

STATE OF NEW YORK

7900--A

IN SENATE

March 7, 2018

Introduced by Sens. BONACIC, ADDABBO, AVELLA, BROOKS, FUNKE, GALLIVAN, GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming and Wagering -- reported favorably from said committee and committed to the Committee on Finance -- 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:

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

4 § 1367. Sports wagering. 1. As used in this section:

5 (a) "Affiliate" means any off-track betting corporation, franchised
6 corporation, or race track licensed pursuant to this chapter, or an
7 operator of video lottery gaming at Aqueduct licensed pursuant to
8 section sixteen hundred seventeen-a of the tax law, which has a mobile
9 sports wagering agreement with a casino pursuant to section thirteen
10 hundred sixty-seven-a of this title;

11 (b) "Agent" means an entity that is party to a contract with a
12 licensed gaming facility authorized to operate a sports pool and is
13 approved by the commission to operate a sports pool on behalf of such
14 licensed gaming facility;

15 (c) "Authorized sports bettor" means an individual who is physically
16 present in this state when placing a sports wager, who is not a prohib-
17 ited sports bettor, that participates in sports wagering offered by a
18 casino. The intermediate routing of electronic data in connection with
19 mobile sports wagering shall not determine the location or locations in
20 which a wager is initiated, received or otherwise made;

21 (d) "Casino" means a licensed gaming facility at which gambling is
22 conducted pursuant to the provisions of this article or the agent of
23 such licensed gaming facility;

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

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1 ~~(b)~~ (e) "Commission" means the commission established pursuant to
2 section one hundred two of this chapter;

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

7 (g) "Global risk management" means the direction, management, consul-
8 tation and/or instruction for purposes of managing risks associated with
9 sports wagering conducted pursuant to this section and includes the
10 setting and adjustment of betting lines, point spreads, or odds and
11 whether to place layoff bets as permitted by this section;

12 ~~(d)~~ (h) "High school sport or athletic event" means a sport or
13 athletic event offered or sponsored by or played in connection with a
14 public or private institution that offers education services at the
15 secondary level;

16 (i) "Horse racing event" means any sport or athletic event conducted
17 in New York state subject to the provisions of articles two, three,
18 four, five, six, nine, ten and eleven of this chapter, or any sport or
19 athletic event conducted outside of New York state, which if conducted
20 in New York state would be subject to the provisions of this chapter;

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

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

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

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

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

35 (o) "Operator" means a casino which has elected to operate a sports
36 pool;

37 ~~(e)~~ (p) "Professional sport or athletic event" means an event at
38 which two or more persons participate in sports or athletic events and
39 receive compensation in excess of actual expenses for their partic-
40 ipation in such event;

41 (q) "Prohibited sports bettor" means:

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

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

45 (iii) any casino gaming or non-gaming employee at the casino that
46 employs such person and at any affiliate that has an agreement with that
47 casino;

48 (iv) any contractor, subcontractor, or consultant, or officer or
49 employee of a contractor, subcontractor, or consultant, of a casino if
50 such person is directly involved in the operation or observation of
51 sports wagering, or the processing of sports wagering claims or
52 payments;

53 (v) Any person subject to a contract with the commission if such
54 contract contains a provision prohibiting such person from participating
55 in sports wagering;

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

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

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

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

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

16 (xi) any minor;

17 [~~(f)~~] (r) "Prohibited sports event" means any [~~collegiate sport or~~
18 ~~athletic event that takes place in New York or a sport or athletic event~~
19 ~~in which any New York college team participates regardless of where the~~
20 ~~event takes place]~~ high school sport or athletic event;

21 [~~(g)~~] (s) "Sports event" means any professional sport or athletic
22 event and any collegiate sport or athletic event, except a prohibited
23 sports event or a horse racing event;

24 [~~(h)~~] (t) "Sports governing body" means the organization that
25 prescribes final rules and enforces codes of conduct with respect to a
26 sporting event and participants therein;

27 (u) "Sports pool" means the business of accepting wagers on any sports
28 event by any system or method of wagering; [~~and~~

