STATE OF NEW YORK

8221

2019-2020 Regular Sessions

IN ASSEMBLY

June 7, 2019

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Racing and Wagering

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to state gaming commission occupational licenses

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

Section 1. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 104-a to read as follows:

§ 104-a. Registration to engage in gaming activity. Notwithstanding any provision of law to the contrary, the commission may require any person, corporation or association intending to engage in any gaming activity regulated by the commission to submit a primary registration to the commission.

1. For the purposes of this section, when a person is required to submit a registration, any and all licenses, registrations, certificates, permits or approvals issued to such person as required under this chapter or under article thirty-four of the tax law shall be considered sub-registrations or sub-licenses to the aforementioned registration. No individual shall engage in any gaming activity without a valid sub-registration or sub-license authorizing such activity.

2. The primary registration to engage in gaming activities shall solely be an informational return containing such information the commission deems applicable to all sub-registrations or sub-licenses. The commission shall require separate applications for all sub-registrations or sub-licenses containing all supplemental information that the commission deems necessary.

All commission determinations shall be made on an applicant's sub-registration or sub-license and not on the primary registration. Any information obtained for or contained in the primary registration and all associated sub-registrations or sub-licenses may be used in any subsequent licensing and registration determinations.

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

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3. Pursuant to the commission's authority granted by subdivisions thirteen and fourteen of section one hundred four of this article, the commission may require a background investigation and a criminal history record search for any primary or sub-registration or sub-license sought. The commission shall have the right to request new information upon submission of any new sub-registration or sub-license application.

For the purposes of this section, upon an initial sub-registration or sub-license application and any subsequent sub-applications as may be required by the commission, each applicant shall submit to the commission the applicant's name, address, fingerprints and written consent for criminal history information as defined in paragraph (c) of subdivision one of section eight hundred forty-five-b of the executive law, to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the state division of criminal justice services and the federal bureau of investigation consistent with applicable state and federal laws, rules and regulations. The applicant shall pay the fee for such criminal history information as established pursuant to article thirty-five of the executive law. The state division of criminal justice services shall promptly notify the commission in the event a current or prospective licensee, who was the subject of such criminal history information pursuant to this section, is arrested for a crime or offense in this state after the date the check was performed.

4. Primary registrations shall expire five years from the date of submission, provided, however, any sub-registration or sub-license shall continue through its expiration. Notwithstanding this provision, the commission may suspend any sub-registration or sub-license that has an expired primary registration until such primary registration is renewed. The commission shall establish a schedule to register any individual or entity who possessed a sub-registration or sub-license prior to the implementation of this section.

5. The commission shall promulgate rules and regulations to implement the provisions of this section and ensure that all licensing and registration requirements of this chapter and article thirty-four of the tax law are adequately addressed in the implementation.

§ 2. Section 1301 of the racing, pari-mutuel wagering and breeding law is amended by adding a new subdivision 31-a to read as follows:

31-a. "Non-gaming employee". Any natural person, not otherwise included in the definition of casino key employee or gaming employee, who is employed by a gaming facility licensee, or a holding or intermediary company of a gaming facility licensee, and performs services and duties upon the premises of a gaming facility, whose duties do not relate to the operation of gaming activities, and who is not regularly required to work in restricted areas such that registration of a non-gaming employee is appropriate.

§ 3. Paragraph (c) of subdivision 1 of section 1318 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:

(c) the conviction of the applicant, or of any person required to be qualified under this article as a condition of a license, of any offense in any jurisdiction which is or would be a [~~felony or other~~] crime involving public integrity, embezzlement, theft, fraud, [~~or~~] perjury, represents a significant threat to public safety, or would otherwise pose a threat to the effective regulation of casino gaming;

§ 4. Subdivision 4 of section 1322 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:

4. All applicants, licensees, registrants, and any other person who shall be qualified pursuant to this article shall have the continuing duty to provide any assistance or information required by the commission, and to cooperate in any inquiry, investigation or hearing conducted by the commission. If, upon issuance of a formal request to answer or produce information, evidence or testimony, any applicant, licensee, registrant, or any other person who shall be qualified pursuant to this article refuses to comply, the application, license, registration or qualification of such person may be **suspended,** denied or revoked.

