STATE OF NEW YORK

17--D

2019-2020 Regular Sessions

IN SENATE

(Prefiled)

January 9, 2019

Introduced by Sens. ADDABBO, CARLUCCI, FUNKE, RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming and Wagering -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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) **"Affiliate" means any off-track betting corporation, franchised corporation, or race track licensed pursuant to this chapter, an operator of video lottery gaming at Aqueduct licensed pursuant to section sixteen hundred seventeen-a of the tax law, which has an affiliate agreement with a casino pursuant to section thirteen hundred sixty-seven-a of this title. Any professional sports stadium or arena may serve as an affiliate;**

(b) "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;

(c) "Authorized sports bettor" means an individual who is physically present in this state when placing a sports wager, who is not a prohib-

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

LBD05498-18-9

ited 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;

(d) "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;

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

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

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

[~~(d)~~] (h) "Covered persons" includes: athletes; players; umpires; referees; officials; personnel associated with players, clubs, teams, leagues, and athletic associations; medical professionals, including athletic trainers who provide services to athletes and players; and the family members and associates of these persons where required to serve the purposes of this title;

(i) "Exchange wagering" means a form of wagering in which an authorized sports bettor, on the one hand, and one or more authorized sports bettors, a casino or an agent or an operator, on the other hand place identically opposing sports wagers on an exchange operated by a casino or an agent or an operator;

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

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

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

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

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

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

(p) "Mobile sports wagering platform" or "platform" means the combination of hardware, software, and data networks used to manage, administer, or control sports wagering and any associated wagers accessible by any electronic means including mobile applications and internet websites accessed via a mobile device or computer;

(q) "Official league data" means statistics, results, outcomes, and other data relating to a sporting event that have been obtained from the

relevant sports governing body or an entity expressly authorized by the sports governing body to provide such information to casinos;

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

(s) "Persons who present sporting contests" includes sports governing bodies and associations, their members and affiliates, and other persons who present sporting contests to the public;

[~~(e)~~] (t) "Professional sport or athletic event" means an event at which two or more persons participate in sports or athletic events and receive compensation in excess of actual expenses for their participation in such event;

(u) "Prohibited conduct" means any statement, action, and other communication intended to influence, manipulate, or control a betting outcome of a sporting contest or of any individual occurrence or performance in a sporting contest in exchange for financial gain or to avoid financial or physical harm. "Prohibited conduct" includes statements, actions, and communications made to a covered person by a third party, such as a family member or through social media;

(v) "Professional sports stadium or arena" means a stadium, ballpark, or arena that is the permanent home of a professional sports team playing at the highest professional level in its sport and has a seating capacity for such contests exceeding fifteen thousand seats;

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

(i) any officer or employee of the commission;

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

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

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

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

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

(vii) any individual with access to non-public confidential information about sports wagering;

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

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

(x) any individual placing a wager as an agent or proxy for an otherwise prohibited sports bettor; or

(xi) any minor;

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

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

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

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

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

~~(i)~~] (cc) "Sports wager" means cash or cash equivalent that is paid by an authorized sports bettor to a casino to participate in sports wagering offered by such casino;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[~~4.~~] 3. (a) All persons employed directly in wagering-related activities conducted within a sports wagering lounge shall be licensed as a casino key employee or registered as a gaming employee, as determined by the commission. All other employees who are working in the sports wagering lounge may be required to be registered, if appropriate, in accordance with regulations of the commission.

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

[~~5.~~] 4. Except as otherwise provided by this article, the commission shall have the authority to regulate sports pools and the conduct of sports wagering under this article to the same extent that the commission regulates other gaming. No casino shall be authorized to operate a sports pool unless it has produced information, documentation, and assurances concerning its financial background and resources, including cash reserves, that are sufficient to demonstrate that it has the financial stability, integrity, and responsibility to operate a sports pool. In developing rules and regulations applicable to sports wagering, the commission shall examine the regulations implemented in other states where sports wagering is conducted and shall, as far as practicable, adopt a similar regulatory framework. The commission shall promulgate regulations necessary to carry out the provisions of this section, including, but not limited to, regulations governing the:

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

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

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

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

(e) method of issuing tickets;

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

(g) types of records which shall be kept;

(h) use of credit and checks by [~~patrons~~] authorized sports bettors;

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

(j) the use of global risk management;

(k) type of system for wagering; and

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

[~~6.~~] 5. Each operator shall adopt comprehensive house rules governing sports wagering transactions with its [~~patrons~~] authorized sports

bettors. The rules shall specify the amounts to be paid on winning wagers and the effect of schedule changes. The house rules, together with any other information the commission deems appropriate, shall be conspicuously displayed in the sports wagering lounge and included in the terms and conditions of the account wagering system, and copies shall be made readily available to [~~patrons~~] authorized sports bettors.

