



NOTICE OF MEETING AND AGENDA

Pursuant to the Massachusetts Open Meeting Law (G.L. c. 30A, §§ 18-25), St. 2022, c. 107, and St. 2023, c. 2, notice is hereby given of a public meeting of the **Massachusetts Gaming Commission**. The meeting will take place:

Thursday | June 15, 2023 | 9:00 a.m.
VIA REMOTE ACCESS: 1-646-741-5292
MEETING ID/ PARTICIPANT CODE: 111 232 7656
All meetings are streamed live at www.massgaming.com.

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

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

PUBLIC MEETING - #459

1. Call to Order – Cathy Judd-Stein, Chair

2. Meeting Minutes
 - a. December 15, 2022 **VOTE**
 - b. December 29, 2022 **VOTE**

3. Commissioner Updates

4. Administrative Update – Karen Wells, Executive Director
 - a. MGC COVID-19 Policy Review – Trupti Banda, Human Resources Manager **VOTE**

5. Legislative Update – Commissioner Brad Hill, Grace Robinson, Chief Administrative Officer to the Chair **VOTE**

6. Succession of Officers and Positions Document Distribution – Commissioner Eileen O'Brien



Massachusetts Gaming Commission

7. Community Affairs Division – Joe Delaney, Chief of Community Affairs
 - a. Community Mitigation Fund Public Safety Application Review **VOTE**

8. Sports Wagering – Bruce Band, Director of Sports Wagering, Crystal Beauchemin, Sports Wagering Business Manager
 - a. Request for Uniform Waivers to extend effective dates
 - I. 247.09 (3) and (4) – Promotional Offers **VOTE**
 - II. 248.03(3)H – Account Registration **VOTE**
 - III. 248.04 (4) – Age and Identity Verification **VOTE**

9. Legal – Todd Grossman, General Counsel, Caitlin Monahan, Deputy General Counsel, Carrie Torrisi, Deputy General Counsel
 - a. 205 CMR 230: Review of a Proposed Agreement with a Category 3 Licensee – review of regulation and Small Business Impact Statement for possible emergency adoption and to begin the promulgation process **VOTE**
 - b. Request for approval of Bulletproof as Qualified Independent Technical Expert in accordance with 205 CMR 243.01(1)(x). **VOTE**
 - c. Review of 205 CMR 256 related to “win or lose” advertising

10. Other Business - Reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that this Notice was posted as “Massachusetts Gaming Commission Meeting” at www.massgaming.com and emailed to regs@sec.state.ma.us. Posted to Website: June 13, 2023 | 9:00 a.m. EST

June 13, 2023

Cathy Judd-Stein

Cathy Judd-Stein, Chair

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



Massachusetts Gaming Commission



Massachusetts Gaming Commission Meeting Minutes

Date/Time: December 15, 2022, 10:00 a.m.
Place: Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 112 522 2264

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

Commissioners Present:

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

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

Chair Judd-Stein called to order the 413th Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

2. [Review of Meeting Minutes](#) (00:56)

Commissioner Hill noted that the September 22, 2022, minutes were distributed later than the other sets, and wanted to ensure that the Commission had sufficient time to review that set of minutes. Commissioner Skinner noted that she had not had the opportunity to review the September 22, 2022, minutes and requested that the Commission move that vote until the following meeting. Commissioners agreed.

a. [9/13/2022 and 9/19/2022](#) (02:40)

Commissioner Hill moved that the Commission approve the minutes from the September 13, 2022, and September 19, 2022, public meetings that were included in the Commissioner's Packet

subject to any necessary corrections for typographical errors or other non-material matters. Commissioner Skinner seconded the motion.

Commissioner O'Brien suggested an edit to the September 13, 2022, minutes and Commissioner Hill confirmed they would make the change.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

3. [Administrative Update](#) (04:12)

Chair Judd-Stein introduced Assistant Director of the Investigations & Enforcement Bureau and Gaming Agents Division Chief Bruce Band to provide the casino update. Assistant Director Band stated that MGM Springfield ("MGM") had its sports wagering kiosks on-site and had begun installing them. He stated that MGM continued to host their toy drive and that MGM planned to shut down their ice rink after the holidays. He stated that Encore Boston Harbor ("EBH") had started a Feed the Funnel event providing meals for surrounding communities, with the goal to pack 400,000 meals. He stated that Plainridge Park Casino ("PPC") had hired their sportsbook manager Ryan Blake.

Commissioner O'Brien asked why MGM was closing the ice rink. Assistant Director Band stated that the information about the ice rink closing was recently received, and he did not yet have a chance to follow up. Chair Judd-Stein noted that the Commission would be interested in receiving an update on the issue.

4. [Sports Wagering Regulations](#) (06:07)

- a. 205 CMR 138: *Uniform Standards of Accounting Procedures and Internal Controls* and Small Business Impact Statement for initial review and possible emergency adoption

Deputy General Counsel Caitlin Monahan introduced attorney Mina Makarious from Anderson and Krieger to present the internal control regulations. Mr. Makarious stated that the regulations implemented requirements to ensure operators have a plan to do everything they are required to run operations in accordance with the Commission's regulations and General Law Chapter 23N.

Mr. Makarious explained that 205 CMR 138 and 205 CMR 238 capture the security of accounts, how money was handled, staffing protocols and supervision. The *draft 205 CMR 138 and small business impact statement* was included in the Commissioner's Packet on pages 27 through 114.

Mr. Makarios stated that 205 CMR 138 was the existing internal controls for gaming licensees and that the regulation was being updated with respect to gaming licensees with sports wagering areas. He stated that new language was being added to 205 CMR 138 which provides that, with reference to the extent to which third parties provide any internal controls of the gaming licensees, the licensees must document what third-party operators are doing. Addition and language that if there was a conflict between 205 CMR 138 and 205 CMR 238 the licensee would have to describe any conflicts within their internal controls.

Mr. Makarios stated that similar language appears in 205 CMR 238, but this provision was specifically for gaming licensees. He noted that category two sports wagering licensees would be covered in 205 CMR 238. Chair Judd-Stein asked if there were any burdensome reporting requirements in the regulation. Assistant Director Band replied that there were not.

Mr. Makarios noted that the internal controls required the prohibition of the issuance of credit to sports wagering patrons. Commissioner O'Brien stated that the Commission would be addressing the specific definition of those terms when discussing responsible gaming and marketing. She asked if the definition in the regulation would be able to capture the future discussion. Mr. Makarios stated that the provision would capture those definitions, as it had licensees ensure they were meeting the Commission's requirements.

Mr. Makarios noted that the requirement that ATMs not be within fifteen feet of the gaming area was edited to include sports wagering areas as well. Commissioner O'Brien inquired whether this requirement also applied to category two licensees. Mr. Makarios stated that the term used for this provision was sports wagering facility which captures category two operators as well; he added that a catch-all would be included in the category two sports wagering regulations.

Commissioner O'Brien asked if the notification requirements for data breaches went above and beyond the state and federal requirements. Mr. Makarios stated that they did as it required additional details be reported out. Commissioner O'Brien asked if there was a separate notice requirement to the Commission in the case of a data breach. Mr. Makarios stated that the procedures included a required notification to the Commission in the case of a data breach.

Chair Judd-Stein asked if the Commission was comfortable voting on 205 CMR 138 at this time. Commissioner O'Brien stated that she would like to review 205 CMR 238 before voting on 205 CMR 138 due to the interplay between the regulations. Deputy General Counsel Monahan stated that 205 CMR 238 should be screenshared, as late typographical adjustments did not make it into the Commissioner's Packet.

b. [205 CMR 238](#): *Uniform Standards of Accounting Procedures and Internal Controls for Sports Wagering* and Small Business Impact Statement for initial review and possible emergency adoption (30:04)

Mr. Makarios presented 205 CMR 238 which related to the internal controls for sports wagering. Digital technical compliance specialist Mike Robbins from Gaming Laboratories International (“GLI”) stated that sections (f) and (h) reference 205 CMR 243.01 to tie in the technical security controls in GLI 33 that pertain to sports wagering systems. He noted that 205 CMR 243.01 also tied into the aspects of procedures and practices in Appendix A of GLI 33.

Chair Judd-Stein sought clarification if ‘chief sports wagering executive’ and ‘department’ were the defined terms, as the Commission staff used different terminology. Mr. Robbins explained that the terms used mirrored what existed in the casino gaming regulations, and that the terms referred to the operator not the Commission. Chair Judd-Stein stated that the clarification was helpful.

Mr. Robbins explained that 205 CMR 238 applied to all sports wagering categories, with the exception of when it discussed, the sports wagering counter or area which would only apply to categories one and two, given their in-person nature. Mr. Makarios stated that the regulation had some similarity to 205 CMR 138, but was profoundly impacted and edited to address the online components of sports wagering.

Chair Judd-Stein noted that the Commission received more direction on these matters in General Law 23K than they had in General Law 23N. She asked if the regulation could be interpreted as overextending. Mr. Makarios stated that the provisions were based within federal laws, and noted the Commission had the authority to require operators to comply with all applicable laws.

Chair Judd-Stein sought clarification about the language related to accepting sports wagering tickets as a tip. Mr. Makarios clarified that occupational licensees could not accept them, but that other employees could - provided they did not solicit the ticket or participate in the selection of the wager.

Mr. Robbins explained that the language related to ‘restricted patrons’ was separated from ‘prohibited persons’. He noted that a restricted patron was someone who could place wagers, but there were restrictions on what they could wager on. He used an example of a football player not being able to wager on a game he was playing in. Mr. Robbins noted that prohibited persons were those acting in violation of a prohibition, such as attempting to wager while on the voluntary self-exclusion (“VSE”) list.

Chair Judd-Stein asked for a quick review of the “change management” provision. Mr. Robbins stated that the provision tied back to 205 CMR 244.03 and was flagged during an internal review that it would be advantageous to create a cross-reference to include in this section.

Mr. Makarios stated that the data network security requirements were designed based on other jurisdictions with the assistance of GLI. Mr. Robbins stated that it laid out a framework for a quarterly vulnerability scan and added additional security measures due to the considerable risk factor of the internet.

Commissioner Skinner noted that she did not spend as much time reviewing this regulation as she would have liked, due to the aggressive application review schedule. She stated that she was

comfortable moving on the regulation in this meeting as Commissioner O'Brien had been focused on this regulation. She reserved her right to propose edits during the public comment process and before the Commission's vote to promulgate the regulation as final.

Commissioner O'Brien noted the provision on Document Retention required giving notice to the Gaming Enforcement Division at the Attorney General's Office, and asked if this was brought to the Attorney General's Office to ensure the timing was a reasonable request. Mr. Makarious stated that the language was identical to the existing 205 CMR 138, and that the only change was to make it explicitly clearer that if any entity identified in the regulation requests information be retained it should be complied with. Commissioner O'Brien stated she doubted the Attorney General's Office would want changes, but did think they should be notified.

Chair Judd-Stein noted that the Commission had the benefit of GLI's counsel in standing up sports wagering and stated that the Commission could revisit any regulation promulgated with an amendment. She stated that there was no time limitation if there was something the Commission could improve upon.

Commissioner Hill and Commissioner Maynard thanked Mr. Makarious for the presentation. Commissioner Maynard noted that any questions he had were secondary to the regulation and related to the policies and procedures that would be submitted. He stated that he had no issues with the framework.

Executive Director Karen Wells stated that next after promulgation of these regulations was to notify applicants of a due date for them to submit their internal controls for GLI to review in order to remain on schedule. Commissioner Skinner noted that the regulations had been posted to the website and thanked the Communications Division for posting them.

Commissioner O'Brien moved that the Commission approve the small business impact statement and the draft of 205 CMR 138 as included in the Commissioner's Packet and further discussed here today. The motion was seconded by Commissioner Skinner.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

Commissioner O'Brien asked if the existing regulation was being requested to be promulgated by emergency to remain consistent with the interconnectedness of 205 CMR 138 and 205 CMR 238. Deputy General Counsel Monahan stated that it was.

Commissioner O'Brien moved that the staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth by emergency and thereafter to begin the regulation promulgation process and further that staff be authorized to modify chapter

or section numbers or titles to file additional regulation sections as reserved or make any other administrative changes necessary to execute the regulation promulgation process. The motion was seconded by Commissioner Hill.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

Commissioner O'Brien moved that the Commission approve the small business impact statement and the draft of 205 CMR 238 as included in the Commissioner's Packet and as discussed today. The motion was seconded by Commissioner Skinner.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

Commissioner O'Brien asked how putting this regulation in as an emergency would work with the existing timeline. Deputy General Counsel Monahan explained that it would take two to three months to promulgate the regulation not by emergency, and the internal controls would not be ready for the category one go-live date in January. Executive Director Wells explained that internal controls are a critical requirement of the operations certificate regulations.

Commissioner O'Brien moved that the staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth related to 205 CMR 238 by emergency, and thereafter to begin the regulation promulgation process and further that staff be authorized to modify chapter or section numbers or titles to file additional regulation sections as reserved or make any other administrative changes necessary to execute the regulation promulgation process. The motion was seconded by Commissioner Maynard.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

c. [205 CMR 254](#): Temporary Prohibition from Sports Wagering, and Small Business Impact Statement for initial review and possible emergency adoption (1:17:10)

Deputy General Counsel Carrie Torrisi and attorney Annie Lee from Anderson and Krieger presented the draft of 205 CMR 254 which created a cooling-off option for sports wagering as an alternative means for patrons to exclude themselves if they hadn't chosen to enroll in VSE. Deputy General Counsel Torrisi noted that the regulation had undergone changes the morning of the meeting. The *draft 205 CMR 254 and small business impact statement* was included in the Commissioner's Packet on pages 158 through 162.

Ms. Lee explained that cooling-off periods were inspired by the VSE list, but they may function closer to PlayMyWay on the implementation and administrative side. She noted that it differed from the VSE list because cooling-off was done on an operator-by-operator basis, rather than a combined list between all operators. She noted that cooling-off only applied to sports wagering platforms, and not retail locations.

Chair Judd-Stein asked if cooling-off was described by law or a policy decision. Ms. Lee stated that it was not prescribed by law, and it was used in the industry as a responsible gaming measure. Chair Judd-Stein sought clarification whether the cooling-off period only applied to a single platform. Ms. Lee stated that was correct.

Director of Research and Responsible Gaming Mark Vander Linden explained that the priority in cooling-off was that it was effective immediately. Chair Judd-Stein asked if there was a way to remove cooling-off if they decided they wanted to sports wager during that period. Director Vander Linden stated that there was no way to remove the cooling-off period until the designated time expired.

Ms. Lee stated that there were five options for the cooling-off period: 72 hours, one week, two weeks, three weeks, and four weeks. Chair Judd-Stein stated that there was a policy decision here and Commissioner O'Brien stated that she was unsure that the Commission had made this decision on cooling-off periods.

Chair Judd-Stein stated that as an underlying policy decision was being proposed and that the Commission should reflect on it. Commissioner O'Brien noted that the Commission had not asked in terms of technology whether the operators would have the technology to implement the VSE.

Director Vander Linden stated that the Commission has a Responsible Gaming Framework and had issued a white paper on sports wagering considerations. He noted that cooling-off was a priority for the Commission and the Responsible Gaming Division. Commissioner O'Brien asked if the Commission would have the jurisdiction to request all operators to adopt Penn Entertainment's policy that their cooling-off period would be universal for both the online

application and retail locations. She stated that the issue could be addressed in the upcoming responsible gaming regulations for sports wagering.

Commissioner O'Brien suggested that longer cooling-off periods should require additional notice that the temporary prohibition period would be ending, noting 24 hours' notice felt short. Director Vander Linden stated that it may be a question of what was feasible, and that a solution could be explored with GLI. Commissioner Hill stated that he had the same concerns and noted that further information would be helpful.

Chair Judd-Stein asked if the 24 hours' notice could be extended to 72 hours. Commissioner O'Brien stated that she wanted information on what was the best practice, and what was practical from a technological standpoint. She suggested a couple more days' notice on longer cooling-off periods.

Director Vander Linden stated that finding the best practices was a good question as evaluation of this type of feature was sparse. Deputy General Counsel Torrisi stated that if voted on today, this regulation would appear before the Commission in February for a final vote, where additional changes could be made. Chair Judd-Stein stated that from a technical point of view, it would not be difficult to add language in this meeting and then adjust it later. Commissioner O'Brien asked what the suggested language would be. Director Vander Linden stated that his recommendation would be to require a 72-hour notice for any cooling-off period longer than a week.

Commissioner O'Brien asked if language existed for days eight to thirteen of the cooling-off periods. Ms. Lee explained that the options for cooling-off were: 72 hours; one week; two weeks; three weeks; and four weeks. She added that a patron would not be able to customize a period of eight to thirteen days. Commissioner Maynard expressed concern by not allowing consumer choice in this feature. Director Vander Linden stated that simplicity was important, and that PlayMyWay uses a process with as few clicks as possible. He explained that people enrolling in a cooling-off period were in a state of mind looking to solve or prevent their problem. He stated he appreciated wanting to provide flexibility, but the five options presented made sense. Chair Judd-Stein noted that more options may also create backend technological challenges for operators.

Commissioner O'Brien stated that she was thinking of presentations the Commission heard about the patrons being precise with how long they want to cooling-off, but the five options could make the choice simpler. Director Vander Linden stated that the five options were his recommendation. Chair Judd-Stein posed that the 72-hour and one-week cooling-offs would remain a 24-hour notice while two weeks, three weeks, and four weeks would be changed to a 72-hour notice.

