



Comparative Governance and Regulatory Structures of Gaming Regulation Related to Expanded Legalized Gaming Activities in the Commonwealth of Virginia

Consulting Report by Regulatory Management Counselors, P.C.

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EXECUTIVE SUMMARY

Introduction

In 2019, with the passage of Senate Bill 1126, the General Assembly tasked the Joint Legislative Audit and Review Commission (“JLARC”) with conducting a review of casino gaming laws in other states. The goal of this report is to compile an overview of various priorities and regulatory structures established by other states that have legalized commercial gambling in order to guide the General Assembly in establishing the Commonwealth of Virginia’s gaming regulatory system.

To that end, JLARC identified seven peer states (Delaware, Kansas, Maryland, Massachusetts, Michigan, Ohio, and West Virginia) for a full regulatory review based upon certain geographic, demographic and revenue data, and an additional five states (Illinois, Indiana, Iowa, New York and Pennsylvania) for a review limited to the site and operator selection process. These states provide a diverse overview of gaming regulatory approaches and the selection process that each state utilized. This report will provide information on these approaches and processes to provide guidance on options that the Commonwealth may have relating to selection of casino operators and on gaming regulatory structure and best practices.

Casino Control Infrastructure

As will be detailed below, casino regulation generally consists of an appointed governing individual or a governance body along with a regulatory agency that performs the bulk of the regulatory and licensing activities. Some states have tasked their Lottery Commissioner or their Lottery Commissions with this added responsibility. The states that have separate Casino Control governance boards or commissions usually range in size from 5-9 individuals appointed by some combination of the governor, senate and house, with most oversight boards having a certain number of appointments with specific qualifications (i.e., business experience, accounting experience, gaming experience, etc.). Such governance boards are predominately part-time boards, holding meetings monthly or bi-monthly and serving as the approval for ratification or denial of licensing recommendations presented by the regulatory agencies and serving in a policy-setting role.

Regardless of the type of ultimate oversight (lottery or separate casino control entity) the broad duties of the regulatory agency fall into four categories: (1) Licensing; (2) Accounting; (3) Gaming Oversight and Enforcement; and (4) Responsible Gaming Regulation. Agency staffs vary in size greatly depending on the structure of the regulatory system and the types of gaming activities being monitored. States that allow table games at their casinos together with slot machines have additional regulatory oversight responsibilities compared to states offering slot or video lottery terminal play only utilizing a central monitoring system tracking the gaming activity. While it has been successfully shown that state Lottery commissions can oversee the regulation of casinos, the additional responsibilities that come with this will require significant additional staffing with knowledgeable individuals as the additional regulatory tasks involved will be significant. In the identified peer states, staffing responsible for gaming regulatory activities ranged from approximately 60 employees to around 150 employees.

Site and Operator Selection

With states that introduce casinos into limited and competitive markets, the process usually involves a competitive bid process for the casino location, the operator, or both. Some states have allowed local jurisdictions (cities or counties) to play a role in the selection process either in directly making the selection or by approving the selection (either through a local vote and/or by requiring some sort of agreement between the locality and the operator). Some states with existing horse racing industries have chosen to place the casino locations at racetracks (such as West Virginia, Delaware and Ohio) in an effort to help promote that industry.

The majority of states have utilized a competitive process that enables the state to ensure that the strongest and most competitive operators and operators are chosen to maximize casino revenue and to ensure the continuing health of the gaming industry. This approach is designed to maximize the benefits that will flow from the casino operations to the community.

Several states have utilized a multi-tiered process where a separate facility review board chooses the location and/or operator and a second entity handles the licensing of the operators. Having such a system reduces the possibility of a gaming regulator developing a bias in favor of an operator and letting that bias potentially influence its licensing decisions and regulatory oversight process.

Licensing

Casino gaming regulatory agencies have extensive licensing powers, with some jurisdictions requiring any company that does business over certain dollar amounts with a gaming operator to become licensed (such as Michigan and Massachusetts) and others only requiring licensure of those companies that provide equipment actually used in gaming activities. All agencies surveyed prioritize the level of investigation and disclosure required of licensees, with the most scrutiny leveled on gaming operators and gaming-related vendors. The policy goal of such extensive licensing is to seek to ensure that no one with any ties to criminal elements has financial ties to the casino operation. This standard goal of the industry arose out of the history in Nevada decades ago where some of the casino operations had ties to organized crime figures. Given that casinos are a type of financial entity that handle millions of dollars of cash flow on a regular basis, most states and their gaming regulators want to ensure that everyone involved is pristine in character and integrity.

The investigative process related to licensing in casino gaming states also typically involves a review of both the ownership and the management of casino operations and/or suppliers to the industry. The individuals in these roles are subject to licensing investigations as “qualifiers” in the license of the casino or supplier involved. In most states, 5 percent or greater owners (with the exception of institutional investors who hold their investments passively) are put through a thorough licensing scrutiny process. Those individuals in a decision-making capacity, i.e., a chief executive officer, chief financial officer, other top tier management, members of the board (other than outside directors) etc., also typically must go through this process. Such requirements typically include criminal background checks involving disclosure and investigation of any crimes

either rising to the felony level or involving dishonesty ever committed by the applicant. Significant financial investigations, including reviews of checks, bank account statements, investments, etc., is commonly required of some applicants, as well as interviews with character witnesses and past employers or business partners.

In addition to the owners and high-level management employees, employees involved in the conduct of gaming, security, or the cashier and cage are put through a very thorough licensing investigation. Other employees for either operators or suppliers who perform at least some of their work on the casino floor (e.g. cocktail waitresses) are likewise subject to licensing investigations, albeit commonly with less scrutiny than owners and management.

From a big picture policy perspective, it is important to note that the industry standard approaches to licensing relating to casino gaming will require a much more extensive level of staffing of trained investigators than what is needed for the ongoing conduct of a state lottery. Lotteries typically have state employees handling operations and have a limited number of suppliers and service providers who typically have been thoroughly vetted in many other states. With casino operations, there is a vastly larger number of suppliers and employees involved. All of this requires ongoing investigative staff to both conduct the initial licensing investigations and to deal with developments over time.

States that have authorized casino gambling typically provide as part of the state statute involved that such licenses are given as a “privilege” rather than as a “right”. Under existing constitutional precedent this type of language typically is used so that courts will generally avoid second-guessing the decisions of the gaming regulators on licensing matters, so long as they are not arbitrary or capricious in their approach. If a court were to construe a casino industry related license to be a form of property “right” after it is granted, in some jurisdictions the burden of proof could fall on the regulator to justify an adverse decision when taking a license away. As a public policy matter, most states want to make clear their intention to give the regulators broad discretionary authority.

Timeline

The typical timeline for a state legalizing a new form of commercial gambling between the passage of enabling legislation and the opening of a facility is between three and four years. Of the twelve states surveyed in this report, there were only three states that had a casino opened in less than two years from the passage of the enabling legislation and of those, two of them (Delaware and West Virginia) had legislation requiring the placement of the casinos at existing racetracks.

What may seem like an elongated timeframe becomes more understandable when one considers that the regulatory agency (even if it is an existing Lottery department) must hire a significant number of staff in completely new areas of expertise, develop the state’s regulations governing licensing, enforcement, auditing, and other areas of regulatory focus, and must handle the soliciting and evaluating of casino development applications and/or license applications. Once the agency reaches the point where it can solicit applications, the evaluation process involves not only construction and business plans for brand new facilities, but also the in-depth background investigation of all key persons to ensure they are suitable for licensure.

Tax Rates and Distributions

The tax rates on gambling operations and the purposes for which states use the revenue vary widely. There is a trade-off between the rate of taxation involved and the amount of capital investment that operators are willing to make. Thus, high tax rates typically result in smaller facilities and less economic spin-off activity. The peer states have tax rates on table games and slot machines (other than VLTs) ranging from 15% to 35%. Tax rates can be further categorized into those for video lottery terminals (“VLTs”) (essentially slot machines utilized by Lottery departments typically placed into racetracks or used in states where the constitution prohibits private ownership of slot machines) and table games. VLT tax rates vary from a low of 33.5% in Ohio to a high of between 40% and 61% in Maryland. With respect to table game tax rates, they range from a low of 15.5% in Delaware to a high of 35% in West Virginia.

With respect to utilization of revenue, there is no uniformity between the peer states. Although most states do provide some form of restriction with regard to where the money will go, this typically depends on what the state views to be the most important need for the revenue. Typical examples of where such funds are earmarked include school aid, local government revenue sharing, support of horseracing, reducing state debt, improving state infrastructure, and reducing local property taxes.

Casino Operational Oversight

The peer states demonstrate that regulatory oversight of casino gambling commonly involves several different categories of regulatory activity designed to ensure the integrity of the operations.

All states require ongoing financial reporting and audits of casinos. The audits are usually performed by state gaming regulatory employees and the review of the financial reporting is also conducted by state employees. States typically require ongoing compliance with internal controls standards. Some states have provided minimum standards to the casino operators that need to be complied with, although none of the peer states have specific requirements contained in their statutes. Due to the changing nature of technology, states have chosen to either provide minimum requirements via agency regulations or directives and require submission of confidential internal controls for approval to the state agency or, in the case of Massachusetts, have included internal controls requirements in agency regulations.

Typically state regulatory bodies require ongoing reporting by casinos of all sorts of developments including any internal control violations or any violations of criminal laws that may take place on premise or by those considered to be licensees of the agency or “qualifiers” of licensees. State staffs get involved in reviewing these matters and ensuring appropriate follow up enforcement action is taken by the regulatory body.

Another key area is the approval of technology and games through a gaming laboratory that tests and certifies equipment. This testing is designed to ensure that the games being played are fair and meet the regulatory standards of the jurisdiction involved. Most states have moved to utilizing private lab companies for such certification together with review by state regulatory employees

who are technology experts although a few states have maintained their own gaming laboratories within the state agency to do testing.

As mentioned in section D.1, under federal law casinos are considered financial institutions that need to comply with a host of anti-money laundering provisions. There are also certain data privacy and fraud protection requirements that apply to casino operations. Typically, casino regulators monitor whether the casinos are fulfilling their responsibilities in these areas as part of the ongoing operational oversight they provide.

Finally, states frequently have requirements or prohibitions on a variety of catch-all categories. These include minimum age to play (21 in most commercial casinos), smoking bans, rules for providing complimentary alcohol, patron dispute procedures, offering credit to players, providing complimentary play, and the development of house and game rules.

Responding to and Mitigating Social Costs of Gambling

In conjunction with the expansion of gaming comes the responsibility to minimize potential harms related to the industry's introduction and increased presence. This effort usually is spearheaded by and between gaming regulators and state health departments, in coordination with law enforcement, mental health professionals, gaming licensees and other stakeholders. Virtually all states have provided for mandated funding in support of responsible gaming programs and mitigation efforts through legislation or regulation. Commonly regulated responsible gaming practices include voluntary self-exclusion programs and the restriction of certain financial instruments, as well as requirements for responsible gaming plans, employee training, information on risks and resources and certain advertising disclosures.

With respect to mitigation of problem gaming, other state efforts in addition to self-exclusion programs may include play management and information tools like win or loss limits and warning messages. Public education, helplines and financial support for treatment of gambling disorder and training for treatment providers are also common. Common funding elements include tracing of behavioral characteristics of problem gamblers and research relating to ways to mitigate the problem. Some states have set up programs allowing the customer to set gambling limits and/or warning messages relating to rate of play or amount spent, and most states make sure that there is adequate education provided to the public on the topic. Several jurisdictions also provide ongoing funding for research on prevalence of problem gambling in their population as well as on the effectiveness and impacts of responsible gaming strategies. Section D.1 contains a more detailed discussion of these issues along with key considerations for development of a responsible gaming framework.

C-1 AND C-2 COMPARATIVE GOVERNANCE AND REGULATORY STRUCTURES

Introduction

Selection Process

There are various models to consider with respect to the legalization of any industry in a particular state. With respect to the casino gaming industry, one of the primary decisions the state leaders need to determine is whether it will be an open market or a limited license market. Nevada, Mississippi, and New Jersey are examples of states that have established an open market system where investors can apply for a license from the state and make an application based upon development requirements, but the state has not limited the number of licenses that it can issue. Delaware, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michigan, New York, Ohio, Pennsylvania, and West Virginia are all examples of jurisdictions that have established strict licensing allocation restrictions and permit a limited number of licenses to be issued. In limited license markets, the state must determine which governmental body will review applications and ultimately issue the licenses, as well as what the requirements will be surrounding the development of the casino enterprises. In open licensing markets, the state establishes broad-based development criteria and the issuance of licenses and location of developments is delegated to appointed commission/board members. Either model is then followed and supported by a robust licensing, enforcement, and accounting regulatory framework.

In states with a limited licensing model the state must make a determination as to whether local community leaders will take the lead on identifying developers or whether an existing or newly created state agency will be delegated the responsibility.

Overview of the Importance of Gaming Regulation.

In the past 30 years there has been a vast expansion of gaming in the United States. A key reason for the successful expansion of the industry is that proper regulatory oversight has ensured that casinos can be operated in a way to create employment opportunities, generate governmental revenue, and generate tourism with a minimization of any adverse impacts that may have historically been suggested to be involved with gaming. Today casino gambling is authorized in 48 states of the United States (including tribal casinos), providing a significant number of different jurisdictional approaches to proper governance and regulatory structures.

Virtually all states that have successfully authorized commercial casino gaming have the following common four prongs to the gaming regulatory systems adopted:

1. Licensing;
2. Accounting;
3. Gaming Oversight and Enforcement; and
4. Responsible Gaming Regulation.

As will be discussed below, the differences in regulatory approaches from state to state tend to relate to the ways each state goes about accomplishing the policy objectives of each of the four major prongs.

Licensing. Licensing is arguably the most important prong in a gaming regulatory system. The basic concept of licensing is to keep bad actors out of the industry by refusing to license them. Although approaches to licensing vary, almost all jurisdictions look at:

- Suitability (ensuring that honest, law abiding citizens with high ethics are given licenses).
- Financial resources. Is the licensee capable of handling the financial requirements of the industry and/or could the licensee become vulnerable to corruption due to financial problems?
- Capacity to manage casinos. Does the licensee have adequate experience and capability to operate a commercial casino?

The basic premise of licensing is that the regulators are trying to predict future behavior. By keeping people and companies who are not suitable away from the industry, the regulators seek to ensure that problems will not arise within the casino operations in their respective states.

Depending on the particular approach each state takes in allowing gaming, the approaches to licensing vary. The differences often depend on the form of gaming involved, and how closely monitored the particular authorized gaming activity will be. With lottery terminals, for example, electronic records help track all the key data to assure that the lottery operation is not being utilized for improper or illegal reasons (such as money laundering). Thus, lotteries typically focus their licensing reviews on the major suppliers of the electronic equipment, most of which are very well-established entities that have been licensed in numerous jurisdictions in the past. In contrast, casino operations have a need for all kinds of different suppliers to help their operation provide the full casino gaming experience that casino patrons desire.

One key issue that all jurisdictions grapple with is who or what people or entities involved in the gaming industry should be required to be licensed. This varies from state to state. Generally, to answer this question, the states need to consider and decide who, through their positions or strength, or through the volume of business that they do with the gaming operator, have the ability to influence casino operations and operators. Key questions include whether unions, contractors, and suppliers need to be licensed. If suppliers are licensed, a key question is whether all suppliers need to go through the licensing and qualification process, or just suppliers of products used in the conduct of gaming (such as slot machine manufacturers, roulette wheel, and dice manufacturers).

Once a state makes a determination about who should require licensing, another key jurisdictional question is what the depth of review should be. The State of Nevada grants its regulators discretion to evaluate who they want to license in connection with casinos and their suppliers. The intent of this discretionary flexibility is to allow regulators to look for potential areas where criminal elements could find ways to be involved in casino operations. Decades ago, there had been a history in Nevada of involvement in casino operations by members of organized crime. This all changed dramatically in the 1960s as the state rewrote its gaming law with the specific intent to get rid of any criminal elements and to attract more mainstream and Wall Street investment.

Nevada reaped the benefits of this approach as it led to explosive growth and major investments in infrastructure within the state by the financial community.

The approach taken by many other states focuses on mandatory licensing of both operators, their key employees, sometimes lower level employees, gaming suppliers, and nongaming suppliers meeting certain dollar thresholds of business. New Jersey developed a very detailed regulatory structure providing clearly defined standards of which people and entities are required to be licensed (both gaming and nongaming), and this model has been followed in many places as gaming has expanded throughout the United States.

Other key “depth of review” questions include a focus on what governmental agency should do the investigation. Some states have relied on state police investigators, while others have investigative teams directly working for the gaming regulator. Another key variable is how in-depth the investigation should be? Some jurisdictions run and rely on criminal background checks and tax clearance checks, whereas others delve deeply into each individual’s personal financial information and personal background information to see if there are red flags or issues of concern.

A key question in analyzing the best approach for a state is what the competitive environment is. The more detailed the investigative process chosen, the more costly it becomes, and these costs ultimately get passed along to the casino customer. As the gaming industry has matured and expanded throughout the World, a vast network of suppliers to the industry has developed. Many of these companies are publicly traded, regulated by the Securities and Exchange Commission or other governmental agencies, and they devote tremendous resources to ensuring that they comply with all governmental regulations. Many have established “Compliance Committees” to provide broad oversight and to make sure that the high standards are met on a daily basis.

Accounting and Audit Oversight. Another key prong of any casino gaming regulatory environment is ensuring proper accounting and audit procedures are in place. Casinos are, essentially, financial institutions through which a great deal of money flows. Accordingly, it is vitally important for any gaming regulator to ensure proper accounting procedures and audit processes are in place. These typically include the following:

1. **Recordkeeping.** Regulations typically require detailed records identifying revenues, expenses, assets, liabilities, and equity. Additionally, detailed information regarding all of the games is typically required.
2. **Internal Controls.** Casinos are all required to adopt internal control procedures to be approved by the regulators to allow proper control oversight of fiscal operations.
3. **Compliance Reporting.** Typically, each year an annual independent accountant’s report on the casinos’ compliance with standards is required to be submitted.
4. **Audited Reviewed Financial Statements.**
5. **Bank Secrecy Act and Anti-Money Laundering Compliance.** There are detailed federal requirements (discussed further in D-1) with which casinos are required to

comply. Often, state regulators may want assurance that such regulation is occurring.

6. Audit by Regulators. Regulators frequently audit licensees on both financial and compliance matters.

Enforcement. The third key prong of most gaming regulatory systems is focused on enforcement of applicable laws and regulations. Enforcement efforts typically not only seek to detect and provide some form of punishment for violations, but also focus on prevention and ways to reduce the likelihood of noncompliance through education and training of the people involved.

A key question regarding enforcement is who within the state government will be performing the task. Some jurisdictions rely on police agencies, others use specially trained agents with experience that work directly for the gaming regulator.

Another key way that some regulators help enforce gaming laws and regulations is by maintaining a visible presence. Some casinos have law enforcement or gaming enforcement officers present on an ongoing basis to observe all aspects of the operation.

Any gaming regulatory body must also have a way to investigate complaints to ensure the integrity of gaming. Casinos get disputes from patrons that need to be investigated and evaluated. Instances of cheating and/or theft by patrons and/or employees require investigations.

Additionally, there should be some form of routine inspection of gaming equipment. Most states rely on approved and licensed private gaming laboratories to do testing of gaming equipment, while a few states have set up state labs to undertake this role.

Often, regulators may also run covert operations to ensure ongoing compliance with restrictions on underage gambling, to ensure that underage drinking is not occurring, and to verify that casino employees are complying with proper regulatory and accounting processes.

Enforcement also typically involves some form of disciplinary process, allowing those accused due process regarding alleged wrongdoing. Many gaming jurisdictions give their regulators the power and authority to impose fines (within limits) on those licensed people or entities that commit violations. Often, such fines are used in lieu of a suspension or a complete revocation of the license, although all regulatory bodies typically are also given those powers as well. Effective regulatory practices look toward imposing sanctions as a last resort, with efforts at education and prevention being the primary focus of effort to seek to have those in the industry voluntarily comply with all requirements.

Responsible Gaming. The last key prong of most gaming regulatory systems is focused on dealing with problem gamblers and how to mitigate social impacts of gaming on the surrounding communities. Approaches vary significantly throughout jurisdictions, with about the only constant being the establishment of exclusion and self-exclusion lists. Jurisdictions approach the issue with different mindsets ranging from merely requiring casinos to pay money into a fund that is expended for problem gambling advertisement and treatment, to researching, studying and crafting complex

responsible gaming programs that are designed and tweaked to be deployed to address specific demographics and/or geographic areas that are pre-disposed or vulnerable to addictive behaviors.

State governmental leaders, and the industry, have invested hundreds of millions of dollars in government resources to get out in front of social impact issues by developing a host of different intervention and treatment approaches. As new states have entered the commercial gaming space there has been a desire to layer additional requirements on the industry. Many of these have resulted in positive benefits to the impacted population. At the same time, there has been overreach with certain requirements that have had limited benefit. In order to maximize the benefits of a responsible gaming regulatory framework, consideration of the defined public policies objectives with clear ways to measure is a key component. There are various stakeholders that are key to developing an effective social impact framework, including, but not limited to: gaming regulators, state mental health, local community organizations, faith-based organizations, law enforcement/corrections, casino operators, lottery, industry suppliers, etc. Section D.1 of this report contains a comprehensive summary and evaluation of research, programs and approaches to social mitigation and problem gambling.

Importance of Fitting the Adopted Regulatory System to the State or Community Involved.

Historically, there were two jurisdictions that had legalized land-based casinos, Nevada (where commercial casino gaming became legal in 1931) and New Jersey (where commercial casino gambling was legalized in 1976 with the first Atlantic City casino opening in 1978). As new jurisdictions authorized commercial casino gaming, logically they looked to the regulatory systems in Nevada and New Jersey after which to model their regulatory approaches.

As gaming expanded into additional jurisdictions, many places restricted gaming locations to only occurring on riverboats or dockside gaming facilities. The states where this occurred adopted their own unique regulatory approaches and adopted certain provisions unique to riverboat operations.

The next major wave of gaming expansion was states where commercial urban land-based casinos were authorized as economic development and tourism vehicles. As casino gaming was introduced in states such as Michigan, Ohio, and Pennsylvania policy makers in these states necessarily had to grapple with some unique issues and the need for balancing both state and local interests in a way that ensured that the best choices were made and to ensure that they adopted comprehensive regulatory approaches.

Not surprisingly, as each state adopted laws and regulations to govern the industry, the legislators and policy makers often looked at the approach to gaming regulation taken in other states. Often, each new state that authorized gaming would pride itself in having the toughest standards to ensure integrity of the gaming industry. This often resulted in policy makers taking and combining any tough standards that they saw in other laws and adopting them as part of their new law. For many years, this led to an escalation of the licensing and compliance standards, which created some practical problems.

An example of a problem that arose occurred in the state of Michigan, where the policy makers decided it would be wise to adopt a prohibition on licensees of any type from making state or local political contributions. When looking for models of legislative language, the policy makers

fashioned their provisions off some riverboat states and included a one-year lookback provision (barring suppliers who had made such contributions in the prior year). For riverboat jurisdictions where the concept came from this type of lookback made sense as typically the boat would be constructed by an out of state company and delivered to the jurisdiction. Thus, these riverboat suppliers were limited in number and did not usually have any ties to the state.

As written and passed by the Michigan legislature, no supplier licensee which had made political contributions in the year prior to getting licensed was eligible for licensing. For a region like Detroit, the impact of this law would have precluded any Detroit area construction contractors from being involved in the building of the facilities, a result the legislature had clearly not intended. Fortunately, the lookback aspect of the law as applied to suppliers ended up being declared unconstitutional by the Michigan Attorney General.¹

In recent years, time and attention has been given by the industry and by industry regulators to the topic of regulatory reform in an effort to try to identify impractical regulations that arose. The American Gaming Association has done a series of whitepapers on the topic.² Additionally, several organized groups including the International Association of Gaming Regulators have worked on some uniform standards that states can take to create greater efficiencies for the background and disclosure review process.

Goals and Methodology of this Report

Our goal in writing this report is to provide JLARC with data and information so that the Commonwealth of Virginia will gain an understanding of gaming regulatory systems and approaches that provide for accountability, ensure operational integrity and provide consumer protections, and that provide for effective oversight and good public policy.

In the coming pages of this Section, we review the history and regulatory governance structures in several “peer states” and provide information on how each of these states approached and handles licensing, accounting and audit oversight, and gaming operational oversight and enforcement.

To identify peer states, a variety of demographic and revenue data was utilized. Using materials derived from the U.S. Census Bureau, the American Gaming Association 2018 State of States report, and information published by the Massachusetts Gaming Commission, data was collected regarding the following demographic categories:

- Population
- Total Population Age 18 or Older
- % of Population Over 18
- % of Population over Age 65
- % of Male Population over Age 18
- % of Population over 18 holding at least a bachelor’s degree
- Total Land Area
- Population Density
- Census division
- Median Household Income

- % of Adults at or below poverty income level in past 12 months
- Number of Land-Based Casinos
- Number of Riverboat Casinos
- Number of Racinos
- Number of Tribal Casinos
- Number of Card Rooms
- Number of Locations with Electronic Gaming Devices outside of casinos or card rooms
- Whether a state Lottery is authorized and whether online sales are legal
- Whether online gaming or sports betting is legal.

Using the data compiled, the following criteria were utilized in narrowing peer states for purposes of this Analysis:

- Is the state in the same census division (South Atlantic) as Virginia, has a population no greater than 10 million more than Virginia and has at least one casino or racino (automatic inclusion)?
- Does the state have at least one casino, no more than five casinos, no card rooms or gaming devices outside of a casino, and a population no greater than 10 million more than Virginia (required for inclusion)?
- Is the state in a Census division bordering Virginias division?
- Is this population within 3.5 million of Virginia?
- Is the population density within 200 people per square mile of Virginia's?
- Are the state's median income (within \$20,000) and poverty rate (within 3 percentage points) similar to Virginia's?
- Is the percentage of the population holding at least a bachelor's degree within 5 percentage points of Virginia?

Based on the criteria above, the following states have been identified as Peer States:

Delaware
Kansas
Maryland
Massachusetts
Michigan
Ohio
West Virginia

For each peer state our review will include a discussion of the following topics:

1. Site and Operator Selection Process
2. Approach to the Involvement of Local Interests
3. Licensing Discussion
4. Accounting, Audit and Taxation
 - a. State tax rates?
 - b. Local?

- c. State vs. local splits?
 - d. Regulatory assessments
- 5. Gaming Oversight and Enforcement
- 6. Staffing and Budgetary Issues
 - a. Lottery's Role?
 - b. How is charitable gaming regulated?
 - c. How is horse racing regulated?
- 7. Timeline for Creation of Regulatory Body

In addition to the peer states identified above, other states were reviewed for consideration with respect solely to the portion of the Analysis dealing with the important topic of the various approaches to the selection of sites and operators. Based upon these criteria, the following additional states were studied for their site and operator selection process:

Illinois

Indiana

Iowa

New York

Pennsylvania (related to original Category 1 licensees)

Combined with the peer states, these states provide a solid variety of approaches to gaming regulation and have dealt with unique community aspects in different ways. Thus, there are lessons to be learned from each state as Virginia policy makers consider the best approach to gaming regulation in the Commonwealth.

In order to provide Virginia with the broad spectrum of viewpoints we conducted interviews of over 50 individuals consisting of state gaming commission executive directors, current and former industry executives, non-profit association executives, researchers, scholars, governmental officials and private sector consultants to obtain opinions on industry best practices, suggested innovations and needed regulations for a nascent gaming regulatory environment.

We will also provide our further observations on gaming regulatory systems for your consideration. Part of this discussion will center on the next frontier of gaming expansion, including the issues of online gaming, eSports, and sports wagering. In approaching these topics, based on our discussions with you, we developed an understanding that Virginia could incorporate all forms of casino style gaming into the industry landscape (slots, table games, online, mobile, sports, etc.). We also understand that Virginia has very well-established regulatory processes in place to oversee the existing state Lottery, charitable gaming in the state, and the horse racing industry. We understand that these existing forms of gaming and horse racing are important to the state and the communities they serve, and that a key policy objective that the legislature may have will be to assure the continuing health of these segments of the gaming industry.

Finally, at the very end of this report we will provide a list of public policy issues and will include some recommendations/alternatives on how these issues could be addressed.

State by State Analysis

Overview of Commercial Gaming in Peer States

	DE	KS	MD	MA	MI	OH	WV
# of VLT Licenses	3	0	6	NA	NA	7	4
# of Table Games Licenses	3	4	6	2	3	4	5
Horse Racing	✓		✓	✓	✓	✓	✓
Charitable Gaming	✓	✓		✓	✓	✓	✓
Online Gambling	✓						
Sports Wagering	✓						✓
Fantasy Sports	✓	✓	✓	✓		✓	✓
Tax Rate	41.5-42.5% VLTs; 15% table games	27% gaming revenue	40-61% VLTs; 20% table games	25% casino revenue; 49% racino revenue	19% gaming revenue	33% casino; 33.5% VLT	53.5% gaming machine; 35% table games
Casino License Term & Fee	\$3MM annually	15 years	15 years; \$3MM	\$600/VLT annually	\$25,000 annually	\$1.5MM casinos every 3 years	\$500K-\$2.5MM annually
VLT License Term & Fee	None	NA	15 years; \$500/VLT annually	NA	NA	\$10K/3 yr racinos	1 years; \$1,000
Supplier License Term & Fee	Gaming \$4K/3 years	Gaming Certif./2 years; no fee	Mfr \$5K annually; Distributor \$1K annually	Gaming \$15K/3 years	Supplier \$5K annually	Gaming-Related \$15K/3 years	Mfr \$10K annually; Supplier \$100 annually
Min. Invest.		✓		✓		✓	
Tax Free Play	Partial		Partial		✓		Partial
Gaming Lab	Private	Private	Private	Private	Private	Private	State
Gambling Age	21	21	21	21	21	21	21
Smoke-Free	✓		✓	✓	Partial	✓	
Credit	✓			✓	✓	✓	✓
Comp Alcohol				✓	✓		✓
Hours Restrict.?	No	No	No	No	No	No	No
Pol. Contr. Ban				✓ (casino)	✓ (casino)		

*Data pulled in part from AGA's 2019 State of the Industry Report.

DELAWARE

Introduction

Delaware's Lottery Department is the primary regulator of casino gambling. The Lottery's Executive Director is Vernon Kirk. We did not get an opportunity to interview Delaware regulators.

Delaware Lottery Office
McKee Business Park
1575 McKee Road, Suite 102
Dover, DE 19904
<https://www.delottery.com/>

History

The State of Delaware has a long history of regulating gambling. It initially passed legislation regulating horse racing in 1933, established a state Lottery in 1974, and authorized commercial gaming in the form of slot machines in 1994³ and table games in 2010.⁴ Horse racing is regulated by the Delaware Thoroughbred Racing Commission, a division of the Delaware Agriculture Department.⁵ Bingo halls were authorized by constitutional amendment in 1957 and Delaware enacted statutes creating the State Bingo Control Commission. In 1981, the Delaware Gaming Control Board was created and assumed the duties of the State Bingo Control Commission. It was subsequently renamed the Board of Charitable Gaming⁶ and currently is responsible for charitable gaming regulation. Delaware was the first state to launch online gaming offerings through its three racinos in 2013.⁷ It also launched sports wagering on June 5, 2018.⁸

	Horse Racing	VLTs	Commercial Gaming	Charitable Gaming	Online Gaming	Sports Wagering	Fantasy Sports
Year Authorized?	1933	1994	2010	1953	2013	2018	2017
# of Locations?	3	3	3	NA	NA	3	NA

Site and Operator Selection

Delaware has three racinos that offer table games, slot machines and online gambling. While previously existing as horse tracks, Delaware Park and Dover Downs both added slot machines in 1995, and Harrington Raceway added slots in 1996. By enacting the Horseracing Redevelopment Act ("HRA") in 1994, the legislature opted to allow expansion of gaming exclusively within the existing footprint of horse racing. Section 2 of the HRA explicitly stated this goal: "In authorizing a video lottery, it is the further purpose of the General Assembly to (1) provide non-state supported assistance in the form of increased economic activity and vitality for Delaware's harness and thoroughbred horse racing industries, which activity and vitality will enable the industry to improve its facilities and breeding stock, and cause increased employment, and (2) restrict the location of such lottery to locations where wagering is already permitted and controls exist."⁹

It took over fifteen years before Delaware passed further gaming expansion legislation. In 2010, it passed HB 310 that had three main parts: (1) creating the Delaware Lottery Commission,¹⁰ (2) creating the Division of Gaming within the Delaware Department of Safety and Homeland Security;¹¹ and (3) authorizing table games at the existing racinos. In doing so, it empowered the newly created Lottery Commission to regulate both the existing slot machines and the newly authorized table games. As before, the legislature restricted operation of table games to the existing racino locations as opposed to authorizing additional casino locations.

Facility	Locality	Racetrack Facility	Video Lottery Machines ¹²	Table gaming positions ¹²
Delaware Park	Wilmington, DE	Yes	2,300	63
Delaware Park	Wilmington, DE	Yes	2,300	63
Dover Downs	Dover, DE	Yes	2,300	41
Harrington Raceway	Harrington, DE	Yes	1,800	42

Local Government Involvement

The racetracks in Delaware existed before the introduction of VLTs and table games and were well established contributors to the local economy. Thus, unlike some of the other peer states discussed below, the introduction of casino style gaming to support the racing industry did not necessitate the need for a selection process or for local focused agreements to be entered into to address local interests beyond the continued economic viability of the racetracks.

Licensing

The Delaware Lottery oversees licensing with the Division of Gaming Enforcement responsible for performing background checks and suitability reviews to provide the Lottery with recommendations on applicants.¹³ The Division of Gaming Enforcement is under the supervision of the Secretary of Safety and Homeland Security, and has exclusive jurisdiction of gaming-related criminal offenses.¹⁴ Delaware is unique among the reviewed peer states in having an external agency conduct background investigations of its applicants.

Under Delaware law, table game operators, VLT operators and fantasy sports operators need to be licensed.¹⁵ Additionally, “service companies” must be licensed.¹⁶ A service company is any vendor offering goods or services relating to the manufacture, operation, maintenance, security, distribution, service or repair of video lottery machines, sports lottery machines or table game equipment,¹⁷ any vendor offering goods or services to a video lottery agent on a regular and continuing basis,¹⁸ and any person providing gaming excursion services on a regular and continuing basis¹⁹ to a video lottery agent.²⁰ The licensing process assesses the honesty and integrity of the company, and the fitness and background standards relating to competence, honesty and integrity of the company.²¹ The license fees are \$4,000 for gaming vendors,²² and \$2,000 for non-gaming vendors and gaming excursion providers.²³ Banks and other licensed lending institutions and licensed insurance companies are exempt from licensing requirements.²⁴ Institutional investors²⁵ may petition for an exemption from licensing, provided that they own 15%

or less of an applicant and certify that they hold the ownership interest for investment purposes and will not influence or affect the affairs of the applicant.²⁶

	Casino Operator	VLT Operator	Service Company (Gaming)	Service Company (Non-Gaming)	Fantasy Sports Operator	Occupational Licensing
Initial Term	1 year	NA	2 years	3 years	3 years	3 years; 5 years Gaming Room Service Employee
Initial Fee	\$3,000,000	NA	\$4,000	\$2,000	\$50,000 annually	\$500 Key Empl; \$200 Gaming Empl; fingerprint cost for Gaming Room Service Empl
Renewal Term	NA	NA	3 years	4 years	TBD	4 years; 6 years Gaming Room Service Employee
Renewal Fee	Same	NA	Same	Same	Same	Same
Exemption	NA	NA		✓ (Under \$10K; banks, insurance, etc.)		
Temporary License	NA	NA		✓		✓
Institutional Investor	✓	✓	✓	✓		NA
Ownership Disclosure Threshold				✓ (10%)	10% corps; 5% other entities	NA
Categories	NA	NA	NA	NA	NA	Key Employee, Gaming Employee, Gaming Room Service Employee

All officers, directors, key employees,²⁷ 10% or more owners, gaming room service employees,²⁸ gaming employees,²⁹ and sports lottery operations employees must be licensed through the Lottery department.³⁰ Initial licenses for key employees, officers, directors and 10% or more owners have a term of two years, with a renewal term of three years.³¹ Initial licenses for gaming employees and sports lottery operations employees have a term of three years, with a renewal term of four years.³² Initial licenses for gaming room service employees have a term of five years, with a renewal term of six years.³³

All applicants must undergo a background check conducted by the Division of Gaming Enforcement.³⁴ Applicants are evaluated based upon their character, honesty and integrity.³⁵ Key license and gaming employee applicants must demonstrate financial stability, responsibility and integrity.³⁶ A felony conviction at any time, a gambling offense or a crime of moral turpitude within the past ten years, or the commission of an act that, if prosecuted, would fall within either category, disqualifies an applicant.³⁷ If a conviction has been pardoned or expunged, it is not an automatic disqualification, but could result in disqualification.³⁸ An applicant does have an opportunity to demonstrate by clear and convincing evidence that he or she has been rehabilitated

from such crime.³⁹ All information provided in the application or investigative process is deemed confidential and is not a public record subject to disclosure.⁴⁰ The Director is authorized to approve temporary licenses of no more than six months upon a showing of good cause.⁴¹

Both sports lottery agents and internet lottery agents do not have to undergo a separate application and licensing process as only licensed video lottery agents are eligible to hold either of those licenses.⁴²

For fantasy sports, the registration for operators is effective for three years.⁴³ Application forms require identification of 10% owners for corporations and 5% owners for other forms of business entities and a criminal background check on all such owners, officers, directors and key employees.⁴⁴

Accounting, Audit and Taxation

Delaware has only assigned audit staff to table games—within the table games division of the Delaware Lottery, Delaware has a chief internal auditor and three assistant auditors. Similarly, Delaware has assigned all its gaming supervisors to the table games division, with each location having a gaming inspection supervisor and 6 or 7 gaming inspectors.⁴⁵

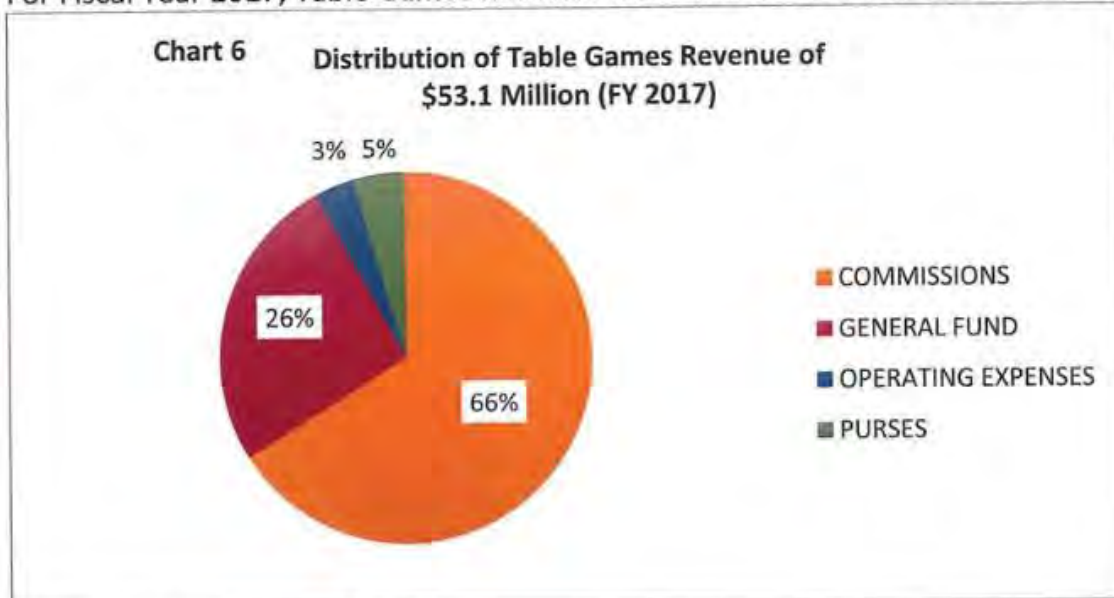
Revenue from gaming proceeds is placed into the general fund of the State of Delaware. Unlike most states, the revenue from Lottery and gaming is not earmarked for specific purposes or programs. The Director has the power to determine the apportionment of revenues among payment of prizes, payment of costs, and payment of earnings to the General Fund, with the restriction that at least 30% of lottery revenue is paid into the General Fund.⁴⁶

With respect to table game revenue, the state has enacted a tax of 15.5% on gross gaming revenue.⁴⁷ With respect to video lottery machines, the tax rate is 42.5% unless the facility has revenue (after return of proceeds to players) below \$107,500,000, in which case the tax rate is 41.5%.⁴⁸ Video lottery agents may offer free promotional play to players if recommended by the Director and approved by the Secretary of Finance.⁴⁹ Such free play is not taxed.⁵⁰ Beginning in fiscal year 2020, the percentage of return is reduced by 2% if the video lottery agent's capital expenditures equal or exceed 3% of net proceeds.⁵¹ For the calendar year 2018 only, the percentage of capital expenditures must equal or exceed 2.8% of net proceeds.

Tax Rates and Distributions

Of the revenue received by the State, revenue received from table games must first be used to offset administrative costs such as payroll, law-enforcement and security expenses.⁵² After costs, the greater of \$250,000 or 1% of proceeds is allocated to the Division of Substance Abuse and Mental Health of the Department of Health and Social Services for treatment, education and assistance of compulsive gamblers.⁵³ The next revenue expenditure is costs of the Administrator of Racing and racing inspectors and the remainder is transferred to the State's General Fund.⁵⁴

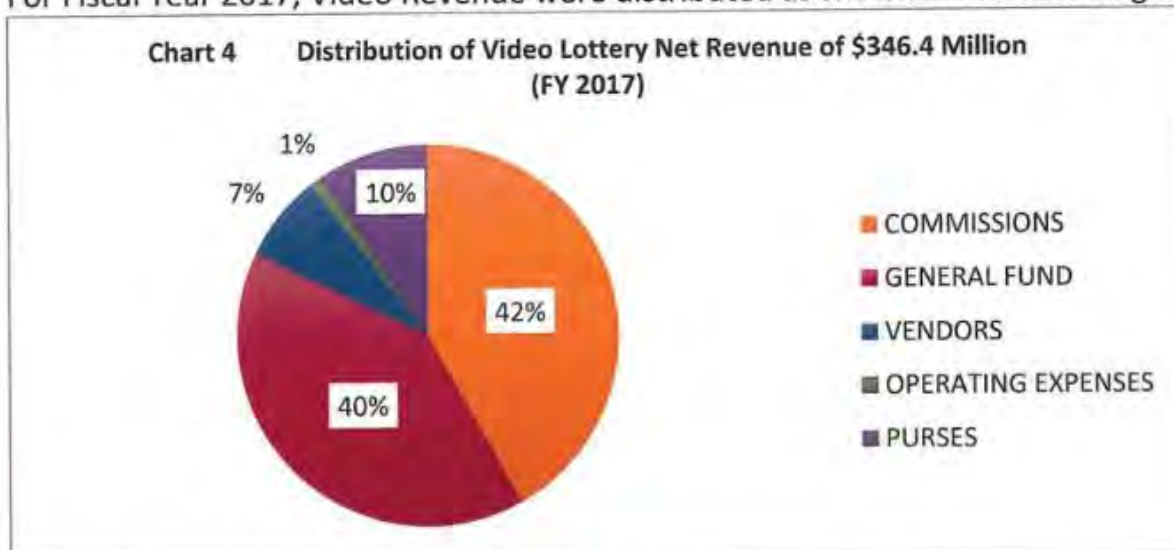
For Fiscal Year 2017, Table Games Revenue were distributed as shown in the charts below:



Source: Lottery Internal Records

Revenue received from video lottery sales must first be used to offset administrative costs such as payroll, law-enforcement and security expenses.⁵⁵ After costs, the greater of \$1,000,000 or 1% of proceeds is allocated to the Division of Substance Abuse and Mental Health of the Department of Health and Social Services for treatment, education and assistance of compulsive gamblers.⁵⁶ The next revenue source is costs of the Administrator of Racing and racing inspectors, then the State's contribution to the Delaware Standardbred Breeder's Program and Delaware Certified Thoroughbred Program.⁵⁷ Any remaining revenue is transferred to the State's General Fund.⁵⁸

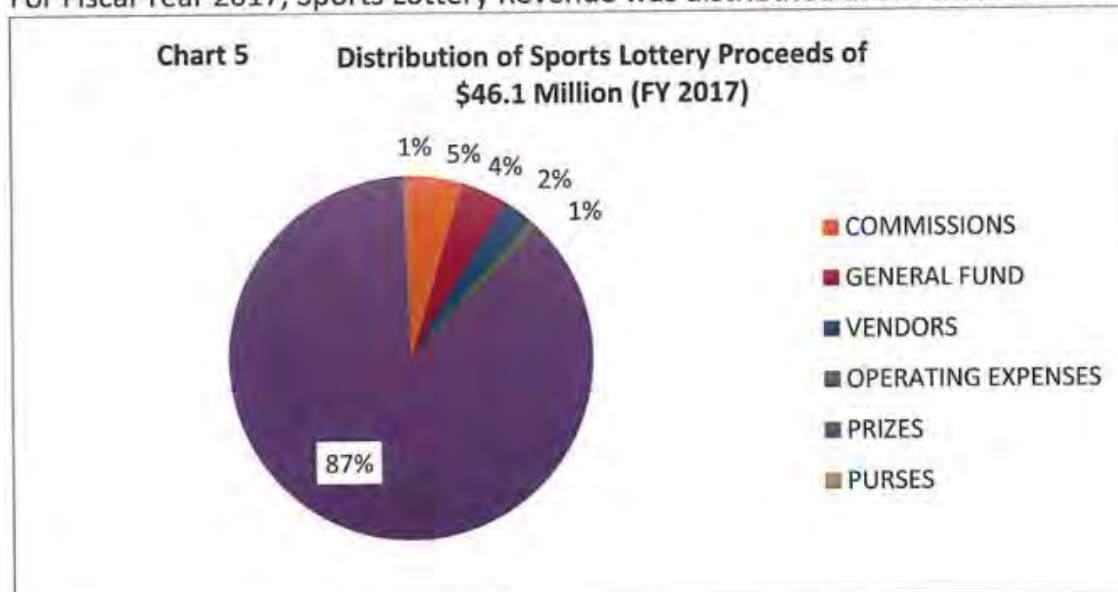
For Fiscal Year 2017, Video Revenue were distributed as shown in the following charts:



Source: Lottery Internal Records

With respect to proceeds from the operation of sports wagering, after paying winning wagers, revenues are split 50% to the General Fund, 40% to the casino, and either 10.2% or 9.6% to supplement horse racing purses.⁵⁹

For Fiscal Year 2017, Sports Lottery Revenue was distributed as shown in the charts below:



Source: Lottery Internal Records

With respect to internet gaming, whether it is video lottery or Internet table games, the proceeds shall first be used for the payment of operation and administration costs.⁶⁰ The next \$3,750,000 is transferred to the State Lottery Fund.⁶¹ With respect to Internet video lottery games, the remaining revenue is taxed at the same 42.5% or 41.5% rate as outlined above with respect to normal video lottery sales.⁶² With respect to Internet table games, the remaining revenue is taxed at a 15.5% rate.⁶³

In addition to taxing revenue, table game licensees must pay total license fees of \$3,000,000 per year.⁶⁴ The fee allocation between the three racinos is determined by each racino's percentage of gross table game revenue in the prior fiscal year.⁶⁵ For fiscal year 2020 only, the license fee was suspended.⁶⁶ In fiscal year 2021 and beyond, the proportional share of the \$3,000,000 license fee owed by each racino may be reduced by the amount of qualified investments made by each racino.⁶⁷ A qualified investment may include marketing of promotional lottery game items and any increase wages and benefits (excluding executive compensation) to the extent such wages and benefits are higher than the period ending December 31, 2017, measured as a percentage of proceeds.⁶⁸

Fantasy sports operators must pay a 15.5% license fee on their gross receipts from the State of Delaware.⁶⁹

The chart below shows state revenues:⁷⁰

Year	VLT *	I-Gaming	License Fees	Table Game	Sports Lottery	Total
2018	\$354,200,000	\$2,200,000	\$3,200,000	\$54,600,000	\$54,700,000	\$645,700,000
2017	\$353,100,000	\$2,700,000	\$3,200,000	\$53,100,000	\$46,100,000	\$628,000,000
2016	\$361,100,000	\$2,600,000	\$3,200,000	\$54,000,000	\$39,400,000	\$635,300,000
2015	\$357,700,000	\$1,800,000	\$3,200,000	\$51,500,000	\$37,900,000	\$452,100,000
2014	\$363,800,000	\$1,400,000	\$3,300,000	\$52,500,000	\$31,500,000	\$452,500,000

* Includes expired jackpots and credit slips

Gaming Oversight and Enforcement

Delaware offers a full complement of gaming, including table games, charitable gaming, video lottery,⁷¹ a state Lottery,⁷² online casino-style gaming,⁷³ daily fantasy sports,⁷⁴ and live horse racing.

With respect to table games, Delaware law specifies that all wagers are lotteries under state control.⁷⁵ It adopts the traditional definition of a lottery: consideration, chance and a prize.⁷⁶ With respect to potential games of skill, Delaware law provides that until the element of skill is the predominant factor, the table game is characterized as a lottery.⁷⁷

Charitable video lottery machines are limited to charitable gaming organizations who must apply for and receive approval from the Director.⁷⁸ After conducting background investigations and reviewing for suitability, the Division of Gaming Enforcement provides a recommendation to the Director on each application.⁷⁹ Each charitable organization is initially limited to up to 10 machines, plus an additional machine for every 70 members of the organization over 500 members, capped at a maximum of 25 machines.⁸⁰ Player payback must be between 60% and 86%.⁸¹ After payment of prizes, the State receives 40% of the proceeds, unless the charitable video lottery machine is connected to the lottery's central computer system, in which case the State received 35% of the proceeds.⁸² The State pays the vendor who supplies the machines from its share of revenue and must send 1% of its revenue to the Division of Substance Abuse and Mental Health of the Department of Health and Social Services for treatment, education and assistance of compulsive gamblers.⁸³ The charitable organization must donate at least 40% of its revenue from the charitable video lottery machines to a charitable purpose.⁸⁴

Delaware has set up a five-person Advisory Council on Charitable Gaming Planning to advise the Secretary of Finance.⁸⁵ Its members include the Director of the State Lottery Office and four members who must be a member of an eligible charitable organization, with one member appointed by the President Pro Tempore of the Senate, one appointed by the Speaker of the House and two members appointed by the Governor.⁸⁶ Members do not receive compensation for their service.⁸⁷

	Member 1	Member 2	Member 3	Member 4	Member 5
Appointing Authority	NA	Senate	House	Governor	Governor
Director of State Lottery Office	✓				
Members of Eligible Charitable Organization		✓	✓	✓	✓

Delaware has also set up seven-person Advisory Council on Video Lottery Planning to advise the Secretary of Finance.⁸⁸ Its members include the Director of the State Lottery Office, one member from each of the racino properties, two members representing licensed manufacturers of video lottery machines and/or the central computer system of the Lottery, to be appointed by the Director, and one sports lottery agent appointed by the Director.⁸⁹ Members do not receive compensation for their service.⁹⁰

	Member 1	Member 2	Member 3	Member 4	Member 5	Member 6	Member 7
Appointing Authority	NA	Delaware Park	Dover Downs	Harrington Raceway	Lottery Director	Lottery Director	Lottery Director
Director of Lottery	✓						
Delaware Park Rep		✓					
Dover Downs Rep			✓				
Harrington Raceway Rep				✓			
Licensed VLT Manufacturer or Central Computer System Rep					✓	✓	
Sports Lottery Agent							✓

The Director is delegated the authority to determine the type and number of sports lottery games⁹¹ as well as the type and number of table games.⁹² Sports lottery games can be offered only by the three racinos.⁹³ Sports lottery games, video lottery machines and table games may only be located at one of the three racetracks and cannot be placed in hotels or motels.⁹⁴ All sports lottery machines and video lottery machines are owned by the state.⁹⁵ All table game equipment purchases must be approved by the Director and copies of all purchases, leases, repair or maintenance contracts relating to equipment must be filed with the Director.⁹⁶ Each property may have a maximum of 2,500 video lottery machines, with the Director having the authority to recommend up to an additional 1,500 machines.⁹⁷ Each machine must be tested on a periodic basis through a private, independent laboratory.⁹⁸

Delaware has also authorized online casino-style gaming. Software for Internet lottery must have geolocation features as only players physically located within Delaware can play.⁹⁹ Internet lottery must also have procedures verifying players are at least 21 years old, excluding players who have signed up for the self-exclusion list, and authentication methods verifying the identity of the player.¹⁰⁰

In July 2017, Delaware enacted legislation permitting fantasy sports. In doing so, Delaware legislated that fantasy sports are not games of chance because the element of skill is predominant.¹⁰¹ Operators of fantasy sports contests must register with the Director.¹⁰² Currently, there are three operators registered with Delaware: Draft, DraftKings and Fanduel.¹⁰³ Operators must have systems in place to ensure each player only has 1 active account,¹⁰⁴ ensure players are at least 18 years old,¹⁰⁵ allow players to self-exclude,¹⁰⁶ identify “highly experienced players” participating in any contest,¹⁰⁷ list information on each website for assistance with compulsive

play including a toll-free number,¹⁰⁸ and ensure advertisements do not target prohibited participants, minors, or self-excluded players.¹⁰⁹

Under Delaware law, the property rights in a license are expressly deemed to be a privilege and not a property right.¹¹⁰ This provision is to ensure that the gaming authority has the maximum discretion and can make decisions that are not likely to be overturned by judicial review unless there has been an abuse of that discretion.

Any adverse decision taken by the Director may be appealed to the Lottery Commission within 30 days.¹¹¹ The Lottery Commission must schedule a time and place for the hearing within 30 days of receipt of the demand.¹¹² The applicant has the burden to demonstrate by clear and convincing evidence that the Director's determination was in error.¹¹³ At the end of the hearing, the Lottery Commission shall enter an order either denying or upholding the petition. The applicant has the right to appeal the Lottery Commission's order to the Superior Court of Delaware in accordance with the Delaware Administrative Procedures Act.¹¹⁴ Any person whose license has been revoked or application denied cannot reapply for a license for a period of five years.¹¹⁵

Staffing and Budgetary Issues

Commercial gambling is regulated by the Delaware Lottery, which is assisted by the Division of Gaming in performing background investigations, in addition to investigation and prosecution of criminal gambling offenses. The Lottery Director is appointed by the Secretary of Finance with the written approval of the Governor.¹¹⁶ Delaware law outlines specific required qualifications for the Director, including five or more years of experience as the head of a company or governmental agency having to do with public gaming, be in good health, have a good reputation, shall not hold political office while serving as Director, and must be a United States citizen.¹¹⁷ The Director has the power to appoint deputy directors who must have at least 3 years' management experiences and an additional 3 years' experience in the same field.¹¹⁸ The Delaware Lottery department has had between 58 and 59 full-time equivalent employees since 2011. Of these, 3 comprise the director, the district attorney general, and an assistant; 12 are within the traditional lottery department; 28 are within the table games division; 4 are within the video lottery division; and another 12 are within the operations and administration department. Operating expenses are summarized in the chart below.¹¹⁹

Year	Advertising & Promotions	Payroll & Related Benefits	Other General & Administrative	Total
2018	\$3,147,412	\$5,506,623	\$1,791,987	\$10,446,022
2017	\$3,287,302	\$5,758,648	\$1,676,294	\$10,722,244
2016	\$3,193,949	\$5,905,596	\$1,634,149	\$10,733,694
2015	\$3,057,702	\$5,877,778	\$1,704,982	\$10,640,462
2014	\$3,007,072	\$6,225,777	\$1,687,995	\$10,920,844

The 2017 organization chart (the most recently available) is attached as **Exhibit 1**.

Delaware also has a Lottery Commission within the Department of Finance consisting of five members.¹²⁰ The members are compensated \$250 per each day of attendance at Commission meetings, capped at 24 meetings per year.¹²¹ One member must be a certified public accountant,

one member must be a lawyer, one member must be a businessperson, one member must have law enforcement background and one member must be from the general public, all appointed by the Governor and confirmed by the Senate.¹²² None of the members can be members of the Standardbred Owners Association, the Delaware Thoroughbred Horsemen's Association, or an employee or agent of a video lottery agent or sports lottery agent.¹²³ Each member serves a five year term and cannot serve more than one term.¹²⁴ The table below summarizes the requirements for each seat of the Lottery Commission.

	Member 1	Member 2	Member 3	Member 4	Member 5
Appointing Authority	Governor	Governor	Governor	Governor	Governor
CPA	✓				
Attorney		✓			
Businessperson			✓		
Law Enforcement				✓	
Member of Public					✓
Not Member of Standardbred Owners Association	✓	✓	✓	✓	✓
Not Member of Delaware Thoroughbred Horsemen's Association	✓	✓	✓	✓	✓
Not Employee or Agent of Video Lottery or Sports Lottery Agent	✓	✓	✓	✓	✓

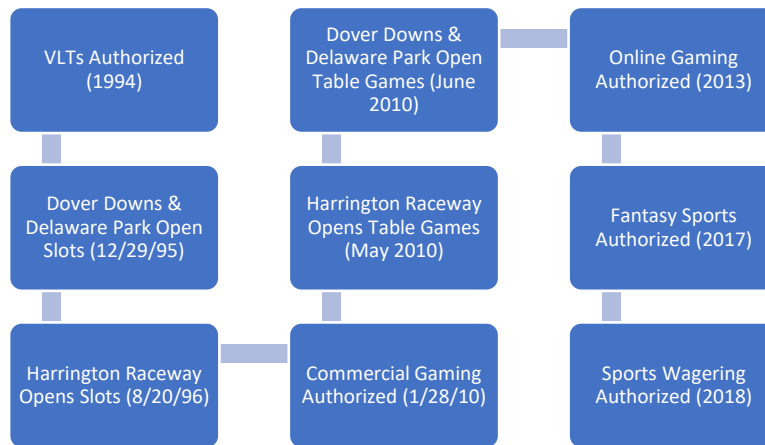
The governor may remove any member at any time for gross inefficiency, neglect of duty, malfeasance, or nonfeasance.¹²⁵ The Lottery Commission has an advisory role in general,¹²⁶ with the exception that it serves as the administrative law forum for challenges to decisions by the Director as outline above.¹²⁷ The Commission also reviews and approves all regulations proposed by the Director.¹²⁸

Timeline

Delaware added video lottery terminals to its existing racetracks after the legislature passed authorizing legislation in May of 1994. Both Dover Downs and Delaware Park opened their slots facility on December 29, 1995. Initially, Harrington Raceway did not intend to offer slot machines. In March of 1995, however, the board of directors authorized moving forward with applying to Lottery.¹²⁹ Harrington Raceway subsequently opened its slots facility on August 20, 1996. At the Lottery Department, wages and benefits increased from 1994 to 1995 by roughly \$150,000, a roughly 15% increase, and again from 1995 to 1996 by roughly \$140,000, a roughly 13% increase. In its 1996 annual report, the Lottery director described how Delaware had surveyed similar video lottery operations across the country, identified the best ideas and included them in its own guidelines and procedures. He also attributed Delaware's success to privatization that allowed the Lottery to employ industry experts and use their knowledge and expertise to start and operate Delaware's video lottery operations.

With respect to table games, the Delaware legislature passed legislation authorizing table games at its existing racino racetracks that was signed into law on January 28, 2010. Harrington Raceway opened table games in May of 2010, with Dover Downs and Delaware Park following shortly after

in June of 2010. The Lottery increased staffing that resulted in an increase of approximately \$1.5 million in salary and benefits from 2010 to 2011, raising operating expenses by roughly 15%.¹³⁰



KANSAS

Introduction

Kansas's Racing and Gaming Commission ("KRGC") is the primary regulator of casino gambling along with the Lottery Department. The KRGC's Executive Director is Don Brownlee, its Director of the Security and Licensing Division is Joe Herridge, its Regional Security Manager is Larry Moreland, its Training/Legislative Affairs Manager is Joe Myers, and its Licensing and Background Officer is DJ Lopez. On June 25, 2019, an interview was conducted with Mr. Brownlee, Mr. Moreland, Mr. Myers and Mr. Lopez.

Kansas Racing and Gaming Commission
700 SW Harrison St #500
Topeka, KS 6660
<https://www.krgc.ks.gov/>

History and Overview ¹³¹

Kansas citizens passed a constitutional amendment in 1986 permitting the regulation, licensing and taxation of horse and dog racing.¹³² The legislature accordingly passed the Kansas Parimutuel Racing Act in 1987.¹³³ Horse and dog racing struggled in Kansas. The first two tracks opened at Woodlands Racetrack and Wichita Greyhound Park in 1989, followed by Camptown Greyhound Park in 1995. Camptown closed after only six months and Woodlands began pushing to be able to offer slot machines. In 1996, the legislature attempted and failed to pass legislation to put the issue of allowing slot machines on the ballot and Woodlands filed for bankruptcy later that year. In 1999, Camptown was purchased by the owner of Wichita Greyhound who subsequently merged the two racetracks. Camptown opened for two months and then closed again.

In 1995, the Kansas legislature negotiated tribal gaming compacts with four Native American tribes.¹³⁴ The State Gaming Agency was created by executive order to fulfill the state's oversight obligations under the compacts.¹³⁵ The Tribal Gaming Oversight Act was passed in 1996 to authorize the Agency to continue to oversee tribal gaming.¹³⁶

The legislature attempted unsuccessfully every year from 2001 through 2006 to expand gaming, until in 2007 it passed the Kansas Expanded Lottery Act ("KELA").¹³⁷ The legislation authorized one casino resort in each of four geographic regions: northeast, southeast, south central, and southwest. All of the lottery facility games were required to be subject to the ultimate control of the Lottery.¹³⁸ KELA also authorized licensed racetracks to contract with the Kansas Lottery to offer electronic gaming machines ("EGM"s) at the tracks. The total EGMs at racinos are limited to 2,800, with at least 600 per facility.¹³⁹

Each county within the regions was required to vote to allow both the casino and any EGMs at a racetrack.¹⁴⁰ Votes passed for both the casino and EGMs in the northeast and southeast zones and the southwest zone approved a casino, but within the southeast zone, Sedgwick County rejected

both a casino and EGMs whereas Sumner County voted in favor of a casino. As a result of the vote, Wichita Greyhound Park (located in the southwest region) closed on October 6, 2007.

