

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

From: Caitlin Monahan, Deputy General Counsel
David S. Mackey, Anderson & Kreiger
Annie E. Lee, Anderson & Kreiger

Re: 205 CMR 105 Amendments

Date: January 26, 2023

Enclosed for the Commission's review is a draft of amendments to existing Commission regulations at 205 CMR 105.00: Investigations and Enforcement Bureau, which is currently in effect by emergency. This draft came before you on November 10, 2022, at which time you voted to promulgate the regulation by emergency and to begin the standard regulation promulgation process. A public hearing was held on this regulation on January 31, 2023. We are now seeking approval to finalize this regulation with the Secretary of the Commonwealth.

A summary of the proposed substantive amendments¹ is as follows:

- The Investigations and Enforcement Bureau ("IEB") is identified as the enforcement agent for regulatory matters under the Sports Wagering Act, and is tasked with investigating the qualifications and suitability of Sports Wagering Operator applicants, just as it does under the Gaming Act.
- The IEB has authority to issue subpoenas, require testimony under oath and require compliance with orders in accordance with its investigation and enforcement duties for sports wagering, just as it does under the Gaming Act.
- The IEB has the ability to seize any equipment or materials used for sports wagering in violation of the Sports Wagering Act.

¹ The proposed amendments also include a number of technical corrections – such as inclusion of sports wagering specific language, missing words and typos, the inclusion of gender neutral language, etc.

- The IEB will coordinate with the State Police and Attorney General's Office in accordance with its investigation and enforcement duties for sports wagering, just as it does under the Gaming Act.
- The IEB has the authority to retain and utilize contractor investigators in furtherance of its investigation and enforcement duties for sports wagering, just as it does under the Gaming Act.

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 105: INVESTIGATIONS AND ENFORCEMENT BUREAU

- 105.01: Bureau Duties and Responsibilities
- 105.02: Subpoena Power
- 105.03: Authority to Require Testimony ~~under~~ Under Oath
- 105.04: Orders and Directives
- 105.05: Civil Penalties
- 105.06: Seizure of Unlawful Devices, Games or Machines
- 105.07: Coordination with the Massachusetts State Police
- 105.08: Coordination with the Massachusetts Attorney General
- 105.09: Coordination with the Massachusetts Alcoholic Beverages Control Commission
- 105.10: Authority to Retain and Utilize Contractor Investigators

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105.01: Bureau Duties and Responsibilities

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(1) The bureau shall be the primary enforcement agent for regulatory matters under M.G.L. ~~chs. 23K, 23N, and 205 CMR 101.00, through 131.00, et seq.~~ and shall have all of the powers and duties of the bureau enumerated in St. 2011, c. 194, M.G.L. c. 23K and 205 CMR 101.00, ~~through 131.00, et seq.~~

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(2) The bureau shall be under the supervision and control of the deputy director who shall be the executive and administrative head of the bureau and shall be responsible for administering and enforcing the laws relative to the bureau and to each administrative unit of the bureau. The duties of the deputy director shall be exercised and discharged subject to the direction, control and supervision of the chair or to the executive director by appropriate delegation of authority pursuant to 205 CMR 104.02: *Delegation of Chair's Authority*.

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(3) The bureau shall be a law enforcement agency and its employees shall have such law enforcement powers as necessary to effectuate the purposes of M.G.L. ~~chs. 23K and 23N~~, including the power to receive intelligence on an applicant or licensee, and to investigate any suspected violations of M.G.L. ~~chs. 23K and 23N~~.

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(4) With respect to the investigation and enforcement of gaming establishments and licensees, ~~sports wagering temporary licensees, and sports wagering operators~~, the bureau may obtain or provide pertinent information regarding applicants, ~~or~~ licensees, ~~or operators~~ from or to law enforcement entities or gaming authorities and other domestic, federal or foreign jurisdictions, including the Federal Bureau of Investigation, and may transmit such information to each other electronically or via other secure methods.

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(5) The bureau shall conduct investigations into the qualifications and suitability of all applicants, qualifiers and other persons required to be registered or investigated in connection with any form of license or registration pursuant to M.G.L. ~~chs. 23K, 23N~~

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

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105.02: Subpoena Power

(1) Pursuant to M.G.L. c. 23K, § 4(31), M.G.L. c. 23N, § 4(h) and M.G.L. c. 30A, § 12, the deputy director is authorized in the name of the commission to issue subpoenas, in the conduct of investigations and adjudicatory proceedings, to compel the attendance of witnesses and to produce documents and records, including, but not limited to, written materials, materials maintained and stored in any form of documentary or electronic media, internet, intranet, other electronic, analog or digital formats, and at any place or virtual location within the Commonwealth of Massachusetts.

(2) Subpoenas pursuant to 205 CMR 105.02(1) concerning an adjudicatory proceeding shall be issued in accordance with M.G.L. c. 30A, § 12, and 205 CMR 101.00. ~~M.G.L. c. 23K Adjudicatory Proceedings.~~

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(3) Subpoenas pursuant to 205 CMR 105.02(1) may be served by bureau employees and agents, including contractor investigators.

105.03: Authority to Require Testimony Under Oath

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

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105.04: Orders and Directives

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

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105.05: Civil Penalties

The bureau shall have power and authority, without limitation, to assess a civil administrative penalty pursuant to and in accordance with M.G.L. c. 23K, § 36 and M.G.L. c. 23N, § 16.

105.06: Seizure of Unlawful Devices, Games or Machines

Pursuant to M.G.L. c. 23K, § 42, any device, game ~~or~~ gaming device, or equipment or material used for sports wagering possessed, used, manufactured, distributed, sold or serviced in violation of M.G.L. ~~ch.~~ chs. 23K, 23N or 205 CMR 101.00, et seq. shall be

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subject to seizure and forfeiture by the division or the bureau. Forfeiture proceedings shall be conducted as provided in M.G.L. c. 94C, § 47(b) through (j). For purposes of M.G.L. c. 94C, § 47(d) and M.G.L. c. 271A, § 3, the commission shall be considered a police department and shall be entitled to a police department's departments distribution of forfeiture proceedings.

105.07: Coordination with the Massachusetts State Police

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

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105.08: Coordination with the Massachusetts Attorney General

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

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105.09: Coordination with the Massachusetts Alcoholic Beverages Control Commission

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

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105.10: Authority to Retain and Utilize Contractor Investigators

(1) The commission may, pursuant to M.G.L. c. 23K, § 4 and M.G.L. c. 23N, § 6(d), and any applicable procurement procedures, retain qualified contractor investigators, either directly or pursuant to a contract or contracts with a private investigative business or businesses, to assist the bureau in conducting initial suitability, qualification, and background investigations of license applicants and qualifiers in accordance with the criteria set forth in M.G.L. ~~c.~~ chs. 23K, 23N and 205 CMR 101.00, et seq.

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(2) In retaining contractor investigators, the commission may establish minimum qualifications in terms of education, training, and experience in federal, state or local, civil or criminal, law enforcement, regulatory and investigative matters.

(3) Prior to entering a contract with the commission, each prospective contractor investigator and, if applicable, ~~his or her~~ the investigator's related business shall be subject to an expedited background inquiry by the bureau through the gaming and enforcement unit, which shall include, without limitation, an examination of prior criminal history, financial stability, reputation for integrity, honesty, good character; and education, training, and experience in ~~Federal~~ federal, state or local, civil or criminal, law enforcement, regulatory and investigative matters. If a contractor investigator and, if applicable, ~~his or her~~ the investigator's business entity is deemed suitable and qualified by the bureau in its discretion based on this expedited background inquiry, then the commission on behalf of

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the bureau may enter into a contract for the professional services of the contractor investigator in a form and with terms such acceptable to the commission.

(4) Once retained, each contractor investigator shall be provided with the necessary authority and credentials to serve as an official agent of the bureau in conducting initial suitability, qualification, and background investigations of license applicants and qualifiers in accordance with the criteria set forth in M.G.L. ~~c.~~ chs. 23K, 23N and 205 CMR.

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(5) Immediately on being retained each contractor investigator shall be sworn to the faithful performance of ~~his or her~~ the investigator's official duties under M.G.L. ~~c.~~ chs. 23K, 23N and 205 CMR. Before a contractor investigator can participate in any investigation under M.G.L. ~~c.~~ chs. 23K, 23N or 205 CMR, the investigator shall execute a certification acknowledging ~~his or her~~ the investigator's full understanding and acceptance of the authority given, applicable confidentiality provisions, and the limits to such an investigative authority.

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(6) Each contractor investigator shall report to the deputy director of the bureau, or the deputy director's designee. In the case of an absence or vacancy in the office of the deputy director, each contractor investigator shall report to an interim supervisor designated by the chair to supervise such investigators and investigations.

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

REGULATORY AUTHORITY

205 CMR 105.00: St. 2011, c. 194; M.G.L. c. 10, § 72A; c. 12, § 11M; c. 22C, § 70; c. 23K §§ 4(37), 5, 6, 35, 36, 42; c. 30A, § 12; c. 23N §4; and c. 94C, § 47.