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

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

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

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

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

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

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

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

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

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

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

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

7. (a) Within thirty days of the end of each calendar quarter, a casino offering sports wagering shall remit to the commission a sports wagering royalty fee of one-fifth (.20) of one percent of the amount wagered on sports events conducted by registered sports governing bodies. The fee shall be remitted on a form as the commission may require, on which the casino shall identify the percentage of wagering during the reporting period attributable to each registered sport governing body's sports events.

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

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

(d) (i) Persons who present sporting contests shall have authority to remove spectators and others from any facility for violation any appli-

cable codes of conduct, and to deny persons access to all facilities they control, to revoke season tickets or comparable licenses, and to share information about such persons with others who present sporting contests and with the appropriate jurisdictions' law enforcement authorities.

(ii) Persons who present sporting contests shall provide notice to the general public and those who attend sporting contests or visit their facilities of any applicable codes of conduct and the potential penalties for violating such codes.

8. For the privilege of conducting sports wagering in the state, casinos shall pay a tax equivalent to eight and one-half percent of their sports wagering gross revenue, excluding sports wagering gross revenue attributed to mobile sports wagering offered pursuant to section thirteen hundred sixty-seven-a of this title. Casinos shall pay a tax equivalent of twelve percent of their sports wagering gross revenue attributed to mobile sports wagering offered pursuant to section thirteen hundred sixty-seven-a of this title.

9. The commission shall pay into the commercial gaming revenue fund established pursuant to section ninety-seven-nnnn of the state finance law eighty-five percent of the state tax imposed by this section; any interest and penalties imposed by the commission relating to those taxes; all penalties levied and collected by the commission; and the appropriate funds, cash or prizes forfeited from sports wagering. The commission shall pay into the commercial gaming fund five percent of the state tax imposed by this section to be distributed for problem gambling education and treatment purposes pursuant to paragraph a of subdivision four of section ninety-seven-nnnn of the state finance law. The commission shall pay into the commercial gaming fund five percent of the state tax imposed by this section to be distributed for the cost of regulation pursuant to paragraph c of subdivision four of section ninety-seven-nnnn of the state finance law. The commission shall pay into the commercial gaming fund five percent of the state tax imposed by this section to be distributed in the same formula as market origin credits pursuant to section one hundred fifteen-b of this chapter. The commission shall require at least monthly deposits by the casino of any payments pursuant to subdivision eight of this section, at such times, under such conditions, and in such depositories as shall be prescribed by the state comptroller. The deposits shall be deposited to the credit of the state commercial gaming revenue fund. The commission shall require a monthly report and reconciliation statement to be filed with it on or before the tenth day of each month, with respect to gross revenues and deposits received and made, respectively, during the preceding month.

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

11. Nothing in this section shall apply to interactive fantasy sports offered pursuant to article fourteen of this chapter. Nothing in this

section authorizes any entity that conducts interactive fantasy sports offered pursuant to article fourteen of this chapter to conduct sports wagering unless it separately qualifies for, and obtains, authorization pursuant to this section.

12. A casino that is also licensed under article three of this chapter, and must maintain racing pursuant to paragraph (b) of subdivision one of section thirteen hundred fifty-five of this article, shall be allowed to offer pari-mutuel wagering on horse racing events in accordance with their license under article three of this chapter. Notwithstanding subparagraph (ii) of paragraph c of subdivision two of section one thousand eight of this chapter, a casino located in the city of Schenectady shall be allowed to offer pari-mutuel wagering on horse racing events, provided such wagering is conducted by the regional off-track betting corporation in such region as the casino is located. Any other casino shall be allowed to offer pari-mutuel wagering on horse racing events, provided such wagering is conducted by the regional off-track betting corporation in such region as the casino is located. Any physical location where pari-mutuel wagering on horse racing events is offered by a casino and conducted by a regional off-track betting corporation in accordance with this subdivision shall be deemed to be a branch location of the regional off-track betting corporation in accordance with section one thousand eight of this chapter. Mobile sports betting kiosks located on the premises of affiliates in accordance with paragraph (d) of subdivision five of section thirteen hundred sixty-seven-a of this title shall not be allowed to offer pari-mutuel wagering on horse racing events.