KELA was challenged in court as unconstitutional, with the Kansas Supreme Court ruling in 2008 that the statute was constitutional. Despite the success withstanding the legal challenges, neither Woodlands nor Camptown Greyhound Park were able to negotiate an EGM contract with the Kansas Lottery. On August 23, 2008, the Woodlands facility closed. While the current law authorizes racinos, there are none currently operating in Kansas.

Kansas has not authorized sports wagering or online gambling to date.

	Horse Racing	VLTs	Commercial Gaming	Charitable Gaming	Online Gaming	Sports Wagering	Fantasy Sports
Year Authorized?	1987	2007	2007	2014	NA	NA	2015
# of Locations?	0	3	4	NA	NA	NA	NA

Site and Operator Selection ¹⁴¹

While the gaming machines are technically owned by the Kansas Lottery, the Lottery was also tasked with selecting the managers for each gaming facility.¹⁴² In choosing the operators, the Lottery was required to consider the size of the proposed facility, the location’s geographic area, the location as a tourist and entertainment destination, the estimated number of tourists, the number and type of games.¹⁴³ Each management company was required to commit to a minimum infrastructure investment of \$225 million in the northeast and south-central regions and \$50 million in the southeast and southwest regions.¹⁴⁴

The Lottery accepted applications from prospective casino operators and determined which applicant was the best for each zone. The Lottery then negotiated contracts with the selected applicant and forwarded the contracts to the Lottery Gaming Facility Board (“LGFB”), which was established under Kansas law. The LGFB was then tasked with determining whether the gaming facility management contracts negotiated by the Lottery were “the best possible contract”.¹⁴⁵ In determining if it was the best possible contract, the LGFB was to consider whether the contract “best maximizes revenue, encourages tourism and otherwise serves the interests of the people of Kansas.”¹⁴⁶ The LGFB was required to consult experts and conduct public hearings in reaching its determination.¹⁴⁷ Once the LGFB determined that one contract from each region was the best possible and voted to approve it, it was required to submit the contract to the Kansas Racing and Gaming Commission (“KRGC”) for approval.¹⁴⁸ The KRGC then conducted a suitability review, including background checks and investigations of the company and its owners, managers, officers, and directors.¹⁴⁹ After all investigations were completed, the applications were sent to the KRGC Commissioners for final approval.¹⁵⁰

Kansas has had a very eventful history of selecting facilities and operators. Initially, thirteen applicants applied for a gaming facility management contract across the four gaming zones.

In the southwest zone, Dodge City Gaming and Boot Hill submitted bids. The Lottery, with the subsequent approval of the LGFR, selected Boot Hill on September 26, 2008. The KGRC approved the background investigation on December 5, 2008, and the casino opened in December of 2009.

In the southeast zone, Penn National Gaming was the only applicant, proposing a facility in Cherokee County. On August 22, 2008, the Lottery, with the subsequent approval of the LGFR, selected Penn National Gaming. Penn National withdrew its bid, however, before the KRGC could complete its background checks, citing the economic downturn and a new \$300 million casino facility to be built in Oklahoma only 2 miles away from Penn's proposed facility.

In the south-central zone, Harrah's, Penn National, MGM Mirage and Marvel Gaming all submitted applications. On August 22, 2008, the Lottery, with the subsequent approval of the LGFR, selected Harrah's. Again, however, before the KRGC could complete its background checks, Harrah's withdrew its bid, citing the economic downturn.

In the northeast zone, Kansas Entertainment, Sands (2 separate location bids), Pinnacle, Golden Gaming and Legends Sun submitted bids, and the Lottery, with the subsequent approval of the LGFR, selected Kansas Entertainment. Again, however, prior to the completion of the background investigation, Kansas Entertainment withdrew its bid.

With no bids for three of its gaming regions, the Lottery re-opened the bidding process in those regions in 2009. Once again, no one bid for the southcentral region. In the southeast, Lakes Entertainment, Prairie Sky and Chisholm Creek each submitted bids, and in the northeast, Kansas Entertainment, Penn National and Golden Gaming submitted bids. Prior to the LGFR meetings, however, Penn National joined Kansas Entertainment in its bid and Golden Gaming dropped out, leaving only one bidder for the northeast region. Likewise, in the south-central region, Lakes Entertainment joined Chisholm Creek's bid and Prairie Sky withdrew its application, leaving only one bidder for the south-central region.

On December 1, 2009, the Lottery, with the subsequent approval of the LGFR, selected the bid of Kansas Entertainment and sent it to the KRGC. On February 12, 2010, the KRGC approved the background check and Kansas Entertainment opened the facility on February 3, 2012.

Lottery also approved a contract with Chisholm Creek, but the LGFR did not concur with the approval of the Chisholm Creek contract and sent it back to the Lottery for renegotiation. On March 3, 2010, Chisholm Creek presented an amended contract to the LGFR. Before the LGFR could decide, Chisholm Creek withdrew its bid on April 6, 2010. The Lottery once again re-opened bids for the south-central region and by July 2010 had received applications from Peninsula Gaming Partners, Global Gaming KS and Harrah's Kansas. Before the LGFR could deliberate, Harrah's Kansas withdrew its bid on September 8, 2010. Ultimately, on December 15, 2010 after presentations and deliberations, the LGFR announced its selection of Peninsula Gaming. Peninsula Gaming opened a temporary facility on December 26, 2011 and opened its permanent facility in 2012.

After not receiving any bids for the southeast gaming zone, the legislature revised the statute, reducing the minimum infrastructure requirement for the region from \$225 million to \$50 million and the privilege fee from \$25 million to \$5.5 million. The Lottery then received four applicants, with one dropping out before the LGFR could hold hearings. The remaining applicants were Kansas Crossing Casino and Frontenac Development proposing facilities in Crawford County and Castle Rock Casino Resort proposing a facility in Cherokee County.

After being reconstituted, the LFGR met initially on January 7, 2015, took five months to gather information and input from the community, and ultimately awarded Kansas Crossing Casino the contract on June 23, 2015. On July 2, 2015, the KRGC approved the background investigation. Not 2 weeks after the decision by the KGRC, the Cherokee County Board of County Commissioner filed suit seeking a temporary injunction against the construction of the facility in Crawford County. While the application was denied and the judge ruled in favor of the state, Cherokee County appealed the decision to the Kansas Supreme Court. Construction on the casino ultimately progressed and it opened on March 31, 2017. The Kansas Supreme Court ultimately upheld the dismissal on May 5, 2017.

The Lottery was also tasked with negotiating a racetrack gaming facility management contract for the placement of EGMs into each region except for the southwest region, which voted against EGMs.¹⁵¹ None of the existing racetracks were able to negotiate contracts to provide EGMs before shutting down.¹⁵²

Facility	Locality	Racetrack Facility	Video Lottery Machines	Slot Machines ¹⁵³	Table gaming positions ¹⁵³
Boot Hill Casino	Dodge City, KS	No	No	700	18
Hollywood Casino at Kansas Speedway	Kansas City, KS	No	No	2000	40
Kansas Crossing Casino & Hotel	Pittsburg, KS	No	No	625	16
Kansas Star Casino	Mulvane, KS	No	No	1850	50

Local Government Involvement

Under Kansas law, each county in each gaming region was required to hold a special election to approve the introduction of gaming to the region.¹⁵⁴ Each region had to hold a vote to approve casinos as well as slot machines at racetracks located in the region, if applicable.¹⁵⁵ The elections were to be held within 180 days of the effective date of the Kansas Expanded Lottery Act.¹⁵⁶ If a majority of votes was in favor of gaming in the region, then the Lottery could operate a gaming facility in the region.¹⁵⁷ If a majority was opposed to gaming in the region, then the Lottery could not operate a gaming facility in the region.¹⁵⁸ After a majority vote approved gaming in a particular county, the city governing body or county commission of the proposed location had to approve a resolution of endorsement.¹⁵⁹ The Commission may not approve a management operation contract unless it includes a resolution.¹⁶⁰ As detailed in the discussion of Accounting, Audit and Taxation below, local municipalities share in the revenue from gaming facilities.

Licensing

The Kansas Lottery Commission is tasked with broad oversight of both racino and commercial casino regulation. It has an Executive Director who runs the day to day operations. The Kansas Racing and Gaming Commission (“KRGC”) is the regulatory agency for both racinos and commercial casinos. It is responsible for investigation and licensing of lottery gaming facility managers, suppliers, and gaming employees. The Lottery Commission is responsible for the revenue and tax aspects of regulation.

Under Kansas law, which is very inconsistent with industry standards, all officers, directors, key employees and persons owning 0.5% of any licensee must apply for licensure.¹⁶¹

Kansas also requires licensure of all technology and computer system providers and other persons and entities who contract with licensees.¹⁶² The executive director of the KRGC may certify a nongaming applicant who is licensed in another state with similar licensing standards without the necessity of a full application and background check for a temporary license.¹⁶³

	Casino Operator	VLT Operator	Supplier (Gaming)	Supplier (Non-Gaming)	Gaming Facility Mgr	Occupational Licensing
Initial Term	15 years	NA	2 years	2 years	2 years	2 years
Initial Fee	\$25,000,00 or \$5,500,000	NA	None	None	None	None
Renewal Term	TBD*	NA	2 years	2 years	2 years	2 years
Renewal Fee	TBD*	NA	Same	Same	Same	Same
Exemption	NA	NA	None	Bank, insurance company, professional services; less than \$250,000 annually	None	None
Temporary License	NA	NA	✓	✓		✓
Institutional Investor		NA	✓	✓		NA
Ownership Disclosure Threshold		NA	0.5%	0.5%	0.5%	NA
Categories	NA	NA	NA	NA	NA	Level I, Level II, Level III

*The Kansas statute does not specify the renewal fee or the renewal term. The KRGC is currently evaluating how best to approach renewals.

All officers, directors, key employees and persons owning 0.5% of any licensee must apply for licensure.¹⁶⁴ Applicants have a duty to disclose material and complete information on applications.¹⁶⁵ It is the applicant's burden to demonstrate qualification for licensure.¹⁶⁶ An applicant is disqualified if s/he has committed any felony or a crime involving gambling or a crime of moral turpitude.¹⁶⁷ Licenses generally have a two-year term.¹⁶⁸ Employee licensing is divided into Level I, Level II and Level III.¹⁶⁹ The KGRC may grant temporary licenses for 90 days, subject to one 90 day renewal.¹⁷⁰ Gaming facility management company contracts have a 15-year term.¹⁷¹

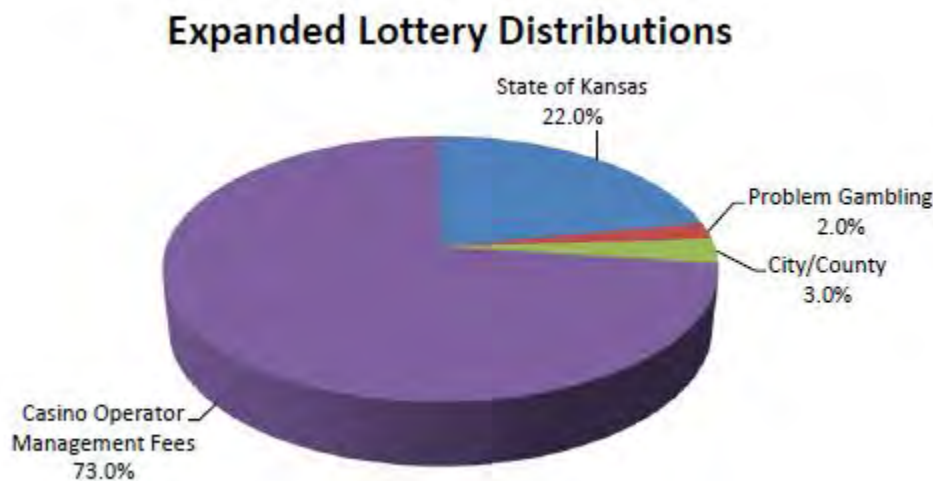
Suppliers are designated as gaming or non-gaming suppliers. Gaming suppliers are those who provide equipment designed for use, are needed to carry out, affect the play of casino games, provide maintenance service to such equipment or the management or administration of a gaming facility, and those who provide junket services.¹⁷² Non-gaming suppliers are those who do not fall into the categories for gaming suppliers but provide at least \$250,000 in services in any one year.¹⁷³ The KGRC may grant temporary licenses for 90 days, subject to one 90 day renewal.¹⁷⁴

When interviewing the Executive Director of the KRGC, Mr. Brownlee noted that Virginia should strongly consider establishing a minimum dollar threshold and allowing licensing exemptions for non-gaming suppliers who do not do significant business with operators. This can prevent discouraging non-gaming suppliers who do not want to go through the lengthy investigation process for the limited amount of goods or services that they provide to an operator. It also helps utilize the state's limited resources more efficiently by reducing the number of applications to review and background investigations to conduct. Additionally, non-gaming suppliers providing services below the threshold dollar amount are relatively unlikely to have any impact on the integrity of the games or involvement in cheating, hence the reduced investigative scrutiny.

Accounting, Audit and Taxation

The Lottery Commission and the KRGC split the regulatory authority when it comes to revenues and accounting. The Lottery Commission is responsible for receiving all revenue and disbursing the operator share back to the casinos and is responsible for that portion of the auditing function. The KRGC is responsible for the compliance auditing function.

Kansas took the approach of not only imposing taxes, but also charging significant licensing fees that create a need for accounting oversight. Each gaming facility management company in the northeast and south-central regions were required to pay a licensing fee of \$25 million and in the southeast and southwest region a licensing fee of \$5.5 million.¹⁷⁵ Under the law, each racetrack gaming facility must pay a privilege fee of at least \$2,500 per EGM allocated to the facility.¹⁷⁶



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Under the Kansas law, all gaming facilities must pay a 27% tax on gaming revenues—22% to the expanded lottery act revenue fund, 2% to the problem gambling and addictions grant fund, and 3% to local municipalities.¹⁷⁸ The expanded lottery revenue act can only be utilized to reduce state debt, improve state infrastructure and reduce local property taxes.¹⁷⁹

The 2017 and 2018 Financials for the four casinos are reproduced below:

	FY 2018 <u>Boot Hill</u>	FY 2017 <u>Boot Hill</u>
Gaming Facility Revenue:		
Electronic games	\$ 36,041,408	\$ 35,186,589
Table games	5,145,229	5,036,343
Total	<u>\$ 41,186,637</u>	<u>\$ 40,222,932</u>
Distributions:		
State of Kansas - 22%	\$ 9,061,060	\$ 8,849,045
Problem Gambling Fund - 2%	823,733	804,459
City & County - 3%	1,235,599	1,206,688
Casino operator management fees - 73%	30,066,245	29,362,740
Total	<u>\$ 41,186,637</u>	<u>\$ 40,222,932</u>

	FY 2018 <u>Kansas Star</u>	FY 2017 <u>Kansas Star</u>
Gaming Facility Revenue:		
Electronic games	\$ 156,719,719	\$ 151,479,596
Table games	25,364,809	26,626,372
Total	<u>\$ 182,084,528</u>	<u>\$ 178,105,968</u>
Distributions:		
State of Kansas - 22%	\$ 40,058,596	\$ 39,183,313
Problem Gambling Fund - 2%	3,641,691	3,562,119
City & County - 3%	5,462,536	5,343,179
Casino operator management fees - 73%	132,921,705	130,017,357
Total	<u>\$ 182,084,528</u>	<u>\$ 178,105,968</u>

	FY 2018 <u>Hollywood</u>	FY 2017 <u>Hollywood</u>
Gaming Facility Revenue:		
Electronic games	\$ 131,099,423	\$ 125,678,469
Table games	17,671,560	18,903,568
Total	<u>\$ 148,770,983</u>	<u>\$ 144,582,037</u>
Distributions:		
State of Kansas - 22%	\$ 32,729,616	\$ 31,808,048
Problem Gambling Fund - 2%	2,975,420	2,891,641
City & County - 3%	4,463,129	4,337,461
Casino operator management fees - 73%	108,602,818	105,544,887
Total	<u>\$ 148,770,983</u>	<u>\$ 144,582,037</u>

	FY 2018 <u>Kansas Crossing</u>	FY 2018 <u>Kansas Crossing</u>
Gaming Facility Revenue:		
Electronic games	\$ 28,299,973	\$ 7,191,126
Table games	4,165,880	1,015,134
Total	<u>\$ 32,465,853</u>	<u>\$ 8,206,260</u>
Distributions:		
State of Kansas - 22%	\$ 7,142,488	\$ 1,805,377
Problem Gambling Fund - 2%	649,317	164,125
City & County - 3%	973,975	246,188
Casino operator management fees - 73%	23,700,073	5,990,570
Total	<u>\$ 32,465,853</u>	<u>\$ 8,206,260</u>

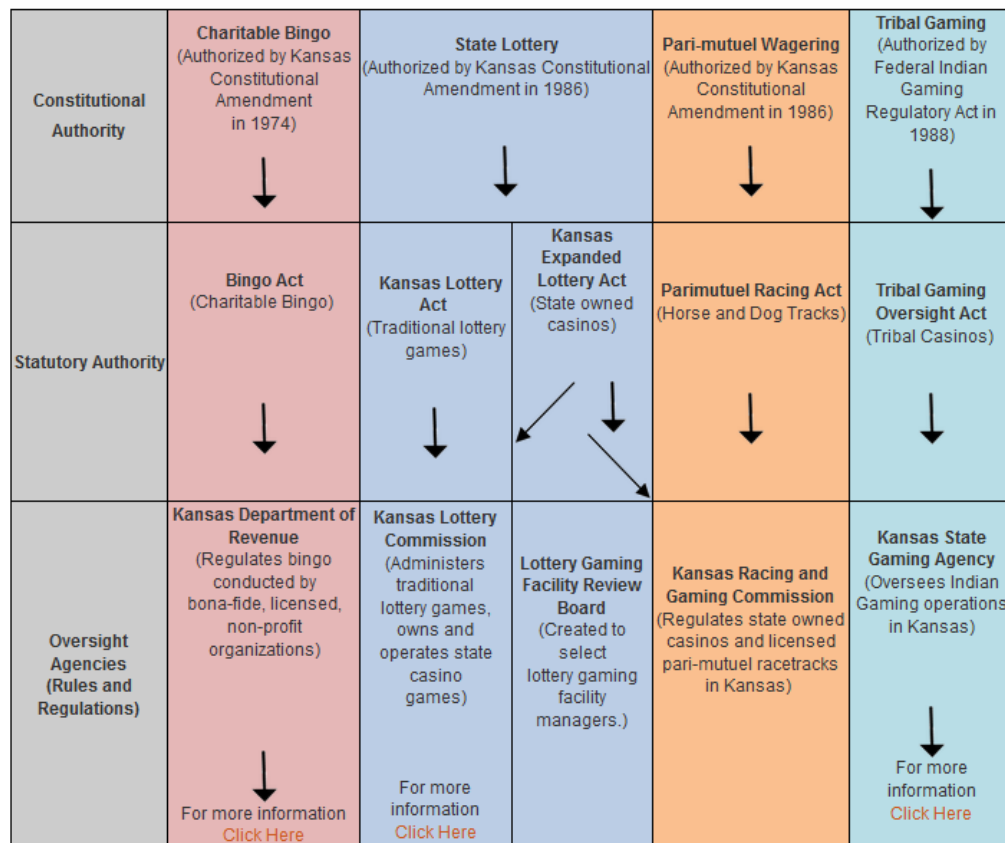
At June 30, 2018 and 2017, \$4,147,701, and \$2,671,117, respectively, was receivable from the casino manager for online and table game net revenue. At June 30, 2018 and 2017, \$6,461,869 and \$5,162,030, respectively, was payable to the casino management, the Cities, and Counties for revenues collected but not yet distributed, and is included in accounts payable and accrued liabilities.

Gaming Oversight and Enforcement

The KRGC has law enforcement officials that are responsible for both gaming enforcement as well as general criminal law enforcement at the properties, including theft, criminal trespass, disorderly conduct, prostitution, underage gambling and drinking, and unlawful wagering. Law enforcement personnel are on-site 24 hours a day, seven days a week. The Law Department is responsible for the Kansas Voluntary Exclusion Program for problem gamblers, monitors compliance with the responsible gambling plans of each of the lottery gaming facility managers and maintains monthly statistics about participants in the program. It is also responsible for investigations and coordination of the state illegal gambling program.

Persons must be at least 21 old to gamble, with employees being at least 18 years old.¹⁸⁰ All advertisements must be submitted to the Lottery for approval at least 7 business days before publishing.¹⁸¹ The KGRC must provide prior approval of all material debt transactions.¹⁸²

As noted above, there currently are no operating racinos in Kansas.¹⁸³ If they are subsequently introduced, all EGMs must be linked to the Lottery's central lottery communications system and must pay back a minimum of 87%.¹⁸⁴



Staffing and Budgetary Issues

The Kansas Lottery is tasked with broad oversight of both racino and commercial casino regulation. The Kansas Lottery Commission consists of five members appointed by the governor

subject to senate confirmation.¹⁸⁵ The executive director of the Kansas Lottery is also appointed by the governor.¹⁸⁶ Commission members must be Kansas residents, no more than three members can be from the same political party, and members serve four-year terms.¹⁸⁷ No member or employee may have any ownership interest in any company that contracts with the Lottery or is a gaming licensee, nor can they have been employed within the past 5 years with such company.¹⁸⁸

	Member 1	Member 2	Member 3	Member 4	Member 5
Appointing Authority	Governor	Governor	Governor	Governor	Governor
Kansas Residents	✓	✓	✓	✓	✓
No ownership in Lottery or Gaming licensee	✓	✓	✓	✓	✓
Cannot have been employed in past 5 years with Lottery or Gaming licensee	✓	✓	✓	✓	✓

The Commission is required to hold at least four meetings per year.¹⁸⁹ It is responsible for promulgating rules governing gaming facilities and racetrack gaming facilities.¹⁹⁰ Members are not permitted to have ex parte communications with any party or any representative of a party relating to any matter pending before the Commission that may require a vote.¹⁹¹ Enforcement personnel have the authority of law enforcement officers.¹⁹²

In addition to the Lottery Commission, Kansas has a Lottery Gaming Facility Board (“LGFB”) consisting of 7 members—3 appointed by the governor, 2 appointed by the senate president, and 2 appointed by the speaker of the house.¹⁹³ No more than 4 may be of any one political party.¹⁹⁴ Members must have significant business experience and cannot live, own property or have any interest in a business located within one of the gaming zones.¹⁹⁵

	Member 1	Member 2	Member 3	Member 4	Member 5	Member 6	Member 7
Appointing Authority	Governor	Governor	Governor	Senate	Senate	House	House
Significant business experience	✓	✓	✓	✓	✓	✓	✓
Can’t live in any of the 4 gaming zones	✓	✓	✓	✓	✓	✓	✓
Can’t own property or have businesses in any of the 4 gaming zones	✓	✓	✓	✓	✓	✓	✓

The Kansas Racing and Gaming Commission (“KRG”) is the regulatory agency for both racinos and commercial casinos. The KRG has 109.5 full-time equivalent employees from 2017-2019, with a 2019 average salary of \$67,607. This represents an increase of 36 employees over an 11-year time period (in 2009, the KRG had 73.5 full time equivalent employees).

The KRG has three departments—Tribal Gaming Regulation, Expanded Gaming Regulation and Parimutuel Gaming. Of those departments, the majority of employee (91.4) comprise the Expanded Gaming Regulation department. The Tribal Gaming Regulation department houses 18 employees and the Parimutuel Gaming department has only assigned a 1/10-time employee. A snapshot of the FY 2016-2019 Expanded Gaming department budget is below.

EXPANDED GAMING REGULATION SUMMARY OF EXPENDITURES FY 2016 – 2019							
Item	Actual FY 2016	Agency Est. FY 2017	Gov. Rec. FY 2017	Agency Req. FY 2018	Gov. Rec. FY 2018	Agency Req. FY 2019	Gov. Rec. FY 2019
Expenditures:							
Salaries and Wages	\$ 4,193,272	\$ 5,922,174	\$ 5,906,466	\$ 6,152,548	\$ 6,092,301	\$ 6,237,736	\$ 6,168,117
Contractual Services	701,534	989,893	989,893	987,875	987,875	987,875	987,875
Commodities	72,563	139,270	139,270	139,570	139,570	139,570	139,570
Capital Outlay	72,149	266,142	266,142	130,300	130,300	131,800	131,800
Debt Service	0	0	0	0	0	0	0
Subtotal - Operations	\$ 5,039,518	\$ 7,317,479	\$ 7,301,771	\$ 7,410,293	\$ 7,350,046	\$ 7,496,981	\$ 7,427,362
Aid to Local Units	0	0	0	0	0	0	0
Other Assistance	6,274	6,996	6,996	0	0	0	0
TOTAL	\$ 5,045,792	\$ 7,324,475	\$ 7,308,767	\$ 7,410,293	\$ 7,350,046	\$ 7,496,981	\$ 7,427,362
Financing:							
State General Fund	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
All Other Funds	5,045,792	7,324,475	7,308,767	7,410,293	7,350,046	7,496,981	7,427,362
TOTAL	\$ 5,045,792	\$ 7,324,475	\$ 7,308,767	\$ 7,410,293	\$ 7,350,046	\$ 7,496,981	\$ 7,427,362
FTE Positions	91.5	91.4	91.4	91.4	91.4	91.4	91.4
Non-FTE Uncl. Perm. Pos.	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	91.5	91.4	91.4	91.4	91.4	91.4	91.4

For more information, please see the 2018 Budget Analysis attached as **Exhibit 2**.

Timeline

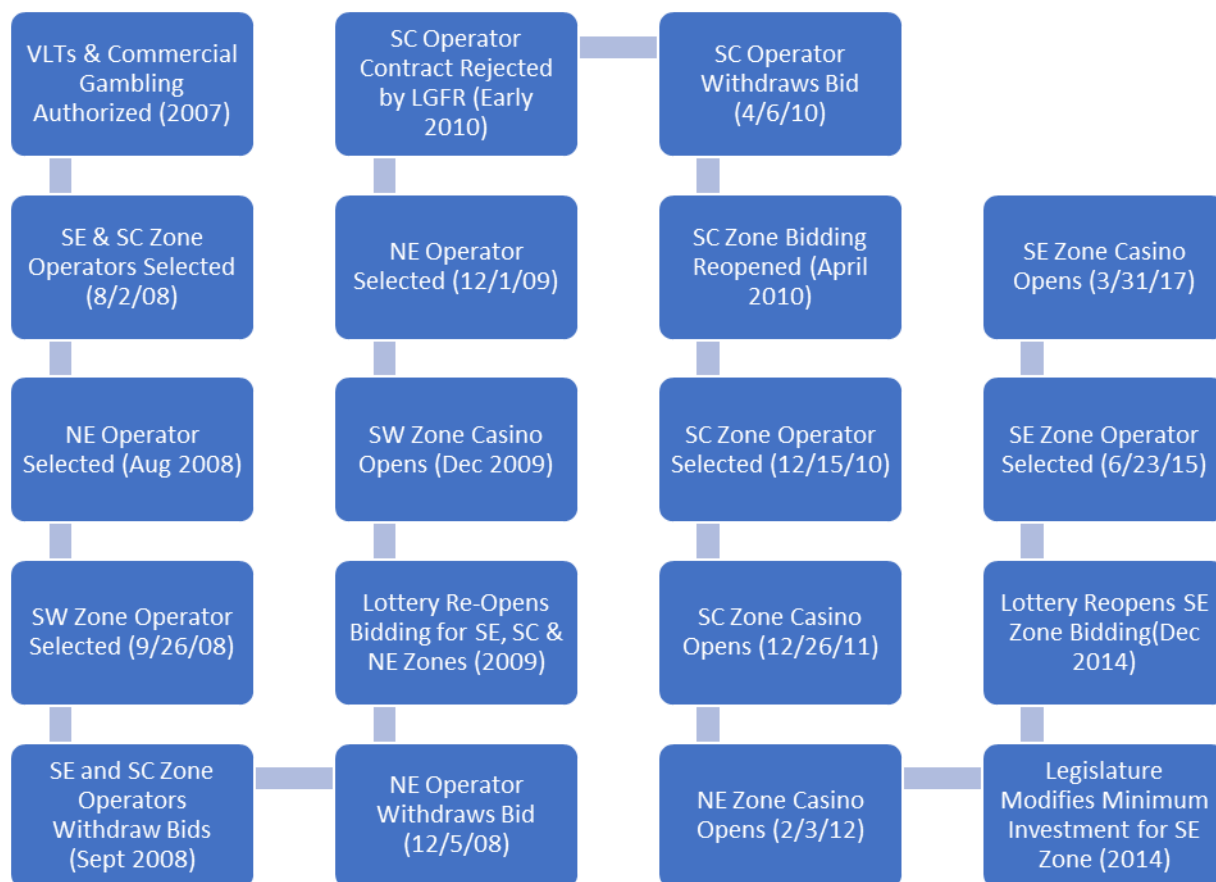
Kansas authorized casinos in four geographic regions at the same time that it authorized slots at racetracks in April of 2007. As discussed above, the only geographic zone that experienced a smooth process was the southwest zone, with the selection process completed by December of 2008 and the casino opening in December of 2009.

The other geographic zones took much longer and necessitated re-opening the bidding process once in the south-central zone and twice in the northeast and the southeast zones. Ultimately, the northeast zone casino was approved on February 12, 2010, and opened on February 3, 2012.

In the south-central zone, the LGFR rejected the contract after the Lottery Commission had approved the bid, leading the operator to withdraw its bid on April 6, 2010. After reopening the bidding, the casino was finally approved on December 15, 2010 and was opened on December 26, 2011.

In the southeast zone, after not receiving any bids in the initial reopening of bids, after the legislature amended the statute reducing the licensing fee and minimum infrastructure requirement, the LFGR awarded a contract on June 23, 2015, with the KRGC approving the background investigation. The casino opened (after years of litigation detailed above) on March 31, 2017.

Accordingly, while perhaps not by design, the regulatory authorities were able to roll out administrative support as needed for the licensing process over a prolonged period of time, with the first casino selection process concluding 20 months after passage of the authorizing legislation and the last selection process concluding over 8 years after the legislation's passage.



Kansas Observations

Kansas’s Executive Director noted that as the state of Virginia looks to the potential legalization of casino gaming, the policy makers (Governor and Legislature) may find the following observations of interest.

If Virginia policymakers move forward with a determination to require licensing of non-gaming suppliers, Mr. Brownlee stated: “It should strongly consider giving regulatory staff some discretion and/or establish a minimum dollar threshold, to allow exemptions for non-gaming suppliers that do not do significant business with operators.”

Additionally, with respect to licensing of gaming suppliers, Mr. Brownlee noted: “policy-makers should consider offering reciprocal temporary licensing for those suppliers who are already licensed in states with similar background and investigative review standards to allow them to transact business while the full background investigation is completed.”

MARYLAND

Introduction

Maryland's Lottery Department is the primary regulator of casino gambling. The Lottery Department's Director is Gordon Medenica and its Assistant Director of Communications for Public Affairs is Seth Elkin. On June 24, 2019, an interview was conducted with Mr. Medenica and Mr. Elkin.

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History

Maryland voters approved a state lottery and created the Maryland State Lottery Agency to oversee its operations in 1972. Maryland next expanded gaming in 2008, when voters approved a referendum to the Maryland constitution authorizing the operation of up to 15,000 video lottery terminals ("VLT") at five specified locations.¹⁹⁶ In 2012, the legislature passed legislation authorizing table games and a sixth specified casino location, as well as renaming the agency as the Maryland State Lottery and Gaming Control Commission ("LGCA").¹⁹⁷ Mr. Medenica noted:

"Maryland had a statewide cap on the total number of slot machines in all the casinos. And it turned out to be a number that we're not really close to, so it's kind of a ceiling now that doesn't really have a lot of operating relevance in the casinos themselves...I think it was originally about 13,000 and it was raised to 15,000, but I think in total we're probably closer to maybe 12,000 or something like that in the casinos now."

The provisions authorizing table games and the sixth casino required a state referendum, which passed in November 2012. Mr. Medenica stated: "As part of the 2012 sort of second stage of the roll-out if you will, that's where we added table games. So again, in lessons learned...I think people quickly realized that in the casino world slots, tables, electronic tables, should all be part of it."

Maryland also passed legislation in 2012 authorizing fantasy sports contests.¹⁹⁸ While there was some ambiguity as to whether only fantasy sports contests between small groups were authorized, the Maryland Comptroller promulgated regulations that clarified that online fantasy sports contests were legal in 2017.¹⁹⁹ Finally, in 2016, the legislature passed legislation authorizing licensure of family entertainment centers offering skills-based amusement devices.

Maryland has not authorized sports betting or iGaming to date. Earlier this spring, Maryland amended its criminal gambling statutes, effective October 1, 2019 to provide an exemption for video game competitions (esports) allowing players to participate.²⁰⁰ The legislation does not address the legality of betting on esports competitions.

	Horse Racing	VLTs	Commercial Gaming	Online Gaming	Sports Wagering	Fantasy Sports
Year Authorized?	1920	2008	2012	NA	NA	2017
# of Locations?	5	6	6	NA	NA	NA

Site and Operator Selection

Maryland currently has six casinos, one of which (Ocean Downs Casino) also offers horseracing.

Operator Selection Process

To assist with the operator and site location selection process, Maryland created the Video Lottery Facility Location Commission (“VLFLC”).²⁰¹ Bidders were required to submit sealed bids for the six respective operator licenses to the VLFLC.²⁰² Maryland collected an initial licensing fee of \$3,000,000 for each 500 VLTs included in the application, with the exception of the application for the Allegany County location where the fee was waived.²⁰³ Applicants were also required to commit a minimum of \$25,000,000 in direct investment in construction and related costs per 500 VLTs to be located at the facility they proposed.²⁰⁴

The Maryland State Lottery and Gaming Control Commission (“LGCA”) was tasked under the law with deciding whether each bidder was qualified to hold a video lottery operation license under state law. Thus, the LGCA’s primary focus in the selection process was on the task of licensing, whereas the job of the VLFLC was to make the selection of the sites and operators based on selection criteria from the statute.

There were specific statutory factors the VLFLC considered. The VLFLC weighed the following factors as 70% of their decision: (i) the highest potential benefit and highest prospective total revenues to be derived by the State; (ii) the potential revenues from a proposed location based on a market analysis; (iii) the extent to which the proposed location encourages Maryland gaming participants to remain in the State; (iv) the extent to which the proposed location demonstrates that the facility will be a substantial regional and national tourist destination; (v) the proposed facility capital construction plans and competitiveness of the proposed facility; (vi) the amount of gross revenues to be allocated to the video lottery operator over the term of the license; (vii) the percent of ownership by entities meeting the definition of a minority business enterprise; (viii) the extent to which the proposed location would preserve existing Maryland jobs and the number of net new jobs to be created; and (ix) the contents of the licensee’s plan to achieve minority business participation goals.²⁰⁵ 15% of the decision was based on the anticipated wages and benefits for newly created jobs and any additional economic development planned in the area of the facility,²⁰⁶ and the remaining 15% was based on location siting factors such as existing transportation infrastructure, the negative impact, if any, on the surrounding community, and the need for additional public infrastructure.²⁰⁷

Per the 2008 state constitutional amendment, five somewhat generalized locations were preselected for the casinos—Anne Arundel County within 2 miles of MD Route 295 (the Live! Casino & Hotel, formerly known as Maryland Live! Casino);²⁰⁸ Cecil County within 2 miles of Interstate 95 (Hollywood Casino Perryville);²⁰⁹ Worcester County within 1 mile of the intersection of Route 50 and Route 589 (Ocean Downs Casino);²¹⁰ on state property located within Rocky Gap State Park in Allegany County (Rocky Gap Casino Resort);²¹¹ and Baltimore City, so long as the facility is in a nonresidential area within ½ mile of Interstate 95 and ½ mile of MD Route 295, on land owned by Baltimore City, and not within ¼ mile of residential-zoned property or any property utilized for a residential dwelling at the time of the license application (Horseshoe Casino).²¹²

History of Operator Selection

The initial RFP for the five sites was issued December 19, 2008, with proposals due February 2, 2009. Of the five locations, there was one operator bid in both of Cecil County and Worcester County, with Worcester County’s operator selected September 23, 2009 and Cecil County’s operator selected October 21, 2009.

There was no bid for Allegany County initially, nor was there a bid when an additional RFP was issued on November 9, 2010. Ultimately, the legislature amended the law making the location more attractive. A third RFP was issued June 24, 2011, that resulted in three bids, of which the winning bid was selected April 26, 2012.

The selection process for both Anne Arundel County and Baltimore County was less smooth. In Anne Arundel County, there were two bidders. While the one bidder was awarded the license on December 7, 2009, the award was contingent on county zoning approval of the proposed location due to an ongoing lawsuit challenging the ability to build the casino adjacent to a local mall. The case went to Maryland’s highest court, which ruled that the matter must be decided by local ballot, which was ultimately approved in November of 2010. In addition, the losing bidder (which was rejected on the basis of failing to submit the required licensing fee) commenced litigation, which was pursued to Maryland’s highest court. Ultimately, the court ruled in Lottery’s favor and the appeal was denied on July 20, 2009.

In Baltimore City, the sole bidder’s offer was rejected by the VLFLC on December 17, 2009. The bidder appealed, sought a temporary restraining order preventing the VLFLC from issuing a license (which was unsuccessful) and the litigation reached Maryland’s highest court, which ultimately dismissed the appeal on June 2012. The second RFP was issued on April 27, 2011, which garnered two bids. As one bidder failed to submit the required licensing fee, the VLFLC awarded the sole remaining bidder the license on July 31, 2012.

The sixth location was required to be in Prince George’s County and was the subject of a latter 2012 referendum.²¹³

The VLFLC was terminated on January 1, 2015, but the Governor has the power to reconstitute the Commission one year prior to the expiration of an operator license or upon revocation or surrender of an operator license.²¹⁴

Facility	Locality	Racetrack Facility	Video Lottery Machines	Slot Machines ²¹⁵	Table gaming positions ²¹⁵
Live! Casino & Hotel	Hanover, MD	No	Yes	3997	198
Hollywood Casino	Perryville, MD	No	Yes	822	22
Ocean Downs Casino	Berlin, MD	Yes	Yes	888	10
Rocky Gap Casino Resort	Cumberland, MD	No	Yes	665	17
Horseshoe Casino	Baltimore, MD	No	Yes	2202	167
MGM National Harbor	Oxon Hill, MD	No	Yes	2961	180

Local Government Involvement

The constitutional amendment that introduced table games to Maryland explicitly states that all facilities must comply with all local planning and zoning laws.²¹⁶ As the selection process was handled by a state commission, the local governments did not play a significant role. The operators were not required to enter into agreements with the local governments as part of the licensing process. The local counties do have the power to impose local business, local minority business participation and local hiring requirements.²¹⁷ As is discussed below in the Accounting, Audit and Taxation discussion, local governments do receive some tax revenue and receive local impact grants. Maryland has recognized the increased burden on communities resulting from gaming activities and has established a fund to be utilized for local impact grants.²¹⁸ The grants may be used for local infrastructure improvements, facilities, public safety, sanitation, economic and community development including housing, and other public services and improvements.²¹⁹ In Allegany County, they may also be used to pay down debt incurred in the construction and related costs for the golf course, lodge and other improvements at Rocky Gap State Park.²²⁰

Maryland has some unique local involvement regarding charitable gaming. Charitable gaming in Maryland is licensed and regulated at the county level.²²¹ Licensees must be religious, fraternal, civic, war veterans' or charitable organizations²²² to conduct a "gaming event," defined as a carnival, bazaar or raffle.²²³ 21 counties in Maryland are authorized to license charitable gaming events, with some counties limited in the types of events they can offer.²²⁴

Licensing

The responsibility for the oversight of gaming licensing in the state has been given to the LGCA. The governor also appoints the Lottery Commissioner, the head of the LGCA.²²⁵ The LGCA has the power and authority to make licensing determinations, suspend or revoke licenses, conduct hearings on civil violations of the gaming regulations, and to authorize certain licensees to offer table games.²²⁶ The below chart provides an overview of the various licenses the LGCA issues.

	Casino Operator	VLT Operator	Mfr	Distributor/ Reseller	Contractor	Non-Gaming	Employee Licensing
Initial Term	NA	15 years	5 years	5 years	5 years	5 years	5 years
Initial Fee	\$500/table game annually	\$3MM/500 VLT	\$15,000 or \$35,000 or \$2,000	\$11,000	\$4,000 (certified) or \$1,550 (registered)	\$1,000 (certified) or \$100 (registered)	\$5,287.25; \$437.25; \$187.25
Renewal Term	NA	10 years	5 years	5 years	5 years	5 years	5 years
Renewal Fee	Same	\$425/VLT annually	\$5,000 or \$25,000 or \$800	\$1,000	\$100	\$100	\$2,787.25; \$187.25; \$97.25
Exemption	NA	NA	None	None	<\$300,000 to one operator or <\$600,000 to all annually	<\$10,000; banks, insurance company	NA
Temporary License			✓	✓	✓	✓	✓
Institutional Investor			✓	✓	✓	✓	NA
Ownership Disclosure Threshold	5%	5%	5%	5%	5%	5%	NA
Categories	NA	NA	NA	NA	NA	NA	Principal; gaming; non-gaming

The LGCA requires video lottery operators, video lottery employees, manufacturers and security service companies and employees to become licensed,²²⁷ as well as any person or company with whom a video lottery operator contracts to provide any of the services related to operating a video lottery facility.²²⁸

Licensees (both entity and individuals) must show financial stability, the integrity of any financial backers, good character, honesty and integrity, sufficient business ability and experience.²²⁹ Operator applicants must also show that they have entered into labor agreements with each labor organization that represents any video lottery or hospitality industry workers within Maryland.²³⁰ Operator applicants must disclose their organizational and financial structures,²³¹ the names of all officers, directors, partners and principal employees,²³² all holding, intermediate and subsidiary companies,²³³ terms of all loans, mortgages, and other indebtedness,²³⁴ and copies of all management and service contracts.²³⁵

All applicants must undergo background checks.²³⁶ The results of the background checks are not subject to dissemination.²³⁷ Specific application requirements may be found in regulations promulgated by the LGCA.²³⁸

All licenses except for the video lottery operation license have terms of five years.²³⁹ Video lottery operation licenses have an initial term of 15 years²⁴⁰ and renewal licenses have a term of 10

years.²⁴¹ Licensees must notify the LGCA of an intention to reapply two years prior to the expiration of the license.²⁴² Applicants have the burden to show by clear and convincing evidence that they are qualified for licensure.²⁴³

Applicants are required to disclose each 5% or greater owner,²⁴⁴ as well as all officers, directors and key employees.²⁴⁵ An operator is prohibited from transferring 5% or more of an ownership interest before getting approval from the LGCA.²⁴⁶

Mr. Medenica noted:

“There are all kinds of layers to licensing—you’ve got the principals, the owners of the companies, and the extensiveness of the background checks varies depending on the level that you’re talking about. And then we have the manufacturer licensing, which is fairly intense. And then literally down to the vendor level where people are providing the food and beverage for the restaurant, things like that. So again, the levels of the standards, if you will, of the licensing and the background check, varies depending on how close people are to the actual gaming activity.”

The manufacturer application and license fees are \$15,000 for manufacturers of VLTs, table games and associated equipment and software, \$35,000 for manufacturers of central monitor and control systems, and \$11,000 for distributors and resellers of such equipment. If the product does not have the ability to affect the integrity of the game and is not essential to the play, but merely is intended to be sold or leased to an existing licensee, the application and license fees are \$2,000.²⁴⁷

Maryland has a contractor license category that applies to companies that provide management, operation, security, service, maintenance and repair services, and junket enterprise services to an operator. The contractor application and license fees are \$4,000 unless the contractor does not have access to the central operating system, the video lottery system, VLTs or table games, in which case the application and license fee is \$1,550.

Finally, a vendor who provides services that do not fall under the manufacturer or contractor categories must register as a nongaming service provider if they provide between \$10,000 to \$299,000 in services annually. If they provide over \$300,000 to any one operator or over \$600,000 to all operators in a year, they must be certified by the LGCA. Registration fees are \$100 and certification fees are \$1,000. Both registration and certification renewal fees are \$100. Certain companies are exempt from certification or registration requirements such as public utilities and financial institutions.²⁴⁸

With respect to individual licensing, Maryland has three types of licenses: (1) principal employee; (2) gaming employee; and (3) nongaming employee.²⁴⁹ They offer temporary principal employee and gaming employee licenses that must be submitted by the operator, manufacturer or contractor on behalf of the individual. Temporary licenses are for a 180 day period and can be extended once for an additional 180 days.²⁵⁰ Application and licensing fees are \$5,287.25 for principal employees, \$437.25 for gaming employees and \$187.25 for nongaming employees.²⁵¹ Renewal fees are \$2,787.25 for principal employees, \$187.25 for gaming employees and \$97.25 for nongaming employees.²⁵²

The LGCA has specific statutory grounds for denial of a license. They include the failure to provide information documentation or assurances; failure to reveal any fact material to qualification; supplying untrue or misleading information surrounding a material fact; criminal conviction in any jurisdiction involving moral turpitude or a gambling offense; current prosecution of a crime involving moral turpitude or a gambling offense; pursuit of economic gain in any context that is illegal in Maryland; identification as a career offender or a member or associate of an offender cartel;²⁵³ commission of any act within the last 7 years involving moral turpitude or a gambling offense even if it has not been prosecuted; and willful defiance of a legislative investigatory body when such body is engaged in investigation of crimes involving gambling, official corruption or organized crime activity.²⁵⁴ All criteria apply to employee licensing, with an additional requirement to show expertise or training for employee licensing.²⁵⁵

Maryland has a limited reciprocity provision with respect to licensees other than a video lottery operation license. If the applicant holds a valid license in another state and the LGCA determines that the licensing standards of that state are comprehensive, it may choose to waive some or all requirements of the licensing statutory requirements.²⁵⁶

Accounting, Audit and Taxation

The LGCA is given the regulatory responsibility for accounting, audit and taxation oversight. As discussed below, Maryland has a complex system of taxation and revenue generation which has some variances between the different gaming facilities.

Tax Rates and Distributions

The LGCA is not permitted to charge a video lottery facility a fee to offer table games.²⁵⁷ Instead, revenue is generated from tax on table game proceeds, which is 20%.²⁵⁸ 5% of table game proceeds are earmarked for the local jurisdiction.²⁵⁹ The facility in Baltimore City is required to split those funds 50% for school construction projects and 50% of the proceeds for the maintenance, operation and construction of recreational facilities.²⁶⁰ The remaining 15% is deposited into the Education Trust Fund.²⁶¹ The LGCA taxes each VLT at \$425 annually and each table game at \$500 annually to fund the problem gaming efforts.²⁶²

VLTs have a required minimum average payout of 87%.²⁶³ After payout, the first 1% of funds are paid to the State Lottery and Gaming Control Agency for costs.²⁶⁴ For video lottery terminal proceeds, the actual tax rate is determined by the application of each operator, with a minimum tax rate of 67%,²⁶⁵ with the exception of the Prince George's County location where the minimum tax rate is 62%.²⁶⁶ For specific locations, the Worcester County and Allegany County locations, the percentage retained by the operator is 43% so long as there are no more than 1,000 VLTs and 2.5% of that amount is spent on capital improvements.²⁶⁷

Revenue Sharing

Of the tax revenue, 5.5% is allocated to local impact grants²⁶⁸, 6% is allocated to the Purse Dedication Account and capped at \$100,000 per year²⁶⁹, 1% to the Racetrack Facility Renewal

Account capped at \$20,000,000 annually,²⁷⁰ and 1.5% to the Small, Minority and Woman-Owned Business Account.²⁷¹ The local impact grants are allocated initially \$200,000 to Allegany County, \$130,000 to Cecil County, \$70,000 to the Town of Perryville, and \$200,000 to Worcester County.²⁷² Of the remaining funds in the local impact grant fund, 82% is allocated to the local jurisdictions with VLTs in proportion to each jurisdiction's percentage of gross overall revenues.²⁷³ The remaining 18% is allocated to Baltimore City with the Pimlico Community Development Authority acting as the local development council, with at least 75% of that money allocated in accordance with the Park Heights Master Plan and the remaining 25% dedicated to specific neighborhood groups.²⁷⁴

In addition to those amounts, if the video lottery operation licensee owns or leases each video lottery terminal device, it receives 6% unless it is located in Anne Arundel County, in which case it received 8%, or in Allegany or Worcester Counties, in which case it receives 10% if the equipment was owned prior to January 1, 2019.²⁷⁵ After the opening of the Prince George's County facility, the operators in Anne Arundel County and Baltimore City receive an additional 8% and 7%, respectively, for marketing, advertising, promotional costs and capital improvements.²⁷⁶ The remainder of the proceeds are transferred into the Education Trust Fund.²⁷⁷

There is additional revenue sharing for the first 10 years with the operator located in Allegany County.²⁷⁸ During the first ten years, for VLT revenue at that location, the first 1% is allocated to the LGCA for costs.²⁷⁹ Then the operator receives 50% of revenue,²⁸⁰ and the remainder is paid out 3.75% in local impact grants,²⁸¹ 2.5% to the Purse Dedication Account,²⁸² 0.75% to the Small, Minority and Woman-Owned Business Account,²⁸³ and the balance to the Education Trust Fund.²⁸⁴

Unclaimed Jackpots

Any jackpots that are not claimed within 182 days escheat to the State, and are distributed in the following manner: (1) 2.5% to the Small, Minority and Woman-Owned Business Account; (2) 9.5% to local impact grants; (3) 10% to the Purse Dedication Account; (4) 1.5% to the Racetrack Facility Renewal Account; and (5) the remainder to the Education Trust Fund.²⁸⁵ Maryland law has a unique provision in that if a facility pays out to video lottery terminal or table game players more than the amount bet in any day, the facility is permitted to subtract that amount of overpayment from the proceeds for up to seven following days.²⁸⁶

Distributions of Remaining Lottery Proceeds

All funds remaining in the State Lottery Fund from lottery proceeds are paid out accordingly: (1) the first \$20,000,000 per year is transferred to the Maryland Stadium Facilities Fund;²⁸⁷ (2) 10% is paid to the Maryland Veterans Trust Fund;²⁸⁸ (3) \$20,000,000 into the Baltimore City Public School Construction Financing Fund;²⁸⁹ (4) \$1,500,000 to the Racing Special Fund;²⁹⁰ and (5) any remaining money to the General Fund.²⁹¹

Overall distribution of revenues over the past two years are summarized in the table below:

Fund	Fiscal Year 2018	Fiscal Year 2017
Education Trust Fund	\$ 496,663,611	\$ 451,206,896
Local Impact Grants	56,792,606	47,481,444
Horse Purse Dedication	61,212,583	54,641,341
Racetracks Facility Renewal	10,006,816	8,407,300
Small, Minority and Women Owned Businesses	24,300	12,949,485
Local Jurisdictions	31,614,481	17,556,796
General Fund	15,336,944	–
Maryland Lottery and Gaming Control Agency	10,457,130	9,310,058
Casino Operators	996,857,938	819,389,044
Total	\$ 1,678,966,409	\$ 1,420,942,364

Horse Racing Wagering Taxes and Distributions

Maryland has also established and funded a Purse Dedication Account overseen by the State Racing Commission to support both the thoroughbred and standardbred industries.²⁹² The State Racing Commission is required to allocate 80% of the funds it receives to the thoroughbred industry and 20% to the standardbred industry.²⁹³ Of that money, Ocean Downs Race Course and Rosecroft Raceway may each receive up to \$1,200,000 annually for years 2018-2024 to be used to provide financial assistance for operating losses so long as it offers a minimum of 40 racing days per year.²⁹⁴ It is further directed to allocate 89% of the thoroughbred funds to purses offered at the Pimlico Race Course, Laurel Park, Allegany County racecourse and the racecourse at Timonium, with the remaining 11% allocated to the Maryland-bred Race Fund.²⁹⁵ The Racing Commission must also allocate \$100,000 annually to Fair Hill, a natural resources management area under the management of the Maryland Department of Natural Resources, from the funds.²⁹⁶

For the standardbred funds, 89% is allocated to purses at Rosecroft Raceway, Ocean Downs Race Course, and the racecourse in Allegany County, allocated based on the number of live racing days at each track location, with the remaining 11% allocated to the Standardbred Race Fund.²⁹⁷

Gaming Oversight and Enforcement

All gaming activities are regulated by the LGCA. As outlined above, it can grant no more than six video lottery licenses.²⁹⁸ The VLFLC initially allocated the VLTs, but cannot authorize more than 16,500 VLTs,²⁹⁹ cannot authorize more than 4,750 VLTs at the Anne Arundel County location, more than 3,750 VLTs at the Baltimore City location, more than 2,500 VLTs at the Cecil County location, more than 3,000 at the Prince George's County location, more than 1,500 VLTs at the Allegany County location, or more than 2,500 VLTs at the Worcester County location.³⁰⁰ After 2015 when the VLFLC terminated, the LGCA on a running three year period is tasked with reallocation of the VLTs if any of them are not in operation and/or initially allocated.³⁰¹ As all VLTs are run through the LGCA, the central monitor and control system are owned or leased by the LGCA,³⁰² whereas each individual video lottery terminal device is owned and leased by the operator.³⁰³

The LGCA expressed that it has been beneficial to have both lottery and gaming under the same agency since the mindsets are so closely aligned. In its written comments, the LGCA noted: “Having MLGCA regulate and oversee both lottery and casino operations allows one agency and commission to be fully focused on the two gaming activities that are revenue-generating enterprises for the State of Maryland and its good causes.” In that vein, Mr. Medenica commented:

“[W]e . . . know that if the casinos do well, we do well. So, we also view them as our partners, and we try to avoid at all costs anything that’s really adversarial. The casinos themselves and modern casino management I think is sufficiently sophisticated that they know that a lot of the regulatory requirements are, in fact, just good business practices as well. And so, we’re very much aligned.”

Maryland has imposed an ownership restriction on the facilities, preventing an owner from owning more than one facility.³⁰⁴ It also requires approval by the LGCA for any transfer of a license or pledging of collateral by an operator licensee.³⁰⁵ The LGCA also must approve any transfer of 5% or more of any licensee.³⁰⁶ Such approval must occur within 90 days unless the LGCA determines it needs a longer time period.³⁰⁷

Maryland additionally imposed minority business goal requirements for any construction related to VLTs as well as procurement related to the operation of VLTs, including equipment and ongoing services.³⁰⁸ Currently, the goal is 29% of the total dollar value of their procurement contracts directly (prime contractors) or indirectly (subcontractors) to certified minority business enterprise firms.³⁰⁹ It also required that any casino must open within 18 months of being awarded a license.³¹⁰

Video lottery facilities are permitted to operate 24 hours per day.³¹¹ Compliance with alcoholic beverage laws are delegated to the county licensing authority for video lottery terminal facilities.³¹² No facility may offer complimentary food or alcoholic beverages to customers.³¹³ It is the facility’s responsibility to monitor customers to make sure they are at least 21 years old and are not intoxicated.³¹⁴

Maryland has prohibited predatory marketing practices relating to the advertisement or promotion of VLTs or table games, specifically related to ads targeted to underage or excluded players or that are false or deceptive.³¹⁵

Maryland has also promulgated regulations governing the transportation and testing of VLTs and table game equipment.³¹⁶ In addition to compliance with federal laws governing the transportation of gaming equipment (commonly referred to as the Johnson Act, 15 U.S.C. §1171—1178), Maryland also requires that shippers provide written notice of shipment and information regarding what is being shipped and to whom, and that operators provide written notice of receipt of shipment.³¹⁷ All equipment must be certified by an independent certified testing laboratory.³¹⁸

Maryland has authorized skill-based gaming in only Worcester County.³¹⁹ Licenses are available to family entertainment centers.³²⁰ Prizes must be noncash of minimal value except for a maximum of 10 skills-based devices that award prizes of up to \$599.³²¹ The facility cannot

exchange merchandise for money.³²² The LGCA maintains the ability to determine and remove any device that it determines is an illegal gaming device.³²³

Maryland has also exempted fantasy sports contests from any gaming prohibitions.³²⁴ The LGCA has promulgated specific regulations governing fantasy sports contests.³²⁵

Pursuant to Maryland law, the property rights in a license are expressly deemed to be a privilege and not a property right.³²⁶ This provision is to ensure that the LGCA has the maximum discretion and can make decisions that are not likely to be overturned by judicial review unless there has been an abuse of that discretion. An applicant has 15 days after receiving an adverse decision on an application to request a reconsideration meeting with the Director and be represented by counsel and present evidence. If dissatisfied with the results from the reconsideration meeting, an applicant may submit to the LGCA a written hearing request within 15 days after the Director's recommendation following the reconsideration meeting. An adverse decision by the LGCA may be appealed to the circuit court.³²⁷

Any individual who knowingly makes a false statement or makes a material misstatement in an application is guilty of a misdemeanor and subject to imprisonment not exceeding three years and/or a fine up to \$5,000.³²⁸ In addition, any violation of the statutes or regulations promulgated by the LGCA could result in a fine not exceeding \$5,000 for each day the violation continues.³²⁹ Any contested cases are heard by the LGCA and generally follow the administrative law procedures applicable to administrative hearings.³³⁰

Employees of the LGCA cannot accept a position or enter into a financial relationship with any licensee for a period of one year after their service ends.³³¹

The LGCA is annually required to provide a report on the distribution of proceeds from VLTs, marketing and advertising costs, capital improvements, and the distributions to local impact grants for the mitigation of gaming costs.³³²

Staffing and Budgetary Issues

The LGCA board is comprised of seven members.³³³ The members are appointed by the Governor and are subject to the advice and consent of the Senate.³³⁴ No more than five members may be from the same political party.³³⁵ Members must be at least 25 years old; a resident of the state for the past 5 years; a registered voter in the state; cannot have been convicted of a serious crime or a crime that involves moral turpitude or gambling; and must have fiscal knowledge and experience either as an executive with fiduciary responsibilities of a large organization, in an academic field relating to finance or economics, or as an accountant, economist, financial analyst or professional in a similar profession relating to fiscal matters or economics.³³⁶ Members cannot have any financial interest in any gaming activities, including horse racing, VLTs, table games or lottery; cannot have an official relationship with anyone who holds a license overseen by the Lottery; be an elected official of state or local government; receive or share in the receipts of any gaming activities; or have a beneficial interest in any contract for the manufacture or sale of gaming devices, the conduct of any gaming activity, or the provision of any consulting activities in

connection with any gaming activity.³³⁷ Members are appointed for a term of five years, no member can serve more than two terms, and the terms are staggered. Members are compensated at a salary established each year by the legislative budget.³³⁸

The LGCA board serves in an advisory capacity, tasked with conducting studies of the State lottery and gaming programs as well as studies comparing the operation and administration of similar laws in other states and federal laws.³³⁹ It also can make recommendations related to the regulation of alcoholic beverages at facilities.³⁴⁰

	Member 1	Member 2	Member 3	Member 4	Member 5	Member 6	Member 7
Appointing Authority	Governor	Governor	Governor	Governor	Governor	Governor	Governor
At least 25 years old	✓	✓	✓	✓	✓	✓	✓
MD Resident & registered voter	✓	✓	✓	✓	✓	✓	✓
Executive, academic or professional experience in field relating to finance or economics	✓	✓	✓	✓	✓	✓	✓
No financial interest in gaming activities	✓	✓	✓	✓	✓	✓	✓
Can't be elected official	✓	✓	✓	✓	✓	✓	✓

From its inception, the VLFLC was staffed by two employees from the Department of Legislative Services (“DLS”) until it awarded all 6 licenses. The DLS issued an RFP for financial consulting services in evaluating the proposals and it paid for the financial consultant that was selected. In addition to the DLS employees, the VLFLC was staffed by two assistant attorneys general and one support staff position. These employees were assisted by the LGCA’s Principal Counsel and an assistant attorney general assigned to advise the legislature. Finally, the LGCA’s chief procurement officer devoted substantially all his time to the casino licensing process, which included several rounds of RFPs for the casino operators, as well as the RFP for the operator of the central control system for the VLTs. The LGCA hired approximately 10 new staff to its Licensing and Gaming Divisions and a new IT professional dedicated to VLT operations.