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Public Comments Pertaining to 205 CMR 105: Investigations and Enforcement Bureau

Subsection	Comment	Commenter	Entity
<p>105.01(4) Bureau Duties and Responsibilities</p>	<p>Proposing to change: “(4) With respect to the investigation and enforcement of gaming establishments and licensees, and sports wagering temporary licensees and sports wagering operators, the bureau may obtain or provide pertinent information regarding applicants, licensees or operators from or to law enforcement entities or gaming authorities and other domestic, Federal or foreign jurisdictions, including the Federal Bureau of Investigation, and may transmit such information to each other electronically or via other secure methods” to</p> <p>“(4) With respect to the investigation and enforcement of gaming establishments and licensees, and sports wagering temporary licensees and sports wagering operators, the bureau may obtain or provide pertinent information regarding applicants, licensees or operators from or to law enforcement entities or gaming authorities and other domestic, Federal or foreign jurisdictions, including the Federal Bureau of Investigation, and may transmit such information to each other electronically or via other secure methods. However, the bureau shall provide notice to any operators whose</p>	<p>Jess Panora jess.panora@betmgm.com</p>	<p>Bet MGM</p>

	<p>information is provided to third parties, including law enforcement agencies.”</p> <p>BetMGM Comment: This proposed edit would not curtail the bureau’s powers in any way, but it would give operators an awareness of instances when its information has been shared.</p>		
<p>105.01 (4): Bureau Duties and Responsibilities</p>	<p>Proposed language change to the below is below. BetMGM feels that Information about licensees and operators must be shared securely.</p> <p>(4) With respect to the investigation and enforcement of gaming establishments and licensees, and sports wagering temporary licensees and sports wagering operators, the bureau may obtain or provide pertinent information regarding applicants, licensees or operators from or to law enforcement entities or gaming authorities and other domestic, Federal or foreign jurisdictions, including the Federal Bureau of Investigation, and may transmit such information to each other via secure methods .</p>	<p>Robyn Bowers</p> <p>robyn.bowers@betmgm.com</p>	

<p>105.04: Orders and Directives</p>	<p>Proposing to remove “without limitation” from “The bureau shall have power and authority, without limitation, to issue orders and require compliance pursuant to and in accordance with M.G.L. c. 23K, § 35 and M.G.L. c. 23N, § 4(g).”</p> <p>BetMGM Comment: This power should not be limitless. For fairness/equity purposes, it should be subject to a reasonableness standard.</p>	<p>Jess Panora jess.panora@betmgm.com</p>	<p>BetMGM</p>
<p>105.05: Civil Penalties</p>	<p>Proposing to remove “without limitation” from “The bureau shall have power and authority, without limitation, to assess a civil administrative penalty pursuant to and in accordance with M.G.L. c. 23K, § 36.”</p> <p>BetMGM Comment: This power should not be limitless. For fairness/equity purposes, it should be subject to a reasonableness standard.</p>	<p>Jess Panora jess.panora@betmgm.com</p>	<p>BetMGM</p>

<p>105.10(5) Authority to Retain and Utilize Contractor Investigators</p>	<p>Proposing to add: “After a contractor investigator’s work on a project is completed, the contractor investigator must delete or destroy any confidential or sensitive information it obtained about the operator(s) during the engagement.”</p> <p>BetMGM Comment: For privacy purposes, we request this language be included.</p>	<p>Jess Panora jess.panora@betmgm.com</p>	<p>Bet MGM</p>
<p>105.10: Authority to Retain and Utilize Contractor Investigators (8)</p>	<p>added a new subsection- BetMGM proposes adding this language to protect operators’ sensitive information:</p> <p>(8) To the extent a contract investigator obtains proprietary, confidential, or sensitive information about a sports wagering licensee or sports wagering operator in the course of the investigator’s employment, such information must be deleted or destroyed at the end of the investigator’s engagement.</p>	<p>Robyn Bowers robyn.bowers@betmgm.com</p>	<p>BET MGM</p>

AMENDED SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this amended Small Business Impact Statement in accordance with G.L. c. 30A, § 5 relative to the proposed amendments to **205 CMR 105: Investigations and Enforcement Bureau**, for which a public hearing was held on January 24, 2023.

The amendments to 205 CMR 105.00 are part of the process of promulgating regulations governing the operation of Sports Wagering in the Commonwealth. The proposed amendments will make the provisions of 205 CMR 105.00 governing the Investigations and Enforcement Bureau applicable to sports wagering as well as casino gaming. This regulation is governed largely by G.L. c. 23K, §4 and G.L. c. 23N, §4.

The amendment to 205 CMR 105.00 apply to the general authority of the Commission’s Investigations and Enforcement Bureau. Accordingly, this regulation is unlikely to have an impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As a general matter, no small businesses will be negatively impacted by this amendment as it relates to the authority of the Commission’s Investigations and Enforcement Bureau. Accordingly, there are no less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements within this regulation that would pertain to small businesses.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

This regulation does not impose any reporting requirements.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:

There are no design or operational standards within in the proposed regulation.

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

This regulation is not likely to deter or encourage the formation of new businesses in the Commonwealth, as it is limited in its likely impact on the business community.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

This amendment does not create any adverse impact on small businesses.

Massachusetts Gaming Commission

By:

/s/ Carrie Torrasi

Carrie Torrasi

Deputy General Counsel

Dated: January 26th 2023

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 105: INVESTIGATIONS AND ENFORCEMENT BUREAU

- 105.01: Bureau Duties and Responsibilities
- 105.02: Subpoena Power
- 105.03: Authority to Require Testimony ~~under~~ Under Oath
- 105.04: Orders and Directives
- 105.05: Civil Penalties
- 105.06: Seizure of Unlawful Devices, Games or Machines
- 105.07: Coordination with the Massachusetts State Police
- 105.08: Coordination with the Massachusetts Attorney General
- 105.09: Coordination with the Massachusetts Alcoholic Beverages Control Commission
- 105.10: Authority to Retain and Utilize Contractor Investigators

105.01: Bureau Duties and Responsibilities

(1) The bureau shall be the primary enforcement agent for regulatory matters under M.G.L. chs. 23K, 23N, and 205 CMR 101.00, through 131.00 et seq. and shall have all of the powers and duties of the bureau enumerated in St. 2011, c. 194, M.G.L. c. 23K and 205 CMR 101.00, ~~through 131.00;~~ et seq.

(2) The bureau shall be under the supervision and control of the deputy director who shall be the executive and administrative head of the bureau and shall be responsible for administering and enforcing the laws relative to the bureau and to each administrative unit of the bureau. The duties of the deputy director shall be exercised and discharged subject to the direction, control and supervision of the chair or to the executive director by appropriate delegation of authority pursuant to 205 CMR 104.02: *Delegation of Chair's Authority*.

(3) The bureau shall be a law enforcement agency and its employees shall have such law enforcement powers as necessary to effectuate the purposes of M.G.L. ~~e. chs. 23K and 23N,~~ including the power to receive intelligence on an applicant or licensee, and to investigate any suspected violations of M.G.L. ~~e. chs. 23K and 23N.~~

(4) With respect to the investigation and enforcement of gaming establishments and licensees, sports wagering temporary licensees, and sports wagering operators, the bureau may obtain or provide pertinent information regarding applicants, ~~or~~ licensees, or operators from or to law enforcement entities or gaming authorities and other domestic, federal or foreign jurisdictions, including the Federal Bureau of Investigation, and may transmit such information to each other electronically or via other secure methods.

(5) The bureau shall conduct investigations into the qualifications and suitability of all applicants, qualifiers and other persons required to be registered or investigated in connection with any form of license or registration pursuant to M.G.L. ~~e. chs. 23K, 23N~~

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

105.02: Subpoena Power

(1) Pursuant to M.G.L. c. 23K, § 4(31), M.G.L. c. 23N, § 4(h) and M.G.L. c. 30A, § 12, the deputy director is authorized in the name of the commission to issue subpoenas, in the conduct of investigations and adjudicatory proceedings, to compel the attendance of witnesses and to produce documents and records, including, but not limited to, written materials, materials maintained and stored in any form of documentary or electronic media, internet, intranet, other electronic, analog or digital formats, and at any place or virtual location within the Commonwealth of Massachusetts.

(2) Subpoenas pursuant to 205 CMR 105.02(1) concerning an adjudicatory proceeding shall be issued in accordance with M.G.L. c. 30A, § 12, and 205 CMR 101.00. ~~M.G.L. c. 23K Adjudicatory Proceedings.~~

(3) Subpoenas pursuant to 205 CMR 105.02(1) may be served by bureau employees and agents, including contractor investigators.

105.03: Authority to Require Testimony Under Oath

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

105.04: Orders and Directives

The bureau shall have power and authority, without limitation, to issue orders and require compliance pursuant to and in accordance with M.G.L. c. 23K, § 35 and M.G.L. c. 23N, § 4(g) 205 CMR 232.

105.05: Civil Penalties

The bureau shall have power and authority, without limitation, to assess a civil administrative penalty pursuant to and in accordance with M.G.L. c. 23K, § 36 and M.G.L. c. 23N, § 16 205 CMR 232.

