allowing it.

State	Format	“Kiosk” Terms	Statute/Regulation RE: Kiosks	Statute/Regulation RE: Kiosks in Non-Casino Restaurants & Bars?
Arizona	Online & Retail	“Kiosk”  “Event Wagering Devices”	<b><u>(Regulation) Article 1. Event Wagering R19-4-101. Definitions</u></b>  <b>10.</b> “Event Wagering System” means the hardware, software, firmware, communications technology or other equipment to allow patrons to place event wagers,	<b><u>(Statute) Title 5: Amusements and Sports. Chapters 5.1, 6, 10, 11</u></b>  <b>5-1205. Prohibitions; Exceptions. C.</b> A fantasy sports contest may not be offered on, at or from any of the following: <b>1.</b> A kiosk or machine open to public use and physically located in a retail business location, bar, restaurant or other commercial establishment. <b>2.</b> A kiosk or machine open to public use and physically located in a place of public accommodation, except that a

			<p>regardless of whether event wagers are offered at retail,</p> <p>to include kiosks, and/or over the internet on an event</p> <p>wagering platform.</p> <p><b>16. “Kiosk”</b> means a device located within a retail</p> <p>wagering area that interfaces with an event</p> <p>wagering</p> <p>system and may be utilized by a patron to place</p> <p>event</p> <p>wagers, redeem winning tickets, redeem</p> <p>vouchers,</p> <p>open a player account, and make player</p> <p>account</p> <p>deposits and withdrawals.</p>	<p>fraternal organization or veterans' organization as defined in section 5-401 or a licensed racetrack may operate up to two kiosks for the sole purpose of offering fantasy sports.</p> <p><b><u>(Statute) Title 5, Chapter 11: Event Wagering</u></b></p> <p><b>5-1303: Event Wagering; License Required; Exception. E.</b> A person may not provide or make available event wagering devices in a place of public accommodation in this state, including a club or other association, to enable individuals to place wagers except as provided by this chapter. This subsection does not apply to an event wagering operator aggregating, providing or making available event wagering devices within its own event wagering facility.</p>
Connecticut	Online & Retail	<p>“Kiosk”</p> <p>“Automated wagering systems or machines”</p>	<p><b><u>(Statute) Substitute HB No. 6451 – iGaming, Sports Betting, Fantasy and Online Lottery Act</u></b></p> <p><b>Sec. 29. Section 12-806 of the General Statutes. (b)</b> The corporation shall have the following powers: <b>(4)(A)</b> To introduce new lottery games, modify existing lottery games, utilize existing and new technologies, determine distribution channels for the sale of lottery tickets, introduce keno pursuant to</p>	[None found]

			signed agreements with the Mashantucket Pequot Tribe and the Mohegan Tribe of Indians of Connecticut, in accordance with section 12-806c, as amended by this act, or pursuant to section 4 of this act, and, to the extent specifically authorized by regulations adopted by the Department of Consumer Protection pursuant to chapter 54, introduce instant ticket vending machines, <b>kiosks</b> and <b>automated wagering systems or machines</b> , with all such rights being subject to regulatory oversight by the Department of Consumer Protection;...	
Delaware	Retail	“Sports lottery machine”	<p><b><u>(Statute) 204 Delaware Sports Lottery Rules and Regulations</u></b></p> <p><b>2.0 Definitions.</b> “Sports lottery machine” or “terminal” means any machine in which bills, coins or tokens are deposited in order to play a sports lottery game. A machine shall be considered a sports lottery machine notwithstanding the use of an electronic credit system making the deposit of the bills, coins or tokens unnecessary.</p>	<p><b><u>(Statute) 204 Delaware Sports Lottery Rules and Regulations</u></b></p> <p><b>3.0 Licensing of Agents (3.9 Site Evaluation Criteria).</b> The Director shall weigh the following factors, as well as other objective business site evaluation criteria, to determine the suitability of the applicant’s business site locations as licensed retailer locations for sports lottery games: <b>3.9.1</b> Customer traffic count; <b>3.9.2</b> Business hours; <b>3.9.3</b> Available parking; <b>3.9.4</b> Trade style (i.e., products sold); <b>3.9.5</b> Product exposure within the location; <b>3.9.6</b> Security of sports lottery machines and systems; <b>3.9.7</b> Nearest licensed retailer of similar trade style; and <b>3.9.8</b> Convenience of accessibility to Lottery products and services within a community or commercial cluster.</p>

<p>Kansas</p>	<p>Online &amp; Retail</p>	<p>“Sports wagering kiosk”</p>	<p><b><u>(Regulation) Sports Wagering Regulations</u></b></p> <p><b>112-201-1. Definitions. (u)</b> “Sports wagering kiosk” means an automated device that may be used for sports wagering ticket processing and other automated functions as approved by the executive director.</p>	<p><b><u>(Statute) SB84 – Sports Betting Bill</u></b></p> <p><b>Sec. 24.</b> K.S.A. 74-8702 is hereby amended to read as follows: <b>74-8702.</b> As used in the Kansas lottery act, unless the context otherwise requires: <b>(a)</b> "Ancillary lottery gaming facility operations" means additional non-lottery facility game products and services not owned and operated by the state which that may be included in the overall development associated with the lottery gaming facility. Such operations may include, but are not limited to, restaurants, hotels, motels, museums or entertainment facilities.</p> <p><b><u>(Regulation) Sports Wagering Regulations</u></b></p> <p><b>112-201.22. Sports Wagering Transactions (c)</b> Sports wagering transactions shall be conducted from: <b>(2)</b> Sports wagering kiosks in locations as approved by the executive director.</p>
<p>Louisiana</p>	<p>Online &amp; Retail</p>	<p>“Kiosk”</p> <p>“Sports wagering mechanism”</p>	<p><b><u>(Statute) Title 27. Louisiana Gaming Control Law., Chapters 1-10</u></b></p> <p><b>RS 27:602 – §602. Definitions. (25)</b> "Sports wagering mechanism" or "kiosk" means a board-approved self-service mechanical, electrical, or computerized terminal, device, apparatus, or piece of equipment that is directly tied to a licensee's approved sports wagering platform that allows a patron to place</p>	<p><b><u>(Statute) Title 27. Louisiana Gaming Control Law., Chapters 1-10</u></b></p> <p><b>RS 27:602 – §602. Definitions. (10)</b> "Licensed establishment" means an establishment that has a Class A-General retail permit or a Class A-Restaurant permit as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, for the sale of alcoholic beverages for on-premises consumption</p>