29 ~~(i)]~~ (v) "Sports wager" means cash or cash equivalent that is paid by
30 an authorized sports bettor to a casino to participate in sports wager-
31 ing offered by such casino;

32 (w) "Sports wagering" means wagering on sporting events or any portion
33 thereof, or on the individual performance statistics of athletes partic-
34 ipating in a sporting event, or combination of sporting events, by any
35 system or method of wagering, including, but not limited to, in-person
36 communication and electronic communication through internet websites
37 accessed via a mobile device or computer and mobile device applications.
38 The term "sports wagering" shall include, but is not limited to,
39 single-game bets, teaser bets, parlays, over-under bets, moneyline,
40 pools, exchange wagering, in-game wagering, in-play bets, proposition
41 bets and straight bets;

42 (x) "Sports wagering gross revenue" means: (i) the amount equal to the
43 total of all sports wagers not attributable to prohibited sports events
44 that an operator collects from all players, less the total of all sums
45 not attributable to prohibited sports events paid out as winnings to all
46 sports bettors, however, that the total of all sums paid out as winnings
47 to sports bettors shall not include the cash equivalent value of any
48 merchandise or thing of value awarded as a prize, or (ii) in the case of
49 exchange wagering pursuant to this section, the commission on winning
50 sports wagers by authorized sports bettors retained by the operator. The
51 issuance to or wagering by authorized sports bettors at a casino of any
52 promotional gaming credit shall not be taxable for the purposes of
53 determining sports wagering gross revenue;

54 (y) "Sports wagering lounge" means an area wherein a sports pool is
55 operated;

1 (z) "Tier one sports wager" means a sports wager that is determined
2 solely by the final score or final outcome of the sports event;

3 (aa) "Tier two sports wager" means an in-play sports wager that is not
4 a tier one sports wager; and

5 (bb) "Tier three sports wager" means a sports wager that is neither a
6 tier one nor a tier two sports wager.

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

10 3. (a) In addition to authorized gaming activities, a licensed gaming
11 facility may when authorized by subdivision two of this section operate
12 a sports pool upon the approval of the commission and in accordance with
13 the provisions of this section and applicable regulations promulgated
14 pursuant to this article. The commission shall hear and decide promptly
15 and in reasonable order all applications for a license to operate a
16 sports pool, shall have the general responsibility for the implementa-
17 tion of this section and shall have all other duties specified in this
18 section with regard to the operation of a sports pool. The license to
19 operate a sports pool shall be in addition to any other license required
20 to be issued to operate a gaming facility. No license to operate a
21 sports pool shall be issued by the commission to any entity unless it
22 has established its financial stability, integrity and responsibility
23 and its good character, honesty and integrity.

24 No later than five years after the date of the issuance of a license
25 and every five years thereafter or within such lesser periods as the
26 commission may direct, a licensee shall submit to the commission such
27 documentation or information as the commission may by regulation
28 require, to demonstrate to the satisfaction of the executive director of
29 the commission that the licensee continues to meet the requirements of
30 the law and regulations.

31 (b) A sports pool shall be operated in a sports wagering lounge
32 located at a casino. The lounge shall conform to all requirements
33 concerning square footage, design, equipment, security measures and
34 related matters which the commission shall by regulation prescribe.

35 (c) The operator of a sports pool shall establish or display the odds
36 at which wagers may be placed on sports events.

37 (d) An operator shall accept wagers on sports events only from persons
38 physically present in the sports wagering lounge, or through mobile
39 sports wagering offered pursuant to section thirteen hundred sixty-sev-
40 en-a of this title. A person placing a wager shall be at least twenty-
41 one years of age.

42 (e) An operator may also accept layoff bets as long as the authorized
43 sports pool places such wagers with another authorized sports pool or
44 pools in accordance with regulations of the commission. A sports pool
45 that places a layoff bet shall inform the sports pool accepting the
46 wager that the wager is being placed by a sports pool and shall disclose
47 its identity.