105.06: Seizure of Unlawful Devices, Games or Machines

Pursuant to M.G.L. c. 23K, § 42, any device, game ~~or~~, gaming device, or equipment or material used for sports wagering possessed, used, manufactured, distributed, sold or serviced in violation of M.G.L. c. ~~23K~~, 23N or 205 CMR 101.00, et seq. shall be

subject to seizure and forfeiture by the commission, the division or the bureau. Forfeiture proceedings shall be conducted as provided in M.G.L. c. 94C, § 47(b) through (j). For purposes of M.G.L. c. 94C, § 47(d) and M.G.L. c. 271A, § 3, the commission shall be considered a police department and shall be entitled to a police department's departments distribution of forfeiture proceedings.

105.07: Coordination with the Massachusetts State Police

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

105.08: Coordination with the Massachusetts Attorney General

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

105.09: Coordination with the Massachusetts Alcoholic Beverages Control Commission

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

105.10: Authority to Retain and Utilize Contractor Investigators

(1) The commission may, pursuant to M.G.L. c. 23K, § 4 and M.G.L. c. 23N, § 6(d), 205 CMR —and any applicable procurement procedures, retain qualified contractor investigators, either directly or pursuant to a contract or contracts with a private investigative business or businesses, to assist the bureau in conducting initial suitability, qualification, and background investigations of license applicants and qualifiers in accordance with the criteria set forth in M.G.L.-c. ~~chs. 23K, 23N~~ and 205 CMR 101.00, et seq.

(2) In retaining contractor investigators, the commission may establish minimum qualifications in terms of education, training, and experience in ~~federal~~, state or local, civil or criminal, law enforcement, regulatory and investigative matters.

(3) Prior to entering a contract with the commission, each prospective contractor investigator and, if applicable, ~~his or her~~ the investigator's related business shall be subject to an expedited background inquiry by the bureau through the gaming and enforcement unit, which shall include, without limitation, an examination of prior criminal history, financial stability, reputation for integrity, honesty, good character; and education, training, and experience in ~~Federal~~ federal, state or local, civil or criminal, law enforcement, regulatory and investigative matters. If a contractor investigator and, if applicable, ~~his or her~~ the investigator's business entity is deemed suitable and qualified by the bureau in its

discretion based on this expedited background inquiry, then the commission on behalf of the bureau may enter into a contract for the professional services of the contractor investigator in a form and with terms such acceptable to the commission.

(4) Once retained, each contractor investigator shall be provided with the necessary authority and credentials to serve as an official agent of the bureau in conducting initial suitability, qualification, and background investigations of license applicants and qualifiers in accordance with the criteria set forth in M.G.L. ~~ch.~~ chs. 23K, 23N and 205 CMR.

(5) Immediately on being retained each contractor investigator shall be sworn to the faithful performance of ~~his or her~~ the investigator's official duties under M.G.L. ~~ch.~~ chs. 23K, 23N and 205 CMR. Before a contractor investigator can participate in any investigation under M.G.L. ~~ch.~~ chs. 23K, 23N or 205 CMR, the investigator shall execute a certification acknowledging ~~his or her~~ the investigator's full understanding and acceptance of the authority given, applicable confidentiality provisions, and the limits to such an investigative authority.

(6) Each contractor investigator shall report to the deputy director of investigations and enforcement~~deputy director of the bureau, or their deputy director's designee~~. In the case of an absence or vacancy in the office of the deputy director, each contractor investigator shall report to an interim supervisor designated by the chair to supervise such investigators and investigations.

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

REGULATORY AUTHORITY

205 CMR 105.00: St. 2011, c. 194; M.G.L. c. 10, § 72A; c. 12, § 11M; c. 22C, § 70; c. 23K §§ 4(37), 5, 6, 35, 36, 42; c. 30A, § 12; c. 23N §4; and c. 94C, § 47.

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

From: Todd M. Grossman, General Counsel
Mina Makarious, Anderson & Kreiger

Re: 205 CMR 143, 243, 244

Date: January 26, 2023

Enclosed for the Commission's review is the following regulations, which are currently in effect by emergency:

205 CMR 143.07: Kiosks

205 CMR 243.00: Sports Wagering Equipment

205 CMR 244.00: Approval of Sports Wagering Equipment and Testing Laboratories

These drafts came before you on November 10, 2022, at which time you voted to promulgate the regulations by emergency and to begin the standard regulation promulgation process. A public hearing was held on these regulations on January 31, 2023. We are now seeking approval to finalize these regulations with the Secretary of the Commonwealth.

205 CMR 143.00: GAMING DEVICES AND ELECTRONIC GAMING EQUIPMENT

143.07: Kiosks

(1) A gaming licensee and gaming device vendor, and a Sports Wagering Operator and Sports Wagering Vendor, shall comply with and the Commission adopts and incorporates by reference Gaming Laboratories International, LLC Standard GLI-20: Kiosks, version ~~1-52.0~~, released ~~September 6, 2011~~ **May 14, 2019**, subject to the following amendments:

- (a) Delete section ~~1-1-31.1.1~~ and replace with the following: "The following sets forth the technical standards for Kiosks as identified in 205 CMR 144.01(2)."
- (b) Delete section ~~1-31.1.2~~.
- (c) Delete section 1.2
- (d) Delete section 1.3.3 and replace with the following: "This GLI technical standard is adopted in whole subject to the modifications described in 205 CMR 143.07. The standard and modifications should at all times be read in conjunction with 205 CMR and the standards referenced in section 1.4.1 so as to create a harmonious regulatory framework."

AMENDED SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this amended Small Business Impact Statement in accordance with G.L. c. 30A, § 5 relative to the proposed amendments to **205 CMR 143.07, KIOSKS**, for which a public hearing was held on January 24, 2023.

The amendments to 205 CMR 143.07 are part of the process of promulgating regulations governing the operation of Sports Wagering in the Commonwealth. This regulation is governed largely by G.L. c. 23K, §4 and G.L. c. 23N, §4.

The amendment to 205 CMR 143.07 apply to potential sports wagering operators, sports wagering vendors, and the Commission. Accordingly, this regulation is unlikely to have an impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As a general matter, it unlikely that any small businesses will be negatively impacted by this amendment as it relates sports wagering operators, sports wagering vendors, and the Commission. Accordingly, there are no less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements within this regulation that would pertain to small businesses.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

This regulation does not impose any reporting requirements.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:

There are no design or operational standards within in the proposed regulation.

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

This regulation is not likely to deter or encourage the formation of new businesses in the Commonwealth, as it is limited in its likely impact on the business community.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

This amendment does not create any adverse impact on small businesses.

Massachusetts Gaming Commission

By:

/s/ Carrie Torrasi
Carrie Torrasi
Deputy General Counsel

Dated: January 26th 2023

205 CMR 243.00: SPORTS WAGERING EQUIPMENT

243.01: Standards for Sports Wagering Equipment

- (1) Sports Wagering Operators and Sports Wagering Vendors shall comply with, and the Commission adopts and incorporates by reference, *Gaming Laboratories International, LLC Standard GLI-33: Event Wagering Systems* and its appendices, version 1.1, released May 14, 2019, subject to the following amendments:
- (a) Delete section 1.1.1 and replace with the following: "The following sets forth the technical standards for Sports Wagering Equipment as identified in 205 CMR 244.01."
 - (b) Delete section 1.1.2.
 - (c) Delete section 1.2.1.
 - (d) Delete section 1.3.3 and replace with the following: "This GLI technical standard is adopted in whole, subject to the modifications described in 205 CMR 243.01. To create a cohesive regulatory framework, the standard and modifications should always be read in conjunction with 205 CMR and the standards referenced in section 1.4.1."
 - (e) Add the following after section 2.1.1 "and the modifications described in 205 CMR 243.01."
 - (f) Delete the second sentence of section 2.5.1 and replace with the following: "In addition to the requirements contained within this section, and 205 CMR, the "Player Account Controls" section of this document shall also be met."
 - (g) Delete section 2.5.6(b) and replace with the following: "A deposit into a player account shall not be made using a credit card and must be made by methods which can produce a sufficient audit trail."
 - (h) Delete from section 2.7.1 the words "Where required by the regulatory body"
 - (i) Add the following at the end of section 2.7.4: "All wagers must be initiated and received or otherwise made by an individual located in the Commonwealth. Consistent with the intent of the federal Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. section 5361 to 5367, inclusive, the intermediate routing of electronic data related to a lawful intrastate wager authorized pursuant to M.G.L. c. 23N shall not determine the location or locations in which the wager is initiated, received, or otherwise made."
 - (j) Replace in section 2.7.4(a) the words "or as otherwise specified by the regulatory body" with "after a period of 5 minutes since the previous location check if within one mile of the border, and prior to placement of the next wager after detection of a change to the player's IP Address"
 - (k) Add the following as section 2.7.4(e): "The location detection service or application used by the Event Wagering System shall be certified by the approved Independent Testing Laboratory, including applicable field testing, before its deployment."
 - (l) Delete section 2.8.2(o) and replace with the following: "(o) The personally identifiable information of a player who places a wager that exceeds \$10,000 or wins a wager exceeding \$600 and worth at least 300 times the amount wagered including, the legal name, residential address, date of birth, and encrypted government identification number (full or partial social security number, taxpayer identification number, passport number, or equivalent)."
 - (m) Delete from section 2.8.5(j)(ix) the words "or credit"
 - (n) Replace in section 2.8.8(d) the words "a value specified by the regulatory body" with "\$10,000, or \$600 and worth at least 300 times the amount wagered"