			<p>a sports wager in a board-approved location on a licensee's premises. "Sports wagering mechanism" does not include a personal computer, mobile phone, or other device owned and used by a player to wager on a sports event.</p> <p><b>RS 27:609 - §609. Electronic wagering; kiosk; mobile wagering. (B)</b> Sports wagering mechanism. <b>(1)</b> A player may place a wager via a sports wagering mechanism with cash or vouchers or by utilizing the player's established sports wagering account. <b>(2)</b> Sports wagering mechanisms shall be located only on a licensee's premises in areas where accessibility is limited to patrons twenty-one years of age or older.</p>	<p>or a Louisiana state racing commission licensed race track, pari-mutuel wagering facility, or offtrack wagering facility, or a qualified truck stop facility as defined in R.S. 27:417. Licensed establishment shall not include any premises leased to or utilized by a bona fide nonprofit organization for the conducting of charitable gaming nor any convenience store, quick-stop, food-mart, service station, grocery store, barber shop, laundromat/washateria, package or discount liquor/cigarette establishment, movie theater, or beauty shop.</p> <p><b>(14)</b> "Restaurant, bar, tavern, cocktail lounge, or club" means an operating establishment primarily engaged in the retail sale of prepared foods or the sale of alcoholic beverages for on-premises or immediate consumption that has been granted a Class A-General retail permit or a Class A-Restaurant permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, for the sale of alcoholic beverages for on-premises consumption.</p> <p><b>(Regulation) Title 42. Louisiana Gaming</b></p> <p><b>§2415. Gaming Establishments. 1.</b> The division may issue a license to qualified applicants based on the type of business being conducted. The</p>
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Maryland	Online & Retail	“Kiosk”  “Sports wagering equipment”	<b><u>(Regulation) Title 36 Maryland State Lottery and Gaming Control Agency, Subtitles 01-10</u></b>  <b>.02 Definitions. (36)</b> “Kiosk” means a Commission-approved device that may be used by a bettor to place a wager and may be used to redeem a winning wager.  <b>(76)</b> “Sports wagering equipment” means any mechanical, electronic or other device, mechanism, software or equipment, and related supplies used or consumed in the operation of sports wagering, including a self-service kiosk on the premises of a sports wagering facility.	<b><u>(Regulation) Title 36 Maryland State Lottery and Gaming Control Agency, Subtitles 01-10</u></b>  <b>.08 In-person Wagering at Sports Wagering Facilities. B.</b> A sports wagering facility licensee may accept a wager made by an individual who is physically present at a sports wagering facility on sports wagering equipment that is a self-service device approved by the Commission including a: <b>(1)</b> Kiosk; <b>(2)</b> Machine; or <b>(3)</b> Other device.
Montana	Online & Retail	[None found]	[None found]	[None found]
Ohio	Online & Retail	“Sports gaming terminal”	<b><u>(Statute) Sports Gaming Act</u></b>  <b>Sec. 3775.01. (P)</b> "Sports gaming equipment" means any of the following that directly relate to or affect, or are used or consumed in, the	<b><u>(Statute) Sports Gaming Act</u></b>  <b>Sec. 3775.07. (A)(1)</b> The owner of a facility with a D-1, D-2, or D-5 liquor permit issued under Chapter 4303. of the Revised Code who offers



			operation of sports gaming: <b>(1)</b> Any mechanical, electronic, or other device, mechanism, or equipment, including a self-service sports gaming terminal...	sports gaming through a type C sports gaming proprietor using self-service or clerk-operated sports gaming terminals located at the facility shall hold an appropriate and valid type C sports gaming host license issued by the Ohio casino control commission at all times.
Washington D.C.	Online & Retail	<p>“Kiosk”</p> <p>“Sports wagering equipment”</p> <p>“Self-service betting terminal”</p>	<p><b><u>(Statute) Sports Wagering Lottery Amendment Act of 2018</u></b></p> <p>(18) "Sports wagering equipment" means a mechanical, electronic, or other device, mechanism, or other gaming equipment, and related supplies used or consumed in the operation of sports wagering at a licensed sports wagering facility, including a self-service terminal installed to accept sports wagers.</p> <p><b><u>(Regulation) Notice of Final Rulemaking (Privately Operated Sports Wagering)</u></b></p> <p><b>2199.1 Definitions.</b> “Sports Wagering Equipment” means any mechanical, electronic or other device, mechanism, or equipment, and related supplies used or consumed in the operation of sports wagering at a licensed Sports Wagering Facility including, but not limited to, a Self-Service Betting Terminal or kiosk installed to accept sports wagers.</p>	<p><b><u>(Regulation) Sports Wagering Minimum Internal Control Standards (MICS)</u></b></p> <p><b>Section 14.0 – Self-Service Betting Terminals (SSBTs/Kiosk). 14.3 – Access to SSBTs. 14.3. Access to SSBT.</b> The internal controls in respect of access to SSBTs must include, but not be limited to, the following: <b>a.</b> Control measures to ensure that only authorized, registered employees of the Licensee, registered employees on a Sports Wagering Facility, and an OLG licensed Supplier, may access the secure area of a SSBT. <b>b.</b> The requirement that all doors of the SSBTs are secured at all times. <b>c.</b> The requirement of recording of relevant entries in a log each time a SSBT is accessed (MEAL).</p>



