§ 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) "Mobile sports wagering operator" for purposes of this section, means a mobile sports wagering operator as defined by section thirteen hundred sixty-seven of this title.

2. (a) No entity shall administer, manage, or otherwise make available a mobile sports wagering platform to persons located in New York state unless licensed with the commission pursuant to this section.

(b) Licenses issued by the commission shall remain in effect for up to ten years. The commission shall establish a process for renewal.

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

(d) All sports wagers through electronic communication placed in accordance with this section are considered placed or otherwise made when and where received by the mobile sports wagering licensee on such mobile sports wagering licensee's server or other equipment used to accept mobile sports wagering at a licensed gaming facility, regardless of the authorized sports bettor's physical location within the state at the time the sports wager is placed; and provided further that 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.

3. As a condition of licensure the commission shall require that each platform provider authorized to conduct mobile sports wagering pay a one-time fee of twenty-five million dollars. Such fee shall be paid within thirty days of gaming commission approval prior to license issuance and deposited into the state lottery fund for education aid.

4. (a) As a condition of licensure, each mobile sports wagering operator shall implement the following measures:

(i) limit each authorized sports bettor to one active 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 mobile sports wagering operator;

(ii) adopt appropriate safeguards to ensure, to a reasonable degree of certainty, as defined by rules and regulations promulgated by the commission, that authorized sports bettors are physically located within the state when engaging in mobile sports wagering;

(iii) prohibit minors from participating in any sports wagering pursuant to rules and regulations promulgated by the commission;

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

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

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

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

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

(x) 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;

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

(xii) 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;

(xiii) when an account holder's lifetime deposits exceed two thousand five hundred dollars, the mobile sports wagering operator shall prevent any wagering until the patron immediately acknowledges 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 mobile sports wagering operator concerning problem gambling resources. Once a patron has reached their lifetime deposit, such patron shall annually make the acknowledgement required by this paragraph;

(xiv) maintain a publicly accessible internet page dedicated to responsible play, a link to which must appear on the mobile sports wagering 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 mobile sports wagering 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 gaming limits; a link to a problem gaming webpage maintained by the office of addiction services and supports; and such other information or statements as the commission may require by rule; and

(xv) submit annually a problem gaming plan that was approved by the commission in consultation with the office of addiction services and supports 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) No entity shall directly or indirectly operate an unlicensed sports wagering platform in the state of New York, or advertise or promote such unlicensed platform to persons located in the state of New York.

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

(d) Mobile sports wagering licensees 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 a mobile sports wagering operator shall not target prohibited sports bettors, minors, or self-excluded persons.

(f) Mobile sports wagering operators shall develop and prominently display procedures on the main page of such mobile sports wagering operator's platform for the filing of a complaint by an authorized sports bettor against such mobile sports wagering operator. An initial response shall be given by such mobile sports wagering operator to such bettor filing the complaint within forty-eight hours. A complete response shall be given by such mobile sports wagering 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.

(g) Mobile sports wagering licensees 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; provided however that such records belonging to an authorized sports bettor shall be readily accessible and downloadable, without cost, by such authorized sports bettor.

(h) The server or other equipment which is used by a mobile sports wagering licensee to accept mobile sports wagering shall be physically located in the licensed gaming facility and be limited to sports wagering related activities in accordance with regulations promulgated by the commission.

(i) 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 a mobile sports wagering licensee to accept mobile sports wagering is located, regardless of the authorized sports bettor's physical location within this state.

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

5. (a) Subject to regulations promulgated by the commission, a mobile sports wagering operator may allow for authorized bettors to sign up to

create and fund accounts on its mobile sports wagering platform.

(b) Authorized sports bettors may deposit and withdraw funds to and from their account on a mobile sports wagering operator through electronically recognized payment methods, including but not limited to credit cards and debit cards, or via any other means approved by the commission; provided however, that in the case of credit card payments, each authorized sports bettor's account per operator shall be limited to a credit card spending amount of two thousand five hundred dollars per year; and provided further, that this limitation shall not apply to other payment methods or to debit cards. No operator shall be authorized to provide a line of credit to any authorized sports bettor.

6. The commission, in conjunction with the office of addiction services and supports, 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, including, to the extent practicable, an analysis of demographics which are disproportionately impacted by the problem gambling. The costs associated with the preparation and distribution of the report shall be borne by mobile sports wagering licensees and the commission shall be authorized to assess a fee against mobile sports wagering licensees for these purposes. The commission, or in the case that an independent integrity monitor has been established, such independent integrity monitor shall also report biannually 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.

7. A platform provider may be licensed by the commission only after having been selected for potential licensure by the commission following a competitive bidding process in which the commission shall issue a request for applications no later than July first, two thousand twenty-one; provided however, that the deadline for submission of applications shall be no later than thirty days after the date upon which the commission issues such request for applications.

