

STATE OF NEW YORK

4856

2023-2024 Regular Sessions

IN SENATE

February 15, 2023

Introduced by Sen. ADDABBO -- 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 interactive gaming

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

1 Section 1. Section 1367-a of the racing, pari-mutuel wagering and
2 breeding law is amended by adding a new subdivision 8 to read as
3 follows:

4 8. No additional mobile sports wagering licenses shall be issued
5 pursuant to this section subsequent to the conversion of any mobile
6 sports wagering platform provider license to an interactive gaming
7 license, as set forth in subdivision two of section fifteen hundred
8 three of this chapter.

9 § 2. The racing, pari-mutuel wagering and breeding law is amended by
10 adding a new article 15 to read as follows:

ARTICLE 15

INTERACTIVE GAMING

11 Section 1500. Legislative intent and findings.

12 1501. Definitions.

13 1502. Eligibility to conduct interactive gaming.

14 1503. Entity licensing.

15 1504. Individual, enterprise and vendor licensing.

16 1505. Requirements for conduct and operation of interactive
17 gaming.

18 1506. Taxation and fees.

19 1507. Responsible gaming requirements.

20 § 1500. Legislative intent and findings. Section nine of article one
21 of the New York state constitution was recently amended and provides
22 "casino gambling at no more than seven facilities as authorized and
23 "casino gambling at no more than seven facilities as authorized and
24 "casino gambling at no more than seven facilities as authorized and

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

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1 prescribed by the legislature shall hereafter be authorized or allowed
2 within this state". It has been, and continues to be, the sense of the
3 legislature that this provision is not contravened by a statute that
4 authorizes the acceptance of a wager by an individual located in New
5 York state who is betting by virtual or electronic means and the wager
6 is accepted through equipment located within a licensed gaming facility;
7 provided that any such wager meets other safeguards ensuring that the
8 plain text of this provision is honored in such structure. Interactive
9 gaming is now legal in seven states, including the bordering states of
10 New Jersey, Pennsylvania, and Connecticut, while it is permitted only in
11 person in New York at four upstate commercial gaming facilities and
12 Native American class III gaming facilities. The legislature hereby
13 finds and declares that an interactive gaming wager that is made through
14 virtual or electronic means from a location within New York state and is
15 transmitted to and accepted by electronic equipment located at a
16 licensed gaming facility, including without limitation, a computer serv-
17 er located at such licensed gaming facility, is a wager made at such
18 licensed gaming facility, notwithstanding any provisions of the penal
19 law to the contrary.

20 § 1501. Definitions. For the purposes of this article, the following
21 terms shall have the following meanings:

22 1. "Authorized casino game" means any gambling game as set forth in
23 subdivision four, nineteen, thirty-eight, thirty-nine or forty-one of
24 section thirteen hundred one of this chapter and associated regulations.
25 An authorized casino game may include gaming tournaments in which play-
26 ers compete against one another in one or more of the games authorized
27 herein or by the commission or in approved variations or composites
28 thereof if such tournaments are authorized.

29 2. "Authorized participant" means an individual who is physically
30 present in the state of New York when placing an interactive gaming
31 wager, who is authorized to participate in gaming pursuant to article
32 thirteen of this chapter, and who participates in interactive gaming
33 offered by a casino or operator. All interactive gaming wagers placed in
34 accordance with this article shall be considered placed or otherwise
35 made when received by the casino or operator at the licensed gaming
36 facility, regardless of the authorized participant's physical location
37 at the time such wager is initiated. The intermediate routing of elec-
38 tronic data in connection with mobile wagering shall not determine the
39 location or locations in which a wager is initiated, received, or other-
40 wise made.

41 3. "Commission" means the New York state gaming commission.

42 4. "Gaming facility" means the premises approved under a gaming
43 license which includes a gaming area and any other non-gaming structure
44 related to the gaming area and may include, but shall not be limited to,
45 hotels, restaurants or other amenities.

