

STATE OF NEW YORK

6113--A

2019-2020 Regular Sessions

IN ASSEMBLY

February 28, 2019

Introduced by M. of A. PRETLOW, TAGUE, SCHMITT, JOYNER, WOERNER, SANTA-BARBARA, LUPARDO -- Multi-Sponsored by -- M. of A. HEVESI, PICHARDO, D. ROSENTHAL, ROZIC, SIMOTAS, VANEL -- read once and referred to the Committee on Racing and Wagering -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to regulation of sports betting

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 1367 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

§ 1367. Sports wagering. 1. As used in this section:

(a) "Agent" means an entity that is party to a contract with a casino authorized to operate a sports pool and is approved by the commission to operate a sports pool on behalf of such casino;

(b) "Authorized sports bettor" means an individual who is physically present in this state when placing a sports wager, who is not a prohibited sports bettor, that participates in sports wagering offered by a casino. All sports wagers placed in accordance with this section are considered placed or otherwise made when received by the operator at the licensed gaming facility, regardless of the authorized sports bettor's physical location at the time the sports wager is initiated. The intermediate routing of electronic data in connection with mobile sports wagering shall not determine the location or locations in which a wager is initiated, received or otherwise made;

(c) "Brand" means the name and logo on the interface of a mobile application or internet website accessed via a mobile device or computer which authorized sports bettors use to access a sports betting platform;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 (d) "Casino" means a licensed gaming facility at which gambling is
2 conducted pursuant to the provisions of this article;

3 ~~[(b)]~~ (e) "Commission" means the commission established pursuant to
4 section one hundred two of this chapter;

5 ~~[(e)]~~ (f) "Collegiate sport or athletic event" means a sport or
6 athletic event offered or sponsored by or played in connection with a
7 public or private institution that offers educational services beyond
8 the secondary level;

9 ~~[(d)]~~ (g) "Exchange wagering" means a form of wagering in which an
10 authorized sports bettor, on the one hand, and one or more authorized
11 sports bettors, a casino or an agent or an operator, on the other hand
12 place identically opposing sports wagers on an exchange operated by a
13 casino or an agent or an operator;

14 (h) "Global risk management" means the direction, management, consul-
15 tation and/or instruction for purposes of managing risks associated with
16 sports wagering conducted pursuant to this section and includes the
17 setting and adjustment of betting lines, point spreads, or odds and
18 whether to place layoff bets as permitted by this section;

19 (i) "High school sport or athletic event" means a sport or athletic
20 event offered or sponsored by or played in connection with a public or
21 private institution that offers education services at the secondary
22 level;

23 (j) "In-play sports wager" means a sports wager placed on a sports
24 event after the sports event has begun and before it ends;

25 (k) "Layoff bet" means a sports wager placed by a casino sports pool
26 with another casino sports pool;

27 (l) "Minor" means any person under the age of twenty-one years;

28 (m) "Mobile sports wagering platform" or "platform" means the combina-
29 tion of hardware, software, and data networks used to manage, adminis-
30 ter, or control sports wagering and any associated wagers accessible by
31 any electronic means including mobile applications and internet websites
32 accessed via a mobile device or computer;

33 (n) "Official league data" means statistics, results, outcomes, and
34 other data relating to a sporting event that have been obtained from the
35 relevant sports governing body or an entity expressly authorized by the
36 sports governing body to provide such information to casinos;

37 (o) "Operator" means a casino which has elected to operate a sports
38 pool or an Indian Tribe (or an agent of such Indian Tribe) that has
39 entered into a tribal-state gaming compact in accordance with the Indian
40 Gaming Regulatory Act 25 U.S.C. 2710, that is in effect and has been
41 ratified by the state and has entered into a sports wagering agreement
42 pursuant to section thirteen hundred sixty-seven-a of this title;

43 ~~[(e)]~~ (p) "Professional sport or athletic event" means an event at
44 which two or more persons participate in sports or athletic events and
45 receive compensation in excess of actual expenses for their partic-
46 ipation in such event;

47 ~~[(f)]~~ (q) "Prohibited sports bettor" means:

48 (i) any officer or employee of the commission;

49 (ii) any principal or key employee of a casino or operator, except as
50 may be permitted by the commission for good cause shown;

51 (iii) any casino gaming or non-gaming employee at the casino that
52 employs such person and at any operator that has an agreement with that
53 casino;

54 (iv) any contractor, subcontractor, or consultant, or officer or
55 employee of a contractor, subcontractor, or consultant, of a casino if
56 such person is directly involved in the operation or observation of

1 sports wagering, or the processing of sports wagering claims or
2 payments;

3 (v) Any person subject to a contract with the commission if such
4 contract contains a provision prohibiting such person from participating
5 in sports wagering;

6 (vi) Any spouse, child, brother, sister or parent residing as a member
7 of the same household in the principal place of abode of any of the
8 foregoing persons at the same casino where the foregoing person is
9 prohibited from participating in sports wagering;

10 (vii) any individual with access to non-public confidential informa-
11 tion about sports wagering;

12 (viii) any amateur or professional athlete if the sports wager is
13 based on any sport or athletic event overseen by the athlete's sports
14 governing body;

15 (ix) any sports agent, owner or employee of a team, player and umpire
16 union personnel, and employee referee, coach or official of a sports
17 governing body, if the sports wager is based on any sport or athletic
18 event overseen by the individual's sports governing body;

19 (x) any individual placing a wager as an agent or proxy for an other-
20 wise prohibited sports bettor; or

21 (xi) any minor;

22 (r) "Prohibited sports event" means any collegiate sport or athletic
23 event that takes place in New York or a sport or athletic event in which
24 any New York college team participates regardless of where the event
25 takes place, or high school sport or athletic event;

26 ~~[(g)]~~ (s) "Registered sports governing body" means a sports governing
27 body that is headquartered in the United States and who has registered
28 with the commission to receive royalty fee revenue in such form as the
29 commission may require;