## *Research Plan for a Prospective Study of the Feasibility and Impact of Sports Wagering Kiosks in Retail Locations*

### *Background*

The Massachusetts Gaming Commission is responsible for creating a fair, transparent, and participatory process for implementing the expanded gaming law (2011) and Act to Regulate Sports Wagering (2022). In its creation, the commission established processes designed to:

- ensure that its decision-making and regulatory systems earn the confidence of the public and participants,
- provide the greatest possible economic development benefits and revenues to the people of the Commonwealth,
- reduce to the maximum extent possible the potentially negative or unintended consequences of gambling,
- allow an appropriate return on investment for gaming providers that assures the operation of casino-resorts of the highest quality.

The 2011 Gaming Act required that the commission establish an “annual research agenda” to understand the social and economic effects of expanding gaming in the commonwealth and to obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology and etiology of gambling. For a full text of the Gaming Act please visit <http://massgaming.com/about/expanded-gaming-act/>. The 2022 Act to Regulate Sports Wagering (House Bill No. 5164) Section 23 extends the scope of the research agenda to include an understanding of the effects of sports wagering in the commonwealth.

### *Study of the Feasibility of Sports Wagering Kiosks*

The Act to Regulate Sports Wagering Section 20 requires the MGC to conduct a study into the feasibility of allowing retail locations in the commonwealth to operate sports wagering kiosks.

As required by the new law, this study should address the feasibility, and the potential economic, public health, and safety impacts of such a decision. It should include a discussion and/or evidence-based recommendations that address whether to do so and how to do so in a way that will maximize benefits and minimize negative consequences, including ways to understand and incorporate diversity, equity and inclusion considerations for retailers, consumers, and communities.

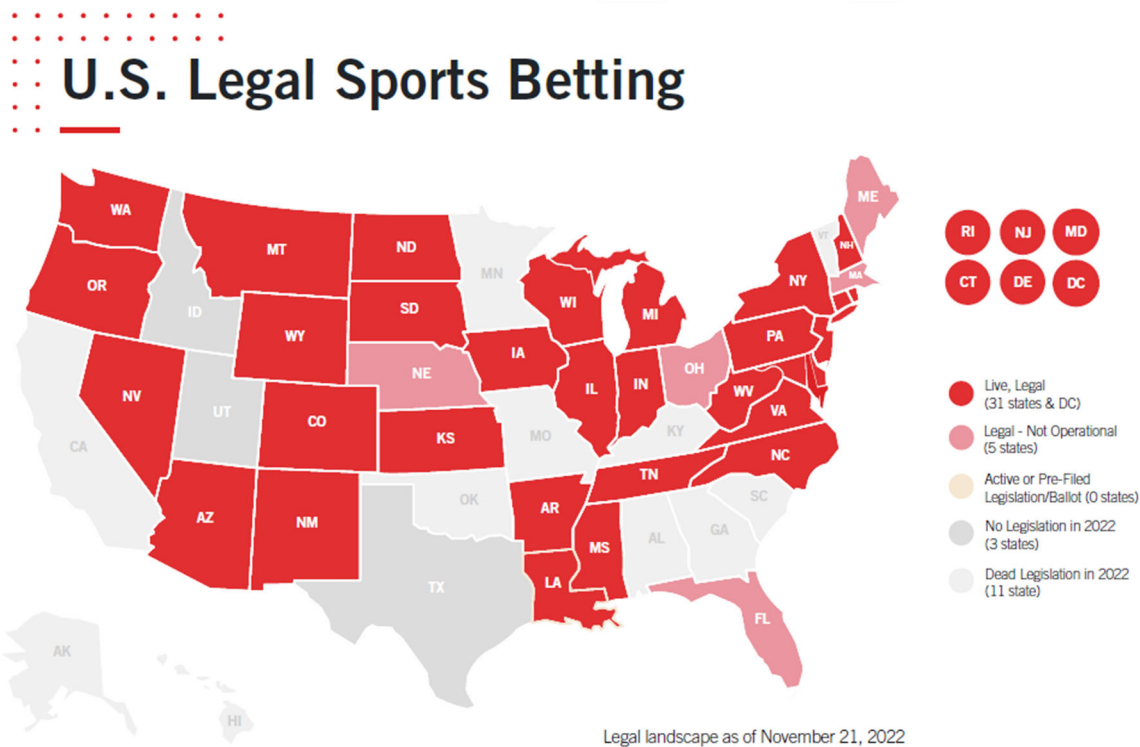
### *What is a Sports Wagering Kiosk*

Sports Betting Kiosks provide users with a self-service way to legally place bets, access handicapping services, obtain sports information, and view locally advertised promotions. Traditional sports books have

limited hours of operation and a limited number of locations in high traffic areas. Customers may have to travel long distances and/or wait in long lines at peak betting times. Sports Betting Kiosks can deliver expanded (24/7) and more convenient access. Sports Betting Kiosks can accept cash, winning tickets, and vouchers, and grant full access to all sports propositions and pari-mutuel horse racing. The kiosks include tools for compliance with currency transaction reports and book wagering reports.<sup>1</sup>

*Survey of Sports Wagering Kiosks in the U.S.* According to the American Gaming Association<sup>2</sup>, as of November 21, 2022 sports betting is legal in 36 states and live in 31 states (see map below).