48 (f) An operator may utilize global risk management pursuant to the
49 approval of the commission.

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

52 [~~f~~] (h) The holder of a license to operate a sports pool may
53 contract with [~~an entity~~] one or more agents to conduct any or all
54 aspects of that operation, or the operation of mobile sports wagering
55 offered pursuant to section thirteen hundred sixty-seven-a of this
56 title, including but not limited to brand, marketing and customer

1 service, in accordance with the regulations of the commission. [~~That~~
2 ~~entity~~] Each agent shall obtain a license as a casino vendor enterprise
3 prior to the execution of any such contract, and such license shall be
4 issued pursuant to the provisions of section one thousand three hundred
5 twenty-seven of this article and in accordance with the regulations
6 promulgated by the commission.

7 [~~(g)~~] (i) If any provision of this article or its application to any
8 person or circumstance is held invalid, the invalidity shall not affect
9 other provisions or applications of this article which can be given
10 effect without the invalid provision or application, and to this end the
11 provisions of this article are severable.

12 4. (a) All persons employed directly in wagering-related activities
13 conducted within a sports wagering lounge shall be licensed as a casino
14 key employee or registered as a gaming employee, as determined by the
15 commission. All other employees who are working in the sports wagering
16 lounge may be required to be registered, if appropriate, in accordance
17 with regulations of the commission.

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

22 5. Except as otherwise provided by this article, the commission shall
23 have the authority to regulate sports pools and the conduct of sports
24 wagering under this article to the same extent that the commission regu-
25 lates other gaming. No casino shall be authorized to operate a sports
26 pool unless it has produced information, documentation, and assurances
27 concerning its financial background and resources, including cash
28 reserves, that are sufficient to demonstrate that it has the financial
29 stability, integrity, and responsibility to operate a sports pool. In
30 developing rules and regulations applicable to sports wagering, the
31 commission shall examine the regulations implemented in other states
32 where sports wagering is conducted and shall, as far as practicable,
33 adopt a similar regulatory framework. The commission shall promulgate
34 regulations necessary to carry out the provisions of this section,
35 including, but not limited to, regulations governing the:

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

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

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

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

42 (e) method of issuing tickets;

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

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

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

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

47 (j) the use of global risk management;

48 (k) type of system for wagering; and

49 [~~(j)~~] (l) protections for a person placing a wager.

50 6. Each operator shall adopt comprehensive house rules governing
51 sports wagering transactions with its [~~patrons~~] authorized sports
52 bettors. The rules shall specify the amounts to be paid on winning
53 wagers and the effect of schedule changes. The house rules, together
54 with any other information the commission deems appropriate, shall be
55 conspicuously displayed in the sports wagering lounge and included in

1 the terms and conditions of the account wagering system, and copies
2 shall be made readily available to patrons.

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

6 (i) the total amount of sports wagers received from authorized sports
7 bettors;

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

9 (iii) the total amount of sports wagering gross revenue received by
10 the casino;

11 (iv) the total amount contributed to the sport betting integrity fund
12 pursuant to subdivision eight of this section;

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

15 (vi) the total number of authorized sports bettors that requested to
16 exclude themselves from sports wagering; and

17 (vii) any additional information that the commission deems necessary
18 to carry out the provisions of this article.

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

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

28 8. (a) Within thirty days of the end of each calendar quarter, a casi-
29 no offering sports wagering shall remit to the commission a sports
30 wagering integrity fee of up to one-quarter of one percent of the amount
31 wagered on sports events, however, in no case shall the integrity fee be
32 greater than two percent of the casino's sports wagering gross revenue.
33 The fee shall be remitted on a form as the commission may require, on
34 which the casino shall identify the percentage of wagering during the
35 reporting period attributable to each sport governing body's sports
36 events.