Commissioner Skinner stated that she recalled from prior presentations that the preset timeframes would be built into the platform. Commissioner O'Brien expressed that she had

thought the timeframe could be personalized and that she may have misheard it. Commissioner Skinner stated that the cooling-off period could be extended, but she recalled that four weeks was the maximum. Chair Judd-Stein agreed with Commissioner Skinner. Commissioner Maynard stated that the choice made it easy for a person to be more restrictive and impose boundaries on their wagering.

Ms. Lee stated that there was a notification that allowed patrons to select whether they wanted to renew their cooling-off period, apply for the VSE list, or resume sports wagering. Director Vander Linden asked if this notification was the same one mentioned previously, as he was under the impression that affirmative action was required to continue sports wagering. Ms. Lee stated that the notification was separate from the one previously discussed, and would only appear after the cooling-off period has ended. She noted that this notification would include an additional question about engaging in sports wagering again.

Director Vander Linden explained that with the VSE list there was a requirement of a reinstatement session with a GameSense advisor. He stated that the cooling-off period did not require that type of one-on-one interaction but that a decision to continue the cooling-off period or enroll in the VSE list would be included. Commissioner O'Brien asked if Director Vander Linden would suggest additional language based on his comments. Director Vander Linden stated that the provision covers what he recommended.

Commissioner O'Brien moved that the Commission approve the small business impact statement and draft of 205 CMR 254 as included in the Commissioner's Packet and discussed today, and in particular the edits discussed and agreed upon pertaining to 205 CMR 254.03. The motion was seconded by Commissioner Hill.

Deputy General Counsel Torrisi mentioned there was an additional small redline edit in 205 CMR 254.02. Commissioner O'Brien amended her motion to include the edit specifically discussed in 205 CMR 254.02 and 205 CMR 254.03. The amendment was seconded by Commissioner Hill.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

Commissioner O'Brien inquired why this regulation was needed to pass by emergency. Executive Director Wells stated that the Commission would not want to launch mobile sports wagering without these protections in place for the vulnerable citizens of Massachusetts.

Commissioner O'Brien moved that the staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth by emergency, and thereafter to begin the regulation promulgation process and further that staff be authorized to modify chapter or section numbers or titles to file additional regulation sections as reserved or make any other administrative changes necessary to execute the regulation promulgation process. The motion was seconded by Commissioner Hill.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

5. [Commissioner Updates](#) (2:05:45)

Chair Judd-Stein thanked the attorneys from Anderson and Krieger for their presentations. No other updates were offered.

6. [Other Business](#) (2:06:07)

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

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

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated December 12, 2022
2. [Commissioner's Packet](#) from the December 15, 2022, meeting (posted on massgaming.com)
3. [205 CMR 238 Revision](#) for December 15, 2022



Massachusetts Gaming Commission Meeting Minutes

Date/Time: December 29, 2022, 3:00 p.m.
Place: Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 112 700 2692

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

Commissioners Present:

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

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

Chair Judd-Stein called to order the 417th Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

2. [Sports Wagering Process Requests](#) (00:43)

a. Approval of Form for Request for Temporary Licensure

Executive Director Karen Wells stated that the form for the request for temporary licensure needed to be approved by the Commission. She stated that pursuant to 23N and relevant portions of 205 CMR, the operators must request a temporary license, and that this would be the official form for the operators to fill out. She stated that the form was developed by General Counsel Grossman. The *Request for A Temporary License to Conduct Sports Wagering Form* was included in the Commissioner's Packet on pages 3 through 4.

Executive Director Wells stated that the statute provided that the Executive Director must decide whether an applicant was a ‘qualified gaming entity’. She explained that she would submit something in writing to the Commission, in compliance with the statute. Executive Director Wells further stated that this would satisfy the official process for each applicant as confirmation that they are a qualified gaming entity.

Commissioner Skinner sought clarification as to whether the Executive Director would be recommending approval for the Commission’s further discussions. Executive Director Wells explained that the Commission would make preliminary determinations that entities are eligible to apply for a temporary license and submit the \$1 million fee, but in order to be granted a temporary license, there also needed to be an assertion by the Executive Director that the applicant was a qualified gaming entity. She stated that this process needed to occur before the temporary license could be granted.

Commissioner Maynard moved that the Commission adopt the Massachusetts Gaming Commission’s *Request for a Temporary License to Conduct Sports Wagering Form* as included in the Commissioner’s Packet and discussed here today. Commissioner Hill seconded the motion.

Roll call vote:

Commissioner O’Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

b. [Voluntary Self Exclusion Database Funding Request](#) (06:08)

Chief Financial and Accounting Officer (“CFAO”) Lennon stated that the Commission had not yet performed the assessment for the Sports Wagering Control Fund. He stated that the assessment discussion would return for a mid-year review.

CFAO Lennon stated that under General Law Chapter 23N, § 13(e)(2), the Commission was required to have a list of persons voluntarily excluded from sports wagering. He stated there was a similar database from the gaming statute. He proposed that the Public Health Trust Fund be used to initially fund the sports wagering voluntary self-exclusion list and then shift those costs back to the sports wagering control fund assessment retroactively. Chair Judd-Stein inquired whether this would cause issues with the trust, and CFAO Lennon responded that it would not.

Director of Research and Responsible Gaming Mark Vander Linden stated that even if enhancements were made to include sports wagering in the existing voluntary self-exclusion, there would be a small gap between the timeline before they became fully integrated in February. He stated that a patch existed that would begin to accept persons onto the sports wagering

voluntary self-exclusion list starting the week of January 16th, 2023. He explained that there would be a period of time when the Commission would need to use this patch before they could begin to include people in an integrated voluntary self-exclusion list. He stated that there was functionally no difference for those who want to sign up for the voluntary self-exclusion list on the sports wagering side and expressed an interest in beginning the enhancement as soon as possible.

The Commission had no questions or objections.

3. Discussion: Commissioner Process Review for Category 3 Untethered Sports Wagering Applications (11:40)

Chair Judd-Stein stated that there was a memorandum in the Commissioner's Packet with recommendations on how to proceed with the review process for category three untethered sports wagering applications. The *memorandum* was included on page 5 through 8 of the Commissioner's Packet.

Chair Judd-Stein stated that the memorandum requested that all applicants attend a first meeting in the evaluation process on January 6, 2023, to hear information on how the proceedings will move forward, and the legal and regulatory framework involved. The Commission reached a consensus to consolidate all of the information to be presented in one meeting on January 6.

Chair Judd-Stein stated that each applicant's presentation and the Commission's review would be conducted on distinct days. She stated that there would be two days at the end of the process for a holistic review and allow applicants to apply for a temporary license pursuant to 205 CMR 218.06. The Commission reached a consensus on this procedure.

Commissioner O'Brien suggested editing the memorandum on page seven to clarify that the Investigations and Enforcement Bureau would be providing a report to the Commission regarding the applicant's preliminary suitability.

The Commission reached a consensus in support of the schedule on page eight of the memorandum, which adhered to an anticipated mobile sports wagering launch date sometime in March.

Chair Judd-Stein reiterated that a launch by any operator was strictly contingent on the regulatory approval and operational readiness. She further stated that the operators must pass verification and testing processes before any bets could be placed on their platforms.

Executive Director Wells noted that the Commission had engaged with Ernst and Young to develop an indexing tool to help the Commission in reviewing the six applications simultaneously. Chief Administrative Officer to the Chair Crystal Beauchemin recommended that the indexing tool be delivered to the Commission by January 19. Chair Judd-Stein asked if it

could be received sooner. Ms. Beauchemin stated that it would, but it is a process tool designed to help with the evaluations on January 19 and January 20.

Commissioner O'Brien expressed her expectation that the Commission would receive the index tool in advance of that date. Commissioner Maynard asked if there was a benefit to receiving the information earlier. Executive Director Wells stated that the index would not produce any information not already in the applications, but that the index was intended to help the Commission review the six applications simultaneously.

Chair Judd-Stein asked if the Commissioners would be able to make entries in the index. Ms. Beauchemin explained that the index was formatted in Excel and that she had requested it to be converted to PDF format as well. Commissioner Skinner expressed that she was excited to have access to this tool and that she thought it would be helpful in the evaluation discussion meetings. Chair Judd-Stein stated that she thought it would be helpful to have access to the index in preparation for the January 19th proceedings. Executive Director Wells stated that someone would work with the Commissioners to improve their ability to navigate the links.

Commissioner Skinner stated that she would prefer the excel format as opposed to the PDF version mentioned by Ms. Beauchemin. Chair Judd-Stein stated that she would prefer the PDF meeting for the format. Ms. Beauchemin confirmed that the index would be available in both formats.

4. [Other Business](#) (24:56)

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

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

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated December 27, 2022
2. [Commissioner's Packet](#) from the December 29, 2022, meeting (posted on massgaming.com)



TO: Chair Judd-Stein
Commissioner O'Brien
Commissioner Hill
Commissioner Skinner
Commissioner Maynard

FROM: Trupti Banda, Human Resources Manager

CC: Karen Wells, Executive Director

DATE: 7 June 2023

RE: Revocation of Executive Order #595

On May 11, 2023, Executive Order #595 will be revoked. This order has required Executive Branch employees to provide verification of COVID 19 vaccination as a condition of employment.

We have learned that following this revocation, other independent agencies such as the POST Commission, and Comptroller's Office have both opted to *no longer require* proof of vaccination as a condition of employment for new hires.

None of the casino properties currently require proof of vaccination as a condition of employment at this time.

Currently, the MGC's policy requires all employees and contractors to have completed a primary course of a COVID 19 vaccine as a condition of employment.

Additionally, per the latest update of MGC's COVID-19 policy in October, 2022:

- Employees who have been exposed to someone who has tested positive for COVID-19 are not required to stay at home, however, they must wear a mask for 10 days and be tested at 5 days following exposure.
- Employees who test positive but show no symptoms of COVID-19 are required to stay home (they may work remotely) for 5 days; they may return on day 6 if they still have no symptoms, and they must wear a mask through day 10.
- Employees who test positive for COVID-19 and have symptoms are required to stay home for 5 days following the onset of symptoms; they may return on day 6 if symptoms are improving, and they must wear a mask through day 10.



Massachusetts Gaming Commission

Employees are required to contact HR as soon as possible upon receiving a positive test and/or developing symptoms of COVID-19.

This policy is consistent with the most recent CDC recommendations (released August 24, 2022) related to COVID exposure and infection.

For reference, the data from the most recent reporting period shows COVID cases, percent positivity and hospitalizations are as follows:

Date Range	Suffolk County		MA At Large	
	Total Case Count	% Positivity	Total Case Count	% Positivity
4/30/2023 - 5/13/2023	2039454	2.71%	269638	2.26%

Hospitalizations

As of Date	7 Day Average
4/30/2023	181.14
5/15/2023	166.57

The data from approximately the same reporting period one year ago was as follows:

Date Range	Suffolk County		MA At Large	
	Total Case Count	% Positivity	Total Case Count	% Positivity
4/24/2022 - 5/7/2022	224691	5.95%	1653674	6.35%

Hospitalizations

As of Date	7 Day Average
4/15/2022	293
4/21/2022	355.14
5/1/2022	446.14
5/12/2022	687.29

Included Documents:

1. E0595 Recission Memo
2. MGC COVID-19 Policy
3. CDC COVID Guidelines



Massachusetts Gaming Commission



EXECUTIVE OFFICE FOR ADMINISTRATION & FINANCE
COMMONWEALTH OF MASSACHUSETTS
HUMAN RESOURCES DIVISION
100 CAMBRIDGE STREET, SUITE 600
BOSTON, MA 02114

MAURA T. HEALEY
GOVERNOR

KIMBERLEY DRISCOLL
LIEUTENANT GOVERNOR

MATTHEW J. GORZKOWICZ
SECRETARY

JEFF McCUE
ASSISTANT SECRETARY
CHIEF HUMAN RESOURCES OFFICER

TO: Human Resources Directors

FROM: Sarah Unsworth, Director of Classification and Compensation

DATE: May 9, 2023

RE: EO595 Rescission in MassCareers

On **May 11th**, Governor Healey is set to **rescind Executive Order 595** which originally required all prospective Executive Branch state employees to have received their COVID-19 vaccines (or provide an approved exemption) within the first 15 business days of employment. As such, please be on the lookout this week for more detailed information regarding *MassCareers* changes.

Please note: We understand that some agencies may still require the vaccine or approved exemption, depending on business needs. As such, we are ensuring our communications are reflecting this. More details will be provided on/after May 11th to the *MassCareers* Core User Group.

In the interim, here is a high-level overview of the changes due to the EO595 rescission:

- Removal of the EO595 statement from all *future* requisition templates
 - If agencies have the opportunity to do so, HRD recommends temporarily pausing posting any new requisitions on *MassCareers* until May 11th and using the updated templates that will be available on May 11. This will reduce the number of outstanding job postings with the outdated EO595 language.
 - Continuous (pipeline) job postings will need to be **voluntarily** taken down **on/after May 11th** by the agency and then reposted with the updated templates to capture the EO595 removal
- Updates to the EO595 banner on the *MassCareers* Career sections (Desktop & Mobile Sites)

- Removal of the EO595 disqualification question, replaced by optional MER question for the agencies that still require vaccine compliance
- Updates to the standard and conditional offer letters to remove the EO595 paragraph
- Creation of new standard and conditional offer letter templates for agencies that still require vaccine compliance
- Removal of the EO595 paragraph from the offer rescinded letter
- Removal of the EO595 paragraph from the Did Not Meet MERs Rejection letter
- Removal of the *automated* EO595 communication from the onboarding process, replaced by a new *manual* message template in Recruiting for the agencies that still require vaccine compliance

Please direct any questions to [Jared Garland](#). Thank you for your cooperation and understanding!

Best,

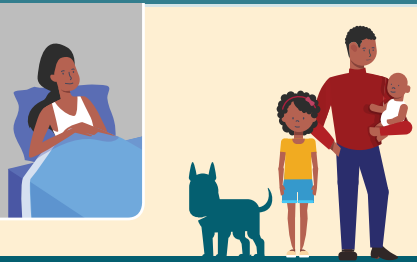
<u>If you...</u>	<u>You must...</u>	<u>Reach out to HR...</u>
<p>discover that you have been in close contact with someone who has tested positive for COVID-19. <i>(For our purposes, close contact is defined as being within 6 feet of another person, with or without a mask, for a period of 15 minutes or more over the course of 24 hours.)</i></p>	<p>you do not need to stay home unless you develop symptom but you should get tested for COVID-19 on or after 5 day and you should wear a high-quality mask around other people for 10 days. <i>(Please note that the last day of your exposure is counted as day 0. Day 1 will be the first day after your exposure.)</i></p>	<p>as soon as possible when you learn that you have been exposed. You will be asked when you were exposed, if you have symptoms, if you have been tested, and when you were last in the office. HR will determine how long you need to be out of the office based on your current circumstances and will stay in touch with you throughout your quarantine. HR will also assist in notifying your supervisor of your need to be out of the office.</p>
<p>test positive for COVID-19 but have no symptoms.</p>	<p>stay home (you make work remotely) for 5 days following your positive test result. You may return to the office on day 6 but must wear a mask through day 11. <i>(Please note that the day of your positive test is counted as day 0.)</i></p>	<p>as soon as possible when you have received your test result. You may be asked questions about whether you are experiencing symptoms, when you were last in the office, and what type of test you received. HR will determine when you may be able to return to the office based on your circumstances and will stay in touch during your quarantine. HR will also assist in notifying your supervisor of your need to be out of the office.</p>
<p>have test positive for COVID-19 and have symptoms.</p>	<p>stay home for 5 days following the onset of symptoms. You may work remotely if you feel well enough to do so. You may return to the office on day 6 if: you have been without a fever for a minimum of 24 hours and have seen improvement in other symptoms. You must wear a mask through day 10. <i>(Please note that the day you began experiencing symptoms is counted as day 0.)</i></p>	<p>as soon as possible after you develop symptoms. You may be asked questions about when your symptoms began, whether you have received a test, and what the results are, and when you were last in the office. HR will determine when you may be able to return to the office based on your circumstance and will stay in touch during your quarantine. HR will also assist in notifying your supervisor of your need to be out of the office.</p>

Please note that additional circumstances such as a recurring COVID-19 exposure in one's home may impact the length of time for which one may need to stay home.

Currently, the MGC allows anyone who needs to quarantine to work remotely if they feel well enough to do so. If someone does not feel well enough to work and has exhausted their accrued sick time, the MGC will cover any additional time off needed to recover from or care for a family member with COVID-19 using the SKE pay code.