- (o) Replace in section 2.8.8(e) the words "a value specified by the regulatory body" with "\$10,000"
- (p) Replace in section 2.8.8(n)(iv).the words "a value specified by the regulatory body" with "\$10,000"
- (q) Add the following as section 2.9.1(c): "The Operator shall timely file with the Commission the reports required by this section in accordance with M.G.L. c. 23N, § 12(a)(ix) and 205 CMR."
- (r) Replace in section 3.3.1 the words "other applicable jurisdictional requirements observed by the regulatory body" with "the modifications described in 205 CMR 143.07"
- (s) Add the following as section A.1.2: "A.1.2 Independent Audit. Each Operator shall have their procedures and practices for wagering operations independently audited at least once every two (2) years with the results documented in a written report. Reports shall be maintained and available to the Commission upon request. An Operator’s audit practices shall include, but not be limited to, the following:
 - a) Independent audits may be conducted by the Commission, or a Commission-approved third-party auditor. The Commission may, in its discretion, allow for an internal audit department within the Operator or parent company of the Operator, which is independent of the wagering operation, to serve as a third-party auditor for use in completing this audit.
 - b) The Commission, or third-party auditor shall be responsible for auditing the Operator's compliance with M.G.L. c. 23N, 205 CMR, this appendix, the internal control system, and any other applicable rules and regulations.
 - c) Documentation, including checklist, programs, reports, corrective actions, and other items, shall be prepared to evidence all independent audit work performed as it relates to the requirements of 205 CMR 243.01 and this appendix, including all instances of noncompliance.
 - d) Independent audit reports shall include objectives, procedures and scope, findings and conclusions, and recommendations.
 - e) Independent audit findings shall be reported to management. Management shall be required to respond to the independent audit findings and the stated corrective measures to be taken to avoid recurrence of the audit exception. Such management responses shall be included in the final independent audit report.
 - f) Follow-up observation and examinations shall be performed to verify that corrective action has been taken regarding all instances of noncompliance cited by the independent audits, or by the Commission. The verification shall be performed within six (6) months following the date of notification.
 - g) It is acceptable to leverage the results of prior audits conducted within the audit period by the same third-party auditor in another jurisdiction. Such leveraging shall be noted in the audit report. This leveraging does not include any procedures and practices unique to the Commonwealth, which will require new audits."
- (t) Add the following at the end of section A.2.1: "The internal control procedures shall meet the requirements of this appendix and 205 CMR."
- (u) Replace in section A.4.5 the word “credit card” with “financial”
- (v) Delete section A.7.4(d) and replace with the following: "(d)Is kept for at least one year after a sporting event occurs."
- (w) Delete from section A.8.3 the words "where required by the regulatory body"

- (x) Add the following as section B.1.2: "B.1.2 Independent Audit. The Operator shall, within ninety (90) days after commencing operations in the Commonwealth, and annually thereafter, have a technical security control audit conducted by a qualified independent technical expert selected by the Operator and subject to approval of the Commission. The Commission will establish minimum qualifications for technical experts, to be published on its website, which must be reviewed and updated annually, and which shall include the requirements of B.1.2(b).
- a) The scope of the technical security control audit is subject to approval of the Commission or its designee and must include, at a minimum, all of the following:
- i. A vulnerability assessment of all digital platforms, mobile applications, internal, external, and wireless networks with the intent of identifying vulnerabilities of all devices, the servers, and applications transferring, storing, and/or processing personally identifiable information and/or other sensitive information connected to or present on the networks.
 - ii. A penetration test of all digital platforms, mobile applications, internal, external, and wireless networks to confirm if identified vulnerabilities of all devices, the servers, and applications are susceptible to compromise.
 - iii. A review of the firewall rules to verify the operating condition of the firewall and the effectiveness of its security configuration and rule sets performed on all the perimeter firewalls and the internal firewalls;
 - iv. An information security assessment against the provisions adopted in M.G.L. c. 23N, 205 CMR, this appendix with generally accepted professional standards, and as approved by the Commission;
 - v. If a cloud service provider is in use, an assessment performed on the access controls, account management, logging and monitoring, and over security configurations of their cloud tenant;
 - vi. An evaluation of information security services, payment services (financial institutions, payment processors, etc.), location services, and any other wagering services which may be offered directly by the Operator or involve the use of third parties against the provisions adopted in these rules; and
 - vii. Any other specific criteria or standards for the technical security control audit as prescribed by the Commission or its designee.
- b) To qualify as an independent technical expert, the independent technical expert shall:
- i. Have relevant education background or in other ways provide relevant qualifications in assessing Event Wagering Systems;
 - ii. Obtain and maintain certifications sufficient to demonstrate proficiency and expertise as a network penetration tester by recognized certification boards, either nationally or internationally;
 - iii. Have at least five years' experience performing technical security control audits on Event Wagering Systems; and
 - iv. Meet any other qualifications as prescribed by the Commission or its designee.
- c) The full independent technical expert's report on the assessment must be submitted to the Commission no later than thirty (30) days after the assessment is conducted and must include all the following:
- i. Scope of review;
 - ii. Name, company affiliation, contact information, and qualifications of the

- individual(s) who conducted the assessment.
 - iii. Date of assessment;
 - iv. Findings;
 - v. Recommended corrective action, if applicable; and
 - vi. The Operator's response to the findings and recommended corrective action.
- d) It is acceptable to leverage the results of prior assessments within the past year conducted by the same independent technical expert in another jurisdiction or against standards such as ISO/IEC 27001, ISO/IEC 27017, ISO/IEC 27018, the NIST Cybersecurity Framework (CSF), the Payment Card Industry Data Security Standards (PCI-DSS), or equivalent. Such leveraging shall be noted in the independent technical expert's report. This leveraging shall not include critical components unique to the Commonwealth which will require fresh assessments.
- e) If the independent technical expert's report recommends corrective action, the Sports Wagering Operator must provide the Commission with a remediation plan and any risk mitigation plans which detail the Operator's actions and schedule to implement the corrective action. Once the corrective action has been taken, the Sports Wagering Operator shall provide the Commission with documentation evidencing completion."
- (y) Replace the paragraph in B.2.2 with the following: "The Sports Wagering Operator shall provide the Commission with information on the secure locations of all servers and other Sports Wagering Equipment for the Commission's approval. Unless otherwise approved by the Commission, the primary server or other equipment primarily responsible for the acceptance of sports wagers shall be placed in secure locations within the Commonwealth. In addition, secure location(s) shall:"
- (z) Replace section B.4.5 with the following: "B.4.5 Communications in Wagering Venues. If a guest network is offered that provides internet access for players, venue guests, or vendors, the guest network must be physically or logically segregated from the network used to serve the Event Wagering System. Communications on the guest network must be non-routable to the Event Wagering System network."
- (aa) Delete from section B.7.6 the words "If required by the regulatory body"
- (bb) Add the following to the beginning of section B.9.5: "The Commission may approve of the use of internet or cloud-based hosting of duplicate data or data not related to transactional wagering data upon written request of the Operator."

Public Comments Pertaining to 205 CMR 243: Sports Wagering Equipment

Subsection	Comment	Commenter	Entity
205 CMR 243.01	<p>Thank you for the Massachusetts Gaming Commission’s (MGC) diligent work to develop rules and regulations governing sports wagering in the Commonwealth. GeoComply welcomes the opportunity to provide feedback on Regulation 205 CMR 243.00 Sports Wagering Equipment. Inviting the industry and the public to provide comments creates a transparent and collaborative process that will result in the greatest possible sports betting environment for consumers. We look forward to working with the MGC and being part of the Massachusetts-regulated sports wagering industry.</p> <p>GeoComply is the leading provider of geolocation and anti-fraud technology to support the compliance demands of state-regulated internet sports wagering. GeoComply also tackles the needs of “know your customer” compliance through our ID Comply services. This dynamic age and identity verification system and our advanced geolocation and fraud detection technologies deliver unparalleled oversight for operators and regulators.</p> <p>We appreciate that the MGC has adopted GLI-33 as the baseline regulatory standard and that you have</p>	<p>Matt Heap</p> <p>matt.heap@geocomply.com</p>	<p>GeoComply</p>