Maryland’s LGCA had a 2018 budget of \$17.3 million, with \$10.2 million coming from special funds funded by the 1% tax on gross gaming revenue from VLTs and \$7.1 million coming from the state General Fund. The LGCA has divided its administration into an Administration and Operations Division and a Video Lottery Terminal and Gaming Operations Division. All the executive positions (i.e., Director, Assistant Director, Division Director of the Office of Attorney General, etc.) are housed within the Administration and Operations Division, but there are a total of 161 employees making an average salary of \$48,731 within the Video Lottery Terminal and Gaming Operations Division—see chart below:³⁴¹

E75D0002 - VLT and Gaming Operations	2018 Position	2018 Expenditures	2019 Position	2019 Expenditures	2020 Position	2020 Expenditures
Accountant Advanced	2.0	\$94,671	2.0	\$114,086	2.0	\$112,321
Accountant Lead Spec.	1.0	\$55,661	1.0	\$58,548	1.0	\$59,719
Accountant Supervisor II	1.0	\$72,777	1.0	\$72,777	1.0	\$74,233
Admin Officer I	2.0	\$91,627	2.0	\$99,806	2.0	\$102,675
Admin Officer II	3.0	\$134,704	3.0	\$134,703	3.0	\$137,400
Administrator II	33.0	\$1,676,814	33.0	\$1,730,460	32.0	\$1,730,395
Administrator III	4.0	\$292,223.	4.0	\$223,431	6.0	\$348,536
Administrator IV	6.0	\$371,463	6.0	\$398,678	6.0	\$390,964
Administrator V	1.0	\$63,522	1.0	\$63,522	1.0	\$64,793
Administrator VI	1.0	\$83,553	1.0	\$83,553	1.0	\$85,225
Asst. AG VI	1.0	\$87,455	1.0	\$87,455	1.0	\$89,205
Asst. AG VIII	1.0	\$113,764	1.0	\$113,763	1.0	\$116,039
Casino Compl. Lead	12.0	\$528,181	12.0	\$537,191	12.0	\$584,566
Casino Compl. Rep.	54.0	\$2,162,250	54.0	\$2,226,151	54.0	\$2,325,888
Casino Comp. Supr	6.0	\$281,878	6.0	\$298,884	6.0	\$313,907
Comp Network Spec. Supr	1.0	\$32,710	1.0	\$85,401	1.0	\$54,257
Exec. VII	3.0	\$352,408	3.0	\$361,074	3.0	\$389,435
HR Officer III	1.0	\$63,171	1.0	\$63,171	1.0	\$64,435
Internal Auditor II	8.0	\$392,116	8.0	\$450,794	8.0	\$469,056
Internal Auditor Supr	4.0	\$232,566	4.0	\$233,412	4.0	\$247,370
IT Staff Specialist	2.0	\$104,970	2.0	\$104,969	2.0	\$107,069
IT Staff Spec Supr	1.0	\$59,527	1.0	\$59,527	1.0	\$60,718
IT Tech. Support Spec II	1.0	\$55,796	1.0	\$55,796	1.0	\$56,912
Lottery & Gaming Commissioner	7.0	\$119,876	7.0	\$126,000	7.0	\$128,520
Lottery Rep. III	1.0	\$21,588	1.0	\$54,884	0.0	\$0
Office Secy I	1.0	\$37,775	1.0	\$37,774	1.0	\$38,530
Prgm Mgr II	1.0	\$79,867	1.0	\$79,835	1.0	\$81,432
Prgm Mgr III	1.0	\$80,463	1.0	\$80,463	1.0	\$82,073
Prgm Mgr Senior III	1.0	\$102,270	1.0	\$102,270	1.0	\$104,316
Totals	161	\$7,845,637	161	\$8,138,378	161	\$8,419,989

Originally, Maryland's VLTs were owned or leased by the State of Maryland. Ultimately the LGCA determined that the costs of the casino gaming program for negotiating and overseeing the purchase and lease of the VLTs exceeded the benefits. Accordingly, through tax incentives to the facilities, by 2018 all casino facilities owned their own VLTs and the State of Maryland no longer had ownership of the VLTs. Mr. Medenica pointed out that the central monitoring system has records of every transaction on every slot machine in the state. He noted that although Maryland has this backup system, the LGCA still staffs the casinos full-time, 24/7. He added that "real" slot machines (those not connected to a central monitoring system) require a large number of staff, which will be the bulk of staffing for a gaming agency.

The chart below summarizes overall gaming revenues, expenses and changes in net positions from 2016 through 2018:

	2018	2017	2016
Revenue			
Draw games	\$ 1,282,785	\$ 1,246,420	\$ 1,287,323
Instant games	750,888	676,753	611,286
ITLMs	9,121	8,373	6,934
Total sales	2,042,794	1,931,546	1,905,543
Gaming revenue — gross terminal revenue	1,046,677	885,868	741,694
Gaming revenue — state grant	7,475	20,706	20,275
Gaming revenue — table games	632,290	535,074	402,279
Gaming revenue — facility applicants	2,209	2,957	1,921
Gaming revenue — machine assessments	5,279	4,650	3,845
ITLM lease revenue	3,807	3,495	2,894
Total revenue	3,740,531	3,384,296	3,078,451
Cost of sales	2,436,693	2,198,274	1,934,303
Gross profit	1,303,838	1,186,022	1,144,148
Operating expenses	54,130	65,674	58,609
Income from operations	1,249,708	1,120,348	1,085,539
Non-operating revenues (expenses)			
Unrealized gain (loss) on investments	(1,780)	(2,108)	394
Voluntary exclusion program	79	38	76
Interest expense	—	(633)	(820)
Payments to State of Maryland General Fund, Stadium Authority and Veterans Trust Fund	(575,672)	(524,903)	(569,814)
Payments to other government funds/agencies — gaming	(680,212)	(599,628)	(514,154)
Total non-operating expenses	(1,257,585)	(1,127,234)	(1,084,318)
Change in net position	(7,877)	(6,886)	1,221
Total net position — beginning of year	(4,910)	1,976	755
Total net position — end of year	\$ (12,787)	\$ (4,910)	\$ 1,976

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As discussed above, Maryland also created a VLFLC. The VLFLC consisted of seven members, with three members appointed by the Governor, two members appointed by the President of the Senate (but cannot be members of the Senate), and two members appointed by the Speaker of the House (but cannot be members of the House).³⁴³ Membership criteria are identical to the Lottery Commission, with the exception that members must be at least 21 years old instead of 25 years old

and must be a resident of Maryland but not necessarily a registered voter.³⁴⁴ VLFLC Commissioners may receive reimbursement for expenses but are not paid.³⁴⁵

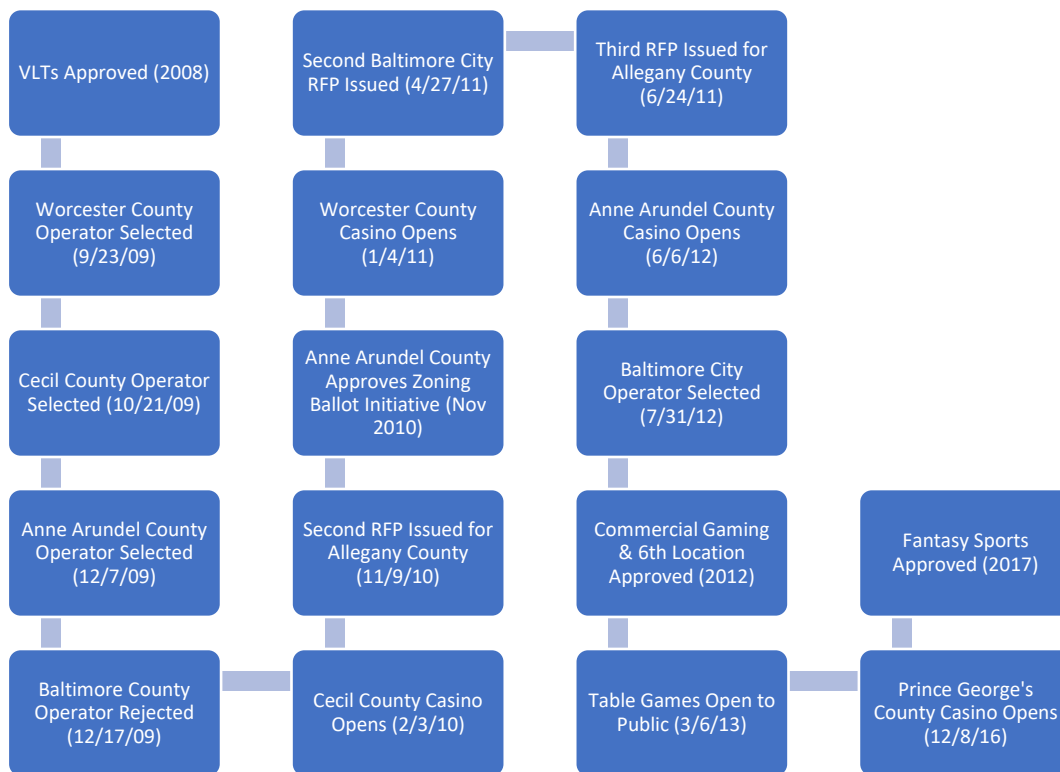
	Member 1	Member 2	Member 3	Member 4	Member 5	Member 6	Member 7
Appointing Authority	Governor	Governor	Governor	Senate	Senate	House	House
At least 21 years old	✓	✓	✓	✓	✓	✓	✓
Resident of MD	✓	✓	✓	✓	✓	✓	✓
Executive, academic or professional experience in field relating to finance or economics	✓	✓	✓	✓	✓	✓	✓
No financial interest in gaming activities	✓	✓	✓	✓	✓	✓	✓
Can't be elected official	✓	✓	✓	✓	✓	✓	✓

Maryland also has established a Joint Committee on Gaming Oversight consisting of eight members, four senators appointed by the President of the Senate and four members of the House appointed by the Speaker of the House.³⁴⁶ It is tasked with monitoring the status of the State's gaming program and implementing new laws relating to gaming and making recommendations and a report each year.³⁴⁷ Members are not compensated but may receive reimbursement for expenses.³⁴⁸

The State Racing Commission has partial oversight over the Ocean Downs Casino to the extent it involves horseracing. Ocean Downs must hold at least forty racing days to be eligible to share in proceeds from the Racetrack Facility Renewal Account.³⁴⁹ The Racetrack Facility Renewal Account funds are allocated 80% to the Pimlico Race Course, Laurel Park, and the racecourse at Timonium, and 20% to the Rosecroft Raceway and Ocean Downs Race Course.³⁵⁰ The Racetrack Facility Renewal Account is scheduled to close in 2026, sixteen years after VLTs were first offered, with any remaining funds transferred to the General Education Fund.³⁵¹ The Racing Commission also has oversight over the Purse Dedication Amount and Standardbred Race Funds discussed above.

Timeline

Maryland passed VLT legislation in 2008. The LGCA conducted its suitability investigations parallel to the investigation and determination by the VLFLC. Maryland's five casinos opened in 2010, 2011, 2012, 2013 and 2014, with the subsequently authorized Prince George's County facility opening in 2016 after the 2012 referendum allowing the sixth location and table games. As discussed in more detail above in the Staffing and Budgetary Issues, both the VLFLC staffing and the subsequent increase in LGCA staffing occurred gradually as the casinos came online. In discussions with the LGCA director, he indicated that while the timing of opening one casino roughly per year was not intentional, it helped the LGCA appropriately prepare and develop staff and regulations for the expansion of gaming.



Maryland Observations

Maryland's Director noted that as the state of Virginia looks to the potential legalization of casino gaming, the policymakers (Governor and Legislature) may find the following observations of interest. For a complete set of the written comments from the Maryland interview, please see **Exhibit 3**.

On the topic of regulation of different areas of gaming (i.e., horse racing, VLTs, commercial gaming), Mr. Medenica stated: "policymakers should recognize that the issues related to regulation of horse racing (e.g., equine health, drug testing, working conditions, jockey/trainer/owner integrity, etc., combined with the lack of business viability) are significantly different than those involving revenue-producing lottery and commercial gaming, and not combine regulatory authority for horse racing under the same agency."

If Virginia policymakers decide to place regulation of commercial gaming under its Lottery department, Mr. Medenica noted that policymakers "should recognize that the auditing, regulation and compliance requirements for commercial gaming machines at several locations will require a significant staffing increase and commitment within Lottery."

MASSACHUSETTS

Introduction

The Massachusetts Gaming Commission (“MGC”) is the primary regulator of casino gambling in Massachusetts. The MGC’s executive director is Edward Bedrosian, its chief financial officer is Derek Lennon, its general counsel is Catherine Blue, its ombudsman is John Ziemba, its director of responsible gaming is Mark Vander Linden and its director of communications is Elaine Driscoll. Mr. Bedrosian, Mr. Lennon, Ms. Blue, Mr. Ziemba, Mr. Vander Linden and Ms. Driscoll were interviewed on July 10, 2019.

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History and Overview

In 1971, the Massachusetts General Court created a state lottery to provide a new source of revenue for its 351 cities and towns.³⁵² Beano (Bingo) was legalized in 1971 as well, and was originally under the control of the Department of Public Safety,³⁵³ but was subsequently transferred to the State Lottery Commission 1973.³⁵⁴ In 2000, the legislature adopted changes to charitable gaming, increasing prizes, and in 2004, the Lottery instituted programs permitting one-day bingo licenses to charitable gaming.³⁵⁵ The Commonwealth of Massachusetts passed the Expanded Gaming Act in 2011, allowing the establishment of gaming facilities,³⁵⁶ and creating the Massachusetts Gaming Commission (“MGC”).³⁵⁷ The Expanded Gaming Act authorizes the MGC to award up to three destination resort-casinos located in three predetermined regions (delineated as Category 1 licenses),³⁵⁸ as well as one slots facility within the state (delineated as a Category 2 license).³⁵⁹ Horse racing has been regulated through the MGC Division of Racing since 2012, when the State Racing Commission dissolved.³⁶⁰ Daily Fantasy Sports were legalized without taxes or fees in 2016, with an original sunset date of July 2018.³⁶¹ Lawmakers eliminated the sunset in 2018.³⁶² Neither sports wagering nor online gambling have been authorized to date in Massachusetts, although a proposal for sports wagering has been introduced in the legislature.³⁶³

	Horse Racing	VLTs	Commercial Gaming	Online Gaming	Sports Wagering	Fantasy Sports
Year Authorized?	1934	NA	2011	NA	NA	2016
# of Locations?	0 (racinos)	NA	3	NA	NA	NA

Site and Operator Selection

The MGC approached licensing of the casinos as a bifurcated process—Phase 1 to determine whether applicants were suitable for licensure, and Phase 2 which is a competitive bidding process to select the winning operator for each region.³⁶⁴ The MGC ultimately received 11 Phase 1 applications for the three regions in January of 2013.³⁶⁵ By requiring suitability reviews before

the competitive bidding process, the MGC increased the number of investigations that needed to be completed, and the amount of time spent on such investigations (compared to other states), but this was presumably done in an effort to ensure that only suitable parties were competing for licenses.

The MGC regulates both resort-casinos and slots-parlors throughout the state and issues the operating licenses.³⁶⁶ The MGC was given the responsibility for not only licensing the casinos, but also selecting the operators through a competitive process.

Massachusetts allows three resort-casinos to operate, one in each of three designated “geographically diverse” regions.³⁶⁷

Of the three regions (A, B, and C) the enabling statute contemplated the possibility that a tribal government would negotiate a compact with Massachusetts and be eligible to compete for the Region C license.³⁶⁸ On July 20, 2012, the Mashpee Wampanoag Tribe (“Tribe”) signed a compact with Massachusetts and, subsequently, entered into a gaming compact that, among other things, enabled it to compete for Region C, which was effective February 3, 2014.³⁶⁹ The Tribe subsequently filed an application with the United States Department of Interior to take land into trust that would potentially house a Region C casino that was approved on September 18, 2015. In a lawsuit that was brought against the United States Department of Interior, *Littlefield et al v. United States Department of Interior*,³⁷⁰ a federal district court judge ruled on July 28, 2016 that the Department of Interior did not have authority to approve the application. While the Department of Interior is now reviewing the case and its prior approval, as of today the Tribe’s application has not been granted.

The tribal preference in the statute was the subject of litigation by a casino developer claiming it violated the equal protection clause of the United States Constitution.³⁷¹ Mr. Bedrosian noted with respect to the tribal preference in the litigation: “One of the challenges in the initial legislation is that it did involve that preference...we defended an initial challenge to that preference under an equal protection claim, which survived a motion to dismiss in federal court [but was eventually dismissed].” He also noted: “aside from the legal challenges it had presented, that was a bit of a challenge because commercial competitors, it does put commercial competitors in awkward positions because they are always making a determination about what kind of exclusivity they would have in that region, or not, and whether they’re willing to take the risk.” The MGC was ultimately successful in the litigation, with the court granting its Motion for Summary Judgment.³⁷²

As a result of the complications with the potential tribal facility, other Region C developers ended up seeking a license. Most notably, Mass Gaming & Entertainment, which was backed by Rush Street Gaming, submitted a proposal for a \$700 Million casino development in Brockton, Massachusetts which was rejected by the MGC in April of 2016. In late 2018, Mass Gaming & Entertainment asked the Commission to reconsider this issue. The MGC opened a public comment period to allow comments providing input on whether the Region C licensing process should be reopened. Recently, the Commission asked its legal counsel to provide it with detailed information relating to the request it received in the motion for reconsideration of its Region C.

The Category 2 slots-parlor license was the first process completed. Three entities submitted Phase 2 applications for Category 2—Raynham Park, PPE/The Cordish Companies, and Penn National Gaming.³⁷³ After a comprehensive evaluation process, the MGC selected Plainridge Park as the location and Penn National Gaming as the operator on February 28, 2014.³⁷⁴ After the suitability phase, Phase 2 included both operator plans and proposed construction site details. Plainridge Park, the state's only racino, opened on June 24, 2015.³⁷⁵

As complications arose with respect to the contemplated tribal casino in Region C, the MGC moved forward with the Phase 1 (suitability reviews) applications for Region A (Boston area) and Region B (western Massachusetts). By June of 2013, the MGC had developed and released the Phase 2 applications for both regions.³⁷⁶

Initially, there was competition for both the Region A and Region B licenses.

The requirement for a local referendum approving the proposals ended up eliminating competition in Region B. Mohegan Sun Massachusetts, LLC had proposed a casino in Palmer, Massachusetts but lost the local referendum. This left only a proposal for an MGM Grand casino in the City of Springfield for the MGC to consider.

In Region A, there were some unique developments that occurred creating some complications:

- Initially, Caesars teamed up with the racetrack operators at Suffolk Downs to propose a casino located at the track in the cities of Revere and East Boston. According to allegations in a lawsuit subsequently filed, the MGC Investigations and Enforcement Bureau raised some potential “suitability” concerns which led to Caesars withdrawal from the process shortly before the scheduled local vote. Further complicating matters, East Boston (one of two communities where the track is located together with the city of Revere) voted down the referendum. Suffolk Downs subsequently entered into a lease arrangement with Mohegan Sun Massachusetts, LLC, which had been found to be “suitable” by the MGC in connection with its Region B application. Mohegan Sun then competed to allow the opening of a casino situated solely in the City of Revere (which had voted to approve a casino) in close proximity to the track on land owned by Suffolk Downs.
- Wynn Resorts initially explored opening a casino in Foxboro, Massachusetts. Foxboro, however, rejected the concept of a casino. Wynn Resorts then sought to go forward with a casino on land in Everett, Massachusetts, which was owned (in part) by someone who had a prior business relationship with the Chair of the MGC, and in part by other interests. Issues also arose calling into question whether there might be hidden ownership in the land by a convicted felon who was recorded on a wiretap telling a federal inmate (Darin Bufalino) that he was an owner and that they had triple blinded his ownership interest to keep it hidden from the MGC. This led to a subsequent criminal trial of several owners of the real estate and created numerous complications.

By December of 2013, the MGC received three final applications for Regions A and B—Wynn MA and Mohegan Sun Massachusetts for Region A and MGM Springfield for Region B.³⁷⁷

With only one applicant for the Region B casino, the MGC was able to complete its review and selection process for that region first. On June 13, 2014, the MGC announced the award of the Region B license to MGM Springfield.³⁷⁸ The first resort-casino was opened in Region B (encompassing Hampshire, Hampden, Franklin, and Berkshire counties), MGM Springfield, on August 24, 2018.³⁷⁹

There were numerous complications in Region A that resulted in the process taking longer to progress to a hearing. Notably, the Chair of the MGC first recused himself from issues relating to the land deal in Everett. He later announced that he was recusing himself from consideration of which applicant should receive the Region A license. This resulted in only 4 of the 5 Commissioners attending the hearings related to the award of the license.

After a week of presentations and deliberations, the MGC announced that, subject to certain conditions being met, it was agreeing to award the Region A license to Wynn MA on September 18, 2014.³⁸⁰ The actual award of the license occurred on November 6, 2014. Wynn MA's facility, Encore Boston Harbor opened on June 23, 2019.

Numerous lawsuits were filed relating to the Region A license award and process.

- Caesars filed a federal lawsuit against the MGC alleging that it had been improperly forced out of the competitive process. This case was ultimately dismissed.
- The City of Boston filed suit against the Commission claiming that it should have been designated a "host community" for the Wynn Resorts casino. The lawsuit was eventually dismissed.
- Several individuals filed a lawsuit alleging that the MGC had violated the Open Meetings Law (OML) in connection with its process. This lawsuit was recently dismissed. Notably, the Massachusetts Attorney General separately issued a letter outlining certain OML violations by the MGC and providing advice on compliance.
- The City of Revere filed a lawsuit challenging the award to Wynn Resorts.
- Mohegan Sun Massachusetts joined the City of Revere's lawsuit claiming that the MGC's decision and deliberations violated the provisions of the Massachusetts gaming act and was arbitrary and capricious.³⁸¹ Portions of this lawsuit were dismissed, but others are still pending.
- After several of the Everett landowners were acquitted on federal charges which alleged that they had concealed information from the MGC and from Wynn Resorts, they filed suit against the MGC (which counter sued Wynn Resorts) alleging that the MGC forced a discounted sale of their land to Wynn Resorts. The Commission had required Wynn Resorts to remove any "casino premium" from the valuation of the real estate.
- One of the landowners who was required by the Commission to certify that he no longer had any ownership interest in the property later brought suit against Wynn Massachusetts claiming that the company had reached a secret deal with him to pay him the amount of money he lost as a result of the Commission lowering the purchase price.

In January of 2018, the founder and CEO of Wynn Resorts, Steve Wynn, was the subject of a Wall Street Journal article alleging numerous instances of alleged sexual harassment and sexual assault

against employees dating back several years.³⁸² Although he adamantly denied the allegations, within weeks of the article’s publishing, Steve Wynn resigned from Wynn Resorts, the parent company of Wynn MA, and sold all his stock in the company. His resignation was later followed by the resignation of Wynn Resorts’ general counsel, Kimmarie Sinatra, in August of 2018.³⁸³

The MGC conducted a nearly year-long investigation into Wynn Resorts to determine whether the entity or current qualifiers misled the MGC during the application process.³⁸⁴ In hearings that ended in April 2019, the MGC determined that Wynn Resorts remained suitable. Wynn Resorts was required to pay a record \$35 million fine but was allowed to keep the license.

Facility	Locality	Racetrack Facility	VLTs	Slot Machines ³⁸⁵	Table gaming positions ³⁸⁵
Encore Boston Harbor	Everett, MA	No	No	2,574	141
Plainridge Park Casino	Plainville, MA	Yes	No	1,250	0
MGM Springfield	Springfield, MA	No	No	3,000	100

Local Government Involvement

Under Massachusetts law, all operators are required to enter into agreements with the host communities and surrounding communities near the casino.³⁸⁶ As part of the host community and surrounding community agreements, the operator must negotiate and pay fees to the host and surrounding communities. Before applying for a license, a host community votes on whether it wants to have a casino in its community or not.³⁸⁷ If the ballot initiative is not successful, an applicant must wait at least 6 months before requesting another ballot initiative.³⁸⁸ Applicants must also enter into agreements with local entertainment venues.³⁸⁹ The MGC ultimately decides which communities are surrounding communities and which entertainment venues are deemed impacted by the proposed casino after a review of the entire operator license application.³⁹⁰

After reviewing the application of a proposed gaming establishment, the MGC conducts a public hearing on the application.³⁹¹ The host community must be given at least 30 days’ notice of the hearing.³⁹² The hearing gives the MGC the opportunity to address questions and concerns regarding the proposed gaming establishment, and allows the reading of letters of support or opposition from the community.³⁹³ Between 30 and 90 days after the public hearing, the MGC shall take action on the application.³⁹⁴

A Community Mitigation Fund is established to assist the host communities in “offsetting costs related to the construction and operation of a gaming establishment,” including water and sewer districts, local and regional education, transportation, infrastructure, housing, environmental issues, and public safety.³⁹⁵

Each host region may establish a “community mitigation advisory committee” to make recommendations on any issues relating to the gaming establishment in its region.³⁹⁶ These issues may include: community mitigation; expending funds from the Community Mitigation Fund; and the impact of gaming establishments on the host communities.³⁹⁷

Licensing

The chart below provides an overview of the various types of licenses issued with respect to casino gaming operations in Massachusetts.

	Casino Operator	Gaming Vendor Primary	Gaming Vendor Secondary	Non-Gaming Vendor	Employee Licensing
Initial Term	15 years (full) or 5 years (slots)	3 years	5 years	5 years	5 years (gaming employee)
Initial Fee	\$600/gaming machine annually	\$15,000	\$5,000	\$100	\$1,000/\$300/\$75
Renewal Term	TBD	3 years	5 years	5 years	3 years (gaming employee)
Renewal Fee	TBD	\$15,000	\$5,000	\$100	\$1,000/\$300/\$75
Exemption			<\$250,000 annually or <\$100,000 in three-month period to one licensee.		Some service employees
Temporary License		✓	✓	✓	✓
Institutional Investor	✓	✓	✓	✓	NA
Ownership Disclosure Threshold	5%	5%	5%	5%	NA
Categories	NA	NA	NA	NA	Key Gaming Employees, Gaming Employees, Service Employees

The Expanded Gaming Act provided for two different categories of gaming establishments in 2011. Each Category 1 operator's license is for a 15 year term.³⁹⁸ A Category 2 license is for a 5 year period.³⁹⁹ If the Category 2 license is awarded to an applicant with a live racing or simulcast license as of July 1, 2011, a condition of the license must be to maintain and complete the annual live racing season or maintain the simulcast license.⁴⁰⁰ The legislature outlined very specific conditions that must be included in a gaming license.⁴⁰¹

Massachusetts requires owners of 5% or more of the ownership interests of any applicant to become licensed.⁴⁰² Institutional investors holding up to 15% of ownership interests are exempted from licensure.⁴⁰³ An applicant must own the property upon which it proposes to construct the resort within 60 days of application, demonstrate how it proposes to mitigate compulsive gambling and community impacts, provide evidence of signed host and surrounding community agreements, signed agreements with local entertainment venues and other criteria.⁴⁰⁴

Generally, the legislature identified 19 objectives that the MGC should evaluate in determining whether it should grant an operator's license. These include protecting the lottery, maximizing

revenue and protecting local businesses and creating jobs, mitigating problem gambling and social costs, and advancing minority and women-owned businesses.⁴⁰⁵

All employees of a gaming establishment must also be licensed by or registered with the MGC, unless exempted.⁴⁰⁶ The MGC has exempted certain kitchen and restaurant, reception, maintenance, and office staff positions.⁴⁰⁷ Employees are categorized as key gaming employees, gaming employees, or gaming service employees depending on their roles at a gaming establishment.⁴⁰⁸ In written comments, the MGC noted:

“In Fall 2017, the Massachusetts Legislature passed a statutory amendment to the Gaming Act which provided MGC the authority to exempt certain ‘Gaming Service Employee’ level job positions (e.g., certain kitchen and restaurant, reception, maintenance, and office staff positions) from the mandatory registration process. With careful consideration of Commission criteria, MGC works collaboratively with licensees to identify an appropriate list of job categories. While all casino employees undergo some level of background check, this amendment allows for greater eligibility for applicants interested in many of these newly posted positions.”

Vendors who conduct business at a gaming establishment must also be licensed or registered by the MGC.⁴⁰⁹ Massachusetts divides the categories into Gaming Vendors and Non-Gaming Vendors.⁴¹⁰ Gaming Vendors are divided into categories of primary and secondary. A primary vendor is one who conducts business with a gaming licensee on a “regular or continuing basis” of goods or services which directly relate to gaming.⁴¹¹ A Gaming Vendor – Secondary is a vendor who has already been issued a Non-Gaming Vendor registration but that regularly conducts over \$250,000 in gross sales with any one gaming licensee within a 12 month period, or \$100,000 in gross sales with any one gaming licensee within a three month period.⁴¹² Non-Gaming Vendors must submit a Registration Form and a \$100 fee to the MGC.⁴¹³ Once a vendor is registered, the registration is valid for five years and must renewed at least 30 days prior to expiration.⁴¹⁴ Additionally, six month temporary licenses are available.⁴¹⁵

Massachusetts also requires licensing of all junket enterprises and junket employees as well as registration of all labor unions seeking to represent gaming establishment employees.⁴¹⁶

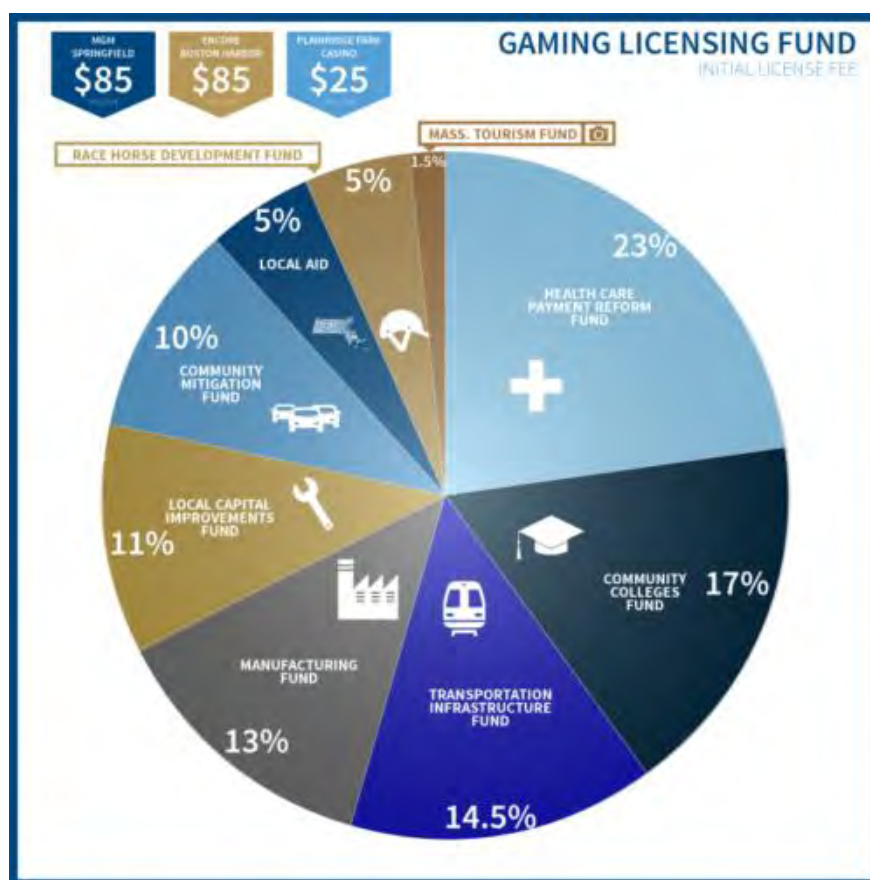
All applicants have the burden of proof to establish his/her/its qualifications by clear and convincing evidence.⁴¹⁷ The MGC cannot award a license to an applicant who submits false information on their application or who has been convicted of a felony or other crime involving embezzlement, theft, fraud or perjury, committed prior acts that form a pattern of misconduct, or has affiliates or close affiliates that would not qualify for licensure.⁴¹⁸ For non-gaming licensees and employee licenses other than key employee licenses, the MGC may disregard crimes committed more than 10 years prior.⁴¹⁹

The MGC is also responsible for issuing licenses for horse and greyhound racing meetings. Licenses are required for drivers, trainers, owners, authorized agents, stable employees, veterinarians, blacksmiths, vendors, and racing officials.⁴²⁰

The Lottery Commission may grant a license to conduct a Beano game to any charitable organization that applies for a license, so long as it meets the requirements in Mass. Gen. Laws Ch. 10, § 38 (1971). Qualifying organizations include any fraternal organization having chapters in at least one other New England state, any religious organization with an established church in the state, any veterans' organization, or any volunteer fire company, amongst others.⁴²¹

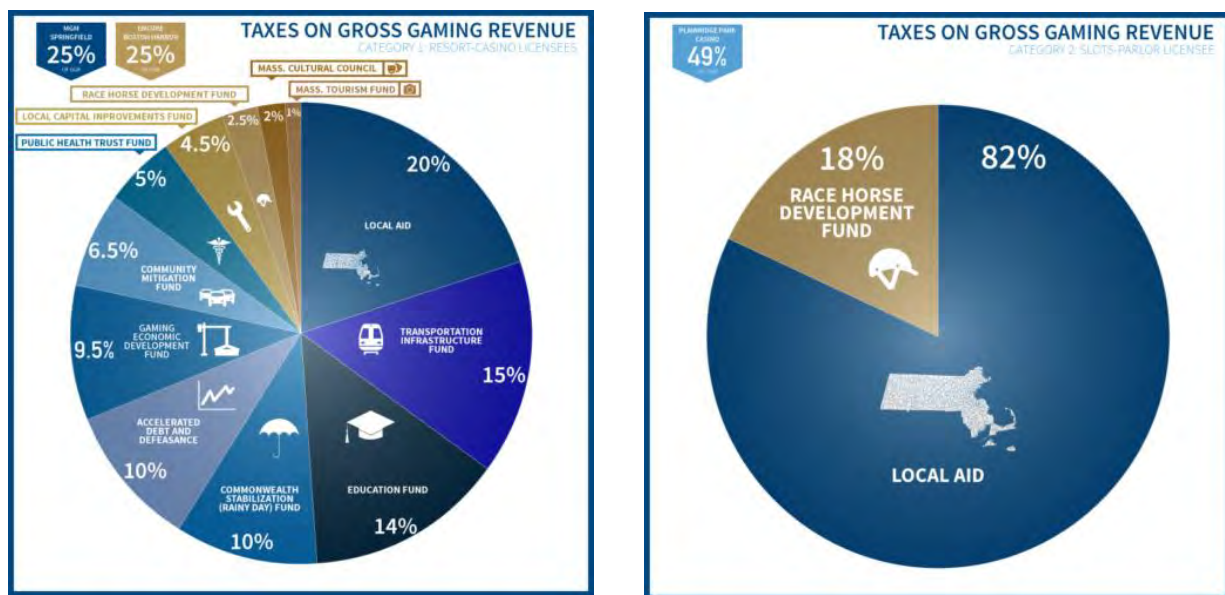
Accounting, Audit and Taxation

The MGC has the responsibility for accounting, audit and taxation oversight regarding the Massachusetts casinos. The MGC received \$15 million from the stabilization fund, as appropriated from the Expanded Gaming Act, to fund the initial operations of the MGC.⁴²² Category 1 licenses have a licensing fee of at least \$85 million,⁴²³ and requires a capital investment of at least \$500 million.⁴²⁴ The Category 2 license has a \$25 million license fee,⁴²⁵ and requires a capital investment of at least \$125 million.⁴²⁶ Initial license fees are allocated pursuant to the chart below:



Renewal fees after the initial 5 year term for Category 2 licenses will be at least \$100,000.⁴²⁷ Category 1 licenses are taxed at 25% of gross gaming revenues, while the Category 2 license is taxed at 49% of its gross gaming revenues.⁴²⁸ The Category 2 taxes are split into a daily tax of 40% on gross gaming revenue and a daily assessment of 9% of gross gaming revenue, which is credited to the Race Horse Development Fund.⁴²⁹ All licensees pay an annual \$600 fee per slot machine as well as an annual \$5 million assessment split proportionally among licensees, based

upon the number of gaming positions at each facility to be paid into the Public Health Trust Fund for compulsive gambling and other addiction services.⁴³⁰ Initial license fees go toward the Gaming Licensing Fund, and are allocated toward various other funds benefitting Massachusetts residents.⁴³¹ The allocation of these funds are depicted on the chart below.⁴³² Tax revenues from Category 2 licensees go toward Local Aid and the Race Development Fund, whereas Category 1 tax revenues go to a variety of funds. See chart below for the allocation percentages and fund.⁴³³



In addition to license fees and taxes on gross revenue, monies collected from all penalties by licensees are to be deposited in the Gaming Revenue Fund.⁴³⁴

The Lottery Commission is responsible for lottery games, Keno, and charitable gaming. At least 45% of the total revenues from the State Lottery are to be apportioned as the payment of prizes to holders of winning tickets.⁴³⁵ A maximum of 15% of the total revenues are to be apportioned as the payment of costs incurred in operation of the Lottery.⁴³⁶ The remaining balance is to be used to fund aid to cities and towns throughout the state.⁴³⁷ Revenues from Keno are distributed as aid to municipalities in which there is a Keno-licensed facility.⁴³⁸ In addition to lottery games, the Lottery Commission regulates Beano and determines the price at which an organization can resell the tickets.⁴³⁹ An organization may not keep more than 30% of the resale value of tickets sold.⁴⁴⁰ The Lottery Commission determines the prizes, which should not be less than 45% of the resale value of the tickets.⁴⁴¹ The funds from Beano may be used exclusively for educational, charitable, or religious purposes.⁴⁴² The Lottery Commission is responsible for collecting the state's 5% tax on gross receipts from all charitable games.⁴⁴³

Gaming Oversight and Enforcement

The MGC required a Category 1 licensee to commence gaming operations within 1 year of the date specified in the construction timeline. The MGC may suspend or revoke the license of an

operator who fails to do so and may, upon a showing of bad faith, levy a fine of up to \$50 million.⁴⁴⁴ These provisions were designed to protect against prolonged delays in construction and facility opening date.

Massachusetts offers several types of gaming, including table games,⁴⁴⁵ electronic gaming devices,⁴⁴⁶ slot machines,⁴⁴⁷ a state lottery,⁴⁴⁸ charitable gaming,⁴⁴⁹ live horse racing,⁴⁵⁰ greyhound simulcasting,⁴⁵¹ and daily fantasy sports.⁴⁵²

Table games are regulated by the MGC, and are subject to the MGC's regulations.⁴⁵³ Only games authorized by the MGC may be offered for play in a gaming establishment.⁴⁵⁴ A current list of the approved games can be found on the MGC's website, including the rules of each game.⁴⁵⁵

Electronic gaming devices (EGDs) and slot machines are regulated by the MGC, and are subject to the MGC's regulations.⁴⁵⁶ A gaming device vendor should be in compliance with the appropriate Gaming Laboratories International (GLI) standards, as adopted in the MGC's regulations.⁴⁵⁷ The MGC has specific regulations for the shipping of EGDs.⁴⁵⁸ In addition, every slot machine must be tested and approved by one of the MGC's certified Independent Testing Labs (ITLs) to test gaming software and electronic slot monitoring systems.⁴⁵⁹

Operators may offer credit to customers based upon promulgated regulations developed by the MGC.⁴⁶⁰ Casinos may not permit customers to cash government-issued checks, provide access to governmental benefits on-site, or extend credit to recipients of income-based public assistance.⁴⁶¹ Operators must develop and file a complimentary distribution program with the MGC that must be approved prior to issuing any complimentaries to customers.⁴⁶² Casinos must file quarterly reports to the MGC covering all complimentary services.⁴⁶³

Massachusetts has empowered the MGC with the authority to appoint a conservator to temporarily manage and operate a gaming licensee in cases of license revocation, suspension or non-renewal.⁴⁶⁴ The MGC must initiate proceedings after the appointment of the conservator to award a new gaming license to a qualified replacement applicant. Any new applicant must pay the original licensing fee.⁴⁶⁵

All transfers or pledges related to gaming licenses are conditional until approved by the MGC.⁴⁶⁶ The MGC may suspend or revoke the license of any licensee if the MGC determines that any owner of or holder of a security license in is not qualified for licensure.⁴⁶⁷

The Lottery Commission has the authority to determine the types of lottery to be conducted, the prices of tickets, and the numbers and sizes of prizes.⁴⁶⁸ In addition to lottery games and Keno,⁴⁶⁹ charitable gaming has been regulated by the Lottery Commission since 1973.⁴⁷⁰ Charitable organizations, churches, and schools may raise money by hosting Beano games, raffles, and bazaars by selling Charity Game tickets, which are supplied by the Lottery Commission.⁴⁷¹

Live thoroughbred horse racing is not offered at any of the casinos. The MGC's Division of Racing oversees horse racing meetings,⁴⁷² harness horse racing meetings,⁴⁷³ and greyhound racing meetings.⁴⁷⁴ Although dog racing was made illegal with the Greyhound Protection Act in 2008, simulcasting in Massachusetts of dog racing taking place in other states is still permissible and is regulated by the MGC.⁴⁷⁵

Daily fantasy sports (DFS) were legalized in Massachusetts in 2016, without any taxes or fees.⁴⁷⁶ The bill had a sunset provision that was set to expire in July 2018, however, an amendment to the House Ways and Means Budget removed the provision and allowed continued operation of DFS.⁴⁷⁷ The Attorney General, Maura Healey, implemented DFS regulations in 2016.⁴⁷⁸ These regulations include who can offer DFS, who can participate, and advertising requirements.⁴⁷⁹ Massachusetts does not tax the revenue of daily fantasy sports operators.

The MGC has several provisions relating to disciplinary action of licensees. If it is found that a licensee engaged in an act that “caused irreparable harm to the security and integrity” of the gaming establishment or the interests of Massachusetts in “ensuring the security and integrity of gaming,” then it may be assessed a civil administrative penalty.⁴⁸⁰ A Category 1 licensee who fails to begin gaming operations within one year after the date in its construction timeline, is subject to suspension or revocation of the gaming license by the MGC.⁴⁸¹ If the licensee is found to have acted in bad faith, then it may be assessed a fine of up to \$50 million.⁴⁸² Should a Category 2 licensee fail to conduct live racing, the MGC shall suspend the license.⁴⁸³ The MGC may condition, suspend, or revoke any license or registration if the MGC finds out that a licensee has been arrested or convicted of a crime while employed by a gaming establishment and failed to report it, has failed to comply with Mass. Gen. Laws 23K, § 14 (2011), or has failed to comply with any requirements pertaining to licensees.⁴⁸⁴ In addition, the MGC may assess a civil administrative penalty on a licensee who fails to comply with Mass. Gen. Laws 23K (2011).⁴⁸⁵ There are several other fines that may be assessed to licensees depending on the value of a wager and the seriousness of the offense.⁴⁸⁶ A licensee who disagrees with a disciplinary act may request a review of the MGC’s decision.⁴⁸⁷

Similarly, the Lottery Commission has penalties for persons who are in violation of its provisions. Anyone who sells a ticket at a price greater than determined by the Commission is subject to a fine of \$100-\$500.⁴⁸⁸

In written comments, the MGC emphasized its approach to regulatory reform: “MGC solicits independent evaluations of our programs and has the most extensive research agenda ever undertaken by a gaming jurisdiction. We are constantly seeking ways to improve our systems and make evidence-based policy decisions.

Staffing and Budgetary Issues

Massachusetts established a MGC comprised of five commissioners.⁴⁸⁹ One of the commissioners is to be appointed by the governor; one to be appointed by the attorney general who should have experience in criminal investigations and law enforcement; one to be appointed by the treasurer and receiver general who should have experience in corporate finance and securities; and two to be appointed by a majority vote of the governor, attorney general, and the treasurer and receiver general: one who should have experience in legal and policy issues related to gaming, and one who may have professional experience in gaming regulatory administration or gaming industry management.⁴⁹⁰ No more than three commissioners can be of the same political party.⁴⁹¹ Each commissioner must be a Massachusetts resident within 90 days of appointment, cannot hold or be a candidate for an elected or appointed office, and cannot serve as an official in the political

party.⁴⁹² Commissioners serve five year terms, and may not serve more than ten years.⁴⁹³ Commissioners are compensated at a salary not greater than three-quarters of the salary of the commissioner of administration, with the exception of the chair, who is compensated at a salary equal to that of the commissioner of administration.⁴⁹⁴ Commissioners are full time employees.⁴⁹⁵

	Member 1	Member 2	Member 3	Member 4	Member 5
Appointing Authority	Governor	Attorney General	Treasurer	Majority Vote of Governor, Attorney General & Treasurer	Majority Vote of Governor, Attorney General & Treasurer
Law Enforcement Experience		✓			
Corporate Finance & Securities Experience			✓		
Gaming Experience in Legal & Policy Issues				✓	
Professional Gaming Regulatory or Gaming Management Experience					✓
Massachusetts Resident w/in 90 days of Appointment	✓	✓	✓	✓	✓
Can't Hold/Run for Office	✓	✓	✓	✓	✓
Can't be Political Party Official	✓	✓	✓	✓	✓

Additionally, the commission appoints an executive director as the executive and administrative head of the commission, who should have experience in management.⁴⁹⁶ No commissioner or employee of the commission is permitted to place a wager in a gaming establishment.⁴⁹⁷ Commissioners cannot hold an interest or be employed by an applicant or licensee for 3 years post-term, policy-making MGC employees cannot do so for 2 years post-employment, and all other MGC employees may not do so for 1 year post-employment.⁴⁹⁸

The MGC also regulates horse racing and greyhound racing simulcasts in Massachusetts under its Division of Racing.⁴⁹⁹ The MGC is given the power to prescribe rules, regulations, and conditions for all horse and dog racing meetings.⁵⁰⁰

The MGC has its own department, the Investigations and Enforcement Bureau (IEB), to handle investigation and enforcement of its regulations.⁵⁰¹ The IEB is staffed with members of the Massachusetts State Police Gaming Enforcement Unit and financial investigators, who “complete background checks and ongoing suitability determinations on casinos, vendors and employees of the gaming establishments.”⁵⁰² Patrons of any resort-casino or slots facility may report tips of illegal or suspicious activity on the MGC’s website. As a law enforcement agency, the IEB has the authority to effectuate Mass. Gen. Laws Ch. 23K (2011).⁵⁰³ Additionally, the IEB is staffed with Gaming Agents, who ensure that Massachusetts casinos are in compliance with MGC regulations.⁵⁰⁴ Gaming Agents are staffed at the casinos and complete audits of the gaming establishments.⁵⁰⁵

The Attorney General’s Gaming Enforcement Division (GED) investigates and prosecutes illegal gaming activity in Massachusetts, in coordination with the MGC, State Police, and local police

departments. With the expansion of gaming, Massachusetts also created a Gaming Liquor Enforcement Unit within the Commissioner of the Alcoholic Beverages Control Commission that was tasked with regulating and enforcing alcoholic beverages in a gaming establishment.⁵⁰⁶ The MGC retains the authority to grant the gaming beverage license itself.⁵⁰⁷

As a new agency, the MGC started with the appointment of its 5 full-time commissioners, each with specific expertise outline above. Mr. Bedrosian noted with respect to agency start-up: “it’s a long run...there was a decision that the industry is going to be here for a long time and we are building the foundation of this industry, and we needed to take the appropriate time to build a solid foundation so that what the industry sat on, the foundation it sat on, was solid. I will offer an opinion that I think trying to take the time to do it appropriately is important. That doesn’t mean there aren’t political pressures to get it done quickly also.”

The MGC has divided its agency into five agencies: the IEB, the Division of Licensing, the Division of Racing, the Office of the Ombudsman, and the Information Technology Division.

Massachusetts prohibits applicants for gaming licenses from making political contributions to any holders of municipal, county or state office, any candidate for nomination or election to any public office in Massachusetts, or any group, political party, committee or association organized in support of any such candidate or political party.⁵⁰⁸

Massachusetts has also established a gaming policy advisory committee. It has five members, consisting of the governor or his designee, two members of the senate, with one appointed by the minority leader, and two members of the house, with one appointed by the minority leader. The committee is responsible for examining community mitigation, compulsive gambling and gambling effects on cultural facilities and tourism. It is required to meet at least annually.⁵⁰⁹

	Member 1	Member 2	Member 3	Member 4	Member 5
Appointing Authority	Governor	Senate Majority	Senate Minority	House Majority	House Minority

Additionally, Massachusetts established a State Lottery Commission within the Office of the State Treasurer and Receiver General.⁵¹⁰ The Lottery Commission oversees the state’s lottery games, as well as charitable gaming. The Lottery Commission is comprised of the state treasurer, the secretary of public safety or his designee, the state comptroller or his designee, and two members appointed by the governor.⁵¹¹ No more than four members of the commission shall be of the same political party.⁵¹² Commissioners are not compensated, but are reimbursed for expenses incurred within their official duties.⁵¹³ In addition, the state treasurer may appoint a director of the state lottery to “supervise and administer” the operation of the lottery.⁵¹⁴

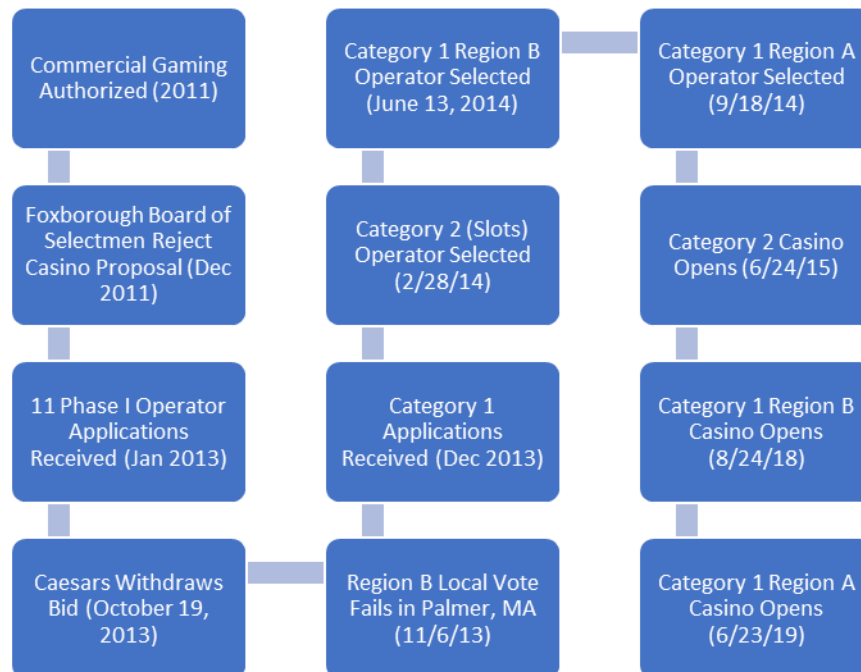
	Member 1	Member 2	Member 3	Member 4	Member 5
Appointing Authority/Position	Treasurer	Secr. of Public Safety	State Comptroller	Governor	Governor

Timeline

The Expanded Gaming Act passed in Massachusetts in 2011. The Category 2 casino (slots only—Plainridge Park) opened in June of 2015. The first full scale casino operation (MGM Springfield) opened in August of 2018, some seven years after passage of the Act. Encore Boston just recently opened on June 23, 2019, nearly five years after being awarded the Region A license, and eight years after the passage of the Act.

As detailed above, the MGC commissioners are full-time employees and upon the agency's commencement, they were the only employees. They began by hiring an executive director, a general counsel and the head of its IEB, and eventually staffed the agency from the ground up.

Mr. Bedrosian expressed that starting a new agency is “a long run.” He thinks it is important to remember that the industry will be a part of the state for a long time, and because of that, it is necessary to take the appropriate amount of time to build a solid foundation. The MGC has a detailed timeline available on its website providing an overview of all the various milestones that occurred throughout this lengthy process: <https://massgaming.com/historical-timeline/>.



Massachusetts Observations

Massachusetts's Executive Director noted that as the state of Virginia looks to the potential legalization of casino gaming, the policy makers (Governor and Legislature) may find the following observations of interest. For a complete set of the written comments from the Massachusetts interview, please see **Exhibit 4**.

With respect to the funding of a regulatory agency, Mr. Bedrosian noted that policymakers “should consider having all funding of regulatory agency activities come from the casino industry but ensure that transparency and responsibility of spending are paramount.”

Specifically, with respect to responsible gaming and mitigation of social costs of gambling, Mr. Bedrosian recommended that policymakers “should consider including statutory language outlining minimum and continuing levels of funding for responsible gaming and social impact mitigation as well as require that minimum funding be devoted to research of the effectiveness of mitigation and treatment programs.”

MICHIGAN

Introduction

The Michigan Gaming Control Board (“MGCB”) is the primary regulator of casino gambling in Michigan. The MGCB’s executive director is Rick Kalm and its Communication Specialist is Mary Kay Bean. Mr. Kalm and Ms. Bean were interviewed on July 3, 2019.

Michigan Gaming Control Board
3062 West Grand Boulevard, Suite L-700
Detroit, MI 48202-6062

Overview and History

The State of Michigan currently allows pari-mutuel wagering at a horse racing track, has a very successful State Lottery, has 24 tribal casinos operated by twelve different Native American Indian Tribes, and has three urban (Detroit) commercial casino operations.⁵¹⁵

Horse racing was the first form of legal wagering authorized in the state in 1933.⁵¹⁶ By the early 1990s, the horse racing industry had grown to nine pari-mutuel tracks. In recent years, the racing industry has declined, and there is currently only one racetrack operating in the state.⁵¹⁷

The State Lottery was created in Michigan as the result of a voter initiative which amended the state Constitution in 1972.⁵¹⁸ From the outset the State Lottery was very popular. It has generated over \$1 billion in revenue every year since 1987.⁵¹⁹ The revenue from the Lottery is directed to a state School Aid Fund. In recent years the State Lottery has taken a cutting-edge approach to offering lottery games online, offering several “iLottery” options for interactive games that customers can play on their computers or mobile devices.⁵²⁰

Indian gaming began in the early 1980s when a northern Michigan Upper Peninsula Tribe began offering bingo games. The growth of Indian gaming involved several court battles between the state and various tribes, ultimately resulting in a stipulated “Consent Judgment” that called for the state to enter Tribal/State Gaming Compacts as provided for under the Indian Gaming Regulatory Act. Initially, there were seven tribes which opened casinos on their reservations. The Consent Judgment called for these tribes to make revenue sharing payments to the State of Michigan in exchange for exclusivity in offering casino style gaming in the State, and revenue sharing to local units of government to pay certain expenses associated with the casino operations.⁵²¹ Over time, five additional tribes were federally recognized which subsequently entered into compacts with the state. Today, there are 26 tribal gaming facilities in the State, thirteen in the Upper Peninsula, and thirteen in the Lower Peninsula.⁵²²

A commercial casino operated by the Ontario Government in Canada opened in the City of Windsor on the Detroit river in May of 1994, and an additional riverboat casino was added shortly thereafter. These casinos were a mere 5-10-minute drive from the City of Detroit through a tunnel or over a bridge. Witnessing the success of these casinos, and the success of the tribal casino

facilities in the state, voters in the City of Detroit approved a local referendum supporting casino gaming in 1994. As a result of a voter initiated petition drive, voters in the State approved a new state law allowing up to three commercial casinos, creating a Gaming Control Board to regulate gaming, imposing state taxes (with mandated allocation of 55 percent of the revenue to the host City) and granting certain preferences to two developers who had coordinated the petition drive effort. The law that passed as a result of the voter initiative did not do much to establish a regulatory framework. As a result, both the Michigan House and Senate acted quickly to pass comprehensive gaming legislation by the needed $\frac{3}{4}$ majority vote. The new law, the Michigan Gaming Control and Revenue Act, was enacted on July 17, 1997.⁵²³

	Horse Racing	VLTs	Commercial Gaming	Online Gaming	Sports Wagering	Fantasy Sports
Year Authorized?	1933	NA	1997	NA	NA	NA
# of Locations?	0 (racinos)	NA	3	NA	NA	NA

Site and Operator Selection Process

The Michigan Gaming Control and Revenue Act requires any casino developer seeking licensing to first enter into a development agreement with the host City (Detroit).⁵²⁴ This empowered the City of Detroit to become the gatekeeper, and to make the selection of developers through a competitive bidding process. The Detroit City Council adopted a Casino Development Competitive Selection Process Ordinance and appropriate zoning ordinances in June of 1997.⁵²⁵ These local ordinances empowered the Mayor to run the selection process, to identify areas where the casinos could be located, to negotiate development agreements, and to bring the development agreements back to the City Council for final approval.⁵²⁶

The Mayor appointed a sixteen-person Casino Advisory Committee to make recommendations on the process of implementing the Act. The Committee recommended that all three casinos be clustered together on a 100-acre area in Detroit's Central Business District, with the land being obtained by eminent domain, if necessary. Detroit Mayor Dennis Archer rejected the concept of clustering, and instead established several areas where the casinos could potentially be located. He then issued Phase One applications that interested developers could submit.⁵²⁷

Eleven applicants sought to develop casinos in Detroit and made applications to the Mayor. The Mayor made the selections and negotiated development agreements with each developer that then were sent to the City Council to approve. Having a development agreement was a mandatory condition to getting a casino license. This field of eleven was initially narrowed down to seven, each of which was required to complete a secondary round of applications. The field was further narrowed to four, and then finally, three developers were designated as being eligible to enter into negotiations with the City:

- Detroit Entertainment, LLC, a partnership between local interests who had a preference under state law and Circus Enterprises, Inc. a publicly traded casino operator based in Las Vegas, Nevada. The casino that was ultimately developed was named the MotorCity Casino.

- Greentown Entertainment, LLC, a partnership between a local group of developers and the Sault Saint Marie Tribe of Chippewa Indians that was already operating tribal casinos in the state. This group also had a preference under state law. The casino developed by this group was named the Greentown Casino.
- MGM Grand, Inc., a publicly traded Las Vegas Nevada casino operator that had partnered with some local interests.⁵²⁸

Two of the three operators selected by the Mayor had a “preference” that was contained in the voter-initiated law. These “preferences” were later, successfully, challenged through litigation by a casino developer (a Michigan tribe), resulting in a cash settlement.⁵²⁹

Initially, the City intended to acquire the locations for the permanent casino facilities (through eminent domain if necessary) and the development agreements with each developer outlined this plan. Practical issues arose, however, with regard to the land acquisitions and the City ended up amending the development agreements and agreeing to a process that allowed areas within the City to be identified, and then allowed the casinos to acquire their own individual locations. After the initial identification of areas within the City where the casinos could be located, each of the developers selected their own sites which were submitted to the City for approval. Initially, each of the casino operators opened temporary facilities (MGM Grand Detroit and MotorCity Casino opened in 1999, Greentown Casino opened in November of 2000).

Several years later, two of these facilities (MotorCity Casino and Greentown Casino) were expanded into permanent casinos. MGM Grand Detroit built an entire new casino building for its permanent casino. The permanent casinos opened in 2007 (MGM Grand Detroit and MotorCity Casino) and 2009 (Greentown Casino).

Facility	Locality	Racetrack Facility	VLTs	Slot Machines	Table gaming positions
MotorCity Casino	Detroit, MI	No	No	2,776	77
Greentown Casino	Detroit, MI	No	No	2,662	68
MGM Grand Detroit	Detroit, MI	No	No	3,131	131

Local Government Involvement

After each developer was initially identified, they then had to enter into negotiations with the Mayor for the terms of development agreements. The “development agreements” were the key tool used by the local officials to ensure that the City’s interests were protected. These agreements included provisions ensuring that residents of the City of Detroit would be employed by the casinos, that commitments were made as to the number of employees to be employed, ensuring commitments to affirmative action to increase the numbers of minority and women employees of the developers, and to require that reasonable best efforts were used to ensure 30 percent of the aggregate amounts expended by the developers would be paid to Detroit-based or Detroit resident businesses, small business concerns, minority or women owned businesses. The development agreements also established radius restrictions prohibiting the developers from opening other

casinos being involved in other casino projects within 150 miles of downtown Detroit, established timelines for each of the casinos to be built and opened in a timely manner, established hours of operation (24 hours per day), established casino maintenance funds to ensure ongoing upkeep of the facilities, restricted transfers of interest of the casino development without approval setting time parameters to be followed, established transportation plans to ensure the smooth flow of traffic, required compliance with environmental laws and standards, provided for adequate insurance, provided indemnity protection to the City for the developers' activities, allowed for City audits and inspections to take place, ensured adequate child care availability for casino employees, and set forth plans to ensure that minors would not be permitted to gamble in the casinos. The development agreements also outlined the requirements for the opening of temporary casino facilities.

Notably, unlike some other jurisdictions, there was no requirement under the state law for a local referendum on the casino issue. Two years prior to passage of the state law, however, in 1994, voters in the City of Detroit had approved a local referendum on the topic.⁵³⁰

Licensing

The MGCB has the authority to grant licenses to applicants in accordance with the Act and the Rules promulgated under the Act.⁵³¹ The Act confers on the Board the power to review and decide applications for the renewal of licenses.⁵³²

	Operator	Gaming Supplier	Nongaming Supplier	Occupational Licensing
Initial Term	1 year	5 years	5 years	2 years
Initial Fee	\$25,000	\$5,000	\$5,000/\$200 (under \$400,000)	\$750/\$200/\$100
Renewal Term	Same	Same	Same	Same
Renewal Fee	Same	Same	Same	\$250/\$100/\$50
Exemption			<\$50,000 annually; banks, insurance company, publicly traded<5% of business with casinos; construction subcontractors; <\$400,000 annually is registration only	Workers not in gaming area
Temporary License		✓	✓	✓
Institutional Investor	✓	✓	✓	NA
Ownership Disclosure Threshold	5% public/1% private	5% public/1% private	5% public/1% private	NA
Categories	NA	NA	NA	Level 1, Level 2 and Level 3

With respect to licensing, Michigan divides its vendor categories into gaming and non-gaming suppliers as well as occupational licensing.⁵³³ Occupational licenses are subdivided into Level 1, Level 2, and Level 3.⁵³⁴ Level 1 employees are managers/supervisors of casino licensees, Level 2 employees are most gaming employees and repair/maintenance of gaming equipment, and Level 3 employees are non-gaming staff such as waitresses, housekeepers, and bartenders in the gaming area.⁵³⁵ Employees not working in the gaming area generally do not require occupational licenses.

The MGCB noted in its written comments: “Our agency also focuses on customer service and has completed several initiatives to streamline the licensing process to improve customer satisfaction.” As an example of this, the MGCB stated: “For example, the licensing process for non-gaming suppliers can be expensive, limit competition and cut Michigan firms out of the market. We’ve streamlined it by lightening up the requirements.”

Accounting, Audit and Taxation

The MGCB is an agency under the Department of Treasury in Michigan, and is responsible for accounting, audit and taxation oversight with respect to the Detroit casinos. It also serves an audit function with respect to tribal revenue sharing under state gaming compacts.

All the expenses of the Board for the regulatory and enforcement costs, compulsive gambling programs, and other casino related programs are paid through annual assessments of the casino operators. This annual assessment for the three Detroit casinos totaled \$34,629,400 in calendar year 2018. Additionally, the MGCB collects licensing application fees from casino, supplier, and occupational licensees, and makes assessments of investigative costs in connection with any licensing investigations. The MGCB also gets revenue from fines and investigative costs incurred in connection with any violations of the law or rules and collects lab fees pursuant to a fixed schedule for any games submitted to the Michigan lab for testing.