37 (b) No later than the thirtieth of April of each year, a sports
38 governing body may submit a claim for disbursement of the integrity
39 funds remitted by casinos in the previous calendar year in pro rata
40 proportion of the total amount wagered on their respective sports events
41 to reimburse the sports governing body for expenses incurred for integ-
42 egrity operations. Eligible expenses shall include, but not be limited
43 to, integrity monitoring expenses, expenses incurred related to integri-
44 ty investigations, public relations expenses associated with integrity
45 issues, and any other eligible expenses approved by the commission.

46 (c) Each sports governing body which receives in excess of fifty-thou-
47 sand dollars annually from the integrity fee shall annually submit a
48 report to the commission no later than the twenty-eighth of February of
49 each year, which shall include the following information:

50 (i) the total amount of integrity fund reimbursement received from New
51 York;

52 (ii) a detailed summary of the final dispositions of integrity inves-
53 tigations where it was determined that misconduct took place;

54 (iii) any additional information that the commission deems necessary
55 to carry out the provisions of this article.

1 (d) Upon the submission of such annual report, to such extent that the
2 commission deems it to be in the public interest, the commission shall
3 be authorized to conduct a financial audit of any sports governing body,
4 at any time, to ensure compliance with this article.

5 (e) The commission shall annually publish a report based on the aggre-
6 gate information provided by all sports governing bodies pursuant to
7 paragraph (c) of this subdivision, which shall be published on the
8 commission's website no later than one hundred eighty days after the
9 deadline for the submission of individual reports as specified in para-
10 graph (c) of this subdivision.

11 (f) At the end of the year, any unclaimed integrity fee revenue shall
12 be distributed to the sports governing bodies which were approved to
13 receive funding, on a pro rata basis.

14 9. For the privilege of conducting sports wagering in the state, casi-
15 nos shall pay a tax equivalent to eight and one-half percent of their
16 sports wagering gross revenue.

17 10. The commission shall pay into the commercial gaming revenue fund
18 established pursuant to section ninety-seven-nnnn of the state finance
19 law eighty-five percent of the state tax imposed by this section; any
20 interest and penalties imposed by the commission relating to those
21 taxes; all penalties levied and collected by the commission; and the
22 appropriate funds, cash or prizes forfeited from sports wagering. The
23 commission shall pay into the commercial gaming fund five percent of the
24 state tax imposed by this section to be distributed for problem gambling
25 education and treatment purposes pursuant to paragraph a of subdivision
26 five of section ninety-seven-nnnn of the state finance law. The commis-
27 sion shall pay into the commercial gaming fund five percent of the state
28 tax imposed by this section to be distributed for the cost of regulation
29 pursuant to paragraph c of subdivision five of section ninety-seven-nnnn
30 of the state finance law. The commission shall pay into the commercial
31 gaming fund five percent of the state tax imposed by this section to be
32 distributed in the same formula as market origin credits pursuant to
33 section one hundred fifteen-b of this chapter. The commission shall
34 require at least monthly deposits by the casino of any payments pursuant
35 to subdivision nine of this section, at such times, under such condi-
36 tions, and in such depositories as shall be prescribed by the state
37 comptroller. The deposits shall be deposited to the credit of the state
38 commercial gaming revenue fund. The commission shall require a monthly
39 report and reconciliation statement to be filed with it on or before the
40 tenth day of each month, with respect to gross revenues and deposits
41 received and made, respectively, during the preceding month.

42 11. The commission may perform audits of the books and records of a
43 casino, at such times and intervals as it deems appropriate, for the
44 purpose of determining the sufficiency of tax payments. If a return
45 required with regard to obligations imposed is not filed, or if a return
46 when filed or is determined by the commission to be incorrect or insuf-
47 ficient with or without an audit, the amount of tax due shall be deter-
48 mined by the commission. Notice of such determination shall be given to
49 the casino liable for the payment of the tax. Such determination shall
50 finally and irrevocably fix the tax unless the casino against whom it is
51 assessed, within thirty days after receiving notice of such determi-
52 nation, shall apply to the commission for a hearing in accordance with
53 the regulations of the commission.