	<p>proposed additional requirements to strengthen these further.</p> <p>The currently proposed Section 2.7.4(a) of the GLI Standards read: “Subsequent location checks on that device shall occur prior to completing wagers after a period of 30 minutes since the previous location check ...”</p> <p>As the MGC considers updates to the proposed geolocation requirements, we request that your agency review our best practice standards and recommendations regarding Patron Geolocation and Device Integrity. The following is an excerpt of our recommendations regarding the timing and frequency of geolocation checks:</p> <p>Geolocation Timing and Verification Frequency</p> <p>To ensure the patron is continually located within the permitted boundary, and that the device maintains compliance to all geolocation and fraud requirements throughout the gaming session, the system must be equipped to dynamically monitor the patron's location and block unauthorized attempts to access the gaming system throughout the duration of the patron session.</p> <p>The Internet or mobile gaming system shall trigger: A geolocation check prior to the</p>		
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	<p>placement of the first bet or wager; Recurring periodic geolocation checks, if a patron session is longer than a single bet or wager, shall be administered as follows: Static connections: recheck at least every twenty (20) minutes or five (5) minutes if within one (1) mile of the border. Mobile Connections: recheck intervals to be based on a patron's proximity to the border with an assumed travel velocity of 65 miles per hour or a demonstrated average velocity of a roadway/path. This interval shall not exceed twenty (20) minutes. Upon a change of IP address, a geolocation check shall occur prior to placement of the next wager; An immediate recheck if the patron cannot be located due to a momentary absence of location data mid-session (and the immediately preceding geolocation check during the same gaming session was successful). A total of five (5) rechecks within a period of 5 minutes are permitted in this scenario; thereafter, wagering must cease if the patron cannot be successfully located. Exercising this option is acceptable only when the device is accessing the internet utilizing a static (non-mobile) access point. If all required geolocation rechecks have been exhausted, and the location of the patron is still inconclusive, the Internet gaming platform may permit</p>		
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	<p>the patron to complete their current round of play, including any continuation bets, before their wagering session is terminated.</p> <p>In summary of the above GeoComply standards, it is strongly recommended to adjust this to a maximum of 20 minutes on a static connection to avoid vulnerabilities in enabling remote play from out of the state. 20 minutes is the accepted standard in the majority of US wagering states. The currently proposed 30-minute window affords opportunities for devices to be tampered with during the time between geolocation checks, and would present a considerable vulnerability to the integrity of the state’s regulatory model.</p> <p>Additionally, we recommended that Massachusetts consider factoring in a user’s proximity to the border and speed of travel into the proposed geolocation requirements, as indicated in B.2. of the suggested language above. We believe this will strengthen compliance while also upholding the intent of the regulation, and address the range of technical vulnerabilities around such use cases.</p> <p>The adoption and implementation of the above-referenced standards have occurred in several other states, such as Connecticut, Indiana, New Jersey, New York, Pennsylvania, and most recently,</p>		
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	<p>Ohio. We continually work with regulators nationwide to establish and refine their protocols and technical standards, and we look forward to sharing information and best practices with the MGC.</p> <p>Thank you for considering our comments; please do not hesitate to contact us for further details on the recommendations In this submission.</p>		
<p>243(x)(c),</p>	<p>243(x)(c): proposing to replace “conducted” with “completed” Comment: 90 days for the report and 30 days following the completion; therefore, 120 days total</p>	<p>Jess Panora jess.panora@betmgm.com</p>	<p>BetMGM</p>
<p>243(x)(e)</p>	<p>243(x)(e): proposing to add “regarding an item identified as High” after “recommends corrective action”</p>	<p>Jess Panora jess.panora@betmgm.com</p>	<p>Bet MGM</p>

	<p><i>See additional Comments from Draft Kings in email format</i></p>		
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From: MGC Website
To: [Young, Judith](#)
Subject: Regulations Public Comment Submission
Date: Thursday, January 19, 2023 4:27:25 PM

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Submitted By

Operator (Applicant or Licensed)

Business/Entity Name

DraftKings

Name

David Prestwood

Email

d.prestwood@draftkings.com <<mailto:d.prestwood@draftkings.com>>

Regulation

205 CMR 243.00 - Sports Wagering Equipment

Subsection

205 CMR 243.00 A.3.7(a)

Comments

DraftKings respectfully requests that the Massachusetts Gaming Commission establish consistency between the deposit limits in the Daily Fantasy Sports (DFS) rules and deposit limits in sports wagering. The draft regulations allow a player to increase their deposit limits after a 24-hour period, whereas the DFS regulations prohibit players from making their limits less restrictive “within 90 days” (940 CMR 34.10(1)(c)).

DraftKings cannot support differing deposit limits by product, as DraftKings operates a shared wallet between products – that is, the funds placed into a wallet are generally usable by the owner player to participate in both DFS and in sports wagering, with some limitations as described in our internal controls. The regulations as drafted would disadvantage operators who offer both DFS and sports wagering in the commonwealth.

Without conformity, players at operators who offer both DFS and sports wagering will not be able to reduce their deposit limitation after the initial 24 hour window, as these operators will instead have to comply with the existing DFS rules that specify that players “shall not have the option to make limits less restrictive...within 90 days of setting such limits.”

DraftKings proposes that 205 CMR 243.00 A.3.7(a) and the aforementioned DFS regulation be harmonized to create a level playing field. DraftKings is open to discussing the limits that we operate in other jurisdictions, which allow players to protect themselves and encourage them to select a deposit limit period that is right for them. Please feel free to reach out should you have any questions about this issue or our experience in other regulated jurisdictions.

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Submitted By

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Business/Entity Name

DraftKings

Name

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Regulation

205 CMR 243.00 - Sports Wagering Equipment

Subsection

205 CMR 243.00 2.5.2(e)

Comments

DraftKings respectfully requests that the Massachusetts Gaming Commission amend its requirement for multi-factor authentication.

DraftKings does not currently require multi-factor authentication when a new account is added in order to place a deposit, or to withdraw funds to an existing account, as there is minimal risk of fraud or abuse in these transactions, and multi-factor authentication is not mandated for either by existing sports wagering jurisdictions.

DraftKings does however require multi-factor authentication when an attempt is made to withdraw funds to an account for the first time, to protect player funds from being diverted to an account that the player does not own.

In order to preserve a seamless deposit and withdrawal process for players, DraftKings requests that the requirement be amended so as to read:

The system shall allow the ability to update passwords, registration information and the account used for financial transactions for each player. A multi-factor authentication process shall be employed for updating passwords, altering registration information, and making an initial withdrawal to a new financial account.

Thank you for your consideration of DraftKings' proposed amendment to the Commission's regulation. Please feel free to reach out should you have any questions about this issue or our experience in other regulated jurisdictions.

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David Prestwood

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Regulation

Rule 205 CMR 243.00 - Sports Wagering Equipment

Subsection

205 CMR 243.00 A.6.4(c)

Comments

DraftKings respectfully requests an amendment to this regulation to provide sports wagering operators with discretion to void and cancel wagers for obvious errors, and for reasons described in an operator's policy, house rules, and internal controls, which will have been reviewed and approved by the Commission. DraftKings would be happy to speak to the Commission to provide additional feedback and answer questions as it pertains to canceling and voiding bets.

There are many scenarios in which an operator may void or cancel a wager that should not require prior approval of the regulatory body, especially in a mobile wagering environment. For example:

- A player "fat fingers" an extra "0," and ends up placing a \$1,000 wager instead of a \$100 wager. The player contacts customer service immediately to make a correction.
- A game is cancelled prior to starting, or is abandoned for injury, weather, or other reason and cannot be concluded.

As currently written, operators would be required to receive approval to void or cancel wagers in these circumstances.

DraftKings proposes that 205 CMR 243.00 A.6.4(c) be amended to read:

An operator shall not void or cancel any wager without the prior approval of the regulatory body, except in accordance with the operator's published cancellation policy, house rules, or internal controls.

The draft of 205 CMR 238.35 (Cancelled or Voided Wagers) does provide some circumstances in which a sports wagering operator may cancel or void a wager without prior authorization, which contradicts the plain language in this section. If the above amendment is not accepted, DraftKings proposes that 205 CME 243.00 A.6.4(c) be amended to read:

An operator shall not void or cancel any wager without the prior approval of the regulatory body, except in accordance with 205 CMR 238.35.

Thank you for your consideration of DraftKings' proposed amendments to the Commission's regulation. Please feel free to reach out should you have any questions about this issue or our experience in other regulated jurisdictions.

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Regulation

205 CMR 243.00 - Sports Wagering Equipment

Subsection

205 CMR 243.00 A.2.4(a)

Comments

DraftKings respectfully requests that the Massachusetts Gaming Commission amend its broad prohibition on sports wagering by employees of sports wagering operators.

Currently, every sports wagering jurisdiction except for New York allows employees of mobile sports wagering licensees to place wagers on competing platforms. In general, sports wagering jurisdictions only prohibit key employees from placing wagers throughout the jurisdiction, while prohibiting all employees from placing wagers only on their employing platform. Employees of sports wagering operators in those jurisdictions place wagers on competing platforms with no deleterious effects on the public.

In drafting the statute, the Massachusetts legislature did not intend to prevent employees of any operator and their families from placing wagers in Massachusetts. This draft regulation significantly exceeds the statutory requirements, which are specific to bets being placed with an employing operator. G.L. c.23N § 11(a)(i) states that “An operator shall employ commercially reasonable methods to: prohibit the operator, directors, officers, owners and employees of the operator and any relative living in the same household as any such person from placing bets with the operator.” Further, G.L. c.23M § 13(f) states that “No employee may place a sports wager at any facility or through any mobile application or digital platform owned or operated by their employer.”

Such a restriction would be appropriate in daily fantasy sports, where players are directly competing against each other, and employees of a daily fantasy sports contest operator could be perceived to have a strategic advantage. Indeed, the Massachusetts daily fantasy sports contains such a limitation. There is no such concern in sports wagering, where players are competing “against the house” and the particular skill of one player does not disadvantage other players.

DraftKings requests that the updated regulation read:

Players identified as employees, subcontractors, directors, owners, and officers of an operator, as well as those within the same household, shall not place wagers with that operator.