Isolate and take precautions if you have or suspect you have COVID-19

ISOLATION



Stay home and away from others

Wear a high-quality mask if you must be around others

Start counting days

Day 0 is the day your symptoms started

If you never had symptoms, day 0 is the day you took a COVID-19 test



Watch for emergency warning signs, like trouble breathing

Seek help if they develop

ENDING ISOLATION

Isolate to day 6 or later, if you

- never had symptoms or symptoms are improving, and
- are fever-free for 24 hours without the use of fever-reducing medication



Continue to isolate if your fever persists or other symptoms have not improved

Isolate through day 10, if you experienced moderate illness, like shortness of breath or difficulty breathing

AFTER ISOLATION

Until at least day 11, avoid being around people who are more likely to get very sick

Wear a high-quality mask when around others indoors



Removing your mask

After ending isolation, wear your mask through day 10

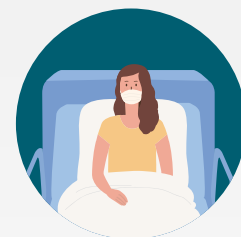
OR

Take 2 antigen tests, 48 hours apart

If both tests are negative, you may remove your mask sooner than day 10

Isolate through day 10 and talk with a healthcare provider before you end isolation, if you

- were hospitalized, or
- have a weakened immune system





TO: Chair Judd-Stein
Commissioner O'Brien
Commissioner Hill
Commissioner Skinner
Commissioner Maynard

FROM: Commissioner Brad Hill; Grace Robinson, Chief Administrative Officer to the Chair

CC: Karen Wells, Executive Director

DATE: 13 June 2023

RE: Legislative Update

Horse Racing – Simulcasting:

There are a number of bills to extend simulcasting. In addition to the MGC filed legislation, Representative Chan has filed **HB273** extending simulcasting until July 31, 2024 and Representative Madaro has filed **HB361** extending simulcasting until July 31, 2028.

During a public meeting on May 16, 2023, the Commission decided to submit a letter to the legislature in support of any of the above legislation. Attached please find a draft letter for the Commission's review and approval.

Veterans Organizations:

There are two bills to allow veterans organizations to operate slot machines. HB418 is similar to previously filed bills. HB417 has more detailed information surrounding funding mechanisms and operational procedures. The Commission previously discussed resubmitting the letter submitted by Executive Director Wells last year; however, upon further review of the legislation, a new letter, if any, may be more appropriate.

- **HB418- An Act relative to the use of slot machines in veterans' organizations for its members and invited guests**
Summary: Amends GL Chapter 23K, governing legal gaming, to allow veterans organizations to operate up to 5 slot machines under a five-year license; sets the application fee to \$500; directs the Gaming Commission to promulgate regulation.
(HB417 also contains a provision allowing the amendment of 23K to include a limited slot license for veterans organizations)
- **HB417 – An Act relative to supporting veterans organizations**
Summary: Adds new section 20A to GL Chapter 23K to allow the commission to issue a limited video gaming terminal (VGT) to eligible veterans' organizations; prohibits video gaming machine licenses from being transferred and asserts they may be suspended or revoked at any time and



must be renewed every five years; outlines VGT limitations; and directs the commission to promulgate regulations for the implementation, administration, and enforcement of this section.

National Update:

- North Carolina – North Carolina is likely to legalize mobile sports betting. The North Carolina legislature passed House Bill 347 which would permit up to 12 mobile betting licenses in the state. The bill will now be sent to Governor Roy Cooper for final signature, which is expected.
- Vermont – Vermont Legislature passed H127 last month, legalizing online sports betting in the state. The bill was sent to the Governor’s desk last week and Governor Scott has indicated that he intends to sign.



DATE

The Honorable Karen E. Spilka
President of the Senate
Karen.Spilka@masenate.gov

The Honorable Ronald Mariano
Speaker of the House
Ronald.Mariano@mahouse.gov

The Honorable Aaron Michlewitz
Chair, House Committee on Ways
and Means
Aaron.M.Michlewitz@mahouse.gov

The Honorable Ann-Margaret Ferrante
Vice Chair, House Committee on
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The Honorable Michael J. Rodrigues
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The Honorable Cindy F. Friedman
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The Honorable Tackey Chan
House Chair, Joint Committee on Consumer
Protection and Professional Licensure
Tackey.Chan@mahouse.gov

The Honorable John Cronin
Senate Chair, Joint Committee on Consumer
Protection and Professional Licensure
John.Cronin@masenate.gov

Re: Extending live horse racing and simulcasting in the Commonwealth

The Massachusetts Gaming Commission (Commission) is writing once again in support of extending simulcasting and live horse racing within the Commonwealth. The Commonwealth's racing laws historically expire annually, with the current law set to expire on July 31, 2023. The Commission is monitoring several bills, including our own, that would extend simulcasting and horse racing into the future: HB273: *An Act extending simulcasting and live horse racing authorization*; HB361: *An Act extending simulcasting and horse racing authorization*; HB3 – Legislative recommendations of the Massachusetts Gaming Commission.

The Commission requests the legislature move on any of the pending legislation that would extend simulcasting, live horse racing and associated pari-mutual wagering within the Commonwealth. We appreciate the legislature's early action on putting forth multiple bills to ensure the continuation of this vital industry.

While we support all the above bills, an extension beyond one year would be the Commission's preference to allow for long term planning within the horse racing community. The live racing season is well underway at Plainridge Park Casino (Plainridge) and any delay in extending the legislation would have a significant impact on horsemen, as well as the employees of Plainridge and the simulcasting operators throughout the Commonwealth. A delay would also have a detrimental impact on account




Massachusetts Gaming Commission

wagering activity which provides needed revenue for the licensees, horsemen's purse accounts and Division of Racing.

The Commission thanks the legislature for their work on this matter and for putting forth multiple bills for consideration. The Commission urges the legislature to adopt and finalize any of the above bills expeditiously. The legislature's continued safeguarding of this important industry is appreciated within the Commission and the racing community. As always, the Commission and its staff welcome any discussion and are happy to provide more information or answer any questions the legislature may have. We look forward to continuing our collaborative work towards a vibrant horse racing industry in the Commonwealth.

Respectfully submitted,

Massachusetts Gaming Commission




Cathy Judd-Stein
Chair



Bradford Hill
Commissioner



Jordan Maynard
Commissioner



Eileen O'Brien
Commissioner



Nakisha Skinner
Commissioner



Massachusetts Gaming Commission

Procedure for Presumptive Nominations and Rotations of Commissioner Officer Positions

Pursuant to M.G.L. c. 23K, Section (3)(f) the Commission has a statutory obligation to conduct annual elections for a Treasurer and a Secretary.

In order to further the statutory mandate, minimize disruption, encourage full participation and encourage best compliance practices, the Commission adopts the following procedures in connection with this statutory requirement.

The Commission shall annually hold a public vote to determine which Commissioners shall serve the upcoming terms as Treasurer and Secretary.

Each term shall be for one year commencing on or about July 15th of that year.

The presumptive nominees for these officer positions shall be as follows:

[VERSION 1]

- no Commissioner shall be the presumptive nominee for a consecutive term in the same officer's position unless vacancies on the Commission dictate/require otherwise;
- the Commissioner who had most recently served as Secretary shall be the presumptive nominee for Treasurer;
- The presumptive nominee for Secretary shall be the Commissioner who has never served as Secretary or Treasurer;
- In the event that all Commissioners have served an officer's term at the Commission the presumptive nominee shall be the Commissioner who has not yet served as Secretary;
- In the event that all Commissioners have served as Secretary and Treasurer, the presumptive nominee shall be the Commissioner whose last term was furthest removed;
- the Commissioner who had most recently served as Treasurer shall not be the presumptive nominee for either officer's position;

In the event that there are vacancies on the Commission that make compliance with the above rotation and nomination process impossible, the Commission shall convene and discuss necessary alterations in a public meeting prior to July 15 of that year. Any deviations shall be temporary, and the above rotation be reinstated once the Commission's membership is fully restored.

[ALTERNATIVE VERSION]

- no Commissioner shall be the presumptive nominee for a consecutive term in the same officer's position unless vacancies on the Commission dictate/require otherwise;
- the Commissioners who have most recently served as Secretary and Treasurer ("the On Commissioners") shall vacate their respective offices at the end of their terms;

- The presumptive nominees for Secretary shall be the two Commissioners who were not serving as officers in the preceding term (“the Off Commissioners”);
- The Off Commissioners shall be the presumptive nominees for whichever position they have either not held or from which they are the furthest removed temporally.
- If both Off Commissioners have held both positions, the presumptive nominations shall be determined by recency in the office such that they are nominated for the office from which they are the furthest removed temporally.

In the event that there are vacancies on the Commission that make compliance with the above rotation and nomination process impossible, the Commission shall convene and discuss necessary alterations in a public meeting prior to July 15 of that year. Any deviations shall be temporary, and the above rotation be reinstated once the Commission’s membership is fully restored.



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

FROM: Crystal Beauchemin, Sports Wagering Business Manager
Bruce Band, Director of Sports Wagering

DATE: June 12, 2023

RE: Operator Requests for Temporary Waivers from Certain Provisions of 205
CMR 247 and 205 CMR 248

EXECUTIVE SUMMARY:

On June 1, 2023, the Commission voted to finalize the drafts of [205 CMR 247: Uniform Standards of Sports Wagering](#) and [205 CMR 248: Sports Wagering Account Management](#), to file the regulations by emergency, and to begin the formal regulation process. The legal department filed the regulations by emergency and they went into effect on June 7, 2023.

The sports wagering division has received significant feedback from several operators that they would need additional time to implement some of the technical provisions of some these regulations, and the sports wagering division has also identified that a temporary waiver through the effective date of certain regulations would be beneficial at this time. The sports wagering division has compiled this memo to identify the temporary waiver requests as outlined, and particular insights and recommendations.

SUPPORTING DOCUMENTS:

The full waiver requests from each operator are included in the packet. Please note, that some requests included further comment on the regulations, which legal is reviewing and will take into consideration as the regulation process is finalized.

WAIVER REQUESTS: 205 CMR 247.09(4) – Promotional Offers

No promotional offer may reward, be contingent upon, or otherwise relate to a patron’s referral of other patrons to the Operator.

The sports wagering division has received temporary waiver requests from BetMGM, Betr, Caesars, DraftKings, Fanatics and FanDuel in relation to 205 CMR 247.09 (4).

Given the sports wagering division understands that the patron referral promotions are significant customer acquisition tools, and also that such promotions are already being offered in the Massachusetts market, we have inquired with each operator to better understand what referral promotions are currently being offered and the promotional period identified in the terms and conditions for those existing offers. We also requested recommended timelines for a universal waiver based on those offerings and promotional periods.

To warrant fairness for existing patrons and allow referral reward payouts already in process, and to ensure no commercial advantage exists across the industry with respect to the operators, the sports wagering division would recommend a uniform waiver date and terms.

The sports wagering division feels that allowing an industry waiver for existing promotions and rewards payouts through August 1, 2023, with no new referral bonus programs or promotions being allowed, would be sufficient to ensure no operator violates the terms and conditions of existing promotions and provides a uniform compliance date for the industry.

(Penn Interactive does not currently run any referral promotions, and as such did not put in a waiver request, however, this uniform waiver would apply across the jurisdiction.)

WAIVER REQUEST: 205 CMR 247.09(3) – Promotional Offers

No promotional offer available to new patrons may contain terms that delay its full implementation of the ability to redeem the Offer, by the Sports Wagering Operator for a period of longer than thirty (30) days, or require the patron to maintain an account with the Operator for longer than thirty (30) days to be eligible for the Offer, regardless of the amount of Sports Wagering in that period by the patron

The sports wagering division has received a temporary waiver request from DraftKings in relation to 205 CMR 247.09 (3) through August 31, 2023 to allow for technological development, testing and deployment related to the regulation. In addition, DraftKings requests that the Commission exempts promotional offers that were accepted by patrons prior to the effective date.

DraftKings is the only operator with this waiver request as it “creates new operational burdens for operators with a shared platform to be compliant with two different requirements for two different verticals in the same jurisdiction,” specifically referencing their Daily Fantasy Sports operations in Massachusetts.

WAIVER REQUESTS: 205 CMR 248.03 (H) – Account Registration

If the account is active, the debit instrument used to fund the account, the accountholder's name, and whether the debit instrument accountholder's name matches that of the patron;

The sports wagering division has received waiver requests from Betr, Caesars, DraftKings, Fanatics and Penn Interactive/Barstool Sportsbook in relation to 205 CMR 248.03 (H).

Upon review of these requests and discussions with all of our operators, as well as MGC's legal team, the sports wagering division feels that allowing a temporary uniform waiver through the effective date of the updated/finalized regulation is necessary. At that point, the sports wagering team will reassess waivers based on technical implementation.

WAIVER REQUESTS: 205 CMR 248.04 (4) – Age and Identity Verification

Sports Wagering Operator shall at the time of account establishment, utilize identity authentication questions that require a patron to provide information known only to the patron through security questions, unless an alternate method of authentication is approved by the Commission.

The sports wagering division has received waiver requests from all operators- BetMGM, Betr, Caesars, DraftKings, Fanatics, FanDuel, Penn Interactive/Barstool Sportsbook and WynnBet - in relation to 205 CMR 248.04 (4). Each of these requests is related to time necessary to complete technological enhancements and/or alternate authentication methods.

Upon review of these requests and discussions with MGC's legal team, the sports wagering division would request that a temporary uniform waiver through the effective date of the updated/finalized regulation be approved.

CONCLUSION/ RECOMMENDATION:

The sports wagering division would recommend that the Commission approve a uniform industry waiver for 205 CMR 247.09(4) through August 1, 2023, as well as uniform waivers for both 205 CMR 248.03 (H) and 205 CMR 248.04 (4) through the effective date of the finalized regulations.

In addition, the sports wagering division would recommend approving the temporary waiver request from DraftKings in relation to 205 CMR 247.09 (3) through August 31, 2023.



BETMGM

Report Subject:	Waiver Request – 247.09(4) Refer A Friend promotion
Date Submitted:	June 8th, 2023
Reported By:	Rodrigo M. Zaragoza – Marketing Compliance Manager
Attention To:	Massachusetts Gaming Commission (MGC)

MGC Request: Please provide information on when your CURRENTLY running promotions related to referring a friend will end and rewards will be paid out.

BetMGM Response:

Upon launching the BetMGM product in Massachusetts (03/10/23), the *Refer A Friend* promotion was included as part of the standard offering for new markets. Please see below for more details on this promotion:

247.09(4)

PROMOTIONAL PERIOD:

- This sports promotion is available to qualifying customers from 3/10/23 on a rolling basis until 12/31/23, unless terminated earlier in BetMGM, LLC's sole discretion (Promotional Period).

HOW TO CLAIM THIS PROMOTION:

- For the Invited Friends to receive the \$50 Sign-up Bonus in their account, they must follow the invite link to:
 - Sign up for a BetMGM account
 - Accept the full Terms & Conditions for the Refer A Friend promotion
 - Make a first deposit in their real-money account

TO SUMMARIZE:

- This promotion will run through the end of the year (12/31/23) at which point we will submit a request to renew the offering.
- The offer is a \$50 sign-up bonus for the invited friend which is paid out upon completion of sign-up and first deposit.
- The invited friend has 30-days complete sign up before the offer expires.
- Full Terms & Conditions can be accessed here:
<https://www.ma.betmgm.com/en/mobileportal/promotions/sports/refer-a-friend>



BETMGM

Subject:	205 CMR 248.04: Age and Identity Verification
To:	Massachusetts Gaming Commission ("MGC")
From:	BetMGM, Andrew Spisak – Technical Governance Manager
Date Submitted:	June 8, 2023

Summary and Request

On June 1, 2023, the MGC reviewed and approved changes to 205 CMR 248.04: Age and Identity Verification. Of note, these changes include the following:

248.04: Age and Identity Verification

- (4) The Sports Wagering Operator shall at the time of account establishment, utilize identity authentication questions that require a patron to provide information known only to the patron through security questions, unless an alternate method of authentication is approved by the Commission.

With the significant technical and product development required to meet this regulation, BetMGM respectfully requests an extension until January 31, 2024, to develop, test, and implement the applicable change on the BetMGM MA platform. Please refer to the attached decks of the proposed solution to meet this requirement.



Massachusetts Waiver Request

248.04 - Age and Identity Verification



Lexis Nexis - Device Authentication

Summary

On the BetMGM platform, every customer needs to “Authenticate” their account before they can deposit and go onto bet/play (this is in addition to the normal KYC process).

Prior to this feature, a customer would need upload documentation to confirm their identity (First Name and Last Name in the doc would match what’s on the account).

The “Lexis Nexis” feature would do a passive background check and look to authenticate the account without the customer doing anything (it will passively verify the users phone number and device).

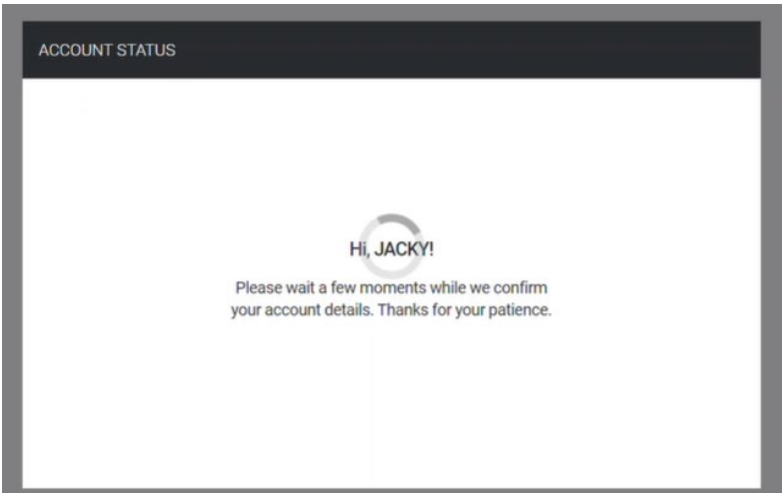
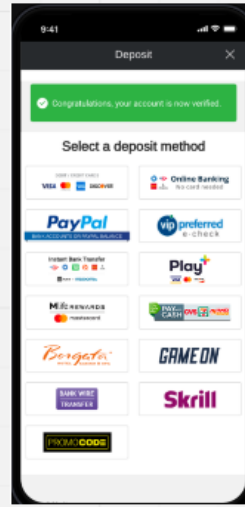
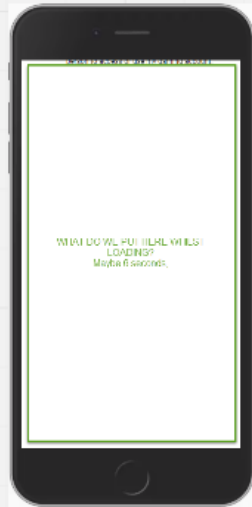
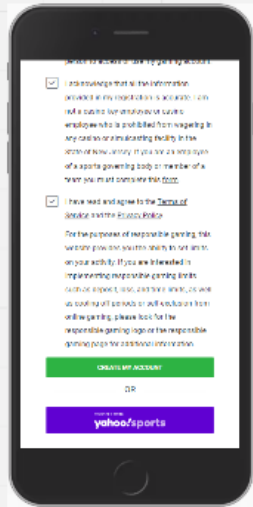
The Lexis Nexis passive background check should take between 1 and 6 seconds, the only thing a user will see will be a loading screen.