46 5. "Interactive gaming" means wagering on authorized casino games
47 online by any system or method of wagering, including, but not limited
48 to, in-person communication and electronic communication through inter-
49 net websites accessed via a mobile device or computer, and mobile device
50 applications.

51 6. "Interactive gaming licensee" means a qualifying entity that has
52 been authorized by the New York state gaming commission to conduct
53 interactive gaming.

54 7. "Interactive gross gaming revenue" means the amount equal to the
55 total of all interactive gaming wagers that an interactive gaming licen-
56 see collects from all authorized participants, less the total of all

1 sums paid out as winnings to all authorized participants, provided,
2 however, that the total of all sums paid out as winnings to authorized
3 participants shall not include the following: (a) the cash equivalent
4 value of any merchandise or thing of value awarded as a prize; and (b)
5 the value of all bonuses or promotions provided to authorized partic-
6 ipants as an incentive to place or as a result of their having placed
7 interactive gaming wagers, not to exceed 1.75 percent of the total
8 amount of all interactive gaming wagers placed with the interactive
9 gaming licensee each month after the first twelve months of interactive
10 gaming wagering.

11 8. "Interactive gaming wager" means cash or cash equivalent that is
12 paid by an authorized sports bettor to a casino or operator to partic-
13 ipate in interactive gaming offered by such casino or operator. Any
14 wager through electronic communication shall be deemed to take place at
15 the physical location of the server or other equipment used by a casino
16 or operator to accept interactive gaming wagering, regardless of the
17 authorized participant's physical location within the state at the time
18 such wager is initiated.

19 9. "Live dealer games" means authorized casino games conducted by live
20 studio dealers or other physical gaming equipment, such as automated
21 roulette wheels, ball blowers or gaming devices, or both, in a live game
22 environment in which the authorized participants have the ability to
23 participate in game play and communicate game decisions through an
24 authorized interactive gaming wagering platform. Live dealer games
25 include, but are not limited to, live card games, live table games and
26 other live authorized casino games.

27 10. "Live gaming studio" means a physical location in New York state
28 that utilizes live video streaming technology to provide authorized
29 casino games to a player's interactive gaming device or multi-use
30 computing device.

31 11. "Live studio dealer" means natural persons, that lead table games,
32 including blackjack, craps, keno, poker, roulette and other authorized
33 casino games while assisting authorized participants with game-related
34 needs, that distribute cards, dice and other equipment to authorized
35 participants according to the table and other authorized games, and that
36 monitor game pace and play.

37 12. "Prohibited participant" means: (a) any officer or employee of the
38 commission; (b) any principal or key employee of a casino, interactive
39 gaming licensee, and its affiliates, except as may be permitted by the
40 commission; (c) any casino gaming or non-gaming employee at the casino
41 that employs such person and any gaming or non-gaming employee of the
42 interactive gaming licensee that employs such person; (d) any contrac-
43 tor, subcontractor, or consultant, or officer or employee of a contrac-
44 tor, subcontractor, or consultant, of a casino or an interactive gaming
45 licensee if such person is directly involved in the operation or obser-
46 vation of interactive gaming, or the processing of interactive gaming
47 claims or payments; (e) any person subject to a contract with the
48 commission if such contract contains a provision prohibiting such person
49 from participating in interactive gaming; (f) any spouse, child, sibling
50 or parent residing in the principal place of abode of any of the forego-
51 ing persons at the same casino or interactive gaming licensee where the
52 foregoing person is prohibited from participating in interactive gaming;
53 (g) any individual placing a wager as an agent or proxy for another
54 person known to be a prohibited participant; or (h) any minor.