Thank you for your consideration of DraftKings’ proposed amendment to the Commission’s regulation. Please feel free to reach out should you have any questions about this issue or our experience in other regulated jurisdictions.

AMENDED SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this amended Small Business Impact Statement in accordance with G.L. c. 30A, § 5 relative to the proposed adoption of **205 CMR 243.00: SPORTS WAGERING EQUIPMENT**, for which a public hearing was held on January 24, 2023.

The adoption of 205 CMR 243.00 is part of the process of promulgating regulations governing the operation of Sports Wagering in the Commonwealth. This regulation is governed largely by G.L. c. 23K, §4 and G.L. c. 23N, §4.

The adoption of 205 CMR 243.00 applies to sports wagering operators, sports wagering vendors, and the Commission. Accordingly, this regulation is unlikely to have an impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As a general matter, it unlikely that any small businesses will be negatively impacted by this amendment as it relates sports wagering operators, sports wagering vendors, and the Commission. Accordingly, there are no less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements within this regulation that would pertain to small businesses.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

This regulation does not impose any reporting requirements.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:

There are no design or operational standards within in the proposed regulation.

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

This regulation is not likely to deter or encourage the formation of new businesses in the Commonwealth, as it is limited in its likely impact on the business community.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

This amendment does not create any adverse impact on small businesses.

Massachusetts Gaming Commission

By:

/s/ Carrie Torrasi
Carrie Torrasi
Deputy General Counsel

Dated: January 26th 2023

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 243.00: SPORTS WAGERING EQUIPMENT

243.01: Standards for Sports Wagering Equipment

- (1) Sports Wagering Operators and Sports Wagering Vendors shall comply with, and the Commission adopts and incorporates by reference, *Gaming Laboratories International, LLC Standard GLI-33: Event Wagering Systems* and its appendices, version 1.1, released May 14, 2019, subject to the following amendments:
- (a) Delete section 1.1.1 and replace with the following: "The following sets forth the technical standards for Sports Wagering Equipment as identified in 205 CMR 244.01."
 - (b) Delete section 1.1.2.
 - (c) Delete section 1.2.1.
 - (d) Delete section 1.3.3 and replace with the following: "This GLI technical standard is adopted in whole, subject to the modifications described in 205 CMR 243.01. To create a cohesive regulatory framework, the standard and modifications should always be read in conjunction with 205 CMR and the standards referenced in section 1.4.1."
 - (e) Add the following after section 2.1.1 "and the modifications described in 205 CMR 243.01."
 - (f) Delete the second sentence of section 2.5.1 and replace with the following: "In addition to the requirements contained within this section, and 205 CMR, the "Player Account Controls" section of this document shall also be met."
 - (g) Delete section 2.5.6(b) and replace with the following: "A deposit into a player account shall not be made using a credit card and must be made by methods which can produce a sufficient audit trail."
 - (h) Delete from section 2.7.1 the words "Where required by the regulatory body"
 - (i) Add the following at the end of section 2.7.4: "All wagers must be initiated and received or otherwise made by an individual located in the Commonwealth. Consistent with the intent of the federal Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. section 5361 to 5367, inclusive, the intermediate routing of electronic data related to a lawful intrastate wager authorized pursuant to M.G.L. c. 23N shall not determine the location or locations in which the wager is initiated, received, or otherwise made."
 - (j) Replace in section 2.7.4(a):
 - (1) -the number "30" with the number "20"; and
 - (2) the words "or as otherwise specified by the regulatory body" with "after a period of 5 minutes since the previous location check if within one mile of the border, and prior to placement of the next wager after detection of a change to the player's IP Address"
 - (k) Add the following as section 2.7.4(e): "The location detection service or application used by the Event Wagering System shall be certified by the approved Independent Testing Laboratory, including applicable field testing, before its deployment."
 - (l) Delete section 2.8.2(o) and replace with the following: "(o) The personally identifiable information of a player who places a wager that exceeds \$10,000 or wins a wager exceeding \$600 and worth at least 300 times the amount wagered including, the legal name, residential address, date of birth, and encrypted government identification number (full or partial social security number, taxpayer identification number, passport number, or equivalent)."
 - (m) Delete from section 2.8.5(j)(ix) the words "or credit"

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- (n) Replace in section 2.8.8(d) the words "a value specified by the regulatory body" with "\$10,000, or \$600 and worth at least 300 times the amount wagered"
- (o) Replace in section 2.8.8(e) the words "a value specified by the regulatory body" with "\$10,000"
- (p) Replace in section 2.8.8(n)(iv).the words "a value specified by the regulatory body" with "\$10,000"
- (q) Add the following as section 2.9.1(c): "The Operator shall timely file with the Commission the reports required by this section in accordance with M.G.L. c. 23N, § 12(a)(ix) and 205 CMR."
- (r) Replace in section 3.3.1 the words "other applicable jurisdictional requirements observed by the regulatory body" with "the modifications described in 205 CMR 143.07"
- (s) Add the following as section A.1.2: "A.1.2 Independent Audit. Each Operator shall have their procedures and practices for wagering operations independently audited at least once every two (2) years with the results documented in a written report. Reports shall be maintained and available to the Commission upon request. An Operator's audit practices shall include, but not be limited to, the following:
 - a) Independent audits may be conducted by the Commission, or a Commission-approved third-party auditor. The Commission may, in its discretion, allow for an internal audit department within the Operator or parent company of the Operator, which is independent of the wagering operation, to serve as a third-party auditor for use in completing this audit.
 - b) The Commission, or third-party auditor shall be responsible for auditing the Operator's compliance with M.G.L. c. 23N, 205 CMR, this appendix, the internal control system, and any other applicable rules and regulations.
 - c) Documentation, including checklist, programs, reports, corrective actions, and other items, shall be prepared to evidence all independent audit work performed as it relates to the requirements of 205 CMR 243.01 and this appendix, including all instances of noncompliance.
 - d) Independent audit reports shall include objectives, procedures and scope, findings and conclusions, and recommendations.
 - e) Independent audit findings shall be reported to management. Management shall be required to respond to the independent audit findings and the stated corrective measures to be taken to avoid recurrence of the audit exception. Such management responses shall be included in the final independent audit report.
 - f) Follow-up observation and examinations shall be performed to verify that corrective action has been taken regarding all instances of noncompliance cited by the independent audits, or by the Commission. The verification shall be performed within six (6) months following the date of notification.
 - g) It is acceptable to leverage the results of prior audits conducted within the audit period by the same third-party auditor in another jurisdiction. Such leveraging shall be noted in the audit report. This leveraging does not include any procedures and practices unique to the Commonwealth, which will require new audits."
- (t) ~~Add the following~~ Make the following changes to section A.2:
 - (1) Add the following -at the end of section A.2.1: "The internal control procedures shall meet the requirements of this appendix and 205 CMR."
 - (2) Replace the first sentence of section A.2.4 with: "Players identified as

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employees, subcontractors, directors, owners, officers, or Qualifiers of an operator, as well as those within the same household, shall not place wagers through the operator, or through any other Operator tethered to the Operator, on any event, except in private pools where their association with the Operator is clearly disclosed.”

- (u) Replace in section A.4.5 the word “credit card” with “financial”
- (v) Delete section A.7.4(d) and replace with the following: "(d)Is kept for at least one year after a sporting event occurs."
- (w) Delete from section A.8.3 the words "where required by the regulatory body"
- (x) Add the following as section B.1.2: "B.1.2 Independent Audit. The Operator shall, within ninety (90) days after commencing operations in the Commonwealth, and annually thereafter, have a technical security control audit conducted by a qualified independent technical expert selected by the Operator and subject to approval of the Commission. The Commission will establish minimum qualifications for technical experts, to be published on its website, which must be reviewed and updated annually, and which shall include the requirements of B.1.2(b).
 - a) The scope of the technical security control audit is subject to approval of the Commission or its designee and must include, at a minimum, all of the following:
 - i. A vulnerability assessment of all digital platforms, mobile applications, internal, external, and wireless networks with the intent of identifying vulnerabilities of all devices, the servers, and applications transferring, storing, and/or processing personally identifiable information and/or other sensitive information connected to or present on the networks.
 - ii. A penetration test of all digital platforms, mobile applications, internal, external, and wireless networks to confirm if identified vulnerabilities of all devices, the servers, and applications are susceptible to compromise.
 - iii. A review of the firewall rules to verify the operating condition of the firewall and the effectiveness of its security configuration and rule sets performed on all the perimeter firewalls and the internal firewalls;
 - iv. An information security assessment against the provisions adopted in M.G.L. c. 23N, 205 CMR, this appendix with generally accepted professional standards, and as approved by the Commission;
 - v. If a cloud service provider is in use, an assessment performed on the access controls, account management, logging and monitoring, and over security configurations of their cloud tenant;
 - vi. An evaluation of information security services, payment services (financial institutions, payment processors, etc.), location services, and any other wagering services which may be offered directly by the Operator or involve the use of third parties against the provisions adopted in these rules; and
 - vii. Any other specific criteria or standards for the technical security control audit as prescribed by the Commission or its designee.
 - b) To qualify as an independent technical expert, the independent technical expert shall:
 - i. Have relevant education background or in other ways provide relevant qualifications in assessing Event Wagering Systems;
 - ii. Obtain and maintain certifications sufficient to demonstrate proficiency and expertise as a network penetration tester by recognized certification boards, either