Note:

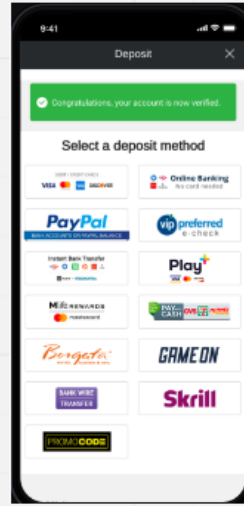
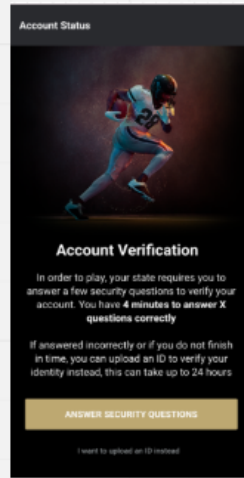
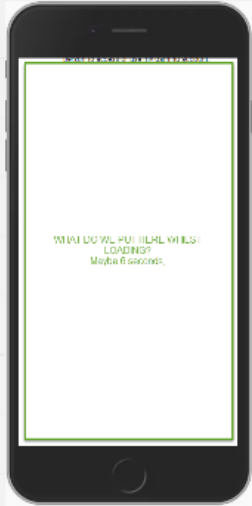
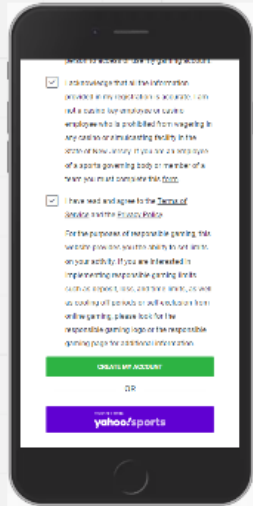
- A user needs to pass online KYC verification before we attempt to authenticate their account (via online method only, not via doc upload).
- If a user uploads a document to confirm their ID at verification stage, they shouldn’t need to authenticate as we’ve already had a document to verify ID.
- If Lexis Nexis fails to authenticate the user, they will then be required to pass KBA (Knowledge-Based Authentication).

Flows

*KYC verified
*Lexis Nexis authenticates



*KYC verified
*Lexis Nexis fails to authenticate
*Into KBA





K B A - Knowledge-Based Authentication

Summary

What is KBA?

Knowledge Base Authentication (KBA) is a set of questions that a customer is required to answer in order to get their account fully authenticated so that they can deposit and do gameplay. These questions are a series of multiple choice questions about a person's life, e.g. previous addresses they have lived at, what car they have owned, last 4 digits of their Social Security Number.

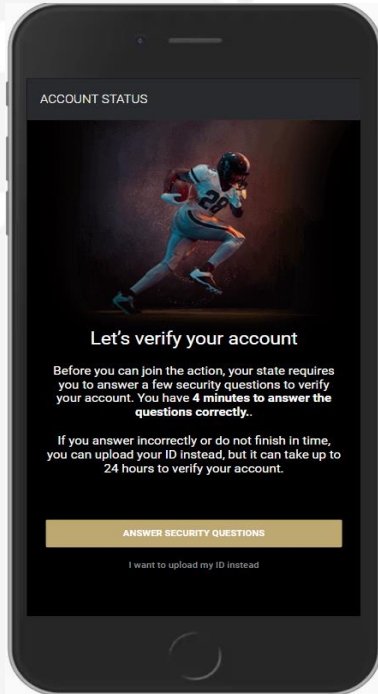
How Does it Work?

Once a customer is KYC approved they will be required to answer the 3 questions correctly in order to fully authenticate their account.

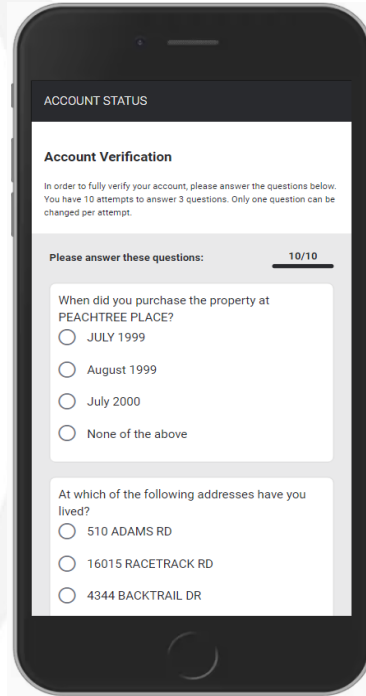
- If the customer answers all 3 questions correctly their account is fully authenticated and they can proceed to deposits and carry out betting activities.
- If the customer answers 2 questions correctly they will be presented with a 'challenge question' which gives them one more opportunity to answer 3 questions correctly.
- If a customer answers 2 or 3 questions incorrectly they will need to restart the questionnaire and they will lose an attempt. In total the customer will have 10 attempts to get 3 questions correct.
- If they do not answer correctly within 10 attempts they will need to contact Customer Services.

KBA Happy Path

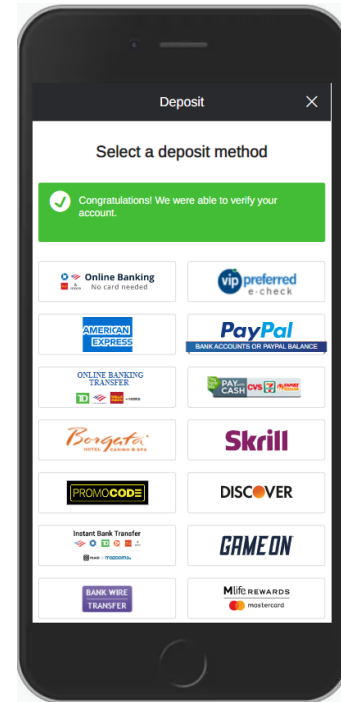
User starts KBA journey



Answer 3 Questions Correctly

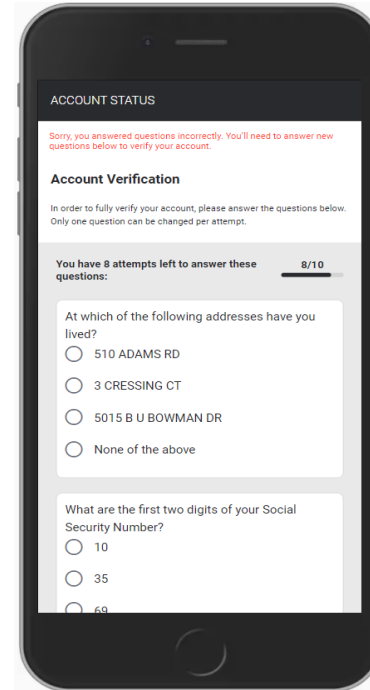


Success message with options to deposit



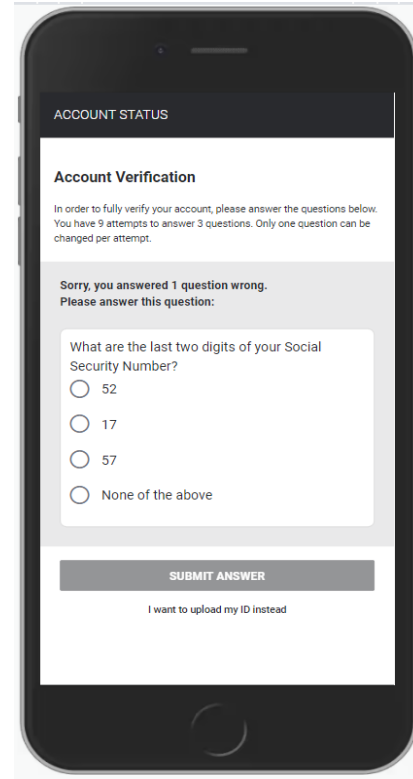
Incorrect Answers and Lost Attempt

- If the user answers more 2 or 3 questions incorrectly, they will lose an attempt out of 10 and the counter will reduce by 1. After that the user will need to restart the questionnaire.



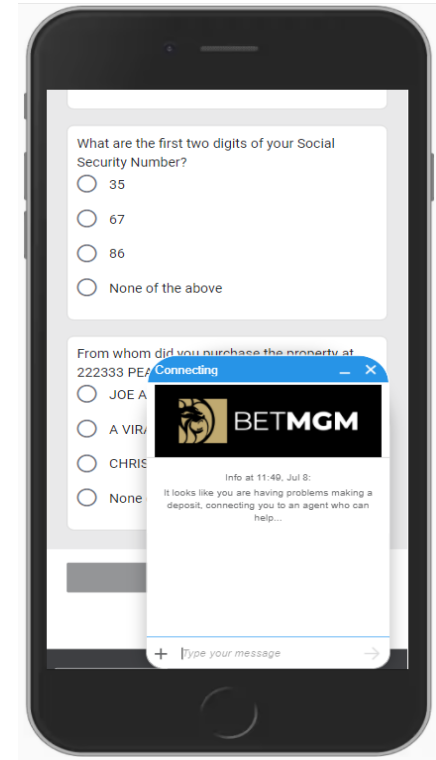
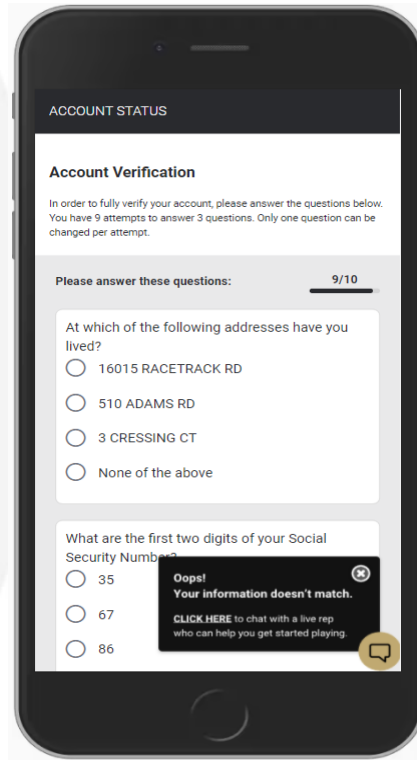
Challenge Question

- If users answer 2 questions correctly and 1 question incorrectly, they are given one more opportunity in the form of a 'challenge question' to get KBA verified. If the user answers the question correctly they are authenticated and taken to the cashier. If the user does not answer the question correctly they will need to start again and answer 3 questions and an attempt will be lost.



Live Chat

- Should customers be encountering any issues during the KBA they will be presented with the option of live chat for additional help.
- Live chat will be presented in 2 scenarios:
 - 1. Customer is idle for X seconds (configurable and currently set to 45 seconds)
 - 2. Customer answers questions incorrectly.





BETMGM
BELIEVE IN YOUR GAME



June 8, 2023

Delivered by email to bruce.band@massgaming.gov
Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

Dear Massachusetts Gaming Commission:

DraftKings, Inc. (“DraftKings”) respectfully requests that the Massachusetts Gaming Commission (“the Commission”) consider the following temporary waiver requests for the below regulations as they pertain to DraftKings sports wagering operations in the Commonwealth.

The below regulations create compliance obligations unique to Massachusetts, and as such compliance requires significant scoping, building, testing, and then implementation of relevant product changes. Certain changes may also require independent lab testing, which DraftKings has built into the proposed timelines below.

205 CMR 202.03(2) authorizes the Commission to grant waivers from the provisions of sports wagering pursuant to the conditions listed in 205 CMR 102.03(4). DraftKings’ request qualifies, as the granting of the waivers is consistent with the purposes of the relevant Massachusetts General Laws, will not interfere with the ability of the Commission to fulfill its duties, and will not adversely affect the public interest. Additionally, not granting the waiver would cause a substantial hardship to the requestor, DraftKings.

Thank you for your consideration.

Sincerely,

DraftKings, Inc.

* * * * *

205 CMR 247.09(4) – Promotional Offers

This section is a ban on promotional offers related to a “refer-a-friend” method of player acquisition. In jurisdictions where refer-a-friend is permitted, a patron will refer-a-friend, and then the friend will have a specified number of days to establish an account, make a deposit, or place a wager (or whatever the promotion may require) to trigger the issuance of the promotional credit(s). At the point the original patron makes the referral, they have accepted a promotion from the operator. If this ban becomes effective before that specified period is up, and the friend accepts the offer, the operator is still contractually bound



by the terms of the refer-a-friend promotion to complete the promotion for the patron. As it stands, if an operator offered refer-a-friend promotions before the Commission's adoption of this new regulation, the operator's only choices are either to violate the terms and conditions of an offer that a patron had agreed to, or be out of compliance with the regulation.

DraftKings respectfully requests a universal effective date for this new regulation be no sooner than July 15th, 2023, and that the Commission exempt refer-a-friend offers accepted but not yet earned by patrons prior to the effective date. As it stands, if an operator offered refer-a-friend promotions before the Commission's effective date of this new regulation, the operator's only choices are either to violate the terms and conditions of an offer that a patron had agreed to, or be out of compliance with the regulation.

205 CMR 248.04(4) – Age and Identity Verification

This section requires sports wagering operators to utilize personal information security questions at the time a patron establishes an account. These kinds of security questions have fallen out of favor in recent years, as in the age of the internet they are in many cases easily guessable or researchable. This is especially true when considering family members of the patron. These kinds of security questions are simply not as effective as they once were. DraftKings respectfully requests that this provision be struck.

The section also allows for an alternate method of authentication approved by the Commission. For the reasons stated above, DraftKings would prefer an alternative method of authentication. Creating that alternative method, submitting it to the Commission for review, and then building, testing, and implementing that method will take operator staff development time. DraftKings requests a uniform waiver until at least August 31, 2023.

205 CMR 248.16(1) – Responsible Gaming Limits

The second sentence in this regulation is new language that would require operators to display the ability for a patron to adopt self-limitations “prior to allowing registration of a new account, the first time a patron makes a deposit into an account, and the first time the patron places a [sic] from an account” (DraftKings believes the typographical error in the regulation is likely the missing word “wager”).

DraftKings respectfully requests a waiver until August 31st, 2023 to implement new self-limitation messaging, including undergoing testing and third party review, as applicable.

205 CMR 247.09(3) – Promotional Offers

This requirement previously borrowed its language and timeline (90 days) directly from the Massachusetts Daily Fantasy Sports (DFS) regulations on promotional offers for new customers. It



creates new operational burdens for operators with a shared platform to be compliant with two different requirements for two different verticals in the same jurisdiction.

Should the Commission not re-review this requirement alongside DraftKings' previously submitted comments, DraftKings respectfully requests a waiver until August 31, 2023 to allow for the appropriate development, testing, and deployment to take place, and request that the Commission exempts promotional offers that were accepted by patrons prior to the effective date. As it stands, if an operator offered promotions with terms extending past 30 days before the Commission's effective date of this new regulation, the operator's only choices are either to violate the terms and conditions of an offer that a patron had agreed to, or be out of compliance with the regulation.

205 CMR 248.03(3)(h) – Account Registration

The Commission is now requiring the operator's electronic patron file to include "the debit instrument used to fund the account, the accountholder's name, and whether the debit instrument accountholder's name matches that of the patron." As is common practice among online merchants, including in gaming and sports wagering, payment vendors do not currently support passing the account holders name tied to a debit instrument to operators. DraftKings respectfully requests a waiver until December 31, 2023 to allow for appropriate conversations with our vendors, scoping, and development.



June 8, 2023

VIA ELECTRONIC MAIL ONLY

Bruce Band
Director of Sports Wagering
Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

Re: Penn Interactive/Barstool Sportsbook 205 CMR 238: Additional Uniform Standards of Accounting Procedures and Internal Controls for Sports Wagering and 205 CMR 248: Sports Wagering Account Management Waiver Request

Director Band:

Please accept this letter as Penn Sports Interactive's ("PSI") request for a waiver from the requirements of 205 CMR 238.45(2)(e): Confidential Information and Personally Identifiable Information Security, 205 CMR 248.03(3)(h): Account Registration, 205 CMR 248.04(4): Age and Identity Verification, and 205 CMR 248.16(1): Responsible Gaming Limits, under 205 CMR 202. These amendments to this regulation were adopted by the Commission via emergency at their June 1, 2023, meeting.