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

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

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

(c) The commission shall cooperate with a sports governing body and casinos to ensure the timely, efficient, and accurate sharing of information.

(d) The commission and casinos shall cooperate with investigations conducted by sports governing bodies or law enforcement agencies,

including but not limited to providing or facilitating the provision of account-level betting information and audio or video files relating to persons placing wagers; provided, however, that the casino be required to share any personally identifiable information of an authorized sports bettor with a sports governing body only pursuant to an order to do so by the commission or a law enforcement agency or court of competent jurisdiction.

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

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

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

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

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

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

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

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

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

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

(i) The commission shall investigate all reasonable allegations of prohibited conduct and refer any allegations it deems credible to the appropriate law enforcement entity.

(j) The commission shall establish a hotline or other method of communication that allows any person to confidentially report information about prohibited conduct to the commission. The identity of any person reporting prohibited conduct to the commission shall remain confidential unless that person authorizes disclosure of his or her identity or until such time as the allegation of prohibited conduct is referred to law enforcement.

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

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

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

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

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

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

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

17. Sports wagering conducted pursuant to the provisions of this section is hereby authorized.

18. The commission shall promulgate rules that require an operator to implement responsible gaming programs that include comprehensive employee trainings on responding to circumstances in which individuals present signs of a gambling addiction and requirements for casinos and operators under section thirteen hundred sixty-seven-a of this title to assess, prevent, and address problem gaming by users under the age of thirty. The commission shall establish a hotline or other method of communication that will allow any person to confidentially report information about prohibited conduct to the commission. The commission shall promulgate rules governing the investigation and resolution of a charge of any person purported to have engaged in prohibited conduct.

19. The conduct of sports wagering in violation of this section is prohibited.

20. (a) In addition to any criminal penalties provided for under article two hundred twenty-five of the penal law, any person, firm, corporation, association, agent, or employee, who is not authorized to offer sports wagering under this section or section thirteen hundred sixty-

seven-a of this title, and who knowingly offers or attempts to offer sports wagering or mobile sports wagering in New York shall be liable for a civil penalty of not more than one hundred thousand dollars for each violation, not to exceed five million dollars for violations arising out of the same transaction or occurrence, which shall accrue to the state and may be recovered in a civil action brought by the commission.

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

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

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

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

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

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

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

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

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

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

(i) To follow the requirements imposed on casinos and operators under this section and section thirteen hundred sixty-seven of this title with respect to the Indian Tribe's mobile sports wagering; to adhere to the regulations promulgated by the commission pursuant to this section with respect to mobile sports wagering, and to submit to the commission's enforcement of this section and section thirteen hundred sixty-seven of this title and regulations promulgated thereunder with respect to mobile sports wagering, including by waiving tribal sovereign immunity for the sole and limited purpose of such enforcement. Nothing herein shall be construed as requiring an Indian Tribe's agreement to adhere to the requirements of section thirteen hundred sixty-seven of this title for gaming conducted on tribal lands as a condition of offering mobile sports wagering under this section;

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

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

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

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

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

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

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

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

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

(d) No mobile sports wagering may be conducted within an Indian Tribe's exclusive geographic area unless the Indian Tribe with exclusive geographic right to that area is registered as an operator under this section. Operators shall use geo-location and geo-fencing technology to ensure that mobile sports wagering is not available to persons who are physically located in an Indian Tribe's exclusive geographic area, unless the Indian Tribe with exclusive geographic right to that area is registered as an operator under this section.

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

(i) the development of the initial form of the application for registration;

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

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

(iv) requiring that operators adopt controls to maintain the efficiency of self-exclusion limits; and

(v) requiring that operators utilize commercially reasonable technological means of verifying account holders' identities.