§ 5. Subdivision 3 of section 1323 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:

3. The commission shall deny a casino key employee license to any applicant who is disqualified on the basis of the criteria contained in section [~~one thousand three~~] **thirteen** hundred eighteen of this [~~title~~] **article**, subject to notice and hearing. **Provided that, no casino key employee license shall be denied or revoked on the basis of a conviction of any of the offenses enumerated in this article as disqualification criteria or the commission of any act or acts which would constitute any offense under section thirteen hundred eighteen of this article, provided that the applicant has affirmatively demonstrated the applicant's rehabilitation, pursuant to article twenty-three-A of the correction law.**

§ 6. Subdivision 4 of section 1323 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:

4. Upon [~~receipt of such criminal history information~~] **determination that an applicant is disqualified on the basis of the applicant's criminal history**, the commission shall provide such applicant with a copy of such criminal history information, together with a copy of article twenty-three-A of the correction law, and inform such applicant of his or her right to seek correction of any incorrect information contained in such criminal history information pursuant to regulations and procedures established by the division of criminal justice services. Except as otherwise provided by law, such criminal history information shall be confidential and any person who willfully permits the release of such confidential criminal history information to persons not permitted to receive such information shall be guilty of a misdemeanor.

§ 7. Section 1324 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:

§ 1324. Gaming **and non-gaming** employee registration. 1. No person may commence employment as a gaming **or non-gaming** employee unless such person has a valid registration [~~on file with the~~] **issued by the** commission, which registration shall be prepared and filed in accordance with the regulations promulgated hereunder.

2. A gaming **or non-gaming** employee registrant shall produce such information as the commission by regulation may require. [~~Subsequent to the registration of a gaming employee, the executive director may~~] **The commission may deny,** revoke, suspend, limit, or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of the criteria contained in section [~~one thousand three~~] **thirteen**

hundred eighteen of this [~~title~~] **article**. If a gaming **or non-gaming** employee registrant has not been employed in any position within a gaming facility for a period of three years, the registration of that gaming **or non-gaming** employee shall lapse.

3. No gaming **or non-gaming** employee registration shall be denied or revoked on the basis of a [~~misdemeanor~~] conviction of any of the offenses enumerated in this article as disqualification criteria or the commission of any act or acts which would constitute any offense under section [~~one thousand three~~] **thirteen** hundred eighteen of this [~~title~~] **article**, provided that the registrant has affirmatively demonstrated the registrant's rehabilitation, pursuant to article twenty-three-A of the correction law.

4. For the purposes of this section, each **gaming or non-gaming** registrant shall submit to the commission the registrant's name, address, fingerprints and written consent for a criminal history information to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history information as defined in paragraph (c) of subdivision one of section eight hundred forty-five-b of the executive law from the state division of criminal justice services and the federal bureau of investigation consistent with applicable state and federal laws, rules and regulations. The registrant shall pay the fee for such criminal history information as established pursuant to article thirty-five of the executive law. The state division of criminal justice services shall promptly notify the commission in the event a current or prospective licensee **or registrant**, who was the subject of a criminal history information pursuant to this section, is arrested for a crime or offense in this state after the date the check was performed.

5. Upon [~~receipt of such criminal history information~~] **determination that an applicant is disqualified on the basis of the applicant's criminal history**, the [~~Commission~~] **commission** shall provide such applicant with a copy of such criminal history information, together with a copy of article twenty-three-A of the correction law, and inform such applicant of his or her right to seek correction of any incorrect information contained in such criminal history information pursuant to regulations and procedures established by the division of criminal justice services. Except as otherwise provided by law, such criminal history information shall be confidential and any person who willfully permits the release of such confidential criminal history information to persons not permitted to receive such information shall be guilty of a misdemeanor.