(1) 205 CMR 238.45(2)(e):

PSI respectfully requests a temporary waiver of the requirements of 205 CMR 238.45(2)(e) for a period of 54 days until August 1, 2023, in order to complete the necessary technological work to comply with these new requirements. The online Barstool Sportsbook is already live in the Commonwealth of Massachusetts and PSI is currently preparing for the upcoming migration to its own in-house technology in July of 2023. Once migrated to the in-house technology, PSI will solve for this requirement as outlined in 238.45(2)(e) via appropriate in-app messaging to the patron of the potential reasons for which personal and confidential information may be used, as well as clear and conspicuous technological functionality which will enable the patron to withdraw their consent for the online Barstool Sportsbook to utilize their confidential or personal information for any reason unrelated to the operation of sports wagering, or as required by applicable laws.

Granting this waiver would be consistent with the purposes of M.G.L. c. 23K. PSI intends to fully comply with 205 CMR 238.45(2)(e); however, technological development work is needed in order to do so. Granting this waiver would not interfere with the ability of the Commission to fulfill its duties as it would allow PSI to continue to operate while developing the technology

necessary to comply with the regulation. The public interest will not be affected because the online Barstool Sportsbook, operated by PSI, will continue to operate in the Commonwealth as it does today until the necessary development work and testing is completed. Finally, not granting this waiver would cause substantial hardship to PSI. As mentioned above, PSI is currently preparing for our upcoming technology migration and as a result we are under resource constraints which will prevent completion of the required technological enhancements until the migration is completed.

(2) 205 CMR 248.03(3)(h):

PSI requests a permanent waiver of the requirements of 205 CMR 248.03(3)(h) as it is not possible to comply with this regulation. In addition, PSI respectfully requests that the Commission revisit this regulation to contemplate a practical alternative. In accordance with Payment Card Industry Data Security Standards (“PCI”), payment processor entities do not pass personally identifiable information of cardholders to the applicable merchant, including the cardholder’s name. Without the exchange of such information, sports wagering operators will not have the ability to comply with the specific requirements of 205 CMR 248.03(3)(h). Furthermore, aside from qualifying for PCI certification, which is an overly burdensome task that is not commonplace in the internet gaming industry, PCI certification would not necessarily grant access to cardholder name as this is a practice that is left to each card payment provider’s discretion.

Granting this waiver would be consistent with the purposes of M.G.L. c. 23K and would not interfere with the ability of the Commission to fulfill its duties to protect consumers in the Commonwealth. Granting this waiver will not affect the public interest, as it would allow sports wagering operators, including PSI, to continue to operate utilizing current industry standard fraud detection processes, all of which were required to undergo testing and certification prior to use in the Commonwealth. Finally, if the Commission does not grant this waiver, it would cause substantial hardship to PSI, as PCI standards prevent the sharing of information required to comply with this regulation, even if the requisite technological development is completed.

(3) 205 CMR 248.04(4):

PSI respectfully requests Commission approval for an alternative method of authentication in order to comply with 205 CMR 248.04(4). The online Barstool Sportsbook is already live in the Commonwealth of Massachusetts and PSI is currently preparing for the upcoming migration to its own in-house technology in July of 2023. Once this migration is complete, the online Barstool Sportsbook will utilize an enhanced authentication process for which PSI has already submitted to MGC staff for approval in the Commonwealth. More specifically, PSI will instead utilize a combination of device authentication and documentation verification which also requires a real-time liveness “selfie” that matches against the verified government-issued identification as an alternative to knowledge based authentication. PSI believes that these methods would amplify the Commission’s ability to efficiently combat fraud and protect consumers and further strengthen the Commission’s required Know-Your-Customer process, generally. PSI also offers

the Commission a demo and an opportunity to discuss this process in more detail at the Commission's convenience.

Based on technological resource constraints due to the upcoming migration, as well as the fact that PSI has already invested significant resources into documentation verification and device authentication, we are unable to immediately comply with integrating a knowledge-based authentication process. Implementing this would require additional time to develop, certify, and test in the event that the Commission does not approve our alternative approach. Granting approval of this alternative method, or in the alternative, a temporary waiver of this regulation, would be consistent with the purposes of M.G.L. c. 23K. PSI intends to fully comply with 205 CMR 248.04(4) after further discussion with the Commission to determine the final scope of the technological development needed. In addition, granting this approval or waiver would not interfere with the ability of the Commission or the Bureau to fulfill its duties and the waiver would allow PSI to continue to operate utilizing the current authentication process, which was tested and approved by GLI for use in the Commonwealth prior to the commencement of sports wagering operations. The public interest will not be affected because the online Barstool Sportsbook, operated by PSI, will continue to operate in the Commonwealth as it does today until the necessary solution is tested and implemented. Finally, not granting this approval or waiver would cause substantial hardship to PSI. As stated above, PSI is currently preparing for its upcoming migration to our in-house technology and as a result we are currently under technological resource constraints and are not currently technologically able to comply with the specific requirement of 205 CMR 248.04(4).

(4) 205 CMR 248.16(1):

PSI specifically requests a temporary waiver of the requirements of 205 CMR 248.16(1) for a period of 175 days until November 30, 2023, in order to complete the necessary technological work to comply with these new requirements. PSI currently offers new patrons the option to set self-imposed responsible gaming limitations at the time of account registration and will continue to do so in accordance with the Commission's regulations. In addition, PSI will solve for the requirement to conspicuously display the required limitations at the time of first deposit by incorporating a clear and conspicuous in-app link on the deposit screen which will bring the patron directly to the page within the online Barstool Sportsbook where limitations can be set. Finally, PSI will solve for the requirement to display the required limitations clearly and conspicuously at the time of first wager via an in-app pop up that will be displayed when the patron makes their first wager from their registered online sports wagering account.

Granting this waiver would be consistent with the purposes of M.G.L. c. 23K. PSI intends to fully comply with 205 CMR 248.16(1); however, technological development work and product testing is needed in order to comply. Granting this waiver would not interfere with the public interest, nor the ability of the Commission to fulfill its duties as it would allow PSI to continue to operate while developing the technology necessary to comply with the regulation. Moreover, while conducting the necessary development, all Commission required responsible gaming limitations will remain available to any patron on the online Barstool Sportsbook in the same manner as was tested and certified for use in the Commonwealth by GLI prior to the

commencement of sports wagering operations. Finally, not granting this waiver would cause substantial hardship to PSI. The online Barstool Sportsbook is already live in the Commonwealth of Massachusetts, but because this regulation was promulgated by emergency, PSI is not currently technologically able to comply with the amended requirements, not only because technological enhancements require development, testing and validation, but, as previously mentioned, PSI is currently under resource constraints due to our upcoming migration to our own in-house technology stack.

Thank you for your consideration. Please do not hesitate to contact me if you have any questions or concerns.

Respectfully submitted,

Adam Kates

Adam Kates
Sr. Director, Compliance
Penn Interactive

cc:

Sterl Carpenter, Regulatory Compliance Manager, MGC
Crystal Beauchemin, Sports Wagering Business Manager, MGC
Chris Soriano, Chief Compliance Officer, PENN Entertainment, Inc.
Sam Haggerty, Deputy Chief Compliance Officer, PENN Entertainment, Inc.



June 8, 2023

Mr. Bruce A. Band
Director, Sports Wagering Division
Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

Director Band,

WSI US, LLC, dba WynnBET is requesting the consideration of the Sports Wagering Division of the Massachusetts Gaming Commission for a temporary waiver to the sports wagering regulations as specified within 205 CMR 248: **Sports Wagering Account Management**, item 248.04(4) as outlined below until September 30, 2023:

248.04 Age and Identity Verification

(4) Sports Wagering Operator shall at the time of account establishment, utilize identity authentication questions that require a patron to provide information known only to the patron through security questions, unless an alternate method of authentication is approved by the Commission.

This functionality is anticipated to be integrated into the WynnBET product and will be available for release in late September, 2023. WynnBET is compliant with all other requirements of this rule.

Thank you in advance for your consideration of this request. Should you have any questions or wish to further discuss, please free to contact me by e-mail at Jacqueline.Hunter@wynnbet.com or by phone at (702) 770-7614.

Best regards,

A handwritten signature in blue ink that reads "Jacqueline Hunter".

Jacqueline Hunter
Asst. Vice President
Product Compliance

Subject: RE: Waiver Request- Urgent

Hi Crystal,

We respectfully request a blanket/uniform waiver on all 3 items for 18 months. We are happy to provide more context on this time frame if needed.

Our Refer a friend promotion had the T&C ending on 12/31/2024.

Ashwin Krishnan

Head of Legal & Business Affairs



ashwin.krishnan@betr.app

(305) 605-2387 office

Subject: RE: Waiver Request- Urgent

(removing other operators)

Crystal,

Upon conferring internally, we note the following regarding your request:

1) For 247.09(4) - Promotions

We are running a Refer-A-Friend promotion in several states. However, It is not available in MA and clearly specify this in the national advertising disclaimer for the Refer-A-Friend promotion:

21+. Offer valid in AZ, CO, IL, IN, IA, KS, LA, MD, MI, NJ, NY, OH, PA, TN, VA, WV, or WY. Referred customer must (1) be new to Caesars, (2) be eligible to create new account, and (3) make \$50+ deposit and cumulatively bet \$50+ within 90 days of sign-up. Reward Credits subject to Caesars Rewards Rules. Max. of 50K Reward Credits. Full terms at [_____]. Void where prohibited. Know When To Stop Before You Start.® Gambling Problem? IL, MD, NJ, OH, TN, VA, WV, PA (Affiliated with Harrah's Philadelphia): If you or someone you know has a gambling problem, crisis counseling and referral services can be accessed by calling 1-800-GAMBLER (1-800-426-2537) or MD: visit mdgamblinghelp.org or WV: visit 1800gambler.net; AZ: Call 1-800-NEXT-STEP; CO, WY, KS (Affiliated with Kansas Crossing Casino): Call 1-800-522-4700; IN: Call 1-800-9-WITH-IT; IA: Call 1-800-BETSOFF; LA: Call 1-877-770-STOP (licensed through Horseshoe Bossier City and Harrah's New Orleans); MI: Call 1-800-270-7117

OFFER NOT AVAILABLE IN MASSACHUSETTS

GAMBLING PROBLEM?

IL, MD, NJ, OH, PA, TN, VA, WV: Call 1-800-GAMBLER

MA: CALL 1-800-327-5050 or visit gamblinghelpinema.org

NY: Call 877-8-HOPENY or text HOPENY (467369)

2) 248.04 (4) –security question language

We do not have security questions in our signup flow for any jurisdiction and do not have an easy way to add them. We chose multi-factor authentication (2fa via sms) to verify that a player is who they say they are in addition to their login credentials. This is more secure than asking customers for security question answers because these answers are as likely to be in a data breach as leaked passwords whereas sms requires the customers to have their login credentials as well as access to the device where they receive text messages. The primary concern we received when security questions were removed in August of 2022 was with respect to identifying fraud rings. Fraud rings would often use common security question answers which helped tie accounts together. To solve for fraud identification we have integrated Accertify which is automatically, and securely, scanning our player data and actions, then using machine learning to identify fraud much more easily than we ever could manually.

3) 248.03(3)H – payment processing

It is not possible to meet that regulation as we never see the name on the card nor is it passed as part of the transaction between Caesars/processor/bank. We do ask customers to manually enter the name on the card which we check against the name on the Caesars account but we have no visibility into the card or the corresponding bank account.



Curtis Lane Jr | *Digital Compliance Manager*

101 Hudson Street Suite #2800 | Jersey City, NJ 07302

Subject: Re: Waiver Request- Urgent

Hi Crystal –

See below in italics. Happy to discuss further at your convenience.

Cory

247.09(4) – Extension to cover promotional periods in existence- Please provide information on when your CURRENTLY running promotions related to referring a friend will end and rewards will be paid out.

FanDuel's current offer would require an industry waiver until August 1, 2023.

Promotions that include user referral mechanics are incredibly effective at introducing new users to the regulated marketplace, and are a significant commercial driver for operators. It is important that the Commission treat operators equally with respect to promotions that include referral mechanics given the

significant commercial advantage that would result from inconsistent end dates. Should the Commission provide for an industry waiver that goes beyond August 1, 2023, FanDuel would request the opportunity to continue to offer promotions with referral mechanics until such time as all operators would be required to cease the use of these promotions on the same date.

248.04 (4) –security question language – Please provide a reasonable date when technology implementation and enhancements would be attainable to achieve this regulation.

FanDuel recognizes that the Commission has provided a mechanism to approve an alternative method of authentication with the newly adopted regulation, and would request that the Commission do so in this instance. There are three online sports wagering jurisdictions where FanDuel operates (CT, NJ and PA) that require an additional step, generally referred to as identity authentication or attestation, in the identity verification and account creation process. In each of these jurisdictions, regulatory bodies have approved the use of multiple identity authentication mechanisms due to the resulting friction and issues that a single prescriptive approach like identity authentication questions can introduce in the process. While any authentication requirement will negatively impact the ability for (and number of) individuals to successfully verify their identities and create sports wagering accounts in the regulated marketplace, requiring the use of identity authentication questions without additional means to authenticate a user’s identity would have some negative consequences. Identity authentication questions are generated from public information and disproportionately impact individuals with limited public records. They are also less reliable than other approved methods, and introduce significant friction in the account creation process which leads to increased complaints to regulatory staff and operators. Connecticut initially required identity authentication questions to be used in each instance of account creation when regulations were first developed for the jurisdiction, but subsequently changed their regulations to provide a mechanism to permit these additional means after recognizing the impact on the process.

FanDuel respectfully requests that the Commission approve the same authentication mechanisms that are approved for use in each of these other jurisdictions, which include (1) a passive device identification check, (2) identity authentication questions, and (3) a manual identification upload function. FanDuel would be happy to provide any additional information upon request.

Should the Commission approve this enhanced implementation, FanDuel would request an industry waiver until October 1, 2023 to make the technology enhancement available to users in the Commonwealth.

248.03(3)H – payment processing requirement implementation - Please provide a reasonable date when technology implementation and enhancements would be attainable to achieve this regulation. *FanDuel collects this information today and would not need to request a waiver.*

Cory Fox

VP, Product and New Market Compliance

650.346.6624

Cory.fox@fanduel.com

Hi Crystal,

Please see below and let us know if you have any questions. Thank you!

247.09(4): Fanatics requests a 1 month waiver to address marketing campaigns in order to align with the broader sports betting market in accordance with the MGC's recent guidance regarding "refer a friend." While Fanatics reasonably believes it's in compliance with such regulation we are also requesting this waiver to review and amend terms and conditions where necessary.

248.04(4): Fanatics reasonably believes it could implement the technological enhancements required to comply with this regulation in approximately 6 months.

248.03(3)(H): Fanatics reasonably believes it could implement the technological enhancements required to comply with this regulation in approximately 8 - 12 months. In addition to the requirements listed above, Fanatics would also like to request a waiver from the added requirements in 248.16(1). In order to provide patrons with the option to set limits prior to account registration, their first deposit or their first wager, Fanatics requests an extension of 3 months, which would reasonably allow Fanatics the time necessary to implement the technological enhancements required to comply with this regulation.

-Lauren Lemmer, Fanatics



Legal Division

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

FROM: Carrie Torrisi, Deputy General Counsel
Paul Kominers, Anderson & Kreiger

DATE: June 8, 2023

RE: Proposed 205 CMR 230: Review of a Proposed Agreement with a
Category 3 Licensee

Enclosed for the Commission's review is a proposed 205 CMR 230 (review of agreements related to mobile or digital sports wagering). This regulation sets out the process for Category 1 or 2 operators to obtain Commission approval of "agreements related to mobile or digital sports wagering with a category 3 licensee" in accordance with Section 6(b)(4) of c. 23N.

This regulation governs any agreement relating to mobile or digital sports wagering between a Category 1 and 2 Operator and a Category 3 Operator. 205 CMR 230.01(1)-(2). Administrative corrections are exempted, as is accepting another operator's standard terms of service in order to place a bet with that operator. 205 CMR 230.01(2).

The approval process is a simplified version of the process for approval of a transfer of interests under 205 CMR 231. The parties may request preliminary approval to begin operating in accordance with the agreement while full review is pending. 205 CMR 230.01(4). The Commission may grant preliminary approval in its discretion so long as the agreement has a mechanism permitting termination in the event that the Commission withdraws preliminary approval or denies ultimate approval. 205 CMR 230.01(4)(b).

The Commission may take any step when reviewing the agreement that it could take when reviewing a license application. 205 CMR 230.01(3). Ultimately, it approves or rejects the agreement at an open public meeting. 205 CMR 230.01(5). The Commission may reject any agreement that would be disadvantageous to the interests of the Commonwealth, including any agreement that would create a violation of another applicable statute or regulation. 205 CMR



Massachusetts Gaming Commission

230.01(6). The Commission may also reject an agreement that would effectively create a third Category 3 operation tethered to a Category 1 Operator, or a second Category 3 operation tethered to a Category 2 operator. 205 CMR 230.01(6)(b).