30 (t) "Sports event" means any professional sport or athletic event and
31 any collegiate sport or athletic event, except a prohibited sports event
32 or a horse racing event;

33 ~~[(h)]~~ (u) "Sports governing body" means the organization that
34 prescribes final rules and enforces codes of conduct with respect to a
35 sporting event and participants therein;

36 (v) "Sports pool" means the business of accepting wagers on any sports
37 event by any system or method of wagering; ~~and~~

38 ~~[(i)]~~ (w) "Sports wager" means cash or cash equivalent that is paid by
39 an authorized sports bettor to a casino to participate in sports wager-
40 ing offered by such casino;

41 (x) "Sports wagering" means wagering on sporting events or any portion
42 thereof, or on the individual performance statistics of athletes partic-
43 ipating in a sporting event, or combination of sporting events, by any
44 system or method of wagering, including, but not limited to, in-person
45 communication and electronic communication through internet websites
46 accessed via a mobile device or computer and mobile device applications.
47 Any wager through electronic communication shall be deemed to take place
48 at the physical location of the server or other equipment used by an
49 operator to accept mobile sports wagering, regardless of the authorized
50 sports bettor's physical location within the state at the time the wager
51 is initiated. The term "sports wagering" shall include, but is not
52 limited to, single-game bets, teaser bets, parlays, over-under bets,
53 money line, pools, exchange wagering, in-game wagering, in-play bets,
54 proposition bets and straight bets;

55 (y) "Sports wagering gross revenue" means: (i) the amount equal to the
56 total of all sports wagers not attributable to prohibited sports events

1 that an operator collects from all players, less the total of all sums
2 not attributable to prohibited sports events paid out as winnings to all
3 sports bettors, however, that the total of all sums paid out as winnings
4 to sports bettors shall not include the cash equivalent value of any
5 merchandise or thing of value awarded as a prize, or (ii) in the case of
6 exchange wagering pursuant to this section, the commission on winning
7 sports wagers by authorized sports bettors retained by the operator. The
8 issuance to or wagering by authorized sports bettors at a casino of any
9 promotional gaming credit shall not be taxable for the purposes of
10 determining sports wagering gross revenue;

11 (z) "Sports wagering lounge" means an area wherein a sports pool is
12 operated;

13 (aa) "Tier one sports wager" means a sports wager that is determined
14 solely by the final score or final outcome of the sports event;

15 (bb) "Tier two sports wager" means an in-play sports wager that is not
16 a tier one sports wager;

17 (cc) "Tier three sports wager" means a sports wager that is neither a
18 tier one nor a tier two sports wager; and

19 (dd) "Indian Tribe" means an Indian Tribe (or an agent of such tribe)
20 that has entered into a tribal-state gaming compact in accordance with
21 the Indian Gaming Regulatory Act of 1988 (18 U.S.C. Sec. 1166 to 1168,
22 inclusive, and 25 U.S.C. Sec. 2701 et seq.) which has been ratified by
23 the state.

24 2. ~~[No gaming facility may conduct sports wagering until such time as~~
25 ~~there has been a change in federal law authorizing such or upon a ruling~~
26 ~~of a court of competent jurisdiction that such activity is lawful.~~

27 3. (a) In addition to authorized gaming activities, a ~~[licensed~~
28 ~~gaming facility]~~ casino may ~~[when authorized by subdivision two of this~~
29 ~~section]~~ operate a sports pool upon the approval of the commission and
30 in accordance with the provisions of this section and applicable regu-
31 lations promulgated pursuant to this article. The commission shall hear
32 and decide promptly and in reasonable order all applications for a
33 license to operate a sports pool, shall have the general responsibility
34 for the implementation of this section and shall have all other duties
35 specified in this section with regard to the operation of a sports pool.
36 The license to operate a sports pool shall be in addition to any other
37 license required to be issued to operate a ~~[gaming facility]~~ casino. No
38 license to operate a sports pool shall be issued by the commission to
39 any entity unless it has established its financial stability, integrity
40 and responsibility and its good character, honesty and integrity.

41 No later than five years after the date of the issuance of a license
42 and every five years thereafter or within such lesser periods as the
43 commission may direct, a licensee shall submit to the commission such
44 documentation or information as the commission may by regulation
45 require, to demonstrate to the satisfaction of the executive director of
46 the commission that the licensee continues to meet the requirements of
47 the law and regulations.

48 (b) As a condition of licensure the commission shall require that each
49 agent authorized to conduct sports wagering pay a one-time fee of twelve
50 million dollars. Such fee shall be paid within thirty days of gaming
51 commission approval prior to license issuance and deposited into the
52 commercial gaming revenue fund established pursuant to section thirteen
53 hundred fifty-two of this article.

54 (c) A sports pool shall be operated in a sports wagering lounge
55 located at a casino. The lounge shall conform to all requirements

1 concerning square footage, design, equipment, security measures and
2 related matters which the commission shall by regulation prescribe.

3 ~~[(c)]~~ (d) The operator of a sports pool shall establish or display the
4 odds at which wagers may be placed on sports events.

5 ~~[(d)]~~ (e) An operator shall accept wagers on sports events only from
6 persons physically present in the sports wagering lounge, or through
7 mobile sports wagering offered pursuant to section thirteen hundred
8 sixty-seven-a of this title. A person placing a wager shall be at least
9 twenty-one years of age.

10 ~~[(e)]~~ (f) An operator may also accept layoff bets as long as the
11 authorized sports pool places such wagers with another authorized sports
12 pool or pools in accordance with regulations of the commission. A sports
13 pool that places a layoff bet shall inform the sports pool accepting the
14 wager that the wager is being placed by a sports pool and shall disclose
15 its identity.

16 (g) An operator may utilize global risk management pursuant to the
17 approval of the commission.