55 13. "Qualifying entity" means (a) a destination resort casino licensed
56 under article thirteen of this chapter; (b) a video lottery terminal

1 facility authorized under paragraphs one and two of subdivision a of
2 section sixteen hundred seventeen-a of the tax law, when such video
3 lottery terminal facility conducts racing, as defined in subdivision
4 three of section three hundred one of this chapter, or authorized under
5 paragraph five of subdivision a of section sixteen hundred seventeen-a
6 of the tax law; (c) a federally recognized Indian tribe that has entered
7 into a tribal-state gaming compact in accordance with the Indian Gaming
8 Regulatory Act that is in effect and has been ratified by the state of
9 New York; or (d) a mobile sports wagering platform provider, inclusive
10 of the sports wagering operators the platform utilizes, selected by the
11 commission to conduct mobile sports wagering pursuant to subdivision
12 seven of section thirteen hundred sixty-seven-a of this chapter and
13 section fifteen hundred three of this article. An unlicensed entity
14 offering games or contests that require a license or temporary permit
15 issued by the commission under article thirteen or fourteen of this
16 chapter within the previous three years of the effective date of this
17 article shall be ineligible to receive an interactive gaming license.

18 § 1502. Eligibility to conduct interactive gaming. 1. Only a qualify-
19 ing entity in good standing with the commission or, if the qualifying
20 entity is an Indian tribe, those executive agencies with which it other-
21 wise interacts, shall be eligible to conduct interactive gaming in the
22 state.

23 2. No qualifying entity shall administer, manage, or otherwise make
24 available an interactive gaming platform to persons located in New York
25 state unless it has provided notice of intent to offer interactive
26 gaming to the commission pursuant to this section. Additionally, no
27 entity shall advertise or promote an unlicensed interactive gaming plat-
28 form to persons located in the state of New York.

29 3. (a) Prior to the commission approving an interactive gaming licen-
30 see under section fifteen hundred three of this article to commence
31 operations, the commission shall conduct a comprehensive investigation
32 of the applicant to determine whether the applicant or any of its affil-
33 iates, including entities under common control, is knowingly (i) accept-
34 ing revenue, directly or indirectly, derived from any jurisdiction sanc-
35 tioned by the office of foreign assets control (OFAC) of the United
36 States treasury department, or (ii) accepting or assisting, directly or
37 indirectly, in the acceptance of online wagers or consideration related
38 to online wagering from any country in which such online gambling is
39 prohibited or illegal.

40 (b) The commission shall not approve an interactive gaming licensee to
41 commence operations if the commission determines that the applicant or
42 any of its affiliates, including entities under common control, is know-
43 ingly (i) accepting revenue, directly or indirectly, derived from any
44 jurisdiction sanctioned by the OFAC of the United States treasury
45 department, or (ii) accepting or assisting, directly or indirectly, in
46 the acceptance of online wagers or other consideration related to online
47 wagering from any country in which such online gambling is prohibited or
48 illegal.

49 (c) If at any time during licensure the commission determines that the
50 licensee or any of its affiliates, including entities under common
51 control, is knowingly accepting revenue, directly or indirectly, derived
52 from any jurisdiction sanctioned by the OFAC of the United States treas-
53 ury department, or accepting or assisting, directly or indirectly, in
54 the acceptance of online wagers or other consideration related to online
55 wagering from any country in which such online gambling is prohibited or
56 illegal, the commission shall impose a penalty of license revocation if

1 the commission determines, after notice and an opportunity for hearing,
2 that it would further the public interest to discontinue such operations
3 of the interactive gaming licensee.

4 4. Licenses authorized under this article shall remain in effect for
5 ten years from the date issued. The commission shall establish a process
6 for renewal.

7 5. The commission shall publish a list of all licensees authorized to
8 offer interactive gaming in New York state pursuant to this section on
9 the commission's website for public use.

10 6. Each interactive gaming licensee shall offer no more than one indi-
11 vidually branded skin.

12 7. Notices of intent to offer interactive gaming sent to the commis-
13 sion by a qualified entity shall be acted upon by the commission prompt-
14 ly, with authorization to commence operations being issued no more than
15 thirty days of receipt of the petition.