54 12. Nothing in this section shall apply to interactive fantasy sports
55 offered pursuant to article fourteen of this chapter. Nothing in this
56 section authorizes any entity that conducts interactive fantasy sports

1 offered pursuant to article fourteen of this chapter to conduct sports
2 wagering unless it separately qualifies for, and obtains, authorization
3 pursuant to this section.

4 13. A casino that is also licensed under article three of this chap-
5 ter, and must maintain racing pursuant to paragraph (b) of subdivision
6 one of section thirteen hundred fifty-five of this chapter, shall be
7 allowed to offer pari-mutuel wagering on horse racing events in accord-
8 ance with their license under article three of this chapter. Notwith-
9 standing subparagraph (ii) of paragraph c of subdivision two of section
10 one thousand eight of this chapter, a casino located in the city of
11 Schenectady shall be allowed to offer pari-mutuel wagering on horse
12 racing events, provided such wagering is conducted by the regional off-
13 track betting corporation in such region as the casino is located. Any
14 other casino shall be allowed to offer pari-mutuel wagering on horse
15 racing events, provided such wagering is conducted by the regional off-
16 track betting corporation in such region as the casino is located. Any
17 physical location where pari-mutuel wagering on horse racing events is
18 offered by a casino and conducted by a regional off-track betting corpo-
19 ration in accordance with this subdivision shall be deemed to be a
20 branch location of the regional off-track betting corporation in accord-
21 ance with section one thousand eight of this chapter. Mobile sports
22 betting kiosks located on the premises of affiliates in accordance with
23 paragraph (d) of subdivision five of section thirteen hundred sixty-sev-
24 en-a of this chapter shall not be allowed to offer pari-mutuel wagering
25 on horse racing events.

26 14. 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 15. (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) The commission and casinos shall cooperate with investigations
47 conducted by sports governing bodies or law enforcement agencies,
48 including but not limited to providing or facilitating the provision of
49 account-level betting information and audio or video files relating to
50 persons placing wagers; provided, however, that the casino be required
51 to share any personally identifiable information of an authorized sports
52 bettor with a sports governing body only pursuant to an order to do so
53 by the commission or a law enforcement agency or court of competent
54 jurisdiction.

55 (c) Casinos shall immediately report to the commission any information
56 relating to:

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

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

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

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

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

15 The commission shall also immediately report information relating to
16 conduct described in subparagraphs (ii), (iii) and (iv) of this para-
17 graph to the relevant sports governing body.

18 (d) Casinos shall maintain the confidentiality of information provided
19 by a sports governing body to the casino, unless disclosure is required
20 by this section, the commission, other law, or court order.

21 (e) The commission, by regulation, may authorize and promulgate any
22 rules necessary to implement agreements with other states, or authorized
23 agencies thereof to enable the sharing of information to facilitate
24 integrity monitoring and the conduct of investigations into abnormal
25 betting activity, match fixing, and other conduct that corrupts a
26 betting outcome of a sporting event or events for purposes of financial
27 gain.

28 16. (a) Casinos shall use whatever data source they deem appropriate
29 for determining the result of sports wagering involving tier one sports
30 wagers.

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

36 (c) A sports governing body may notify the commission that it desires
37 to require casinos to use official league data in sports wagering
38 involving specific tier three sports wagers by providing notice in the
39 form and manner as the commission may require. Upon receiving such
40 notice, the commission shall review the request, seek input from the
41 casinos on such a request, and if the commission deems it appropriate,
42 promulgate regulations to require casinos to use official league data on
43 sports wagering involving such tier three sports wagers if the relevant
44 sports governing body possesses a feed of official league data, and
45 makes such feed available for purchase by the casinos on commercially
46 reasonable terms as determined by the commission.

47 (d) When determining whether or not a supplier of official league data
48 is offering commercially reasonable terms, the commission shall consider
49 the amount charged by the supplier of official league data to gaming
50 operators in other jurisdictions. This information shall be provided to
51 the commission by the supplier of official league data upon request of
52 the commission. Any entity providing data to a casino for the purpose of
53 tier two sports wagers, other than a supplier of official league data,
54 shall obtain a license as a casino vendor enterprise and such license
55 shall be issued pursuant to the provisions of section one thousand three

1 hundred twenty-seven of this article and in accordance with the regu-
2 lations promulgated by the commission.