18 (h) An operator shall not admit into the sports wagering lounge, or
19 accept wagers from, any person whose name appears on the exclusion list.

20 ~~[(f)]~~ (i) The holder of a license to operate a sports pool may
21 contract with ~~[an-entity]~~ an agent to conduct any or all aspects of that
22 operation, or the operation of mobile sports wagering offered pursuant
23 to section thirteen hundred sixty-seven-a of this title, including but
24 not limited to brand, marketing and customer service, in accordance with
25 the regulations of the commission. ~~[That-entity]~~ Each agent shall obtain
26 a license as a casino vendor enterprise prior to the execution of any
27 such contract, and such license shall be issued pursuant to the
28 provisions of section one thousand three hundred twenty-seven of this
29 article and in accordance with the regulations promulgated by the
30 commission.

31 ~~[(g)]~~ (j) If any provision of this article or its application to any
32 person or circumstance is held invalid, the invalidity shall not affect
33 other provisions or applications of this article which can be given
34 effect without the invalid provision or application, and to this end the
35 provisions of this article are severable.

36 ~~[4-]~~ 3. (a) All persons employed directly in wagering-related activ-
37 ities conducted within a sports wagering lounge shall be licensed as a
38 casino key employee or registered as a gaming employee, as determined by
39 the commission. All other employees who are working in the sports wager-
40 ing lounge may be required to be registered, if appropriate, in accord-
41 ance with regulations of the commission.

42 (b) Each operator of a sports pool shall designate one or more casino
43 key employees who shall be responsible for the operation of the sports
44 pool. At least one such casino key employee shall be on the premises
45 whenever sports wagering is conducted.

46 ~~[(5-)]~~ 4. Except as otherwise provided by this article, the commission
47 shall have the authority to regulate sports pools and the conduct of
48 sports wagering under this article to the same extent that the commis-
49 sion regulates other gaming. No casino shall be authorized to operate a
50 sports pool unless it has produced information, documentation, and
51 assurances concerning its financial background and resources, including
52 cash reserves, that are sufficient to demonstrate that it has the finan-
53 cial stability, integrity, and responsibility to operate a sports pool.
54 In developing rules and regulations applicable to sports wagering, the
55 commission shall examine the regulations implemented in other states
56 where sports wagering is conducted and shall, as far as practicable,

1 adopt a similar regulatory framework. The commission shall promulgate
2 regulations necessary to carry out the provisions of this section,
3 including, but not limited to, regulations governing the:

4 (a) amount of cash reserves to be maintained by operators to cover
5 winning wagers;

6 (b) acceptance of wagers on a series of sports events;

7 (c) maximum wagers which may be accepted by an operator from any one
8 patron on any one sports event;

9 (d) type of wagering tickets which may be used;

10 (e) method of issuing tickets;

11 (f) method of accounting to be used by operators;

12 (g) types of records which shall be kept;

13 (h) use of credit and checks by patrons;

14 (i) the process by which a casino may place a layoff bet;

15 (j) the use of global risk management;

16 (k) type of system for wagering; and

17 ~~(l)~~ (l) protections for a person placing a wager.

18 ~~6-~~ 5. Each operator shall adopt comprehensive house rules governing
19 sports wagering transactions with its ~~[patrons]~~ **authorized sports**
20 **bettors**. The rules shall specify the amounts to be paid on winning
21 wagers and the effect of schedule changes. The house rules, together
22 with any other information the commission deems appropriate, shall be
23 conspicuously displayed in the sports wagering lounge and included in
24 the terms and conditions of the account wagering system, and copies
25 shall be made readily available to patrons.

26 6. (a) Each casino that offers sports wagering shall annually submit a
27 report to the commission no later than the twenty-eighth of February of
28 each year, which shall include the following information:

29 (i) the total amount of sports wagers received from authorized sports
30 bettors;

31 (ii) the total amount of prizes awarded to authorized sports bettors;

32 (iii) the total amount of sports wagering gross revenue received by
33 the casino;

34 (iv) the total amount contributed in sports betting royalty revenue
35 pursuant to subdivision eight of this section;

36 (v) the total amount of wagers received on each sports governing
37 body's sporting events;

38 (vi) the number of accounts held by authorized sports bettors;

39 (vii) the total number of new accounts established in the preceding
40 year, as well as the total number of accounts permanently closed in the
41 preceding year;

42 (viii) the total number of authorized sports bettors that requested to
43 exclude themselves from sports wagering; and

44 (ix) any additional information that the commission deems necessary to
45 carry out the provisions of this article.

46 (b) Upon the submission of such annual report, to such extent that the
47 commission deems it to be in the public interest, the commission shall
48 be authorized to conduct a financial audit of any casino, at any time,
49 to ensure compliance with this article.

50 (c) The commission shall annually publish a report based on the aggre-
51 gate information provided by all casinos pursuant to paragraph (a) of
52 this subdivision, which shall be published on the commission's website
53 no later than one hundred eighty days after the deadline for the
54 submission of individual reports as specified in such paragraph (a).

55 7. (a) Within thirty days of the end of each calendar quarter, a cas-
56 ino offering sports wagering shall remit to the commission a sports

1 wagering royalty fee of one-fifth (.20) of one percent of the amount
2 wagered on sports events conducted by registered sports governing
3 bodies. The fee shall be remitted on a form as the commission may
4 require, on which the casino shall identify the percentage of wagering
5 during the reporting period attributable to each registered sport
6 governing body's sports events.

7 (b) No later than the thirtieth of April of each year, a registered
8 sports governing body may submit a claim for disbursement of the royalty
9 fee funds remitted by casinos in the previous calendar year on their
10 respective sports events. Within thirty days of submitting its claim
11 for disbursement, the registered sports governing body shall meet with
12 the commission to provide the commission with evidence of policies,
13 procedures and training programs it has implemented to protect the
14 integrity of its sports events.