The MGCB also receives oversight fees from the Native American Casino Fund which was created pursuant to the compacts with the tribes.⁵³⁶

The Michigan Gaming Control Board currently has annual total revenues of \$37,259,600 (on a calendar year basis). Total MGCB expenditures for 2018 were \$29,129,800. In addition to the expenses directly related to the MGCB’s operation, the MGCB both receives and pays out money to other branches of state government. It receives funding from budget allocations to the Department of Agriculture and the Bureau of State Lottery for the responsibilities it has taken over. It transfers funds to the Department of Health and Human Services, the Auditor General, the Department of Treasury, the Michigan State Police, and the Department of Civil Service. In total in calendar year 2018, it transferred out \$9,198,300 more than it took in from these sources.⁵³⁷

The three Detroit casinos had total revenues of \$1,444,099,784 in calendar year 2018. The State of Michigan receives 8.1 percent of this revenue in the form of a wagering tax and deposits it in the School Aid Fund. In 2018 this totaled \$116,972,082. Additionally, the City of Detroit received 9.9 percent of this revenue in the form of a wagering tax which totaled \$182,937,021 in calendar year 2018. Historical revenue, state and city wagering taxes from 2008 through 2018 is listed on the table below:⁵³⁸

	Total Adjusted Gross Receipts	Total State Wagering Tax	Total City (Detroit) Wagering Tax
2018	\$1,444,099,784	\$116,972,082	\$182,937,020
2017	\$1,400,536,681	\$113,443,471	\$177,372,096
2016	\$1,385,601,766	\$112,233,743	\$175,486,438
2015	\$1,376,408,437	\$111,489,083	\$174,258,005
2014	\$1,332,782,570	\$107,955,388	\$168,600,000**
2013	\$1,349,503,669	\$109,309,797	\$170,800,000**
2012	\$1,416,734,426	\$114,755,489	\$170,800,000**
2011	\$1,424,445,461	\$115,380,082	***
2010	\$1,377,929,085	\$99,284,352	***
2009	\$1,339,479,273	\$122,338,629	***
2008	\$1,359,584,636	\$121,040,830	***

**Revenue reported in aggregate for fiscal years 2012-2014

***The MGCB did not compile City of Detroit tax revenue until 2012.

Gaming Oversight and Enforcement

The MGCB has agents onsite at all three of the Detroit casinos on an ongoing basis. Michigan has a division that focuses on casino audit and enforcement issues, with a Deputy Director who oversees the division. Its role is to assure that the casinos, suppliers, and employees comply with statute and regulations. It noted: “Michigan’s Gaming Control and Revenue Act includes strong civil and criminal provisions, which are essential to regulation. We would recommend any state include similar provisions in its law.”

The Legislature has authorized the Board to eject, exclude or authorize the ejection or exclusion of a person from a casino under certain circumstances.⁵³⁹ Additionally, the MGCB has the power to levy fines as a form of disciplinary action (up to \$5,000 against suppliers and up to \$10,000 or an amount equal to the daily gross receipts against casino licensees).⁵⁴⁰

The Board has enacted Rules to govern any dispute that a patron may have with a casino licensee or an occupational licensee. The patron dispute process rules provide that the casino licensee must attempt to resolve all patron disputes and shall have a period of 10 business days to investigate a patron complaint and resolve the dispute.⁵⁴¹ If the licensee and the patron cannot resolve the dispute, then the casino licensee has an obligation to advise the patron of the patron’s right to file a complaint form with the Board.⁵⁴² The patron may file that complaint either with a Board employee or a member of the Michigan State Police Gaming Section at the Board office in the casino or send the complaint to the Board Office in Detroit, Michigan.⁵⁴³

A patron may obtain a complaint form from the casino licensee.⁵⁴⁴ If the patron is unable to resolve the dispute with the casino, the patron is required to file a complaint with the Board within 21 business days of the incident.⁵⁴⁵ The casino licensee is then required to respond in writing to the patron complaint within 14 business days of receiving a copy of the patron's complaint.⁵⁴⁶

Once received by the Board, the Board has the authority to determine and conduct any investigation deemed necessary regarding the patron's complaint. If the Board determines that the casino licensee or occupational licensee violated the Act or Rules, the Board may initiate a disciplinary action.⁵⁴⁷

The Act and Michigan Rules also provide systems for administrative and judicial review of various decisions by the MGCB. Generally, persons or entities seeking to appeal denials or non-renewals of a supplier or occupational license or a Board order providing for the exclusion or expulsion of a person from a casino must administratively appeal the decision. As discussed below, however, special rules apply regarding appealing a notice of denial issued to a casino license applicant.

Under the Act and the Rules, upon receipt of a "notice of denial" from the Board, a casino license applicant wishing to appeal the decision is required to file an appeal with the Michigan Court of Appeals.⁵⁴⁸ The Michigan Administrative Procedures Act ("APA")⁵⁴⁹ requires this type of appeal to be filed in court within 60 days after the date of mailing of the notice of the final decision.⁵⁵⁰ Casino license applicants are given this direct appeal because the Rules provide for a "public investigative hearing" with regard to each applicant which is treated as a "contested case hearing" as procedurally required by the APA.⁵⁵¹

Those persons whose supplier or occupational license applications are denied, whose licenses are not renewed, or who are excluded or expelled from casinos are entitled to *de novo* hearings before the Board or its representatives.⁵⁵² A person may represent himself or herself, or may be represented by an attorney during the hearing process.⁵⁵³ Additionally, parties (including casinos) who contest disciplinary action proposed by the Board can appeal or contest the issues involved.

Given that the members of the MGCB are not paid, the Board generally will assign any appeals to an Administrative Hearing Officer who will hear the case and make a proposal for decision to the full MGCB Board. The APA provides a detailed framework on how such hearings are conducted and handled. The APA governs the conduct of various State agencies, including the Board.⁵⁵⁴ The APA governs agency action such as rulemaking and licensing, and contains procedures for contested case hearings and judicial review of agency decisions.

Appeals from an adverse Board decision regarding suppliers and occupational licensees and exclusion orders are filed in the Circuit Court in Ingham County (the site of the State Capitol) or in the circuit court where the petitioner resides or has a principal place of business in Michigan. Judicial review of final Board decisions is also governed by the APA.⁵⁵⁵ The APA requires a petition to be filed in court within 60 days after the date of mailing notice of the final decision or order of the agency, or if a rehearing before the agency is timely requested, within 60 days after delivery or mailing notice of the decision or order thereon.⁵⁵⁶ Judicial review is not available unless and until a party has exhausted the remedies available from the Board; *i.e.*, obtained a final Board decision in a denial, exclusion, seizure, forfeiture, or disciplinary hearing as appropriate.

Failure by a party to exhaust these Board remedies may preclude judicial review, making the Board decision final.

Under the Act, judicial review of a Board decision regarding a casino license is conducted in the Michigan Court of Appeals and all other Board decisions are reviewed in circuit court.

Staffing and Budgetary Issues

MGCB. Shortly after the passage of the statewide referendum, on November 26, 1996, Michigan's Governor appointed an interim Executive Director to the Michigan Gaming Control Board ("MGCB"). It was an interim appointment at the time as the law still needed to be amended to adopt a comprehensive system of regulation. The Governor chose Nelson Westrin, who, at the time was the existing Horse Racing Commissioner for the state, and whose office had been conducting audits of tribal gaming facilities in the State. Mr. Westrin, a former Assistant Attorney General, provided key insight to the state legislature to ensure a comprehensive approach to state statutory and regulatory language.

The Michigan Gaming Control and Revenue Act created a Board and bestowed "all . . . powers necessary and proper to fully and effectively execute and administer [the Act] for the purpose of licensing, regulating and enforcing the system of casino gaming . . ." ⁵⁵⁷ The Board consists of five **unpaid** members, not more than three of whom can be members of the same political party. ⁵⁵⁸ The Act does not provide any further criteria applicable to the selection of the Board. The Governor is given the authority to appoint the Board with the advice and consent of the Michigan Senate. ⁵⁵⁹ The appointed Board members were given staggered terms. The Board meets currently on an every two-month schedule, unless something arises creating the need for a special meeting.

	Member 1	Member 2	Member 3	Member 4	Member 5
Appointing Authority	Governor	Governor	Governor	Governor	Governor

The Act specifically established a strict Code of Ethics severely limiting interaction between the Board members, staff and potential licensees under the Act. One key provision in this Code of Ethics absolutely prohibits "*ex parte* communications" with members of the Board. ⁵⁶⁰ It provides:

"A licensee or applicant or any affiliate or representative of an applicant or licensee shall not engage in *ex parte* communications with a member of the Board. A member of the Board shall not engage in any *ex parte* communications with a licensee or an applicant or with any affiliate or representative of an applicant or licensee."

The Act defines "*ex parte* communication" as follows:

"'Ex parte communication' means any communication, direct or indirect, regarding a licensing application, disciplinary action, or a contested case under this Act other than communication that takes place during a meeting or hearing conducted under this Act."

Although communication with the Board members is severely restricted, the Act does permit contact with the Executive Director and staff of the Board by licensees.

In addition to the unpaid Board, the Act also authorized the Governor to appoint an “Executive Director” to serve a six-year term. The Executive Director is a paid position, and thus, together with his or her staff, largely provides the gaming oversight on a day to day basis.

Over time, the responsibilities placed on the Executive Director and staff of the MGCB have grown to include the oversight of:

- Horse Racing (which eliminated the separate Office of Racing Commissioner);
- Charitable Millionaire Parties (a form of licensed charitable gaming event); and
- Indian Gaming Audit.

The MGCB has an authorized staff of 148 employees that fall under four Divisions:

- Administrative Division
 - Infrastructure Security & Special Projects Section;
 - Financial Services Section;
 - Detroit Administrative Services Section;
 - Human Resources Section;
 - Information Technology section;
- Casino Audit & Enforcement Division
 - Audit Section;
 - Enforcement Section;
 - Gaming Lab Section;
- Licensing & Investigations Division
 - Enterprise Licensing Section;
 - Investigations Section;
 - Criminal Investigations Section;
 - Employee Licensing Section;
- Indian Gaming, Legal Affairs & Gaming Regulation Division
 - Horse Racing Section;
 - Indian Gaming Section;
 - Communications Section.⁵⁶¹

Bureau of State Lottery Oversight of Lottery and Other Forms of Charitable Gaming. In addition to the MGCB, the state has a separate Bureau of State Lottery, and a Lottery Commissioner. This state agency was created after the Constitution authorized the lottery in 1972. It oversees a state lottery that generated total revenue of \$3,591,928,526 in fiscal year 2018. These revenues resulted in a net deposit to the School Aid Fund (after the payment of prizes and expenses) of \$941.3 million in fiscal year 2018.⁵⁶²

In addition to the state Lottery games, the Bureau also oversees Charitable Gaming through its Charitable Gaming Division. The one exception to the oversight is with respect to “Millionaire Parties” which operate casino-like events on behalf of charities. The responsibility for oversight

of these activities was transferred to the MGCB Executive Director as a result of amendments made to the Bingo Act in Michigan, Public Act 382 of 1972.⁵⁶³

The Lottery employed 178 employees in fiscal year 2018. At the top of the Agency is the Lottery Commissioner, who is appointed by the Governor. There is an Executive Division, with multiple sub-divisions falling under it, including:

- Compliance and Legal Affairs;
- Gaming Operations;
- Administrative Division;
- Games and Marketing Division;
- Sales Division;
- Charitable Gaming.

In addition, there are separate offices for legislative liaison, information security, human resources and internal audit who all report directly to the Lottery Commissioner.⁵⁶⁴

The Bureau of State Lottery had total expenditures in fiscal year 2018 of \$2,650,900, of which \$2,215,000 related to the award of prizes. Expenses attributable to expenses other than commissions, game related expenses, or prizes totaled, i.e. the Bureau's salaries and wages and operational expenses, totaled \$68 Million.⁵⁶⁵

Pending Gaming Expansion

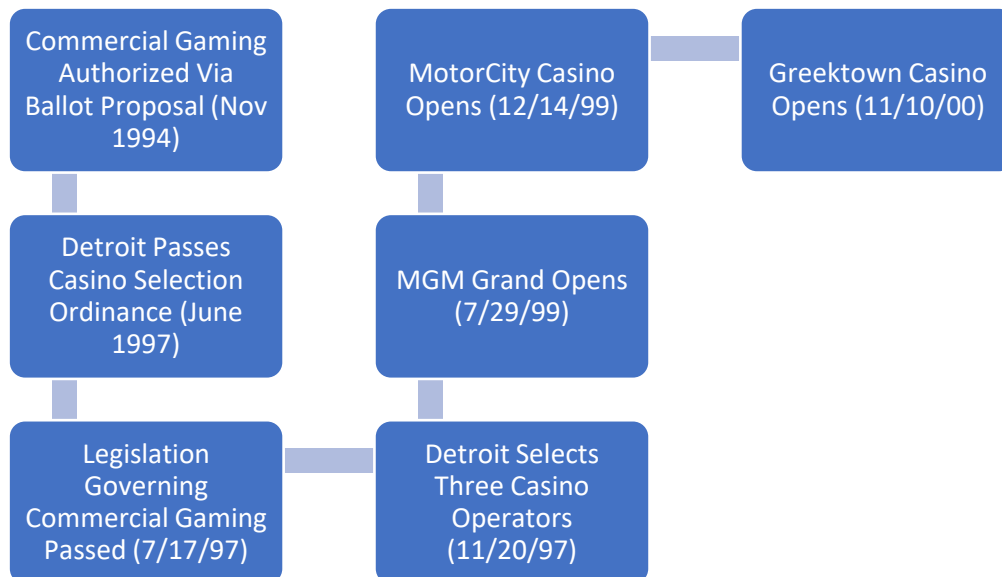
Legislation to permit the Detroit casinos and tribal casinos to offer online gaming, sports wagering, and eSports gaming and wagering is currently pending in the Michigan legislature. Bills approving these emerging areas of gaming were passed during a lame duck session last December, but Michigan's former Governor (Rick Snyder-R) ended up vetoing the legislation. A renewed effort is under way with the current legislature. Under the legislation that is pending, the MGCB would be the regulating entity for such activities.

On a related note, the State of Michigan has one of the broader iLottery operations that currently exists. It allows players to go online and to wager and play interactive games in a fashion that is very similar to what online gaming offerings would likely be. This component of the iLottery continues to grow, both in terms of overall revenue and in terms of percentage of revenue. In the first full year of iLottery (2015), overall revenue attributable to iLottery was \$18.5 million and accounted for less than 1% of overall Lottery revenue. In 2016, those numbers grew to \$48 million and 1.5%, in 2017 they nearly doubled to \$77.9 million and 2.3%, and in 2018 grew to \$93.7 million and 2.6%. All these activities are both operated by, and regulated by, the Bureau of State Lottery.

Timeline

From the date of passage of the Voter Initiative (in November 1996) until the opening of the first casino (July 29, 1999) the MGCB had 33 months to get fully staffed and ready for the opening. Thus, the staff had some lead time to get fully staffed and trained on the various regulatory functions needed to properly regulate the industry. As outlined above, the City of Detroit selected

the operators for the 3 commercial casinos, so the MGCB's regulatory responsibilities were limited to vetting and licensing the operators and all the related vendors and employees.



Michigan Observations

Michigan's Executive Director noted that as the state of Virginia looks to the potential legalization of casino gaming, the policy makers (Governor and Legislature) may find the following observations of interest. For a complete set of the written comments from the Michigan interview, please see **Exhibit 5**.

With respect to the identification of the appointment the agency or senior leadership responsible for the creation/oversight of the industry, Mr. Kalm noted:

"I would look for quality of leadership and the ability to lead and manage public servants. A person with a high degree of ethics that can make the right decision not just the popular one. A law or criminal justice background would be a plus. Understanding an urban environment that our casinos operate in is helpful, both for the risks it presents and to understand the issues these companies face. Having a business-friendly approach to regulation is also a plus. Our casinos do a really good job of following our regulations. It's important we listen to them when they have issues in compliance and not rush to regulatory action."

Mr. Kalm noted that with the significant capital investment required for the development of casino complexes it is important that the appointed Board members and senior agency staff: "Learn what they can about finance and lending to large corporations. The learning curve is steep without the ability to understand the terms and related requirement under the law for both private and publicly traded companies."

OHIO

Introduction

Ohio's Casino Control Commission ("OCCC") regulates commercial gaming at Ohio's casinos and its Lottery Department regulates commercial gaming at its racinos. With respect to the OCCC, its executive director is Matthew Schuler, its deputy director and director of operations is Rick Anthony, its general counsel and director of licensing and investigations is Matt Oyster, and its director of communications is Jessica Franks. With respect to Lottery, its deputy director of VLT operations is Joe Angelillo and its communications director is Danielle Frizz-Babb. Mr. Schuler, Mr. Anthony, Mr. Oyster and Ms. Franks were interviewed on May 29, 2019 and Mr. Angelillo and Ms. Frizz-Babb were interviewed on May 31, 2019.

Ohio Casino Control Commission
100 East Broad Street, 20th Floor
Columbus, OH 43215
<https://casinocontrol.ohio.gov/>

Ohio Lottery Department
100 East Broad Street, 20th Floor
Columbus, OH 43215
<https://www.ohiolottery.com>

Overview and History

Ohio has one of the more unusual gaming expansion histories. While horse racing has a long and rich history, it was not until 1973 that Ohio instituted a state lottery via constitutional amendment⁵⁶⁶ and then in 1975 authorized charitable gaming via another constitutional amendment.⁵⁶⁷ Commercial gambling came to Ohio as a result of a constitutional amendment that was funded by the commercial operators who anticipated running the commercial casinos.⁵⁶⁸ The constitutional amendment was approved by 52% of voters in 2009 authorizing four casino locations. In 2012, the Ohio Lottery Commission ("OLC") authorized video lottery terminals ("VLTs"). The Ohio attorney general regulates charitable gaming.

Ohio has bifurcated regulatory oversight of commercial gambling. Table games, slot machines and "traditional" casinos are regulated by the Ohio Casino Control Commission ("OCCC"). VLTs are located at seven racetrack racinos and are regulated by the OLC. In 2018, the OCCC promulgated rules governing skill-based amusement machines, and the legislature also legalized fantasy sports in 2018. The OCCC is currently developing regulations governing daily fantasy sports. To date, Ohio has not authorized sports wagering or iGaming. The OLC has initiated an iLottery request for information process and is hoping to launch by summer 2020.

	Horse Racing	VLTs	Commercial Gaming	Online Gaming	Sports Wagering	Fantasy Sports
Year Authorized?	1933	2009	2009	NA	NA	2018
# of Locations?	0 (racinos)	7	4	NA	NA	NA

Site and Operator Selection

The 2009 constitutional amendment prohibits any one casino owner from owning more than 2 of the 4 casino licenses or facilities. It also specifically identifies and restricts facilities to specific real estate parcels located within Cleveland, Cincinnati, Toledo, and Franklin County.⁵⁶⁹ Accordingly, there was no selection process of the casino facility location by the OCCC. Applicants were required to submit a facility plan to the OCCC as part of the initial operator licensing.⁵⁷⁰

Likewise, VLTs were added to existing racetracks, so there was no additional site or operator selection as both the site and the operator were already in place prior to the authorization of VLTs. Those in the horse racing industry said that adding VLTs to existing tracks was “a matter of survival.”⁵⁷¹ Betting fell almost 60 percent between 2001 and 2011, from \$596 million to \$253 million.⁵⁷² VLTs offered an opportunity for the horse racing industry to generate additional revenue and compete with racetracks in the surrounding states of Indiana, Pennsylvania, and West Virginia.⁵⁷³ In written comments, the OLC mentioned that the VLTs were tied to racing permits. After the approval of VLTs, three of the tracks relocated with permission from the Lottery and Ohio State Racing Commission. One relocation was within 10 miles because the existing track was on county fairground-owned land, two of the relocations required a \$75 million fee, and a fourth track had an option to move within 25 miles for a \$25 million fee but chose not to move.

In discussions with OCCC representatives, they noted that the Ohio process did not allow for any competitive bid selection of either the operators or locations. In part due to this, the legislature proposed a constitutional amendment that Ohio voters approved in 2015 restricting future attempts to allow constitutional amendments that would grant a monopoly or confer a commercial interest, right or license to a particular group, entity or person. Future ballot initiatives that fall into either of the two categories must be accompanied by an additional question: “Shall the petitioner, in violation of division (B)(1) of Section 01e of Article II of the Ohio Constitution, be authorized to initiate a constitutional amendment that grants or creates a monopoly, oligopoly, or cartel, specifies or determines a tax rate, or confers a commercial interest, commercial right, or commercial license that is not available to other similarly situated persons?”⁵⁷⁴

Facility	Locality	Racetrack Facility	VLTs	Slot Machines ⁵⁷⁵	Table gaming positions ⁵⁷⁵
El Dorado Gaming Scioto Downs	Columbus, OH	Yes	Yes	2,241	0
Jack Thistledown Racino	North Randall, OH	Yes	Yes	1,443	0
MGM Northfield Park	Northfield, OH	Yes	Yes	2,308	0
Miami Valley Gaming	Turtlecreek Township, OH	Yes	Yes	1,839	0
Belterra Park Gaming	Anderson Township, OH	Yes	Yes	1,374	0
Hollywood Gaming Dayton Raceway	Dayton, OH	Yes	Yes	1,028	0
Hollywood Gaming Mahoning Valley Racecourse	Austintown, OH	Yes	Yes	1,034	0
Hollywood Casino Toledo	Toledo, OH	No	No	2,043	50
Hollywood Casino Columbus	Columbus, OH	No	No	2,219	64
Jack Cincinnati Casino	Cincinnati, OH	No	No	1,802	88
Jack Cleveland Casino	Cleveland, OH	No	No	1,262	96

Local Government Involvement

As the constitutional amendment dictated the very specific location of the casinos, there were no local referendums held to decide if casinos should be located within the specified locations. Neither the constitutional amendment nor the subsequently enacted legislation required the casino operators to enter into local development agreements with any of the local municipalities.

Licensing

Casinos

The Ohio Casino Control Commission (“OCCC”) is responsible for casino licensing. Licenses have terms of three years.⁵⁷⁶ A license is deemed a revocable privilege and no licensee has a vested right in or under any license issued.⁵⁷⁷ Ohio has separate licensing categories for casino operators, management companies, holding companies, gaming-related vendors,⁵⁷⁸ casino gaming employees,⁵⁷⁹ key employees,⁵⁸⁰ and institutional investors.⁵⁸¹

Licensed casino operators or licensed management companies are the only entities permitted to conduct casino gambling.⁵⁸² Casino operators had to engage a third-party engineering or accounting firm to verify the minimum \$250 million capital investment as a prerequisite to licensure.⁵⁸³ Each operator is also required to post and maintain a \$1 million bond, conditioned upon compliance with state statutes and OCCC regulations.⁵⁸⁴ In granting licenses, the OCCC must consider:

- The reputation, experience and financial integrity of the applicant;
- The ability to purchase and maintain adequate casualty and liability insurance;
- The past and present compliance with casino-related licensing requirements;

- Whether the applicant has been indicted, convicted, pleaded guilty or no contest, or forfeited bail concerning any criminal offense in any jurisdiction, including felonies or misdemeanors other than traffic tickets;
- Any filings for bankruptcy;
- Any complaints regarding payments of any delinquent tax for one or more years;
- If the applicant was a defendant in litigation involving its business practices; and
- If awarding the license undermines public confidence in the casino industry.⁵⁸⁵

It is the applicant's burden to show by clear and convincing evidence that it is suitable for licensure.⁵⁸⁶ The OCCC cannot issue a license if:

- The applicant has been convicted of a disqualifying offense (any gambling offense, any theft offense, any offense involving fraud or misrepresentation, any offense involving moral turpitude, and any felony),⁵⁸⁷;
- If the application contains false information;
- If the applicant is an OCCC member;
- If the applicant owns an unlawful ownership interest unless waived; or
- The applicant is a member of or employed by a gaming regulatory body in any state and has significant influence or control over the ability of a casino operator to conduct business in Ohio.⁵⁸⁸

For casino operator licensing decisions, the OCCC also considers the facilities of the casino and the prospective total revenue to be collected by the state.⁵⁸⁹

Additional requirements for gaming-related vendor license applicants include providing a list of all equipment, devices and supplies the applicant will offer for sale to Ohio casinos.⁵⁹⁰ For key employees, they must provide authorization for the OCCC to review all bank accounts and records.⁵⁹¹

All key employee licenses and casino gaming employee licensees are required to display prominently license credentials while on duty.⁵⁹²

	Operator	Mgmt Company	Gaming Related Vendors	Occupational Licensing
Initial Term	3 years	3 years	3 years	3 years
Initial Fee	\$1,500,000	\$15,000	\$15,000	\$250
Renewal Term	3 years	3 years	3 years	3 years
Renewal Fee	\$1,500,000	\$15,000	\$15,000	\$50
Exemption				Nongaming employees
Temp License				
Institutional Investor	✓	✓	✓	NA
Ownership Disclosure Threshold	5%	5%	5%	NA
Categories	NA	NA	NA	Key Employee; Casino Gaming Employee

Casino Licenses Granted July 1, 2017 - June 30, 2018		
	Initial/New	Renewal
Casino Gaming Employees	622	809
Key Employees*	62	72
Management Companies	0	1
Operators	0	1
Vendors	5	8
Total Initial/New Casino Licenses Granted (Through June 30, 2018)		
Casino Gaming Employees	9,658	
Key Employees*	778	
Management Companies	3	
Operators	5	
Vendors	46	

* Key Employees are those individuals defined under OAC 3772-5-01.

Ohio has certain criminal background checks required by statute that must be repeated every three years. These include checks for members of the OCCC, the executive director of the OCCC, any key employee, casino gaming employee, investor for a casino operator, management company or gaming-related vendor, and any professional, technical or clerical employee of the OCCC.⁵⁹³

Institutional investors are presumed suitable upon fulfillment of several criteria. An institutional investor is defined as a person or entity who owns at least 5% and not more than 15% of a licensee.⁵⁹⁴ An institutional investor must certify that it holds the investment in the ordinary course for investment purposes only and does not and does not intend to exercise influence over the affairs of

the licensee.⁵⁹⁵ Institutional investors are required to notify the OCCC within 15 days if its ownership percentage changes such that it may no longer qualify as an institutional investor.⁵⁹⁶ If an institutional investors status changes, the OCCC may rescind the presumption of suitability.⁵⁹⁷ Upon such a decision, the OCCC must give the licensee and investor a reasonable time to cure the conditions that cause the decision to not find the investor suitable.⁵⁹⁸

Operators may not transfer their licenses or a majority ownership or controlling interest without first applying to and being approved by the OCCC.⁵⁹⁹

Ohio has statutory protections for the confidentiality of certain information collected during the application process.⁶⁰⁰

The OCCC has promulgated regulations approving provisional or temporary licenses. Provisional licenses are limited to 3 months or 6 months if the OCCC renews the provisional license.⁶⁰¹

Racinos

The Ohio Lottery commission (“OLC”) is responsible for VLT licensing. All VLT licensees must have already held a lottery sales agent license before being eligible for a VLT sales license.⁶⁰² In making determinations on lottery sales agent license applications, the OLC considers a lottery sales agent applicant’s financial responsibility, accessibility of the place of business, and volume of expected sales.⁶⁰³ The OLC may refuse to grant a license if the applicant has been convicted of a felony or a crime of moral turpitude, convicted of a crime involving illegal gambling, found guilty of fraud or misrepresentation, violated any rule or order of the OLC, or convicted of illegal trafficking of supplemental nutrition assistance program benefits.⁶⁰⁴ Applicants must undergo a criminal background check.⁶⁰⁵ Lottery sales agent licenses have a term of between 1 and 3 years.⁶⁰⁶

VLT licenses have a term of 3 years. Licenses cannot be transferred during the 5 years following receipt of an initial license.⁶⁰⁷ The OLC also offers temporary VLT licenses.⁶⁰⁸ Currently, the OLC has licensed 12-13 technology providers of VLTs.

As with casinos, institutional investors in VLT licensees are exempt under rules similar to those outlined above for institutional investors in casino licensees.⁶⁰⁹ Requirements for key gaming employee licenses are similar to those for casino key gaming employee licenses.⁶¹⁰ The OLT has licensing requirements for technology providers of VLTs that are substantially similar to other categories of licensing requirements.⁶¹¹

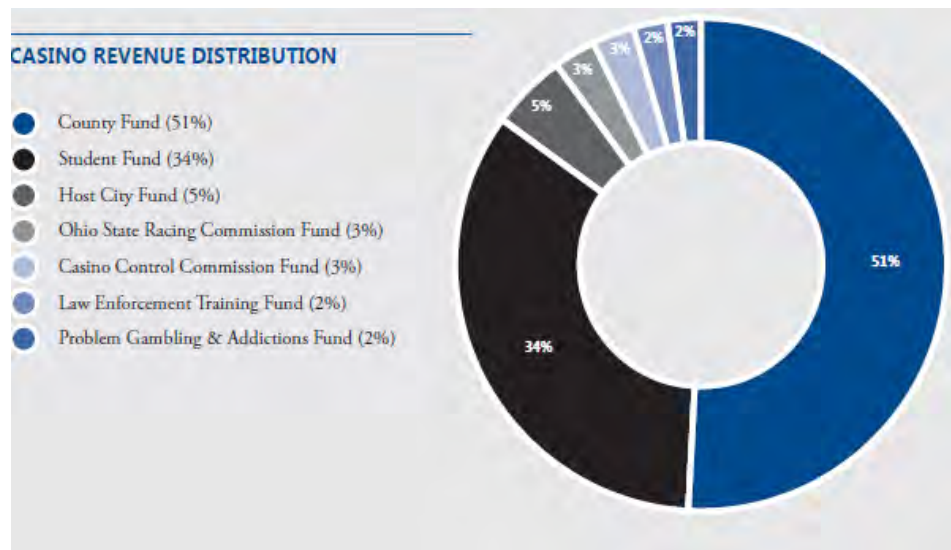
	VLT Agent	Technology Provider	Occupational Licensing
Initial Term	3 years	5 years	3 years
Initial Fee	\$10,000	\$2,500	\$250/\$100/\$100
Renewal Term	3 years	5 years	3 years
Renewal Fee	\$10,000	\$2,500	\$250/\$100/\$100
Exemption			Nongaming employees
Temporary License	✓	✓	✓
Institutional Investor	✓	✓	NA
Ownership Disclosure Threshold	5%	5%	NA
Categories	NA	NA	Key Gaming; Gaming Employee; Technology Provider

Ohio has statutory protections for the confidentiality of certain information collected during the application process.⁶¹²

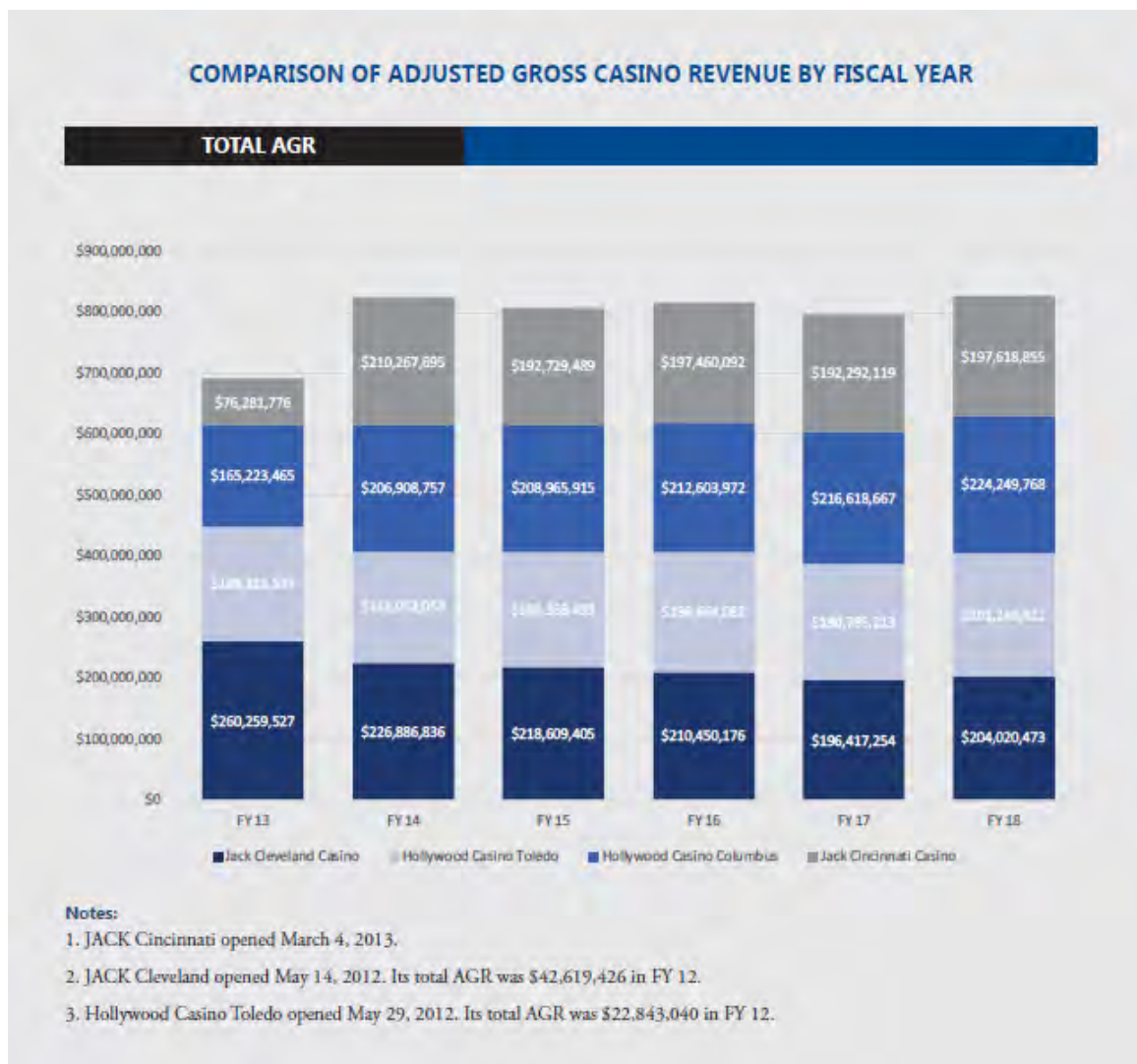
Accounting, Audit and Taxation

Casinos

The OCCC is responsible for the oversight of accounting, audit and taxation of the casinos. Per the terms of the constitutional amendment authorizing commercial gaming, gross casino revenue is taxed at 33%.⁶¹³ The amendment also specified that each applicant must pay a \$50 million fee⁶¹⁴ and to make a minimum of \$250 million in capital.⁶¹⁵ Application fees for a casino operator, management company or holding company are \$1.5 million.⁶¹⁶ The initial application fees for a casino license were earmarked for state economic development programs to support regional job training efforts.⁶¹⁷ Renewal application fees are \$500,000.⁶¹⁸ The 33% tax proceeds are set forth in the constitutional amendment: (1) 51% of the overall tax goes to all 88 counties in Ohio in proportion to their population, with 50% of that amount to go directly to any city in any county with a population over 80,000;⁶¹⁹ 34% of the overall tax goes to all 88 counties in Ohio in proportion to their public school district populations in support of primary and secondary education;⁶²⁰ 5% of the tax goes to the host city;⁶²¹ 3% funds the OCCC;⁶²² 3% goes to the Ohio State Racing Commission to support purses, breeding programs, and operations at racetracks;⁶²³ 2% goes to a state law enforcement training fund;⁶²⁴ and the remaining 2% goes to a state problem gambling fund.⁶²⁵



Overall historical revenue is represented in the table below:

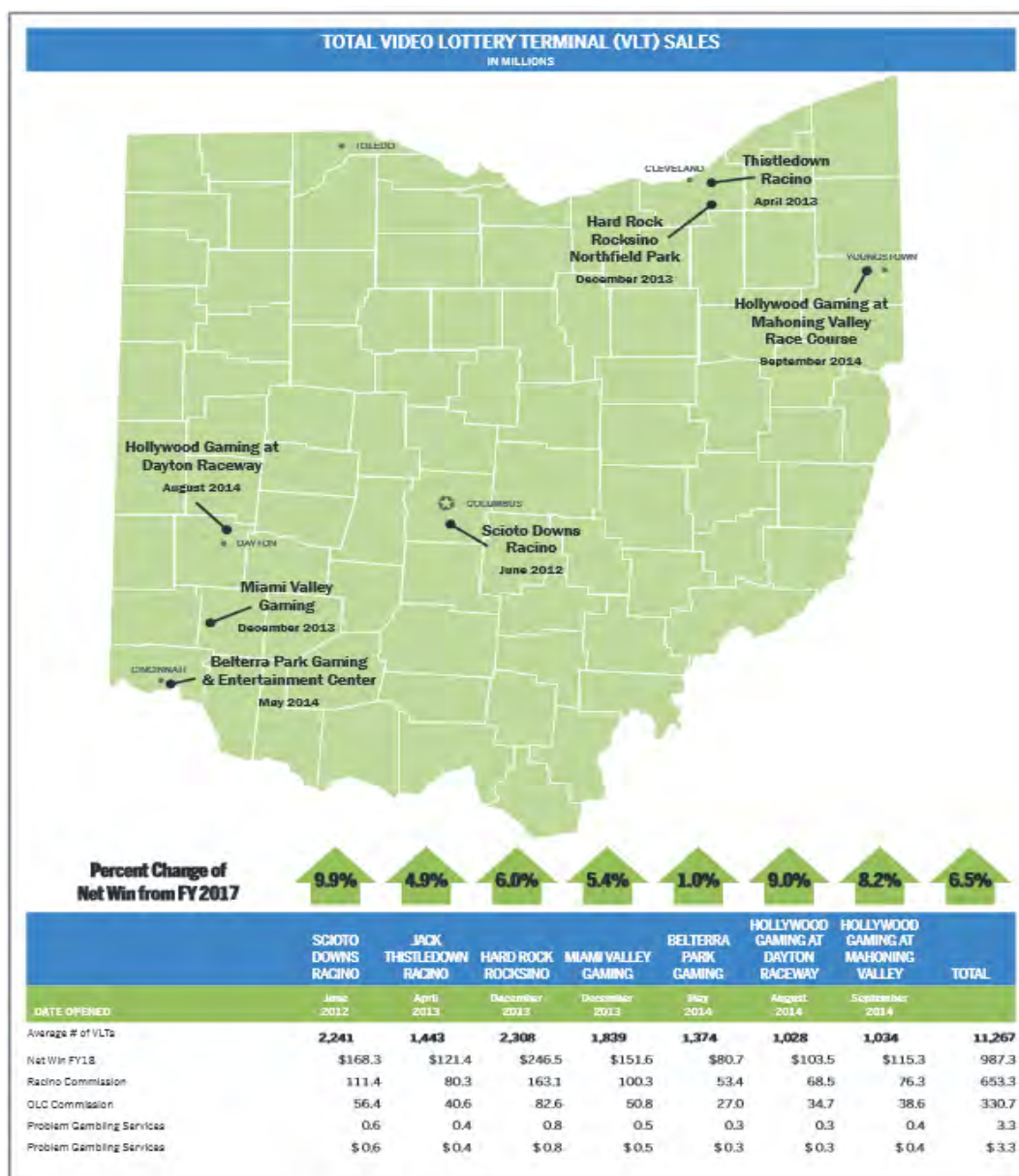


Key employee licensing and application fees are \$2,500.⁶²⁷ Gaming-related vendor licensing and application fees are \$25,000.⁶²⁸ Casino gaming employee license and application fees are \$350.⁶²⁹

Racinos

The OLC is responsible for oversight of accounting, audit and taxation of the racinos in Ohio. VLT initial license application fees are \$50 million — \$10 million with the application, \$15 million when the facility opens, and \$25 million upon the one-year anniversary.⁶³⁰ VLTs are taxed at a rate of 33.5%.⁶³¹

VLT revenue is part of overall lottery revenue. Lottery revenue is transferred to the state treasury for an education fund to be used solely for the support of elementary, secondary, vocational and special education programs.⁶³² 2018 VLT revenue information by location is represented below:



VLT key gaming employee licensing fees are \$250, gaming employee licensing fees are \$100, technology provider licensing fees are \$2,500, and technology provider individual licensing fees are \$100.⁶³³ The OLC noted that for key employee licensing, it has reciprocity with other states that require the Multi-Jurisdictional Personal Disclosure Form, accepting forms that are up to 5 years old instead of requiring the applicant to fill out new forms. The OLC contracts out review of financial statements and SEC filings to a third party.

Gaming Oversight and Enforcement

Casino Regulation

At the discretion of the casino operator, casinos may be operated up to 24 hours per day and may have a maximum of 5,000 slot machines at each facility.⁶³⁴ There is no limit on the number of table games at any one facility.⁶³⁵ Ohio permits operation of any slot machine game or table game authorized now or in the future in the states of Indiana, Michigan, Pennsylvania and West Virginia, although the game manufacturer must still file an application for formal approval.⁶³⁶ Minimum and maximum wagers are at the discretion of the operator, but slot machine theoretical payout percentage must be at least 85%.⁶³⁷

Machines may be purchased only from licensed gaming-related vendors, who annually must provide the OCCC with a list of all equipment, devices and supplies offered for sale or ease in connection with casino gaming in Ohio.⁶³⁸ Gaming-related vendors must also provide quarterly reports listing all sales and leases.⁶³⁹

With respect to actual wagering, Ohio utilizes a cash-less system where all currency must be converted to chips, tokens, tickets, electronic cards or other instruments of value.⁶⁴⁰ Customers cannot place wagers on behalf of persons not physically present at a casino.⁶⁴¹

Casino employees must be at least 18 years old. Those under the age of 21 are restricted to nongaming activities.⁶⁴² Patrons under the age of 21 may enter a designated area where gaming is occurring, but only if escorted by licensed casino personnel.⁶⁴³

The OCCC must pre-approve any casino operator debt transactions exceeding \$500,000.⁶⁴⁴ The exception to the rule is that a casino operator may enter into debt transactions with affiliates provided the aggregate does not exceed \$10 million,⁶⁴⁵ and if the OCCC does not notify the casino operator within 7 days of receiving written notice of the intention to enter into a debt transaction that the OCCC wants to approve the transaction.⁶⁴⁶ The request must be submitted to the OCCC at least 30 days prior to the OCCC meeting at which the operator desires to gain approval.⁶⁴⁷ If the OCCC grants approval, the casino operator must submit quarterly reports evidencing compliance with the terms of the OCCC debt approval.⁶⁴⁸

The OCCC does not require casino operators to use a central monitoring system, so long as it in compliance with all reporting and certification requirements.⁶⁴⁹ It noted that table games require more regulatory resources than slot machines. Mr. Schuler stated: “Regulating a casino that has both slots and tables, the complicated part of all of that is the regulation around table games, with the flow of cash at 90 different tables 24/7 versus essentially monitoring a slot data system for the

slot machines...The kinds of things that can happen in a casino, where you're dealing with so much cash transactions out on the floor, or access to cash frankly by the staff."

The OCCC utilizes independent testing labs for evaluation of all slot machines, table games and other electronic gaming equipment.⁶⁵⁰ Currently, the certified testing labs are GLI and BMM in Ohio. Operators, holding companies and gaming-related vendors are required to maintain all records for at least five years.⁶⁵¹

Ohio has established provisions for appointing a conservator to manage and control a casino facility in certain circumstances.⁶⁵² The stated circumstances include revocation of a license, declining to renew a license, suspension of the license for greater than 120 days, denial of a proposed buyer where the current owner is unable or unwilling to retain ownership, a written agreement to relinquish control, or a natural disaster or bankruptcy halts operation.⁶⁵³ Upon any of these events happening, the OCCC may petition a court in the county in which the facility is located for appointment by the court of a conservator.⁶⁵⁴ The petition must contain the names of two or more people the OCCC proposes as conservator.⁶⁵⁵ The conservator, once appointed, has the power to perform all acts of a casino operator and shall immediately take position of the property and assets, providing reports at intervals the OCCC requests.⁶⁵⁶ The casino operator has 180 days after the appointment of the conservator to sell the facility.⁶⁵⁷ If the owner has not sold the facility within that time frame, the conservator may take any action to sell the facility.⁶⁵⁸

Transportation of both electronic gaming machines and table games require five days' advance notice to the OCCC.⁶⁵⁹ OCCC has promulgated numerous regulations relating to the regulation of table games and gaming chips.⁶⁶⁰ The OCCC has also promulgated extensive requirements for casino operator internal control requirements,⁶⁶¹ as well as specific regulations governing surveillance and security systems.⁶⁶²

Mr. Schuler stated: "The Commission itself is a law enforcement agency, by statute. We have certified peace officers serve as our gaming agents. Their primary role is to enforce the criminal provisions of the casino control law and they staff the four casinos 24/7. Of the 107 individuals working here, 56 are in the enforcement division because of that 24/7 requirement. They also will enforce provisions in the gambling section of the criminal code when they are operating and investigating illegal casino gaming outside of the walls of the four casinos."

The OCCC is responsible for conducting the initial appeal hearings relating to restriction, denial or revocation of any license.⁶⁶³ It must appoint a hearing examiner to hear any appeal and then take up the hearing examiner's report and issue a ruling.⁶⁶⁴ The OCCC may take into consideration a number of factors in ruling upon the hearing examiner's report.⁶⁶⁵ The OCCC's decision may be appealed judicially.⁶⁶⁶ The OCCC also has the power to issue emergency orders relating to suspension, limitation, or conditioning of any license other than an operator or management company license.⁶⁶⁷ All parties, including the OCCC, are prohibited for *ex parte* communications with the hearing officer on any pending matter.⁶⁶⁸

The Ohio attorney general has the authority to enforce the provisions of the regulatory structure.⁶⁶⁹ The OCCC levies and collects penalties for noncriminal violations.⁶⁷⁰ The OCCC has the power to suspend or revoke licenses for violations of rules and regulations or fraudulent conduct.⁶⁷¹

Racino Regulation

The OLC is responsible for licensing VLT operators, technology providers, vendors and employees. The OLC, in conjunction with the State Racing Commission (“SRC”), developed minimum investment requirements by VLT applicants applying to facilities and equipment. VLT facilities are required to invest \$150 million dollars in capital investment, with the investments completed within 3 years from the issuance of the license.⁶⁷² VLT operators must also submit a facility plan.⁶⁷³

VLT operators may offer promotional play to customers, but any marketing promotion involving free play requires OLC approval and the OLC does not receive revenue from promotional play.⁶⁷⁴ The OLC noted, however: “Promotional credits and player rewards are proprietary to the properties, but they are also an area that is open to: scrutiny by the public and the legislature (especially if untaxed); complaints from the players; and manipulation by third parties. It would be aggressive in requiring post-event redemption reports and in analyzing them for anomalies.”

The OLC utilizes a central monitoring system to which all VLTs must connect. It noted: “The lottery...is able to ensure fair and equitable games by using a central monitoring system.” This allows for the OLC to centralize much of its oversight and monitoring. In interviews with OLC staff, they indicated that this centralization feature contributes to keeping expenses down as the OLC can effectively regulate with fewer full-time employees.

With respect to enforcement, the OLC noted: “Ohio Lottery investigators – both traditional and racino – do not have law enforcement capabilities so they are unable to access some databases and AML information which could make us more effective.”

With different agencies handling different areas of regulation, it can be confusing to the general public. Ms. Franks noted:

“It is very confusing to the general public when they have complaints about something that happened to them at one of the racetracks. We get a lot of emails from people that we have to say, ‘[W]e appreciate you emailing us, but this really has to be addressed by the lottery commission. Here’s their contact information.’ We also get a lot of complaints and issues with charitable gaming and we always pass those along, but it is also very confusing to the public.”

Staffing and Budgetary Issues

The 2009 constitutional amendment also created the OCCC and dictated that it shall consist of seven members appointed by the governor with the advice and consent of the senate.⁶⁷⁵ They each serve four-year terms after the initial appointments, are part-time and are paid \$30,000 per year.⁶⁷⁶ The Commission must meet monthly.⁶⁷⁷ It also mandated that the legislature pass legislation within 6 months of passage of the amendment to regulate the newly created casinos.⁶⁷⁸

	Member 1	Member 2	Member 3	Member 4	Member 5	Member 6	Member 7
Appointing Authority	Governor	Governor	Governor	Governor	Governor	Governor	Governor
Resident of OH	✓	✓	✓	✓	✓	✓	✓
Law Enforcement Experience	✓						
Certified Public Accountant		✓					
Attorney			✓				
Resident of County with a Casino				✓			
No Casino Facility or Operator Affiliation	✓	✓	✓	✓	✓	✓	✓

Ohio Commissioners, staff investigators and staff legal counsel are prohibited from having ex parte contact with any party or his/her/its representative regarding any case being heard by the OCCC.⁶⁷⁹ In addition, employees of the OCCC are prohibited from representing a client or acting in a representative capacity for any client in a matter in which the employee personally participated for two years following employment with the OCCC.⁶⁸⁰

Ohio legislation established the position of executive director, to be appointed by the OCCC.⁶⁸¹ The executive director cannot have any pecuniary interest in a licensee.⁶⁸² S/he functions as the secretary of the OCCC and is required to prepare monthly reports for the OCCC.⁶⁸³ Ohio also has a statutorily-mandated internal auditing department within the OCCC that is responsible for all internal audits of the OCCC.⁶⁸⁴

Ohio mandates that the executive director of the OCCC and the commissioner of the OLC to enter into an agreement with the department of mental health and addiction services to provide a problem of gambling and addiction services, including operation of a 24/7 toll-free hotline.⁶⁸⁵

On the racino side, the OLC also has a nine-member commission appointed by the governor with the advice and consent of the senate.⁶⁸⁶

	Appointing Authority	Resident of OH	Problem Gaming or Addiction Training or Experience	Business Administration, Sales, Management, Marketing or Advertising Experience
Member 1	Governor	✓	✓	
Member 2	Governor	✓		✓
Member 3	Governor	✓		✓
Member 4	Governor	✓		✓
Member 5	Governor	✓		✓
Member 6	Governor	✓		✓
Member 7	Governor	✓		✓
Member 8	Governor	✓		✓
Member 9	Governor	✓		✓

The Ohio attorney general regulates charitable gaming.⁶⁸⁷ Charitable gaming includes bingo, raffles and card games of chance. Charities must be tax-exempt and include religious, veteran, fraternal and other nonprofit organizations and must have been in existence for two years in Ohio.⁶⁸⁸ Charities must apply for a license to offer bingo and games of chance. An organization

may conduct a raffle without obtaining a bingo license and enforcement lies with local law enforcement and prosecutors.⁶⁸⁹

OCCC Administration

With respect to the creation of the OCC, Mr. Schuler noted:

[O]ur law requires that the Office of Budget and Management and the Department of Taxation do an analysis, a fiscal analysis, of that. And as part of not only looking at potential revenue, they also looked at potential costs for staff, and put together what they thought would be the required complement of staff here at the Commission . . . We moved super, super quick just because of a lot of pressure from some of our major cities to get these things open, and we're trying really hard to balance very thorough, detailed public work with meeting kind of their expected timelines . . . I don't know if this is usual, but I went out and recruited directors and then pretty much set them out about building their teams and gave them direction along the way on what needed to happen and was a part of the hiring of every single person we've had here in the Commission from day one, and still even today. But some of it was figuring it out as we went.

The OCCC operates on a budget of between \$12.0-\$12.5 million, with roughly 30% of the revenue derived from licensing and application fees. It has 107 employees, with 56 of those being employed as security and law enforcement officers. It is divided into 8 divisions: Communications, Enforcement, Legal, Licensing and Investigations, Operations, Regulatory Compliance, Responsible Gaming and Skill Games.⁶⁹⁰ In discussions with the OCCC executive director, he indicated that the revenue estimates promulgated in connection with the constitutional amendment campaign ended up overestimating the expected revenue by 100%. The OCCC received a revenue boost as a result of Penn National (owner of the Hollywood Casino in Columbus) deciding to spin off into an operating company managing its casinos and a real estate investment trust company holding the real estate. As a result of that restructuring, the OCCC realized an extra \$3 million in application fees.

Mr. Schuler noted that the OCCC budget has worked very well since its inception. Casinos are taxed at 33% of gross casino revenues, with 3% of that tax revenue going to the OCCC. He added that the OCCC also generates about 30% of its revenue from license fees from operators, gaming related vendors, management companies, key employees, and casino gaming employees. Mr. Schuler said that revenue can vary depending on the year, based on when license renewals and other large injections of money occur. Accordingly, the OCCC anticipated that there would be years where agency spending exceeded revenue due to the license renewal cycle, but this has not been the case. He stated that the OCCC has successfully been able to support 107 staff, including seven commissioners appointed by the governor.

OHIO CASINO CONTROL COMMISSION FUND BALANCE REPORT FISCAL YEAR 2018 ACTUAL			
REVENUE		BEGINNING APPROPRIATION	
		\$13,327,155	
TAX	ACTUAL	OCCC PERSONNEL EXPENSES	ACTUAL
Gross Casino Tax	\$8,033,115	Wages & Benefits	\$10,313,172
Total Tax*	\$8,033,115	Total Personnel Expenditures	\$10,313,172
LICENSE FEES	ACTUAL	OCCC OPERATIONAL SUPPORT EXPENSES	ACTUAL
Operators Fees	\$2,500,000	Administrative Hearings	\$11,634
Vendors Fees	\$286,000	Rent	\$267,304
Key Employees Fees	\$309,612	Research and Investigations	\$0
Gaming Employees Fees	\$585,172	Purchased Personal Services	\$315,087
Total License Fees	\$3,680,784	Supplies	\$70,188
		Equipment	\$137,517
		Travel	\$113,676
		Training	\$18,873
TOTAL ALL REVENUE	\$11,713,899	Total Operating Expenditures	\$934,279
		OTHER EXPENSES AND TRANSFERS	ACTUAL
		Intrastate Payments	\$630,335
		Total Other Expenditures	\$630,335
		TOTAL ALL EXPENSES AND TRANSFERS	\$11,887,786
		ENDING APPROPRIATION BALANCE	\$1,449,369

The OCCC is subdivided into five divisions — Operations, Legal, Problem Gaming, Licensing, and Compliance & Enforcement.

The OCCC is itself a law enforcement agency and has approximately 55 employees on-site in Ohio casinos 24 hours a day, 7 days a week, enforcing both casino regulations as well as ordinary criminal code violations.

Racino Regulation

Ohio legislation established the position of director of the commission, to be appointed by the governor.⁶⁹¹ As with the executive director of the OCCC, the OLC director is required to attend all meetings of the OLC and act as its secretary.⁶⁹² The director must report to the commission at least once per month.⁶⁹³

OLC Administration

The OLC was in a different position than the OCCC in that it was an existing agency and did not need to be built from the ground up. It approached staffing by assigning a senior executive to head the VLT department and had a goal of one VLT regulator for each of the seven racinos. As the

racinos did not all come online at the same time but rather opened over a 3-year period, the OLC was able to achieve the goal of having one VLT manager for each location. Given its central monitoring system, the OLC determined that it would have its regulators centrally located rather than at each location (except for security personnel who are stationed 24/7 at the seven racinos). In addition to the VLT department, the OLC added a VLT licensing department to handle that aspect of regulation. In written comments, the OLC noted: “The program budget includes 24/7 staffing at the buildings (65-70 staff), a regulatory team (10 staff), administrative costs, travel, and a central monitoring system (\$4 million/year)...We do present a budget with spending authority to the legislature for approval each biennium. The fiscal 2019 program budget is \$12 million.”

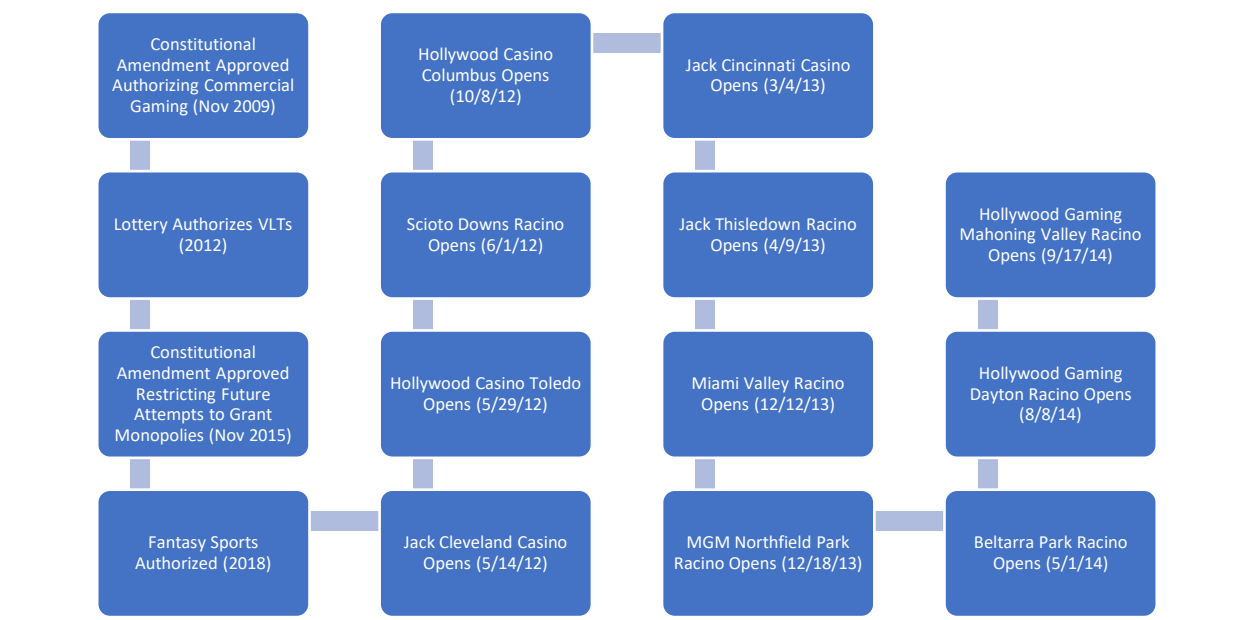
	VLT Revenue	Agent Commissions	Problem Gaming Services	Ohio Lottery
2018	\$987,300,000	\$656,600,000	\$3,300,000	\$330,700,000
2017	\$926,600,000	\$616,200,000	\$3,100,000	\$310,400,000
2016	\$868,900,000	\$574,900,000	\$2,900,000	\$291,100,000
2015**	\$773,000,000	\$511,400,000	\$2,600,000	\$258,900,000
2014	\$437,600,000	\$289,500,000	\$1,500,000	\$146,600,000

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**Belterra Park, Hollywood Gaming at Dayton Raceway and Hollywood Gaming at Mahoning Valley all opened in 2014.

Timeline

As a result of the constitutional amendment, the OCCC was given an extremely tight deadline for establishing itself, developing rules and regulations, licensing and opening the four casinos (the ballot initiative passed in the fall of 2009, laws had to be enacted in 2010, and the casino facilities broke ground in 2011).



Ohio Observations

The OCCC's Executive Director and the OLC noted that as the state of Virginia looks to the potential legalization of casino gaming, the policy makers (Governor and Legislature) may find the following observations of interest. For a complete set of the written comments from the Ohio Lottery interview, please see **Exhibit 6**.

With respect to building up a new regulatory agency and setting up regulations, the Ohio Lottery suggested to: "Build a network of contacts in other states and leverage the investigations already completed as much as possible."

The OCCC also had recommendations for building and staffing a new regulatory agency, noting: "In building a regulatory agency, start with what are the agency's functions and what kind of person do we need to lead that function...on enforcement, we initially partnered with the Attorney General's Bureau of Criminal Investigation because they were really good at sophisticated criminal investigations, including complex financial transactions...[The approach] was really tailored to the law and not tailored to what other jurisdictions did."

WEST VIRGINIA

Introduction

West Virginia's Lottery Department governs regulation of casino gambling. The Lottery's Executive Director is John Myers, its Deputy Director of Table Games is David Bradley, and its General Counsel is Tracy Webb. On July 9, 2019, an interview was conducted with Mr. Myers, Mr. Bradley and Ms. Webb.

West Virginia Lottery Headquarters
900 Pennsylvania Avenue
Charleston, WV 25302
www.wvlottery.com

History

West Virginia's gaming history began with the formation of the West Virginia Racing Commission in 1931. Its first racetracks opened in the 1930s. In fall of 1984, voters approved a constitutional amendment allowing a state lottery.⁶⁹⁵ The legislature followed by passing the Lottery Act in 1985.⁶⁹⁶ Director Myers noted that the VLT process was initiated with a pilot program at Mountaineer Casino Racetrack in 1990 that ran for approximately 2-3 years with approximately 100 machines.⁶⁹⁷ In 1994, the legislature passed the Racetrack Video Lottery Act permitting video lottery terminals ("VLTs") at existing racetracks.⁶⁹⁸ In 2001, West Virginia expanded the reach of VLTs by permitting their placement at adult-restricted locations such as private clubs and Class A liquor license establishments.⁶⁹⁹ In 2007, the legislature expanded gaming to include table games via the Lottery Racetrack Table Games Act.⁷⁰⁰ West Virginia also permits charitable gaming and recently authorized both online gambling and sports wagering. The online gambling bill will not take effect until September 2019.⁷⁰¹

	Horse Racing	VLTs	Commercial Gaming	Online Gaming	Sports Wagering	Fantasy Sports
Year Authorized?	1931	1994	2007	2019	2018	2018
# of Locations?	4	5	5	NA	5	NA

Site and Operator Selection

After the successful VLT pilot program, West Virginia's legislature originally determined that VLTs should be placed in existing racetracks to support the continuing viability of the racetracks.⁷⁰² It eventually expanded VLTs to bars and other adult-only establishments. Finally, it later authorized one casino-only location at the Casino Club of Greenbrier, which opened in 2010 and was effectively pre-selected by legislative language limiting the criteria for an operator's license.⁷⁰³ Both the racinos and Greenbrier offer table games.⁷⁰⁴

Facility	Locality	Racetrack Facility	VLTs ⁷⁰⁵	Table gaming positions ⁷⁰⁵
Mountaineer Casino Racetrack & Resort	Chester, WV	Yes	1,525	36
Wheeling Island Hotel, Casino & Racetrack	Wheeling, WV	Yes*	1,100	24
Mardi Gras Casino & Resort	Cross Lanes, WV	Yes*	900	30
Hollywood Casino at Charles Town Races	Charles Town, WV	Yes	2,500	98
Casino Club at Greenbrier	White Sulphur Springs, WV	No	320	37

*Dog Racing only

Local Government Involvement

West Virginia law requires that prior to any VLTs at a racetrack, the county in which the racetrack is located must pass a ballot initiative approving the expanded gaming.⁷⁰⁶ If a ballot initiative for expanded gaming of VLTs is approved, the county cannot hold another initiative for 5 years, and if it is not approved, the county is prohibited from holding another initiative for 2 years.⁷⁰⁷ The expansion of table games also required a separate local referendum prior to authorization.⁷⁰⁸ If a ballot initiative for expanding table games is approved, the county cannot hold another initiative for 5 years, and if it is not approved, the county is prohibited from holding another initiative for 2 years.⁷⁰⁹ A county cannot repeat an expanded gaming initiative referendum for a certain period of time even if it is unhappy with the result. This permits both potential operators and regulators to move forward with licensing plans in reliance that the decision made by voters is good for a certain amount of time, and that another initiative can only be held once that reliance has reasonably expired (2 or 5 years, depending on whether the election passes or fails). Director Myers noted that the ballot proposals for both VLT expansion and table game expansion were successful in all localities with the exception of the Charles Town casino, where the initiative failed the first time before being later approved on December 5, 2009.