Only nine states (Arizona, Connecticut, Delaware, Kansas, Louisiana, Maryland, Montana, Ohio, and Washington DC) allow for kiosks in non-gaming settings such as a restaurants or bars. Please see the Appendix to this document for a review of relevant legislation in these jurisdictions.



Map from the American Gaming Association, <https://www.americangaming.org/research/state-gaming-map/>

### Study Requirements

The MGC will seek the services of at least one qualified entity to conduct a prospective study on the feasibility, and potential impact, of allowing retail locations in the commonwealth to operate sports wagering kiosks.

<sup>1</sup> <https://kiosk.com/applications/sports-betting/>

<sup>2</sup> <https://www.americangaming.org/research/state-gaming-map/>

The successful applicant should consider multiple sources of information including but not limited to studies conducted as part of the MGC research agenda, other academic and non-academic literature, key informant interviews, [economic data from MGC licensees](#), and [other](#) economic reports and data.

Applicants are also encouraged to think more expansively by including a review of studies showing the impacts of implementation of similar technology; for example, video lottery terminals. Methodology should include a review of jurisdictions with kiosk availability, including the structure, implementation and, where available, data or evaluations on the anticipated and actual impacts of such kiosks to date. Methodology should include consultation with retailers, convenience stores, restaurants, [applicable business associations, veterans' organizations, fraternal organizations, the MGC Investigations and Enforcement Bureau](#), women and minority owned businesses, small business owners, experts from the Massachusetts Lottery, and experts from the Office of the Treasurer and Receiver General, including the Alcoholic Beverages Control Commission.

### *Research Questions*

The study should answer, at a minimum, the following **research questions**:

1. What is the economic impact of the existing sports wagering market on retail establishments that serve alcoholic beverages for on premises consumption, such as restaurants and bars?
2. What are the essential requirements for a retail setting to host a sports wagering kiosk? Including but not limited to:
  - Capacity to comply with social responsibility and other regulatory requirements, including monitoring and data collection requirements
    - Applicability of pre-existing licenses and related compliance infrastructure in retail locations that provide restricted products such as alcohol for on-premises consumption
  - Money-handling capacity and methods for accepting wagers and providing payouts and winnings
  - Human resources capacity and requirements, including skills and training
3. What types of retail settings may be best suited to hosting sports wagering kiosks?
4. What are the anticipated economic impacts of sports wagering kiosks at retail locations?
  - On various types of retail locations? For example, retail establishments that serve alcoholic beverages for on premises consumption, such as restaurants and bars; retail establishments that sell alcohol for off-premises consumption, such as package stores; [veterans' and fraternal organizations](#), or retail establishments that do not sell alcohol?
  - For other population groups such as minority communities, or those living far from in-person wagering locations?
  - For minority-owned businesses?
  - For the Commonwealth?
  - For retail locations that do not offer sports wagering kiosks?
5. What are the anticipated impacts on the Massachusetts Lottery, particularly in the context that many of the potential retail locations would likely offer both lottery products and sports wagering?
  - Is there evidence indicating that cannibalization of the lottery by sports wagering kiosks may occur?
  - What is the projected impact on the Lottery's contribution to unrestricted local aid to cities and towns?

- What are recommendations to mitigate adverse impact to the Lottery's contribution to unrestricted local aid (if adverse impact is projected?)
6. What are the anticipated public health impacts of sports wagering kiosks at retail locations, and particularly public health impacts for populations most at-risk for problem gambling?
    - What kinds of measures should be considered to promote responsible gaming in order to minimize gambling-related harm and maximize player choice?
    - What kinds of measures should be considered to restrict access to kiosks for people on the Voluntary Self-Exclusion list?
  7. What are the anticipated security, safety, and potential crime-related impacts of sports wagering kiosks at retail locations?
    - Crime related to cash transactions?
    - For consumer protection and enforcement of age restrictions?
    - \_\_\_\_\_
  8. What are the costs associated with regulation, monitoring, investigation, and enforcement related to sports wagering kiosks?
    - For the MGC Investigations and Enforcement Bureau?
    - For other agencies- in the Commonwealth?
  - 8-9. What is the anticipated market recapture from the black market if sports wagering kiosks are available at retail locations?
    - What are the anticipated economic and public health impacts of market recapture, particularly in communities far from authorized in-person sports wagering?
  - 9-10. \_\_\_\_\_ What is the anticipated impact on minors of sports wagering kiosks at retail locations which allow persons under the age of 21 to enter?
    - What measures should be considered to prevent persons under the age of 21 accessing a sports wagering kiosk in a restaurant or bar which permits persons under the age of 21 to enter?
  - 10-11. \_\_\_\_\_ What if any, are the anticipated cannibalization effects on casino and sports wagering operators licensed by the MGC?
  - 11-12. \_\_\_\_\_ If kiosks are implemented in retail settings, how frequently should public health, safety, and economic impacts of sports wagering kiosks be reassessed by the Commission?

Additional research questions or topics are welcome, provided they address the issues of feasibility and impact of sports wagering kiosks at retail locations.

**The proposal should clearly detail how the proposed methods will answer each research question.**

### *Budget*

Anticipated funding available for this feasibility study will be approximately \$100,000-\$150,000.