6. Each applicant for a gaming registration shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity. Such information shall include data pertaining to character, reputation, criminal history information and prior associations with gaming operations in any capacity, position, or employment in a jurisdiction that permits such activity.

§ 8. Section 1325 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:

§ 1325. Approval, denial and renewal of employee licenses and registrations. 1. Upon the filing of an application for a casino key employee license or gaming employee registration required by this article and after submission of such supplemental information as the commission may require, the commission shall conduct or cause to be conducted such investigation into the qualification of the applicant, and the commis-

sion shall conduct such hearings concerning the qualification of the applicant, in accordance with its regulations, as may be necessary to determine qualification for such license **or registration. Upon the filing of an application for a non-gaming employee registration, and after submission of such supplemental information as the commission may require, the commission may, in its discretion, conduct or cause to be conducted an investigation into the qualification of such applicant**.

2. After such investigation, the commission may either deny the application or grant a license **or registration** to an applicant whom it determines to be qualified to hold such license **or registration. The granting of any such license or registration shall apply only to the job title included in the application and to its associated duties. The commission may, upon request and at its sole discretion, allow transfer of the license or registration to another job title upon determination that the original application would have been satisfactory had it been submitted for the new title**.

3. The commission shall have the authority to deny any application pursuant to the provisions of this article following notice and opportunity for hearing.

4. When the commission grants [~~**an application**~~] **a license or registration**, the commission may limit or place such restrictions thereupon as it may deem necessary in the public interest.

5. After an application for a casino key employee license is submitted, final action of the commission shall be taken within ninety days after completion of all hearings and investigations and the receipt of all information required by the commission.

6. Licenses and registrations of casino key employees and gaming **and non-gaming** employees issued pursuant to this article shall remain valid for five years unless suspended, revoked or voided pursuant to law. Such licenses and registrations may be renewed by the holder thereof upon application, on a form prescribed by the commission, and payment of the applicable fee. Notwithstanding the [~~**forgoing**~~] **foregoing**, if a gaming **or non-gaming** employee registrant has not been employed in any position within a gaming facility for a period of three years, the registration of that gaming **or non-gaming** employee shall lapse.

7. Subsequent to the issuance of a license or registration, the commission may suspend, revoke, or limit the license or registration upon a finding that an applicant is no longer qualified to hold such license or registration in accordance with this article, or as it may deem necessary to protect the public interest, following notice and an opportunity for a hearing. The commission may temporarily suspend a license or registration pending any investigation, prosecution, or hearing if it is deemed necessary to do so to protect the integrity of gaming activities.

8. The commission shall establish by regulation appropriate fees to be paid upon the filing of the required applications. Such fees shall be deposited into the commercial gaming revenue fund.

§ 9. Subdivision 3 of section 1326 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:

3. Vendors providing goods and services to gaming facility licensees or applicants ancillary to gaming**, including vendors with access to the player database or sensitive player information, vendors with heightened security access or information, and junket enterprises** shall be required to be licensed as an ancillary casino vendor enterprise and shall comply with the standards for casino vendor license applicants. **The commission**

may also require any vendor regularly conducting over two hundred fifty thousand dollars of business with a gaming licensee or applicant within a twelve-month period or one hundred thousand dollars of business within a three-month period to be licensed as an ancillary gaming vendor.

§ 10. Subdivision 4 of section 1326 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:

4. Each casino vendor enterprise required to be licensed pursuant to subdivision one of this section, as well as its owners; management and supervisory personnel[~~; and employees if such employees have responsibility for services to a gaming facility applicant or licensee,~~] must qualify under the standards, except residency, established for qualification of a casino key employee under this article. Employees of such vendors that have responsibility for services to a gaming facility applicant or licensee must qualify under the standards established for qualification of a gaming employee registration under this article.