Licensing

Under West Virginia law, the Lottery Commission (“LC”) handles all licensing matters relating to casino style gaming operations and VLTs. In his interview, Director Myers noted that due to the sensitive nature of background checks and licensing matters, West Virginia sub-contracts with a certified public accountant to handle review of financial information and tax returns of licensing qualifiers: “What we’ve done in order to keep privacy for these folks and not have them gun-shy that they’re going to turn in something here and it becomes public knowledge through FOIA, is that we use an external CPA group that does the analysis for us and basically provides us a report of a thumbs-up thumbs-down on the financial viability of a licensee.” He also noted that West Virginia’s Freedom of Information Act exempts certain personal information submitted as part of the licensing process from public disclosure and indicated that a policy of sound data protection is important to allow regulators access to sensitive information needed for licensing determinations.

VLTs

For VLTs, the LC requires licensure of the racetrack, any manufacturer of VLTs, any service technician, validation manager, and floor attendant.⁷¹⁰ All VLT licenses are renewed annually.⁷¹¹ The VLTs located outside of the racetracks must have an operator's license, a limited VLT retailer's license and utilize the same manufacturer and service technician licensing process.⁷¹² A manufacturer's license has an annual \$10,000 licensing fee.⁷¹³

Applicants must have good character and integrity, show the business ability and experience necessary to operate a VLT business, have adequate financing, and undergo criminal background checks, and cannot have committed any lottery or gaming-related offense or any crime related to theft, bribery, gambling or involving moral turpitude.⁷¹⁴ Racetrack applicants must also show they have an agreement in place with the representative of a majority of horse owners and trainers, a representative of a majority of the pari-mutuel clerks and a representative of a majority of the breeders or the representative of a majority of kennel owners for the applicable racetrack.⁷¹⁵ Failure to reveal material facts or provide false or misleading material on an application form disqualifies the applicant.⁷¹⁶

Limited VLTs

For an operator's license at the limited VLT locations, additional criteria required includes the person must have been a resident of West Virginia for at least 4 years (or in the case of a corporation or LLC, the CEO and a majority of the officers must have been residents for 4 years), and that the applicant does not hold any other type of VLT or casino table game license.⁷¹⁷ An operator's license has a 10-year term and the fee is \$1,000 per VLT per year.⁷¹⁸ For a limited VLT retailer's license, additional criteria include the same residence requirements.⁷¹⁹

Table Games

The LC licenses table games operators, supplier, management companies, and table game employees.⁷²⁰ All table game equipment or services must be from a licensed person or entity. Similar to other licensing categories, applicants must submit to background checks, be of good moral character, honesty and integrity and have the necessary experience and financial ability.⁷²¹ Table game licensees must submit floor plans and management services contracts for prior approval.⁷²² License fees are \$100 for table game suppliers. Licenses are for one year and must be renewed annually.⁷²³ Racetrack table game employees are also licensed through the LC upon similar qualifications to suppliers. Licenses are for 1 year, are \$100 and must be renewed annually.⁷²⁴ Management companies are licensed under substantially similar qualifications, are for a period of 1 year and are \$100.⁷²⁵ Knowingly making false statements of material facts, having had a gaming license suspended or revoked, having been convicted of a crime of moral turpitude or gambling-related, theft or fraud offense all disqualify an applicant from receiving a license.⁷²⁶

Employee licensing, or occupational licensing, is split into Level 1 and Level 2, with Level 1 licenses for those employees who have policy-making positions.⁷²⁷

	Casino Operator	VLT Employee	Manufacturer	Management Company	Supplier	Employee Licensing
Initial Term	1 year	1 year	1 year	1 year	1 year	1 year
Initial Fee	\$1,500,000 (table games)	\$50/\$50/\$10 0	\$10,000	\$100	\$100	\$100
Renewal Term	1 year	1 year	1 year	1 year	1 year	1 year
Renewal Fee	\$2,500,000 (table games)	\$50/\$50/\$10 0	\$10,000	\$100	\$100	\$100
Exemption					Non-gaming suppliers	
Temporary License						✓
Institutional Investor	✓	NA	✓	✓	✓	NA
Ownership Disclosure Threshold		NA	5% public/1% private		5% public/ 1% private	NA
Categories	NA	Validation Manager; Floor Attendant; Service Technician	NA	NA	NA	Level 1 and Level 2

Accounting, Audit and Taxation

Under West Virginia's approach, the LC is responsible for the oversight of proper accounting, audit and taxation of gaming operations.

Racino VLTs

VLT income is transmitted directly to the LC via its central monitoring system. 4% of income is retained by the LC to pay for its administrative costs but capped at the actual costs, with excess funds being transferred.⁷²⁸ After those amounts are deducted, of the remaining income, 30% goes to the LC, 7% goes to funding of purses by racetracks, 2% goes to the local county,⁷²⁹ 1% goes into a fund for the pension plan of employees of the licensed racing association, 1.5% goes to the West Virginia Thoroughbred Development Fund and West Virginia Greyhound Breeding Development Fund, 1% goes to the West Virginia Racing Commission, 3% goes to the Tourism Promotion Fund, 7% goes to the Workers' Compensation Debt Reduction Fund, 1% goes to veterans memorial or veterans affairs funds and various state projects,⁷³⁰ and the racetrack licensee receives 46.5%.⁷³¹ For VTLs at Greenbrier, the operator retains 43% of income, with 36% being transferred into the Historic Resort Hotel Fund and 17 % to the Human Resource Benefit Fund.⁷³² West Virginia also implemented an alternative funding model for years in which total revenue exceeded 2001 revenue levels. In those years, any excess revenue above 2001 levels is divided 41% to the LC, 4% goes to funding of purses by racetracks, 2% goes to the county,⁷³³ 0.5% goes into a fund for the pension plan of employees of the licensed racing association, 1.5% goes to the West Virginia Thoroughbred Development Fund and West Virginia Greyhound Breeding Development Fund, 1% goes to the West Virginia Racing Commission, 3% goes to the Tourism Promotion Fund, 4% goes to the Workers' Compensation Debt Reduction Fund, 1% goes to capitol

dome and improvements fund, and the racetrack licensee gets 42%.⁷³⁴ West Virginia then passed legislation requiring from 2014 on, all amounts required to be diverted to the West Virginia Racing Commission, the Tourism Promotion Fund, the Workers' Compensation Debt Reduction Fund, and the capitol dome and improvements fund are instead diverted into the Excess Lottery Fund.⁷³⁵ Those monies are used to reduce by 10% the payments to the purse fund and the West Virginia Thoroughbred Development Fund and West Virginia Greyhound Breeding Development Fund.⁷³⁶

Limited VLTs

VLT income is transmitted directly to the LC. 2% of income is retained by the LC to pay for its administrative costs. After those amounts are deducted, of the remaining income, 30-50% goes to the LC⁷³⁷ and the operators and retailers receive the balance of the income.⁷³⁸

Table Games

For table game licenses, the LC is limited to awarding four licenses to existing racetracks.⁷³⁹ Only facilities that hold racing licenses from the State Racing Commission and racetrack video lottery licenses are eligible to receive a table game license.

Table game licensees had an initial license fee of \$1.5 million, with annually renewal license fees totaling \$2.5 million.⁷⁴⁰ The application fee for the one casino-facility was \$65,000, with the second year's license fee \$250,000. The third year \$500,000 and each subsequent year an amount between \$500,000 and \$2.5 million, determined by dividing the previous year's annual average gross receipts of the racino locations into the previous year's gross receipts for Greenbrier, and then multiplying by \$2.5 million.⁷⁴¹ The legislature indicated a strong preference for each table game facility to construct an on-site hotel. Accordingly, if a licensee had not constructed a hotel with at least 150 rooms within 3 years of the passage of the local referendum, the licensee must also pay a \$2.5 million annual fee until it constructs a hotel.⁷⁴²

The tax rate on table games is 35% and must be paid weekly.⁷⁴³ The tax for racino table games is transmitted directly to the LC. Of the table game tax at the Greenbrier, 30% is transmitted to the Historic Resort Hotel Fund and 5% is transmitted to the Human Resource Benefit Fund.⁷⁴⁴ An operator can carry over any loss from a week in which earnings are negative.⁷⁴⁵

All tax collected by the LC related to table games is deposited in the West Virginia Lottery Racetrack Table Games Fund.⁷⁴⁶ In the years before and through the licensing of all the table game licensees at the racetracks, the LC retains 3% of this amount for administration and enforcement costs, 2.5% of the tax from racetracks that offer horse racing goes to horse racing racetrack purses and 2.5% of those racetracks that offer greyhound racing goes to greyhound racetrack purses, 2% to the West Virginia Thoroughbred Development Fund and West Virginia Greyhound Breeding Development Fund, 1% to the local county commission in which the racetrack is located, 2% to the governing bodies of municipalities in the county in which the racetrack is located, 0.5% to the municipalities in which a racetrack is located.⁷⁴⁷ The remaining amounts in the fund are allocated 76% to the State Debt Reduction Fund, 4% into a fund for the pension plan of employees of each licensed racing association, 10% in equal shares to all county commissions that previously did not receive a distribution, and 10% in equal shares to the

governing bodies of municipalities that previously did not receive a distribution.⁷⁴⁸ After all racetracks are licensed for table games, the 1% allocated to the local county commission increases to 2% and the 2% allocated to the governing bodies of municipalities increases to 3%.⁷⁴⁹ Furthermore, beginning in 2014, the 76% that was allocated to the State Debt Reduction Fund was eliminated and instead paid into the State Excess Lottery Revenue Fund, and the amounts allocated to the purse funds and the breeding development funds were reduced by 10% and reallocated to the State Excess Lottery Revenue Fund for the payment of debt service.⁷⁵⁰

All table games licensing fees are deposited into the Community-Based Service Fund. The Bureau of Senior Services upon appropriation by the legislature may spend money in the Community-Based Service Fund only on programs for aged and disabled citizens to maintain their residence in their communities through the provision of home and community-based services.⁷⁵¹

Sports Wagering

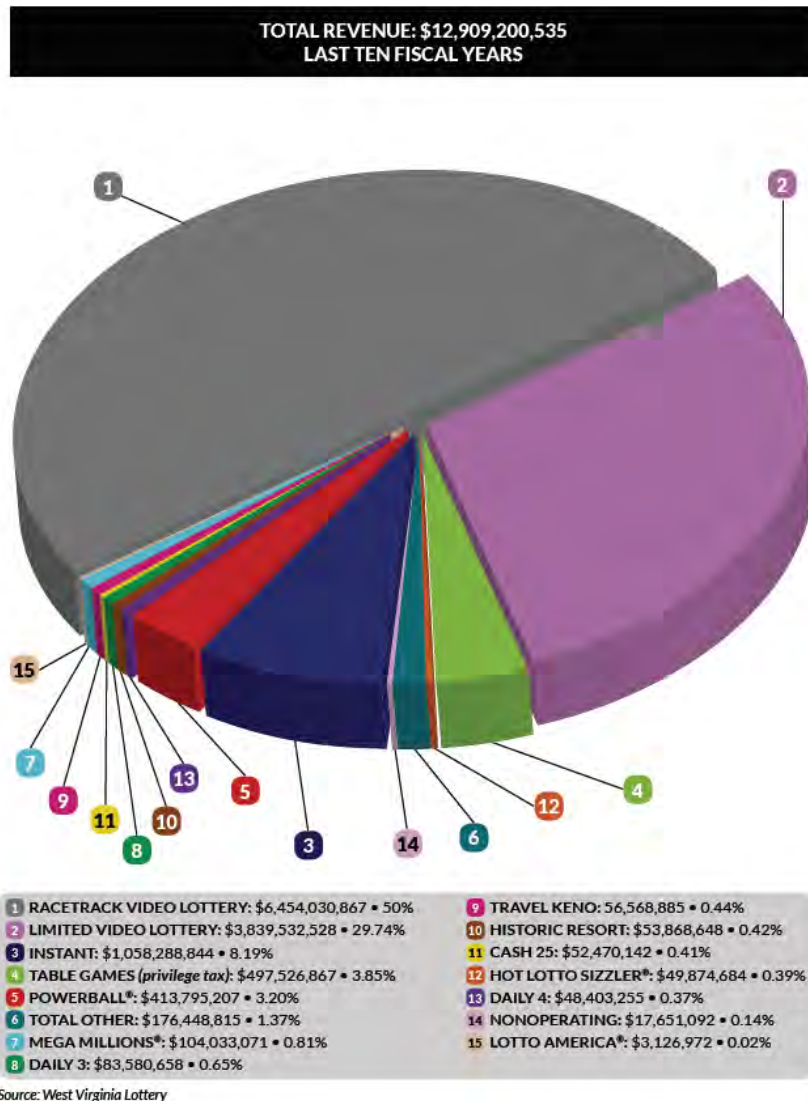
The tax rate on sports wagering is 10% of the adjusted gross receipts.⁷⁵² The tax revenue is used first for LC expenses (up to 15%), and then the first \$15 million is transferred into the State Lottery Fund and the remainder is transferred to the Public Employees Insurance Agency Financial Stability Fund.⁷⁵³

Online Wagering

Licensees must pay a tax of 15% of the adjusted gross wagering receipts.⁷⁵⁴ The tax revenue is used first for LC expenses (up to 15%), 0.25% is transferred to pension funds set up by the State Racing Commission, and the remainder is transferred into the State Lottery Fund.⁷⁵⁵ Director Myers predicted that online gaming would not be rolled out until mid-2020.

Total revenue over the past 10 years is represented by the chart below (Historic Resort refers to the Casino at Greenbrier):

2008-2018:



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Gaming Oversight and Enforcement

The LC is required to utilize the services of the West Virginia State Police for law-enforcement services at the racinos and Greenbrier.⁷⁵⁷ Director Myers noted that the enforcement process has evolved over time. At start-up, the Lottery met with each county prosecutor where racetracks were located to educate them about gaming-related crimes. Mr. Bradley stated:

“One of the things we did when we started table games and racetrack video lottery, we would meet with the prosecutors in each county that the racetracks were in to educate the prosecutors and educate law enforcement about what was going on. When we first started we used to just contact the local police dispatchment and you might get, you know, a trooper or a sergeant, or somebody who really didn’t know anything about it, and you know, we basically did all the work and handed it over to them. We found it better when we entered into a contract to pay for a trooper and

then that way we could train him at the lottery office and spend time at the track that way we only had one person we called as opposed to the dispatchment and getting whoever's working."

Director Myers also noted that West Virginia takes a partnership approach to regulation with its licensees. He noted West Virginia is willing to try out new regulations, but they must be shown to work and protect the public interest. He expanded by noting:

"You have to keep in mind that unless those folks are making money then the state doesn't make money either...sometimes you have to keep an open mind, allow things to be tried with the understanding that we're going to let this happen, but if it doesn't work, then we reserve the right to cancel. I think we've found that to be pretty successful over the years and try to work in conjunction with these folks."

With respect to actual rulemaking, Ms. Webb noted that Lottery can propose emergency rules for up to 15 months, but permanent rules must be proposed to the legislature and contained in a bill, with the process taking roughly one year.

Director Myers pointed to responsible gaming as an area that has changed over time. Initially, responsible gaming was under Lottery's direction, but subsequently, the legislature shifted responsibility to the Department of Health and Human Resources, with Lottery's sole function to collect and forward the \$1.5 million in funding that the statute explicit directs DHHR in how to spend.

Finally, Director Myers noted that regulation of charitable gaming and racing (which are regulated by the State Tax Department and Racing Department, respectively) has been proposed at various times to be combined under the Lottery's regulatory arm.

VLTs

VLT licenses were only available initially to operators who hold a valid racing license issued by the West Virginia Racing Commission.⁷⁵⁸ Later this was expanded to additional locations by passage of the Limited Video Lottery Act.⁷⁵⁹ Players must be at least 18 years old, and it is the racetrack's responsibility to keep underage and intoxicated customers from playing.⁷⁶⁰ Players at the expanded VLT locations must be at least 21 years old to play.⁷⁶¹ Racetracks may not place ATMs in the area where VLTs are played and cannot accept credit or debit cards.⁷⁶² Racetracks may install up to 400 VLTs.⁷⁶³ The LC may authorize up to 9,000 VLTs in bars and similar establishments.⁷⁶⁴ No one person or entity may operate more than 7.5% of the VLTs authorized for placement in bars and no one location may have more than 7 VLTs in one location except for fraternal organization which may have 10 in one location.⁷⁶⁵ There cannot be limited VLT locations within 150 feet of each other.⁷⁶⁶ The expanding of VLTs to bars and private clubs initially gave priority to those locations who held a Class A liquor license prior to January 1, 2001. After those locations had the opportunity to apply, the LC allowed other locations to apply for any remaining VLTs.⁷⁶⁷

The LC restricts shipping of VLTs. VLT manufacturers, licensed racetracks or any other person must provide written notice to the LC prior to shipping any VLT.⁷⁶⁸

Licenses may not be transferred. The LC requires the prior approval of all sales of 5% or greater ownership interests in a licensee.⁷⁶⁹

The LC requires that all VLTs be registered and approved by the LC.⁷⁷⁰ It has enumerated requirements for all VLTs in the enabling statute.⁷⁷¹ VLTs must pay back to players a minimum of 80% and a maximum of 95%.⁷⁷² All VLT devices must be tested by the state-run lab.⁷⁷³

Table Games

The LC also has regulatory oversight of table games that are located both at racinos and at the one casino-only facility located at The Greenbrier in White Sulphur Springs. The LC is required to establish minimum standards for table games and electronic games.⁷⁷⁴ It requires prior authorization of any supplier or operator transferring 5% or more of its ownership interests.⁷⁷⁵ An operator has the discretion to determine minimum and maximum wagers and hours of operation.⁷⁷⁶ Operators may offer complimentary food, beverages, rooms, or play pursuant to a written program that must be submitted to the LC.⁷⁷⁷ Operators must maintain all records for the current year and the past 2 years.⁷⁷⁸

There are no limits on the number of table games a facility may offer.⁷⁷⁹ All table games must be owned, however, by the State of West Virginia.⁷⁸⁰ Table game licensees must also conduct no less than 220 live racing days for horse or dog racing.⁷⁸¹ A licensee cannot accept wagers from patrons who are not physically present.⁷⁸² With respect to shipment of gambling devices, West Virginia does not require any state-specific requirements but rather merely requires compliance with federal gambling device shipment laws.⁷⁸³

A casino licensee is not permitted to own more than a 10% ownership share in a licensed supplier.⁷⁸⁴ The LC defines all officers, directors and 5% or greater ownership holders as “key persons” and they must each undergo licensing.⁷⁸⁵ Applicants may designate information submitted as part of the licensing process as confidential and it shall not be subject to disclosure under West Virginia’s Freedom of Information Act laws.⁷⁸⁶ West Virginia has also promulgated rules relating to the extension of credit to customers.⁷⁸⁷

Sports Wagering

West Virginia recently authorized sports wagering through the LC.⁷⁸⁸ Only licensed gaming facilities are eligible for a sports wagering operator’s license.⁷⁸⁹ The application fee is \$100,000 and has a term of 5 years. Renewal licenses are also for five years and have a \$100,000 renewal fee.⁷⁹⁰ Operators must utilize a monitoring system to detect irregularities in volume or odd swings that could signal suspicious activities.⁷⁹¹ The LC is authorized to enter into agreements with other jurisdictions that have approved sports wagering allowing participants to participate so long as they are located within one of the jurisdictions.⁷⁹² Operators may offer sports wagering on mobile device so long as the person is physically located within the state.⁷⁹³ West Virginia has promulgated separate regulations regarding internal controls and specific requirements for online sports books and books located at physical locations.⁷⁹⁴

The State had a difficult entry into the sports wagering arena, with a dispute with a third-party provider of information technology services resulting in the third-party vendor shutting down both

online and in-person sports wagering operations at two of the West Virginia casinos. Both Wheeling Island and Mardi Gras casinos had partnered with Miomni Gaming for their in-person and online sports wagering. Miomni Gaming had a dispute with a third-party technology provider that resulted in the provider abruptly suspending the sports wagering operations. In an article published on www.legalsportsreport.com, a Delaware North spokesman (operator of Wheeling Island) provided the following statement:

“We have been informed by Miomni Gaming, our sports wagering platform provider in West Virginia, that they have encountered a contract dispute with a third-party technology supplier.

This has resulted in the interruption of the Wheeling Island and Mardi Gras sports-betting operations as well as the BetLucky.com mobile app from accepting new sports wagers. We are honoring and redeeming all resulted bets and are working to determine a time frame for restoration. We apologize for this interruption in service.”⁷⁹⁵

Director Myers indicated that to date, the dispute has not been resolved and sports wagering is currently not available at either Wheeling Island or Mardi Gras casinos.

Online Gambling

As the legislation authorizing online gambling only recently passed and does not take effect until September 2019, the LC has not promulgated any rules governing it nor began accepting online wagers. The legislation mandates that only the racinos and the Greenbrier may apply for an online license.⁷⁹⁶ Applicants will have to pay a \$250,000 application fee and has a five-year term. Renewal licenses will also be for five-year terms and will have renewal fees of \$100,000.⁷⁹⁷ Application criteria and types of licenses for online gambling are similar to those for table games licensing.⁷⁹⁸

Charitable Gaming

The State Tax Commission regulates charitable gaming. Charitable gaming is limited to bingo and raffles.⁷⁹⁹ Generally an organization must apply for a license.⁸⁰⁰ An organization must have been in existence for at least two years and be organized as a tax-exempt organization to be eligible.⁸⁰¹

Due Process/Disciplinary Regulations

West Virginia has deemed a VLT license to be a privilege and does not create any property rights in the holder.⁸⁰² After denial, suspension or revocation of a license or permit, the applicant has the right to appeal the decision to the LC but must do so within 10 days.⁸⁰³ The LC may designate a hearing examiner to conduct a hearing.⁸⁰⁴ Within 10 days of a hearing, the hearing examiner must present a recommended decision to the LC. The LC must either accept or reject the recommendation within ten days of receipt. An applicant has the right to appeal the LC’s decision to the circuit court of the county in which the racetrack is located.⁸⁰⁵ For table game licensing appeals, judicial review must be sought in Kanawha County circuit court.⁸⁰⁶ For table games, the

LC has the power to impose a fine of up to \$50,000 for any violation of applicable gaming rules or regulations.⁸⁰⁷ West Virginia has promulgated administrative rules regarding the procedures to be followed in administrative disciplinary and appeal hearings.⁸⁰⁸

Staffing and Budgetary Issues

The State Lottery Commission (“LC”) is tasked with regulating all forms of gambling in West Virginia, except for charitable gaming, which is regulated by the State Tax Commission. The LC is composed of seven members appointed by the governor with the advice and consent of the senate.⁸⁰⁹ It is required to hold at least 1 meeting per month and are compensated \$20,000 per year, the same salary as a member of the West Virginia legislature.⁸¹⁰ The LC is tasked with promulgating rules and holding hearings related to lottery matters.⁸¹¹

	Appointing Authority	WV Resident	Attorney	CPA	Computer Expert	Law Enforcement Experience	Marketing Experience
Member 1	Governor	✓	✓				
Member 2	Governor	✓		✓			
Member 3	Governor	✓			✓		
Member 4	Governor	✓				✓	
Member 5	Governor	✓					✓
Member 6	Governor	✓					
Member 7	Governor	✓					

The governor appoints the director of the LC.⁸¹² The LC is divided into three divisions by statute: (1) security and licensing; (2) personnel, data processing, accounting and administration; and (3) marketing, education and information.⁸¹³ The LC utilizes a central monitoring system for all VLTs.⁸¹⁴ The LC has further divided itself into 4 programs: Finance and Administration with 66 employees, Marketing with 9 employees, Security and Licensing with 102 employees and Video Operations with 31 employees.⁸¹⁵ Director Myers noted that Lottery has gradually added staff as VLT operation was approved at the racetracks, and noted that the majority of staff additions related to the table game authorization as that form of gaming requires additional monitoring. He noted: “Probably our most labor intensive thing was table games because you have to have folks manning security cameras, actually, you know, working the floors, looking for violations, people that are capping bets, cheating cards, just normal things that happen at casinos.”

Revenue and Expense Information

Revenue and expense information for the LC overall for the past three years is contained in the chart below:

Table 4
Revenues, Expenses and Changes in Fund Net Position
(in \$000's)

	2018	2017	2016
Revenues:			
On-line games	\$ 77,840	\$ 72,110	\$ 85,660
Instant games	99,195	94,369	102,542
Racetrack video lottery	504,295	521,318	537,729
Limited video lottery	368,067	347,555	360,814
Table games	35,152	38,958	43,545
Historic resort	<u>6,624</u>	<u>5,207</u>	<u>6,346</u>
	1,091,173	1,079,517	1,136,636
Less commissions:			
On-line games	5,436	5,043	6,001
Instant games	6,938	6,606	7,178
Racetrack video lottery	260,243	268,177	275,496
Limited video lottery	180,353	170,302	176,799
Table games	14,905	16,512	18,453
Historic resort	<u>3,511</u>	<u>2,733</u>	<u>3,302</u>
	471,386	469,373	487,229
Less on-line prize costs	39,639	36,227	43,132
Less instant ticket prize costs	65,557	61,959	67,695
Less ticket costs	1,373	1,408	1,618
Less vendor fees and costs	<u>7,958</u>	<u>6,915</u>	<u>8,116</u>
	114,527	106,509	120,561
Gross profit	<u>505,260</u>	<u>503,635</u>	<u>528,846</u>
Administrative expenses:			
Advertising and promotions	4,771	4,157	4,975
Wages and related benefits	10,082	10,305	9,885
Telecommunications	869	1,037	965
Contractual and professional	4,662	4,520	4,560
Rental	168	394	425
Depreciation and amortization	1,552	1,281	1,086
Other administrative expenses	<u>1,938</u>	<u>1,572</u>	<u>1,230</u>
	24,042	23,266	23,126
Other operating income	<u>12,734</u>	<u>10,677</u>	<u>10,528</u>
Operating income	<u>493,952</u>	<u>491,046</u>	<u>516,248</u>
Nonoperating income (expense):			
Investment income	1,573	934	788
Distributions to municipalities and counties	(7,214)	(6,812)	(7,072)
Distributions for capital reinvestment	(13,455)	(7,468)	(10,446)
Distributions to the State of West Virginia	<u>(473,948)</u>	<u>(477,053)</u>	<u>(501,302)</u>
Change in net position	<u>908</u>	<u>647</u>	<u>(1,784)</u>
Net position, beginning of year	53,019	52,372	54,156
Cumulative effect of adoption of accounting principle	<u>1,272</u>	<u>-</u>	<u>-</u>
Net position, beginning of year, as restated	<u>54,291</u>	<u>52,372</u>	<u>54,156</u>
Net position, end of year	<u>\$ 55,199</u>	<u>\$ 53,019</u>	<u>\$ 52,372</u>

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Timeline

West Virginia initiated a limited pilot program with VLTs at Mountaineer Casino for a 2 – 3-year period. Upon the successful pilot program, the legislature authorized VLTs at all of the racetracks, with the rollout occurring in a measured manner in part due to the initial failure of the local vote in Charles Town. The authorization for table games at the racinos and the stand-alone casino in

Greenbrier was over a decade after the VLT roll-out, so Lottery had ample time to prepare for and adequately regulate the gaming expansion.



West Virginia Observations

West Virginia's Lottery Director noted that as the state of Virginia looks to the potential legalization of casino gaming, the policy makers (Governor and Legislature) may find the following observations of interest.

With respect to the authorization of full casino-style games, Mr. Myers noted: “[T]hey should recognize that the regulation, audit and compliance of table games will be more labor-intensive for the regulatory agency than utilizing a central monitoring system to regulate and audit VLTs. (Note that the central monitoring system does require a 24/7/365 operation within the West Virginia Lottery).”

With respect to enforcement of gaming crimes, Mr. Myers stated: “[I]f policy makers will utilize the state police for the task, rather than simply contacting the local police office dispatcher, it is better policy to enter into a contract for a dedicated gaming-related officer or division within the state police due to the education required relating to gaming laws and enforcement.”

ILLINOIS (LIMITED TO SITE AND OPERATOR SELECTION)

With the enactment of the Riverboat Gambling Act in 1990, the Illinois Gaming Board became the regulatory body for riverboat gambling throughout the state.⁸¹⁷ Illinois became the second state in the country to legalize riverboat gambling, following Iowa.⁸¹⁸ Under the initial authorizing legislation, the Board was delegated the authority to issue up to ten casino operator licenses,⁸¹⁹ with each licensee allowed to own two riverboats.⁸²⁰

The state of Illinois adopted a geographically diverse model with respect to the allocation of the authorized licenses. As Illinois was only the fifth jurisdiction after Nevada, New Jersey, South Dakota, and Iowa to authorize commercial casino gaming, there were a large number of parties interested in the available licenses.⁸²¹ As outlined in this section, the legislature outlined the locations, but left the selection process to the Board.

The first five licenses were to be effective by January 1, 1991 at the earliest.⁸²² Argosy Casino Alton, operated by Penn National, became the first operating riverboat in the state in September 1991.⁸²³ Three of the five licenses were required to be on the Mississippi River, or in a town bordering the Mississippi River with approval from the municipality, and were to become effective by August 7, 2003.⁸²⁴ The fourth license was required to be for riverboat gambling from a home dock in the city of East St. Louis, and the fifth license was required to be located on the Illinois River south of Marshall County. The sixth license was required to be located on the Des Plaines River in Will County, and was not to become effective until March 1, 1992.⁸²⁵ The remaining four licenses were not to be issued until March 1, 1992.⁸²⁶ In determining the locations for the last four licenses, the Board was to ensure that all regions of the state would share in the economic benefits of riverboat gambling.⁸²⁷ The Board could give favorable consideration to economically depressed areas of the state to applicants with plans for significant economic development over a large geographic area.⁸²⁸ The Board could also give favorable consideration to applicants who were then operating non-gambling riverboats in Illinois.⁸²⁹

Tom Swoik, Executive Director of the Illinois Casino Gaming Association, noted, “At the time of legalization of casino gaming in the early 90s, the state was focused on introducing new economic development opportunities in distressed areas of the state, as well as to maximize state tax collection revenues from the new wagering taxes.”

The state solicited bidders and locations in accordance with the statutory location requirements for the licenses. From these applicants, the Board selected the winning bidder and location, considering the proposed facilities,⁸³⁰ the highest prospective total revenue,⁸³¹ and the ability to maintain a riverboat for the duration of a license.⁸³² In addition, the Board has a commitment to considering the applicant’s reflection of the state’s diversity. Consideration is given to the extent to which the applicant includes minorities, women, persons with disabilities,⁸³³ and veterans.⁸³⁴ The Board does not have to select the applicant with the highest bid, but if it does not, it has to issue a written explanation of why it has chosen an applicant with a lower bid.⁸³⁵

Once the Board selects the winning bidder and locations, the applicants continue through the formal suitability process. When considering suitability, the Board considers the character, reputation, experience, and financial integrity of the applicant.⁸³⁶

Mr. Swoik emphasized that “the state was responsible for the licensing of the casino companies, key persons and all employees. The process included the approval of the local host communities to ensure there was the necessary engagement by the city governmental leaders. This process resulted in a diverse distribution of casinos across the state.”

The selection process for reissuance of an owner’s license differs from the selection process for original licenses. When the Board determines that it will reissue an owner’s license, it engages in a competitive bidding process.⁸³⁷ Under this process, the Board makes applications available to the public and allows for reasonable time for applications to be submitted.⁸³⁸ The Board then opens all of the proposals in a public forum and announces the prospective owners and locations for the proposed facility.⁸³⁹ The Board is allowed a reasonable time period to evaluate the proposals and select three final applicants to present their proposals publicly to the Board.⁸⁴⁰ After presentations are made, the Board may make further negotiations with the applicants.⁸⁴¹ At this time, applicants may increase their bids or enhance their proposals.⁸⁴² The Board selects the winning proposal, and then evaluates the winning applicant for suitability in accordance with the same criteria that original licensees are evaluated.⁸⁴³

In 2008, Illinois followed this competitive bidding process for the purchase of its tenth license, Emerald Casino Inc.⁸⁴⁴ The tenth license had been dormant since 1997 due to “legal and administrative disputes” over a proposed casino in Rosemont.⁸⁴⁵ Seven bids were received and, ultimately, Midwest Gaming & Entertainment was chosen to construct a casino in Des Plaines with a bid of \$150 million.⁸⁴⁶

In May 2011, Senate Bill 744 established the Chicago Casino Development Authority to promote a land-based casino in the city of Chicago.⁸⁴⁷ There have not yet been any land-based casinos developed in Illinois.

Additionally, Senate Bill 690 was recently passed in 2019 and would allow six land-based casinos to be established throughout the state.⁸⁴⁸ The bill was sent to Governor J.B. Pritzker on June 5, 2019 and was signed into law on June 28, 2019.⁸⁴⁹

INDIANA (LIMITED TO SITE AND OPERATOR SELECTION)

Indiana passed the Riverboat Gambling Act in 1993, which established the Indiana Gaming Commission⁸⁵⁰ and authorized riverboat gambling to take place in the state.⁸⁵¹ The Act limits the number of licenses that may be in effect at any time to ten.⁸⁵² Two of the licenses must be for riverboats that operate from Gary, one must operate from Hammond, one must operate from East Chicago,⁸⁵³ and one must be located in a city situated in a county that is contiguous to Lake Michigan.⁸⁵⁴ The remaining five licenses are reserved for riverboats that operate on the Ohio River, and must operate from the following counties: Vanderburgh, Harrison, Switzerland, Ohio, and Dearborn.⁸⁵⁵ In addition to the ten licenses, the Gaming Commission may enter into a contract authorizing the operation on behalf of the Gaming Commission in a historic hotel district.⁸⁵⁶ The Gaming Commission entered into a contract with French Lick Springs Hotel in the West Baden Springs historic hotel district in 2006.⁸⁵⁷

In considering prospective licensees, the Gaming Commission requires that the applicant must pay an application fee,⁸⁵⁸ provide fingerprints for each officer and director,⁸⁵⁹ and submit a written power of attorney identifying a trustee to operate the riverboat.⁸⁶⁰ The Gaming Commission will review the applications and decide which applicant should receive the owner's license.⁸⁶¹ An applicant cannot have ownership interest in more than two riverboat owner's licenses in the state.⁸⁶²

The Gaming Commission considers several factors in determining whether to grant an owner's license to an applicant. Among these factors include:

- The character, reputation, experience, and financial integrity of the applicant;
- The proposed facilities;
- The highest prospective total revenue;
- The good faith affirmative action plan to recruit minorities;
- The financial ability to maintain insurance; and
- Whether the applicant is able to maintain a riverboat.⁸⁶³

In addition, the applicant must submit a proposed design of the riverboat and dock.⁸⁶⁴ If the Gaming Commission determines that it will be difficult or unlikely for the riverboat to depart from the dock, it may not grant a license to the applicant.⁸⁶⁵ Favorable consideration may be given to economically depressed areas of the state or to applicants presenting plans that provide for significant economic development over a large geographic area.⁸⁶⁶

The Gaming Commission may not issue a license authorizing a riverboat to dock in a host city or county unless the legislative authority has approved an ordinance permitting the docking of riverboats.⁸⁶⁷ Once an ordinance has been adopted or a petition has been submitted, the local election board must place the question of whether riverboat gambling should be permitted in the city or county during the next primary or general election.⁸⁶⁸ If riverboat gambling is rejected by voters, then a second public question may not be held for at least two years.⁸⁶⁹ If a county rejects

riverboat gambling two or more times, then the question may not be held again in that county for ten years.⁸⁷⁰

Before an applicant may be issued an owner's license, the applicant must first pay an initial license fee of \$25,000⁸⁷¹ and post a bond with the Gaming Commission at least 60 days before riverboat operations begin.⁸⁷² A licensee must begin operations within 12 months of receiving the Gaming Commission's approval, or it risks revocation of the license.⁸⁷³

In 2015, Indiana authorized relocation of docked riverboats to inland casinos. In this case, a licensee may relocate its gaming operation to an inland casino if: the casino is located on property that the licensee owned or leased for gaming operations on February 1, 2015; the casino is located on property adjacent to the dock site; the casino complies with building codes and safety requirements; and the commission approves the relocation.⁸⁷⁴

Gambling may also be conducted in an approved facility that operates card tournaments.⁸⁷⁵ An approved facility is one that is owned or operated by a riverboat gambling licensee at a hotel or permanent structure that is located on land that is adjacent to the dock or land where the riverboat is located.⁸⁷⁶

Slot machines were authorized for conduct at existing racetracks in 2007.⁸⁷⁷ Racetracks that offer gambling include Indiana Grand and Harrah's Hoosier Park, both Caesars operations.⁸⁷⁸

IOWA (LIMITED TO SITE AND OPERATOR SELECTION)

The state of Iowa began offering casino gaming on riverboat excursions under licenses issued by the Iowa Racing and Gaming Commission (“IRGC”) in 1990.⁸⁷⁹ On March 5, 1990, the IRGC issued the first five licenses in geographically diverse areas.⁸⁸⁰ As reflected in the Chronology published on the IRGC’s website, a number of the licenses that have been granted over the years have been revoked or voluntarily surrendered due to financing or other concerns.⁸⁸¹ Iowa requires such facilities to be sponsored by a “qualifying sponsoring organization” which needs to be an approved Iowa nonprofit entity.⁸⁸² Wes Ehrecke, President and CEO of the Iowa Gaming Association, noted: “In the early 1990s when riverboat gambling was first legalized in the state, there was often only one developer interested in applying for a license. If there was more than one developer interested, then an RFP process was used for the selection”

Legislation enacted in 2007 authorized land-based casino structures with the approval of the IRGC.⁸⁸³ Iowa law requires a county referendum to be held with a majority vote in favor before a license will be granted by the IRGC.⁸⁸⁴ If, after initially approving, a county then votes against casino gambling, the gaming statute provides that the license issued after the initial approval shall remain valid and is subject to renewal for a total of nine years from the date of original issue or one year from the date of the referendum disapproving the conduct of gambling games, whichever is later.⁸⁸⁵ Mr. Ehrecke noted: “there were several counties that had passed a referendum that did not get a license. The Racing and Gaming Commission, who makes the decision, cited various criteria they consider including being too close in proximity to existing casinos and adversely impacting their significant investment to remain competitive in the market.”

Under Iowa’s gaming law, the selection process occurs simultaneously with the review of the applicant’s license application. The Iowa statute has specific requirements with regard to the required suitability review which is performed by the division of criminal investigation.⁸⁸⁶ Iowa has adopted comprehensive Administrative Rules governing gaming regulation in the state.⁸⁸⁷ The IRGC has played a very active role in continual reviews of gaming operational matters, the granting of new licenses, the study of potential additional gaming expansion, and various mergers and acquisitions within the casino gaming industry in the state.⁸⁸⁸

From an operator and site selection standpoint, the state is somewhat unique in that it has taken a bit of wide-open free market approach.

NEW YORK (LIMITED TO SITE AND OPERATOR SELECTION)

In 2001, the legislature approved the installation of VLTs at existing horse racing facilities to provide additional funding for education, as well as financial assistance to the racetracks.⁸⁸⁹ The racetracks originally authorized to operate VLTs were Aqueduct, Monticello, Yonkers, Finger Lakes, and Vernon Downs.⁸⁹⁰ Any other racetrack licensed in a county in which VLTs had been authorized by local law, and two facilities within Nassau and Suffolk counties⁸⁹¹ were also authorized to operate VLTs.⁸⁹² The state entered a franchise agreement with the New York Racing Association, identifying Aqueduct Racetrack, Belmont Park, and Saratoga Race Course as non-profit racing facilities.⁸⁹³ In exchange for development of one of the facilities in Nassau County, Aqueduct Racetrack would be allowed to host off-track betting on behalf of the regional off-track betting corporations for the Nassau and Suffolk regions.⁸⁹⁴ The legislation excluded the “New York state exposition” racetrack in Onondaga county and the non-profit racetracks, Belmont Park and Saratoga Race Course, from operating VLTs.⁸⁹⁵ In 2002, the legislature extended the franchise granted to New York Racing Association through December 31, 2012, so long as video lottery gaming was in operation at Aqueduct Racetrack on or before April 1, 2003.⁸⁹⁶

The New York State Gaming Commission was established in 2012 as part of the 2012/2013 Enacted State Budget.⁸⁹⁷ This merged the New York State Racing and Wagering Board and the New York State Division of Lottery into the same agency.⁸⁹⁸ Governor Andrew Cuomo signed the Upstate New York Gaming and Economic Development Act on July 30, 2013, to legalize video lottery gaming and establish four destination gaming resorts.⁸⁹⁹ The Act split the state into several regions, three of which would be available to host gaming facility licensees.⁹⁰⁰ One region, determined by the Gaming Commission, was authorized to host two gaming resorts.⁹⁰¹ The three host regions were the Capital Region (comprising Albany, Fulton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, and Washington counties), the Catskills/Hudson Valley Region (comprising Columbia, Delaware, Dutchess, Greene, Orange, Sullivan, and Ulster counties), and the Eastern Southern Tier Region (comprising Broome, Chemung (east of State Route 14), Schuyler (east of State Route 14), Seneca, Tioga, Tompkins, and Wayne (east of State Route 14) counties).⁹⁰² The three identified regions sought to allow the existing tribal casinos to retain their geographical exclusivity.⁹⁰³ Gaming facilities were to be either new developments or conversions of existing racinos in the state.⁹⁰⁴ Additionally, downstate gaming resorts were not permitted for at least seven years after issuance of the first license.⁹⁰⁵

The Gaming Commission appointed a Gaming Facility Location Board, comprised of individuals with expertise in finance and development, to determine the minimum capital investment and license fee in each region.⁹⁰⁶ Once the Board received applications for licenses, it then made selections competitively based on specific criteria: 70 percent of the decision was based on economic activity and business development factors; 20 percent on local impact and siting factors; and 10 percent on workforce factors.⁹⁰⁷ The applications were required to include detailed information, including, but not limited to:

- Each person having interest in the business;

- An audit report of financial activities for the past five years;
- “Clear and convincing” evidence of financial stability;
- Documentation to demonstrate that the applicant had the likelihood of maintaining a successful gaming facility;
- A description of the proposed security system;
- The designs for the proposed facility;
- A timeline for construction;
- A study of the economic benefits; and
- Cost to the host municipality.⁹⁰⁸

Additionally, the initial application was required to demonstrate local support for the gaming resort.⁹⁰⁹

Sixteen applicants submitted bids for casino licenses by June 30, 2014, nine of which were for the Catskills/Hudson Valley Region.⁹¹⁰ On December 17, 2014, the Board selected Lago Resort and Casino (Wilmarite and Peninsula Pacific), Montreign Resort Casino (Empire Resorts), and Rivers Casino and Resort at Mohawk Harbor (Rush Street Gaming) as the first three bids to apply to the Gaming Commission for a gaming facility license.⁹¹¹ The Gaming Commission completed background and suitability checks for each of the chosen applicants, and licenses were issued to all three in 2015.⁹¹² The gaming resorts were required to be open for business within 24 months of the issuance of a license.⁹¹³ Del Lago Resort opened on January 31, 2017, Rivers Casino opened on February 6, 2017,⁹¹⁴ and Resorts World opened on February 8, 2018.⁹¹⁵

In 2015, the Eastern Southern Tier Region was reopened for bidding to accommodate the fourth gaming resort license.⁹¹⁶ Tioga Downs Casino Racing and Entertainment was the only application received and was subsequently granted a license and opened on December 1, 2016.⁹¹⁷

Regions For Casino Gaming Development



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PENNSYLVANIA (LIMITED TO SITE & OPERATOR SELECTION) ⁹¹⁹

In 2004, the legislature passed the Pennsylvania Race Horse Development and Gaming Act (“PA Act”), permitting slot machines at existing racetracks and also at stand-alone casinos.⁹²⁰ It later amended the act in 2010 allowing table games at all locations.⁹²¹ It also created the Pennsylvania Gaming Control Board (“PGCB”) as a new regulatory agency responsible for selection of sites and operators and regulation of the newly created casino industry. Three categories of slot machine licenses were authorized under the 2004 Act: Category 1 licenses permitting up to seven qualifying licensed horse and harness racetracks to maintain slot machine facilities; Category 2 licenses permitting up to five stand-alone locations to operate casinos in metropolitan or other tourism areas; and Category 3 licenses permitting up to two hotel-resort facilities to operate casinos.⁹²²

Category 1 licenses were restricted to racetracks licensed by the State Horse Racing Commission or the State Harness Racing Commission who held races within the two years immediately preceding passage of the PA Act or offered pari-mutuel wagering within 18 months immediately preceding the passage of the PA Act.⁹²³ Each racetrack could not hold more than 1 license and had to be at least 20 miles from any other Category 1 licensed racetrack.⁹²⁴ The PGCB could grant up to seven Category 1 licenses.⁹²⁵ The license fee for a Category 1 license was \$50 million.⁹²⁶

The PGCB was required to conduct at least 1 public input hearing before granting the license.⁹²⁷ Suitability investigations were performed at the same time the PGCB was performing its due diligence on operator selection. It set an October 2005 deadline for submission of the Category 1 applications.

Ultimately, the PGCB granted Category 1 licenses to all 6 applicants (Chester Downs, Downs Racing L.P., Greenwood Gaming, Mountainview Thoroughbred, Presque Isle Downs, and Washington Trotting). The first Category 1 facility opened in November of 2006.

Attempts were made to establish a track and casino in Lawrence County to claim the seventh license, but the applicants could not obtain financing for the project, and the Pennsylvania Gaming Control Board revoked the application in 2016.⁹²⁸

Category 2 licenses were reserved for five stand-alone casinos. The Act has specific requirements for the location of the facilities—two in a city of the first class (Philadelphia), one facility in a city of the second class (Pittsburgh), and the remaining two facilities in a revenue or tourism-enhanced location. Category 2 licenses had a license fee of \$50 million. As the awarding of the Category 2 licenses was a competitive process, the applicants had the responsibility to not only satisfy the Board that they were eligible and suitable for a license, but also to persuade the Board that their respective project should be chosen to serve the Commonwealth’s best interests.

Category 3 licenses had to be located in a well-established resort hotel having a minimum number of guest rooms as well as resort-style amenities. Category 3 facilities were capped in terms of the number of slot machines they could offer and limited as to the guests who were permitted to patronize the gaming facility. Category 3 licenses had a license fee of \$5 million.

The PGCB set a December 2005 application for both Category 2 and Category 3 applications. Seventeen entities applied for the five available Category 2 licenses and two entities applied for the available Category 3 licenses. On December 20, 2006, following completion of an extensive background investigation, multiple public input hearings in the municipalities where the facilities were proposed to be located, and a public suitability hearing for each applicant, the Board awarded Category 2 licenses to five applicants. The PGCB did not end up awarding the Category 3 licenses until 2009 and 2011.

For all categories, PGCB required each application to include:

- Individual applications for each principal;
- A diversity plan;
- Information surrounding the proposed temporary or permanent facility; and
- Implementation of internal safeguards and policies to prevent political contributions as required by Pennsylvania law.⁹²⁹

Applicants had to demonstrate:

- Good character and honesty;
- Financial fitness;
- Operational viability (including the quality of the proposed facility, number of slot machines, proposed start date, and ability to generate sufficient revenue)
- Imposing business restrictions on who may own, control or hold key positions for the applicant
- Requiring divestiture of interests held by non-qualifying persons;
- The potential for job creation and economic development;
- The potential for enhancing tourism;
- The history of success of the applicant in developing facilities; and
- Several other items.⁹³⁰

The Act also provided extensive guidance for the Board to consider when awarding licenses including, but not limited to:

- The location and quality of the proposed facility;
- Road and transit access;
- Parking and centrality to market service area;
- The potential for new job creation and economic development;
- The applicant's good faith plan to recruit, train and ensure diversity in all employment classifications in the facility,
- The applicant's good faith effort to assure that all persons are accorded equal opportunity in employment and contracting by it and any contractors, subcontractors, vendors and suppliers it may employ directly or indirectly, and
- Compliance with Federal, state and local wage, employment, labor relations and environmental health and safety laws.

A map of the existing casinos in Pennsylvania is below: ⁹³¹



C.2 ANALYSIS AND OBSERVATIONS

Introduction.

Our comparative review of peer states provides guidance as to appropriate governance and regulatory processes and structures. This section will discuss the approaches taken from a big picture perspective and will discuss the advantages and disadvantages to alternative approaches.

As indicated in the introductory section, in creating a gaming regulatory structure, most gaming regulatory systems seek to achieve four big picture objectives: (1) licensing; (2) accounting and taxation; (3) enforcement; and (4) addressing responsible gaming. The responsible gaming objective will be discussed in detail in Section D-1 below.

In addition to these big picture topics, Virginia policy makers also would benefit from: (1) understanding the different approaches that states have taken regarding site and operator selection; (2) the approach taken by various states regarding the role that local governments play in the process; and (3) a discussion of additional policy considerations that come into play when a jurisdiction is considering casino gambling statutory and regulatory approaches.

Site and Operator Selection Summary

	DE	IL	IN	IO	KS	MD	MA	MI	NY	OH	PA	WV
Local Selection?								✓				
Ballot Proposal Selection?										✓		
Local Vote?		✓	✓	✓	✓		✓					
Placement at Existing Racetrack?	✓		✓ (Partial)						✓	✓ (Partial)	✓	✓
Secondary Approval/ Review?					✓	✓			✓			
Special State Agency?						✓			✓			
Gaming Commission or Lottery Selection?	✓	✓	✓	✓	✓		✓				✓	✓
Suitability Review Pre- Selection?							✓					
Suitability Review Post Selection?		✓			✓			✓	✓	✓		✓
Suitability Review Parallel with Selection?	✓		✓	✓		✓					✓	

One very important issue for any new gaming jurisdiction to consider is how it is going to go about the process of selecting the site for a casino and an operator for the casino. The decision as to which site and which operator should be selected objectively is separate from a licensing analysis, although some jurisdictions (e.g. Massachusetts) have merged the concept at times. As a general rule, jurisdictions fall into one of two categories with respect to site selections:

(1) States that pre-select their locations, whether that be at existing racetracks (Delaware, Indiana (partially), New York (partially), Ohio (partially), Pennsylvania (partially) and West Virginia) or through other means (Ohio casinos locations in constitution); and

(2) States that have one or more state agencies or board select the locations.

For those states that have agencies or boards select locations, there frequently are regions or even smaller geographic restrictions in selection options. Finally, with respect to operator selection, for those states preselecting the location, the operator selection is effectively pre-selected as well. For those states that do not pre-select the operator, they utilize one or more combinations of local government, state gaming agency/governing body or stand-alone board. In virtually all of the instances where the operators are not pre-selected, the state selects the operator through a competitive bidding process.

The peer states show that a variety of different approaches have been taken to operator and site selection. At one extreme, the states of Delaware and Ohio both are examples of states where the legislative and/or constitutional action taken to authorize gaming specified the sites where it would be located (in Delaware at existing tracks, and in Ohio at a specific piece of property designated in the Constitutional amendment). West Virginia took a similar approach (at least initially), designating existing horse racetracks to host the VLT gaming authorized there. VLTs were then later expanded to bars and adult clubs, and, after a few years, the legislature ended up designating a specific location for a casino to be opened offering table games. Notably, the local government's role in and the direct economic benefits to the local governments in these states from the casino operations is less than other states where there is more local involvement. Determining the appropriate level of local involvement depends on the policy objectives of the legislation.

In contrast, the enabling legislation for several of the peer states (Illinois, Kansas, Maryland, Massachusetts, Michigan and New York) all provided geographic regions (of some sort) where the casinos could be located, and these states developed a variety of approaches toward site and operator selection. This variety of approaches included:

- Allowing the local government (City of Detroit) to make the selection for the state of Michigan;
- Having the Lottery Commission make the selection, with review and approval by a Gaming Facilities Board (Kansas);
- Having the Gaming Board make the selection decision as well as do the licensing (Illinois);
- Having a special state agency manage the selection process after a competitive bid process (Maryland);
- Having a Gaming Facility Location Board determine the locations, capital investment needed, and license fees that should apply to each region, and then make the selection (New York);
- Having the Gaming Commission make the selection after a competitive bid process (Massachusetts).

Michigan ended up with a local “preference” being included for a couple of developers in the process as part of the City Ordinance.⁹³² This resulted in several years of litigation with a

developer who did not participate in the process, and who ultimately won a court victory on the issue.⁹³³ Additionally, it is worth noting that in Michigan one of the groups that was given a preference was an entity that had both local real estate developers and a federally recognized Indian tribe as owners.

Virginia policy makers will want to carefully consider whether granting a preference to a particular developer or a particular parcel of property is a wise course of action. Granting such preferences or pre-designation of sites may theoretically have some positive benefits in potentially accelerating the timeline, but in practice it can create some unintended complications. For example, if a particular site with particular ownership is pre-selected, the gaming regulators will be under enormous pressure to approve the operator involved to avoid throwing the entire industry into chaos. The experiences in other states suggest that a purely competitive bidding approach may be more beneficial. For example, the following states experienced difficulties arising from granting preferences:

- Ohio ended up later amending its Constitution when marijuana legalization was being considered to prohibit monopolies, oligopolies, or cartels and to prohibit any constitutional petition being granted any commercial interest, right, or license that is not available to similarly situated persons or nonpublic entities),⁹³⁴
- Massachusetts became embroiled in litigation from a competitor who did not enjoy the preference given to an Indian tribe for one of the regions and challenged it on Equal Protection constitutional grounds (the challenge was ultimately dismissed); and
- Michigan, which like Massachusetts endured several years of litigation arising from a disappointed applicant challenging the preference language on Equal Protection constitutional grounds.

There are constitutional and legal questions that arise with including any form of preference or pre-designation of a singular local developer/operator or a specific parcel of real estate, as such preferences may subject the state agency to lawsuits alleging violation of equal protection rights from other applicants who did not benefit from such preferences or predeterminations.

As a general rule, the determinative factors are: (1) who does the licensing process; and (2) when does licensing occur. With respect to the licensing process, jurisdictions fall into two categories—those that utilize a separate entity for selection and then licensing and those that utilize the same entity for both selection and licensing. With respect to the timing of licensing (or more commonly termed “suitability review”), jurisdictions have taken three approaches: (1) determine suitability prior to selection (Massachusetts); (2) determine suitability contemporaneously with the selection process (Delaware, Indiana, Iowa, Maryland, Pennsylvania); and (3) determine suitability after the selection process (Illinois, Kansas, Michigan and Ohio). The Massachusetts model of requiring a suitability determination prior to selection involves additional time and expense, both from an operator and regulatory standpoint, but by doing so, the state ensures that whomever it selects is suitable.

Unavoidably there is some overlap in the criteria that may be used during the selection and the licensing processes, but often political issues can play a major factor in which operator is selected.

To avoid this, in some jurisdictions, Michigan for example, the state Gaming Control Board handles the licensing process after the selection occurred, taking the necessary steps to ensure that the chosen entities meet the high licensing standards. Having the licensing process separated from the selection process can ensure that the state government can objectively assess whether the licensing criteria have been met that are important to assure that the casino gaming operations meet the high standards of integrity and suitability that are typically part of a gaming regulatory system. It can also lead to complications, however, which may necessitate some of the preferred developers being required to divest in order to get the applicant licensed.

The negative aspect of this bifurcated approach of separating the selection from the licensing, however, is that if the state does not end up granting a license to the selected casino operator, there could be significant delays while the selection process is repeated. The bifurcated approach Kansas took in having the regulator (Lottery Commission) select the operators and sites with review by a separate board to determine whether the “best possible operator” was selected illustrates this, as the contract with one of the selected developers was rejected by the LGFR, and then needed to be renegotiated, leading to a delay in the facility opening.

In contrast to the bifurcated approach, the approach that Massachusetts took in having its gaming commission be not only responsible for licensing and regulation but also for site and operator selection has led to an onslaught of litigation where allegations were made of arbitrary and capricious decisions being made to favor certain developers over others.⁹³⁵ Accusations of conflicts of interest also led to the Chair of the Gaming Commission recusing himself from various decisions relating to the Region A (Boston area) license.⁹³⁶ Ultimately, the Chair resigned from the Commission. While accusations could have arisen even with a bifurcated approach, the state conceivably could have avoided the litigation if there was a second agency or board that could have served as a check against any perceived bias by a solitary commission.

Under Maryland’s approach the site and operator were selected by a special state commission (VLFLC) after a competitive bid process. This special body terminated its existence upon completion of the selection task. Thereafter, licensing and regulation has been handled by the Lottery Commission. The applicable state law does permit the VLFLC to be reconstituted in the event a new selection needs to be made.⁹³⁷ This approach ensured that the licensing review was separated from the selection, in theory keeping the politics of site and operator selection out of the suitability and licensing review.

Local Government Involvement

An issue that sometimes, but not necessarily, is related to site selection is the role of the local governments in casino gaming matters. The peer state review demonstrates that each jurisdiction is unique, and there have been many varying approaches taken by state policy makers.

The different approaches used have included:

- Limited to no involvement by local governments in the site or operator selection (Delaware, Ohio)—this approach has been taken in places where the sites were predetermined by the policy makers.

- Requiring compliance with local planning and zoning requirements (Maryland);
- Paying local impact grants and/or revenue sharing payments to local governments (Kansas, Maryland, Massachusetts, Michigan, West Virginia);
- Local voter referendum to approve (Massachusetts, West Virginia—for table games);
- County vote needed for approval (Kansas);
- City resolution need to endorse (Kansas);
- Host community and surrounding community agreements to address mitigation concerns required for licensing with ultimate approval by the Gaming Commission (Massachusetts);
- Development Agreements required with local government for selected developers and casino operators as a condition to state licensing (Michigan).

	No Local Input	Local Grants	Local Planning & Zoning Compliance	Local Vote	Host Community Agreement	Development Agreement
Delaware	✓					
Kansas		✓		✓		
Maryland		✓	✓			✓*
Massachusetts		✓		✓	✓	
Michigan		✓				✓
Ohio	✓					
West Virginia		✓		✓		

*Prince George's County Location only.

The decision regarding local involvement is a policy question that is unique to each jurisdiction. The states that have had strong local involvement have generally done so with a focus on addressing certain policy concerns. In states that did not expressly place their casinos at existing racetrack facilities (which presumably already had local support of gambling from the continued operation of the racetracks), it is fairly standard to provide local government and/or community involvement into whether and how casinos are incorporated into the community, whether it takes the form of a local referendum, a requirement for a municipal resolution of support, or required community agreements as a condition of licensure. It is viewed as beneficial to the long-term stability and health of casinos to get local support from the beginning. It is the local community that will primarily experience any increased social costs discussed elsewhere in this report, whether that be from increased traffic, crime, addiction, or other aspects, and it makes sense to include that community in the discussion and planning of any revenue-sharing and other developmental aspects of the casino from the start.

In Michigan, for example, casinos were approved with an urban and economic redevelopment objective for the City of Detroit, and accordingly, local issues were very important. Furthermore, revenue from the casinos was vitally important to the City as the tax base had shrunk as a result of the City's declining population. The Detroit casinos have subsequently become a vital part of the City's redevelopment and its successful emergence from a municipal bankruptcy.

In Massachusetts, the state policy makers wanted to assure that the local area wanted a casino, and thus a voter referendum requirement was included. The policy makers also wanted to assure that negative impacts of the casinos that may impact communities would be reasonably mitigated. As

a result, the state law required casino developers to enter into both host community agreements (with the City where the casino would be located) and surrounding community agreements (with nearby communities that may have negative impacts) to ensure proper mitigation. Massachusetts provided for the Gaming Commission to play a role in resolving disputes over the terms of these agreements through an arbitration process.

Licensing

There are differences in the way states approach casino style gaming, with some states having full-fledged privately-owned commercial operations, and others having state involvement in the operations through the use of video lottery terminals (“VLTs”). In some states, there are constitutional bans on the ownership of electronic gambling devices, and many such states have had the state retain the ownership of the machines which are then operated at casino type facilities or racetracks. Delaware, Maryland, Ohio (at the racinos) and West Virginia are examples of states that have VLTs.

VLTs operate based on random number generators and typically tie into a central monitoring system operated by the state lottery. The machines are manufactured by the same gaming equipment manufacturers as slot machines, and typically have the same types of game themes. The state plays a role in determining winning percentages, which may be dictated by the provisions of lottery law. In some states, the Lottery plays the role of being responsible for gaming oversight, and others have separate regulatory bodies involved in the process.

Regardless of the approach taken, all the peer states have gaming regulatory authorities (“Gaming Regulators”) that oversee the gaming licensing process. Delaware, Kansas, Maryland, Ohio (with respect to VLTs at tracks), and West Virginia have lottery commissions that handle the licensing process. Massachusetts, Michigan and Ohio (with respect to the casinos) have dedicated gaming commissions or boards that serve as the entity evaluating licensing issues. Generally, the gaming regulatory staff perform investigations and present a recommendation either to the agency’s executive director or the commissions or board who make the final determination to grant or deny the license. State laws uniformly provide the deciding agency with discretionary authority to approve or deny licenses coupled with the statutory framework that such licenses are privileges and not rights as discussed elsewhere in this report.

States generally approach licensing from a risk management standpoint in identifying those individuals and entities that require the strictest scrutiny in licensing, with entities such as operators, management companies, and manufacturers of equipment directly utilized in gaming activities (such as slot machines, cards, dice, etc.) having stricter licensing and investigative requirements. Non-gaming suppliers, while frequently still required by many states to be licensed, will have licensing and investigative requirements that aren’t quite as stringent, rationalizing that such entities do not have as much opportunity to affect the integrity and fairness of the casino gaming.