### *Research Team Qualifications*

The teams and individuals selected to carry out the research should have the following qualifications and experience:

- In-depth knowledge of research methods in the related subject areas
- Experience and expertise in qualitative and quantitative research
- Experience and expertise garnering community input and understanding for research impacting communities
- Experience and expertise in the analysis of factors and covariant indicators of economic development
- Understanding of the gambling landscape in Massachusetts
- Understanding the mission and goals of the Massachusetts Gaming Commission
- Demonstrated experience in knowledge translation for a range of target audiences
- Understanding the associations and influence of social determinants of health on behaviors, behavioral outcomes, and health outcomes
- Knowledge of other bodies of research work in the areas of problem gambling and economic development
- Demonstrated experience designing, managing and coordinating complex research projects
- Illustration of a commitment to diversity through composition of research team and/or participants, partnerships, and/or use of certified diverse vendors/subcontractors on the project

### *Timeline*

This scoping document will inform the development of a competitive RFR with an anticipated release in January 2023.

*Appendix: Statutes and Regulations Pertaining to Sports Wagering Kiosks in Non-Gaming Settings such as Restaurants and Bars*

Methodology: A search was conducted using the “Odds on Compliance” database about what state statutes and regulations exist permitting sports wagering kiosks to be placed/used in a non-gaming setting like a restaurant or a bar. Research was limited to the following nine states that the American Gaming Association (AGA) identified as allowing these kinds of kiosks: Arizona, Connecticut, Delaware, Kansas, Louisiana, Maryland, Montana, Ohio, and Washington DC.

Each state’s individual page in the database and was reviewed, and the search focused on the documents listed under the headings, “Statute” and “Regulation.” Within those documents, there was a search for keywords that are relevant to this issue. “Kiosk” was referenced in different ways depending on the state, so also included is a column in the chart below about alternative terms used to reference “kiosk” in statutes and regulations. Examples include “equipment,” “machine,” and “electronic.” Then once language (if any) was found that referenced kiosks, a further search was completed for any mention of a “bar,” “restaurant” or “public accommodation.”

To be noted is that some states had minimal statutes and regulations referencing kiosks in non-casino settings, though the AGA initially identified them as allowing it.

State	Format	“Kiosk” Terms	Statute/Regulation RE: Kiosks	Statute/Regulation RE: Kiosks in Non-Casino Restaurants & Bars?
Arizona	Online & Retail	“Kiosk”  “Event Wagering Devices”	<b><u>(Regulation) Article 1. Event Wagering R19-4-101. Definitions</u></b>  <b>10.</b> “Event Wagering System” means the hardware, software, firmware, communications technology or other equipment to allow patrons to place event wagers,	<b><u>(Statute) Title 5: Amusements and Sports. Chapters 5.1, 6, 10, 11</u></b>  <b>5-1205. Prohibitions; Exceptions. C.</b> A fantasy sports contest may not be offered on, at or from any of the following: <b>1.</b> A kiosk or machine open to public use and physically located in a retail business location, bar, restaurant or other commercial establishment. <b>2.</b> A kiosk or machine open to public use and physically located in a place of public accommodation, except that a

			<p>regardless of whether event wagers are offered at retail,</p> <p>to include kiosks, and/or over the internet on an event</p> <p>wagering platform.</p> <p><b>16. “Kiosk”</b> means a device located within a retail</p> <p>wagering area that interfaces with an event</p> <p>wagering</p> <p>system and may be utilized by a patron to place</p> <p>event</p> <p>wagers, redeem winning tickets, redeem</p> <p>vouchers,</p> <p>open a player account, and make player</p> <p>account</p> <p>deposits and withdrawals.</p>	<p>fraternal organization or veterans' organization as defined in section 5-401 or a licensed racetrack may operate up to two kiosks for the sole purpose of offering fantasy sports.</p> <p><b><u>(Statute) Title 5, Chapter 11: Event Wagering</u></b></p> <p><b>5-1303: Event Wagering; License Required; Exception. E.</b> A person may not provide or make available event wagering devices in a place of public accommodation in this state, including a club or other association, to enable individuals to place wagers except as provided by this chapter. This subsection does not apply to an event wagering operator aggregating, providing or making available event wagering devices within its own event wagering facility.</p>
<p>Connecticut</p>	<p>Online &amp; Retail</p>	<p>“Kiosk”</p> <p>“Automated wagering systems or machines”</p>	<p><b><u>(Statute) Substitute HB No. 6451 – iGaming, Sports Betting, Fantasy and Online Lottery Act</u></b></p> <p><b>Sec. 29. Section 12-806 of the General Statutes. (b)</b> The corporation shall have the following powers: <b>(4)(A)</b> To introduce new lottery games, modify existing lottery games, utilize existing and new technologies, determine distribution channels for the sale of lottery tickets, introduce keno pursuant to</p>	<p>[None found]</p>



			signed agreements with the Mashantucket Pequot Tribe and the Mohegan Tribe of Indians of Connecticut, in accordance with section 12-806c, as amended by this act, or pursuant to section 4 of this act, and, to the extent specifically authorized by regulations adopted by the Department of Consumer Protection pursuant to chapter 54, introduce instant ticket vending machines, <b>kiosks</b> and <b>automated wagering systems or machines</b> , with all such rights being subject to regulatory oversight by the Department of Consumer Protection;...	
Delaware	Retail	“Sports lottery machine”	<p><b><u>(Statute) 204 Delaware Sports Lottery Rules and Regulations</u></b></p> <p><b>2.0 Definitions.</b> “Sports lottery machine” or “terminal” means any machine in which bills, coins or tokens are deposited in order to play a sports lottery game. A machine shall be considered a sports lottery machine notwithstanding the use of an electronic credit system making the deposit of the bills, coins or tokens unnecessary.</p>	<p><b><u>(Statute) 204 Delaware Sports Lottery Rules and Regulations</u></b></p> <p><b>3.0 Licensing of Agents (3.9 Site Evaluation Criteria).</b> The Director shall weigh the following factors, as well as other objective business site evaluation criteria, to determine the suitability of the applicant’s business site locations as licensed retailer locations for sports lottery games: <b>3.9.1</b> Customer traffic count; <b>3.9.2</b> Business hours; <b>3.9.3</b> Available parking; <b>3.9.4</b> Trade style (i.e., products sold); <b>3.9.5</b> Product exposure within the location; <b>3.9.6</b> Security of sports lottery machines and systems; <b>3.9.7</b> Nearest licensed retailer of similar trade style; and <b>3.9.8</b> Convenience of accessibility to Lottery products and services within a community or commercial cluster.</p>