(a) The commission shall select platform providers based upon the criteria set forth in this section no later than one hundred fifty days, to the extent practicable, after the final application is received. The

commission may disqualify applicants from licensure consideration if the applicant or the mobile sports wagering operator or operators included in their bid have not satisfied provision of required application information, fail to meet any platform provider and mobile sports wagering operator eligibility criteria established pursuant to the request for applications, or are deemed by the commission to have not satisfied the criteria pursuant to subdivision five of this section.

(a-1) The commission shall publish on its website the criteria that will be used to score applications based upon the criteria set forth in paragraph (c) of this subdivision; provided however, that such scoring methodology shall award additional points to an applicant that has entered into an agreement that includes revenue sharing related to such mobile sports wagering with compacted Native American tribe(s) or nation(s).

(b) The commission shall determine the form of application for bidders, which shall require, at a minimum, the following information:

(i) Different scenarios for the number of platform providers and number of mobile sports wagering operators licensed by the commission. For each scenario, this shall include estimates of mobile sports wagering gross gaming revenue and the bases for such estimates, the percentage of gross revenue from mobile sports wagering the applicant will pay to the state for the privilege of licensure if chosen, and the percentage of overall mobile sports wagering gross gaming revenue estimated to be generated;

(ii) The number of mobile sports wagering operators the applicant will host on its mobile sports wagering platform, if the applicant is licensed as a platform provider;

(iii) A description of how the applicant will use technology to ensure all bettors are physically within approved locations within the state, that any wager is accepted through equipment physically located at a licensed gaming facility and that necessary safeguards against abuses and addictions are in place;

(iv) The applicant and any associated operators such applicant proposes in its application possess the qualifications, capabilities and experience to provide a mobile sports wagering platform;

(v) A list of all jurisdictions where the applicant and parent company, and mobile sports wagering operator or operators and parent

company or companies have been licensed or otherwise authorized by contract or otherwise to conduct sports wagering operations. This shall include the applicant and its mobile sports wagering operator or operators' experience in such other markets;

(vi) Player acquisition model, advertising and affiliate programs and marketing budget, including details on how the applicant and its mobile sports wagering operator or operators will convert customers from wagering through illegal channels to wagering legally in the state;

(vii) Timeframe to implement mobile sports wagering from award of license;

(viii) The applicant and mobile sports wagering operator or operators' capacity to bring authorized sports bettors into their mobile sports wagering platform; and

(ix) Integrity monitoring and reporting including any current affiliations related to integrity monitoring.

(c) In determining whether an applicant shall be eligible for a platform provider license, the commission shall evaluate how each applicant proposes to maximize sustainable, long-term revenue for the state by evaluating the following factors:

(i) A market analysis detailing the benefits of the applicant's bid as it relates to maximizing revenue to the state;

(ii) Estimates of mobile sports wagering gross gaming revenue generated by the applicant under different scenarios;

(iii) The percentage of mobile sports wagering gross gaming revenue to be paid to the state under different scenarios;

(iv) The potential market share of the mobile sports wagering operator or operators under different scenarios;

(v) Advertising and promotional plans of the mobile sports wagering operator or operators;

(vi) Past experience and expertise in the market of the applicant and any mobile sports wagering operator or operators which are part of such applicant's application;

(vii) The applicant's capacity to rapidly and effectively bring authorized sports bettors into its platform;

(viii) A demonstration of how and to what degree the applicant fosters racial, ethnic, and gender diversity in its workforce;

(ix) Timeframe to implement mobile sports wagering from award of

license;

(x) Any other factors that could impact the integrity, sustainability or safety of the mobile sports wagering system; and

(xi) Any other factors that could impact revenue to the state.

(d) The commission shall award a license to each of the two highest scoring platform providers that submit applications; provided however, that such awards shall require that both winning platform providers pay the same tax rate; and provided further, that the commission shall require that no less than four mobile sports wagering operators will be operating in the state. The commission may award additional licenses if it determines that such additional awards are in the best interests of the state; provided however, that any additional platform providers awarded licenses must also agree to pay the same tax rate as those platform providers that were initially awarded licenses by the commission. The award of any such license shall require each applicant to remit the highest percentage of gross gaming revenue from mobile sports wagering contained in an applicant's bid selected by the commission considered for licensure. A qualified applicant shall be afforded the ability to revise its bid in any such manner in order for such bid to meet the percentage of gross gaming revenue from mobile sports wagering as required by the commission for license award, provided that the bid does not incorporate any additional operators not already included in the bid; and provided however that it is not determined by the commission that the revised bid no longer meets all requirements and criteria established pursuant to this section and the request for applications. Any applicant that does not revise its bid to meet the percentage of gross gaming revenue from mobile sports wagering required by the commission for license award shall not be awarded a license.