In connection with evaluating licensing matters, investigations are typically conducted. All the peer states rely upon internal gaming regulator investigators to conduct these reviews except for Delaware, which relies on a subdivision of its Secretary of Safety and Homeland Security (the

Delaware Gaming Enforcement Division). In a few jurisdictions nationally that were not included as part of the peer states, state police officials are used to conduct investigations, but it is most common for internal gaming regulator investigators to conduct such reviews.

Similarly, from an individual licensing standpoint, in most states, 5 percent or greater owners (with the exception of institutional investors who hold their investments passively), individuals in a decision-making capacity, i.e., a chief executive officer, chief financial officer, other top tier management, members of the board (other than outside directors) etc., are put through a more detailed and thorough licensing and investigative scrutiny process. High-level management employees, employees involved in the actual gaming activity, security, or those who handle currency must undergo similar licensing processes. Other employees (of operators and suppliers) whose job duties take them onto the casino floor (i.e. cocktail waitresses) also require licensure, but with less scrutiny than the decision-making employees.

A key licensing question is who will be required to be investigated, “qualified” and/or licensed. Frequently the terms “qualified” or “qualifiers” are used with respect to those individuals or entities that need to be scrutinized in connection with an applicant’s license. For example, all of the peer states require Gaming Regulator approval of Key Persons including management employees, directors (at times with lower levels of scrutiny for outside directors) and owners of applicants that hold over certain threshold amounts of ownership (5% is frequently the standard, although it varies among the peer states:

	Ownership Percentage Requiring Licensing
Delaware	10%
Kansas	0.5%
Maryland	5%
Massachusetts	5%
Michigan	5% public/1% private
Ohio	5%
West Virginia	5% public/1% private

Typically, institutional investors in licensees who are willing to agree to hold their interests passively are granted waivers from the need for such approval as long as their ownership does not exceed higher levels of holdings (10-15% typically).

All the peer states not only license the operators, but also license suppliers. All the peer states also issue occupational licenses for employees of the casino operations, and some supplier employees (frequently those who will be visiting the casino or accessing gaming technology systems).

Supplier licensing of companies directly involved in gaming goods or services is universally required. This type of supplier is usually referred to as a “gaming supplier”. Delaware, Kansas, Maryland, Massachusetts and Michigan also all license other suppliers of goods and services if certain dollar thresholds of sales are reached with those suppliers in a given year. These suppliers are typically referred to as “nongaming” suppliers:

	Non-Gaming Licensing	Threshold
Delaware	✓	\$10,000/year
Kansas	✓	\$250,000/year
Maryland	✓	\$10,000/year
Massachusetts	✓	None
Michigan	✓	\$50,000 registration/\$400,000 full licensing
Ohio		NA
West Virginia		NA

At times, dollar thresholds (based on the level of business with the casinos) have been used to determine which nongaming suppliers need to be licensed. If this approach is to be taken, a wise approach to it would be to allow the Gaming Regulator the flexibility to set the dollar thresholds at a level that makes sense for the community involved. Some of the peer states (e.g. Kansas and Michigan) have raised the thresholds over time as the initially set amounts were discovered to be impractical.

The licensing processes used by casino gaming regulators are much more extensive than what typically is done in pure lottery operations. At the highest level, applicants must provide tax returns for several years, copies of bank accounts, credit cards, investment accounts, checks, criminal history going back to age 18, employment histories, and character references. Investigators comb through all of the financial data, ask questions, interview past employers, interview past colleagues, and generally seek to review enough information to make an informed determination if the applicant has the requisite honesty, integrity and financial acumen to be licensed in the gaming industry.

Licensing of nongaming suppliers plays a vital function in ensuring that bad actors do not utilize the casino operation for money laundering or other illicit purposes. It is very much a preventative tactic that typically is not needed in connection with lottery ticket sales. Also, in states which have only Video Lottery Terminals as permissible forms of gambling, the data relating to game play is closely tracked by lottery regulators, and the machines involved are designed to minimize the chance of anything illicit occurring. Lottery regulators typically license the suppliers of the gaming equipment.

In addition to the process of initial licensure and ongoing renewals of licenses, most states place an affirmative duty on licensees to provide ongoing updates and disclosure to the Gaming Regulator when the answers to questions on their licensing forms change. Thus, there typically is the requirement for the Gaming Regulator to be informed if a licensee, a qualifier in a licensee, or a key employee is arrested or declares bankruptcy, or has other changes that may impact upon licensure.

Even though each jurisdiction in the United States takes a unique approach to gaming regulation, there are commonalities found in most jurisdictions. In an effort to help clarify the necessary processes and to create efficiencies for casino suppliers who do business in multiple casinos throughout the world, the International Association of Gaming Regulators has worked with the industry and with regulators to develop Multi-Jurisdictional licensing and disclosure forms. Often,

individual states will accept these forms and may require supplemental questions to be answered.⁹³⁸

Audit, Accounting and Taxation

The peer states demonstrate that there are very significant accounting and taxation administration issues that a Gaming Regulator typically needs to deal with.

All the peer states impose taxes on casino revenues at various rates:

	VLT Tax Rate	Table Game Tax Rate	Slot Tax Rate
Delaware	41.5%-42.5%	15.5%	NA (See VLT Rate)
Kansas	NA	27%	27%
Maryland	Varies by operator (40%-61%)	20%	NA (See VLT Rate)
Massachusetts	NA	25%	49% Cat 2; 25% Cat 1
Michigan	NA	19%	19%
Ohio	33.5%	33%	33%
West Virginia	53.5%	35%	NA (See VLT Rate)

Gaming Regulatory bodies typically have staff devoted to ensuring the proper collection of taxes. Given the importance of the state revenue being generated, in some states (Michigan for example) the Gaming Regulatory itself is an agency within the Department of Treasury for the state. The Gaming Regulatory body needs to ensure administrative and accounting procedures are in place to facilitate proper determination of taxes and fees and to allow the exercise of effective control over fiscal affairs. This often becomes a daily task, as states sometimes require the daily remittance of taxes by wire transfer from the casinos. Typically, there are also detailed procedures to be followed to ensure the prompt deposit of taxation funds consistent with whatever schedule is set forth in the statute or regulations or is otherwise determined by the Gaming Regulator.

Either Gaming Regulatory employees or specially designated employees from the state's Treasury Department typically engage in ongoing audit of these tax payments. For wagering taxes, gaming regulatory expertise may be important as the calculation of taxes can involve nuances at looking at whether certain promotional credits or bonuses given to players should be treated as taxable wagers or should be viewed as cost items. In addition to the payment of taxes, in many gaming jurisdictions the casinos are responsible for making other types of payments (for example to recompense regulatory and enforcement costs, potentially local revenue sharing, or to contribute to various special purpose funds (e.g. responsible gaming funding)). These payments also need to be audited on an ongoing basis to ensure that proper payments are being made.

Audits can occur frequently, and it is not uncommon for Gaming Regulators to require casino operators to provide quarterly audited financial statements providing information on the financial health of the casino itself. On top of these outside audits (that are typically performed by Certified Public Accountants), the Gaming Regulatory staff also typically conduct periodic audits of the operations to ensure that all the various tax and payment obligations are being met. In addition to ensuring proper tax collection, Gaming Regulators play a key ongoing role in ensuring the financial viability of the casino operators, which helps protect patrons and helps ensure the health of the gaming industry. In some of the peer states (Massachusetts and Michigan for example) the

regulators must be brought into the loop and approve any debt transactions into which the casino operator may enter. This helps ensure the ongoing financial viability of the enterprise and provides oversight to ensure that the debt to equity ratio for the particular operation remains at a healthy level.

In addition to tracking financial issues through ongoing tax and other fund payment reports and quarterly financial reports, some Gaming Regulators monitor casino financial issues on an ongoing basis by setting up technological reporting mechanisms. This power (which is typically granted to the regulators by statute or as a condition to licensing) is used by regulators when there may be a particular issue on which they are focused or want to monitor. For example, regulators may want to have the casino operator to report when taking a draw on a line of credit, or might want to be made aware of any audits that the operator may be subjected to by the Internal Revenue Service or FinCEN (discussed more fully in Section D-1) below.

Revenue audit teams are also sometimes responsible for providing training to licensees, reviewing financial reports from gaming machines, and offering opinions regarding internal controls that may be appropriate.

Internal control procedures play a vital role in ensuring the ongoing health of the casino gaming industry. It is standard for Gaming Regulators to require casino operators to have internal control procedures. These procedures can be very detailed, and will provide operation guidelines on how the operator will oversee all the various topics that a casino manager faces, including but not limited to:

- Table games, card games, payout procedures for electronic gaming devices (i.e. slots);
- Accounting practices;
- Various record keeping procedures;
- How tournaments, drawings, and promotional events will be handled;
- How the cashier cages and vaults will be managed;
- How ATM and/or Ticket-In/Ticket-Out payment machines will be managed;
- How casino credit will be handled;
- How comps and or other promotional gifts will be tracked and reported;
- How the casino will go about complying with federal anti-money laundering requirements; suspicious activity reporting, and other “know your customer” standards;
- How central computer systems and management information systems will be managed;
- How purchasing will be handled in a compliant manner; and
- Guidelines for the proper use of surveillance systems.

As part of the regulatory process, it is very common for regulations or rules to be adopted requiring casino operators to submit internal control procedures for regulatory approval. Some states have detailed regulatory rules setting forth some minimum internal control standards (“MICS”) that must be met. Others have handled this more informally, with the regulator providing the MICS to an operator without making them public. As technological developments are now occurring at a rapid pace, it is increasingly common for the operators to be updating their internal controls at a faster rate than the state can develop standards, thus many states have gone away from creating

MICS but instead simply review, comment on, and ultimately approve what the casino operators and their technological provides and security experts suggest.

As noted above, internal control procedures for casinos often contain detailed approaches to ensuring proper security, accounting, and the prevention of the use of the casino for illicit purposes (e.g. cheating and/or money laundering). With the enhancements that have occurred technologically, a best practice would be for the state to work with the operators to ensure that the internal controls are robust, but to do so in a way that allows the internal controls to remain secret from the general public. This prevents criminals from having access to this information, which makes it harder for the internal controls to be thwarted.

Gaming rules and regulations typically mandate that casino operators operate in compliance with their own internal controls. It is also typical for violations of internal controls to result in some form of discipline being imposed by the regulator against the casino operator (either through the assessment of fines, providing of additional training of employees involved or other remedial action). Casino operators typically have an ongoing obligation to report violations that occur, and each of these matters will be reviewed by the regulators and, if necessary, further investigated.

Many states also have rules setting forth various “reportable events” that licensees (either casino licensees and/or supplier licensees) need to report to the regulators about. These can include such things as any criminal violations that occur, violations of the act or rules, violations of internal control procedures, the filing for bankruptcy by a licensee, lawsuits that have been filed against the licensee, any formal government action taken against a licensee (e.g. a federal audit or compliance review with respect to AML compliance) or other matters on which the gaming regulators may require updates. Gaming Regulatory bodies typically have staff review such reports and investigate matters thoroughly to assure the ongoing suitability of the licensees involved.

Most states, either by rule or by statute, impose detailed record keeping requirements that must be followed, and gaming regulators may conduct periodic audits to ensure proper recordkeeping

In addition to accounting processes in place to assure the prompt payment of gaming taxes, Gaming Regulators often make sure that the casino operator is complying with applicable federal taxation laws, and the provisions of the federal Bank Secrecy Act that mandate compliance with detailed Anti-Money Laundering regulations (discussed more fully in Section D-1 below).

As can be seen from the above, there is a considerable amount of work that Gaming Regulators are involved in on a daily basis with respect to audit, accounting and taxation, and this requires a well-trained staff to accomplish.

Gaming Oversight and Enforcement

In addition to the licensing and accounting roles that Gaming Regulators play, there are a host of general issues in which they become involved to ensure ongoing statutory and regulatory compliance. All of the peer states we looked at have specific employees in various roles dedicated to ensuring that casinos meet their regulatory obligations. Often these fall under a Division of Enforcement, or a Division of Audit and Enforcement (as frequently auditors get involved in dual

roles). Frequently such enforcement is limited to regulatory enforcement of licensed entities and individuals, as opposed to enforcement of criminal gambling laws that frequently are within state police or other similar law-enforcement agencies separate and distinct from the Gaming Regulators.

The categories of topics that fall under this regulatory scrutiny include the following:

- Underage gambling. Regulators look to ensure that no one under the necessary age (21 in all of the peer states) is allowed to gamble or allowed on the casino floor.
- Smoking ban enforcement.
- Conduct of gaming issues. Are the games being run fairly and with integrity?
- Table game oversight.
- Catching and prosecuting cheating violations or other violations of criminal laws.
- Internal control compliance.
- Political contribution violations. In some states, some of the people involved in the gaming industry are prohibited from making political contributions to state or local candidates.
- ATM availability compliance. Many jurisdictions specify the location of ATM machines vis a vis the casino floor, and regulators ensure that these requirements are met.
- Regulation of marketing and promotional activities, including the offering of free play.
- Regulation regarding the offering of complimentary gaming, comped meals or rooms, and/or alcohol.
- Regulation related to the extension of credit by a casino to a customer.
- Compliance with requirements related to people on the exclusion or self-exclusion lists (ensuring that no marketing materials are sent to these people and ensuring compliance with the exclusions).
- Ethical obligation compliance. These can involve a review of licensee activity and any dealings with employees or officials associated with the Gaming Regulators. It also can involve just making sure that there is compliance with post-employment restrictions on working for licensees.
- Enforcement actions against licensees who violate gaming laws or regulations. These can be triggered by events such as misrepresentation on licensing applications, or more serious violations such as involvement by employees in cheating schemes.
- Compliance with Anti-Money Laundering and Know Your Customer rules and requirements (see Section D-1 for a detailed discussion of this topic).
- Enforcement efforts relating to illegal gambling. Often, gaming regulators will work cooperatively with state or local law enforcement personnel to seek to shut down illegal gambling operations.

The Gaming Oversight and Enforcement group also typically oversees the approach that the particular jurisdiction takes with regard to the testing of gaming equipment. The vast majority of jurisdictions rely on private testing labs to conduct the game testing, although some jurisdictions also have staff with technical expertise to oversee the process. Some states choose to accept certification reports from independent testing labs, but then have a secondary process overseen by the state prior to jurisdictional approval. Kansas, Maryland, Michigan and West Virginia each

utilize this approach, with Michigan and West Virginia utilizing a state lab for the approval. Each state has its own proprietary rules that it applies to testing standards. For more information, please see **Exhibit 9**.

Any enforcement process also raises due process issues necessitating the creation of an appeals and hearing process to ensure that denied entities or individuals have the opportunity for review of adverse determinations. The most common example of appeals involves individuals who were denied licensure based upon past criminal behavior, financial issues such as tax or bankruptcy problems, and association with “bad actors”.

Staffing and Budgetary Issues

All regulatory agencies reviewed have oversight boards consisting of 5-9 appointed members. In most states, some combination of the governor, senate and house appoint the members, with most states having specialized experience requirements for members (such as accounting, gaming regulatory, legal, law enforcement, marketing, business or similar type experience).

Our review of peer states demonstrates that Gaming Regulatory bodies are extensively staffed to perform the necessary functions. Jobs involved in regulating casinos often require specialized knowledge, and as a result, the average salaries paid to Gaming Regulatory employees range from a low of \$48,731 (Maryland) to a high of \$96,385 in Ohio. While each state may organize its agency slightly differently, most regulatory agencies are divided into departments with responsibility for four broad categories:

1. Investigations and licensure, responsible for investigating applicants and making recommendations to grant or deny licenses and/or revoke licenses as appropriate;
2. Operations/audit/compliance, responsible for ensuring compliance with revenue and taxation laws and regulations, conditions or licenses and internal controls;
3. Technology, responsible for testing and certifying equipment used in casinos and any reporting and/or operation software programs; and
4. Enforcement/Security, responsible for investigating and enforcing compliance with regulatory requirements.

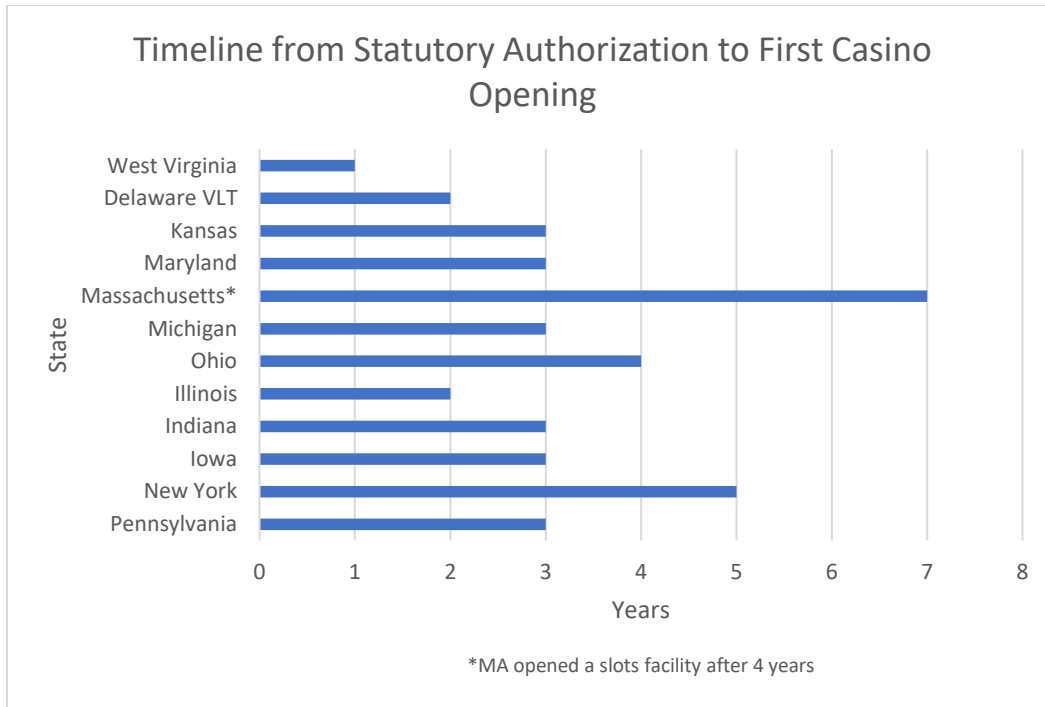
While housing gaming regulatory authority within the Lottery department can make separation of expenditures difficult to determine, overall total gaming regulatory expenditures related to commercial gaming (unless otherwise noted on the table below) ranged from \$7.5 Million (Kansas) to \$30.96 Million (Massachusetts) on an annual basis. See chart below

	FTEs	Regulatory Expenditures
Delaware	59	\$10.5 Million
Kansas	91.4 gaming-related	\$7.5 Million
Maryland	163	\$17.2 Million
Massachusetts	68	\$29.15-\$30.96 Million
Michigan	136	\$30.7 Million
Ohio	107 (Casino Commission)	\$12-12.5 Million (Casino Commission)
West Virginia	175 (no gaming breakdown)	\$24.0 Million (no gaming breakdown)

Every state reviewed that has authorized expanded gaming has increased staffing dedicated to the unique aspects of regulating gaming such as licensing, accounting and taxation, enforcement and responsible gaming. This increase occurs regardless of whether the regulation of gaming is placed within an existing Lottery department or constitutes a newly formed regulatory agency as the regulatory aspects of gaming can differ significantly from those of a traditional Lottery department.

Timeline

Given all the various additional regulatory aspects that come into play in the oversight of casino gambling (in comparison to lottery operations), the peer jurisdictions all required some lead time to get fully functional before the casinos opened. One of the most extreme examples of this is the state of Massachusetts, which passed its legislation in 2011, with the first full-scale casino not opening until seven years later, in August of 2018. Many of the other peer states (Kansas, Maryland, Massachusetts and Ohio) took two to three years for the first casino to open. During these periods of time, the regulatory bodies needed to hire all the necessary personnel, establish licensing procedures, and get through the licensing process for all the various license applicants and qualifiers for the necessary gaming operators and suppliers to the region. In contrast, both Delaware and West Virginia rolled out their gaming expansions within a year of the passage of authorizing legislation.



The typical timeline for a state legalizing a new form of commercial gambling between the passage of enabling legislation and the opening of a facility is between three and four years, except for states that chose to place their casinos at existing racetracks. Of the twelve states surveyed in this report, there were only three states that had a casino opened in less than two years from the passage of the enabling legislation and of those, two of which (Delaware and West Virginia) had legislation requiring the placement of the casinos at existing racetracks.

Policy Considerations

The preceding examination of peer states and analysis of regulatory approaches touched on some key policy considerations in establishing a casino gaming industry and structuring a regulatory approach. **Exhibit 7** attached is a Matrix of the seven peer states providing a broad overview of the approaches taken on a wide array of issues, including some of the key issues involved in the creation of the industry, and issues that jurisdictions often consider in connection with casino regulation.

Gaming regulators often play many different roles. Traditionally, lottery and horse racing regulators had a significant focus on promoting the industries, while casino gaming regulators tended to focus on licensing, oversight, audit and enforcement. Over the years, however, regulators have ended up being assigned to the oversight of many different forms of gaming in different jurisdictions. As seen from the peer state review, many of the state gaming operations rely on lottery regulators for oversight. In these situations, the regulators end up with expanded roles, and they end up having multiple layers of responsibility. It is important to ensure that the regulatory systems created balance the inherent conflict between the desire for increased revenue for a form of gaming with the needs for consumer protection, community protection, and effective regulatory oversight.

In addition to these fundamental issues, there are additional policy issues that are often considered by jurisdictions offering casino gambling. It will be critically important for the policy makers in the Commonwealth to carefully consider what they are seeking to accomplish by authorizing casino gaming, as these policy objectives will shape the approach taken to the selection of operators, the establishment of tax rates, the role of local governments in the process, and numerous other policy decisions. Does the Commonwealth want to drive economic development with the casinos? Is the goal to increase tourism, or is the goal strictly to provide gaming options for Virginia citizens to take advantage of and to generate revenue from such local spending to the state coffers?

The purpose of this section is to provide an overview of a number of additional issues for consideration by policy makers in the Commonwealth.

1. Gaming a “Privileged” License and Not a “Right” and Related Due Process Considerations.

One very important policy consideration that the Virginia lawmakers should consider is having any enabling legislation clearly state that casino gaming is a revocable “privilege”, not a “right” consistent with the way the issue has been treated in many other gaming jurisdictions. Generally, under constitutional standards, “[t]hose who conduct most types of businesses have a “right” to do so. They operate by right, not privilege.”⁹³⁹ Historically, the legal status of casino gaming as a “privileged” business has given the states broader leeway in discretion with regard to regulation of the activity without interfering with any inherent rights of citizenship.⁹⁴⁰ “Courts have allowed regulatory bodies great leeway in determining who should be licensed. That is, if the state legislature has granted gaming regulators broad powers to deny licenses, the courts generally uphold the exercise of that power.”⁹⁴¹

If the desired intent is to give the gaming regulator in Virginia (i.e. the Lottery or some other regulatory body) broad discretion in making licensing decisions, it will be important to assure that the enabling legislation recognizes gaming licenses as revocable privileges rather than any form of inherent right. Part of treating such licenses as revocable privileges usually involves the state putting the burden of establishing suitability by clear and convincing evidence on to the licensee. Placing the burden on the licensee instructs any court later reviewing the decision to apply a very high standard (typically arbitrary and capricious standard) for overturning the agency’s decision. For example, Michigan Compiled Laws, Section 432.206 (1) provides: “It is the burden of the applicant to establish by clear and convincing evidence its suitability as to character, reputation, integrity, business probity, experience, and ability, financial ability and responsibility, and other criteria as may be considered appropriate by the board.”

Virginia policy makers would be consistent with best practices by clearly establishing that gaming licenses are a revocable privilege while assuring that license applicants are afforded with the opportunity for a fair review of any decisions.⁹⁴² This typically is done by creating an administrative appeal process that allows license applicants to get a fair hearing of their arguments on adverse licensing decisions.

2. Johnson Act Exemption Necessity

The Johnson Act, 15 USC 1171 *et seq.* is a broad federal law that prohibits the shipment of gambling devices. The law does, however, allow shipments of gambling devices to states or localities that have passed legislation that specifically exempts the state or locality from the provisions of the Johnson Act. After its passage, the law was amended by the Gambling Devices Act of 1962, which clarified the kinds of devices covered and the reporting requirements for those dealing in gambling machines. The Johnson Act broadly prohibits the interstate shipments of gambling devices, specifically stating that “[i]t shall be unlawful knowingly to transport any gambling device to any place in a State or a possession of the United States from any place outside of such State or possession.” 15 USC §1172(a) (Emphasis added). However, the statute establishes a process by which entities that are properly registered under the law and that may legally possess gambling devices under state and local laws are excepted from this general prohibition.

In enabling legislation, Virginia policy makers will want to provide for a now somewhat standard state waiver of the Johnson Act, stating that the state is exempt and to provide that shipments of gambling devices to licensed casinos in the Commonwealth are legal shipments of gambling devices.

3. Smoking ban?

Should there be a ban on smoking within the casino facility? In states where smoking is already prohibited in places of public accommodation the issue is frequently posed as whether an exception should be made for casino facilities. If an exception is made, determinations need to occur with regard to whether smoking will be permitted solely on the gaming floor, or if the exception will also apply to bars and restaurants within the casino facility. Advocates for such bans point to the threat to health and well-being that secondhand smoke creates as a reason to have a smoking ban at a casino facility. The opponents to such bans point to the fact that the casino gambling industry has traditionally allowed smoking, and casino patrons frequently enjoy being able to smoke while they are gambling. Casinos are, by nature, adult facilities where people desire to have the ability to enjoy adult activities, including smoking. Many casinos offer nonsmoking areas for those patrons who wish to avoid the smoke. Some studies have shown that a smoking ban leads to a decline in gaming revenue and will discourage tourism (as smoking customers will stay away). As reflected in the Matrix, some of the peer states have allowed smoking to occur at casinos (Kansas, West Virginia, and Michigan). Others have banned it (Delaware, Maryland, Massachusetts, and Ohio). In Michigan, smoking is permitted on the casino floor, but is not permitted in bars and restaurants within the casino complex.

4. What Should the Minimum Age for Casino Gambling Be?

Although many state lotteries allow adults 18 and older to purchase lottery tickets,⁹⁴³ and some tribal casino facilities allow gamblers age 18 or 19 and older to gamble,⁹⁴⁴ the commercial casino industry standard minimum age is 21. All the peer states have a minimum age of 21 for their commercial casinos.

5. What political or ethical restrictions should be in place?

- **Ex parte restrictions?** Should parties seeking to be licensed be prohibited from communicating with ultimate decision makers (such as the members of the Gaming Commission or Board)?
- **Pre or Post employment restrictions?** Should gaming regulatory employees be restricted from taking jobs in the private sector for some period of time after their employment as regulators? What time frame should be used? What should the limits on scope be of such restrictions?
- **Political contribution restrictions?** Should any type of prohibition on the making of political contributions be imposed on licensees?
- **Gift prohibitions?** Should licensees be restricted from making gifts to any regulators?
- **Code of Ethics?** Should a detailed Code of Ethics be adopted to provide clear guidance on ethical issues to gaming regulatory employees and to the public at large?
- **Anti-Corruption Measures?** Should specialized criminal laws be put in place to assure that corruption with regard to the regulators or the regulatory or selection process does not occur? Who should have the responsibility for the oversight of any anti-corruption measures adopted? The Attorney General? Other law enforcement?

6. Any Liquor Restrictions?

Should restrictions be put into place on casinos offering customers free liquor? As reflected in the Matrix, five of the peer states (Delaware, Kansas, Maryland, Michigan (in portions of the casino complex) and Ohio) have restrictions in place. Additionally, careful consideration should be given to the role the gaming regulator will play in assuring compliance with liquor laws within the casinos.

7. Will minimum capital investments or a minimum number of hotel rooms be established?

As reflected in the Matrix, only one of the peer states (Michigan) had any type of requirement for a minimum number of hotel rooms. Several of the peer states (Kansas, Massachusetts, New York and Ohio) had minimum capital investment requirements either established by legislation or by the party making the selection. Policy goals should be kept in mind when establishing minimum capital investments. Typically, there is a correlation between the expense of operating in a particular jurisdiction (tax rates and other factors) and the amount of capital that operators will be willing to invest. Population and community issues also play a major factor. A casino operator is much more likely to be willing to invest larger amounts of capital in locations that are population dense.

8. What should the tax rates on gaming be?

As reflected on the Matrix, a wide variety of different tax approaches have been taken in the peer states. Virginia policymakers must give careful consideration to the economic development goals involved with casino gambling, as too high of rates can economically hamper the size and scope of casino complex developments. It is important to note that under the Indian Gaming Regulatory Act, states are not permitted to impose gaming taxes on tribal on reservation gaming facilities.

Typically, tribal gaming compacts are entered into with states to allow on-reservation casino gaming, and these compacts often include some form of revenue sharing with state and local interests in order to offset certain expenses the governments will incur, and at times in exchange for other benefits the state may agree to provide (such as exclusivity within a specified territory). The Bureau of Indian Affairs reviews compacts to make sure they are compliant with federal law.

9. What tax treatment applies to offering of free play by an operator as a marketing or promotion tactic?

One peer state, Michigan, taxes free play as a source of gaming revenue. Three of the peer states (Delaware, Maryland, and West Virginia) partially tax such free play. The remaining three peer states do not tax free play, recognizing that it is an expense that the casino operators are incurring to promote business.

10. What fees should be established for licensing (both operators and suppliers)?

As the Matrix reflects in detail, a variety of different approaches have been taken to licensing fees. Excessive licensing costs and expenses can adversely impact the accomplishment of economic development goals for casino projects and could lead to a lack of competition for the casino licenses.

11. Gaming Lab and technology questions?

Should the state license and rely on private labs, or have its own lab, or a combination of both? As the Matrix reflects, West Virginia utilizes its own public lab. The other six peer states, at least partially (with some regulatory oversight and review) have some form of private lab involvement. What gaming equipment standards should be set? Should there be minimum payouts for the machines? What technical standards should apply?

12. Prior Approval of Transfers of Interest?

When interests in a casino and/or supplier licensee are transferred to new parties, a process must be established to ensure that the new ownership is properly vetted. A key question for jurisdictions is whether such vetting and approvals need to occur prior to the transfer. For casino ownership and gaming suppliers, prior approvals are required by many jurisdictions. This is less common for nongaming suppliers.

13. Should “Shelf” Approvals of Casino Debt Transactions be Granted by the Regulators?

In many jurisdictions, the gaming regulators need to approve the debt financing into which casino operators enter. In the early days of gaming development, many casinos were privately financed, and the regulators thus demanded to know all of the details in advance. In more modern times, Wall Street financing has become a key source of such debt financing on a very cost-effective basis. Going to Wall Street for such financing often involves some fluctuations in variables involved in loans (such as interest rates). One of the positive practices many gaming regulators have adopted is the concept of granting a “shelf” approval allowing the casino operator to obtain and close on financing that fits within certain economic parameters established by the regulator.

14. Should casinos be allowed to extend credit to patrons?

Do the policy makers want the casinos to have the traditional capability of extending credit or markers to patrons? If so, are there limits that should apply or regulatory processes that should be put in place to assure proper procedures are followed?

15. Patron dispute process?

How should customer complaints be handled in the jurisdiction? Who will have the responsibility for providing a process for resolution of these types of complaints? Typically, state gaming regulators are charged with the responsibility for investigating and resolving patron disputes. Some states place the burden on the casinos to initially address the complaint and attempt to resolve it before involving the regulatory agency.

16. Diversity, Minority Businesses and Women Owned Business Incentives

As reflected in several of the peer state discussions, in some states either state or local policy makers have enacted provisions (or required under host or development agreements) a certain level of commitment to diversity, and the use of minority businesses and women owned businesses as suppliers and construction contractors.

17. To the extent that marijuana byproducts have been legalized for medical purposes in Virginia, what approach should be taken regarding licensing/enforcement relating to those who are involved in the state legalized medical marijuana industry?

- **KYC and Title 31 complications.** Currently, federal law still lists marijuana as a controlled substance, and there are thus potential federal law violations involved. How should the casino approach the topic from a compliance standpoint and what role, if any, do the state regulators want to play in assuring federal compliance (in the event of inconsistency with state law)?
- **Licensing approach?** A key part of any form of licensing is trying to determine whether the individuals involved are law-abiding citizens. Given federal law, how will use of, and/or involvement in the industry of medical marijuana impact this analysis from a state regulatory perspective?

18. Title 31 and Data Privacy Issues. See discussion in D-1.

19. Criminal Provisions. See discussion in D-1.

Emerging Areas of Gaming Industry: Online Gaming, Sports Wagering, eSports

Online Gaming and Federal Law. A current hot topic in many states is whether states will allow intra-state online gaming of some form or fashion. Some states are looking at offering limited types of games (like poker), while others are examining allowing a full range of games including slot machine types of games. Still others are looking at including sports wagering as an online or mobile option. Gaming policy toward online gaming has been made somewhat complicated and confusing as a result of the current state of federal law.

In the early 1960s, the federal Wire Act was passed to try to eliminate the use of the wires for illegal purposes including illegal gambling. The Wire Act prohibits using a wire communication facility for the transmission in “*interstate or foreign commerce*” of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of such wagers, for information assisting in the placing of bets or wagers.⁹⁴⁵

For many years, the Wire Act was broadly interpreted to prohibit the use of the wires (including the Internet) for online gaming. Under a DOJ interpretation in 2005, this was true even if bets were made and received within the same state, as the DOJ argued that the use of an inter-state wire facility (that could, through intermediate routing, go outside the state) was sufficient to bring it within the purview of federal regulation and the federal prohibition.⁹⁴⁶

In 2016, Congress passed the Unlawful Internet Gambling Enforcement Act (“UIGEA”) which broadly prohibited certain financial transactions involving illegal gambling but contained carve-outs for intra-state wagering where the bet both was placed and received within the same state or tribal jurisdiction. UIGEA excludes from its definition of “unlawful gambling” certain types of Intrastate transactions, Intratribal transactions, Interstate horseracing and *intermediate routing*. Specifically, the UIGEA provides that the “intermediate routing of electronic data shall not determine the location or locations in which a bet or wager is initiated, received or otherwise made.”⁹⁴⁷

The inconsistency of this language to the DOJ’s prior interpretation of the Wire Act resulted in two states lotteries (New York and Illinois) asking the DOJ for clarification on the topic. In 2011, the Department of Justice (“DOJ”) issued an opinion letter.⁹⁴⁸ Rather than directly addressing the intermediate routing topic, the 2011 DOJ Opinion broadly stated that the federal Wire Act prohibitions do not apply to any forms of online gambling other than sports wagering.

The 2011 DOJ Opinion led to several state lotteries beginning to offer online ticket sales and online gaming on an intra-state basis. Additionally, policy makers and members of the gaming industry began to explore allowing casinos to offer online gaming on an intra-state basis.

In January of 2019, the DOJ released a further Opinion entitled “Reconsidering Whether the Wire Act Applies to Nonsports Gambling,”⁹⁴⁹ which concluded that the Wire Act prohibits both sports and non-sports gambling over the Internet. The DOJ did not make it clear whether the prohibitions apply to intra-state wagering transactions, although much of the Opinion was premised on

interstate transmissions. Portions of the Opinion raised concerns, however as the DOJ did expressly find that the exclusions to unlawful Internet gambling contained in UIGEA do not have any impact on the proper interpretation of the Wire Act.

The DOJ expressly noted that UIGEA's exception for certain bets or wagers "initiated and received or otherwise made exclusively *within a single State*" in accordance with the laws of such State, *even if the routing of those wire transmissions was done in a manner that involved interstate commerce*, did not, in any way, alter, limit or extend the existing prohibitions under the Wire Act. Left unclear was whether the DOJ was going back to its 2005 Opinion that the use of the Internet even for purely intrastate gambling violates the Wire Act because the Internet itself involves interstate commerce.

The 2019 DOJ Opinion had enormous implications for existing state lotteries that either (1) had online game offerings; or (2) participated in multi-state games such as Powerball which utilize Internet connections for the transmission of wagering information. Not surprisingly, a lawsuit was filed by the New Hampshire Lottery Commission and by a state lottery provider, Neo Pollard, earlier this year challenging the new DOJ interpretation. On June 3, 2019, the U.S. District Court for the District of New Hampshire issued an opinion on a motion to dismiss that had been brought by the DOJ. It ruled in favor of the state lottery and held that the Wire Act does not apply to non-sports gambling.⁹⁵⁰

On June 12, 2019 the DOJ sent a letter to the United States Attorneys telling them to not take enforcement action until December 31, 2019 or 60 days after entry of a final judgment in the New Hampshire litigation (whichever is later). The DOJ noted that it is currently "evaluating its options" with respect to the litigation.⁹⁵¹

With respect to the casino gambling industry, four states have thus far authorized some form of online gambling: Delaware, Nevada, New Jersey and Pennsylvania. Additionally, there currently is legislation pending in nine additional states including: Michigan, Kentucky, Tennessee, West Virginia, South Carolina, New York, Massachusetts, Connecticut, and Virginia.⁹⁵²

Offering online gambling will bring with it all the various regulatory issues that apply to traditional casino gambling, with unique solutions required to address certain topics. For example, ensuring that underage gambling does not occur in a casino can be controlled by limiting access on the casino floor to only adults who meet the minimum age. For online gambling, technologies have developed which can assure age-verification, and the role of the regulator is to ensure that appropriate safeguards are in place and complied with. The same is true for excluded individuals. Know your customer rules and safeguards will be very important for online gaming to ensure compliance with anti-money laundering requirements.

Big picture, online gaming will require specialized technology and security staffing, combined with experienced gaming regulators to assure appropriate standards are met.

Sports Wagering. One of the current hot topics for most jurisdictions in the United States is whether to allow sports gambling. Prior to May of last year, the Professional and Amateur Sports Protection Act, 28 USC, Ch. 178, Section 3701 et. seq. (“PASPA”) generally prohibited states from enacting state laws allowing sports wagering. PASPA had some exceptions, which allowed sports wagering to occur in the state of Nevada, and also permitted some limited forms of sports wagers in Delaware (parlay style wagers administered by the Lottery), Oregon (parlay-style wagers administered by the Lottery) and Montana (limited sports pools and betting square wagers).

New Jersey challenged PASPA in federal court, and in May 2018, the United States Supreme Court struck down the law as unconstitutionally violating the 10th Amendment to the Constitution (“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people”). *Murphy v. National Collegiate Athletic Association*, 584 U.S. ___ 138 S. Ct. 1461; 200 L. Ed. 2d 854 (2018).

Both while the case was pending, and in the aftermath, legislatures throughout the United States have been examining whether to legalize sports wagering on a state by state basis. Within a month of the Supreme Court’s decision, both New Jersey and Delaware passed legislation legalizing sports gambling. In both states, just like in Nevada, sports betting is offered through the casino facilities.

The following states have also legalized sports gambling: Mississippi (in-person at the casinos only), West Virginia (both in person at casino and online wagering permitted, and regulated by the Lottery Commission), Pennsylvania (both in person at casino and online), Rhode Island (at two casino locations and recently mobile betting option has been added), Arkansas (in person at one casino) and New York (in person only).

In New Mexico, a tribal facility also started offering sports wagering based on the existing language of its tribal state compact with the state.

Montana, Washington DC, Indiana, Iowa, Illinois, New Hampshire and Tennessee have all passed legislation to start allowing sports wagering on various timetables.

There is also currently pending legislation in Alabama, Arizona, California, Colorado, Connecticut, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Vermont, Virginia, and Washington State.⁹⁵³

Thus, it appears clear that in the relatively near future, the option of wagering on sports in connection with casino gambling operations will become common throughout the United States. This likely development should be carefully considered as policy makers create the regulatory system in Virginia, as it should be recognized that the oversight and regulation of sports gambling will likely be placed on the gaming regulator.

There are many issues that will need to be addressed by the legislature and the regulatory authority that will oversee sports wagering including the following:

- Will sports betting be limited to occurring within the casinos only or will other locations (racetrack or sports book parlors) or online or mobile options be made available?
 - If online or mobile gaming is allowed, all the policy considerations outlined in the Online Gaming and Wire Act discussion come into play.
- How will the approach taken regarding a sports betting system assure that it keeps all wagering activity within the state to avoid any systematic violations of the federal Wire Act from occurring?
 - Regulators will need to ensure that any global positioning technology works properly to ensure geographical fencing so that wagers cannot occur across state lines.
 - The regulatory approach must take care to ensure that if a service provider contracts with a casino to provide the sports wagering platform, that steps are taken to assure that the service provider is not pooling bets across state lines.
- What types of sporting events will wagers be allowed to be placed on?
 - College sports? Local college sports?
 - High school sports?
 - Professional sports only?
 - eSports (i.e. video gaming—see discussion below).
- What forms of wagers will be permitted, and what time constraints (if any) will be placed on such wagers?
 - Will in-game wagering be allowed?
 - Will parlays be permitted?
- How will questions relating to integrity be addressed?
 - What steps will be taken if the regulator suspects that fixing may have occurred regarding a sporting event?
 - How will the technology of the sports betting platform be monitored?
 - What consumer protection steps will be taken to ensure that the odds and types of wagers offered to patrons are fair?
 - In some states where legalization of sports wagering is being considered, various sports leagues (the NBA and the MLB in particular) are pushing to receive a share of revenue as an “integrity fee”.
 - The leagues state that they will have increased expenses associated with data monitoring and protocols to ensure integrity that they should be compensated for. They have called for a fee of a percentage of the handle.
 - Opponents to such integrity fees have argued:
 - Taxing handle (rather than revenue) could end up giving a disproportionate share of any profits to the leagues making the offerings unattractive to the casinos and/or sports books.
 - It is the state regulators role to assure integrity, and thus the leagues will not perform any meaningful function.

- Any money diverted from sports wagering will diminish state revenues and/or will end up in increased costs to the ultimate consumers. If costs to the consumers are driven up, consumers may go to illegal bookies to make these wagers which will negatively impact the integrity of sports betting.⁹⁵⁴
- What steps will be taken to ensure that the technology utilized in sports betting is dependable, trustworthy, and secure?
 - For online wagers, how will winnings be collected?
 - For all forms, how does the technology ensure that customers can place bets at the last minute without crashing the system?
 - How does the technology properly communicate the odds and provide verification of winning or losing wagers?
 - What security and privacy measures have been put in place to protect customers' funds and private information?
- Tax Policy Questions
 - There is risk to sports book operators of the potential for losing bets, which the operator may not be willing to take if the tax rate is set too high on sports wagers.
 - The margins for sports book operators on sports wagers is much smaller than other forms of wagering. Thus, careful consideration of an appropriate tax rate will be needed to assure that the sports books can be operated in a competitive manner.
- How will licensing be handled with respect to sports wagering?
 - What service providers related to sports wagering will require licensing?
 - Platform provider?
 - Other technology providers?
 - Odds makers?
 - How comprehensive will the licensing process be for these people or entities?
 - How will the state deal with a service providers prior or current involvement in other markets (both regulated and unregulated) in making licensing determinations?
- What measures will be taken to assure that underage or problem gamblers do not participate in sports wagering directly or indirectly?
- What special criminal laws need to be put on the books to assure that illegal and untaxed sports gambling does not occur?

As Virginia looks at offering casino gaming and setting up a regulatory system, it will be important to recognize the likelihood that sports wagering may become part of the gaming mix of offerings within the state and assure that the regulatory system will be capable of handling the responsibilities that will come.

eSports. Online professional and amateur gaming have increasingly become popular spectator sports as well. A recent commentator has noted:

In the world of eSports, players play computer and gaming system games for profit, while fans watch and even create wagers on who will win. This seemingly innocent phenomenon has grown tremendously in recent years, and now thousands will come to live events where

leading teams of gamers go head to head against each other, battling to see who can come out on top. Online viewing of popular tournaments can draw millions of viewers. With this phenomenon, video gaming has become a spectator sport.⁹⁵⁵

As an example, sixty million people tuned in to watch the “League of Legends World Championship” in 2016.⁹⁵⁶ In addition to professional events, there is now a collegiate association, the National Association of Collegiate eSports, that is working to promote and further organize intercollegiate video game play.

Recognizing this popularity, especially with a younger age demographic, the traditional casino gambling industry has looked for ways to create synergies. Notably, in 2017, MGM Grand announced that it had partnered with Allied eSports on an eSports arena on the Las Vegas strip (at the Luxor Casino).⁹⁵⁷

In October 2018, the Isle of Man gaming regulatory authorities granted a wagering license to an eSports betting platform provider (Unikrn). The company is bringing eSports wagering to most of Europe, South Korea and other Asian countries, and parts of Latin America.⁹⁵⁸ Conceptually, eSports wagering will not only allow spectators to place wagers on the outcomes, but in jurisdictions that allow skill-based gaming, the participants in the games will also be able to place wagers on their own skills. This creates a host of policy issues that will need to be examined by regulatory authorities and policy makers as this new area of gaming expands into the United States. In addition to all the issues that sports gambling brings with it, eSports have had further issues with match fixing and potential corruption. To seek to address these concerns, an eSports Integrity Coalition was formed in 2016 which is taking steps to assure integrity of the events and the results.⁹⁵⁹ It is important to recognize, however, that to be successful and to assure integrity, regulation by state officials will be needed.

Gaming Industry Organizations as a Resource on Policy Issues

The casino industry has evolved over the last several decades into a significant industry with many different educational resources and advocacy groups that have been formed. Many of these groups conduct ongoing research that is valuable to consult in the development of public policy. We believe that the Commonwealth of Virginia would be well served by hearing the diverse views from all aspects of the gaming industry as it works to formulate public policy relating to casino gambling.

In connection with assembling this report, we touched base with several of these entities and solicited initial input or comments. Some of these groups provided written letters in response to our requests. Our request and the letter responses are attached as **Exhibit 8**. The entities with which we touched base include:

- The American Gaming Association (“AGA”). The AGA is a leading gaming industry advocacy group that is based in Washington D.C. Its membership includes commercial and tribal casino operators, U.S. licensed gaming suppliers, financial institutions,

destination marketing organizations, food and beverage suppliers, and other key stakeholders in the gaming industry.

- The Association of Gaming Equipment Manufacturers (“AGEM”). AGEM is a non-profit international trade association representing manufacturers and suppliers of electronic gaming devices, lotteries, systems, table games, key components and support products and services for the gaming industry. AGEM has assisted regulatory agencies and participated in the legislative process to solve problems and create a business environment where AGEM members can prosper while providing a strong level of support to education and responsible gaming initiatives.
- International Center for Gaming Regulation (“ICGR”). The ICGR is a partnership between UNLV’s International Gaming Institute (IGI) and the William S. Boyd School of Law, building on the unique expertise of these two academic institutions.
- The Gaming Standards Association (“GSA”). GSA is an international trade association that creates benefits for gaming manufacturers, suppliers, operators and regulators. It facilitates the identification, definition, development, promotion and implementation of standards to enable interoperability, innovation, education and communication for the benefit of the entire industry. GSA recently authored a case study on the effectiveness and value of the GSA standards, with widespread adoption both domestically and internationally by gaming regulators. It also authored a white paper on how understanding and implementing gaming technology will allow operators and regulators a more secure and efficient collection of data generated by casinos. The study and the white paper can be found attached at **Exhibit 8**.
- The International Association of Gaming Regulators (“IAGR”). IAGR is made up of representatives from gaming regulatory organizations throughout the world. Its mission is to advance the effectiveness and efficiency of gaming regulation by providing a forum in which gaming regulators from around the world can meet, exchange views and information, and discuss policy issues among themselves and with representatives of the international gaming industry. IAGR seeks to foster cooperation between gaming regulators and acts as a central point of contact for inquiries from governments, gaming regulatory agencies and personnel, and representatives of the gaming industry.

Private Gaming Laboratory Testing

A key regulatory compliance issue that new jurisdictions face is the testing and certification of gaming equipment. This assures casino patrons that the games being played meet the requisite standards to be fair to the player and to meet common industry standards. The testing of gaming equipment has evolved in a way that the vast majority of gaming commissions across the United States now enter into agreements with independent third-party testing laboratories to provide or assist in providing such testing. In connection with assembling this report, RMC reached out to and sought comment from two of the prominent testing laboratories. Letters from both of these entities are attached as **Exhibit 8**.

- Gaming Labs International.
- BMM.

In addition, Gaming Labs International provided additional information on each peer state regarding the accepted certification lab information, secondary review (if any), testing standards, the timing of approval, and any other relevant information. The information is summarized on **Exhibit 9**.

As part of the process of assembling this report, RMC also reached out to numerous additional gaming industry members and regulators with unique expertise to conduct interviews and to seek their views on areas of focus relating in formulating best practices for a newly created gaming regulatory framework. Attached as **Exhibit 10** is a list of these additional interviews that we conducted in connection with this report.

D-1 JURISDICTIONAL APPROACHES AND BEST PRACTICES ON PRIVACY AND FRAUD PROTECTION, SOCIAL COSTS OF GAMING, BEST PRACTICES FOR RESPONSIBLE GAMING, AND STANDARD CRIMINAL PROVISIONS AND PENALTIES

Privacy and Fraud Protection

Title 31 Anti-Money Laundering Application to Casinos

The gaming industry refers to “Title 31”⁹⁶⁰ compliance as the compilation of rules promulgated by the United States Department of Treasury’s Financial Crimes Enforcement Network (“FinCEN”) for enforcement of the Currency and Foreign Transactions Reporting Act, commonly known as the Bank Secrecy Act (“BSA”). The BSA was passed in 1970 as Public Law 91-507, and its most significant provisions are contained in Title 31 of the United States Code.⁹⁶¹ Additionally, federal prohibitions on money laundering are found in Title 18 of the United States Code.⁹⁶² As a general matter, a key part of compliance in this area is for casino operators to seek to know their customers (“KYC”). All these standards are typically worked into casino internal control processes, and thus also usually give the gaming regulator a role (albeit limited as the principal enforcement comes from the IRS and FinCEN) in ensuring compliance.

As an initial matter, the BSA only applied to financial institutions such as banks and credit unions. In 2002, the Secretary of Treasury expanded its reach to casinos and card clubs⁹⁶³ that have gross annual gaming revenue exceeding \$1,000,000. The rules for casinos and card companies are codified at 31 C.F.R. Part 1021. Broadly speaking, the BSA is intended to stop money laundering by criminal enterprises from occurring in casinos. Its central features are the required reporting of any cash transaction of \$10,000 or more (a “CTR”)⁹⁶⁴ and any suspicious cash transaction of \$5,000 or more (an “SAR”).⁹⁶⁵ As applied to casinos, it also requires the casino to keep financial records of certain transactions and to develop and implement an Anti-Money Laundering (“AML”) program.⁹⁶⁶

Treasury requires a casino to file a CTR when a person aggregates a cash transaction⁹⁶⁷ of \$10,000 or more in a single gaming day.⁹⁶⁸ The CTR must contain the person’s name, permanent address, and social security number or tax identification number. It must be filed within 15 calendar days of the transaction.⁹⁶⁹

Treasury requires a casino to file a SAR on suspicious cash transactions of \$5,000 or more. A transaction is suspicious if a casino knows, suspects or has reason to suspect that the transaction includes funds from illegal activity or intended to hide assets derived from illegal activity, is designed to evade any BSA reporting requirements, has no apparent business or lawful purpose, or is not the sort in which the customer would normally engage.⁹⁷⁰ A SAR must be filed within 30 calendar days after the detection of the transaction.⁹⁷¹ The casino must maintain a record of the

SAR for 5 years⁹⁷² and cannot disclose a SAR or any information that would reveal the existence of a SAR, even in response to a subpoena.⁹⁷³ A casino may disclose a SAR to a parent or affiliate.⁹⁷⁴

Roughly 60% of SARs involve customers attempting to “structure” transactions to avoid reporting requirements. Common methods of structuring include reducing the amount of the transaction when asked for identification, use of a proxy person or agent to place wagers or deposits, traveling to different casino locations, initiating transactions at different times of the day, requesting multiple checks for a single payout and using chips or cash to purchase ticket-in/ticket-out tickets (usually at multiple lesser values) and then redeeming them with little or no play.

Title 31 also details what records a casino must keep.⁹⁷⁵ Any deposit of funds, account or line of credit opening requires maintenance of one or more person’s name, permanent address and social security number. The casino must verify the address via a passport or driver’s license.⁹⁷⁶ The casino must keep a record of each receipt of funds, each bookkeeping entry, each statement showing transactions, records of any extensions of credit greater than \$2,500 and the terms and conditions of such extension, a record of each request or instruction with respect to the account, records kept in the ordinary course of business to allow reconstruction of the account, any records required by state and local laws, records used to monitor a customer’s gaming activity, a separate list of each check or money order transaction of \$3,000 or more, and a copy of the casino’s compliance program.

With respect to AML programs, at a minimum the written program must provide for a system of internal controls to assure ongoing compliance, internal and external independent compliance testing, training of casino personnel including training in identification of unusual or suspicious transactions, identification of individuals responsible for day-to-day compliance, and procedures for determining the information that may be required to file a CTR or STR.⁹⁷⁷

The casino gaming industry has undergone a vast expansion in the last two decades. Several years ago, FinCEN made it clear to the casino industry that it would be rolling out enhanced enforcement efforts to make sure that the industry fully understands its responsibilities. Prior to 2012, FinCEN had only assessed \$4 million in fines. Since 2012, fines have exceeded \$160 million. In evaluating factors in assessing fines, FinCEN considers the nature and seriousness of the violation, knowledge and intent of the casino, with self-disclosure viewed favorably by FinCEN, subsequent remedial measures, the financial condition of the casino, and other payments and penalties related to other enforcement actions.⁹⁷⁸

Enforcement action can be taken not only against an entity but against an individual who “willfully participates” in any BSA violation.⁹⁷⁹ For example, in an enforcement action in 2006 against The Tonkawa Tribe of Oklahoma and Edward E. Street,⁹⁸⁰ FinCEN found the casino failed to develop an effective AML program, failed to file CTRs, failed to file SARs and failed to make and retain necessary records. FinCEN imposed a \$1 million fine against the casino and a separate \$1.5 million fine against Mr. Street individually, finding that he directed and oversaw daily operations. FinCEN has interpreted the term “willfully” as requiring a “show[ing] that the financial institution or individual acted with either reckless disregard or willful blindness.”⁹⁸¹ To

avoid any suggestion of “willfulness,” it is important for casinos to focus the compliance processes, training and to encourage an environment where employees can ask questions or state concerns without fear of reprisal.

Audits by FinCEN compare casino operations against best practices of other operators. AML programs accordingly must be periodically reviewed and evaluated. As broad goals, a casino must ensure that they have a culture of compliance and sufficient KYC programs. KYC programs utilize a risk-based approach to identify customers and transactions posing the greatest money laundering risk. Common elements of the programs include: setting a property threshold for the amount of spending; if the patron identification and business-related information can be confirmed; if there has been excessive use of wire transfer; if there have been SARs filed in the past; if there has been an unexplained increase in spending; if there has been any grand jury or subpoenas issued to the customer related to possible financial fraud, drug or terrorist activity; if the customer’s source of wealth or income is commensurate with their level of playing; if there is any history of tax liens or bankruptcies; if there have been any negative news reports about the customer; if there is a prior criminal history; or if the person is a politically exposed person. In its program, a casino could mandate using third party databases and other sources for due diligence review and should include ongoing monitoring of customer information. There exist many sources of further information that are listed in this endnote.⁹⁸²

Data Privacy

A key component of consumer protection is assuring that customer data is protected and kept private. As technology continues to evolve, the number of privacy issues that arise continue to increase. New technologies, such as facial recognition, give casinos the opportunity to know their customers in new ways and make anonymity difficult to achieve in a casino environment.

Gaming regulators typically play an important role in ensuring that internal controls are in place and followed to assure data privacy.

As a basic tenet, before a casino can implement an effective privacy policy, it must understand what personal information it collects and where it stores the information. It is also important to understand how that data moves within the business, including transmission and receipt of sensitive data. The casino should keep the data only so long as it has a business purpose for the data. A privacy policy should include proper written record destruction policies for the information, including what information is kept, for how long, how to secure it and how to dispose of it. An effective privacy policy includes electronic security, physical security, training for employees and required security practices for any vendors who may have access to the data. Finally, the plan should have the details regarding responding to any security breaches.

At the national level, the Organization for Economic Cooperation and Development is a multi-nation organization with 36 member countries, including the United States, France, Germany and many others.⁹⁸³ The OECD has developed Fair Information Practices for all businesses (not just casinos) that are as follows:

- **Collection Limitation.** There should be limits to the collection of personal data, and any such data should be obtained by lawful and fair means and, where appropriate, with the knowledge or consent of the data subject.
- **Data Quality.** Personal data should be relevant to the purposes for which they are to be used, and, to the extent necessary for those purposes, should be accurate, complete and kept up to date.
- **Purpose Specification.** The purposes for which personal data are collected should be specified not later than at the time of data collection and the subsequent use limited to the fulfillment of those purposes or such others as are not incompatible with those purposes and as are specified on each occasion of change or purpose.
- **Use Limitation.** Personal data should not be disclosed, made available or otherwise used for purposes other than those specified, except with the consent of the data subject or by the authority of law
- **Security Safeguards.** Personal data should be protected by reasonable security safeguards against such risks as loss or unauthorized access, destruction, use, modification, or disclosure of data.
- **Openness.** There should be a general policy of openness about developments, practices, and policies with respect to personal data. Means should be readily available of establishing the existence and nature of personal data, and the main purposes of their use, as well as the identity and usual residence of the data controller.
- **Individual Participation.** An individual should have the right: (a) to obtain from a data controller, or otherwise, confirmation of whether or not the data controller has data relating to him; (b) to have communicated to him, data relating to him within a reasonable time; at a charge, if any, that is not excessive; in a reasonable manner; and in a form that is readily intelligible to him; (c) to be given reasons if a request made under subparagraphs (a) and (b) is denied, and to be able to challenge such denial; and (d) to challenge data relating to him and, if the challenge is successful, to have the data erased, rectified, completed, or amended.
- **Accountability.** A data controller should be accountable for complying with measures, which give effect to the principles stated above.

While these standards are not binding on the Commonwealth of Virginia, they provide a general expectation of the guiding principles a robust privacy policy typically follows.

Casinos that extend credit to customers are subject to the Gramm-Leach-Bliley Act, a federal law containing requirements that the businesses protect the privacy of customer data, notify customers about any information sharing that occurs, and provide opt-out policies.⁹⁸⁴ In addition to this federal law, individual states also take steps to provide consumer protection with regard to the privacy data, as discussed with regard to the peer states below.

As technology evolves, there are potential Constitutional issues with the collection of data, and the sharing of such information with the state.⁹⁸⁵ Thus, policy makers and regulators must take careful consideration of a balanced approach to data privacy regulation.

Massachusetts (all businesses)

Massachusetts has promulgated rules for minimum standards required in protecting personal information collected and contained in both paper and electronic form.⁹⁸⁶ It requires a company to develop and maintain a comprehensive information security program appropriate to the size and scope of the business, the amount of resources and data stored and the need for confidentiality of consumer and employee information. It specifically requires the designation of one or more employees to maintain the program, identifying and assessing internal and external risks to the security of the information, including employee training, employee compliance with policies, and a means for detecting and preventing system failures, developing policies for storage, access and transportation of records, disciplinary measures for violations of the program, overseeing service providers, restrictions upon physical access to records, regular monitoring, reviewing the security measures at least annually, and documenting any responsive actions taken.⁹⁸⁷ It also contains detailed computer system security requirements, including secure user authentication, secure access control measures, encryption, reasonable monitoring of systems, up-to-date firewall protection, and education and training of employees.⁹⁸⁸

Ohio (all businesses)

Ohio has adopted a unique approach to data protection in that it establishes an incentive-based program to prod businesses to implement effective cyber-security programs.⁹⁸⁹ Rather than impose punitive damages for noncompliance, it instead grants a safe harbor to the businesses that comply, protecting them from any tort action that alleges a failure to implement adequate information security controls that result in breaches of personal data. To qualify, a cybersecurity program must “reasonably conform” to one of five security frameworks⁹⁹⁰ or comply with one of four federal privacy acts.⁹⁹¹ The business also must conform to Payment Card Industry standards if it processes payment card.

Nevada (all businesses)

While not a peer state, Nevada has developed certain requirements that provide an interesting model. Under Nevada law, any company that collects and stores personal information must maintain reasonable security measures to protect that information.⁹⁹² The law also requires that if data is disclosed, there must be a written contract governing that disclosure. It incorporates the Payment Card Industry Data Security Standard and requires companies to abide by those standards.⁹⁹³ Finally, the law requires that a company disclose any breach to the resident who may have been impacted by the breach.

Delaware, Kansas, Maryland, Michigan and West Virginia (casino-specific)

Delaware’s State Lottery Office, likewise, has developed regulations governing internal controls in casinos and their collection, protection and treatment of customer data. As with many of the other peer states, the privacy regulations are not separate but rather contained in the overall

regulations casinos must follow.⁹⁹⁴ Kansas has its regulations within its internal control requirements that are similar to other surveyed states,⁹⁹⁵ as do Maryland⁹⁹⁶ and Michigan.⁹⁹⁷ Michigan requires each casino to confidentially submit its internal control procedures for approval by the Michigan Gaming Control Board. West Virginia promulgated sports wagering regulations that specifically address electronic customer data.⁹⁹⁸ Among other internal control requirements, casinos must establish an electronic patron file that must include a variety of personal information identifying the bettor, including address, telephone number, identity verification method, and financial information.

New Jersey (casino-specific)

As another one of the states with the longest history of regulating commercial gaming, New Jersey's experiences and regulations with respect to privacy concerns are also instructive. New Jersey regulations require that, before establishing an Internet or mobile gaming account, the licensee must also create an electronic patron file. Additionally, New Jersey requires that licensees encrypt personal information contained in the electronic patron file, including Social Security numbers, passwords, and personal financial information. Many of New Jersey's regulations regarding privacy are contained within the rules for a casino's internal controls. Specifically, with respect to records contained on a computer system, New Jersey Regulations § 13:69D-2.2 and 13:69D-1.11 contain requirements for the required systems, written procedures and approvals required to maintain privacy expectations, and a variety of internal controls.