<p>Kansas</p>	<p>Online &amp; Retail</p>	<p>“Sports wagering kiosk”</p>	<p><b><u>(Regulation) Sports Wagering Regulations</u></b></p> <p><b>112-201-1. Definitions. (u)</b> “Sports wagering kiosk” means an automated device that may be used for sports wagering ticket processing and other automated functions as approved by the executive director.</p>	<p><b><u>(Statute) SB84 – Sports Betting Bill</u></b></p> <p><b>Sec. 24.</b> K.S.A. 74-8702 is hereby amended to read as follows: <b>74-8702.</b> As used in the Kansas lottery act, unless the context otherwise requires: <b>(a)</b> "Ancillary lottery gaming facility operations" means additional non-lottery facility game products and services not owned and operated by the state which that may be included in the overall development associated with the lottery gaming facility. Such operations may include, but are not limited to, restaurants, hotels, motels, museums or entertainment facilities.</p> <p><b><u>(Regulation) Sports Wagering Regulations</u></b></p> <p><b>112-201.22. Sports Wagering Transactions (c)</b> Sports wagering transactions shall be conducted from: <b>(2)</b> Sports wagering kiosks in locations as approved by the executive director.</p>
<p>Louisiana</p>	<p>Online &amp; Retail</p>	<p>“Kiosk”</p> <p>“Sports wagering mechanism”</p>	<p><b><u>(Statute) Title 27. Louisiana Gaming Control Law., Chapters 1-10</u></b></p> <p><b>RS 27:602 – §602. Definitions. (25)</b> "Sports wagering mechanism" or "kiosk" means a board-approved self-service mechanical, electrical, or computerized terminal, device, apparatus, or piece of equipment that is directly tied to a licensee's approved sports wagering platform that allows a patron to place</p>	<p><b><u>(Statute) Title 27. Louisiana Gaming Control Law., Chapters 1-10</u></b></p> <p><b>RS 27:602 – §602. Definitions. (10)</b> "Licensed establishment" means an establishment that has a Class A-General retail permit or a Class A-Restaurant permit as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, for the sale of alcoholic beverages for on-premises consumption</p>

			<p>a sports wager in a board-approved location on a licensee's premises. "Sports wagering mechanism" does not include a personal computer, mobile phone, or other device owned and used by a player to wager on a sports event.</p> <p><b>RS 27:609 - §609. Electronic wagering; kiosk; mobile wagering. (B)</b> Sports wagering mechanism. <b>(1)</b> A player may place a wager via a sports wagering mechanism with cash or vouchers or by utilizing the player's established sports wagering account. <b>(2)</b> Sports wagering mechanisms shall be located only on a licensee's premises in areas where accessibility is limited to patrons twenty-one years of age or older.</p>	<p>or a Louisiana state racing commission licensed race track, pari-mutuel wagering facility, or offtrack wagering facility, or a qualified truck stop facility as defined in R.S. 27:417. Licensed establishment shall not include any premises leased to or utilized by a bona fide nonprofit organization for the conducting of charitable gaming nor any convenience store, quick-stop, food-mart, service station, grocery store, barber shop, laundromat/washateria, package or discount liquor/cigarette establishment, movie theater, or beauty shop.</p> <p><b>(14)</b> "Restaurant, bar, tavern, cocktail lounge, or club" means an operating establishment primarily engaged in the retail sale of prepared foods or the sale of alcoholic beverages for on-premises or immediate consumption that has been granted a Class A-General retail permit or a Class A-Restaurant permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, for the sale of alcoholic beverages for on-premises consumption.</p> <p><b>(Regulation) Title 42. Louisiana Gaming</b></p> <p><b>§2415. Gaming Establishments. 1.</b> The division may issue a license to qualified applicants based on the type of business being conducted. The</p>
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				types of licenses and the requirements for these licenses are as follows: <b>a.</b> Type "I" License—any bar, tavern, cocktail lounge, or club only, as defined in R.S. 27:402(14) shall be designated as a type "I" establishment; <b>b.</b> Type "II" License—any restaurant, as defined in R.S. 27:402(14) shall be designated as a type "II" establishment...
Maryland	Online & Retail	“Kiosk”  “Sports wagering equipment”	<b><u>(Regulation) Title 36 Maryland State Lottery and Gaming Control Agency, Subtitles 01-10</u></b>  <b>.02 Definitions. (36)</b> “Kiosk” means a Commission-approved device that may be used by a bettor to place a wager and may be used to redeem a winning wager.  <b>(76)</b> “Sports wagering equipment” means any mechanical, electronic or other device, mechanism, software or equipment, and related supplies used or consumed in the operation of sports wagering, including a self-service kiosk on the premises of a sports wagering facility.	<b><u>(Regulation) Title 36 Maryland State Lottery and Gaming Control Agency, Subtitles 01-10</u></b>  <b>.08 In-person Wagering at Sports Wagering Facilities. B.</b> A sports wagering facility licensee may accept a wager made by an individual who is physically present at a sports wagering facility on sports wagering equipment that is a self-service device approved by the Commission including a: <b>(1)</b> Kiosk; <b>(2)</b> Machine; or <b>(3)</b> Other device.
Montana	Online & Retail	[None found]	[None found]	[None found]
Ohio	Online & Retail	“Sports gaming terminal”	<b><u>(Statute) Sports Gaming Act</u></b>  <b>Sec. 3775.01. (P)</b> "Sports gaming equipment" means any of the following that directly relate to or affect, or are used or consumed in, the	<b><u>(Statute) Sports Gaming Act</u></b>  <b>Sec. 3775.07. (A)(1)</b> The owner of a facility with a D-1, D-2, or D-5 liquor permit issued under Chapter 4303. of the Revised Code who offers