15 (c) Within thirty days of its meeting with the registered sports
16 governing body, the commission shall approve a timely claim for
17 disbursement.

18 (d) Before any registered sports governing body may receive any such
19 disbursement of the royalty fee funds, such sports governing body shall
20 have in place procedures or processes that address:

21 (i) the protection of athletes, players, umpires, referees, club offi-
22 cial and personnel or officials of such sports league and members of
23 their families and associates from physical attacks, verbal threats, or
24 other forms of harassment occurring in the workplace or elsewhere;

25 (ii) the authority to remove spectators and others from any facility
26 for violation of a code of conduct, and after appropriate procedure, to
27 deny persons from access to all facilities they control, to revoke
28 season tickets or comparable licenses, and to share information about
29 such persons with other registered sports governing bodies and with the
30 appropriate jurisdiction's law enforcement authorities.

31 8. For the privilege of conducting sports wagering in the state, casi-
32 nos shall pay a tax equivalent to eight and one-half percent of their
33 sports wagering gross revenue, excluding sports wagering gross revenue
34 attributed to mobile sports wagering offered pursuant to section thir-
35 teen hundred sixty-seven-a of this title. Casinos shall pay a tax equiv-
36 alent of twelve percent of their sports wagering gross revenue attri-
37 buted to mobile sports wagering offered pursuant to section thirteen
38 hundred sixty-seven-a of this title.

39 9. The commission shall pay into the commercial gaming revenue fund
40 established pursuant to section ninety-seven-nnnn of the state finance
41 law eighty-five percent of the state tax imposed by this section; any
42 interest and penalties imposed by the commission relating to those
43 taxes; all penalties levied and collected by the commission; and the
44 appropriate funds, cash or prizes forfeited from sports wagering. The
45 commission shall pay into the commercial gaming fund five percent of the
46 state tax imposed by this section to be distributed for problem gambling
47 education and treatment purposes pursuant to paragraph a of subdivision
48 four of section ninety-seven-nnnn of the state finance law. The commis-
49 sion shall pay into the commercial gaming fund five percent of the state
50 tax imposed by this section to be distributed for the cost of regulation
51 pursuant to paragraph c of subdivision four of section ninety-seven-nnnn
52 of the state finance law. The commission shall pay into the commercial
53 gaming fund five percent of the state tax imposed by this section to be
54 distributed in the same formula as market origin credits pursuant to
55 section one hundred fifteen-b of this chapter. The commission shall
56 require at least monthly deposits by the casino of any payments pursuant

1 to subdivision eight of this section, at such times, under such condi-
2 tions, and in such depositories as shall be prescribed by the state
3 comptroller. The deposits shall be deposited to the credit of the state
4 commercial gaming revenue fund. The commission shall require a monthly
5 report and reconciliation statement to be filed with it on or before the
6 tenth day of each month, with respect to gross revenues and deposits
7 received and made, respectively, during the preceding month.

8 10. The commission may perform audits of the books and records of a
9 casino, at such times and intervals as it deems appropriate, for the
10 purpose of determining the sufficiency of tax payments. If a return
11 required with regard to obligations imposed is not filed, or if a return
12 when filed or is determined by the commission to be incorrect or insuf-
13 ficient with or without an audit, the amount of tax due shall be deter-
14 mined by the commission. Notice of such determination shall be given to
15 the casino liable for the payment of the tax. Such determination shall
16 finally and irrevocably fix the tax unless the casino against whom it is
17 assessed, within thirty days after receiving notice of such determi-
18 nation, shall apply to the commission for a hearing in accordance with
19 the regulations of the commission.

20 11. Nothing in this section shall apply to interactive fantasy sports
21 offered pursuant to article fourteen of this chapter. Nothing in this
22 section authorizes any entity that conducts interactive fantasy sports
23 offered pursuant to article fourteen of this chapter to conduct sports
24 wagering unless it separately qualifies for, and obtains, authorization
25 pursuant to this section.

26 12. A sports governing body may notify the commission that it desires
27 to restrict, limit, or exclude wagering on its sporting events by
28 providing notice in the form and manner as the commission may require.
29 Upon receiving such notice, the commission shall review the request in
30 good faith, seek input from the casinos on such a request, and if the
31 commission deems it appropriate, promulgate regulations to restrict such
32 sports wagering. If the commission denies a request, the sports govern-
33 ing body shall be afforded notice and the right to be heard and offer
34 proof in opposition to such determination in accordance with the regu-
35 lations of the commission. Offering or taking wagers contrary to
36 restrictions promulgated by the commission is a violation of this
37 section. In the event that the request is in relation to an emergency
38 situation, the executive director of the commission may temporarily
39 prohibit the specific wager in question until the commission has the
40 opportunity to issue temporary regulations addressing the issue.

41 13. (a) The commission shall designate the division of the state
42 police to have primary responsibility for conducting, or assisting the
43 commission in conducting, investigations into abnormal betting activity,
44 match fixing, and other conduct that corrupts a betting outcome of a
45 sporting event or events for purposes of financial gain.

46 (b) Casinos shall maintain records of sports wagering operations in
47 accordance with regulations promulgated by the commission. These regu-
48 lations shall, at a minimum, require a casino to adopt procedures to
49 obtain personally identifiable information from any individual who plac-
50 es any single wager in an amount of ten thousand dollars or greater.

51 (c) The commission shall cooperate with a sports governing body and
52 casinos to ensure the timely, efficient, and accurate sharing of infor-
53 mation.

54 (d) The commission and casinos shall cooperate with investigations
55 conducted by sports governing bodies or law enforcement agencies,
56 including but not limited to providing or facilitating the provision of

1 account-level betting information and audio or video files relating to
2 persons placing wagers; provided, however, that the casino be required
3 to share any personally identifiable information of an authorized sports
4 bettor with a sports governing body only pursuant to an order to do so
5 by the commission or a law enforcement agency or court of competent
6 jurisdiction.