205 CMR 230: REVIEW OF A PROPOSED AGREEMENT WITH A CATEGORY 3 LICENSEE

230.01 Notice and Approval

230.01 Notice and Approval

- (1) In accordance with G.L. c. 23N, § 6(b)(4), no Category 1 or Category 2 Operator shall enter into an agreement related to mobile or digital Sports Wagering with a Category 3 Operator, including a Category 3 Operator whose Tethered Category 3 License is tethered to the Category 1 or 2 Operator's License, or amend such an agreement, without prior notice to and approval from the Commission.
- (2) Notwithstanding 205 CMR 230.01(1), the following agreements and amendments do not require approval:
 - (a) The acceptance by one Operator of a second Operator's standardized consumer terms of service in order to place a wager with the second Operator in accordance with G.L. c. 23N, § 13(c).
 - (b) Amendments as to form or to correct typographical errors.
- (3) In reviewing the agreement, the Commission may, at such times and in such order as the Commission deems appropriate, take any of the actions listed in 205 CMR 218.04(1).
- (4) Preliminary Approval.
 - (a) The parties to any agreement subject to 205 CMR 230.01(1) may request a preliminary approval.
 - (b) Whether to grant preliminary approval shall be in the Commission's discretion. However, the Commission shall not grant preliminary approval unless the parties demonstrate, through a clause in the agreement or otherwise, that the agreement can be promptly terminated if:
 - (i) the Commission denies final approval; or
 - (ii) the Commission withdraws the preliminary approval in accordance with 205 CMR 230.01(4)(d).
 - (c) If the Commission grants a preliminary approval, the parties may operate under the agreement until the Commission makes a final determination on the agreement.
 - (d) The Commission may withdraw a preliminary approval at any time if it finds reasonable cause to believe that the proposed agreement would be disadvantageous to the interests of the Commonwealth.

- (5) The Commission shall, at an open public meeting, either approve or reject the proposed agreement.
- (6) The Commission may reject any agreement requiring approval pursuant to 205 CMR 230.01(1) that it finds would be disadvantageous to the interests of the Commonwealth of Massachusetts. An agreement may, without limitation, be considered disadvantageous to the interests of the Commonwealth if:
 - (a) the Commission determines that the agreement would cause a violation of any of the applicable considerations set forth in M.G.L. c. 23N, §§ 5, 6, or 9(a), or any other applicable provisions of M.G.L. cc. 23K, 23N or 205 CMR; or
 - (b) the agreement would result in any party to the agreement having a financial interest in more Sports Wagering Licenses issued by the Commission than the party is permitted to hold or be tethered to under G.L. c. 23N.

DRAFT



SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Small Business Impact Statement in accordance with G.L. c. 30A, §2, relative to the proposed adoption of **205 CMR 230 REVIEW OF A PROPOSED AGREEMENT WITH A CATEGORY 3 LICENSEE**.

This regulation was adopted as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is primarily governed by G.L. c. 23N, §4. This regulation sets out the process for Category 1 or 2 operators to obtain Commission approval of “agreements related to mobile or digital sports wagering with a category 3 licensee” in accordance with Section 6(b)(4) of c. 23N.

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

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

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

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

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

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

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

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

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

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



Massachusetts Gaming Commission

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

Massachusetts Gaming Commission
By:

/s/ Carrie Torrasi
Carrie Torrasi, Deputy General Counsel

Dated: June 8, 2023

DRAFT



Massachusetts Gaming Commission

205 CMR 256: SPORTS WAGERING ADVERTISING

256.01: Third Parties

- (1) Each Sports Wagering Operator shall be responsible for the content and conduct of any and all Sports Wagering advertising, marketing, or branding done on its behalf or to its benefit whether conducted by the Sports Wagering Operator, an employee or agent of the Sports Wagering Operator, or an affiliated entity or a third party pursuant to contract or any other agreement for consideration or remuneration, regardless of whether such party is also required to be licensed or registered as a Sports Wagering Vendor or Non-Sports Wagering Vendor.
- (2) Each Sports Wagering Operator shall provide a copy of the regulations contained herein to all advertising, marketing, branding and promotions personnel, contractors, agents, and agencies retained by the Sports Wagering Operator or its agents and shall ensure and require compliance herewith.
- (3) No Sports Wagering Operator may enter into an agreement with a third party to conduct advertising, marketing, or branding on behalf of, or to the benefit of, the licensee, in exchange for a percentage of sports wagering revenue earned from users that the third party directs or causes to be directed to the Operator.
- (4) Any advertisement or promotion for Sports Wagering shall disclose the identity of the Sports Wagering Operator and whether a financial relationship exists between any Person providing an endorsement or promotion and the Sports Wagering Operator.

256.02: Application

- (1) The provisions of this section shall apply to all advertising, marketing, and branding for Sports Wagering aimed at, published, aired, displayed, disseminated, or distributed in the Commonwealth. Nothing herein shall be construed as limiting a Person's obligations to comply with any other federal, state or local law applicable to advertising, marketing and branding, nor shall anything herein be construed as modifying or limiting in any way any more stringent or additional requirement applicable to advertising, marketing and branding.
- (2) Sports Wagering advertisements may only be published, aired, displayed, disseminated, or distributed in the Commonwealth by or on behalf of Sports Wagering Operators licensed to offer Sports Wagering in the Commonwealth, unless the advertisement clearly states that the offerings are not available in the Commonwealth or otherwise makes clear that the offerings are not intended for use in the Commonwealth. Sports Wagering Operators and their agents, employees, or any third party conducting advertising or marketing on their behalf shall not advertise forms of illegal gambling in the Commonwealth.

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

256.03: Internal Controls

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

256.04: False or Misleading Advertising

- (1) No Sports Wagering Operator shall allow, conduct, or participate in any unfair or deceptive advertising, marketing, or branding for Sports Wagering.
- (2) No Sports Wagering Operator shall obscure or fail to disclose any material fact in its advertising, marketing, or branding for sports wagering or use any type, size, location lighting, illustration, graphic, depiction or color resulting in the obscuring of or failure to disclose any material fact in any advertising, marketing, or branding.
- (3) All Sports Wagering advertisements must clearly convey the material conditions under which Sports Wagering is being offered, including information about the cost to participate and the nature of any promotions, to assist patrons in understanding the odds of winning. Any material conditions or limiting factors must be clearly and conspicuously specified in the advertisement. Additional, non-material terms and conditions may be otherwise made available on a website or application if an advertisement is not of sufficient size or duration to permit inclusion of the additional information.
- (4) No Sports Wagering Operator, Sports Wagering Vendor, or third party marketing or advertising entity required to be licensed or registered pursuant to 205 CMR 234, nor any employee of any of the foregoing, may advise or encourage patrons to place a specific wager of any specific type, kind, subject, or amount. This restriction does not prohibit general advertising or promotional activities which may notify a patron of the need to place a specific wager type, kind, subject, or amount in order for patron to receive a promotional benefit.
- (5) A Sports Wagering Operator that engages in any promotion related to Sports Wagering shall clearly and concisely explain the terms of the promotion and adhere to such terms. If a Sports Wagering Operator offers complimentary items or promotional credit that are subject to terms, conditions or limitations in order to claim the item or redeem the item or credit, the Operator shall fully disclose all material terms, conditions or limitations through the following methods, provided that additional, non-material terms and conditions, may be otherwise made available on a website or application if an advertisement is not of sufficient size or duration to permit inclusion of the non-material information.

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

- (k) Offer a line of credit to any consumer; or
- (l) Use individuals to provide purported expertise or Sports Wagering advice who are employed by, contracted with, or otherwise compensated by a Sports Governing Body, team, club or athlete on which a wager may be placed.

256.05: Advertising to Youth

- (1) Advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall state that patrons must be twenty-one years of age or older to participate.
- (2) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for Sports Wagering that is aimed at individuals under twenty-one years of age.
- (3) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator for Sports Wagering shall contain images, symbols, celebrity or entertainer endorsements or language designed to appeal primarily to individuals younger than twenty-one years of age.
- (4) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator for Sports Wagering shall be published, aired, displayed, disseminated, or distributed:
 - (a) in media outlets, including social media, video and television platforms, where 25% of the audience is reasonably expected to be under twenty-one years of age, unless adequate controls are in place to prevent the display, dissemination or distribution of such advertising, marketing, branding or other promotional materials to individuals under twenty-one years of age including by use of age category exclusions and similar mechanisms;
 - (b) in other media outlets, including social media, video and television platforms, unless the Operator utilizes all available targeted controls to exclude all individuals under twenty-one years of age from viewing such advertising, marketing, branding, and other promotional materials;
 - (c) at events aimed at minors or where 25% or more of the audience is reasonably expected to be under twenty-one years of age;
 - (d) at any elementary, middle, and high school, or at any sports venue exclusively used for such schools;

- (e) on any college or university campus, or in college or university news outlets such as school newspapers and college or university radio or television broadcasts, except for advertising, including television, radio, and digital advertising that is generally available, and primarily directed at an audience, outside of college and university campuses as well; or
 - (f) to any other audience where 25% or more of the audience is presumed to be under twenty-one years of age.
- (5) No Sports Wagering advertisements, including logos, trademarks, or brands, shall be used, or licensed for use, on products, clothing, toys, games, or game equipment designed or intended for persons under twenty-one years of age.
 - (6) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator for Sports Wagering shall depict an individual who is, or appears to be, under twenty-one years of age, except live footage or images of professional athletes during sporting events on which sports wagering is permitted. Any individual under the age of twenty-one may not be depicted in any way that may be construed as the underage individual participating in or endorsing sports gaming.
 - (7) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator for Sports Wagering shall depict students, schools or colleges, or school or college settings.

256.06: Advertising to Other Vulnerable Persons

- (1) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for Sports Wagering that is aimed exclusively or primarily at individuals or groups of people that are at moderate or high risk of gambling addiction. A Sports Wagering Operator shall not use characteristics of at-risk or problem bettors to target potentially at-risk or problem bettors with advertisements.
- (2) Advertising, marketing, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall include a link to and phone number for the Massachusetts Problem Gambling Helpline using language provided by the Department of Public Health or such other responsible gaming information required by the Commission (“Responsible Gaming Messaging”).
- (3) Such advertising, marketing, branding and other promotional materials shall not use a font, type size, location, lighting, illustration, graphic depiction or color obscuring or limiting the advertisement of such Problem Gambling Helpline Information.

- (4) Information regarding Responsible Gaming Messaging must also meet the following requirements:
- (a) For signs, direct mail marketing materials, posters and other print advertisements, the height of the font used to advertise Responsible Gaming Messaging must be the greater of:
 - i. The same size as the majority of the text used in the sign, direct mail marketing material, poster or other print advertisement; or
 - ii. 2% of the height or width, whichever is greater, of the sign, direct mail marketing material, poster or other print advertisement.
 - (b) For billboards, the height of the font used for Responsible Gaming Messaging must be at least 5% of the height or width, whichever is greater, of the face of the billboard.
 - (c) For digital billboards, Responsible Gaming Messaging must be visible for the entire time the rest of the advertisement is displayed.
 - (d) For video and television, Responsible Gaming Messaging must be visible for either:
 - i. The entire time the video or television advertisement is displayed, in which case the height of the font used for Responsible Gaming Messaging must be at least 2% of the height or width, whichever is greater, of the image that will be displayed.
 - ii. From the first time Sports Wagering Equipment, a Sports Wagering Facility, a Sports Wagering Area or Sports Wagering is displayed or verbally referenced, and on a dedicated screen shot visible for at least the last three (3) seconds of the video or television advertisement. If the Operator elects to utilize this option, the height of the font used for Responsible Gaming Messaging:
 - 1. During the advertisement must be at least 2% of the height or width, whichever is greater, of the image that will be displayed.
 - 2. On the dedicated screen shot must be at least 8% of the height or width, whichever is greater, of the image that will be displayed.
 - (e) For web sites, including social media sites:
 - i. Responsible Gaming Messaging must be posted in a conspicuous location on each website or profile page and on a gaming related advertisement posted on the webpage or profile page.

- ii. The height of the font used for Responsible Gaming Messaging must be at least the same size as the majority of the text used in the webpage or profile page.
 - iii. For advertisements posted on the webpage or profile page, the height of the font used for Responsible Gaming Messaging must comply with the height required for signs, direct mail marketing materials, posters and other print advertisements.
- (5) All direct advertising, marketing, or promotional materials shall include a clear and conspicuous method allowing patrons to unsubscribe from future advertising, marketing, or promotional communications.

256.07: Self-Excluded Persons

- (1) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for sports wagering that is aimed at persons who have enrolled in a Self-Exclusion Program pursuant to 205 CMR 233.
- (2) No Sports Wagering Operator shall direct text messages or unsolicited pop-up advertisements on the internet to an individual in the Self-Exclusion Program or shall allow any employee or agent of the Sports Wagering Operator, or affiliated entity or a third party pursuant to contract, to take such actions.

256.08: Disruption to Viewers

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

256.09: Endorsements

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

- (3) Endorsements must comply with the Federal Trade Commission's Guides Concerning the Use of Endorsements and Testimonials in Advertising, 16 C.F.R. Part 255.

256.10: Records

- (1) Each Sports Wagering Operator shall retain a copy of all advertising, marketing, branding and other promotional materials promoting or intended to promote any Sports Wagering within the Commonwealth, including a log of when, how, and with whom, those materials have been published, aired, displayed, or disseminated, for six (6) years. A Sports Wagering Operator shall also grant the Commission access to all social media platforms utilized by or on behalf of the licensee for such purposes, provided that an Operator shall not be required to permit the Commission to control or directly alter such content on such platforms. For all directed or targeted advertising and marketing, a Sports Wagering Operator shall maintain records sufficient to describe all targeting parameters used, as well as efforts undertaken to comply with 205 CMR 256.06(1).
- (2) All advertising, marketing, branding, and other promotional materials related to Sports Wagering and the log described in subsection (1) shall be made available to the Commission or its agents upon request.

256.11: Enforcement

- (1) A Sports Wagering Operator shall discontinue or modify as expeditiously as possible the use of a particular advertisement, marketing, or branding material in the Commonwealth or directed to residents in this state upon receipt of written notice that the Commission has determined that the advertisement, marketing, or branding material in question does not conform to the requirements of 205 CMR 256.00 or the discontinuance or modification of which is necessary for the immediate preservation of the public peace, health safety, and welfare of the Commonwealth.
- (2) A failure to adhere to the rules of 205 CMR 256.00 may be grounds for disciplinary action under any enforcement method available to the Commission, including emergency enforcement orders to immediately cease and desist such advertising pursuant to 205 CMR 109.
- (3) The Commission may, in addition to, or in lieu of, any other discipline, require an Operator that violates this section 205 CMR 256 to provide electronic copies of all advertising, marketing and promotional materials developed by or on behalf of the Operator to the Commission at least ten (10) business days prior to publication, distribution or airing to the public.



23 | COMMUNITY MITIGATION FUND

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

FROM: Joseph Delaney, Mary Thurlow, and Lily Wallace

CC: Karen Wells, Executive Director, Todd Grossman, General Counsel

DATE: June 8, 2023

RE: **2023 Community Mitigation Fund Public Safety Applications**

This memorandum provides an analysis of the Public Safety applications for funding under the 2023 Community Mitigation Fund. Copies of the applications can be found at <https://massgaming.com/about/community-mitigation-fund/>. The Community Mitigation Fund Review Team assessed the applications to ensure that they are compliant with the 2023 CMF Guidelines. As part of this review process copies of the applications were sent to the licensees for their review and comment. Requests for supplemental information were submitted to the applicants so they could provide further clarification on their application. Numerous meetings were held by the Review Team to ensure a thorough review of every application.

The following Public Safety Applications were received during the 2023 Grant round:

2023 PUBLIC SAFETY GRANT APPLICATIONS

The limit on Public Safety grants is \$200,000 per community unless a waiver has been granted by the Commission. Below are descriptions of the applications for Public Safety Grants.