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

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

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

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

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

(v) the type and estimated number of contests to be conducted annually; and

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

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

(d) Upon receipt of an application for registration for each individual listed on such application as an officer or director, the commission shall submit to the division of criminal justice services a set of fingerprints, and the division of criminal justice services processing fee imposed pursuant to subdivision eight-a of section eight hundred thirty-seven of the executive law and any fee imposed by the federal bureau of investigation. Upon receipt of the fingerprints, the division of criminal justice services shall promptly forward a set of the individual's fingerprints to the federal bureau of investigation for the purpose of a nationwide criminal history record check to determine whether such individual has been convicted of a criminal offense in any state other than New York or in a federal jurisdiction. The division of criminal justice services shall promptly provide the requested criminal history information to the commission. For the purposes of this section, the term "criminal history information" shall mean a record of all convictions of crimes and any pending criminal charges maintained on an individual by the division of criminal justice services and the federal bureau of investigation. All such criminal history information sent to the commission pursuant to this subdivision shall be confidential and shall not be published or in any way disclosed to persons other than the commission, unless otherwise authorized by law.

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

(i) has knowingly made a false statement of material fact or has deliberately failed to disclose any information required by the commission;

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

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

(iv) has at any time knowingly failed to comply with any requirement outlined in this section, any other provision of this article, any regulations promulgated by the commission or any additional requirements of the commission.

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

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

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

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

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

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

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

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

(iv) when referencing the chances or likelihood of winning in advertisements or upon placement of a sports wager, make clear and conspicuous statements that are not inaccurate or misleading concerning the chances of winning and the number of winners;

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

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

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

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

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

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

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

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

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

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

(xv) maintain a publicly accessible internet page dedicated to responsible play, a link to which must appear on the operator's website and in any mobile application or electronic platform on which a bettor may place wagers. The responsible play page shall include: a statement of the operator's policy and commitment to responsible gaming; information regarding, or links to information regarding, the risks associated with gambling and the potential signs of problem gaming; the availability of self-imposed responsible gaining limits; a link to a problem gaming webpage maintained by the office of alcohol and substance abuse services; and such other information or statements as the commission may require by rule; and

(xvi) submit annually a problem gaming plan to the commission that includes: the objectives of and timetables for implementing the plan; identification of the persons responsible for implementing and maintaining the plan; procedures for identifying users with suspected or known problem gaming behavior; procedures for providing information to users concerning problem gaming identification and resources; procedures to

prevent gaming by minors and self-excluded persons; and such other problem gaming information as the commission may require by rule.

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

(c) Operators shall not offer any sports wagering based on any prohibited sports event.

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

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

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

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

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

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

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

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

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

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

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

(c) Authorized sports bettors may deposit and withdraw funds in their account on a mobile sports wagering platform in person at a casino, or

an affiliate, electronically recognized payment methods, or via any other means approved by the commission.

(d) In accordance with regulations promulgated by the commission, casinos may enter into agreements with affiliates to locate self-service mobile sports betting kiosks, which are owned, operated and maintained by the casino, and connected via the internet to the casino, upon the premises of the affiliate. Authorized sports bettors may place account wagers, and place and redeem non-account cash wagers, at such kiosks.

(e) All agreements entered into between casinos and affiliates in relation to the provisions of this section shall be approved by the commission prior to taking effect and shall include a plan for the timely payment of liabilities due to the affiliate under the agreement; provided, however, that the commission shall not approve any such agreement between a casino and a racetrack licensed pursuant to this chapter or an operator of video lottery gaming at Aqueduct licensed pursuant to section one thousand six hundred seventeen-a of the tax law, until twelve months after the effective date of this paragraph; and provided, further, that the commission shall not approve any such agreement between a casino and a professional sports stadium or arena, until twenty months after the effective date of this paragraph.

6. The commission shall annually cause a report to be prepared and distributed to the governor and the legislature on the impact of mobile sports wagering on problem gamblers in New York. The report shall include an assessment of problem gaming among persons under the age of thirty. The report shall be prepared by a non-governmental organization or entity with expertise in serving the needs of persons with gambling addictions. The report shall be prepared and distributed under the supervision of and in coordination with the commission. The costs associated with the preparation and distribution of the report shall be borne by operators and the commission shall be authorized to assess a fee against operators for these purposes. The commission shall also report periodically to the governor and the legislature on the effectiveness of the statutory and regulatory controls in place to ensure the integrity of mobile sports wagering operations.

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

24. To regulate sports wagering in New York state.

§ 4. Severability clause. If any provision of this act or application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of the act, but shall be confined in its operation to the provision thereof directly involved in the controversy in which the judgment shall have been rendered.

§ 5. This act shall take effect immediately.