Each ancillary casino vendor enterprise required to be licensed pursuant to subdivision three of this section, as well as its owners; management; supervisory personnel and employees that have responsibility for services to a gaming facility applicant or licensee must qualify under the standards established for qualification of a gaming employee registration under this article.

§ 11. Subdivision 5 of section 1326 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:

5. Any vendor that offers goods or services to a gaming facility applicant or licensee in excess of twenty-five thousand dollars within a twelve-month period that is not included in subdivision one [~~or~~], two or three of this section including, but not limited to site contractors and subcontractors, shopkeepers located within the facility, gaming schools that possess slot machines for the purpose of instruction, [~~and any non-supervisory employee of a junket enterprise licensed under subdivision three of this section~~] vending machine providers, linen suppliers, garbage handlers, maintenance companies, limousine services, and food purveyors, shall be required to register with the commission in accordance with the regulations promulgated under this article.

Prior to conducting business with any vendor not included in subdivision one or two of this section, which is providing business worth less than the thresholds provided in this subdivision, a gaming facility applicant or licensee shall notify the commission of the intended transaction, along with any history of transactions with such vendor, to allow for verification that the licensing requirements of this section do not apply.

All employees of a vendor registered pursuant to this section that provide services upon the premises of a gaming facility are required to be registered as and meet the standards of a non-gaming employee.

Notwithstanding the provisions aforementioned, the executive director may, consistent with the public interest and the policies of this article, direct that individual vendors registered pursuant to this subdivision be required to apply for either a casino vendor enterprise license pursuant to subdivision one of this section, or an ancillary vendor industry enterprise license pursuant to subdivision three of this section, as directed by the commission. The executive director may also order that any enterprise licensed as or required to be licensed as an ancillary casino vendor enterprise pursuant to subdivision three of this section be required to apply for a casino vendor enterprise license

pursuant to subdivision one of this section. The executive director may also, in his or her discretion, order that an independent software contractor not otherwise required to be registered be either registered as a vendor pursuant to this subdivision or be licensed pursuant to either subdivision one or three of this section.

[~~Each ancillary casino vendor enterprise required to be licensed pursuant to subdivision three of this section, as well as its owners, management and supervisory personnel, and employees if such employees have responsibility for services to a gaming facility applicant or licensee, shall establish their good character, honesty and integrity by clear and convincing evidence and shall provide such financial informa-tion as may be required by the commission. Any enterprise required to be licensed as an ancillary casino vendor enterprise pursuant to this section shall be permitted to transact business with a gaming facility licensee upon filing of the appropriate vendor registration form and application for such licensure.~~]

§ 12. Subdivision 6 of section 1326 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:

6. Any applicant, licensee or qualifier of a casino vendor enterprise license or of an ancillary casino vendor enterprise license under subdivision one of this section, and any vendor registrant under subdivision five of this section shall be disqualified in accordance with the criteria contained in section [~~one thousand three~~] **thirteen** hundred eighteen of this article, except that no such [~~ancillary casino vendor enterprise license under subdivision three of this section or vendor registration under subdivision five of this section~~] **applicant, licensee or qualifier** shall be denied or revoked if such [~~vendor registrant~~] **applicant, licensee or qualifier** can affirmatively demonstrate rehabilitation pursuant to article twenty-three-A of the correction law.

§ 13. Section 1326 of the racing, pari-mutuel wagering and breeding law is amended by adding a new subdivision 11 to read as follows:

11. Notwithstanding the preceding subdivisions, the executive director may, in his or her discretion, waive any of the requirements of this section when a gaming facility applicant or licensee can demonstrate that the business relationship with any individual vendor will be limited in scope and duration and that the public interest and the policies of this article would not be diminished by such waiver. In requesting such waiver, the gaming facility applicant or licensee shall provide any and all information needed to make such determination and any and all information needed as a condition of such waiver. The executive director may revoke any such waiver at any time upon a determination that the circumstances upon which such waiver was granted have changed.

§ 14. This act shall take effect immediately.