16 8. To meet the definition of a qualifying entity, an Indian Tribe
17 shall enter into an agreement with the commission with respect to inter-
18 active gaming:

19 (a) to follow the requirements imposed on interactive gaming licensees
20 under this section and section thirteen hundred sixty-seven-a of this
21 chapter with respect to the Indian Tribe's interactive gaming; to adhere
22 to the regulations promulgated by the commission pursuant to this
23 section with respect to interactive gaming, and to submit to the commis-
24 sion's enforcement of this section and section thirteen hundred sixty-
25 seven-a of this chapter and regulations promulgated thereunder with
26 respect to interactive gaming, including by waiving tribal sovereign
27 immunity for the sole and limited purpose of such enforcement. Nothing
28 herein shall be construed as requiring an Indian Tribe's agreement to
29 adhere to the requirements of section thirteen hundred sixty-seven of
30 this chapter for gaming conducted on tribal lands as a condition of
31 offering interactive gaming under this section;

32 (b) to waive the Indian Tribe's exclusive geographic right to offer
33 and conduct interactive gaming, but not otherwise;

34 (c) to remit payment to the state equal to tax on interactive gaming
35 revenue imposed under section fifteen hundred six of this article with
36 respect to interactive gaming;

37 (d) not to offer or to conduct mobile gaming other than interactive
38 gaming pursuant to this section unless such mobile gaming is otherwise
39 authorized by state or federal law; and

40 (e) to locate the server or other equipment used by the Indian Tribe
41 or its agent to accept interactive gaming at a casino that has applied
42 for and is eligible to register as an interactive gaming licensee and to
43 pay the actual cost of hosting the server or other equipment as deter-
44 mined by the commission.

45 9. No interactive gaming may be conducted within an Indian Tribe's
46 exclusive geographic area unless such Indian Tribe with exclusive
47 geographic right to that area is registered as an interactive gaming
48 licensee. Interactive gaming licensees shall use geo-location and geo-
49 fencing technology to ensure that interactive gaming is not available to
50 persons who are physically located in an Indian Tribe's exclusive
51 geographic area, unless such Indian Tribe with exclusive geographic
52 right to that area is registered as an interactive gaming licensee under
53 this section.

54 § 1503. Entity licensing. 1. A qualifying entity shall receive an
55 interactive gaming license upon the effective date of this article. An
56 interactive gaming licensee shall not commence interactive gaming until

1 such time that the commission has promulgated a regulatory scheme and
2 provided approval to commence operations. Such regulations shall be
3 promulgated, and approval issued in a timely manner, but no later than
4 one hundred twenty days following the effective date of this article.

5 2. A qualifying entity shall not incur any additional licensing or
6 administrative fees, or additional expenses outside of those set forth
7 in this section.

8 3. (a) Up to three interactive wagering licenses shall be awarded by a
9 competitive bidding process conducted by the commission. Eligible appli-
10 cants for the competitive bidding process must have at least five
11 percent in the applicant owned, through either a direct or indirect
12 economic interest, by members of a minority group as defined in subdivi-
13 sion eight of section three hundred ten of the executive law.

14 (b) The commission shall issue a request for applications no later
15 than July first, two thousand twenty-three, provided, however, that the
16 deadline for submission of applications shall be no later than thirty
17 days after the date upon which the commission issues such request for
18 applications.

19 (c) The commission shall make determinations to award a license or
20 disqualify an applicant on a rolling basis to expedite issuance of addi-
21 tional licenses and maximize revenue to the state.

22 (d) The commission shall determine the form of application and scoring
23 criteria and make both available on its website.

24 (e) Mobile sports wagering licensees awarded a license by the process
25 set forth in paragraphs (a) through (d) of this subdivision may apply
26 for an interactive gaming licensee upon selection by the commission,
27 allowing such licensees to offer both mobile sports wagering and inter-
28 active gaming.

29 4. As a condition of licensing, the commission shall require that each
30 casino or operator authorized to conduct mobile interactive gaming
31 wagering pay a one-time fee of two million dollars. As a condition of
32 approval of any independent contractor to provide an operator's mobile
33 interactive gaming wagering platform and display its brand, the commission
34 shall require that such independent contractor pay a one-time fee of ten
35 million dollars.