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- nationally or internationally;
 - iii. Have at least five years' experience performing technical security control audits on Event Wagering Systems; and
 - iv. Meet any other qualifications as prescribed by the Commission or its designee.
 - c) The full independent technical expert's report on the assessment must be submitted to the Commission no later than thirty (30) days after the assessment is ~~conducted~~ completed and must include all the following:
 - i. Scope of review;
 - ii. Name, company affiliation, contact information, and qualifications of the individual(s) who conducted the assessment.
 - iii. Date of assessment;
 - iv. Findings;
 - v. Recommended corrective action, if applicable; and
 - vi. The Operator's response to the findings and recommended corrective action.
 - d) It is acceptable to leverage the results of prior assessments within the past year conducted by the same independent technical expert in another jurisdiction or against standards such as ISO/IEC 27001, ISO/IEC 27017, ISO/IEC 27018, the NIST Cybersecurity Framework (CSF), the Payment Card Industry Data Security Standards (PCI-DSS), or equivalent. Such leveraging shall be noted in the independent technical expert's report. This leveraging shall not include critical components unique to the Commonwealth which will require fresh assessments.
 - e) If the independent technical expert's report recommends corrective action regarding an item identified as High, or, with respect to any other corrective action, if the Commission so directs the Sports Wagering Operator, the Sports Wagering Operator must provide the Commission with a remediation plan and any risk mitigation plans which detail the Operator's actions and schedule to implement the corrective action. Once the corrective action has been taken, the Sports Wagering Operator shall provide the Commission with documentation evidencing completion."
 - (y) Replace the paragraph in B.2.2 with the following: "The Sports Wagering Operator shall provide the Commission with information on the secure locations of all servers and other Sports Wagering Equipment for the Commission's approval. Unless otherwise approved by the Commission, the primary server or other equipment primarily responsible for the acceptance of sports wagers shall be placed in secure locations within the Commonwealth. In addition, secure location(s) shall:"
 - (z) Replace section B.4.5 with the following: "B.4.5 Communications in Wagering Venues. If a guest network is offered that provides internet access for players, venue guests, or vendors, the guest network must be physically or logically segregated from the network used to serve the Event Wagering System. Communications on the guest network must be non-routable to the Event Wagering System network."
 - (aa) Delete from section B.7.6 the words "If required by the regulatory body"
 - (bb) Add the following to the beginning of section B.9.5: "The Commission may approve of the use of internet or cloud-based hosting of duplicate data or data not related to transactional wagering data upon written request of the Operator."
 - (cc) In Section A.6.4:
 - (1) Replace "authorized" with "permitted";
 - (bb)(2) After "prior approval of the regulatory body," insert "except in accordance

with the Operator's approved house rules or internal controls."

DRAFT

205 CMR 244.00 APPROVAL OF SPORTS WAGERING EQUIPMENT
AND TESTING LABORATORIES

Section

- 244.01: Sports Wagering Equipment
- 244.02: Testing and Approval of Sports Wagering Equipment
- 244.03: Integration and Change Management Requirements
- 244.04: Required Testing by Independent Testing Laboratories
- 244.05: Fees for Testing Sports Wagering Equipment
- 244.06: Independent Testing Laboratory Certification

244.01: Sports Wagering Equipment

- (1) For purposes of this 205 CMR, Sports Wagering Equipment shall include, but not be limited to:
 - (a) Equipment necessary for a Sports Wagering Operator to allow an individual to place, review, modify or receive winnings from a Sports Wager;
 - (b) Equipment used by a Sports Wagering Operator to review, manage, and report information related to a Sports Wagering Account or Sports Wager;
 - (c) Equipment that directly relates to, affects, or is used or consumed in Sports Wagering, including, but not limited to:
 - 1. Any mechanical, electronic, or other device, mechanism, or equipment, including kiosks subject to 205 CMR 243.02: *Sports Wagering Kiosks*;
 - 2. Any software, application, components, or other goods that directly relate to, affect, are used or consumed in Sports Wagering; and
 - 3. Anything to be installed or used on a personal device used by an individual to engage in Sports Wagering.
 - (d) Devices used in conjunction with Sports Wagering Equipment, including, but not limited, bill validators, printers, and any other associated devices identified by the Commission; and
 - (e) Any other software and hardware required to be tested in accordance with 205 CMR 243.00.
- (2) For purposes of 205 CMR 244.00, Sports Wagering Equipment shall not include:
 - (a) Equipment or communications technology used to access a Sports Wagering Platform;
 - (b) Intermediary software that connects an individual to the individual's financial institution; and
 - (c) Any other device, software, or component that does not affect the operational integrity of Sports Wagering, as determined by the Commission.

244.02: Testing and Approval of Sports Wagering Equipment

- (1) In order for Sports Wagering Equipment to be approved and for critical updates to the equipment to be approved for use in Sports Wagering, a Sports Wagering Operator or Sports Wagering Vendor, at its own expense, shall submit the Sports Wagering Equipment for testing and technical evaluation in accordance with 205 CMR 244.04 by a Commission-certified independent testing laboratory certified pursuant to 205 CMR 244.06 to determine compliance with M.G.L. c. 23N and 205 CMR 243.00.
- (2) The Sports Wagering Operator or Sports Wagering Vendor shall provide the certified independent testing laboratory with all documentation and other materials necessary to conduct testing and evaluate compliance, including access to any software source code and the means to verify compilation of such source code. The result of the compiled source code must be identical to that in the software submitted for evaluation.
- (3) If the Sports Wagering Equipment meets or exceeds the specifications set forth in M.G.L. c. 23N and 205 CMR 243.00, the independent testing laboratory shall certify the Sports Wagering Equipment. The Sports Wagering Operator and Sports Wagering Vendor shall not make use of any Sports Wagering Equipment to offer Sports Wagering in the Commonwealth without such certification.
- (4) No Sports Wagering Equipment shall be operated in Massachusetts, nor shall previously approved Sports Wagering Equipment be critically updated, unless the Sports Wagering Operator or Sports Wagering Vendor first submits a request for approval to the Commission, as directed, at least three business days prior to the anticipated operation or modification. The Commission, or its designee, may approve such request on shorter notice in exceptional circumstances. The request for approval shall be in the form prescribed by the Commission.
- (5) The Commission's gaming technology lab may conduct any additional testing of the Sports Wagering Equipment it deems necessary and may require any further subsequent action prior to or after approval.
- (6) The Sports Wagering Operator and Sports Wagering Vendor shall promptly notify the Commission if it becomes aware of any negative action taken in another jurisdiction relative to Sports Wagering Equipment operating in the Commonwealth, or if it becomes aware of an issue that may negatively impact the integrity of such equipment, the reporting of revenue, or Sports Wagering.

244.03: Integration and Change Management Requirements

- (1) The Sports Wagering Operator shall be responsible for the Sports Wagering realized through the Sport Wagering Operator's Sports Wagering Vendors.
 - (a) The servers and other devices of Sports Wagering Vendors shall be considered part of the Sports Wagering Operator's Sports Wagering Equipment and shall comply with M.G.L. c. 23N and 205 CMR 243.00.
 - (b) The Sports Wagering Operator shall guarantee that any integration with the servers and other devices of Sports Wagering Vendors complies with M.G.L. c. 23N and 205 CMR 243.00.
 - (c) An independent testing laboratory shall conduct integration testing and certification

for each server and other device with the Sports Wagering Operator's Sports Wagering Equipment prior to its deployment and as required by the Commission.

- (2) The Sports Wagering Operator shall submit its proposed change management procedures to the Commission for approval in the manner described in 205 CMR 238.00. Such change management processes shall detail evaluation procedures for identifying the criticality of updates and determining the updates that shall be submitted to a certified independent testing laboratory for review and certification. The submission shall, at a minimum, reflect the following:
- (a) These change management submission shall be:
 - 1. Developed in accordance with the Gaming Laboratories International, LLC Guide *GLI-CMP: Change Management Program Guide*, version 1.0, released May 6, 2020;
 - 2. Approved by the Commission prior to its deployment; and
 - 3. Audited at least annually by an independent testing laboratory.
 - (b) The Sports Wagering Operator shall issue quarterly change reports to an independent testing laboratory for review. The independent testing laboratory shall review the submission to ensure risk is being assessed according to the approved change management processes, and documentation for all changes are complete.
 - (c) Sports Wagering Equipment operating under the approved change management processes shall be certified to the specifications set forth in M.G.L. c. 23N and 205 CMR 243.00 and accompanied by formal certification documentation from the independent testing laboratory on at least an annual basis. The Sports Wagering Operator or Sports Wagering Vendor may request an extension beyond the annual approval if it can demonstrate a hardship that prevents it from meeting the requirements for annual approval. The granting of a hardship waiver shall be in the sole discretion of the Commission.