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

6 (f) If an error occurs in the payment of a sports wager the casino
7 shall bear the cost of any overpayment. In the event of under-payment or
8 non-payment of a wager alleged by an authorized sports bettor to be a
9 winning wager:

10 (i) the casino shall accept timely claims, pay each claim, or a part
11 thereof, which it determines to be valid; notice shall be given to any
12 claimant whose claim is rejected.

13 (ii) any authorized sports bettor whose claim is rejected by the casi-
14 no may, within fifteen days from the date notice of rejection is
15 received, request the commission to determine the validity of the claim.
16 The failure to file such a request with the board within fifteen days
17 shall constitute a waiver of the claim, provided the claimant has
18 received notice of a right to appeal to the commission.

19 (iii) a hearing before the commission shall be held on each claim
20 timely filed, and the commission may determine a claim to be valid, in
21 whole or in part, and thereafter order the casino to make payment
22 accordingly. In determining whether a claim is valid the commission
23 shall utilize the statistics, results, outcomes, and other data relating
24 to a sporting event that have been obtained from the relevant sports
25 governing body. Any such determination shall be final and binding on
26 all parties.

27 (iv) claims not filed with the casino within thirty days inclusive of
28 the date on which the under-payment was discovered shall be deemed
29 waived, and the casino shall have no further liability therefor.

30 17. (a) Casinos shall maintain records of all bets and wagers placed,
31 including personally identifiable information of the mobile sports
32 wagering bettor, amount and type of bet, time the bet was placed,
33 location of the bet, including IP address if applicable, the outcome of
34 the bet, records of abnormal betting activity, and video camera
35 recordings in the case of in-person wagers for at least three years
36 after the sporting event occurs and make such data available for
37 inspection upon request of the commission or as required by court order.

38 (b) If a sports governing body has notified the commission that real-
39 time information sharing for wagers placed on sporting events is neces-
40 sary and desirable, casinos shall share in real time, at the account-
41 level, and in pseudonymous form, the information required to be retained
42 pursuant to paragraph (a) of this subdivision (other than video files)
43 with the commission, and the commission shall share in real time the
44 information with the sports governing body or its designee with respect
45 to wagers on its sporting events.

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

49 18. A casino shall not permit sports wagering by anyone they know, or
50 should have known, to be a prohibited sports bettor.

51 19. Sports wagering conducted pursuant to the provisions of this
52 section is hereby authorized.

53 20. The conduct of sports wagering in violation of this section is
54 prohibited.

55 21. Any person, firm, corporation, association, agent, or employee who
56 knowingly violates any procedure implemented under this section, or

1 section thirteen hundred sixty-seven-a of this title, shall be liable
2 for a civil penalty of not more than five thousand dollars for each
3 violation, not to exceed fifty thousand dollars for violations arising
4 out of the same transaction or occurrence, which shall accrue to the
5 state and may be recovered in a civil action brought by the commission.

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

8 § 1367-a. Mobile sports wagering. 1. As used in this section, the
9 following terms shall have the following meanings:

10 (a) "Affiliate" means any off-track betting corporation, franchised
11 corporation, or race track licensed pursuant to the racing, pari-mutuel
12 wagering and breeding law, or an operator of video lottery gaming at
13 Aqueduct licensed pursuant to section sixteen hundred seventeen-a of the
14 tax law, which has a mobile sports wagering agreement with a casino
15 pursuant to this section;

16 (b) "Agent" means an entity that is party to a contract with a
17 licensed gaming facility authorized to operate a sports pool and is
18 approved by the commission to operate a sports pool on behalf of such
19 licensed gaming facility;

20 (c) "Authorized sports bettor" means an individual who is physically
21 present in this state when placing a sports wager, who is not a prohib-
22 ited sports bettor, that participates in sports wagering offered by a
23 casino. The intermediate routing of electronic data in connection with
24 mobile sports wagering shall not determine the location or locations in
25 which a wager is initiated, received or otherwise made;