RESPONDING TO AND MITIGATING SOCIAL COSTS OF GAMBLING

It is the responsibility of any legalized gaming jurisdiction to conduct business in a manner that minimizes potential harms related to the industry's introduction and expansion. This responsibility generally falls to the jurisdiction's gaming regulators, in coordination with gaming license holders and other relevant stakeholders like state health departments, law enforcement and mental health professionals. Some efforts are dictated by policy, while others are developed in the regulatory process. This section of the report offers background and guidance on efforts to mitigate problem gambling and gambling disorder in four parts:

- Commonly Regulated Responsible Gaming Practices
- Summary of Research on the Mitigation of Problem Gambling
- Summary of Interviews Regarding Efforts to Mitigate Problem Gambling
- Key Considerations for Development of a Responsible Gaming Framework

The information contained in each part of this section builds on the next. After providing a primer on common strategies to mitigate problem gambling behavior, this report offers an overview of the academic research around these strategies. Following the summary, the report places the previous parts in the context of expert guidance from gaming stakeholders who have seen these strategies in action. Finally, the last section synthesizes the previous parts into a series of six guiding principles for use in developing a responsible gaming framework for Virginia.

Commonly Regulated Responsible Gaming Practices

Across the U.S. gaming industry, casino-driven responsible gaming programs operate in compliance and in parallel with state laws and regulations on responsible gaming, including the funding and provision of problem gambling services. It should be noted that the responsible gaming programs implemented by many gaming businesses – operators and suppliers – often go beyond what is required by law or regulation. The following categorizes commonly regulated responsible gaming practices and compiles in detail the statutes and regulations addressing them in the six peer states identified for the purposes of regulatory comparison. A chart summarizing their broader implementation across 24 states with commercial casino structures also is provided in **Exhibit 11**.

Under each category, the relevant statutes and regulations of each peer state are presented in the same sequence: constitutional provisions, statutory provisions, and then administrative regulations. Note: Some states have separate regulatory provisions for different types of gaming venues (e.g., video lottery outlets, land-based casinos, etc.). Much of the information in Part I is based upon and updated from [*Responsible Gaming Regulations and Statutes, September 2019*](#), published by the American Gaming Association.

	DE	KS	MD	MA	MI	OH	WV
Required Gaming Plans		✓	✓	✓		✓	
Voluntary Exclusion Programs (Self-Exclusion)	✓	✓	✓	✓	✓	✓	✓
Restrictions on Alcoholic Beverages	✓		✓	✓			✓
Employee Training	✓						
Restrictions on Financial Instruments			✓	✓	✓		✓
Information on Risks & Resources	✓	✓	✓	✓	✓	✓	✓
Advertising Restrictions	✓	✓	✓	✓		✓	✓
Casino Credit Restrictions	✓	✓	✓	✓	✓	✓	✓
Wager/Time Limits	✓			✓			✓

Responsible Gaming Plans

As a condition of licensing, commercial casino states may mandate that casinos prepare and submit for approval a wide-ranging plan for addressing RG issues. Required elements of the plan often include employee training and public awareness efforts and other policies that other states have addressed specifically through standalone statutes or regulations that address only a single subject. The required elements of these plans vary by state.

DELAWARE: N/A

KANSAS:

Regulation: K.A.R. §112-112-3. Responsible gambling plan.

(a) Each applicant for a facility manager certificate shall submit a responsible gambling plan to the commission with its initial application or at least 90 days before opening a racetrack gaming facility. The responsible gambling plan shall not be inconsistent with any facility manager's contractual obligation with the Kansas lottery. A responsible gambling plan shall be approved by the commission before the commission issues or renews a certificate. Each plan shall include the following:

- (1) The goals of the plan and the procedures and deadlines for implementation of the plan;
- (2) the identification of the individual at each applicant or facility manager location who will be responsible for the implementation and maintenance of the plan;
- (3) procedures for maintaining the confidentiality of the information regarding the persons on the self-exclusion list, as specified in K.A.R. 112-112-7;
- (4) procedures for informing patrons about self-transaction exclusion programs;
- (5) procedures for compliance with the commission's self-exclusion program;
- (6) procedures for creating and disseminating promotional material to educate patrons about problem gambling and to inform patrons about treatment services available. The applicant or facility manager shall provide examples of the material to be used as part of its promotional materials, including signs, brochures, and other media, and a description of how the material will be disseminated;
- (7) details of the training about responsible gambling for the applicant's or facility manager's employees;

- (8) the duties and responsibilities of the employees designated to implement or participate in the plan;
- (9) procedures to prevent underage gambling;
- (10) procedures to prevent patrons impaired by drugs or alcohol, or both, from gambling;
- (11) an estimation of the cost of development, implementation, and administration of the plan; and
- (12) any other policies and procedures to prevent problem gambling and encourage responsible gambling.

(b) Each applicant or facility manager shall submit any amendments to the responsible gambling plan to the commission for review and approval before implementing the amendments. Each facility manager shall report to the commission semiannually on the status and success of the responsible gambling plan.

MARYLAND

Regulation: COMAR 36.07.07.01. Responsible Gaming Plan.

- A. A facility shall establish a responsible gaming plan that includes at least the following elements:
 - (1) Goals;
 - (2) Procedures and deadlines for implementation;
 - (3) Identification of facility personnel responsible for implementation;
 - (4) Responsibilities of facility personnel identified as responsible for implementation;
 - (5) Training for facility personnel on problem gambling;
 - (6) Means of educating players about:
 - (a) Problem gambling; and
 - (b) Problem gambling treatment resources, including treatment and prevention programs;
 - (7) Placement of responsible gambling awareness materials in the facility; and
 - (8) Any other element required by the Commission.
- B. A facility operator shall submit to the Commission the responsible gaming plan required under A of this regulation for review and approval.
- C. A facility operator shall submit any amendments to a facility's responsible gaming plan to the Commission prior to implementation.
- D. A facility operator shall submit to the Commission an annual report describing the operation of the facility's responsible gaming plan.

MASSACHUSETTS

Statute: M.G.L. Ch. 23K, § 9. Application for gaming licenses.

Section 9. (a) The commission shall prescribe the form of the application for gaming licenses which shall require, but not be limited to:

- (8) an agreement that the applicant shall mitigate the potential negative public health consequences associated with gambling and the operation of a gaming establishment, including:
 - (i) maintaining a smoke-free environment within the gaming establishment under section 22 of chapter 270;
 - (ii) providing complimentary on-site space for an independent substance abuse and mental health counseling service to be selected by the commission;
 - (iii) prominently displaying information on the signs of problem gambling and how to access assistance;
 - (iv) describing a process for individuals to exclude their names and contact information from a gaming licensee's database or any other list held by the gaming licensee for use in marketing or promotional communications; and
 - (v) instituting other public health strategies as determined by the commission[.]

Statute: M.G.L. Ch. 23K, § 15. Criteria for eligibility to receive gaming license.

Section 15. No applicant shall be eligible to receive a gaming license unless the applicant meets the following criteria and clearly states as part of an application that the applicant shall:

- (6) demonstrate to the commission how the applicant proposes to address lottery mitigation, compulsive gambling problems, workforce development and community development and host and surrounding community impact and mitigation issues as set forth in the memoranda of understanding required under this chapter[.]

Statute: M.G.L., Ch. 23K, § 18. Objective to be advanced in determining granting of license; statement of findings.

In determining whether an applicant shall receive a gaming license, the commission shall evaluate and issue a statement of findings of how each applicant proposes to advance the following objectives:

- (6) taking additional measures to address problem gambling including, but not limited to, training of gaming employees to identify patrons exhibiting problems with gambling and prevention programs targeted toward vulnerable populations[.]

Statute: M.G.L., Ch. 23K, § 21. Form of gaming license and condition for licensees.

(a) The commission shall prescribe the form of the gaming license, which shall include, but not be limited to, the following license conditions for each licensee. The licensee shall:

- (16) provide complimentary on-site space for an independent substance abuse, compulsive gambling and mental health counseling service and establish a program to train gaming employees in the identification of and intervention with customers exhibiting problem gaming behavior;
- (17) keep conspicuously posted in the gaming area a notice containing the name and a telephone number for problem gambling assistance; provided, however, that the commission may require the gaming licensee to provide this information in more than 1 language;
- (18) provide a process for individuals to exclude their names and contact information from the gaming licensee's database or any other list held by the gaming licensee for use in marketing or promotional communications;
- (19) institute additional public health strategies as required by the commission[.]

Regulation: 205 CMR 119.01: Contents of the Application.

The RFA-2 application form shall be designed to require applicants to demonstrate that they have thought broadly and creatively about creating an innovative and unique gaming establishment that will create a synergy with, and provide a significant and lasting benefit to, the residents of the host community, the surrounding communities, the region, and the Commonwealth of Massachusetts, and will deliver an overall experience that draws both residents and tourists to the gaming establishment and the Commonwealth of Massachusetts. Further, the RFA-2 application shall require attestation of the applicant under the pains and penalties of perjury as to the truthfulness of the contents of the submission, and shall require, at a minimum, provision of the following information on and in the form prescribed by the commission:

- (25) an agreement that the applicant shall mitigate the potential negative public health consequences associated with gambling and the operation of a gaming establishment, and the construction of a gaming establishment, including:
 - (a) maintaining a smoke-free environment within the gaming establishment under M.G.L. c. 270, § 22;
 - (b) providing complimentary on-site space for an independent substance abuse and mental health counseling service to be selected by the commission;
 - (c) prominently displaying information on the signs of problem gambling and how to access assistance;
 - (d) describing a process for individuals to exclude their names and contact information from a gaming licensee's database or any other list held by the gaming licensee for use in marketing or promotional communications; and
 - (e) instituting other public health strategies as determined by the commission; and

- (26) how the applicant proposes to take measures to address problem gambling including, but not limited to, training of gaming employees to identify patrons exhibiting problems with gambling and prevention programs targeted toward vulnerable populations; and how the applicant proposes to cooperate and support the commission in the development of an annual research agenda as provided in M.G.L. c. 23K, § 71

Regulation: 205 CMR 119.03. Evaluation of the Application by the Commission.

- (2) In determining which applicant will be awarded a Category 1 gaming license in accordance with M.G.L. c.23K, §19, and a Category 2 gaming license in accordance with M.G.L. c. 23K, § 20, the commission will evaluate the RFA-2 application to determine, and shall issue a statement of findings of how the applicant proposes to advance the objectives specified in M.G.L. c. 23K, § 18. In no particular order and without assigning any particular weights, the commission will evaluate the applicant's overall response on how it addresses the following categories of information which may be expanded upon in the RFA-2 application form:

(e) Mitigation criteria including:

2. Demonstration of plan for mitigation of lottery impact and compulsive gambling problems, community development, and host and surrounding community impact and mitigation issues

8. Measures to address problem gambling.

MICHIGAN: N/A

OHIO

Regulation 3772-12-06. An applicant's compulsive and problem gambling plan.

- (A) Each casino operator shall provide to the casino control commission a compulsive and problem gambling plan for approval. Each plan shall at a minimum include the following:

- (1) The goals of the plan and procedures and timetables to implement the plan;
- (2) The identification of the position responsible for the implementation and maintenance of the plan;

- (3) Policies and procedures including the following:

(a) Procedures for compliance with the Ohio VEP including, at a minimum:

- (i) Procedures preventing employees from permitting an individual in the Ohio VEP from entering the facility;
- (ii) Procedures identifying and removing individuals in the Ohio VEP from the facility;
- (iii) Procedures for preventing dissemination of any advertisement, promotion, or other direct marketing mailing fifteen days after the individual has been placed in the Ohio VEP;

- (iv) Procedures for preventing an Ohio VEP participant from having access to credit or from receiving complimentary services, check-cashing services, junket participation, and other benefits;
 - (v) Procedures for ensuring the confidentiality of the identity and the information of the Ohio VEP participants; and
 - (vi) Any other procedure required by the commission, executive director, or designee thereof.
 - (b) The duties and responsibilities of the employees designated to implement or participate in the plan;
 - (c) The responsibility of patrons with respect to responsible gambling;
 - (d) Procedures to identify patrons and employees with suspected or known compulsive and problem gambling behavior, including procedures specific to loyalty and other rewards and marketing programs;
 - (e) Procedures for providing information to individuals regarding the Ohio VEP and community, public and private treatment services, gamblers anonymous programs, and similar treatment or addiction therapy programs designed to prevent, treat, or monitor compulsive and problem gamblers and to counsel family members; including for providing the information upon the request of a patron or employee;
 - (f) The provision of printed material to educate patrons and employees about compulsive and problem gambling and to inform them about the Ohio VEP and treatment services available to compulsive and problem gamblers and their families. The casino operator shall provide casino control commission staff examples of the materials to be used, including, brochures and other printed material and a description of how the material will be disseminated;
 - (g) Advertising and other marketing and outreach to educate the general public about the Ohio VEP and compulsive and problem gambling;
 - (h) An employee training program, including training materials to be utilized and a plan for periodic reinforcement training and a certification process established by the applicant to verify that each employee has completed the training required by the plan;
 - (i) Procedures to prevent underage gambling;
 - (j) Procedures to prevent patrons impaired by drugs or alcohol, or both, from gambling;
 - (k) The plan for posting signs within the casino facility containing information on gambling treatment and on the Ohio VEP, including examples of the language and graphics to be used on the signs;
- (4) A list of community, public, and private treatment services, gamblers anonymous programs, and similar treatment or addiction therapy programs designed to prevent, treat, or monitor compulsive and problem gamblers and to counsel family members; and
- (5) Any other information, documents, and policies and procedures that the casino control commission requires.

- (B) Each casino operator shall submit quarterly updates and an annual report to the casino control commission of its adherence to the plans and goals submitted under this rule, including any information that the casino operator has received related to bankruptcy, divorce, crime, and attempted suicide related to gambling at a casino facility.

WEST VIRGINIA: N/A

Voluntary Exclusion Programs (Self-Exclusion)

Many states require that patrons have the ability to authorize a casino to refuse their right to gamble and to expel them if they are found gambling (or, in some cases, otherwise found) on the premises. Program management models vary; in some cases, they are run by the state or a state-appointed group, in others they are managed directly by licensees. State statutes vary in the length of the self-exclusion periods available – typically ranging from one and/or five -year bans to lifetime restriction – and in the procedures for reversing self-exclusion. In some states, third parties also have the ability to voluntarily exclude patrons exhibiting problem gambling behavior. Many state laws specify that in addition to banning play, the casino must also eliminate direct promotional outreach to these individuals as well as exclude them from complimentary offerings (“comps”) or access to credit.

DELAWARE

Statute 29 Del. C. § 4834. List of persons self-excluded from gaming activity.

- (a) The Director shall provide by regulation for the establishment of a list of persons self-excluded from gaming activity at video lottery facilities or through the Internet lottery. A person may request placement on the list of self-excluded persons by acknowledging in a manner to be established by the Director that the person is a problem gambler and by agreeing that, during the period of voluntary exclusion, the person may not collect any winnings or recover any losses resulting from any gaming activity at a video lottery facility or through the Internet lottery.
- (b) A person may request placement on the list of self-excluded persons for any of the following periods:
- (1) Lifetime;
 - (2) Five years;
 - (3) One year.
- (c) The Director shall establish procedures for placements on and removals from the list of self-excluded persons and procedures for the transmittal to operators of a video lottery facility of identifying information concerning self-excluded persons.
- (d) Director shall require licensed agents of video lottery facilities to establish procedures designed to:
- (1) Prevent self-excluded persons from engaging in any gaming activity;

- (2) Remove them from any forms of advertising or promotions; and
- (3) Deny self-excluded persons access to credit, complimentaries, check cashing privileges, and similar benefits.

Statute: 29 Del. C. § 4836. Penalties for wagering by excluded persons

- (b) Any person whose name has been placed on the self-exclusion list, who thereafter knowingly enters a gaming area or engages in the Internet lottery, is guilty of a class A misdemeanor.

KANSAS

Regulation: K.A.R. §112-112-4. Self-exclusion list.

(a) A “self-exclusion list” shall consist of the names of those persons who have complied with the requirements of this article and have been placed on the list by the executive director. The self-exclusion list shall provide the means for each individual with issues related to gambling to formally notify the commission that the individual has a gambling problem and that the individual will refrain from visiting gaming facilities, parimutuel licensee locations, and fair association race meets in Kansas.

(b) Each facility manager shall be notified by the executive director of the placement of any person on the self-exclusion list. Any or all information contained on the person’s application may be disclosed to each facility manager and the facility manager’s agents or employees by the executive director.

Regulation: K.A.R. §112-112-5. Requirements for placement on the self-exclusion list.

(a) Any person may seek placement on the self-exclusion list by performing the following:

- (1) Requesting an application in person from commission staff at any gaming facility, parimutuel licensee location, or fair association race meet or at the commission’s Topeka office during regular business hours; and

- (2) completing and executing the application with a commission staff person.

(b) If the person is unable to appear in person at a gaming facility, parimutuel licensee location, or fair association race meet or at the Topeka office, the person may contact the commission’s Topeka office during regular business hours so that other arrangements can be made.

(c) Each completed application shall be a closed record pursuant to K.S.A. 45-221(a)(30) and amendments thereto.

(d)

- (1) Each application shall contain a statement that the applicant will refrain from visiting gaming facilities, parimutuel licensee locations, and fair association race meets in Kansas. Each person seeking placement on the self-exclusion list shall also

acknowledge on the application that by being placed on the list, that person may be subject to a charge of trespass pursuant to K.S.A. 21-3721, and amendments thereto, if that person is discovered at a gaming facility, parimutuel licensee location, or fair association race meet by any agent or employee of the commission or by facility manager staff.

(2) The applicant shall acknowledge that the applicant's request to be placed on the self-exclusion list could result in being denied service or access to gaming and entertainment facilities in other jurisdictions. Furthermore, the applicant shall acknowledge that the commission and all facility managers will prohibit the applicant from entering the premises of all gaming facilities, parimutuel licensee locations, and fair association race meets.

(e)

(1) As a part of the application, each applicant shall agree that facility managers and their employees have the right to communicate information in the application to entities affiliated with the facility manager that have a need to know the information for the purpose of complying with this article.

(2) Each facility manager shall be responsible for maintaining the confidentiality of the information provided in the application and shall use the information exclusively to deny persons on the self-exclusion list access to facilities under the control of the facility manager and its affiliates.

(f) An applicant's failure to provide any information or to complete any forms provided by the commission may result in a denial of a request for placement on the self-exclusion list.

(g) Self-exclusion list application forms shall include at a minimum a waiver of liability of the commission and its agents, the Kansas lottery and its agents, the state of Kansas, any person licensed pursuant to the Kansas expanded lottery act or parimutuel racing act, and any other person deemed necessary by the commission for any claims or damages that arise out of or relate to the self-exclusion list or its use.

(h) Upon an applicant's submission of a completed self-exclusion list application, a notice of placement on the self-exclusion list may be filed by the executive director. Each notice of placement shall be a closed record pursuant to K.S.A. 45-221(a)(30) and amendments thereto, except that the application and notice may be disclosed to facility managers and their agents, employees, and affiliates who have a need to know the information for the purpose of complying with this article.

(i) A copy of the notice of placement on the self-exclusion list shall be delivered by the executive director to the applicant by regular U.S. mail to the home address specified on the application. The applicant shall be deemed to be placed on the self-exclusion list when that person submits the application to the executive director for placement on the self-exclusion list, not at the time the notice is delivered to the applicant.

(j) If the executive director finds that an applicant does not qualify for placement on the self-exclusion list or that the applicant should be allowed to withdraw the application, the applicant shall be notified by the executive director by regular U.S. mail sent to the home address specified on the application.

Regulation: K.A.R. §112-112-6. Mandatory surrenders to the state.

Each person who has been placed on the self-exclusion list shall surrender to the commission all prizes, jackpots, chips or tokens in play, pay vouchers, coupons, and electronic credits obtained at a facility manager's location after the person's placement on the self-exclusion list. The items surrendered to the commission shall be liquidated or redeemed and shall be transferred to the state's problem gambling and addictions fund.

Regulation: K.A.R. §112-112-8. Facility manager conduct regarding self-excluded persons.

(a) Each facility manager, including its agents and employees, that identifies a person at the facility manager's location who is suspected of being on the self-exclusion list shall at that time notify or cause to notify the commission agent on duty or the facility manager's senior security officer on duty. Once it is confirmed that the person is on the self-exclusion list and at the facility manager's location, the facility manager shall perform the following:

(1) Remove the self-excluded person from the gaming facility, parimutuel licensee location, or fair meet; and

(2) cooperate with the commission agent on duty with respect to any further actions or investigations.

(b) Each facility manager shall have 30 days from the effective date of this regulation to submit a list of internal controls, which shall be subject to approval by the commission. This list shall specify the following:

(1) The facility manager's plan for removing those persons on the self-exclusion list from mailing lists advertising the facility manager's Kansas operation, including marketing offers, slot club programs, VIP member programs, telemarketing programs, and other marketing promotions. However, this paragraph shall not be construed to prohibit mass mailings to "Resident"; and

(2) the facility manager's plan for denying access by persons on the self-exclusion list to the following:

(A) Check cashing, bank machine, and cash advance privileges;

(B) special club programs, including slot clubs and VIP cards; and

(C) the issuance of credit, if applicable.

(c) Any facility manager and its agents or employees may be disciplined by the commission if any of the following conditions is met:

(1) It can be shown by a preponderance of the evidence that the facility manager or its employees or agents knew or should have known that a person on the self-exclusion list was present at the facility manager's location and the facility manager failed to follow the procedures required by these regulations.

(2) The facility manager or its employees or agents failed to follow procedures for complying with the regulations relating to self-exclusion.

(3) The facility manager reveals any information regarding self-exclusion that is considered a closed record under these regulations to any party not permitted under this act or these regulations.

Regulation: K.A.R. §112-112-9. Procedure for removal from the self-exclusion list.

(a) At any time after two years from the original date of application for placement on the self-exclusion list, any person on the self-exclusion list may petition the executive director for removal from the self-exclusion list. The authority to approve or deny each petition shall rest with the executive director. To be eligible for removal from the self-exclusion list, each person shall provide documentation acceptable to the commission that the applicant has met all of the following conditions:

(1) The person has undergone a problem gambling assessment with a gambling counselor certified by the Kansas department of social and rehabilitation services or through any other method approved by the commission.

(2) The person has completed a commission-approved education program on healthy lifestyle choices and problem gambling awareness.

(3) The person has met any other requirements deemed necessary by the commission.

(4) The person has executed an authorization and release to be removed from the self-exclusion list on a form provided by the commission.

(b) Each facility manager shall retain the ability to deny gambling privileges at a gaming facility, parimutuel licensee location, or fair association race meet to the persons who have been removed from the self-exclusion list for any other reason ordinarily available to the facility manager.

(c) Any person who has been removed from the self-exclusion list may reapply for placement on the list at any time as provided in this article.

(d) Upon approval of a petition for removal from the self-exclusion list, a notice of removal from the self-exclusion list shall be drafted by the executive director. Each notice shall be a closed record pursuant to the Kansas open records act, including K.S.A. 45-221(a)(30) and amendments thereto, except that the notice shall be disclosed to all facility managers and their agents and employees.

(e) A copy of the notice of removal from the self-exclusion list shall be delivered by the executive director to the petitioner by regular U.S. mail to the home address specified on the petition. The petitioner shall be deemed to be removed from the self-exclusion list when the executive director mails the approved notice to the petitioner.

(f) If the executive director finds that a petitioner does not qualify for removal from the self-exclusion list, the petitioner shall be notified by the executive director by regular U.S. mail, using the home address specified on the petition. The petitioner shall remain on the self-exclusion list pursuant to this article.

MARYLAND

Statute: Md. Code Ann., State Govt. Law, § 9-1A-24. Compliance.

(e) Commission to adopt regulations to reduce or mitigate effects of problem gambling; exclusion list.

(1) By regulation, the Commission shall adopt measures that are intended to reduce or mitigate the effects of problem gambling.

(2) The regulations shall:

(i) include establishment of a voluntary exclusion list of individuals with gambling problems who have requested to be excluded from any video lottery operation licensed under this subtitle; and

(ii) provide a simple mechanism for an individual who is sober and informed to request placement on the voluntary exclusion list for a specified period of time.

(3) A video lottery operation licensee may not permit an individual on the voluntary exclusion list to enter into the video lottery facility or to play a video lottery terminal.

(4) The Commission may impose sanctions on a licensee in accordance with this subtitle if the licensee knowingly fails to exclude from the premises of the licensee an individual on the voluntary exclusion list.

Regulation: COMAR 36.01.03.02. Application for Voluntary Exclusion.

A. An application for voluntary exclusion shall be available at:

(1) Each licensed video lottery facility upon request of Commission staff; and

(2) Each licensed instant bingo facility with more than 10 instant bingo machines; and

(3) The Agency's offices.

B. An individual may request to be excluded from a video lottery facility or lottery play in the State, or an instant bingo facility with more than 10 instant bingo machines by submitting a completed application form to Commission staff.

C. An individual may request to be excluded from an instant bingo facility with more than 10 instant bingo machines by submitting a completed application form to instant bingo facility staff.

D. An application for voluntary exclusion shall include:

(1) The individual's:

- i. Name, including any nickname or alias;
- ii. Residential address;
- iii. Telephone numbers;
- iv. Date of birth;
- v. Valid, unexpired, government-issued identification that includes a photograph of the applicant;
- vi. Gender;
- vii. Physical description, including any birthmarks, scars, or tattoos;
- viii. Race or ethnic origin;
- ix. For non-United States citizens, country of citizenship, and passport and alien registration number;
- x. Signature; and
- xi. Any other information about the individual that the Commission requires;

(2) The length of requested period of placement on the voluntary exclusion list, which shall be for:

(a) At least 2 years or;

(b) Life

(3) Information pertaining to problem gambling programs; and

(4) A signed statement by which the individual declares that the individual:

- a. Has a gambling problem and is unable to gamble responsibly;
- b. Is sober and informed;
- c. Releases and holds harmless the State of Maryland, the Agency, and their employees, and agents from any liability that may arise from the application or the individual's placement on the voluntary exclusion list;
- d. Acknowledges that the Commission is collecting information from the individual that the:
 - I. Individual may request to inspect or correct under General Provisions Article, §4-502, Annotated Code of Maryland; and
 - II. Commission will maintain as sociological information under General Provisions Article, §4-330, Annotated Code of Maryland;
 - III. Authorizes the release of information to the persons specified in Regulation .07;
- e. Authorizes the release of information to the persons specified in Regulation .07;
- f. Acknowledges that the individual will be, for the entire term of the requested period of exclusion:

- I. Prohibited from entering a video lottery facility or playing table games or a video lottery terminal in the State;
 - II. Prohibited from playing a lottery game; or
 - III. Prohibited from playing an instant bingo machine at an instant bingo facility with more than 10 instant bingo machines; or
 - IV. Any combination of the three;
- g. Acknowledges that if the requested period of placement on the voluntary exclusion list was 2 years, the individual will not be removed from the voluntary exclusion list unless the Commission grants the individual's request for removal under Regulation .05 of this chapter; and
 - h. Acknowledges that the individual may be subject to criminal charges if, during the period of exclusion, the individual enters a video lottery facility in the State;
 - i. Otherwise acknowledges that the individual understands the individual's responsibilities and possible consequences associated with being placed on the State's voluntary exclusion list; and
 - j. Is voluntarily applying.
- D. Upon receipt of a completed application for voluntary exclusion, trained Commission staff shall:
- (1) Interview the individual in order to ascertain that the individual:
 - (a) Is voluntarily applying for exclusion;
 - (b) Confirms the information provided in the application; and
 - (c) Is fully informed of the consequences of being placed on the voluntary exclusion list.
 - (2) Decide whether to grant the request for voluntary exclusion; and
 - (3) Deliver to the individual by regular U.S. mail a written notice of:
 - (a) Placement on the voluntary exclusion list; or
 - (b) Denial of the request for voluntary exclusion.
- E. Notice to Excluded Individual. The Agency's notice of an individual's placement on the voluntary exclusion list for video lottery facilities shall include:
- (1) A statement from each video lottery facility informing the individual not to enter the video lottery facility; and

- (2) Notice that, if the individual enters a video lottery facility, the individual shall be subject to a criminal trespass charge.

Regulation: COMAR 36.01.03.03. Voluntary Surrender of Lottery Game Playing Privileges.

- A. In this regulation, the following term has the meaning indicated.
B. Term Defined. “Unredeemed item”:

- (1) Means a token, voucher, check, ticket, chip, coupon, or similar item that has monetary value, and that a player has:
- (a) Won by playing a video lottery terminal or table game;
 - (b) Inserted into a video lottery terminal;
 - (c) Played at a table game;
 - (d) Received by converting cash, check or wire transfer at a video lottery facility;
 - (e) Obtained while trying to play a lottery game in the State; or
 - (f) Won by playing an instant bingo machine at an instant bingo facility with more than 10 instant bingo machines.
- (2) Does not mean cash.

- C. An individual who applies to be placed on the voluntary exclusion list may contractually agree to:
- (1) Redeem or liquidate an unredeemed item with monetary value that the individual has received since being placed on the voluntary exclusion list; and
 - (2) Designate that the proceeds of the redeemed item be contributed to the Problem Gambling Fund established under State Government Article, §9-1A-33(b), Annotated Code of Maryland.

Regulation: COMAR 36.01.03.05. Removal from Voluntary Exclusion List.

- A. After an individual has been on the voluntary exclusion list for at least 2 years, the individual may request that the Commission remove the individual from the list.
- B. An individual’s request under §A of this regulation shall be submitted to the Commission in writing and shall be accompanied by documentation that the individual has:
- (1) Completed:
 - a. A problem gambling assessment with a professional who is licensed by the State to conduct problem gambling assessments or who is otherwise approved by the Commission and fulfilled any recommended treatment;

- b. A problem gambling treatment and prevention program approved by the Commission; or
 - c. A healthy decision-making program that is sponsored or approved by the Commission with a licensed professional counselor or other person approved by the Commission;
- (2) Executed an authorization and release to be removed from the voluntary exclusion list; and
- (3) Complied with any other requirements deemed necessary by the Commission.
- C. The Commission is not required to hold a hearing in order to review the request for removal.
- D. If the Commission:
 - (1) Grants the request, it shall:
 - (a) Deliver to the individual by regular U.S. mail a notice of removal from the voluntary exclusion list; and
 - (b) Notify the State's facility operators of the individual's removal from the voluntary exclusion list; or
 - (2) Denies the request, it shall deliver to the individual by regular U.S. mail a notice that the:
 - (a) Request was denied; and
 - (b) Individual shall remain on the voluntary exclusion list.

MASSACHUSETTS

Statute: M.G.L., Ch. 23K, § 45. Regulation and procedure for the exclusion and self-exclusion of persons from gaming establishments.

- (f) The commission shall establish a list of self-excluded persons from gaming establishments. A person may request such person's name to be placed on the list of self-excluded persons by filing a statement with the commission acknowledging that the person is a problem gambler and by agreeing that, during any period of voluntary exclusion, the person shall not collect any winnings or recover any losses resulting from any gaming activity at a gaming establishment. The commission shall adopt further regulations, under section 5, for the self-excluded persons list including procedures for placement, removal and transmittal of such list to gaming establishments. The commission may revoke, limit, condition, suspend or fine a gaming establishment if the establishment knowingly or recklessly fails to exclude or eject from its premises any person placed on the list of self-excluded persons.

- (g) Gaming establishments shall not market to persons on any excluded persons list and shall deny access to complimentaries, check cashing privileges, club programs and other similar benefits to persons on the self-excluded persons list.
- (h) Notwithstanding any other general or special law to the contrary, the self-excluded persons list shall not be open to public inspection. Nothing in this section, however, shall prohibit a gaming establishment from disclosing the identity of persons on the self-excluded persons list under this section to affiliated gaming establishments in this commonwealth or other jurisdictions for the limited purpose of assisting in the proper administration of responsible gaming programs operated by affiliated gaming establishments.
- (i) As used in this subsection the following words shall have the following meanings unless the context clearly requires otherwise:
 - (1) “Immediate family”, the spouse, parent, child, brother or sister of an individual.
 - (2) “Problem gambler”, a person who chronically or habitually gambles to the extent that such gambling substantially interferes with the person’s social or economic functioning or that the person has lost the power of self-control over that person’s gambling. An immediate family member or guardian may petition, in writing, a district court for an order of exclusion from gaming establishments applicable to a person whom the petitioner has reason to believe is a problem gambler. Upon receipt of a petition for an order of exclusion of a person and any sworn statements the court may request from the petitioner, the court shall immediately schedule a hearing on the petition and shall cause a summons and a copy of the petition to be served upon the person as provided in section 25 of chapter 276. The person may be represented by legal counsel and may present independent expert or other testimony. The court shall order examination by a qualified psychologist. If after a hearing the court based upon competent testimony finds that the person is a problem gambler and there is a likelihood of serious harm as a result of the person’s gambling, the court may order that such person be prohibited from gaming in gaming establishments. The court shall communicate this order to the commission, which shall place the person’s name on the list of excluded persons.
- (j) A person who is prohibited from gaming in a gaming establishment under this section shall not collect any winnings or recover losses arising as a result of prohibited gaming winnings obtained by a person who is prohibited from gaming in a gaming establishment and such winnings shall be forfeited to the commission and deposited into the Gaming Revenue Fund.
- (k) The commission shall pursue an interstate compact for the purposes of sharing information regarding the excluded persons list.

Regulation: 205 CMR 133. 01. Voluntary Exclusion.

In accordance with M.G.L. c. 23K, § 45(f), 205 CMR 133.00 shall govern the procedures and protocols relative to the list of self-excluded persons from entering the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed. The

voluntary self-exclusion list shall consist of the names and information relative to those individuals who have complied with the requirement of 205 CMR 133.00 and have been placed on the list by the commission. Placement of one's name on the voluntary self-exclusion list is intended to offer individuals one means to help address problem gambling behavior or deter an individual with family, religious, or other personal concerns from entering the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed.

For purposes of 205 CMR 133.00, the term 'problem gambler' shall mean an individual who believes their gambling behavior is currently, or may in the future without intervention, cause problems in their life or on the lives of their family, friends, and/or co-workers.

Regulations: 205 CMR 133.02: Placement on the Self-exclusion List.

- (1) An individual whose name is placed on the voluntary self-exclusion list shall be prohibited from entering the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed for the duration of the exclusion period, and shall not collect any winnings or recover any losses resulting from any gaming activity at a gaming establishment. Provided, however, that an employee of a gaming licensee or vendor who is licensed or Registered as a key gaming employee, gaming employee, or gaming service employee in accordance with 205 CMR 134.00: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations and who is on the voluntary self-exclusion list may be in the gaming area of a gaming establishment or an area in which pari-mutuel or simulcasting wagers are placed solely for purposes of performing their job functions.
- (2) An individual may request to have their name placed on the voluntary self-exclusion list by completing the application and procedure outlined in 205 CMR 133.02. Applications shall be submitted on a form approved by the commission and shall be available on the commission's website and at designated locations on and off the premises of the gaming establishments as determined by the commission.
- (3) An application for placement on the voluntary self-exclusion list may only be accepted, and an intake performed, by a designated agent. An individual may only become a designated agent by successfully completing a course of training approved and administered by the commission or its designee. The course of training shall include, at a minimum, instruction on completion of the application, information relative to problem gambling and available resources, and an understanding of 205 CMR 133.00. A designated agent must be a licensed, certified, or registered health or mental health professional or employee thereof, or an employee of a gaming licensee, the commission, a gaming licensee, or other government entity. The commission may refuse to offer training to any individual whose service as a designated agent it determines would be contrary to the aims of 205 CMR 133.00.
- (4) Upon submission of an application, a designated agent shall review with the applicant the contents and statements contained in the application, as provided by 205 CMR 133.03. If

the application is complete, the designated agent shall sign the application indicating that the review has been performed and the application has been accepted.

- (5) A designated agent may not sign an application if (a) any required information is not provided or (b) they are of the belief that the applicant is not capable of understanding the responsibilities and consequences of being placed on the self-exclusion list.
- (6) The designated agent shall forward the signed application for voluntary self-exclusion to the commission within 48 hours of completion in a manner directed by the commission.
- (7) Upon receipt of an application, the commission, or its designee, shall review it for completeness. If the application meets all requirements of 205 CMR 133.02 the application shall be approved, and the individual's name shall be added to the voluntary self-exclusion list. If the application is incomplete, the commission, or its designee, may deny the application and make efforts to contact the applicant advising them of such.
- (8) If the gaming licensee utilizes an internal management system to track individuals on the self-exclusion list, they shall update that system at least every 72 hours with names of individuals being added or removed from the self-exclusion list.
- (9) The commission, or its designee, shall add to the list of voluntarily self-excluded persons the name of any individual provided from a gaming jurisdiction outside of Massachusetts, with which the commission has entered into an interstate compact, upon a determination that the individual voluntarily requested that their name be added to the list of the referring jurisdiction and that they were notified, either directly or by operation of law, that their name may be placed on similar lists in other jurisdictions.
- (10) If the applicant has elected the services identified in 205 CMR 133.03(8) the commission, or its designee, shall contact the designated coordinating organization for the provision of requested services.

Regulation: 205 CMR 133.03: Contents of the Application.

The application for voluntary self-exclusion shall require provision of, at a minimum, the following content:

- (1) Name, home address, email address, telephone number, date of birth, and social security number of the applicant;
- (2) A passport style photo of the applicant without headwear;
- (3) A statement from the applicant that one or more of the following apply:
 - (a) they identify as a problem gambler as defined in 205 CMR 133.01;
 - (b) they feel that their gambling behavior is currently causing problems in their life or may, without intervention, cause problems in their life; or
 - (c) there is some other reason why they wish to add their name to the list.

- (4) Election of the duration of the exclusion in accordance with 205 CMR 133.04;
- (5) An acknowledgement by the applicant that the individual will not enter the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed for the duration of the exclusion period (except as provided by 205 CMR 133.02(1)) and that it is their sole responsibility to refrain from doing so;
- (6) An acknowledgment by the applicant that the individual shall not collect any winnings or recover any losses resulting from any gaming activity at a gaming establishment for the duration of the exclusion period;
- (7) An acknowledgement by the applicant that he or she will forfeit all rewards or points earned through a player reward card program;
- (8) An offer by the commission or the designated agent completing the self-exclusion application to assist the applicant to access information about gambling disorders, self-guided help or counseling services with a clinician approved by the Massachusetts Department of Public Health;
- (9) An acknowledgment of understanding by the applicant that by placing their name on the voluntary self-exclusion list the prohibitions identified in 205 CMR 133.02(1) apply to all gaming establishments licensed by the commission in Massachusetts, any affiliates of the gaming licensee, whether within Massachusetts or another jurisdiction, and that the commission may share the list with other domestic or international gaming jurisdictions resulting in placement on those lists;
- (10) An acknowledgment by the applicant that he or she is submitting the application freely, knowingly, and voluntarily;
- (11) A statement that the individual is not under the influence of a substance or suffering from a mental health condition that would impair their ability to make an informed decision;
- (12) An acknowledgment by the applicant that if they violate their agreement to refrain from entering a gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed during the exclusion period, the applicant shall notify the commission of such violation within 24 hours of their presence within the gaming area of the gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed; and releasing the Commonwealth of Massachusetts, the commission, the licensee, and all affiliated employees from any claims associated with their breach of the agreement; and
- (13) An acknowledgment by the applicant that once their name is placed on the self-exclusion list they may be refused entry and/or ejected from the gaming area of a gaming establishment by the gaming licensee, an agent of the commission, or law enforcement personnel

Regulation: 205 CMR 133.04: Duration of Exclusion and Removal from the List.

- (1) As part of the request for voluntary self-exclusion, the individual must select the duration for which they wish to be voluntarily excluded. An individual may select any of the following time periods as a minimum length of exclusion:
 - (a) One year;
 - (b) Three years;
 - (c) Five years; or
 - (d) Lifetime (An individual may only select the lifetime duration if their name has previously appeared on the voluntary self-exclusion list for at least six months.)
- (2) An individual on the voluntary self-exclusion list may not apply to decrease the duration of exclusion. An individual who is on the list may submit a request to increase the minimum length of exclusion.
- (3) Upon expiration of the selected duration of exclusion, individuals may request that their name be removed from the list or petition for exclusion for a new duration. Individuals shall remain on the list after the expiration of the selected duration of exclusion until such time as they submit a petition for removal in accordance with 205 CMR 133.04(4) and it is approved by the commission or its designee.
- (4) At any time after the expiration of the selected duration of exclusion, an individual may request that their name be removed from the voluntary self-exclusion list by submitting a petition for removal on a form approved by the commission. The petition shall include confirmation from a designated agent that the individual completed an exit session in accordance with 205 CMR 133.04(5). Any petition for removal received by the commission prior to the expiration of the duration of the selected exclusion period shall be denied. The commission shall approve a completed petition for removal. An individual who has selected a lifetime duration in accordance with 205 CMR 133.04(1)(e) may not submit a petition for removal of their name from the list. An incomplete application, including one that fails to demonstrate completion of an exit session in accordance with 205 CMR 133.04(5) shall be denied until such time as the application is completed.
- (5) To be eligible for removal from the voluntary self-exclusion list the petitioner shall participate in an exit session with a designated agent. The exit session shall include a review of the risks and responsibilities of gambling, budget setting and a review of problem gambling resources should the petitioner wish to seek them. Upon completion of the exit session the designated agent shall sign the individual's petition for removal from the list attesting to the fact that the exit session was conducted.
- (6) Upon approval of a petition for removal from the voluntary self-exclusion list, a written notice of removal from the list shall be forwarded by the commission, or its designee, to each gaming licensee and to the petitioner. Notice may be forwarded to the petitioner by email or first class mail to the email address or home address provided by the petitioner in

the petition. The petitioner shall be deemed to be removed from the voluntary self-exclusion list when the notice is sent by the commission or its designee.

- (7) If a petitioner does not meet the eligibility requirements for removal from the list provided in 205 CMR 133.04(4), the petition shall be denied. The petitioner shall be notified of the denial by email or first class mail to the email address or home address provided by the petitioner in the petition. In the event of a denial of a petition, the individual shall remain on the voluntary self-exclusion list until such time as the eligibility requirements have been satisfied.
- (8) An individual whose name has been removed from the voluntary self-exclusion list may reapply for placement on the list at any time by submitting an application in accordance with 205 CMR 133.02.
- (9) An individual whose name was added to the voluntary self-exclusion list in Massachusetts in accordance with 205 CMR 133.02(9) shall be removed from the list notwithstanding 205 CMR 133.04(4) through (6) upon receipt of written notice from the referring jurisdiction that the individual's name has been removed from that jurisdiction's list.

Regulation: 205 CMR 133.05. Maintenance and Custody of the List.

- (1) The commission shall maintain an up-to-date database of the voluntary self-exclusion list. Gaming licensees shall be afforded access to the voluntary self-exclusion list. The voluntary self-exclusion list may only be accessed by individuals authorized in accordance with the gaming licensee's approved system of internal controls in accordance with 205 CMR 133.00. All information contained in approved applications for voluntary exclusion may be disclosed to a gaming licensee.
- (2) The list of voluntary self-exclusion is exempt from disclosure under M.G.L. c. 66 and shall not be publicly disclosed by a gaming licensee. However, a gaming licensee may share the list with other gaming licensees in Massachusetts or its affiliates in other jurisdictions for the purpose of assisting in the proper administration of responsible gaming programs operated by affiliated gaming establishments.
- (3) The commission may disclose de-identified information from the self-exclusion list to one or more research entities selected by the commission for the purpose of evaluating the effectiveness and ensuring the proper administration of the self-exclusion process.

Regulation: 205 CMR 133.06: Responsibilities of the Gaming Licensees

A gaming licensee shall have the following responsibilities relative to the administration of the voluntary self-exclusion list:

- (1) A gaming licensee shall eject from or refuse entry into the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed any individual whose name appears on the voluntary self-exclusion list;

- (2) A gaming licensee shall promptly notify the commission, or its designee, if an individual on the voluntary self-exclusion list is found in the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed;
- (3) A gaming licensee shall not market to individuals on the voluntary self-exclusion list;
- (4) A gaming licensee shall deny access to complimentary services or items, check cashing privileges, player reward programs, and other similar benefits to persons on the list;
- (5) Individuals on the voluntary self-exclusion list shall not be permitted to participate in a cashless wagering system. A gaming licensee shall take steps to ensure that it denies entry into and terminates all access and privileges associated with its cashless wagering program to individuals on the voluntary list of self-excluded persons;
- (6) A gaming licensee shall not extend credit to an individual on the voluntary self-exclusion list;
- (7) (a) A gaming licensee shall not pay any winnings derived from gaming to an individual who is prohibited from gaming in a gaming establishment by virtue of having placed their name on the voluntary self-exclusion list in accordance with 205 CMR 133.00. Winnings derived from gaming shall include, but not be limited to, such things as proceeds derived from play on a slot machine/electronic gaming device and a wager, or series of wagers, placed at a table game. Where reasonably possible, the gaming licensee shall confiscate from the individual in a lawful manner, or shall notify a commission agent who shall confiscate, or shall refuse to pay any such winnings derived from gaming or any money or thing of value that the individual has converted or attempted to convert into a wagering instrument whether actually wagered or not. A wagering instrument shall include, but not be limited to, chips, tokens, prizes, non-complimentary pay vouchers, electronic credits on a slot machine/electronic gaming device, and vouchers representing electronic credits/TITO slips. The monetary value of the confiscated winnings and/or wagering instrument shall be paid to the commission for deposit into the Gaming Revenue Fund within 45 days;
- (b) If an individual wishes to contest the forfeiture of winnings or things of value, the individual may request a hearing in writing with the commission within 15 days of the date of the forfeiture. The request shall identify the reason why the winnings or things of value should not be forfeited. A hearing shall be conducted in accordance with 205 CMR 101.00:M.G.L. c. 23K Adjudicatory Proceedings to determine whether the subject funds were properly forfeited in accordance with 205 CMR 133.06(7)(a);
- (8) In cooperation with the commission, and where reasonably possible, the gaming licensee shall determine the amount wagered and lost by an individual who is prohibited from gaming. The monetary value of the losses shall be paid to the commission for deposit into the Gaming Revenue Fund within 45 days.

- (9) A gaming licensee shall submit a written policy for compliance with the voluntary self-exclusion program for commission approval at least 60 days before the gaming establishment opening. The commission shall review the plan for compliance with 205 CMR 133.00. If approved, the plan shall be implemented and followed by the gaming licensee. The plan for compliance with the voluntary self-exclusion program, shall include at a minimum procedures to:
- (a) Prevent employees from permitting an individual on the voluntary exclusion list from engaging in gambling activities at the gaming establishment;
 - (b) Identify and remove self-excluded individuals from the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed;
 - (c) Remove individuals on the self-exclusion list from marketing lists and refrain from sending or transmitting to them any advertisement, promotion, or other direct marketing mailing from the gaming establishment more than 30 days after receiving notice from commission that the individual has been placed on the voluntary self-exclusion list;
 - (d) Prevent an individual on the voluntary self-exclusion list from having access to credit, cashless wagering program access, or from receiving complimentary services, check-cashing services, junket participation and other benefits from the gaming establishment;
 - (e) Ensure the confidentiality of the identity and personal information of the voluntarily self-excluded individual;
 - (f) Training of employees relative to the voluntary self-exclusion program to be provided in conjunction with its problem gambling training program.
- (10) A gaming licensee shall notify the commission within ten days if an employee or agent fails to exclude or eject from its premises any individual on the list of self-excluded persons, or otherwise fails to perform a responsibility of the gaming establishment identified in 205 CMR 133.06 including any provision of its approved written policy for compliance with the voluntary self-exclusion program.

Regulation: 205 CMR 133.07. Sanctions Against a Gaming Licensee.

- (1) Grounds for Action. A gaming license may be conditioned, suspended, or revoked, and/or the gaming licensee assessed a civil administrative penalty if it is determined that a gaming licensee has:
- (a) knowingly or recklessly failed to exclude or eject from its premises any individual placed on the list of self-excluded persons. Provided, it shall not be deemed a knowing or reckless failure if an individual on the voluntary self-exclusion list shielded their identity or otherwise attempted to avoid identification while present at a gaming establishment; or

- (b) failed to abide by any provision of 205 CMR 133.00, M.G.L. c. 23K, § 45, the gaming licensee's approved written policy for compliance with the voluntary self-exclusion program pursuant to 205 CMR 133.06(9), or any law related to the voluntary self-exclusion of patrons in a gaming establishment. Provided, a gaming licensee shall be deemed to have marketed to an individual on the self-exclusion list only if marketing materials are sent directly to an address, email address, telephone number, or other contact identified by the individual on their application.
- (2) Finding and Decision. If the bureau finds that a gaming licensee has violated a provision of 205 CMR 133.07(1), it may issue a written notice of decision recommending that the commission suspend, revoke, and or condition said gaming licensee. Either in conjunction with or in lieu of such a recommendation, the bureau may issue a written notice assessing a civil administrative penalty upon said licensee. Such notices shall be provided in writing and contain a factual basis and the reasoning in support the decision including citation to the applicable statute(s) or regulation(s) that supports the decision.
- (3) Civil Administrative Penalties. The bureau may assess a civil administrative penalty on a gaming licensee in accordance with M.G.L. c. 23K, § 36 for a violation of 205 CMR 133.07(1).
- (4) Review of Decision. A recommendation made by the bureau to the commission that a gaming license be suspended or revoked shall proceed directly to the commission for review in accordance with 205 CMR 101.01:
- (5) Hearings before the Commission. If the gaming licensee is aggrieved by a decision made by the bureau to assess a civil administrative penalty in accordance with 205 CMR 133.07(2) and (3), it may request review of said decision in accordance with 205CMR 101.00: M.G.L. c. 23K Adjudicatory Proceedings.

Regulation: 205 CMR 133.08. Collection of Debts.

- (1) An individual who is prohibited from gaming in a gaming establishment under 205 CMR 133.00 shall not be entitled to recover losses as a result of prohibited gaming based solely on their inclusion on the list.
- (2) Nothing in 205 CMR 133.00 shall be construed so as to prohibit a gaming licensee from seeking payment of a debt from an individual whose name is on the voluntary self-exclusion list if the debt was accrued by the individual before their name was placed on the list.

MICHIGAN

Statute: MCL 432.225. Disassociated Persons.

1. The board shall create a list of disassociated persons. The board shall, with the assistance of casino licensees, inform each patron of the list of disassociated persons and explain how the patron may add his or her name to the list.
2. The board may add an individual's name to the list of disassociated persons if the individual has notified the board in writing of his or her pledge not to visit a casino in this state by filing an application for placement on the list of disassociated persons with the board.

3. The board shall create and make available an application for placement on the list of disassociated persons. The application shall include all of the following information about the individual who is applying:
 - a. Full name and all aliases.
 - b. Physical description including height, weight, hair and eye color, skin color, and any other noticeable physical characteristics.
 - c. Occupation.
 - d. Current home and work addresses and phone numbers.
 - e. Social security number.
 - f. Date of birth.
 - g. Statement that the individual believes he or she is a problem gambler and is seeking treatment.
 - h. A photograph suitable for the board and casino licensees to use to identify the individual,
 - i. Other information that the board considers necessary.
4. An individual's name shall be placed on the list of disassociated persons after all of the following have occurred:
 - a. The individual has submitted an application to be placed on the list of disassociated persons to the Michigan gaming control board.
 - b. The application has been verified by a representative of the board.
 - c. The individual has signed an affidavit in which he or she affirms that he or she wishes to be placed on the list of disassociated persons and authorizing the board to release the contents of his or her application to all casino licensees in this state.
 - d. The individual signs a form releasing the state of Michigan, the board, and the casino licensees from any injury the individual suffers as a consequence of placing his or her name on the list of disassociated persons.
 - e. The individual signs a form stating that he or she understands and authorizes all of the following:
 - i. That a criminal complaint for trespassing will be filed against him or her if he or she is found on the premises of a casino in this state and he or she will be immediately removed from the casino premises.
 - ii. That if he or she enters a casino and wins any money, the board will confiscate the winnings.

5. An individual who has his or her name placed on the list of disassociated persons shall remain on the list for the remainder of his or her life.
6. After an application has been submitted to the board, the chairperson of the board shall file a notice of placement on the list of disassociated persons with the board at the next closed session. Information contained in an application under subsection (4) is exempt from disclosure under section 4c of this act and is not open for public inspection. The information shall be disclosed to the board, each casino licensee in this state, the department of attorney general, and the department of state police.
7. The list of disassociated persons shall be provided to each casino licensee, the department of attorney general, and the department of state police.
8. Each casino licensee in this state shall submit to the board a plan for disseminating the information contained in the applications for placement on the list of disassociated persons. The board shall approve the plan. The plan shall be designed to safeguard the confidentiality of the information but shall include dissemination to all of the following:
 - (a) The general casino manager or the managerial employee who has responsibility over the entire casino operations.
 - (b) All security and surveillance personnel.
 - (c) The department of state police.
9. A casino licensee shall not extend credit, offer check cashing privileges, offer coupons, market its services, or send advertisements to, or otherwise solicit the patronage of, those persons whose names are on the list of disassociated persons.
10. The casino licensee shall keep a computer record of each individual whose name is on the list of disassociated persons. If a casino licensee identifies a person on the premises of a casino, the licensee shall immediately notify the board, a representative of the board, or a representative of the department of state police who is on the premises of the casino. After the licensee confirms that the individual has filed an affidavit under this section, the licensee shall do all of the following:
 - (a) Immediately remove the individual from the casino premises.
 - (b) Report the incident to the prosecutor for the county in which the casino is located.
11. A casino licensee who violates this act is subject to disciplinary action by the board.
12. The board shall promulgate rules to implement and administer this act.
13. An individual who has placed his or her name on the list of disassociated persons who enters a casino in this state is guilty of criminal trespassing punishable by imprisonment for not more than 1 year, a fine of not more than \$1,000.00, or both.

14. This act does not create any right or cause of action on behalf of the individual whose name is placed on the list of disassociated persons against the state of Michigan, the board, or a casino licensee.
15. Any winnings collected by the board under this act shall be deposited into the compulsive gaming prevention fund.

OHIO:

Statute: Ohio Rev. Code Ann. §3772.03. Authority of commission; adoption of rules.

(D) The commission shall adopt, and as advisable and necessary shall amend or repeal, rules that include all of the following:

(10) Establishing and implementing a voluntary exclusion program that provides all of the following:

- (a) Except as provided by commission rule, a person who participates in the program shall agree to refrain from entering a casino facility.
- (b) The name of a person participating in the program shall be included on a list of persons excluded from all casino facilities.
- (c) Except as provided by commission rule, no person who participates in the program shall petition the commission for admittance into a casino facility.
- (d) The list of persons participating in the program and the personal information of those persons shall be confidential and shall only be disseminated by the commission to a casino operator and the agents and employees of the casino operator for purposes of enforcement and to other entities, upon request of the participant and agreement by the commission.
- (e) A casino operator shall make all reasonable attempts as determined by the commission to cease all direct marketing efforts to a person participating in the program.
- (f) A casino operator shall not cash the check of a person participating in the program or extend credit to the person in any manner. However, the program shall not exclude a casino operator from seeking the payment of a debt accrued by a person before participating in the program.
- (g) Any and all locations at which a person may register as a participant in the program shall be published.

Regulation: Ohio Admin. Code §3772-10-10. Patron financial transactions at the cashier's cage.

(C) Before processing each financial transaction at the cashier's cage, the casino cashier shall verify the identity of the patron and ensure that the patron is not a part of the commission's voluntary or involuntary exclusion programs.

Regulation: Ohio Admin. Code §3772-12-01. Scope and purpose of the Ohio voluntary exclusion program.

(A) The purpose of this chapter is to help curtail compulsive and problem gambling in the state of Ohio by combining the voluntary exclusion program operated by the casino control commission, created pursuant to section 3772.03 of the Revised Code, with the voluntary exclusion program operated by the lottery commission, created pursuant to section 3770.03 of the Revised Code. As used in this chapter, the combined voluntary exclusion programs shall be referred to as the “Ohio voluntary exclusion program” or “Ohio VEP.” This chapter is to be read in tandem with Chapter 3770:2-8 of the Administrative Code.

(B) Participants in the Ohio VEP agree to exclude themselves from all casino facilities and all video lottery terminal facilities in the state of Ohio, collectively known as “excluded facilities.” Except as described in rule 3772-12-07 of the Administrative Code, no person shall be able to voluntarily exclude themselves from solely either the casino facilities or the video lottery terminal facilities.

(C) Nothing in this chapter shall prohibit participants in the Ohio VEP from entering an excluded facility for the purpose of carrying out the duties of their employment. Any such individual must submit notification of their employment in accordance with the procedure described on a prescribed form.

Regulation: Ohio Admin. Code §3772-12-02 Application for Ohio voluntary exclusion.

(A) An application to participate in the Ohio VEP is available for completion at all Ohio casino facilities and video lottery terminal facilities. If an individual is unable to appear in person at any of these facilities to complete an application, the individual may contact staff from the lottery commission or the casino control commission during regular business hours to make alternative arrangements to complete the application.

(B) All applications to join the Ohio VEP must be completed in the presence of either commission’s staff on a prescribed form. No application will be accepted if it was not completed in the presence of either commission’s staff.

(C) As part of the request for voluntary exclusion, the individual must select the duration of their participation in the Ohio VEP. An individual may select any of the following time periods as a length of exclusion:

- (1) A minimum of one year;
- (2) A minimum of five years; or
- (3) Lifetime, subject to paragraph (D) of rule 3772-12-05 of the Administrative Code.

(D) After receipt of a completed and unaltered application for the Ohio voluntary exclusion program, either commission’s staff shall ensure the individual is:

- (1) Voluntarily applying for exclusion;

- (2) Fully informed of the consequences of participation in the Ohio VEP; and
- (3) Able to confirm the information provided in the application.

(E) If, at any time while an individual is completing an application to join the Ohio VEP, they appear to be doing so involuntarily or while impaired, their application shall be rejected.

(F) After an individual's request for voluntary exclusion has been processed, delivery of written confirmation of their participation in the Ohio VEP will be attempted in the manner they requested on their application. Failure of delivery of the notification does not negate the individual's participation in the Ohio VEP.

Regulation: Ohio Admin. Code §3772-12-03. Responsibilities of voluntarily excluded individuals.

(A) Participants in the Ohio VEP agree to abide by all terms listed in the application for the Ohio voluntary exclusion program described in paragraph (B) of rule 3772-12-02 of the Administrative Code, including refraining from entering an excluded facility or otherwise participating or attempting to participate in any wagering activity offered at any of those facilities.

(B) Participants in the Ohio VEP who violate the terms of the VEP at a casino facility shall agree to surrender to the casino control commission any money or thing of value the individual has converted or attempted to convert into a wagering instrument for deposit in the state problem gambling and addictions fund.

(C) Participants in the Ohio VEP shall agree to forfeit all points or complimentaries earned by the individual on or before the date the individual completed their application for the Ohio voluntary exclusion program. However, if at the time the individual completed the application, the individual is owed a cash amount from an excluded facility, the individual still has the right to receive that amount from the facility, even after placement on the voluntary exclusion program. To the extent that complimentaries or points described above may be redeemed for cash under the facility's marketing program, the individual is entitled to receive that amount.

(D) A voluntarily excluded individual who violates the terms of the Ohio VEP by entering any of the excluded facilities may face charges for criminal trespass.

(E) The individual must remain a participant in the Ohio VEP for at least the minimum duration of their selected length of exclusion before they may request to be removed, subject to paragraph (D) rule 3772- 12-05 of the Administrative Code.

(F) An Ohio VEP participant may always request to increase their length of exclusion.

Regulation: Ohio Admin. Code §3772-12-04. Responsibilities of excluded facilities.

(A) This rule shall only apply to excluded facilities under the jurisdiction of the casino control commission. Each excluded facility shall maintain a system for indicating whether an individual is in the Ohio VEP and shall have approved procedures to update the system with changes in the enrollment status of those individuals at least once every seven days.

(B) The excluded facility shall immediately notify commission staff if an Ohio VEP participant is found on the premises of the facility. Within seventy-two hours of the incident, the facility shall provide to the applicable commission, in writing, the following:

- (1) The individual's name;
- (2) The individual's date of birth;
- (3) The circumstances of discovery of the individual's presence at the facility; and
- (4) The individual's gaming activity, if any.

(C) Each excluded facility shall comply with the compulsive and problem gambling plan established under rule 3772-12-06 of the Administrative Code.

(D) Nothing in this chapter shall prohibit an excluded facility or its employees and agents from seeking payment of a debt from an Ohio VEP participant if the debt was accrued prior to their placement in the Ohio VEP.

Regulation: Ohio Admin. Code §3772-12-05. Removal from the Ohio voluntary exclusion program.

(A) A participant in the Ohio VEP is not automatically removed from the program at the end of the applicable exclusion period.

(B) Upon reaching the selected minimum length of voluntary exclusion, an individual may request removal from the Ohio VEP.

(C) An individual may be removed from the one-year or five-year exclusion by requesting and completing an unaltered application for removal.

(D) An individual may be removed from the lifetime exclusion, if the individual has:

- (1) Remained in the Ohio VEP for at least five years;
- (2) Completed the Ohio VEP education program on problem gambling awareness;
- (3) Once the program described in paragraph (D)(2) of this rule is completed, undergo a problem gambling assessment with a medical or clinical professional qualified to treat gambling disorder. Such professional must have received problem gambling-specific training, undergone voluntary exclusion training offered by the state of Ohio at least once in the last twenty-four months, and include problem gambling in the scope of the professional's practice; and
- (4) Requested and completed an unaltered application for removal.

WEST VIRGINIA

Regulation: WV CSR § 179-8-126. Exclusion List; duty to exclude.

1. Entry into the casino shall be denied to any person who is excluded under this rule. If the Director places a person on the Commission's exclusion list, the person is prohibited from entering the casino until a determination is made by the Commission or a court to the contrary.
2. The casino licensee shall exclude or eject any excluded person from its premises if the casino licensee or the licensee's agents know or reasonably should know that the person is on the Commission's exclusion list.
3. The casino licensee shall inform the Commission, in writing, of the names of persons that it knows or should know who meet the criteria for placement on an exclusion list and the reason the person meets the exclusion criteria.
4. This rule does not preclude the casino licensee from ejecting or barring a person from its casino for reasons considered necessary by the licensee. The casino licensee may seek to have a person it has ejected or barred from its premises placed on the Commission exclusion list.