			operation of sports gaming: <b>(1)</b> Any mechanical, electronic, or other device, mechanism, or equipment, including a self-service sports gaming terminal...	sports gaming through a type C sports gaming proprietor using self-service or clerk-operated sports gaming terminals located at the facility shall hold an appropriate and valid type C sports gaming host license issued by the Ohio casino control commission at all times.
Washington D.C.	Online & Retail	<p>“Kiosk”</p> <p>“Sports wagering equipment”</p> <p>“Self-service betting terminal”</p>	<p><b><u>(Statute) Sports Wagering Lottery Amendment Act of 2018</u></b></p> <p>(18) "Sports wagering equipment" means a mechanical, electronic, or other device, mechanism, or other gaming equipment, and related supplies used or consumed in the operation of sports wagering at a licensed sports wagering facility, including a self-service terminal installed to accept sports wagers.</p> <p><b><u>(Regulation) Notice of Final Rulemaking (Privately Operated Sports Wagering)</u></b></p> <p><b>2199.1 Definitions.</b> “Sports Wagering Equipment” means any mechanical, electronic or other device, mechanism, or equipment, and related supplies used or consumed in the operation of sports wagering at a licensed Sports Wagering Facility including, but not limited to, a Self-Service Betting Terminal or kiosk installed to accept sports wagers.</p>	<p><b><u>(Regulation) Sports Wagering Minimum Internal Control Standards (MICS)</u></b></p> <p><b>Section 14.0 – Self-Service Betting Terminals (SSBTs/Kiosk). 14.3 – Access to SSBTs. 14.3. Access to SSBT.</b> The internal controls in respect of access to SSBTs must include, but not be limited to, the following: <b>a.</b> Control measures to ensure that only authorized, registered employees of the Licensee, registered employees on a Sports Wagering Facility, and an OLG licensed Supplier, may access the secure area of a SSBT. <b>b.</b> The requirement that all doors of the SSBTs are secured at all times. <b>c.</b> The requirement of recording of relevant entries in a log each time a SSBT is accessed (MEAL).</p>



## *Research Plan for a Study of the Participation by Minority, Women, and Veteran Business Enterprises in the Sports Wagering Industry in Massachusetts*

### *Background*

The Massachusetts Gaming Commission (MGC) is responsible for creating a fair, transparent, and participatory process for implementing the expanded gaming law (2011) and Act to Regulate Sports Wagering (2022). In its creation, the commission established processes designed to:

- ensure that its decision-making and regulatory systems earn the confidence of the public and participants,
- provide the greatest possible economic development benefits and revenues to the people of the Commonwealth,
- reduce to the maximum extent possible the potentially negative or unintended consequences of gambling,
- allow an appropriate return on investment for gaming providers that assures the operation of casino-resorts of the highest quality.

The 2011 Gaming Act required that the commission establish an “annual research agenda” to understand the social and economic effects of expanding gaming in the commonwealth and to obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology and etiology of gambling. For a full text of the Gaming Act please visit <http://massgaming.com/about/expanded-gaming-act/>. The 2022 Act to Regulate Sports Wagering (House Bill No. 5164) Section 23 extends the scope of the research agenda to include an understanding of the effects of sports wagering in the commonwealth.

### *Global and National Context*

Several initiatives have involved monitoring diversity, equity, and inclusion initiatives across the gaming industry. The All-In Diversity Project, an industry-led not-for-profit initiative seeking to benchmark diversity, equality and inclusion across the global betting and gaming industry, released a report concerning the sector’s workforce covering the period 2020-2021 (to account for the impact of the pandemic). This report noted that the number of males (56%) exceeded the number of females (43%) for the first time in 5 years, that the biggest gap was at entry level, and noted this was a “real cause for

concern when looking at long term prospects for role models, mentors and talent pools.”<sup>1</sup> Globally, of note for sports wagering is the projection that “women’s sport is growing at a faster rate” than men’s- “cue an increase in female sports betting markets and female sports-bettors.”<sup>2</sup>

In 2018, the U.S. Chamber of Commerce Foundation’s Corporate Citizenship Center, in conjunction with the American Gaming Association (AGA) conducted a survey of 15 AGA member respondents representing 168 United States member properties concerning corporate social responsibilities. While the survey speaks to the gaming industry vs. sports wagering specifically, the survey found that 69% of respondents reported having “an institutionalized diversity and inclusion hiring effort,”<sup>3</sup> 45% reported having diversity and inclusion retention strategies, and 29% reported having employee affinity or resource groups. They compared these results to findings from a 2014 Diversity and Inclusion survey of human resources professionals from many different industries conducted by the Society for Human Resource Management indicating percentages of 57%, 38%, and 15% respectively. <sup>4</sup> In 2021, the AGA conducted an industry-wide assessment of member activities related to Environment, Social and Governance issues, which captured how member organizations were prioritizing strengthening diversity, equity, and inclusion initiatives. While not specific to the sports wagering industry, the AGA report provided case examples from member organizations that offer sports wagering products.<sup>5</sup>

### *Study of the Participation by Minority, Women, and Veteran Business Enterprises in the Sports Wagering Industry in the Commonwealth*

The Massachusetts Gaming Commission is working with licensees, their contractors, vendors, and community leaders to ensure that the state’s new expanded gaming industry is inclusive and provides opportunities that reflect the diversity of the Commonwealth.