26 (d) "Casino" means a licensed gaming facility at which gambling is
27 conducted pursuant to the provisions of this article or the agent of
28 such licensed gaming facility;

29 (e) "Collegiate sport or athletic event" means a sport or athletic
30 event offered or sponsored by or played in connection with a public or
31 private institution that offers education services beyond the secondary
32 level;

33 (f) "Commission" means the commission established pursuant to section
34 one hundred two of this chapter;

35 (g) "High school sport or athletic event" means a sport or athletic
36 event offered or sponsored by or played in connection with a public or
37 private institution that offers education services at the secondary
38 level;

39 (h) "Horse racing event" means any sport or athletic event conducted
40 in New York state subject to the provisions of articles two, three,
41 four, five, six, nine, ten and eleven of this chapter, or any sport or
42 athletic event conducted outside of New York state, which if conducted
43 in New York state would be subject to the provisions of this chapter;

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

45 (j) "Mobile sports wagering platform" or "platform" means the combina-
46 tion of hardware, software, and data networks used to manage, adminis-
47 ter, or control sports wagering and any associated wagers accessible by
48 any electronic means including mobile applications and internet websites
49 accessed via a mobile device or computer;

50 (k) "Operator" means an entity offering a mobile sports wagering plat-
51 form including an agent;

52 (l) "Professional sport or athletic event" means an event at which two
53 or more persons participate in sports or athletic events and receive
54 compensation in excess of actual expenses for their participation in
55 such event;

56 (m) "Prohibited sports bettor" means:

- 1 (i) any officer or employee of the commission;
2 (ii) any principal or key employee of a casino or affiliate, except as
3 may be permitted by the commission for good cause shown;
4 (iii) any casino gaming or non-gaming employee at the casino that
5 employs such person and at any affiliate that has an agreement with that
6 casino;
7 (iv) any contractor, subcontractor, or consultant, or officer or
8 employee of a contractor, subcontractor, or consultant, of a casino if
9 such person is directly involved in the operation or observation of
10 sports wagering, or the processing of sports wagering claims or
11 payments;
12 (v) any person subject to a contract with the commission if such
13 contract contains a provision prohibiting such person from participating
14 in sports wagering;
15 (vi) any spouse, child, brother, sister or parent residing as a member
16 of the same household in the principal place of abode of any of the
17 foregoing persons at the same casino where the foregoing person is
18 prohibited from participating in sports wagering;
19 (vii) any individual with access to non-public confidential informa-
20 tion about sports wagering;
21 (viii) any amateur or professional athlete if the sports wager is
22 based on any sport or athletic event overseen by the athlete's sports
23 governing body;
24 (ix) any sports agent, owner or employee of a team, player and umpire
25 union personnel, and employee referee, coach or official of a sports
26 governing body, if the sports wager is based on any sport or athletic
27 event overseen by the individual's sports governing body;
28 (x) any individual placing a wager as an agent or proxy for an other-
29 wise prohibited sports bettor; or
30 (xi) any minor;
31 (n) "Prohibited sports event" means any high school sport or athletic
32 event;
33 (o) "Sports event" means any professional sport or athletic event and
34 any collegiate sport or athletic event, except a prohibited sports
35 events or a horse racing event;
36 (p) "Sports governing body" means the organization that prescribes
37 final rules and enforces codes of conduct with respect to a sporting
38 event and participants therein;
39 (q) "Sports pool" means the business of accepting wagers on any sports
40 event by any system or method of wagering;
41 (r) "Sports wager" means cash or cash equivalent that is paid by an
42 authorized sports bettor to a casino to participate in sports wagering
43 offered by such casino;
44 (s) "Sports wagering" means wagering on sporting events or any portion
45 thereof, or on the individual performance statistics of athletes partic-
46 ipating in a sporting event, or combination of sporting events, by any
47 system or method of wagering, including, but not limited to, in-person
48 communication and electronic communication through internet websites
49 accessed via a mobile device or computer and mobile device applications.
50 The term "sports wagering" shall include, but is not limited to,
51 single-game bets, teaser bets, parlays, over-under bets, moneyline,
52 pools, exchange wagering, in-game wagering, in-play bets, proposition
53 bets and straight bets; and
54 (t) "Sports wagering gross revenue" means: (i) the amount equal to the
55 total of all sports wagers not attributable to prohibited sports events
56 that an operator collects from all players, less the total of all sums