36 § 1504. Individual, enterprise and vendor licensing. Each interactive
37 gaming licensee may contract with an entity to conduct interactive
38 gaming, in accordance with the regulations of the commission. Such enti-
39 ty shall obtain a license as a casino vendor enterprise prior to
40 execution of any such contract, and such license shall be issued pursu-
41 ant to the provisions of section thirteen hundred twenty-seven of this
42 chapter and in accordance with the regulations promulgated by the
43 commission.

44 § 1505. Requirements for conduct and operation of interactive gaming.

45 1. The live gaming studio used to conduct live dealer games shall not
46 be required to be located within the premises of a gaming facility, as
47 defined in subdivision twenty-three of section thirteen hundred one of
48 this chapter, but must be located within the state of New York.

49 2. An applicant for an interactive gaming license that has not yet
50 entered into a labor peace agreement shall produce an affidavit stating
51 it shall enter into a labor peace agreement with labor organizations
52 that are actively engaged in representing or attempting to represent
53 gaming or hospitality industry workers in the state as a mandatory
54 component of its application for an interactive gaming license. In order
55 for the commission to issue an interactive gaming license and for any
56 operations involving live studio dealers to commence, the applicant for

1 an interactive gaming license must produce documentation that it has
2 entered into a labor peace agreement with each labor organization that
3 is actively engaged in representing and attempting to represent gaming
4 and hospitality industry workers in the state. The commission shall make
5 the maintenance of such a labor peace agreement an ongoing material
6 condition of licensure as long as the interactive gaming licensee makes
7 use of live studio dealers. A license holder shall, as a condition of
8 its license, ensure that operations at a live gaming studio that involve
9 gaming or hospitality industry employees or are conducted by contrac-
10 tors, subcontractors, licensees, assignees, tenants or subtenants shall
11 be done under a labor peace agreement containing the same provisions as
12 specified in this subdivision.

13 3. Advertisements for contests and prizes offered by an interactive
14 gaming licensee shall not target prohibited participants, minors, or
15 self-excluded persons.

16 4. Interactive gaming licensees shall develop and prominently display
17 procedures on the main page of such interactive gaming licensee's plat-
18 form for the filing of a complaint by an authorized participant against
19 such interactive gaming licensee. An initial response shall be given by
20 such interactive gaming licensee to such authorized participant filing
21 the complaint within forty-eight hours of receipt. A complete response
22 shall be given by such interactive gaming licensee to such authorized
23 participant filing the complaint within ten business days of receipt. An
24 authorized participant may file a complaint alleging a violation of the
25 provisions of this article with the commission.

26 5. Interactive gaming licensees shall maintain records of all accounts
27 belonging to authorized participants and retain such records of all
28 transactions in such accounts for the preceding five years, provided,
29 however, that such records belonging to an authorized participant shall
30 be readily accessible and downloadable, without cost, by such authorized
31 participant.

32 6. The server or other equipment which is used by an interactive
33 gaming licensee to accept interactive gaming shall be physically located
34 in the licensed gaming facility and be limited to interactive gaming
35 related activities in accordance with regulations promulgated by the
36 commission.

37 7. All interactive gaming initiated in this state shall be deemed to
38 take place at the licensed gaming facility where the server or other
39 equipment used by an interactive gaming licensee to accept interactive
40 gaming is located, regardless of the authorized participant's physical
41 location within this state.

42 8. Subject to regulations promulgated by the commission, an interac-
43 tive gaming licensee may allow for authorized participants to sign up to
44 create and fund accounts on its interactive gaming platform. An interac-
45 tive gaming licensee shall adopt reasonable procedures to ensure that
46 authorized participants have no more than one interactive gaming account
47 with the interactive gaming licensee. However, nothing in this article
48 shall prohibit the use of a single account for a mobile sports wagering
49 account under section thirteen hundred sixty-seven of this chapter and
50 an interactive gaming account set forth pursuant to this article.