7 (e) Casinos shall promptly report to the commission any information
8 relating to:

9 (i) criminal or disciplinary proceedings commenced against the casino
10 in connection with its operations;

11 (ii) abnormal betting activity or patterns that may indicate a concern
12 with the integrity of a sporting event or events;

13 (iii) any potential breach of the relevant sports governing body's
14 internal rules and codes of conduct pertaining to sports wagering, as
15 they have been provided by the sports governing body to the casino;

16 (iv) any other conduct that corrupts a betting outcome of a sporting
17 event or events for purposes of financial gain, including match fixing;
18 and

19 (v) suspicious or illegal wagering activities, including use of funds
20 derived from illegal activity, wagers to conceal or launder funds
21 derived from illegal activity, using agents to place wagers, using
22 confidential non-public information, and using false identification.

23 The commission shall also promptly report information relating to
24 conduct described in subparagraphs (ii), (iii) and (iv) of this para-
25 graph to the relevant sports governing body.

26 (f) Casinos shall maintain the confidentiality of information provided
27 by a sports governing body to the casino, unless disclosure is required
28 by this section, the commission, other law, or court order.

29 (g) The commission, by regulation, may authorize and promulgate any
30 rules necessary to implement agreements with other states, or authorized
31 agencies thereof to enable the sharing of information to facilitate
32 integrity monitoring and the conduct of investigations into abnormal
33 betting activity, match fixing, and other conduct that corrupts a
34 betting outcome of a sporting event or events for purposes of financial
35 gain.

36 (h) The commission shall study the potential for the creation of an
37 interstate database of all sports wagering information for the purpose
38 of integrity monitoring, and shall create a final report regarding all
39 findings and recommendations to be delivered upon completion of all
40 objectives described herein, but in no event later than March first, two
41 thousand twenty, to the governor, the speaker of the assembly and the
42 temporary president of the senate.

43 14. (a) Casinos shall use whatever data source they deem appropriate
44 for determining the result of sports wagering involving sports wagers.

45 (b) Casinos shall only use official league data in all sports wagering
46 involving tier two sports wagers, if the relevant sports governing body
47 possesses a feed of official league data, and makes such feed available
48 for purchase by the casinos on commercially reasonable terms as deter-
49 mined by the commission.

50 (c) A sports governing body may notify the commission that it desires
51 to require casinos to use official league data in sports wagering
52 involving specific tier three sports wagers by providing notice in the
53 form and manner as the commission may require. Upon receiving such
54 notice, the commission shall review the request, seek input from the
55 casinos on such a request, and if the commission deems it appropriate,
56 promulgate regulations to require casinos to use official league data on

1 sports wagering involving such tier three sports wagers if the relevant
2 sports governing body possesses a feed of official league data, and
3 makes such feed available for purchase by the casinos on commercially
4 reasonable terms as determined by the commission.

5 (d) When determining whether or not a supplier of official league data
6 is offering commercially reasonable terms, the commission shall consider
7 the amount charged by the supplier of official league data to gaming
8 operators in other jurisdictions. This information shall be provided to
9 the commission by the supplier of official league data upon request of
10 the commission. Any entity providing data to a casino for the purpose of
11 tier two sports wagers, other than a supplier of official league data,
12 shall obtain a license as a casino vendor enterprise and such license
13 shall be issued pursuant to the provisions of section thirteen hundred
14 twenty-seven of this article and in accordance with the regulations
15 promulgated by the commission.

16 (e) No casino shall enter into an agreement with a sports governing
17 body or an entity expressly authorized to distribute official league
18 data to be the exclusive recipient of their official league data.

19 (f) The commission shall promulgate regulations to allow an authorized
20 sports bettor to file a complaint alleging an underpayment or non-pay-
21 ment of a winning sports wager. Any such regulations shall provide that
22 the commission utilize the statistics, results, outcomes, and other data
23 relating to a sporting event that have been obtained from the relevant
24 sports governing body in determining the validity of such claim.

25 15. A casino shall not permit sports wagering by anyone they know, or
26 should have known, to be a prohibited sports bettor.

27 16. Sports wagering conducted pursuant to the provisions of this
28 section is hereby authorized.

29 16-a. The commission shall promulgate rules that require an operator
30 to implement responsible gaming programs that include comprehensive
31 employee trainings on responding to circumstances in which individuals
32 present signs of a gambling addiction. The commission shall establish a
33 hotline or other method of communication that will allow any person to
34 confidentially report information about prohibited conduct to the
35 commission. The commission shall promulgate regulations governing the
36 investigation and resolution of a charge of any person purported to have
37 engaged in prohibited conduct.

38 17. The conduct of sports wagering in violation of this section is
39 prohibited.

40 18. (a) In addition to any criminal penalties provided for under arti-
41 cle two hundred twenty-five of the penal law, any person, firm, corpo-
42 ration, association, agent, or employee, who is not authorized to offer
43 sports wagering under this section or section thirteen hundred sixty-
44 seven-a of this title, and who knowingly offers or attempts to offer
45 sports wagering or mobile sports wagering in New York shall be liable
46 for a civil penalty of not more than one hundred thousand dollars for
47 each violation, not to exceed five million dollars for violations aris-
48 ing out of the same transaction or occurrence, which shall accrue to the
49 state and may be recovered in a civil action brought by the commission.

50 (b) Any person, firm, corporation, association, agent, or employee who
51 knowingly violates any procedure implemented under this section, or
52 section thirteen hundred sixty-seven-a of this title, shall be liable
53 for a civil penalty of not more than five thousand dollars for each
54 violation, not to exceed fifty thousand dollars for violations arising
55 out of the same transaction or occurrence, which shall accrue to the
56 state and may be recovered in a civil action brought by the commission.