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

10 2. (a) No casino shall administer, manage, or otherwise make available
11 a mobile sports wagering platform to persons located in New York state
12 unless registered with the commission pursuant to this section. A casino
13 may use multiple mobile sports wagering platforms provided that each
14 platform has been reviewed and approved by the commission. A casino may
15 contract with one or more independent operators to provide its mobile
16 sports wagering platforms, but shall not contract with more than three
17 independent operators.

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

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

23 (d) The commission shall promulgate regulations to implement the
24 provisions of this section, including the development of the initial
25 form of the application for registration. Such regulations shall provide
26 for the registration and operation of mobile sports wagering in New York
27 state and shall include, but not be limited to, responsible protections
28 with regard to compulsive play and safeguards for fair play.

29 3. In the event that a casino contracts with one or more independent
30 operators to provide its mobile sports wagering platforms, each inde-
31 pendent entity shall obtain a license as a casino vendor enterprise
32 prior to the execution of any such contract, and such license shall be
33 issued pursuant to the provisions of section one thousand three hundred
34 twenty-seven of this article and in accordance with the regulations
35 promulgated by the commission.

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

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

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

45 (iii) prohibit minors from participating in any sports wagering, which
46 includes:

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

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

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

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

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

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

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

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

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

20 (x) ensure authorized sports bettors' funds are protected upon deposit
21 and segregated from the operating funds of such operator and otherwise
22 protected from corporate insolvency, financial risk, or criminal or
23 civil actions against such operator;

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

28 (xii) ensure no sports wagering shall be based on a prohibited sports
29 event.

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

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

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

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

40 (f) Operators shall prohibit the use of third-party scripts or script-
41 ing programs for any contest and ensure that measures are in place to
42 deter, detect and, to the extent reasonably possible, prevent cheating,
43 including collusion, and the use of cheating devices, including use of
44 software programs that submit sports wagers unless otherwise approved by
45 the commission.

46 (g) Operators shall develop and prominently display procedures on the
47 main page of such operator's platform for the filing of a complaint by
48 an authorized sports bettor against such operator. An initial response
49 shall be given by such operator to such bettor filing the complaint
50 within forty-eight hours. A complete response shall be given by such
51 operator to such bettor filing the complaint within ten business days.
52 An authorized sports bettor may file a complaint alleging a violation of
53 the provisions of this article with the commission.

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

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

4 5. (a) Subject to regulations promulgated by the commission, casinos
5 may enter into agreements with affiliates to allow for authorized
6 bettors to sign up to create and fund accounts on their mobile sports
7 wagering platform or platforms.

8 (b) Authorized sports bettors may sign up to create their account on a
9 mobile sports wagering platform in person at a casino or an affiliate of
10 a casino, or through internet websites accessed via a mobile device or
11 computer, or mobile device applications.

12 (c) Authorized sports bettors may deposit and withdraw funds in their
13 account on a mobile sports wagering platform in person at a casino or an
14 affiliate of a casino, electronically recognized payment methods, or any
15 other means approved by the commission.

16 (d) In accordance with regulations promulgated by the commission,
17 casinos may enter into agreements with affiliates to locate self-service
18 mobile sports betting kiosks, which are owned, operated and maintained
19 by the casino, and connected via the internet to the casino, upon the
20 premises of the affiliate.

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

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

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

27 15. "Prohibited sports event" shall mean any [~~collegiate sport or~~
28 ~~athletic event, any~~] high school sport or athletic event or any horse
29 racing event.

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

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