51 9. Authorized participants may deposit and withdraw funds to and from
52 their account on an interactive gaming platform through electronically
53 recognized payment methods, including but not limited to credit cards
54 and debit cards, or via any other means approved by the commission,
55 provided, however, that in the case of credit card payments, each
56 authorized participant's account per licensee shall be limited to a

1 credit card spending amount of two thousand five hundred dollars per
2 year. Provided further, such limitation shall not apply to other payment
3 methods or to debit cards. No interactive gaming licensee shall be
4 authorized to provide a line of credit to any authorized participant.

5 § 1506. Taxation and fees. 1. For the privilege of conducting interac-
6 tive gaming in the state, interactive gaming licensees shall pay a tax
7 equivalent to thirty and one-half percent of base taxable gross gaming
8 revenue derived from interactive gaming. Interactive gaming tax revenue
9 shall be separately maintained and returned to the state for deposit
10 into the state lottery fund for education aid.

11 2. From the state tax collected, the commission shall distribute, in
12 conjunction with the office of addiction services and supports, eleven
13 million dollars annually for problem gambling education and treatment
14 purposes.

15 § 1507. Responsible gaming requirements. As a condition of licensure,
16 each operator shall implement the following measures:

17 1. limit each authorized participant to one active and continuously
18 used account on their platform, and prevent anyone they know, or should
19 have known to be a prohibited bettor from maintaining accounts or
20 participating in any interactive gaming wagering offered by such opera-
21 tor;

22 2. adopt appropriate safeguards to ensure, to a reasonable degree of
23 certainty, that authorized participants are physically located within
24 the state when engaging in mobile interactive gaming wagering;

25 3. prohibit minors from participating in any mobile interactive gaming
26 wagering;

27 4. enable authorized participants to exclude themselves from interac-
28 tive gaming wagering and take reasonable steps to prevent suchbettors
29 from engaging in wagering from which they have excluded themselves;

30 5. permit any authorized participant to permanently close an account
31 registered to such bettor, on any and all platforms supported by such
32 operator, at any time and for any reason;

33 6. implement measures to protect the privacy and online security of
34 authorized participants and their accounts;

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

39 8. permit account holders to establish self-exclusion gaming limits on
40 a daily, weekly, and monthly basis that enable the account holder to
41 identify the maximum amount of money an account holder may deposit
42 during such period of time;

43 9. maintain a publicly accessible internet page dedicated to responsi-
44 ble play, a link to which shall appear on the operator's website and in
45 any mobile application or electronic platform on which an authorized
46 participant may place wagers. Such responsible play page shall include
47 (a) a statement of the interactive gaming licensee's policy and commit-
48 ment to responsible gaming, information regarding, or links to informa-
49 tion regarding, the risks associated with gambling and the potential
50 signs of problem gaming; (b) the availability of self-imposed responsi-
51 ble gaming limits; (c) a link to a problem gaming webpage maintained by
52 the office of addiction services and supports; and (d) such other infor-
53 mation or statements as the commission may require by rule;

54 10. submit annually a responsible gaming plan to the commission. The
55 commission shall publish the requirements for the plan;

1 11. ensure no wagering shall be based on game types not approved by
2 the commission;

3 12. when an account holder's lifetime deposits exceed two thousand
4 five hundred dollars, the interactive gaming licensee shall prevent any
5 wagering until the patron immediately acknowledges that the account
6 holder has met the deposit threshold and may elect to establish respon-
7 sible gaming limits or close the account, and the account holder has
8 received disclosures from the mobile sports wagering operator concerning
9 problem gambling resources. Once a patron has reached their lifetime
10 deposit, such patron shall annually make the acknowledgement required by
11 this subdivision; and

12 13. submit annually a problem gaming plan that was approved by the
13 commission in consultation with the office of addiction services and
14 supports that includes (a) the objectives of and timetables for imple-
15 menting such plan; (b) identification of the persons responsible for
16 implementing and maintaining such plan; (c) procedures for identifying
17 users with suspected or known problem gaming behavior; (d) procedures
18 for providing information to users concerning problem gaming identifica-
19 tion and resources; (e) procedures to prevent gaming by minors and self-
20 excluded persons; and (f) such other problem gaming information as the
21 commission may require by rule.

22 § 3. This act shall take effect immediately.