1 § 2. The racing, pari-mutuel wagering and breeding law is amended by
2 adding a new section 1367-a to read as follows:

3 § 1367-a. Mobile sports wagering. 1. (a) Except as provided in this
4 subdivision, the terms in this section shall have the same meanings as
5 such terms are defined in subdivision one of section thirteen hundred
6 sixty-seven of this title.

7 (b) "Operator" for purposes of this section, means a casino which has
8 elected to offer a mobile sports wagering platform, an Indian Tribe (or
9 agent of such Indian Tribe) that has entered into a tribal-state gaming
10 compact in accordance with the Indian Gaming Regulatory Act, 25 U.S.C.
11 2710, that is in effect and has been ratified by the state and has
12 entered into a sports wagering agreement to operate with the commission
13 pursuant to this section, or the agent of such licensed gaming facility
14 or such Indian Tribe.

15 2. (a) No casino shall administer, manage, or otherwise make available
16 a mobile sports wagering platform to persons located in New York state
17 unless registered with the commission pursuant to this section. A casino
18 may use one mobile sports wagering platform and brand provided that such
19 platform and brand has been reviewed and approved by the commission. A
20 casino may contract with an independent operator to provide its mobile
21 sports wagering platform.

22 (b) Registrations issued by the commission shall remain in effect for
23 five years. The commission shall establish a process for renewal.

24 (c) The commission shall publish a list of all operators and casinos
25 registered to offer mobile sports wagering in New York state pursuant to
26 this section on the commission's website for public use.

27 3. In the event that a casino contracts with an operator to provide
28 its mobile sports wagering platform and brand, such operator shall
29 obtain a license as a casino vendor enterprise prior to the execution of
30 any such contract, and such license shall be issued pursuant to the
31 provisions of section thirteen hundred twenty-seven of this article and
32 in accordance with the regulations promulgated by the commission.

33 3-a. (a) As a condition of registration as an operator, each casino
34 shall agree, upon request of a Tribe that has not entered into an agree-
35 ment for mobile sports wagering with another casino, to provide a site
36 for a mobile sports wagering server and related equipment for the Indian
37 Tribe as directed by the commission, at no cost to the tribe except the
38 direct and actual cost of hosting the server or other equipment used by
39 the Indian Tribe as determined by the commission.

40 (b) As a condition of registration as an operator in New York state,
41 an Indian Tribe shall enter into an agreement with the commission with
42 respect to mobile sports wagering:

43 (i) To follow the requirements imposed under this section and section
44 thirteen hundred sixty-seven of this title with respect to mobile sports
45 wagering; to adhere to the regulations promulgated by the commission
46 pursuant to this section with respect to mobile sports wagering, and to
47 submit to the commission's enforcement of this section and section thir-
48 teen hundred sixty-seven of this title and regulations promulgated ther-
49 eunder with respect to mobile sports wagering, including by waiving
50 tribal sovereign immunity for the sole and limited purpose of such
51 enforcement. Nothing herein shall be construed as requiring an Indian
52 Tribe's agreement to adhere to the requirements of section thirteen
53 hundred sixty-seven of this title for gaming conducted on tribal lands
54 as a condition of offering mobile sports wagering under this section;

55 (ii) To waive the tribe's exclusive geographic right to offer and
56 conduct mobile sports wagering, but not otherwise;

1 (iii) To remit payment to the state equal to tax on sports wagering
2 revenue imposed under section thirteen hundred sixty-seven of this title
3 with respect to mobile sports wagering;

4 (iv) Not to offer or to conduct mobile gaming other than mobile sports
5 wagering pursuant to this section unless such mobile gaming is otherwise
6 authorized by state or federal law;

7 (v) To locate the server or other equipment used by the Indian Tribe
8 or its agent to accept mobile sports wagering at a casino as defined in
9 paragraph (d) of subdivision one of section thirteen hundred sixty-seven
10 of this title that has applied for and is eligible to register as an
11 operator of mobile sports wagering pursuant to this section and to pay
12 the actual cost of hosting the server or other equipment as determined
13 by the commission.

14 (c) All agreements entered into casinos and Indian Tribes with respect
15 to hosting mobile sports wagering platforms for an Indian Tribe:

16 (i) Must be approved by the commission prior to taking effect and
17 before registration of the casino or Indian Tribe as an operator under
18 this section;

19 (ii) Must provide that the Indian Tribe may, at its sole discretion,
20 terminate the agreement and all commitments, undertakings and waivers
21 made by the Indian Tribe thereunder, except that the Indian Tribe's
22 waiver of its exclusive geographic right to offer and conduct mobile
23 sports wagering shall survive the termination of the agreement;

24 (iii) Shall be limited in applicability solely to the Indian Tribe's
25 operation of mobile sports betting and shall not extend to any other
26 operation or activity of the Indian Tribe; and

27 (iv) Shall not create any rights or privileges to any third party who
28 is not a party to the agreement, except that the commission shall have
29 the power to enforce the agreement including by revoking or suspending
30 the registration of a party that fails to comply with its obligations
31 under the agreement.

32 (d) No mobile sports wagering may be conducted within an Indian
33 Tribe's exclusive geographic area unless such Indian Tribe is registered
34 as an operator under this section.

35 3-b.(a) The commission shall promulgate regulations to implement the
36 provisions of this section, including:

37 (i) the development of the initial form of the application for regis-
38 tration;

39 (ii) responsible protections with regard to compulsive play safeguards
40 for fair play;

41 (iii) requiring that operators adopt controls to prevent minors from
42 creating accounts and placing wagers;

43 (iv) requiring that operators adopt controls to maintain the efficien-
44 cy of self-exclusion limits; and

45 (v) requiring that operators utilize commercially reasonable techno-
46 logical means of verifying account holders' identities.