244.04: Required Testing by Independent Testing Laboratories

- (1) Any testing by the independent testing laboratory for the purposes of certifying Sports Wagering Equipment shall be conducted in compliance with M.G.L. c. 23N and 205 CMR 243.00 and 244.00.
- (2) The independent testing laboratory shall issue a report of the testing results to the Sports Wagering Operator or Sports Wagering Vendor and to the Commission. Such report shall contain:
 - (a) the part and version numbers of the Sports Wagering Equipment tested;
 - (b) attachments containing documents sufficient to describe the functionality and operation of all material components of the Sports Wagering Equipment;
 - (c) a statement as to whether each of the components within the Sports Wagering Equipment, each interaction between components, and the equipment as a whole is compliant with M.G.L. c. 23N and 205 CMR 243.00;

- (d) the date the Sports Wagering Equipment was submitted for testing;
 - (e) the start and end dates of the Sports Wagering Equipment testing;
 - (f) the location of the facility used to perform the testing; and
 - (g) a statement, signed under penalty of perjury, that all information provided in the report is accurate and complete.
- (3) The independent testing laboratory's report shall not contain any information in its body that, if publicly released, may harm the integrity of the Sports Wagering Equipment, but such information may be disclosed in an attachment to the independent testing laboratory's report.
 - (4) The independent testing laboratory may communicate with the Sports Wagering Operator or Sports Wagering Vendor to request additional documentation or to discuss potentially non-compliant components. The independent testing laboratory shall log any communication between itself and the Operator or vendor and, upon the Commission's request, provide copies of any or all documents transmitted to or from the Operator or vendor for a minimum of the past seven years following issuance of the independent testing laboratory's report.
 - (5) The independent testing laboratory may rely on testing conducted and data collected from testing conducted for another jurisdiction, whether by the independent testing laboratory or by another entity, if the testing was performed by an independent party with no apparent interest in the result. An independent testing laboratory relying on such external testing or data shall clearly identify in its report all such reliance and independently verify the validity of such data or testing by making a finding that the methods described in the earlier test are reliable and there is no indication that the data is incorrect.
 - (6) An independent testing laboratory may rely on any data or results of testing conducted by a Commission-certified independent testing laboratory when such testing was conducted for purposes of permitting Sports Wagering Equipment in the Commonwealth. Any reliance pursuant to 205 CMR 244.04(5) or (6) shall be clearly identified in the report.

244.05: Fees for Testing Sports Wagering Equipment

- (1) The Commission may assess a fee to a Sports Wagering Operator or Sports Wagering Vendor representing the cost associated with any additional testing of Sports Wagering Equipment required by the Commission's gaming technology lab in accordance with 205 CMR 244.02(5), at hourly rates to be posted by the Commission.
- (2) A Sports Wagering Operator or Sports Wagering Vendor requesting that a Commission certified independent testing laboratory conduct testing shall pay all costs of the testing directly to the independent testing laboratory.

244.06: Independent Testing Laboratory Certification

A person certified as an independent testing laboratory pursuant to 205 CMR 144 may be authorized by the Commission to provide testing services of Sports Wagering Equipment in Massachusetts. Such certified independent testing laboratory shall be subject to the same notification requirements and continued obligations outlined in 205 CMR 144.06 as they relate to

Sports Wagering Equipment as well as the same reporting requirements outlined in 205 CMR 144.04 as they relate to Sports Wagering Equipment testing.

Public Comments Pertaining to 205 CMR 244: Approval of Sports Wagering Equipment and Testing Laboratories

Subsection	Comment	Commenter	Entity
244.03: Integration and Change Management Requirements	<p>In the context of Change Management Requirements, 205 CMR 244.03 states that the Sports Wagering Operator shall submit change management requests to the Commission, including quarterly change reports reviewed by an independent laboratory.</p> <p>Kambi, a Sports Wagering Operator, would like to confirm understanding that, as the entity responsible for the Sports Wagering Equipment/System, it shall conduct the appropriate communication with the independent laboratory and the Commission on behalf of the Sports Wagering Operator.</p>	<p>Barbara Lacourt</p> <p>kambi.licensing@kambi.com</p>	Kambi
244.02(6)	244.02(6): proposing to replace “promptly” with “within 48 hours of confirming an issue”	<p>Jess Panora</p> <p>jess.panora@betmgm.com</p>	BetMGM

<p>244.04(4)</p>	<p>244.04(4): proposing to add “The log and or communication shall be considered confidential and not be released to the public.” after the last sentence.</p> <p>Comment: BetMGM has no concerns reporting issue(s) or Regulatory agencies or an ITL. However, items listed in an email or discussion could contain trademark secrets or technical investigations. Therefore, we are requesting the communication log be consider closed record.</p>	<p>Jess Panora jess.panora@betmgm.com</p>	<p>Bet MGM</p>
<p>244.04(6)</p>	<p>244.04(6): question: Is this permissible if both labs are not ISO certified or do not accept the testing results?</p>	<p>Jess Panora jess.panora@betmgm.com</p>	<p>Bet MGM</p>

From: MGC Website
To: [Young, Judith](#)
Subject: Regulations Public Comment Submission
Date: Monday, January 23, 2023 5:04:07 PM

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Submitted By

Operator (Applicant or Licensed)

Business/Entity Name

Penn Interactive

Name

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Regulation

205 CMR 244: Approval of Sports Wagering Equipment and Testing Laboratories

Subsection

205 CMR 244.03: Integration and Change Management Requirements

Comments

PENN would like to confirm that 205 CMR 244.03 permits Sports Wagering Vendors to handle Change Management processes and notifications directly with the Commission. Pursuant to 205 CMR 244.03 (2)(a)(1), Change Management procedures and submissions shall be developed in accordance with the Gaming Laboratories International, LLC, GLI-CMP: Change Management Program Guide, version 1.0, released May 6, 2020, which generally permits either Operators or their technology suppliers/vendors to handle Change Management related items directly with the applicable regulatory body.

In accordance with industry standard, the licensee ultimately responsible for the maintenance of the Sports Wagering Equipment or System is typically permitted to implement and maintain the change management policies and procedures associated with the Equipment or System. This results in many instances where the Sports Wagering Equipment or System will be maintained by the Sports Wagering Vendor, and not directly by the Sports Wagering Operator. Permitting Sports Wagering Vendors to handle applicable change management processes directly with the Commission will ensure the Commission is provided the relevant change management notifications directly from the licensed entity that is implementing the change and best positioned to provide the required information, thus promoting efficiency in the process.

From: MGC Website <massgamingcomm@gmail.com>
Sent: Monday, January 30, 2023 5:27 PM
To: Torrisi, Carrie <caroline.torrisi@massgaming.gov>
Subject: Regulations Public Comment Submission

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Submitted By

Vendor (Applicant or Licensed)

Business/Entity Name

Sports Information Services Limited (d/b/a Kambi)

Name

Barbara Lacourt

Email

kambi.licensing@kambi.com

Regulation

205 CMR 244.00 APPROVAL OF SPORTS WAGERING EQUIPMENT AND TESTING LABORATORIES

Subsection

244.02(6):Testing and Approval of Sports Wagering Equipment

Comments

In the context of Testing and Approval of Sports Wagering Equipment, 205 CMR 244.02 (6) states that Sports Wagering Operator and Vendor shall notify the Commission "if it becomes aware of any negative action taken in another jurisdiction relative to Sports Wagering equipment operating in the Commonwealth, or if it becomes aware of an issue that may negatively impact the reporting of revenue, Sports Wagering, or the integrity of such equipment."

What is the definition of "negative action" and what kind of issues would be encompassed in the definition of "an issue that may negatively impact the reporting of revenue, Sports Wagering, or the integrity of such equipment"?

Commenter: Barbara Lacourt kambi.licensing@kambi.com

In the context of Change Management Requirements, 205 CMR 244.03 (2) states that the Sports Wagering Operator shall submit its proposed change management procedures to the Commission, including issuing quarterly change reports to be reviewed by an independent testing laboratory.

Kambi, a Sports Wagering Vendor, would like to confirm its understanding that, as the ultimate responsible for the Sports Wagering Equipment/System, it may issue the change management reports and conduct the appropriate communication with the testing laboratory and the Commission on behalf of the Sports Wagering Operator.

AMENDED SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this amended Small Business Impact Statement in accordance with G.L. c. 30A, § 5 relative to the proposed adoption of **205 CMR 244.00: APPROVALS OF SPORTS WAGERING EQUIPMENT AND TESTING LABORATORIES**, for which a public hearing was held on January 24, 2023.

The adoption of 205 CMR 244.00 is part of the process of promulgating regulations governing the operation of Sports Wagering in the Commonwealth. This regulation is governed largely by G.L. c. 23K, §4 and G.L. c. 23N, §4.

The adoption of 205 CMR 244.00 applies to sports wagering operators, sports wagering vendors, and the Commission. Accordingly, this regulation is unlikely to have an impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As a general matter, it unlikely that any small businesses will be negatively impacted by this amendment as it relates sports wagering operators, sports wagering vendors, and the Commission. Accordingly, there are no less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements within this regulation that would pertain to small businesses.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

This regulation does not impose any reporting requirements.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:

There are no design or operational standards within in the proposed regulation.

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

This regulation is not likely to deter or encourage the formation of new businesses in the Commonwealth, as it is limited in its likely impact on the business community.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

This amendment does not create any adverse impact on small businesses.

Massachusetts Gaming Commission

By:

/s/ Carrie Torrisi
Carrie Torrisi
Deputy General Counsel

Dated: January 26th 2023