STATE OF NEW YORK

5833

2019-2020 Regular Sessions

IN SENATE

May 15, 2019

Introduced by Sen. GRIFFO -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming and Wagering

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to regulation of 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~~] **Wagering**. 1. As used in this section:

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

(b) "Authorized bettor" means an individual who is physically present in this state when placing a wager, who is not a prohibited bettor, that participates in wagering offered by a casino. All 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 bettor's physical location at the time the wager is initiated.

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

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

[~~(c)~~] **(e)** "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)~~] **(f) "Exchange wagering" means a form of wagering in which an authorized bettor, on the one hand, and one or more authorized bettors,**

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

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a casino or an agent or an operator, on the other hand place identically opposing wagers on an exchange operated by a casino or an agent or an operator;

(g) "Global risk management" means the direction, management, consultation and/or instruction for purposes of managing risks associated with 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;

(h) "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;

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

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

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

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

(m) "Operator" means a casino which has elected to operate a [~~sports~~] pool 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;

[~~(e)~~] (n) "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;

[~~(f)~~] (o) "Prohibited 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 wagering, or the processing of 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 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 wagering;

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

(viii) any amateur or professional athlete if the 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 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 bettor; or

(xi) any minor;

(p) "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)~~] (q) "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;

(r) "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) "Sports pool"~~] (s) "Governing body" means the organization that prescribes final rules and enforces codes of conduct with respect to an event and participants therein;

(t) "Pool" means the business of accepting wagers on any [~~sports~~] event by any system or method of wagering; [~~and~~

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

(v) "Wagering" means wagering on events or any portion thereof, or on the individual performance statistics of participants participating in an event, or combination of events, by in-person communication. The term "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;

(w) "Wagering gross revenue" means: (i) the amount equal to the total of all 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 bettors, however, that the total of all sums paid out as winnings to 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 wagers by authorized bettors retained by the operator. The issuance to or wagering by authorized bettors at a casino of any promotional gaming credit shall not be taxable for the purposes of determining wagering gross revenue;

(x) "Wagering lounge" means an area wherein a [~~sports~~] pool is operated;

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

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

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

(bb) "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.

(cc) "Event" means an event other than a horse race or a greyhound race.

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 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. 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 pool places such wagers with another authorized pool or pools in accordance with regulations of the commission. A pool that places a layoff bet shall inform the pool accepting the wager that the wager is being placed by a 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, 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;

(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 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.

6. (a) Each casino that offers 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 wagers received from authorized bettors;
(ii) the total amount of prizes awarded to authorized bettors;
(iii) the total amount of wagering gross revenue received by the casino;
(iv) the total amount contributed in betting royalty revenue pursuant to subdivision seven of this section;
(v) the total amount of wagers received on each governing body's events;
(vi) the number of accounts held by authorized 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 bettors that requested to exclude themselves from 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 wagering shall remit to the commission a wagering royalty fee of one-fifth (.20) of one percent of the amount wagered on events. 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 event
(b) No later than the thirtieth of April of each year, a registered governing body may submit a claim for disbursement of the royalty fee funds remitted by casinos in the previous calendar year on their respective events. Within thirty days of submitting its claim for disbursement, the registered 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 events.
(c) Within thirty days of its meeting with the registered governing body, the commission shall approve a timely claim for disbursement.
(d) Before any registered governing body may receive any such disbursement of the royalty fee funds, such governing body shall have in place procedures or processes that address:
(i) the protection of athletes, players, umpires, referees, club officials and personnel or officials of a sports league and members of their families and associates from physical attacks, verbal threats, or other forms of harassment occurring in the workplace or elsewhere;
(ii) the authority to remove spectators and others from any facility for violation of a code of conduct, and after appropriate procedure, to deny persons from access to all facilities they control, to revoke season tickets or comparable licenses, and to share information about such persons with other registered governing bodies and with the appropriate jurisdiction's law enforcement authorities.
8. For the privilege of conducting wagering in the state, casinos shall pay a tax equivalent to eight and one-half percent of their wagering gross revenue.

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 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 wagering unless it separately qualifies for, and obtains, authorization pursuant to this section.

12. A governing body may notify the commission that it desires to restrict, limit, or exclude wagering on its 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 wagering. If the commission denies a request, the 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.

13. (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 an event or events for purposes of financial gain.

(b) Casinos shall maintain records of 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 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 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 bettor with a 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 an event or events;

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

(iv) any other conduct that corrupts a betting outcome of an 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 governing body.

(f) Casinos shall maintain the confidentiality of information provided by a 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 an event or events for purposes of financial gain.

(h) The commission shall study the potential for the creation of an interstate database of all 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.

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

(b) Casinos shall only use official league data in all wagering involving tier two wagers, if the relevant 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 governing body may notify the commission that it desires to require casinos to use official league data in 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 wagering involving such tier three wagers if the relevant 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 wagers, other than a supplier of official league data, 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 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 bettor to file a complaint alleging an underpayment or non-payment of a winning wager. Any such regulations shall provide that the commission utilize the statistics, results, outcomes, and other data relating to an event that have been obtained from the relevant governing body, where applicable, in determining the validity of such claim.

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

16. Wagering conducted pursuant to the provisions of this section is hereby authorized.

16-a. 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. 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 regulations governing the investigation and resolution of a charge of any person purported to have engaged in prohibited conduct.

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

18. (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

wagering under this section, and who knowingly offers or attempts to offer 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, 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. 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 wagering in New York state.

§ 3. Subdivision 15 of section 1401 of the racing, pari-mutuel wagering and breeding law, as added by chapter 237 of the laws of 2016, is amended to read as follows:

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

§ 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 on the same date and in the same manner as section 1367 of the racing, pari-mutuel wagering and breeding law pursuant to subdivision (c) of section 52 of chapter 174 of the laws of 2013, as amended, takes effect.