47 (b) The commission shall prescribe the initial form of the application
48 for registration, for operators, which shall require, but not be limited
49 to:

50 (i) the full name and principal address of the operator;

51 (ii) if a corporation, the name of the state in which incorporated and
52 the full names and addresses of any partner, officer, director, share-
53 holder holding ten percent or more equity, and ultimate equitable
54 owners;

1 (iii) if a business entity other than a corporation, the full names
2 and addresses of the principals, partners, shareholders holding five
3 percent or more equity, and ultimate equitable owners;

4 (iv) whether such corporation or entity files information and reports
5 with the United States Securities and Exchange Commission as required by
6 section thirteen of the Securities Exchange Act of 1934, 15 U.S.C. §§
7 78a-78kk; or whether the securities of the corporation or entity are
8 regularly traded on an established securities market in the United
9 States;

10 (v) the type and estimated number of contests to be conducted annual-
11 ly; and

12 (vi) a statement of the assets and liabilities of the operator.

13 (c) The commission may require the full names and addresses of the
14 officers and directors of any creditor of the operator, and of those
15 stockholders who hold more than ten percent of the stock of the credi-
16 tor.

17 (d) Upon receipt of an application for registration for each individ-
18 ual listed on such application as an officer or director, the commission
19 shall submit to the division of criminal justice services a set of fing-
20 erprints, and the division of criminal justice services processing fee
21 imposed pursuant to subdivision eight-a of section eight hundred thir-
22 ty-seven of the executive law and any fee imposed by the federal bureau
23 of investigation. Upon receipt of the fingerprints, the division of
24 criminal justice services shall promptly forward a set of the individ-
25 ual's fingerprints to the federal bureau of investigation for the
26 purpose of a nationwide criminal history record check to determine
27 whether such individual has been convicted of a criminal offense in any
28 state other than New York or in a federal jurisdiction. The division of
29 criminal justice services shall promptly provide the requested criminal
30 history information to the commission. For the purposes of this section,
31 the term "criminal history information" shall mean a record of all
32 convictions of crimes and any pending criminal charges maintained on an
33 individual by the division of criminal justice services and the federal
34 bureau of investigation. All such criminal history information sent to
35 the commission pursuant to this subdivision shall be confidential and
36 shall not be published or in any way disclosed to persons other than the
37 commission, unless otherwise authorized by law.

38 (e) Upon receipt of criminal history information pursuant to paragraph
39 (d) of this subdivision, the commission shall make a determination to
40 approve or deny an application for registration; provided, however, that
41 before making a determination on such application, the commission shall
42 provide the subject of the record with a copy of such criminal history
43 information and a copy of article twenty-three-A of the correction law
44 and inform such prospective applicant seeking to be credentialed of his
45 or her right to seek correction of any incorrect information contained
46 in such criminal history information pursuant to the regulations and
47 procedures established by the division of criminal justice services.
48 The commission shall deny any application for registration, or suspend,
49 refuse to renew, or revoke any existing registration issued pursuant to
50 this article, upon the finding that the operator or registrant, or any
51 partner, officer, director, or shareholder:

52 (i) has knowingly made a false statement of material fact or has
53 deliberately failed to disclose any information required by the commis-
54 sion;

55 (ii) has had a gaming registration or license denied, suspended, or
56 revoked in any other state or country for just cause;

1 (iii) has legally defaulted in the payment of any obligation or debt
2 due to any state or political subdivision; or

3 (iv) has at any time knowingly failed to comply with any requirement
4 outlined in this section, any other provision of this article, any regu-
5 lations promulgated by the commission or any additional requirements of
6 the commission.

7 (f) All determinations to approve or deny an application pursuant to
8 this article shall be performed in a manner consistent with subdivision
9 sixteen of section two hundred ninety-six of the executive law and arti-
10 cle twenty-three-A of the correction law. When the commission denies an
11 application, the operator shall be afforded notice and the right to be
12 heard and offer proof in opposition to such determination in accordance
13 with the regulations of the commission.

14 4. (a) As a condition of registration in New York state, each operator
15 shall implement the following measures:

16 (i) limit each authorized sports bettor to one active and continuously
17 used account on their platform, and prevent anyone they know, or should
18 have known to be a prohibited sports bettor from maintaining accounts or
19 participating in any sports wagering offered by such operator;

20 (ii) adopt appropriate safeguards to ensure, to a reasonable degree of
21 certainty, that authorized sports bettors are physically located within
22 the state when engaging in mobile sports betting;

23 (iii) prohibit minors from participating in any sports wagering, which
24 includes:

25 (1) if an operator becomes or is made aware that a minor has created
26 an account, or accessed the account of another, such operator shall
27 promptly, within no more than two business days, refund any deposit
28 received from the minor, whether or not the minor has engaged in or
29 attempted to engage in sports wagering; provided, however, that any
30 refund may be offset by any prizes already awarded;

31 (2) each operator shall provide parental control procedures to allow
32 parents or guardians to exclude minors from access to any sports wager-
33 ing or platform. Such procedures shall include a toll-free number to
34 call for help in establishing such parental controls; and

35 (3) each operator shall take appropriate steps to confirm that an
36 individual opening an account is not a minor;

37 (iv) when referencing the chances or likelihood of winning in adver-
38 tisements or upon placement of a sports wager, make clear and conspicu-
39 ous statements that are not inaccurate or misleading concerning the
40 chances of winning and the number of winners;

41 (v) enable authorized sports bettors to exclude themselves from sports
42 wagering and take reasonable steps to prevent such bettors from engaging
43 in sports wagering from which they have excluded themselves;

44 (vi) permit any authorized sports bettor to permanently close an
45 account registered to such bettor, on any and all platforms supported by
46 such operator, at any time and for any reason;

47 (vii) offer introductory procedures for authorized sports bettors,
48 that shall be prominently displayed on the main page of such operator
49 platform, that explain sports wagering;

50 (viii) implement measures to protect the privacy and online security
51 of authorized sports bettors and their accounts;

52 (ix) offer all authorized sports bettors access to his or her account
53 history and account details;