Applicant	Description	Amount Requested	Recommended Award
Region A			
Boston	Police: Training for Human Trafficking Unit, Youth Violence Strike Force, Drug Control Unit. Increasing Traffic Safety Patrols on streets surrounding casino.	\$176,100	\$65,000
Everett*	Fire: Purchase of an inspection vehicle to reduce the strain on the fire prevention division as it conducts frequent inspections at Encore.	\$53,039	\$0
Everett*	Fire: Training for high rise and below grade firefighting, crowd management and lithium-ion battery fires.	\$45,000	\$45,000
Everett*(Previously SI)	Police: A one-time purchase of two electric vehicles to support operations on and around Encore.	\$138,477	\$0
Everett*	Police: Purchase of Jet skis and trailer for water safety and 1,200 hours of overtime funding for	\$145,000	\$104,100

Applicant	Description	Amount Requested	Recommended Award
	Encore area police patrols due to increased activity.		
Everett*	Police: Outfitting Conex storage unit with video surveillance, interoperable radio system, Everett Police paint and graphics.	\$18,700	\$18,700
Malden	Police: Purchase of two electric vehicles for 3 officers assigned to traffic complaints and a Speed Alert Radar Message Board with trailer.	\$200,000	\$17,900
Medford	Police: Purchase of one hybrid police traffic safety vehicle, 11 Speed Alert Radar Message Signs, and 2 Message Display Signs and associated equipment and software.	\$194,300	\$130,000
Melrose*	Police and Fire: Upgrades to radios, transmitters and antennas for Police and Fire Departments.	\$893,500	\$0
Revere	Police: Lease of 8 solar powered Falcon License Plate Recognition Cameras for 36 months.	\$64,000	\$64,000
Region B			
Hampden	Police: Funding of special 4-hour traffic enforcement shifts and purchase of two pole radar units and a cruiser handheld radar unit.	\$15,300	\$15,300
Longmeadow	Police: Purchase of cameras, and Speed Alert radar message signs with data management system; installation of a side street camera detection system; and 1.8 miles of additional fiber optic cable to.	\$192,379	\$192,400
Ludlow	Police: Purchase of a Chevrolet Tahoe; trainings including Anti Bias/De-escalation, ICAT use of force; 40MM Less-lethal gun package; Brinc Communication Ball; Tactical Vests and Body Armor; BOLA Wrap; and Terminator X Riot helmet.	\$197,000	\$31,800
Springfield	Fire: Purchase of seven Defibrillator Units for the apparatus that responds to the Casino area.	\$19,800	\$19,800
Springfield*	Police: 34 4-hour Traffic Deployments; 4 Anti-John Deployments; 60 Homeless Outreach deployments. Two cruisers for the GEU; Sexual Assault training for 5 officers; interlocking steel barricades; a Metro Division drone; and Tactical Shotgun and Gear upgrades.	\$224,939	\$135,200

Applicant	Description	Amount Requested	Recommended Award
Springfield	Funding to decrease OUIs by hiring a fulltime Community Health Worker to provide education, marketing, and research to develop public awareness.	\$200,000	\$191,200
West Springfield	Fire and Police: Additional Funding for Police, Fire and EMS.	\$200,000	\$200,000
Wilbraham	Fire and Police: Purchase of ten Police vehicle radios, five fire vehicle radios and one police portable radio to be upgraded to have Phase 2 Trucking compatibility.	\$42,762	\$42,800
Category 2			
Foxborough	Police: Purchase of a motorcycle; increase in police shifts for traffic and hotel enforcement initiatives; Matrice 3 Drone and Mapping, XPS17; and computer for Mapping Program.	\$143,400	\$61,400
Plainville	Police: Funding of a Community Resource Officer for one year to act as a conduit between Plainville and the Casino.	\$80,330	\$0
Plainville	Police: Force Science Certification to prepare law enforcement professionals to understand human factor dynamics.	\$123,750	\$123,750
Plainville	Fire: Purchase of four Electric Vehicle Fire Blankets.	\$13,180	\$13,200
Wrentham	Police: Purchase Ford F150 XLT pickup truck; specially outfitted motorcycle; and two Speed Alert 24 radar message signs for crime prevention, traffic enforcement and driver education.	\$156,668	\$44,900

Boston - Police

Project Summary: The City of Boston Police Department (BPD) is requesting \$176,100 to mitigate criminal activity and traffic collisions by increased training and investigative activities for BPDs Human Trafficking Unit (HTU); Youth Violence; Drug Control; and other related law enforcement, as well as increased traffic safety patrols around casino.

Analysis: This application is proposing additional funding for the City's Human Trafficking Unit including an undercover vehicle, Youth Violence Strike Force, Drug Control Unit, and for additional traffic patrols in the A1 and A15 Districts.

Based on the information submitted in the application, the HTU has assisted the Everett Police Department and the State Police in human trafficking investigations. The Review Team agrees that this work constitutes a nexus to the casino. As such, the Review Team recommends the funding of the training and overtime for the HTU in the amount of \$15,000. However, the

Review Team does not recommend the funding of an additional undercover vehicle. In 2022, the City of Boston requested the funding of two undercover vehicles for the HTU. In its 2022 evaluation, the Review Team agreed that the provision of one vehicle was proportional to the identified impact. Nothing presented in the 2023 application convinced the Review Team that an additional vehicle was warranted.

With respect to the requests for the Youth Violence Strike Force and Drug Control Unit, based on the materials provided the Review Team could not identify the nexus to the casino. The application and supplemental information provided some anecdotal evidence that might be associated with Encore. However, these units have not entered into any formal agreements with law enforcement agencies working in and around the casino properties. The Review Team has no doubt that these units provide valuable services, however, absent a direct connection to a casino related impact, we could not recommend this funding.

The Review Team agrees that increases in traffic associated with Encore certainly have an impact on Sullivan Square and Rutherford Avenue as about 70% of the casino related traffic passes through Sullivan Square. The Review Team agrees that increased traffic patrols during high-traffic weekends and weekdays would help improve the safety of pedestrians, cyclists, and vehicles as well providing additional visibility to help deter vehicular related crimes and recommends funding for this portion of the grant.

Recommendation: The Review Team recommends partial funding of this grant in the amount of \$65,000 for the Human Trafficking Unit training overtime (\$15,000) and overtime funding for additional traffic patrols in Areas A1 and A15 (\$50,000).

Everett – Fire – Inspectional Vehicle

Project Summary: The City of Everett Fire Department (EFD) is requesting \$53,039 for the purchase of an inspectional vehicle for use at Encore Boston Harbor.

Analysis: The various facilities at Encore Boston Harbor require inspections from the EFD including commercial kitchen inspections, lodging facility license renewals, code compliance inspections, etc. These inspections total approximately 150 per year. The Fire Prevention Division performs about 2,000 total inspections per year or an increase of about 7.5%.

The Review Team agrees that this increased level of inspection constitutes an impact of the casino. However, when asked about the disposition of vehicles, the City responded that this vehicle would replace the oldest vehicle in the fleet. The intent of the CMF program is to supplement agencies budgets to address identified impacts, not to simply replace aging equipment. The 2023 CMF Guidelines state that “All applications must demonstrate that CMF funds will supplement and not supplant historical operations funding.” While the Review Team sympathizes with the budgetary constraints of communities, CMF funds were never intended to replace existing community costs, of which vehicle replacement is one.

Recommendation: The Review Team does not recommend funding for this grant.

Everett - Fire: Training

Project Summary: The City of Everett Fire Department is requesting \$45,000 to pursue training on the hazards associated with Encore Boston Harbor.

Analysis: The construction of Encore Boston Harbor has introduced several new hazards unique to this facility that require specialized training for the Everett Fire Department. These include high rise firefighting, lithium-ion battery fires, below grade firefighting and crowd management emergencies.

The Review Team agrees that the construction of EBH has introduced these hazards that a community like Everett would not normally encounter, and as such, constitutes an impact of the casino. The provision of this training should help EFD better respond to these types of hazards should an incident occur at EBH.

Recommendation: The Review Team recommends full funding for this grant in the amount of \$45,000.

Everett - Police Electric Vehicles

Project Summary: The City of Everett Police Department is requesting \$138,477 for two electric vehicles for Encore Police Patrols.

Analysis: Everett's application came in under the Specific Impact category. As this equipment is specifically for the police, the Review Team recategorized it to Public Safety.

The CMF has funded additional late night/weekend police patrols for the last several years. The Review Team has consistently agreed that these patrols were appropriate due to the later than anticipated departure of patrons due, in part, to the 4:00 AM alcohol service on the gaming floor.

The Everett Police Department currently parks two police vehicles at Encore Boston Harbor for the use by their officers when patrolling the areas in and around Encore Boston Harbor. The application indicates that the new electric vehicles would replace the two existing vehicles. The intent of the CMF program is to supplement agencies budgets to address identified impacts, not to simply replace aging equipment. The 2023 CMF Guidelines state that "All applications must demonstrate that CMF funds will supplement and not supplant historical operations funding." While the Review Team sympathizes with the budgetary constraints of communities, CMF funds were never intended to replace existing community costs, of which vehicle replacement is one.

Recommendation: The Review Team does not recommend funding for this project.

Everett - Police

Project Summary: The City of Everett Police Department is requesting \$145,006 for water safety enhancements along the Mystic River and additional patrols in and around the Encore property.

Analysis: The original request included the purchase of low drafting watercraft (Jetskis) and overtime at peak times to support public safety efforts in and around the casino. The City has since withdrawn the request for Jetskis as they are pursuing a different grant opportunity for watercraft.

For the past few years, the Commission has funded additional late night and peak period police patrols in the casino area. The rationale behind these was the extension of alcohol service to 4:00 AM has extended the peak departure times from the casino, and some events at the casino have resulted in larger than expected crowds and traffic congestion. The Review Team agrees that these continue to constitute and impact of the casino and recommend awarding this portion of the grant.

Recommendation: The Review Team recommends partial funding for this grant in the amount of \$104,100 for the additional police patrols.

Everett – Police - Outfitting CONEX Container

Project Summary: The City of Everett Police Department is requesting \$18,700 to outfit the 20-foot CONEX office/storage container Everett received last year through a CMF grant.

Analysis: The City is looking to outfit the CONEX office/storage container with video surveillance, an interoperable radio system, and police graphics to provide additional security, communication capability and visibility. Last year, the Review Team agreed that the provision of the storage container would help the police address the unanticipated issue of significant pedestrian traffic using the parking lots across the street from EBH and the need for regular police details. The Review Team also agrees that providing proper communication with the GEU and enhanced security is appropriate to ensure the utility of this office/storage container.

Recommendation: The Review Team recommends full funding of this grant in the amount of \$18,700.

Foxborough Police: Motorcycle, Drone, Mapping

Project Summary: The Town of Foxborough Police Department is requesting \$143,400 in funding to continue with officer training, methods of enhancing investigations and traffic safety.

Analysis: This application is requesting funding for three main areas; the traffic unit which includes a request for a replacement motorcycle, a drone and associated software for accident reconstruction and overtime for traffic enforcement; overtime funds for continued work in curtailing drug, human trafficking and prostitution associated with temporary lodging facilities; and police training.

With respect to the traffic unit requests, the CMF has already provided significant funding to Foxborough in the form of crash reconstruction training (2021) and a pickup truck and safety equipment (2020) to address traffic related items. The overall impact of PPC on Foxborough traffic is minimal. The traffic analysis done for the construction of PPC estimated that 3% of the casino traffic would use Route 1 north of I-495. The most recent traffic study conducted by PPC in 2019 showed an average daily traffic entering and exiting the casino of 6,232 vehicles per day which would result in 187 vehicles per day traveling on Route 1 north of I-495. Considering that the average daily traffic on Route 1 exceeds 31,000 vehicles per day, this amounts to less than 0.6 percent of the traffic on Route 1. By all accounts this is a very modest impact on traffic and by extension, traffic safety. Therefore, the Review Team does not recommend funding of the

drone and overtime for the traffic unit. In addition, the request for a motorcycle is to replace an aging motorcycle. The intent of this program is to supplement agencies budgets to address identified impacts, not to simply replace aging equipment. The 2023 CMF Guidelines state that “All applications must demonstrate that CMF funds will supplement and not supplant historical operations funding.” Regardless of the presence of the casino, communities should have a replacement program for their existing equipment.

The Review Team agrees that casino patrons do utilize the hotels in Foxborough and by extension may contribute to the issues experienced by Foxborough. The Review Team recommends the overtime funding to help continue enforcement initiatives at area hotels.

Foxborough has identified a number of areas that they would like for continued training. The Review Team agrees that ongoing training is important and should be continued. The application, however, only identifies a range of training that could be done. The Review Team recommends that the training funds be awarded, but that the Town provide staff with a detailed outline of proposed training for review and approval.

Recommendation: The Review Team recommends partial funding of this grant in the amount of \$61,400 for the Police training costs (\$42,400) and for issues around hotel calls for service (\$19,000). The Review Team also recommends that the Town of Foxborough submit a detailed outline of the proposed training for review and approval before funds may be expended.

Hampden - Special Patrol: Casino Traffic

Project Summary: The Town of Hampden is requesting \$15,300 for additional police resources to curb speeding traffic along the arterial routes of Somers Road and Allen Street.

Analysis: The Town of Hampden is proposing to increase the number of police patrols on Somers Road and Allen Street to curb speeding traffic as well as the purchase of two pole radar units and a cruiser handheld radar unit.

The original traffic studies done for MGM did not evaluate traffic impacts in Hampden but did determine that about 5.5% of the casino related traffic would travel from Springfield into East Longmeadow. It is certainly reasonable to assume that some of that traffic would travel through East Longmeadow into Hampden, but there is no quantification of these traffic numbers. We would certainly expect that the percentage of casino-related traffic coming into Hampden would be significantly reduced from that entering East Longmeadow as there are several different ways traffic could go in East Longmeadow. The Review Team agrees that there is some traffic-related impact to Hampden, but it would be a very modest impact.

The Review Team agrees that the proposed project will help reduce traffic speeds through Hampden and that this expense is proportional to the impact on the Town. This project is consistent with other grants the Commission has awarded.

Recommendation: The Review Team recommends full funding of this grant in the amount of \$15,300.

Longmeadow – Police - Camera Phase 2

Project Summary: The Town of Longmeadow Police Department requests \$192,400 to install cameras and radar message signs on Converse Street and Edgewood Avenue.

Analysis: The Town has identified two impacts associated with the casino: an increase in accidents along the Longmeadow Street (Route 5) and Converse Street corridors as well as an increase in property crime. The 2021 MGM Look Back Study showed increases in crashes in these locations. The Town also submitted data that demonstrated increases in property crimes from before the opening of MGM to the present. The Christopher Bruce study from 2020 corroborates some of these observations. A pattern of thefts from vehicles and increased fraud throughout the region were considered to have a logical connection to the casino. The Review Team agrees that this documents a reasonable connection to the casino.

The project proposes the use of Speed Alert radar message signs with a data management system to help reduce traffic speeds and provide the Police Department with real-time traffic data to help properly assign officers for traffic enforcement. To help address the increases in crime and traffic, the project proposes to install cameras along the corridor to provide safer, more efficient response and allocation of resources. Additionally, cameras will enhance investigation through accuracy and confirmed fact patterns which will aid in proactive measures to combat crime.

Recommendation: The Review Team recommends full funding for this grant in the amount of \$192,400.

Ludlow - Police: Vehicle, Equipment, Training

Project Summary: The Town of Ludlow Police Department requests \$197,000 for training and a variety of public safety equipment and tools.

Analysis: Ludlow is requesting the provision of a Chevy Tahoe truck to support the DART and CIMS programs as well as to tow the speed trailer that was awarded in last year's grant, Implicit Bias and De-Escalation Training, 40 MM Less-Lethal Package, Brinc Communication Ball, Tactical Vests and Body Armor, BOLA Wrap and Terminator Z Riot Helmet.

The Town has identified the proximity to the casino as an impact to Ludlow. As evidence of this impact, the Town identified an incident that happened in Springfield with a police officer being shot with a flare gun by a patron that was denied entry into the casino. There was no evidence submitted that showed that Ludlow had responded to any incidences at the casino or associated with casino patrons.

Ludlow has identified the importance of its participation in the Hampden County Special Response Team (HCSRT) which responds to higher-risk situations and the Drug Addiction and Recovery Team (DART) and Critical Incident Management System (CIMS) programs, which work to prevent and respond to drug overdoses. While the Review Team agrees that all of these are worthy programs, the applicant was unable to make a connection to a casino related impact. In addition, most of the requests for equipment were for items that would be considered regular protective equipment and as such, would be considered a routine municipal expense.

The one area that the Review Team agrees with is for implicit bias and de-escalation training. These specific types of training are identified in the Guidelines as being eligible for funding as police officers in the host and surrounding communities could reasonably be expected to come into contact with patrons and employees of the casino in their regular duties (routine traffic stops, etc.).

Recommendation: The Review Team is recommending partial funding of this grant in the amount of \$31,800 for the Implicit Bias and ICAT De-escalation training and associated overtime.

Malden - Police Electric Vehicle and Speed Alert Board

Project Summary: The City of Malden Police Department is requesting \$200,000 for the purchase of two electric vehicles and a traffic safety message trailer.

Analysis: The City of Malden has identified an increase in citizen complaints related to traffic and traffic violations as the impetus for this request. Citizen complaints are recorded via the SeeClickFix app that has been in place since 2013. The data submitted show a continuous upward trend from 2014 through 2021, including upward trends in 2020 and 2021 when Covid related restrictions depressed traffic flows. While complaints have increased every year, there is no evidence that this increase in complaints is caused by casino related traffic.

One of the Public Safety guidelines is that operational funds should be used to supplement, not supplant existing funding. It appears that the provision of electric vehicles would simply replace two older vehicles in the fleet. This does not meet with the standard of supplementing existing programs. The 2023 CMF Guidelines state that “All applications must demonstrate that CMF funds will supplement and not supplant historical operations funding.” While the Review Team sympathizes with the budgetary constraints of communities, CMF funds were never intended to replace existing community costs, of which vehicle replacement is one.

The Review Team agrees that there has been an increase in traffic in Malden associated with the casino and agrees that the radar message sign can help record speed data and provide a visual warning to speeding motorists.

Recommendation: The Review Team recommends partial funding of this grant in the amount of \$17,900 for the purchase of a radar message board.

Medford - Traffic Vehicle and Signs

Project Summary: The City of Medford Police Department is requesting \$194,300 for the purchase of one hybrid police vehicle, 11 dynamic speed feedback signs and 2 message display signs.

Analysis: Medford has identified increased traffic accidents and traffic complaints as the casino related impact. The City provided some data that showed increases in accidents city-wide, and an increase in motor vehicle stops. The Review Team agrees that Medford has seen increases in traffic associated with the casino as Route 16 is a major route to and from the casino, which

likely has some impact on traffic safety. The Review Team was not convinced that motor vehicle stops are necessarily indicative of a casino related impact.

This application requests dynamic speed feedback and message board signs along with an additional traffic safety vehicle. The Review Team agrees that dynamic speed feedback signs would help address speeding and safety related issues in Medford associated with increases in casino traffic.