The 2011 Expanded Gaming Act required casino applicants to establish training programs that promote the development of a skilled and diverse workforce. The casino application process required all gaming applicants to set diversity hiring goals and submit strategic plans for the inclusion of minorities, women and veterans in the workforce. Applicants were also required to formulate their own specific diversity goals related to minority-, women- and veteran-owned businesses to participate as contractors in all stages of building their gaming establishments (design, construction, and operation). Casinos are also required to regularly provide to the Commission detailed, statistical reports on the diversity of their workforce and vendor contracting. In July 2021, the Diversity and Legislative Affairs division of the MGC released its third report chronicling industry insights regarding impacts to local businesses, workforce and diversity measures covering the 2019 calendar year. According to this report:

- Of casino construction and operations employees, more than 4,300 were minority, 3,200 were women, and nearly 400 were veterans;

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- Casino licensees spent more than \$64 million with diverse vendors and suppliers.<sup>6</sup>

The 2021 Massachusetts Gaming Commission Annual Report also included information concerning licensee workforce and supplier diversity goals:<sup>7</sup>

**Results on Licensee Workforce and Supplier Diversity Goals**

All data is provided from the 2021 Q2 reporting period.

MGC staff continue to monitor the impact the closures had on the local workforce and procurement.

Operational Diversity

WORKFORCE							
	MBE		VBE		WBE		
	Goal	Result	Goal	Result	Goal	Result	
Encore Boston Harbor	40%	55%	3%	3%	50%	43%	
MGM Springfield	50%	52%	2%	7%	50%	42%	
Plainridge Park	15%	24%	2%	6%	50%	40%	

SUPPLIER							
	MBE		VBE		WBE		
	Goal	Result	Goal	Result	Goal	Result	
Encore Boston Harbor	8%	12%	3%	2%	14%	14%	
MGM Springfield	10%	1.2%	2%	1.5%	15%	4.4%	
Plainridge Park	6%	5%	3%	3%	12%	19%	

The 2022 Act to Regulate Sports Wagering Section 25 requires the MGC to build upon the existing research, and conduct a study on the participation by minority, women, and veteran business enterprises in the sports wagering industry in the commonwealth.

**Study Requirements**

The MGC will seek the services of at least one qualified entity to conduct a study on the participation by minority, women, and veteran business enterprises in the sports wagering industry in the commonwealth. The study must include methods for increasing racial and gender diversity, as well as diversity in terms of veteran status, in the workforce in the sports wagering industry, including whether to set reasonable and appropriate goals and procedures for increasing the number of minority business enterprises, women business enterprises, and veteran business enterprises providing sports wagering industry-related services to sports wagering licensees and employers.

The successful applicant should consider multiple sources of information including but not limited to information from licensees; licensee, industry-specific, local, state, and national employment data stratified by gender, race/ethnicity, and veteran status; studies conducted as part of the MGC research agenda; other academic and non-academic literature; key informant interviews; and economic reports and data.

**Research Questions**

The study should answer, at a minimum, the following **research questions**:

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- What is the participation of minority, women, and veteran business enterprises in the commonwealth in activities related to the regulation, licensing and promotion of sports wagering operators?
  - As a percentage of total participation and dollars spent?
  - As mean and median contract size compared to total?
  - Compared to similar industries?
  - What kinds of organizational policies and practices are in place related to solicitation of and contracting with minority, women, and veteran business enterprises in the commonwealth for organizations and agencies engaging in these activities?
- What is the level of participation of women, minority and veteran employees working for sports wagering licensees and employers?
  - As a percentage of total participation?
  - At different levels of employment within organizations?
  - Compared to similar industries?
  - What kinds of organizational policies and practices are in place related to recruitment and retention of a diverse workforce?
  - What kinds of considerations are there related to employment impact, compensation, benefits, trajectory, and turnover for women, minority, and veteran employees compared to employees from other groups?
- What is the level of participation by minority-owned, veteran-owned, and women-owned businesses that contract with or provide services to sports wagering licensees and employers?
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  - What kinds of organizational policies and practices are in place related to solicitation of and contracting with minority, women, and veteran business enterprises in the commonwealth?
- What are the barriers to employment of women, minorities, and veterans in the sports wagering industry?

**The proposal should clearly detail how the proposed methods will answer each research question.**

### *Timeline*

An evaluation of participation by minority, women, and veteran business enterprises in the sports wagering industry should take place long enough after implementation of sports wagering that preliminary findings may be assessed, but early enough to inform and maximize potential improvements in processes. We thus anticipate engaging in a procurement process to select an entity to conduct this evaluation by July 2023, with initiation of the evaluation by September 2023. We anticipate including this study in the gaming research agenda in FY24 with advice from the Gaming Policy Advisory Committee and approval from the Massachusetts Gaming Commission.

### *Budget*

Anticipated funding available for this study will be approximately \$100,000-150,000.

### *Research Team Qualifications*

The preferred teams and individuals providing selected to carry out the research will have the following qualifications and experience:

- In-depth knowledge of qualitative and quantitative methods in the related subject areas

- Knowledge of other bodies of research in related areas
- Specific experience and expertise in conducting diversity, equity and inclusion research within the gaming and hospitality/resorts industry
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- Understanding the mission and goals of the Massachusetts Gaming Commission
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