54 (x) ensure authorized sports bettors' funds are protected upon deposit
55 and segregated from the operating funds of such operator and otherwise

1 protected from corporate insolvency, financial risk, or criminal or
2 civil actions against such operator;

3 (xi) list on each website, in a prominent place, information concern-
4 ing assistance for compulsive play in New York state, including a toll-
5 free number directing callers to reputable resources containing further
6 information, which shall be free of charge;

7 (xii) ensure no sports wagering shall be based on a prohibited sports
8 event;

9 (xiii) permit account holders to establish self-exclusion gaming
10 limits on a daily, weekly, and monthly basis that enable the account
11 holder to identify the maximum amount of money an account holder may
12 deposit during such period of time; and

13 (xiv) when an account holder's lifetime deposits exceed two thousand
14 five hundred dollars, the operator shall prevent any wagering until the
15 patron immediately acknowledges, and acknowledges each year thereafter,
16 that the account holder has met the deposit threshold and may elect to
17 establish responsible gaming limits or close the account, and the
18 account holder has received disclosures from the operator concerning
19 problem gambling resources.

20 (b) Operators shall not directly or indirectly operate, promote, or
21 advertise any platform or sports wagering to persons located in New York
22 state unless registered pursuant to this article.

23 (c) Operators shall not offer any sports wagering based on any prohib-
24 ited sports event.

25 (d) Operators shall not permit sports wagering by anyone they know, or
26 should have known, to be a prohibited sports bettor.

27 (e) Advertisements for contests and prizes offered by an operator
28 shall not target prohibited sports bettors, minors, or self-excluded
29 persons.

30 (f) Operators shall prohibit the use of third-party scripts or script-
31 ing programs for any exchange wagering contest and ensure that measures
32 are in place to deter, detect and, to the extent reasonably possible,
33 prevent cheating, including collusion, and the use of cheating devices,
34 including use of software programs that submit exchange wagering sports
35 wagers unless otherwise approved by the commission.

36 (g) Operators shall develop and prominently display procedures on the
37 main page of such operator's platform for the filing of a complaint by
38 an authorized sports bettor against such operator. An initial response
39 shall be given by such operator to such bettor filing the complaint
40 within forty-eight hours. A complete response shall be given by such
41 operator to such bettor filing the complaint within ten business days.
42 An authorized sports bettor may file a complaint alleging a violation of
43 the provisions of this article with the commission.

44 (h) Operators shall maintain records of all accounts belonging to
45 authorized sports bettors and retain such records of all transactions in
46 such accounts for the preceding five years.

47 (i) The server or other equipment which is used by an operator to
48 accept mobile sports wagering shall be located in the licensed gaming
49 facility in accordance with regulations promulgated by the commission.

50 (j) All mobile sports wagering initiated in this state shall be deemed
51 to take place at the licensed gaming facility where the server or other
52 equipment used by an operator to accept mobile sports wagering is
53 located, regardless of the authorized sports bettor's physical location
54 within this state.

55 (k) All mobile sports wagering shall be conducted in compliance with
56 this section and section thirteen hundred sixty-seven of this title.

1 (l) Permit an Indian Tribe pursuant to paragraph (a) of subdivision
2 three-a of this section to place at the licensed gaming facility the
3 server or other equipment by which the Indian Tribe may accept mobile
4 sports wagering, and to make commercially reasonable accommodations as
5 may be necessary to place and operate the Indian Tribe's server or other
6 equipment.

7 5. (a) Subject to regulations promulgated by the commission, casinos
8 may enter into agreements with operators to allow for authorized bettors
9 to sign up to create and fund accounts on mobile sports wagering plat-
10 forms offered by the casino.

11 (b) Authorized sports bettors may sign up to create their account on a
12 mobile sports wagering platform in person at a casino or through an
13 operators' internet website accessed via a mobile device or computer, or
14 mobile device applications.

15 (c) Authorized sports bettors may deposit and withdraw funds in their
16 account on a mobile sports wagering platform in person at a casino,
17 electronically recognized payment methods, or via any other means
18 approved by the commission.

19 6. The commission shall annually cause a report to be prepared and
20 distributed to the governor and the legislature on the impact of mobile
21 sports wagering on problem gamblers in New York. The report shall be
22 prepared by a non-governmental organization or entity with expertise in
23 serving the needs of persons with gambling addictions. The report shall
24 be prepared and distributed under the supervision of and in coordination
25 with the commission. The costs associated with the preparation and
26 distribution of the report shall be borne by operators and the commis-
27 sion shall be authorized to assess a fee against operators for these
28 purposes. The commission shall also report periodically to the governor
29 and the legislature on the effectiveness of the statutory and regulatory
30 controls in place to ensure the integrity of mobile sports wagering
31 operations.

32 § 3. Section 104 of the racing, pari-mutuel wagering and breeding law
33 is amended by adding a new subdivision 24 to read as follows:

34 24. To regulate sports wagering in New York state.

35 § 4. Subdivision 15 of section 1401 of the racing, pari-mutuel wager-
36 ing and breeding law, as added by chapter 237 of the laws of 2016, is
37 amended to read as follows:

38 15. "Prohibited sports event" shall mean any [~~collegiate sport or~~
39 ~~athletic event, any~~] high school sport or athletic event or any horse
40 racing event.

41 § 5. Severability clause. If any provision of this act or application
42 thereof shall for any reason be adjudged by any court of competent
43 jurisdiction to be invalid, such judgment shall not affect, impair, or
44 invalidate the remainder of the act, but shall be confined in its opera-
45 tion to the provision thereof directly involved in the controversy in
46 which the judgment shall have been rendered.

47 § 6. This act shall take effect on the same date and in the same
48 manner as section 1367 of the racing, pari-mutuel wagering and breeding
49 law pursuant to subdivision (c) of section 52 of chapter 174 of the laws
50 of 2013, as amended, takes effect.