The request for an additional vehicle is predicated on the need to dispatch patrols in the highly trafficked areas closest to the casino. The 2023 CMF Guidelines state that “All applications must demonstrate that CMF funds will supplement and not supplant historical operations funding.” The Review Team asked for additional information regarding the vehicle but did not receive a response. While the Review Team sympathizes with the budgetary constraints of communities, CMF funds were never intended to replace existing community costs, of which vehicle replacement is one. The Review Team felt that the vehicle request was supplanting municipal funds not supplementing them and therefore does not recommend the purchase of the cruiser.

Recommendation: The Review Team recommends partial funding of this grant in the amount of \$130,000 for the purchase of radar message signs and displays.

Melrose - Radio Upgrade Fire & Police

Project Summary: The City of Melrose is requesting \$893,500 for a new communication system which will enable the Police and Fire Departments to communicate with each other, mutual aid police and fire departments, and local EMS services. The City has requested a waiver of the \$200,000 category cap.

Analysis: Melrose has received a proposal for the complete upgrade of the police and fire radio system, which totals \$893,500. Melrose has a mutual aid agreement with Everett and has responded several times over the last few years. It appears that only one of those cases was directly associated with Encore (provision of a K-9 unit).

The intent of the CMF is to offset the costs associated with the construction and operation of casinos in Massachusetts. One of the guidelines in the Public Safety category is that CMF funds are to be used to supplement, not supplant existing programs. It is the responsibility of the City of Melrose to provide their police and fire departments with appropriate communication systems and their mutual aid agreement with Everett would exist regardless of whether Encore Boston Harbor was there.

The application stated that the outdated radio system would create problems communicating with the dispatchers and other police/fire/EMS personnel while inside the EBH facility due to the size, construction type and the major electronics at use every day in the facility. The application did not demonstrate that these issues had ever occurred. The Review Team agrees that outdated radios would likely be a hindrance to communication at EBH, but the Review Team did not agree that EBH was somehow the cause of this problem.

The Review Team could not reconcile the request for a complete replacement of the radio system with a potential casino-related impact that had not been quantified. Even at the \$200,000 category cap, the Review Team could not find a nexus that would justify that expense.

Recommendation: After careful consideration the Review Team does not recommend funding this grant as the replacement of the radio system was deemed to be a general municipal expense and was not tied to an impact associated with Encore.

Plainville - Community Resource Officer

Project Summary: The Town of Plainville is requesting \$80,400 to hire a Resource Officer who can be utilized to bridge the gap and act as a conduit between Plainville and Plainridge Casino.

Analysis: This application is similar to the grant application submitted by Plainville in 2022. As with last year, the Review Team was unable to discern the impact of the casino that this position is designed to address. Below is the writeup from last year's application, which is still pertinent to this application.

The Commission requires that any award of Community Mitigation Funds must be in response to an impact from a gaming establishment. As such, one of the first questions we ask in the application is what is the impact that is attributed to the operation of a gaming facility. This application states that "The impact is often, perhaps, unmeasurable or simply reactive without identification and a course of action of intervention when identified. Having a community resource officer will bridge some gaps, allow us to better identify opportunities to be proactive, and further isolate or missed opportunities with patrons that visited or other who were impacted by overindulgence of such activity." From that description, the Review Team had difficulty trying to ascertain what specific impact of the casino this request is trying to address.

The application goes on to describe numerous incidents that the Plainville Police have responded to outside of the gaming establishment that could be related to PPC. As with any development that attracts a large number of people, increased crime and calls for service should be one of the anticipated impacts of the development. At each of our licensees, a Gaming Enforcement Unit (GEU) was established to handle crimes that happen on the licensee's property. Of course, under certain circumstances, the GEU will need to coordinate with the local police department. While the application indicates that the Community Resource officer can improve communications with the GEU and PPC, there is no indication that the current system is not working effectively or that this proposal addresses any particular deficiencies.

The application describes a number of activities that the Community Resource Officer might undertake, some associated with the casino and others for more general municipal purposes. The application also states that "Plainridge keeps us informed about many of the events, but we struggle due to our current environment of reduced staff and increased demands on service." The Review Team sympathizes with the realities of staffing shortages, but the Team does not agree that reduced staffing levels constitutes an impact of the casino.

We have no doubt that the Plainville Police Department could use additional staff and that a Community Resource Officer could provide value to Plainville. However, the Review Team was unable to tie this request to a specific impact of the casino and therefore, does not recommend funding of this grant.

Recommendation: After careful consideration, the Review Team does not recommend funding for this grant as we were unable to tie this request to a specific impact of the casino.

Plainville - Police: Force Science Certification

Project Summary: The Town of Plainville Police Department is requesting \$123,750 for Force Analyst Certification training for 75 officers.

Analysis: Force Analyst Certification is a training program that provides law enforcement officers with the skills and knowledge needed for a deeper understanding of the dynamics of use-of-force situations and would be better equipped to make informed decisions in these situations.

As a mixed-use facility, PPC attracts patrons from diverse social, economic and cultural backgrounds which can present several challenges which include: different expectations and behaviors which can lead to misunderstandings and conflicts; language barriers that can make communication and customer service more difficult; different cultural backgrounds that can result in misunderstandings, and conflicts; and vulnerability to problem gambling. The Review Team agrees that Plainville clearly sees an influx of patrons to PPC and that this training would help ameliorate the impact of that increase.

This training will be offered to all Plainville Officers and Gaming Enforcement Unit members with the remaining seats offered to agencies bordering Plainville. The Review Team looks favorably on providing the training to other jurisdictions that might need to provide mutual aid to Plainville.

Recommendation: The Review Team recommends full funding of this grant in the amount of \$123,750.

Plainville - Fire Blankets

Project Summary: The Town of Plainville Fire Department requests \$13,200 to purchase four electric vehicle fire blankets.

Analysis: Plainridge Park Casino has 17 charging stations for electric vehicles. Since the opening of the casino in 2015, the number of electric and hybrid vehicles on the road has increased significantly. An electric vehicle fire can be very dangerous and may involve batteries which burn at excessive temperatures and require up to 30,000 gallons of water to keep them from re-igniting. Fire blankets smother the flames and are resistant to extreme temperatures while requiring no water. Given the number of charging stations and the increased prevalence of electric/hybrid vehicles, the likelihood of electric fires has also increased. The Review Team agreed that the provision of these blankets would assist the fire department in fighting any electric vehicle fire; but would be especially helpful in fighting a fire in a structured parking garage.

Recommendation: The Review Team recommends full funding of this grant in the amount of \$13,200.

Revere - Police License Plate Reader

Summary: The City of Revere Police Department is requesting \$64,000 for the lease of 8 FLOCK License Plate Recognition (LPR) Cameras.

Analysis: Revere directly abuts Everett and a significant amount of casino-related traffic passes through Revere primarily from Route 1 and Route 16. The City has identified increases in traffic accidents and other motor vehicle infractions, increases in OUI arrests and impacts associated with human trafficking and prostitution. The City submitted significant information that made direct and indirect connections to the casino. The Review Team agrees that this constitutes a nexus to the casino.

Revere proposes to lease 8 FLOCK LPR Cameras for a period of 36 months which will enable the City to study the traffic patterns of motorists as well as identifying suspects involved in crimes.

Revere makes a compelling case as to the effectiveness and need for additional FLOCK cameras to use in investigations, centering on the roadways that are primary means of entrance and egress from Encore. These cameras would address an impact by providing an investigatory tool for incidents involving travel on Revere's roads, and if placed in the main Encore related routes, assist in casino-related incidents.

Recommendation: The Review Team recommends full funding of this project in the amount of \$64,000.

Springfield - Safe Ride Home Project

Summary: The City of Springfield Department of Health and Human Services is requesting \$200,000 to increase public awareness, educate professionals inside and outside the casino, create a digital ad campaign, and develop new qualitative research to build on current information on OUIs.

Analysis: The Christopher Bruce study "Assessment of the Casinos' Impacts on Operating Under the Influence (OUI) and OUI Involved Traffic Collisions" identifies an increase in OUIs associated with the casinos. The Review Team agrees that efforts to help reduce these events is an appropriate use of CMF funds. Springfield proposes to partner with the Massachusetts Council on Gaming and Health to mitigate these impacts by developing a media campaign and training for officers and relevant parties based on research they will conduct on OUIs in relation to the gaming facility.

The Review Team has not encountered an application like this one previously. While it was filed under the Public Safety category, it also has aspects of Gambling Harm Reduction and gaming related research. There are several groups identified as part of the application that have not yet signed on to the proposal. For these reasons, the Review Team was not fully comfortable awarding the entire amount of the grant initially. The Review Team recommends the initial approval of half of the funding to support the capacity-building goals of the Department. These goals would include the hiring of a full-time community health worker (CHW) to develop further training and resource materials for Springfield and other local towns' police departments. This CHW would also work on issues related to problem gambling specifically coordinate the

practical implementation of the research, consulting, and cross-sector collaboration among health and human services, public safety, and the casino. After these initial efforts have advanced, Commission staff will meet with Springfield to ensure that program is progressing as designed before the release of implementation funds.

The Review Team does not recommend funding overtime stipends (\$8,800) for officers and staff to attend trainings. This proposed training is not only for the Springfield Police Department, but for other Police Departments as well. It did not seem to be appropriate to have the City of Springfield paying for other communities to attend training.

Recommendation: The Review Team recommends the partial funding of this project in the amount of \$191,200 with conditions. The initial funding would go towards capacity-building for a program including one Problem Gambling Focused Community Health Worker (\$62,400), Research Funding related to casino gambling and OUIs in Hampden County (\$17,500), and Program Consulting Fees with the Massachusetts Council on Gaming and Health (\$50,000). Upon successful completion of the research phase and a new work plan relating to this initiative approved by Commission staff, the remainder of the programmatic funds (\$61,300) can be approved for release.

Springfield - Police: Equipment Upgrades, Training

Summary: The City of Springfield Police Department is requesting \$224,900 to cover the cost of police personnel, equipment, and training.

Analysis: The City is requesting overtime for traffic deployments associated with the MGM parking garage, Anti-John deployments to combat area prostitution and homeless outreach deployments. This grant application is also requesting two police cruisers for the Gaming Enforcement Unit, sexual assault training, steel barricades, a drone for the Metro Division and Tactical Shotguns.

Springfield has identified the influx of visitors to the casino and high-profile events as the primary cause of issues in the area. The City has submitted evidence showing a nearly 53% increase in calls for service in the areas within 500 feet of the MGM property from 2021 to 2022. The City has also identified the location of the casino as a source of “hidden crime” associated with human trafficking and as a draw to the homeless population in the area. The Review Team agrees that this constitutes an impact of the casino.

With respect to the overtime request, the Review Team asked the City to provide additional information regarding the number of events that the police responded to and how homelessness and prostitution are connected to the casino. The Review Team agrees that there is some nexus to the casino, but the funding request seemed quite significant. Many of the events that the police have responded to in the past were not MGM sponsored events (Thunderbirds, hockey games) and the Review Team questioned how much of an impact the casino itself has on the homeless population in the area. Rather than dictating to the City which overtime efforts to fund, the Review Team recommends funding \$50,000 of the \$84,000 request, with the City determining where they want to dedicate the funding.

The City is requesting to replace two police cruisers for the Gaming Enforcement Unit (GEU). The City provided these cruisers to the GEU when the casino opened. The Review Team agrees that the GEU needs to have a vehicle for use during patrols of the parking garage and site property as well as for other routine uses. The Review Team recommends funding one marked cruiser for the property. In 2020 the CMF provided one cruiser to the Encore GEU and the provision of one cruiser for the MGM GEU would be consistent with that grant.

The Review Team agrees that the sexual assault training, steel barricades and the drone are appropriate and should be funded. The steel barricades can help with crowd control and pedestrian safety during large events in the vicinity of the casino, and drones are becoming more common in local police departments and can be used to monitor crowds and traffic associated with large events at the casino and in the area.

The Review Team does not recommend funding for the tactical shotguns. The Review Team felt that properly equipping police officers with weapons is the responsibility of the Police Department and is not associated with a direct impact of the casino.

Recommendation: The Review Team recommends partial funding of this grant in the amount of \$135,200 for overtime costs (\$50,000), one marked police cruiser (\$59,600), sexual assault training (\$12,000), steel barricades (\$4,800) and the Metro Division Drone and training (\$8,800).

Springfield – Fire Department Defibrillators

Project Summary: The City of Springfield Fire Department requests \$19,800 for the purchase of defibrillators for the fire apparatus that responds to the Casino Area. These defibrillators will be compatible with those used by AMR the primary ambulance response to the City of Springfield.

Analysis: Springfield cites an increase of emergency response calls within the 5-block area of the casino as an impact from the casino. This impact has put a strain on emergency responders and the number of defibrillators available. The major issue is the incompatibility of the AED pads between the ambulance provider and the Everett Fire Department. Funding compatible defibrillator units for the apparatus that have the casino in their response area will save the responders from having to change out the incompatible pads when the ambulance arrives; could potentially save lives by saving time; and allocate Springfield's operational funding for other needed supplies.

Recommendation: The Review Team recommends full funding of this grant in the amount of \$19,800.

West Springfield - Emergency Responders

Project Summary: The Town of West Springfield is requesting \$200,000 for additional Police, Fire and EMS personnel hired to increase staffing for the impact to municipal services resulting from the opening of the MGM Casino in Springfield. Specifically, the town is requesting funding to maintain and offset the cost of the 8 firefighters, 3 police officers and 3 police dispatchers that were hired in anticipation of the opening of MGM Springfield.

Analysis: The Commission has funded this grant for the last few years. In the 2020 grant round, the Commission provided \$200,000 in funding for West Springfield’s public safety costs with the understanding that it was a one-time grant and that any future requests would need to be based on the required look-back study. Civic Economics completed the One Year Look-Back Study and delivered the final report on November 6, 2020, which identified an impact on calls for service that was attributable to MGM. Based on this study, the Commission awarded additional \$200,000 grants in 2021 and 2022. Another look-back study is not required until five years after the opening of MGM Springfield, which will occur later in 2023. Therefore, this request is based on the impact identified in the One Year Look-Back Study.

It must be noted that MGM did not support this application in 2021 and continues to deny that there have been negative impacts on the host and surrounding communities. MGM believes that a flawed rationale was used, and that MGM’s operation is not resulting in net-negative impacts. However, absent any data to the contrary, the look-back study has determined that there is an impact over and above the \$375,000 payment received by West Springfield as part of their Surrounding Community Agreement. Because the most recent data is from the One Year Look-Back Study, which does demonstrate an impact of the gaming establishment, the recommendation of the Review Team is that the Commission should approve this request.

Recommendation: The Review Team recommends full funding of this grant in the amount of \$200,000.

Wilbraham - Radio Software Upgrade

Project Summary: The Town of Wilbraham is requesting \$42,800 to update their existing 10 police vehicle radios, 5 fire vehicle radios and 1 portable radio to enable the police and fire to communicate with other surrounding communities’ public safety agencies.

Analysis: Wilbraham is a Surrounding Community to MGM Springfield and has mutual aid agreements with Springfield and other surrounding communities. This application is for 16 Software Key Licenses to update the interoperability of the radios for both the Police and Fire Departments. This will also allow Wilbraham to communicate with neighboring communities.

Wilbraham was the only community that did not use its original \$100,000 reserve. A project like this would certainly have been eligible for the reserves, and as such, the Review Team recommends funding this project.

Recommendation: The Review Team recommends full funding of this grant in the amount of \$42,800.

Wrentham - Traffic Management

Project Summary: The Town of Wrentham is requesting \$156,700 for pickup truck, motorcycle and 2 radar message signs to mitigate traffic concerns.

Analysis: The goal of Wrentham’s application is to mitigate safety concerns through enforcement, education, and engineering. The Town is requesting a specially outfitted motorcycle and pickup truck to increase a visible police presence for the purpose of crime

prevention, traffic enforcement and driver education. Signboards will display messages targeting motorists as dictated by analysis of crash and motor stop data.

Wrentham has identified increases in traffic associated with the casino as having resulted in traffic congestion, crashes, disabled motor vehicles, and motor vehicle violations. The application did not provide any data to support these conclusions.

The Review Team agrees that there are some traffic related impacts in Wrentham, but they are minimal. The vast majority of traffic to/from PPC uses I-495 (82%) which is under the jurisdiction of the State Police, with only 3% of the estimated PPC traffic using Route 1 north of I-495. The most recent traffic study conducted by PPC in 2019 showed an average daily traffic entering and exiting the casino of 6,232 vehicles per day which would result in 187 vehicles per day traveling on Route 1 north of I-495. Considering that the average daily traffic on Route 1 exceeds 31,000 vehicles per day, this amounts to less than 0.6 percent of the traffic on Route 1. By all accounts this is a very modest impact on traffic and by extension, traffic safety. The Review Team asked Wrentham for additional documentation of a casino related impact but received no response. Absent this information, it is impossible for the Review Team to determine the extent of a casino related impact and what the appropriate mitigation would be. Therefore, the Review Team does not recommend the pickup truck and motorcycle.

As stated above, the Review Team does agree that traffic associated with PPC has a minor impact on Route 1 through Wrentham and there are likely to be some additional minor impacts to the roads leading into Route 1. Speed and message boards have been shown to reduce speeds by an average of 4 mph as well as providing the communities with valuable monitoring data to help focus traffic enforcement efforts. Because of these capabilities, the Review Team believes that provision of the speed boards would be a proportional response to the minor impact of PPC related traffic.

Recommendation: The Review Team recommends partial funding of this grant in the amount of \$44,900 for the purchase of 2 SpeedAlert 24 radar message signs.