Regulation: WV CSR §179-8-127. Distribution and availability of exclusion lists.

1. The Commission shall maintain a list of persons to be ejected or excluded from the casino. The exclusion list is a public record. The list may be distributed to law enforcement agencies. All of the following information, to the extent known, shall be provided for each excluded person:
 - a. The person's full name and date of birth and all aliases;
 - b. A physical description of the person;
 - c. The effective date the person's name was placed on the exclusion list;
 - d. A photograph of the person, if available;
 - e. The person's occupation and current home and business addresses; and
 - f. Any other information considered necessary by the Director to facilitate identification of the person placed on the exclusion list.

Regulation: WV CSR 179-8-128. Criteria for exclusion and placement on exclusion list.

1. The Director may place a person on the exclusion list pending a hearing if any of the following provisions apply to the person:
 - (e) The person has realized that he or she has a compulsive gaming disorder and has requested in writing to be excluded from the casino and/or all of the state's four parimutuel racetracks.

Regulation: WV CSR § 179-8-129. Procedure for entry of names on exclusion list.

1. Upon a determination that a person comes under any of the criteria for exclusion, the person may be subject to exclusion and the Director shall file a notice of exclusion. The notice shall include all of the following information:
 - a. The identity of the person;
 - b. The nature and scope of the circumstances or reasons that the person should be placed on the exclusion list;
 - c. The names of potential witnesses; and
 - d. A recommendation as to whether the exclusion or ejection should be permanent. The notice shall also inform the person of the availability of a hearing before the Commission.

Restrictions on Alcohol Service

States may require casinos to limit alcoholic beverage service on the gaming floor, or to limit access to gambling services for patrons who are visibly intoxicated.

DELAWARE

Statute: 4 Del. C. § 706. Sale or service of alcoholic liquors to intoxicated person.

Any licensee, or employee of a licensee, or person in charge of a licensed premises shall refuse to sell or serve alcoholic liquors to any individual if such individual is intoxicated or appears to be intoxicated. Such licensee, employee of a licensee or person in charge of American Gaming Association 10 the licensed premises shall not be liable to any individual for damages claimed to arise from the refusal to sell alcoholic liquors if such refusal is based upon this section.

KANSAS: N/A

MARYLAND

Statute: Md. Code Ann., State Govt. Law, § 9-1A-24. Compliance.

- (b)(1) The county alcoholic beverages licensing authority for the county in which a video lottery facility is located shall ensure that the video lottery licensee complies with the 63 Responsible Gaming Regulations & Statutes requirements of this subsection. –
- (3) Any food or alcoholic beverages offered by a video lottery operation licensee for sale to individuals may be offered only at prices that are determined by the county alcoholic beverages licensing authority to be commensurate with the price of similar types of food and alcoholic beverages at restaurants in the county in which the video lottery facility is located.
- (c) A video lottery operation licensee shall ensure that intoxicated individuals and individuals under the age of 21 years are not allowed to play video lottery terminals or table games and

are not allowed in areas of the video lottery facility where video lottery terminals or table games are located.

MASSACHUSETTS

Regulation: 205 CMR 136.02. General Provisions.

- (1) No person may sell or distribute alcoholic beverages to be drunk on the premises of a gaming establishment except as allowed by a gaming beverage license. Alcoholic beverages served in a licensed area in accordance with the terms of a gaming beverage license may be consumed in any part of the premises of the gaming establishment subject to any restrictions or conditions placed on the gaming beverage license in the interest of the integrity of gaming and/or public health, welfare, or safety.

Regulation: 205 CMR 136.07: Practices and Conditions of License.

- (5) Postings. The gaming beverage licensee shall post in a location continuously conspicuous to the public within each licensed area and wherever alcoholic beverages are served:
 - (a) a copy of the licensed area addendum pursuant to 205 CMR 136.09(2) for the licensed area, and
 - (b) a summary of M.G.L. c. 90, § 24 prohibiting driving under the influence and stating the maximum penalties provided therefore.
- (7) Prohibited Distribution. A gaming beverage licensee, jointly responsible person, and their respective agents and employees, except as otherwise provided by 205 CMR 136.07:
 - (a) may not offer or deliver more than two drinks to one individual at a time (except that a bottle of wine may be served to one or more patrons);
 - (b) may not sell, offer to sell or deliver to any person an unlimited number of drinks during any set period of time for a fixed price (i.e. open bar), except at invitation-only private functions not open to the public;
 - (c) may not increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week;
 - (d) may not offer or deliver malt beverages or mixed drinks by the pitcher except to two or more persons at any one time;
 - (e) may not encourage or permit any game or contest which involves drinking alcoholic beverages or the awarding of alcoholic beverages as prizes;
 - (f) may not serve an alcoholic beverage to any person who is visibly intoxicated;
 - (g) may not serve an alcoholic beverage to any person who is younger than 21 years old; and

- (h) may not serve or distribute alcoholic beverages at the gaming establishment between 2:00 A.M. and 8:00 A.M.; and
- (i) may, with the commission's approval, serve alcoholic beverages between the hours of 2:00 A.M. and 4:00 A.M. to patrons of the gaming establishment who are actively engaged in gambling, as defined by M.G.L. c. 23K, § 2, in the gaming area. Such service shall be conducted in accordance with the procedures approved in accordance with 205 CMR 138.12.

Regulation: 205 CMR 138.12: Alcoholic Beverage Control.

A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include policies and procedures designed to ensure compliance with 205 CMR including, at a minimum, procedures designed to ensure proper training of employees involved in the service of alcoholic beverages, procedures designed to prevent serving alcoholic beverages to underage or visibly intoxicated individuals, procedures to ensure that visibly intoxicated or impaired patrons are not permitted to play slot machines or table games (as further detailed in 205 CMR 138.14), and procedures to ensure that alcohol is properly secured and stored. . If the gaming licensee intends to serve alcoholic beverages between the hours of 2:00 A.M. and 4:00 A.M., it shall include policies and procedures in its alcoholic beverage control submission designed to ensure that such service is only provided to patrons who are in the gaming area and actively engaged in gambling as defined by M.G.L. c. 23K, § 2.

MICHIGAN: N/A

OHIO: N/A

WEST VIRGINIA:

Statute: §29-22A-9. General duties of all video lottery license and permit holders; duties of permitted manufacturers; duties of permitted service technicians; duties of permitted validation managers; duties of floor attendants; duties of licensed racetracks.

(a) All video lottery license and permit holders shall:

- (7) Monitor video lottery terminals to prevent access to or play by persons who are under the age of eighteen years or who are visibly intoxicated.

Statute: W. Va. Code §29-22B-702. Additional duties of limited video lottery retailers.

In addition to the general duties imposed on all licensees in section 22B-701, a limited video lottery retailer shall:

- (8) Monitor video lottery terminals to prevent access to or play by persons who are under the age of twenty-one years or who are visibly intoxicated.

Statute: W. Va. Code §29-25-31. The specific video lottery duties required of the gaming facility.

The gaming facility licensee shall:

(g) Monitor video lottery terminals to prevent access to or play by persons who are under the age of twenty-one years or who are visibly intoxicated.

Employee Training

States may specify that casino employees should receive training on gambling disorder and/or RG practices. Some states require this training include instruction on the complex question of how to identify problem gamblers on the gaming floor.

DELAWARE

Statute: 29 Del. C. §4805. Director — Powers and duties.

(a) The Director shall have the power and the duty to operate and administer the state lottery and to promulgate such rules and regulations governing the establishment and operation of the lottery as the Director deems necessary and desirable in order that the lottery be initiated at the earliest feasible time and in order that the system shall produce the maximum amount of net revenues consonant with the dignity of the State and the general welfare of the people. The rules shall provide for all matters necessary or desirable for the efficient and economical operation and administration of the system and for the convenience of the purchasers of lottery tickets and the holders of winning tickets, and the players of all state lottery games including, but not limited to, the following:

(29) The regulations and procedures for the display and presentation of messages concerning responsible gaming and the regulations, procedures and training for identification of and assistance to compulsive gambler

MARYLAND: N/A

MASSACHUSETTS: N/A

MICHIGAN: N/A

OHIO: N/A

WEST VIRGINIA: N/A

Treatment and Research Funding

Some states earmark a percentage of their gaming revenues, and/or require a licensee to do the same, to support treatment for individuals with gambling disorder, education services concerning gambling disorder and RG practices, and/or related research.

DELAWARE

Statute: 29 Del. C. § 4815. Funding for treatment.

(c) Application of funds retained by the state lottery. The funds retained by the state lottery shall be applied as follows: first, to the administrative costs and expenses in respect of the video lottery including, but not limited to, administrative expenses including payroll and other employment costs attributable to the operation of the video lottery by the State Lottery Office, law-enforcement and security expenses, including payroll and other employment costs of the state lottery, the Office of the Attorney General and the Delaware State Police, attributable to the operation by the state lottery of a video lottery; second, \$1,000,000 or 1%, whichever is greater, of the proceeds returned to the State under this paragraph (b)(2), to the Division of Substance Abuse and Mental Health of the Department of Health and Social Services for funding programs for the treatment, education and assistance of compulsive gamblers and their families; third, costs of the Administrator of Racing and racing inspectors referenced in Chapters 100 and 101 of Title 3; fourth, the State's contribution to the Delaware Standardbred Breeder's Program and Delaware Certified Thoroughbred Program (DCTP); and fifth, the remainder shall be paid into the State's General Fund.

KANSAS

Statute: K.S.A. §74-8734. Lottery gaming facilities; gaming zones; gaming facility management contract requirements; privilege fees; revenue distribution; eminent domain prohibited.

(h) Any management contract approved by the commission under this section shall:

(13) include a provision for 2% of lottery gaming facility revenues to be paid to the problem gambling and addictions grant fund established by K.S.A. 2018 Supp. 79-4805, and amendments thereto.

Statute: K.S.A. §74-8747. Net electronic gaming machine income; distribution.

(a) Net electronic gaming machine income from a racetrack gaming facility shall be distributed as follows:

(6) 2% of net electronic gaming machine income shall be credited to the problem gambling and addictions grant fund established by K.S.A. 2018 Supp. 79-4805, and amendments thereto.

Statute: K.S.A. §79-4805. Problem gambling and addictions grant fund.

(a) There is hereby established in the state treasury the problem gambling and addictions grant fund. All moneys credited to such fund shall be used only for the awarding of grants under this section. Such fund shall be administered in accordance with this section and the provisions of appropriation acts.

(b) All expenditures from the problem gambling and addictions grant fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved in the manner prescribed by law.

(c)

(1) There is hereby established a state grant program to provide assistance for the direct treatment of persons diagnosed as suffering from pathological gambling and to provide funding for research regarding the impact of gambling on residents of Kansas. Research grants awarded under this section may include, but need not be limited to, grants for determining the effectiveness of education and prevention efforts on the prevalence of pathological gambling in Kansas. All grants shall be made after open solicitation of proposals and evaluation of proposals against criteria established in rules and regulations adopted by the secretary of the Kansas department for aging and disability services. Both public and private entities shall be eligible to apply for and receive grants under the provisions of this section.

(2) Moneys in the problem gambling and addictions grant fund may be used to treat alcoholism, drug abuse and other addictive behaviors.

(d) The secretary for aging and disability services is hereby authorized to receive moneys from any grants, gifts, contributions or bequests made for the purpose of funding grants under this section and to expend such moneys for the purpose for which received.

(e) All grants made in accordance with this section shall be made from the problem gambling and addictions grant fund. The secretary shall administer the provisions of this section and shall adopt rules and regulations establishing criteria for qualification to receive grants and such other matters deemed necessary by the secretary for the administration of this section. Such rules and regulations shall include, but need not be limited to, a requirement that each recipient of a grant to provide treatment for pathological gamblers report at least annually to the secretary the grantee's measurable achievement of specific outcome goals.

(f) For the purpose of this section "pathological gambling" means the disorder by that name described in the most recent edition of the diagnostic and statistical manual.

(g) On the effective date of this act the director of accounts and reports shall transfer all moneys in the problem gambling grant fund to the problem gambling and addictions grant fund. Thereupon the problem gambling grant fund shall be and is hereby abolished.

Statute: K.S.A. §79-4806. Transfers to problem gambling grant fund.

On July 1 of each year or as soon thereafter as sufficient moneys are available, \$80,000 credited to the state gaming revenues fund shall be transferred and credited to the problem gambling grant fund established by K.S.A. 2018 Supp. 79-4805, and amendments thereto.

MARYLAND

Statute: Md. Code Ann., State Govt. Law, § 9-1A-33. Problem Gambling Fund.

(a) Duties of Commission.

(1) The Commission shall:

- (i) establish an annual fee of \$ 425, to be paid by each video lottery operation licensee, for each video lottery terminal operated by the licensee during the year, based on the maximum number of terminal positions in use during the year; and
 - (ii) distribute the fees collected under item (i) of this paragraph to the Problem Gambling Fund established in subsection (b) of this section.
 - (2) The Commission may establish an annual fee of up to \$ 500 for each table game to be paid by each video lottery operation licensee and distributed to the Problem Gambling Fund under subsection (b) of this section in order to ensure sufficient funds are available to provide requested services.
- (b) Fund established. –
- (1)
 - (i) There is a Problem Gambling Fund in the Department of Health and Mental Hygiene.
 - (ii) The purpose of the Fund is primarily to provide funding for problem gambling treatment and prevention programs, including:
 - 1. inpatient and residential services;
 - 2. outpatient services;
 - 3. intensive outpatient services;
 - 4. continuing care services;
 - 5. educational services;
 - 6. services for victims of domestic violence; and
 - 7. other preventive or rehabilitative services or treatment.
 - (2) The Problem Gambling Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.
 - (3) Money in the Problem Gambling Fund shall be invested and reinvested by the Treasurer, and interest and earnings shall accrue to the Fund.
 - (4) Except as provided in paragraph (5) of this subsection, expenditures from the Problem Gambling Fund shall be made only by the Department of Health and Mental Hygiene to:
 - (i) establish a 24-hour hotline for compulsive and problem gamblers and to provide counseling and other support services for compulsive and problem gamblers; and
 - (ii) establish an outreach program for compulsive and problem gamblers, including individuals who requested placement on the voluntary exclusion list established by the Commission under § 9-1A-24 of this subtitle, for the purpose of participating in problem gambling treatment and prevention programs; and

- (iii) develop and implement free or reduced cost problem gambling treatment and prevention programs, including the programs established under Title 19, Subtitle 8 of the Health - General Article.
- (5) After satisfying the requirements of paragraph (4) of this subsection, any unspent funds American Gaming Association 64 in the Problem Gambling Fund may be expended by the Department of Health and Mental Hygiene on drug and other addiction treatment services.
- (6) Expenditures from the Problem Gambling Fund shall be made in accordance with an appropriation approved by the General Assembly in the annual State budget or by the budget amendment procedure provided for in § 7-209 of the State Finance and Procurement Article.

MASSACHUSETTS

Statute: M.G.L., Ch. 23K, § 56. Fees and annual assessment of costs not otherwise covered by fees or other sources of funding.

- (a) In addition to any other tax or fee imposed by this chapter, there shall be imposed an annual license fee of \$600 for each slot machine approved by the commission for use by a gaming licensee at a gaming establishment; provided, however, that not sooner than 5 years after award of an original gaming license, the commission may annually adjust the fee for inflation. The fee shall be imposed as of July 1 of each year for all approved slot machines on that date and shall be assessed on a pro rata basis for any slot machine approved for use thereafter.
- (b) The commission shall establish fees for any investigation into a violation of this chapter or regulation promulgated hereunder by a gaming licensee to be paid by the gaming licensee including, but not limited to, billable hours by commission staff involved in the investigation and the costs of services, equipment or other expenses that are incurred by the commission during the investigation.
- (c) Any remaining costs of the commission necessary to maintain regulatory control over gaming establishments that are not covered by:
 - (i) the fees set forth in subsections (a) and (b);
 - (ii) any other fees assessed under this chapter; or
 - (iii) any other designated sources of funding shall be assessed annually on gaming licensees under this chapter in proportion to the number of gaming positions at each gaming establishment. Each gaming licensee shall pay the amount assessed against it within 30 days after the date of the notice of assessment from the commission.
- (d) If the fees collected in subsections (a) and (b) exceed the cost required to maintain regulatory control, the surplus funds shall be credited in proportional shares against each gaming licensee's next assessment.
- (e) In addition to the fees collected under this section and any additional costs of the commission, the commission shall assess an annual fee of not less than \$5,000,000 in

proportional shares against each gaming licensee in proportion to the number of gaming positions at each gaming establishment for the costs of service and public health programs dedicated to addressing problems associated with compulsive gambling or other addiction services. Such assessed fees shall be deposited into the Public Health Trust Fund established in section 58.

- (f) All fees and assessments collected under this section, except those collected under subsection (e), shall be deposited into the Gaming Control Fund established in section 57.

Statute: M.G.L., Ch. 23K, § 58. Public Health Trust Fund.

There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Public Health Trust Fund. The fund shall consist of fees assessed under section 56 and all other monies credited or transferred to the fund from any other source under law. The secretary of health and human services shall be the trustee of the fund and

may only expend monies in the fund, without further appropriation, to assist social service and public health programs dedicated to addressing problems associated with compulsive gambling including, but not limited to, gambling prevention and addiction services, substance abuse services, educational campaigns to mitigate the potential addictive nature of gambling and any studies and evaluations necessary, including the annual research agenda under section 71, to ensure the proper and most effective strategies.

Statute: M.G.L., Ch. 23K, § 59. Gaming Revenue Fund.

There shall be established and set up on the books of the commonwealth a Gaming Revenue Fund which shall receive revenues collected from the tax on gross gaming revenue received from gaming licensees. The commission shall be the trustee of the fund and shall transfer monies in the fund as follows:

- (2) 100 per cent of the revenue received from a category 1 licensee shall be transferred as follows:

- (k) 5 per cent to the Public Health Trust Fund established in section 58.

Statute: M.G.L., Ch. 23K, § 71. Development of annual research agenda in furtherance of understanding the social and economic effects of expanded gaming in the commonwealth.

The commission, with the advice of the gaming policy advisory committee, shall develop an annual research agenda in order to understand the social and economic effects of expanding gaming in the commonwealth and to obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology and etiology of gambling. The secretary of health and human services, with the advice and consent of the commission, may expend funds from the Public Health Trust Fund established in section 58 to implement the objectives of the research agenda which shall include, but not be limited to:

- (1) a baseline study of the existing occurrence of problem gambling in the commonwealth; provided, however, that the study shall examine and describe the existing levels of problem gambling and the existing programs available that prevent and address the

- harmful consequences of problem gambling; provided further, that the commission shall contract with scientists and physicians to examine the current research as to the causes for problem gambling and the health effects of problem gambling and the treatment methods currently available in the commonwealth; provided further, that the commission shall report on the findings of the baseline study and provide recommendations to the house and senate committees on ways and means, the joint committee on economic development and emerging technologies, the joint committee on mental health and substance abuse and the joint committee on public health relative to methods to supplement or improve problem gambling prevention and treatment services;
- (2) comprehensive legal and factual studies of the social and economic impacts of gambling in the commonwealth on: (a) state, local and Indian tribal governments; and (b) communities and social institutions generally, including individuals, families and businesses within such communities and institutions; provided, however, that the matters to be examined in such studies shall include, but not be limited to:
- (i) a review of existing federal, state, local and Indian tribal government policies and practices with respect to the legalization or prohibition of gambling, including a review of the costs of such policies and practices;
 - (ii) an assessment of the relationship between gambling and levels of crime and of existing enforcement and regulatory practices intended to address any such relationship;
 - (iii) an assessment of pathological or problem gambling, including its impact on individuals, families, businesses, social institutions and the economy;
 - (iv) an assessment of the impact of gambling on individuals, families, businesses, social institutions and the economy generally, including the role of advertising in promoting gambling and the impact of gambling on depressed economic areas;
 - (v) an assessment of the extent to which gaming has provided revenues to other state, local and Indian tribal governments;
 - (vi) an assessment of the costs of added infrastructure, police force, increased unemployment, increased health care and dependency on public assistance;
 - (vii) an assessment of the impact of the development and operation of the gaming establishment on small businesses in host communities and surrounding communities, including a review of any economic harm experienced and potential solutions to mitigate associated economic harm; and
 - (viii) the costs of implementing this chapter.
- (3) individual studies conducted by academic institutions and individual researchers in the commonwealth to study topics which shall include, but not be limited to: (i) reward and aversion, neuroimaging and neuroscience in humans, addiction phenotype genotype research, gambling-based experimental psychology and mathematical modeling of reward-based decision making; (ii) the sociology and psychology of gambling behavior, gambling technology and marketing; and (iii) the epidemiology and etiology of gambling and problem gambling in the general population; provided, however, that

when contracting with researchers to study such issues, the commission shall encourage the collaboration among researchers in the commonwealth and other states and jurisdictions.

The commission and the committee shall annually make scientifically-based recommendations which reflect the results of this research to the house and senate committees on ways and means, the joint committee on economic development and emerging technologies, the joint committee on mental health and substance abuse and the joint committee on public health. The commission shall consider any such recommendations, research and findings in all decisions related to enhancing responsible gambling and mitigating problem gambling.

Regulation: 205 CMR 121.01. Licensing and Assessment Fees.

- (3) The following fees are due and payable to the commission for each gaming establishment:
 - (c) An annual fee, as provided by M.G.L. c. 23K, § 56(e) reflecting each gaming establishment's share of at least \$5,000,000 to be deposited into the Public Health Trust Fund in proportion to the number of gaming positions projected for the gaming establishment; provided, however, that such assessment may be adjusted by the commission at any time after payment is made where required to reflect the actual number of gaming positions at a gaming establishment, and accordingly, the payment of additional funds may be required or a credit may be issued towards the payment due the following year;
- (4) The fee required under 205 CMR 121.01(3)(c) shall be assessed on or about 30 days prior to the start of the commission fiscal year. The commission will assess this fee commencing with fiscal year 2016.
- (5) All license fees and assessments due to the commission shall be due and payable within 30 days of receipt of an invoice from the commission.
- (6) All license fees and assessments shall be submitted in the form of a certified check or secure electronic funds transfer payable to the "Massachusetts Gaming Commission."
- (7) In the event that a licensee fails to pay any fees or assessments as provided in 205 CMR 121.01, the commission may take any remedial action it deems necessary up to and including revocation of the gaming license.

MICHIGAN

Statute: MCL 432. 212a. Payment of regulatory and enforcement costs, programs, activities, and services; total annual assessment; state services fee fund.

- (1) In addition to application and license fees described in this act, compulsive gambling programs shall be paid by casino licensees as provided by this section.
- (2) The total annual assessment for the first year in which any casino licensee under this act begins operating a casino in this state shall be \$25,000,000.00.

- (3) The total annual assessment required under this subsection shall be adjusted each year by multiplying the annual assessment for the immediately preceding year by the Detroit consumer price index for the immediately preceding year. As used in this subsection, "Detroit consumer price index" means the annual consumer price index for Detroit consumers as defined and reported by the United States department of labor, bureau of labor statistics.
- (4) On or before the date the casino licensee begins operating the casino and annually on that date thereafter, each casino licensee shall pay to the state treasurer an equal share of the total annual assessment required under this section. In no event shall a casino's assessment exceed 1/3 of the total annual assessment required under this section.
- (5) From the amount collected under subsection (4) [annual casino assessment], \$2,000,000.00 shall be deposited in the compulsive gaming prevention fund.

Statute: MCL 432. 253. Compulsive gaming prevention fund; creation; disposition; distributions; investment; credit of interest and earnings; lapsed funds; fees for addiction treatment.

- (1) The compulsive gaming prevention fund is created within the department of treasury.
- (2) All of the following shall be deposited in the compulsive gaming prevention fund:
 - a. The money appropriated from the state services fee fund created under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432. 201 to 432. 216, for the compulsive gaming prevention fund.
 - b. A percentage of the net revenue in the state lottery fund created in section 41 of the McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL 432. 41, that is equal to not less than 10% of each year's state lottery advertising budget but not to exceed \$1,000,000.00.
 - c. A percentage of the Michigan agriculture equine industry development fund created in section 20 of the horse racing law of 1995, 1995 PA 279, MCL 431. 320, that is equal to 1/10 of 1% of the gross wagers made each year in each of the racetracks licensed under the horse racing law of 1995, 1995 PA 279, MCL 431. 301 to 431.336.
- (3) Of the funds available in the compulsive gaming prevention fund, up to \$1,040,000.00 may be distributed annually to the violence and treatment board created in section 2 of 1978 PA 389, MCL 400.1502. The remaining money in the compulsive gaming prevention fund shall be distributed as determined by the director of community health to be used exclusively for the treatment, prevention, education, training, research, and evaluation of pathological gamblers and their families and to fund the toll-free compulsive gaming helpline number.
- (4) Funds remaining in the compulsive gaming prevention fund at the close of the fiscal year shall remain in the compulsive gaming prevention fund and shall not lapse to the general fund.

- (5) Money remaining in the compulsive gaming prevention fund at the close of the fiscal year shall remain in the compulsive gaming prevention fund and shall not lapse to the general fund.
- (6) The department of community health may establish fees for the treatment of pathological gambling addictions.

Statute: MCL 432. 254. Distribution of funds; authorization; use.

- (1) If the director of the department of community health determines that the money in the compulsive gaming prevention fund is inadequate to fund the services, programs, or research required under this act, the Michigan gaming control board may assess a fee on each of the 3 casinos licensed under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432. 201 to 432. 216, that will equal the additional amount needed to adequately fund the services, programs, and research required under this act.
- (4) The director of the department of community health, after consulting with the racing commissioner, the commissioner of the state lottery, and the chairperson of the Michigan gaming control board, shall authorize the distribution of funds from the compulsive gaming prevention fund to be used exclusively for the treatment, prevention, education, training, research, and evaluation of pathological gamblers and their families.

Statute: MCL § 432. 255. Funding levels; changes; submission of results and recommendations; assessment of fee on casinos licensed under MCL §§432. 201 to 432. 216.

- (1) The results of funded studies and recommendations for any changes in funding levels shall be submitted to the racing commissioner, the commissioner of the state lottery, the chairperson of the Michigan gaming control board, the chairs of the senate and house committees on gaming issues, the senate and house of representatives appropriations committees and the director of the department of community health.
- (2) If the director of the department of community health determines that the money in the compulsive gaming prevention fund is inadequate to fund the services, programs, or research required under this act, the Michigan gaming control board may assess a fee on each of the 3 casinos licensed under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.216, that will equal the additional amount needed to adequately fund the services, programs, and research required under this act.

Statute: MCL 432. 256. Public funds for treatment of pathological gamblers; legislative intent.

It is the intent of the legislature to preserve the funds appropriated for the department of community health for the treatment of individuals pursuant to the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106. Therefore, public funds for the treatment of pathological gamblers shall be taken exclusively from the compulsive gaming prevention fund.

OHIO

Ohio Constitution, Article XV, Section 6(C).

- (g) Two percent of the tax on gross casino revenue shall be distributed to a state problem gambling and addictions fund which shall be used for the treatment of problem gambling and substance abuse, and related research.

Statute: Ohio Rev. Code Ann. § 3793.032. Problem casino gambling and addictions fund; administration.

The director of alcohol and drug addiction services shall administer the problem casino gambling and addictions fund. The director shall use the money in the fund to support programs that provide gambling addiction services, alcohol and drug addiction programs that provide alcohol and drug addiction services, other programs that relate to gambling addiction and substance abuse, and research that relates to gambling addiction and substance abuse. Treatment services provided under programs supported by money in the fund under this section shall be services that are provided by alcohol and drug addiction treatment programs certified by the department of alcohol and drug addiction services or provided by counselors who are certified by the department. Prevention services provided under programs supported by money in the fund under this section shall be services that are provided by alcohol and drug addiction prevention programs certified by the department of alcohol and drug addiction services.

Statute: 5119.47 Problem casino gambling and addictions fund; administration.

The director of mental health and addiction services shall administer the problem casino gambling and addictions fund. The director shall use the money in the fund to support gambling addiction services, alcohol and drug addiction services, other services that relate to gambling addiction and substance abuse, and research that relates to gambling addiction and substance abuse. Treatment and prevention services supported by money in the fund under this section shall be services that are certified by the department of mental health and addiction services.

The director shall prepare an annual report describing the use of the fund for these purposes. The director shall submit the report to the Ohio casino control commission, the speaker and minority leader of the house of representatives, the president and minority leader of the senate, and the governor.

WEST VIRGINIA

Statute: W. Va. Code 29-22A-19. Compulsive gambling treatment fund.

- (a) There is hereby created and established a separate special account to be known as the “Compulsive Gambling Treatment Fund”. The fund shall be appropriated from the Commission’s administrative expense account and shall be not less than one hundred fifty thousand dollars nor more than five hundred thousand dollars per fiscal year, as determined by the Commission, as well as other amounts designated for in this chapter to provide funds for compulsive gambling treatment programs in the state.
- (b) The Department of Health and Human Resources shall administer the grants and funds issued from the “Compulsive Gambling Treatment Fund”.

- (k) Once any contract to render services under a compulsive gambling treatment program is awarded pursuant to this section, the contract shall be administrated by the Department of Health and Human Resources and the department shall maintain all records pertaining to each request for reimbursement and disbursement for under said contract for a minimum of five (5) years.
- (l) The contractor may prominently promote, display or advertise the Compulsive Gambler's Treatment Program, its purpose, its hotline, or its program events in any location in which the Lottery Commission promotes, displays advertises or conducts its operations or in any other location: Provided, That the Lottery Commission's name, logo or other indicia may not appear on any advertising, marketing or promotional material of the contractor

Statute: W. Va. Code 29-22B-1408. Distribution of state's share of gross terminal income.

- (a) The state's share of gross terminal income is calculated as follows:
 - 1. From this amount, not less than one hundred fifty thousand dollars nor more than one million dollars per fiscal year, as determined by the commission each year, shall be transferred to the compulsive gambling treatment fund created in section 29-22A-19 of this chapter. In the event that the percentage allotted under this subsection for the commission's costs and expenses incurred in administering this article generates a surplus, the surplus shall be allowed to accumulate to an amount not to exceed two hundred fifty thousand dollars.

Statute: W. Va. Code 29-22C-27. West Virginia Lottery Racetrack Table Games Fund; Community-Based Service Fund; State Debt Reduction Fund; distribution of funds.

- (g) All expenses of the commission incurred in the administration and enforcement of this article shall be paid from the Racetrack Table Games Fund, including reimbursement of state law-enforcement agencies for services performed at the request of the commission pursuant to this article. . . . From this allowance, the commission shall transfer at least \$100,000 but not more than \$500,000 into the Compulsive Gambling Treatment Fund created in section nineteen, article twenty-two-a of this chapter.

Information on Risks and Resources

States may require that casinos post signs and/or offer brochures identifying the risks of gambling, signs of gambling disorder, the odds of casino games and/or toll-free phone numbers and other resources for assistance.

DELAWARE:

Statute: 29 Del. C. §4826. Internet lottery.

- (d) The Director shall cause each Internet site on which the Internet lottery is conducted to include an advertisement for and link to additional information for services for the treatment, education and assistance of compulsive gamblers and their families.

Regulation: 10 Del. Admin. Code 204-6.0. Agents Duties.

6.1 The following duties are required of all agents:

6.1.13 Conduct agency approved advertising and promotional activities related to sports lottery operations.

6.1.14 Install, post and display prominently at locations within or about the premises signs, redemption information and other promotional material as may be required by the agency.

KANSAS:

Regulation: K.A.R. §112-101-10. Advertising; promotion of responsible gaming.

(e) Each on-site advertisement of a facility manager's business shall comply with the facility manager's responsible gaming plan that has been approved by the commission pursuant to article 112. Each advertisement shall reference the Kansas toll-free problem gambling help line in a manner approved by the executive director.

MARYLAND

Regulation: COMAR 36.03.06.03. Requirements.

A. Definitions.

- (1) In this regulation the following terms have the meaning indicated.
- (2) Terms Defined.

(a) "Advertisement" means any material that is:

- (i) Disseminated to the public through broadcasting, publication, mail, or any other means; and
- (ii) Intended to encourage video lottery terminal or table game play.

(b) "Billboard advertisement" means a roadside sign, aviation banner, or event banner that is intended to encourage video lottery terminal or table game play.

(c) "Gambling assistance message" means a phrase approved by the Commission to encourage responsible play;

(d) "Printed advertisement" means an advertisement that appears in or on a sign, direct mailing, poster, brochure or other written material and is intended to encourage video lottery terminal or table game play.

(e) "Responsible gambling awareness materials" means a sticker, a brochure, a wallet card, or other material that conveys only problem gambling resource information.

(f) "Underage warning message" means the phrase: "No patron under the age of 21 is permitted on the casino floor".

B. A facility operator shall:

1. Post signage approved by the Commission that prominently bears the gambling assistance message and the underage warning message at each customer entrance to the gaming floor;
2. Include the gambling assistance message on an advertisement that is intended to encourage video lottery terminal play at its facility;
3. Ensure that a printed advertisement bears the gambling assistance message and meets requirements of COMAR 36.03.03.08;
4. Ensure that a billboard bearing a printed advertisement bears the gambling assistance message and meets requirements of COMAR 36.03.03.08;
5. Ensure that a radio, television, or video advertisement bears the gambling assistance message and meets requirements of COMAR 36.03.03.08;
6. Ensure that the gambling assistance message is printed on a paper product that is associated with player consumption of food or beverage if the paper product is: a. Special ordered; and b. Branded with the facility's logo;
7. Ensure that the gambling assistance message is printed on ticket stock; and
8. Shall place in the facility responsible gambling awareness materials according to its responsible gaming plan required under Regulation .02 of this chapter.

MASSACHUSETTS

Statute: M.G.L., Ch. 23K, § 21. Form of gaming license and condition for licensees.

- (a) The commission shall prescribe the form of the gaming license, which shall include, but not be limited to, the following license conditions for each licensee. The licensee shall:
 - (17) keep conspicuously posted in the gaming area a notice containing the name and a telephone number for problem gambling assistance; provided, however, that the commission may require the gaming licensee to provide this information in more than 1 language.

MICHIGAN

Statute: MCL 432. 209c: Toll-free compulsive gaming helpline number.

- (1) A person who holds a casino license issued pursuant to this act shall conspicuously post at each entrance and exit of the casino, on each electronic funds transfer terminal, and at each credit location a visually prominent sign on which is printed a toll-free compulsive gaming helpline number.

OHIO:

Regulation: Ohio Admin. Code §3772-13-02. Advertising; promotion of responsible gaming.

(B) Each advertisement shall, clearly and conspicuously, state the problem gambling hotline number established under section 3772.062 of the Revised Code.

WEST VIRGINIA:

Statute: W. Va Code §29-22B-907. Display of information on terminal face or screen.

(4) A label prominently displaying information on how to locate and contact persons or organizations available for help, assistance or treatment for persons who may have a gambling addiction, together with the telephone number “1-800-GAMBLER.”

Statute: W. Va. Code §29-22E-4. Commission duties and powers.

(1) Rules promulgated by the commission may include, but are not limited to, those governing the acceptance of wagers on interactive games; maximum wagers which may be accepted by an operator from any one patron on any one interactive game; method of accounting to be used by operators; types of records which shall be kept; use of credit and checks by patrons; type of system for wagering; protections for patrons placing wagers; and promotion of social responsibility, responsible gaming, and inclusion of the statement, “If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER”, in every designated area approved for interactive wagering and on any mobile application or other digital platform used to place wagers.

Regulation: WV CSR §179-9-13. Additional requirements for wagers placed on mobile applications and other digital platforms [online sports pools].

13.4. Each online sports pool website or mobile application shall display a responsible gaming logo in a manner approved by the Lottery to direct a patron to the site’s responsible gaming page. The responsible gaming page shall be accessible to a patron during a patron session and shall contain, at a minimum, the following:

13.4.1 A prominent message, which states “If you or someone you know has a gambling problem and wants help, call 1-800-Gambler”;

13.4.2 A direct link to the Problem Gamblers Help Network of West Virginia and one other organization based in the United States dedicated to helping people with potential gambling problems;

13.4.3 A clear statement of the online sports pool operator’s policy and commitment to responsible gaming;

13.4.4 Rules governing self-imposed responsible gaming limits and the ability for the patron to establish those limits.

Advertising Restrictions

States may require that casino advertising (in print, on billboards, or on electronic media) include an RG message, including a toll-free helpline number.

DELAWARE:

Regulation: 10 Del. Admin. Code 204-6.0. Agents Duties.

6.1 The following duties are required of all agents:

6.1.13 Conduct agency approved advertising and promotional activities related to sports lottery operations.

6.1.14 Install, post and display prominently at locations within or about the premises signs, redemption information and other promotional material as may be required by the agency.

Regulation: 10 Del. Admin. Code 204-10.0. Standards for Advertising, Marketing and Promotional Materials.

10.1 All advertising, marketing and promotional materials, related to the sports lottery or referencing the sports lottery, to be utilized by an agent or person acting on behalf of the agent shall be submitted to the agency for review and approval prior to use, except that such materials need not be submitted for review and approval if identical materials have been previously submitted and approved. Materials are not identical for purposes of this provision if they vary in any respect, such as in the size of a billboard.

10.2 The agency shall review any materials submitted pursuant to this section and approve their use unless in the judgment of the agency such materials, if used, would result in an appearance which reflects adversely on the agency, would reasonably be expected to offend a substantial number of people, contain inaccurate or misleading information, or otherwise be inappropriate.

KANSAS

Regulation: K.A.R. §112-101-10. Advertising; promotion of responsible gaming.

(e) Each on-site advertisement of a facility manager's business shall comply with the facility manager's responsible gaming plan that has been approved by the commission pursuant to article 112. Each advertisement shall reference the Kansas toll-free problem gambling help line in a manner approved by the executive director.

MARYLAND

Regulation: COMAR 36.03.06.03. Requirements.

C. A facility operator shall:

3. Ensure that a printed advertisement bears the gambling assistance message and meets requirements of COMAR 14.01.11.08;

4. Ensure that a billboard bearing a printed advertisement bears the gambling assistance message and meets requirements of COMAR 14.01.11.08;

5. Ensure that a radio, television or video advertisement bears the gambling assistance message and meets requirements of COMAR 4.01.11.08;

MASSACHUSETTS:

Statute: M.G.L. Ch.23K, §21. Form of gaming license and condition for licensees.

(a) The commission shall prescribe the form of the gaming license, which shall include, but not be limited to, the following license conditions for each licensee. The licensee shall:

- (18) provide a process for individuals to exclude their names and contact information from the gaming licensee's database or any other list held by the gaming licensee for use in marketing or promotional communications.

MICHIGAN

Statute: MCL 432. 209c: Toll-free compulsive gaming helpline number.

- (2) A person who holds a casino license shall include a toll-free compulsive gaming helpline number on all of its printed advertisement and promotional materials.

OHIO:

Regulation: Ohio Admin. Code §3772-13-02. Advertising; promotion of responsible gaming.

- (B) Each advertisement shall, clearly and conspicuously, state the problem gambling hotline number established under section 3772.062 of the Revised Code.

WEST VIRGINIA:

Statute: W. Va Code §29-22B-907. Display of information on terminal face or screen.

- (4) A label prominently displaying information on how to locate and contact persons or organizations available for help, assistance or treatment for persons who may have a gambling addiction, together with the telephone number "1-800-GAMBLER."

Statute: W. Va. Code §29-22E-4. Commission duties and powers.

- (1) Rules promulgated by the commission may include, but are not limited to, those governing the acceptance of wagers on interactive games; maximum wagers which may be accepted by an operator from any one patron on any one interactive game; method of accounting to be used by operators; types of records which shall be kept; use of credit and checks by patrons; type of system for wagering; protections for patrons placing wagers; and promotion of social responsibility, responsible gaming, and inclusion of the statement, "If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER", in every designated area approved for interactive wagering and on any mobile application or other digital platform used to place wagers.

Regulation: WV CSR §179-9-13. Additional requirements for wagers placed on mobile applications and other digital platforms [online sports pools].

13.4. Each online sports pool website or mobile application shall display a responsible gaming logo in a manner approved by the Lottery to direct a patron to the site's responsible gaming page. The responsible gaming page shall be accessible to a patron during a patron session and shall contain, at a minimum, the following:

13.4.1 A prominent message, which states "If you or someone you know has a gambling problem and wants help, call 1-800-Gambler";

13.4.2 A direct link to the Problem Gamblers Help Network of West Virginia and one other organization based in the United States dedicated to helping people with potential gambling problems;

13.4.3 A clear statement of the online sports pool operator's policy and commitment to responsible gaming;

13.4.4 Rules governing self-imposed responsible gaming limits and the ability for the patron to establish those limits.

Casino Credit Restrictions

Some state laws aim to protect patrons from betting more than they can afford to lose by banning casinos from offering credit advances.

DELAWARE

Regulation: 10 Del. Admin. Code 204- 6.0. Agents Duties.

6.1 The following duties are required of all agents:

6.1.10 Exercise caution and good judgment in extending credit for sports lottery play if the agent is a licensed video lottery agent authorized to extend such credit and comply with all applicable federal and state laws

KANSAS

Statute: K.S.A. §74-8756. Wager, loan and credit restrictions; criminal penalties.

(a) Wagers shall be received only from a person at the location where the electronic gaming machine or lottery facility game is authorized pursuant to the Kansas expanded lottery act. No person present at such location shall place or attempt to place a wager on behalf of another person who is not present at such location.

(b) No employee or contractor of, or other person who has any legal affiliation with, a racetrack gaming facility manager shall loan money to or otherwise extend credit to patrons of the parimutuel licensee.

(c) No employee or contractor of, or other person who has any legal affiliation with, a lottery gaming facility manager shall loan money to or otherwise extend credit to patrons of a lottery gaming facility.

(d) Violation of this section is a class A nonperson misdemeanor upon a conviction for a first offense. Violation of this section is a severity level 9, nonperson felony upon conviction for a second or subsequent offense.

MARYLAND

Regulation: COMAR 36.03.10.24. Credit Authorization.

B. A facility operator may not extend a line of credit to a player to enable the player to take part in gaming which exceeds the player's authorized credit limit.

MASSACHUSETTS

Statute: M.G.L. Ch. 23K, § 27. Issuance of credit by gaming licensee to patron of a gaming establishment.

(g) A person may petition the commission to place the person's name on a list of persons to whom the extension of credit by a gaming establishment shall be prohibited. Any person filing such petition shall submit to the commission the person's name, address and date of birth. The person shall not be required to provide a reason for the request. The commission shall provide this list to the credit department of each gaming establishment; provided, however, that neither the commission nor the credit department of a gaming establishment shall divulge the names on this list to any person or entity other than those provided for in this subsection. If such a person wishes to have their name removed from the list, the person shall petition the commission in accordance with procedures for removal set forth by the commission. If the commission approves the request, the commission shall so inform the credit department of the gaming establishments not later than 7 days after approving the request.

Regulation: 205 CMR 138.43. Procedures for Establishing Patron Credit Accounts, and Recording Checks Exchanged, Redeemed or Consolidated.

- (1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a description of its policies and procedures governing the issuance of credit to a patron to take part in gaming activity at its gaming establishment. A gaming licensee's policies and procedures governing the issuance of credit shall ensure at a minimum that:
 - (b) Credit is not extended to an individual in an amount beyond that which the information reviewed demonstrates that they have a reasonable ability to repay;
 - (c) Credit will only be extended to patrons who the gaming licensee determines qualify for a minimum threshold of \$10,000.00 and will not exceed the amount requested by the patron;
 - (d) Credit will not be offered to any individual who self-identifies as a problem gambler during the credit application process, places themselves on a voluntary credit suspension list in accordance with 205 CMR 138.44, or is on public assistance;

- (e) Credit requests, including increases, will not be accepted from or granted to patrons who are visibly intoxicated or exhibiting behaviors suggestive of impaired mental competency;
 - (f) Credit applications require patrons to acknowledge that they have reviewed a problem gambling self-assessment and indicate a desire to proceed with the process
 - (g) Credit officers will obtain verbal verification from credit applicants that they are comfortable losing up to the amount of credit requested and granted.
- (2) In addition to the provisions required in accordance with 205 CMR 138.43(1), the policies and procedures governing the issuance of credit shall contain provisions including, but not limited to, the following:
- (a) The creation of a credit file for each patron shall be prepared by a general cage cashier or credit department representative with no incompatible functions prior to the gaming licensee's approval of a patron's credit limit. All patron credit limits and changes thereto shall be supported by the information contained in the credit file. Such file shall contain a credit application form:

(10). Prior to processing a gaming patron's credit application, a gaming licensee shall clearly and conspicuously provide the patron with the following disclosures on a piece of paper separate and apart from the credit application and any related documents; provided that each statement shall be separately signed, dated, and acknowledged by said patron. Upon signing said disclosures, a copy shall be provided to the gaming patron.

- (a) "You are applying for a credit extension from [name of gaming licensee], facilitated through a personal check or counter check (also known as a 'marker') on your bank account. If you fail to repay [name of gaming licensee] by [the date specified in this agreement], [name of gaming licensee] will attempt to recover the amount identified on the personal check or 'marker' from your bank account (by date marker will be deposited with the bank) or thereafter. If there are insufficient funds in your account, [name of gaming licensee] may initiate debt collection proceedings against you. Failure to timely repay your debt to [name of gaming licensee] may result in legal consequences, and will likely have a negative effect on your credit."
- (b) "If you are concerned that you may have difficulty managing your gambling, or wish for any reason to exclude yourself from receiving credit from a gaming establishment in Massachusetts, you may add yourself to the gaming credit suspension list. Massachusetts gaming establishments are prohibited from providing credit to individuals appearing on this list. To sign up for the list, please visit www.massgaming.com or call 1-800-426-1234."
- (c) Prior to the gaming licensee's approval of the patron's credit limit, a general cage cashier or credit department representative with no ability to grant credit or

credit limit increases shall perform the following in a commercially reasonable manner and document the patron's file accordingly:

(5) Verify that the patron's name is not designated on the list of individuals who have voluntarily requested suspension of credit privileges pursuant to 205 CMR 138.44 or placed their name on the voluntary self-exclusion list pursuant to 205 CMR 133.00: Voluntary Self-exclusion.

- (i) The gaming licensee's credit department shall verify the patron's address, current casino credit limits and outstanding balances, outstanding indebtedness, checking account information, confirm that the patron is not on the list of patrons who have requested suspension of their credit privileges, and confirm that the patron is not on the list of patrons who have placed themselves on the voluntary self-exclusion list, as required by 205 CMR 138.43(2)(c)1. through 5. prior to the issuance of a counter check to a patron whose credit file has been inactive for a six month period.

Regulation: 205 CMR 138.44. Patron Request for Suspension of Credit Privileges.

- (1) Any person may voluntarily suspend his or her credit privileges at all gaming establishments by submitting a written request to the commission in accordance with 205 CMR 138.44. Such requests shall be submitted to a designated agent as described in accordance with 205 CMR 138.44(3) or mailed to a designated address with a notarized signature in accordance with 205 CMR 138.44(2)(h). An individual requesting suspension of credit privileges shall present a valid government issued photo identification.
- (2) A request for suspension of credit privileges shall be submitted on a form prescribed by the commission, which shall include the following:
 - (a) The name of the person requesting suspension of credit privileges;
 - (b) The address of the person's residence;
 - (c) The person's date of birth;
 - (d) The name of each gaming establishment where the person currently has an approved line of credit;
 - (e) The duration for which they wish to have their credit privileges suspended. An individual may select any of the following time periods as a minimum length of suspension:
 - 1. Six months;
 - 2. One year;
 - 3. Three years;
 - 4. Five years; or
 - 5. Lifetime.

- (f) The signature of the person requesting suspension of credit privileges acknowledging the following statement: “I certify that the information which I have provided above is true and accurate. I am aware that my signature below authorizes the Massachusetts Gaming Commission to direct all Massachusetts gaming licensees to suspend my credit privileges for a minimum period of six months from the date of this request and indefinitely thereafter, until such time as I submit a written request to the Commission for the reinstatement of any such credit privileges.”;
 - (g) If the request for suspension of credit privileges is made in person:
 - 1. The type of government issued photo identification examined; and
 - 2. The signature of the designated agent indicating that the signature of the person requesting suspension of credit privileges appears to agree with that contained on his or her government issued photo identification and that the photograph of the person appears to agree with his or her actual appearance; and
 - 3. If the request for suspension of credit privileges is made by mail, a certificate of acknowledgement executed by a notary public or other person empowered by law to take oaths attesting to the identity of the person who is making the request for suspension of credit privileges.
- (3) (a) An application for suspension of credit privileges made in person may only be accepted by a designated agent. An individual may only become a designated agent by successfully completing a course of training approved and administered by the commission or its designee. The course of training shall include, at a minimum, instruction on completion of the application, information relative to problem gambling and available resources, and an understanding of 205 CMR 138.40 through 138.46. A designated agent must be a licensed, certified, or registered health or mental health professional or employee thereof, or an employee of a gaming licensee, the commission, or other government entity. The commission may refuse to offer training to any individual whose service as a designated agent it determines would be contrary to the aims of 205 CMR 138.40 through 138.46.
- (b) Upon submission of an application, a designated agent shall review the application with the applicant. If the application is complete, the designated agent shall sign the application indicating that the review has been performed and the application has been accepted.
 - (c) A designated agent may not sign an application if any required information is not provided.
 - (d) The designated agent shall forward the signed application for suspension of credit to the commission within 24 hours of completion in a manner directed by the commission.
 - (e) Upon receipt of an application, the commission, or its designee, shall review it for completeness. If the application meets all requirements of 205 CMR 138.40 through

138.46 the application shall be approved, and the individual's name shall be added to the credit suspension list. If the application is incomplete, the commission, or its designee, may deny the application and make efforts to contact the applicant advising them of such.

- (f) In addition to 205 CMR 138.44(3)(d), if an application is made in person at a gaming establishment, the designated agent shall promptly transmit a completed application to the gaming licensee's credit department such that any existing credit line for that individual may be immediately suspended and that no new credit may be extended.
- (4) The commission shall maintain an updated master list of all persons who have requested suspension of credit privileges pursuant to 205 CMR 138.44, and shall update the master list in the database.
- (a) Each gaming licensee shall suspend the credit privileges of any listed individual, promptly upon receipt of notice that such individual's name has been added to the list.
 - (b) Each gaming licensee shall note any suspension or reinstatement of credit privileges pursuant to 205 CMR 138.44 in any existing credit file for the affected patron, including the following:
 - 1. A copy of any applicable commission notice of the suspension or reinstatement of credit privileges;
 - 2. The date, time and signature of the credit department representative making the suspension or reinstatement entry in the credit file.
- (5) Any person whose credit privileges have been suspended pursuant to 205 CMR 138.44 may, no sooner than six months after the request for suspension of credit privileges, request reinstatement of his or her credit privileges by submitting a written request to the commission in accordance with the procedures specified in 205 CMR 138.44(1).
- (a) Such request shall be in a form prescribed by the commission, which shall include the following:
 - 1. The information specified in 205 CMR 138.44; and
 - 2. The signature of the person requesting reinstatement of credit privileges, indicating acknowledgement of the following statement: "I certify that the information which I have provided above is true and accurate. I am aware that my signature below constitutes a revocation of my previous request for suspension of credit privileges, and authorizes the Massachusetts Gaming Commission to permit any Massachusetts gaming licensee to reinstate my credit privileges."
 - (b) The commission shall remove such individual's name from the list established pursuant to 205 CMR 138.44, and update the master list in the database within seven days of receipt of the request.

(c) Upon receipt of notice that such individual's name has been removed from the list, a gaming licensee may reinstate such person's credit upon re-verification of the information required by 205 CMR 138.43(2)(c)1. through 4. or may extend credit to such person in accordance with the procedures set forth in 205 CMR 138.43.

(6) Information furnished to or obtained by the commission pursuant to 205 CMR 138.44 shall be securely maintained. No gaming licensee shall divulge any information relative to the placement of an individual's name on the master list other than to authorized credit department employees at the gaming establishment or to an authorized commission employee.

MICHIGAN

Statute: MCL 432-225. Disassociated persons.

(9) A casino licensee shall not extend credit to those persons whose names are on the list of disassociated persons.

OHIO:

Statute: Ohio Rev. Code Ann. §3772.23. Purchase of tokens, chips, or electronic cards; promotional gaming credits; prohibited licenses.

(C) Casino operators and management companies shall not do any of the following:

(2) Obtain a license to provide loans under sections 1321.01 to 1321.19 [Small Loans] of the Revised Code;

(3) Obtain a license to provide loans under sections 1321.35 to 1321.48 [Short-term lenders] of the Revised Code.

WEST VIRGINIA:

Regulation: W CSR §179-8-113. Credit extension procedures; establishment of procedures.

113.1 The casino licensee may extend credit to a patron only in the manner provided in its credit procedure approved by the Commission. The casino licensee is responsible for establishing policies and procedures to extend credit to patrons. The policies and procedures shall provide that each credit transaction is promptly and accurately recorded.

Restrictions on Financial Instruments

States may specify that casinos may not accept government issued checks or stored-value cards that represent public benefits, paychecks, ATM transactions or credit and debit cards.

DELAWARE: N/A

KANSAS: N/A

MARYLAND

Statute: Md. Code Ann., State Govt. Law, § 9-1A-24. Compliance.

- (f) Provisions to be included in regulations. -- In order to protect the public interest, the regulations shall include provisions that:
 - (1) limit the number and location of and maximum withdrawal amounts from automated teller machines;
 - (2) prohibit authorized automated teller machines from accepting electronic benefit cards, debit cards, or similar negotiable instruments issued by the Department of Human Resources for the purpose of accessing temporary cash assistance;
 - (3) require payouts above an amount adopted by the Commission to be made by check;
 - (4) require conspicuous disclosures related to the payout of video lottery terminals;
 - (5) limit the dollar amount that video lottery terminals will accept;
 - (6) prohibit the use of specified negotiable instruments at video lottery facilities and the use of credit cards, debit cards, and similar devices in video lottery terminals;
 - (7) provide consumers with a record of video lottery terminal spending levels if marketing measures are utilized that track consumer spending at video lottery facilities;
 - (8) prohibit consumers from cashing paychecks at video lottery facilities; and
 - (9) prohibit video lottery operation licensees from engaging in or contracting with another to engage in predatory marketing practices.

MASSACHUSETTS

Statute: M.G.L. Ch. 23K, § 27. Issuance of credit by gaming licensee to patron of a gaming establishment.

- (f) The commission shall, in consultation with the department of transitional assistance, the department of labor and workforce development, the department of housing and community development or the applicable administering agency, establish by regulation procedures and standards to prohibit a gaming establishment or any person acting on behalf of a gaming establishment from:
 - (i) cashing a government-issued check;
 - (ii) from operating on its premises any credit card or automated teller machine that would allow a patron to obtain cash from a government-issued electronic benefits transfer card; and
 - (iii) from extending or issuing credit to a patron of a gaming establishment who receives any form of income-based public assistance including, but not limited to, the supplemental nutrition assistance program, temporary assistance for needy families, emergency aid to elders, disabled and children, public housing assistance, MassHealth

and unemployment insurance. The procedures and standards established shall ensure the privacy of all patrons receiving public assistance.

Regulation: 205 CRM 138.40. Procedure for Acceptance of Checks, Cash Equivalents, Wire Transfers, and Credit/Debit Cards; Issuance of Counter Checks.

A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include policies and procedures relative to the acceptance of checks and cash equivalents presented by patrons, and the issuance of counter checks to patrons for gaming purposes. These policies and procedures shall include, but not be limited to:

- (8) Procedures to ensure that any credit card or automated teller machine operating in the gaming establishment does not allow a patron to obtain cash from a government-issued electronic benefits transfer card or to process a credit card cash advance transaction.

MICHIGAN

Statute: MCL 432-225. Disassociated persons.

(9) A casino licensee shall not extend credit to those persons whose names are on the list of disassociated persons.

OHIO

Statute: Ohio Rev. Code Ann. §3772.23. Purchase of tokens, chips, or electronic cards; promotional gaming credits; prohibited licenses.

- (C) Casino operators and management companies shall not do any of the following:
 - (2) Obtain a license to provide loans under sections 1321.01 to 1321.19 [Small Loans] of the Revised Code;
 - (3) Obtain a license to provide loans under sections 1321.35 to 1321.48 [Short-term lenders] of the Revised Code.

WEST VIRGINIA

Statute: W. Va. Code 29-22B-702. Additional duties of limited video lottery retailers.

(10) Provide no access by a player to an automated teller machine (ATM) in the restricted access adult-only facility where video lottery games are played, accept no credit card or debit card from a player for the exchange or purchase of video lottery game credits or for an advance of coins or currency to be utilized by a player to play video lottery games and extend no credit, in any manner, to a player so as to enable the player to play a video lottery game;

Other

Less common or easily categorized regulations like regulator-drive RG programs, bet limits, RG education in schools, and dedicated casino floor space for the dissemination of RG information to patrons have been categorized here.

DELAWARE: N/A

MARYLAND

Regulation: COMAR 36.01.03.07. Responsible Gaming Program.

- A. The Commission may establish a responsible gaming program.
- B. A responsible gaming program established by the Commission under §A of this regulation shall be designed to:
 - (1) Reduce or mitigate the effects of problem gambling in the State; and
 - (2) Maximize the access of individuals who have a gambling problem to problem gambling resources.

MASSACHUSETTS

Statute: M.G.L., Ch. 23K, § 21. Form of gaming license and condition for licensees.

- Section 21. (a) The commission shall prescribe the form of the gaming license, which shall include, but not be limited to, the following license conditions for each licensee. The licensee shall:
- (16) provide complimentary on-site space for an independent substance abuse, compulsive gambling and mental health counseling service and establish a program to train gaming employees in the identification of and intervention with customers exhibiting problem gaming behavior.

MICHIGAN: N/A

OHIO: N/A

WEST VIRGINIA: N/A

Summary of Research on the Mitigation of Problem Gambling

As this section outlines, the body of research on efforts to mitigate problem gambling behavior is nascent and limited. It is also muddled by grey literature advanced by special interest groups. Non-profit organizations like the National Center for Responsible Gaming, the National Council on Problem Gambling and the Responsible Gambling Council (Canada) serve as important resources for lay persons attempting to understand and navigate this complex field. Part II compiles relevant information from studies that rose to the top of references and citations, but should not be viewed as a complete, meta-analysis of available research.

Responsible Gaming and Harm Minimization

- Responsible gambling/gaming refers to programs that seek to prevent or reduce gambling-related harms.
- Gambling-related harms can be categorized as personal (e.g., health, well-being, relationships) and/or economic (e.g., financial).

- While varying approaches to harm minimization exist, most can be categorized as either product-based, operator-based or community-based.
- Several articles and publications aim to synthesize existing research on common responsible gaming and harm minimization practices and/or adapt the research for practical application by responsible gaming stakeholders.
- The research field for responsible gaming is still nascent and there are few principles or responsible gaming activities that can be considered “best practices.”
- Unpublished, or “gray” literature, is a significant issue in the field of responsible gaming research. In a field that will answer questions about safety and effectiveness of programs, reliance on “peer-reviewed research,” published in a journal that uses recognized experts to determine the quality of the study, is preferable.
- The most common responsible gaming strategies reflected in the field of research are:
 - Self-exclusion programs,
 - Help line,
 - Tracking behavioral characteristics,
 - Setting gambling limits,
 - Responsible gaming-oriented game features, and
 - Employee training.
- An approach lacking scientific analysis to developing and adopting responsible gaming programs has characterized most responsible gaming efforts to date. Leaders of the field call for a science-based approach.
- For translation and practical application of the science on responsible gaming and gambling disorder the National Center for Responsible Gaming in the U.S. and the Responsible Gambling Council in Canada, and their respective publications, are critical resources to responsible gaming stakeholders.

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Self-Exclusion Programs

- Voluntary self-exclusion programs give individuals the opportunity to exclude themselves from gambling opportunities.
- Programs typically remove the enrolled individual from marketing databases and may also authorize staff to remove enrolled persons from casino premises and deny them cash prizes.
- Self-exclusions programs are typically operated by casinos (and online gambling sites) or gaming regulators, and often both in coordination.
- Self-exclusion is one of the most investigated strategies of responsible gaming.
 - Many articles and studies on the subject evaluate individual programs or models around the world, often with small sample sizes.
- Self-exclusion has transitioned from a “punitive” enforcement model to one of individual assistance intended to connect vulnerable persons with counseling and other support services.
- The research generally concludes that self-exclusion is a safe strategy and, for some gamblers, an effective intervention.
 - One study suggests self-exclusion may have similar short-term outcomes to counseling alone and may reduce harm in the short-term.
 - Self-excluded persons who also engaged in treatment, self-help groups or other forms of support have more positive outcomes than those who do not, suggesting self-exclusions program which serve as a gateway to treatment are most successful for the individual
- Time periods within self-exclusion programs typically range from 6 months to a lifetime ban.
 - Although practice is shifting away from lifetime bans, there is no evidence-base in support of the effectiveness of specific time periods.
- A well-documented challenge to self-exclusion programs is individual compliance.
 - One study found that more than half of the participants for whom self-exclusion was still in effect had returned to a casino or breached their contracts by the six-month follow-up interview.
 - A longitudinal study of self-excluded individuals in Missouri found similar breaches, indicating that the benefits of the program were attributable more to the act of enrollment than enforcement.
 - Most researchers agree that responsibility for self-exclusion lies with both the gaming industry and the individual who signs the contract.

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Tracking Behavioral Characteristics

- The strategy of tracking behavioral characteristics attempts to predict who is going to experience harm from gambling and introduce preventative interventions before the onset of problems.
- Behavioral tracking is based on algorithms of play.
 - This strategy is easier to design in online gaming environments where access to all player transactions is available.
 - In brick-and-mortar gaming environments, the strategy is often designed around player tracking systems (also known as “Players Clubs”), which are dependent upon a patron’s use and thus less reliable.
- Research in this area has:
 - Suggested that effort for promoting responsible gaming should be tailed for each type of gambling offered by operators;
 - Indicated regular poker players hold fixed views about the profitability of given machines and are less likely to vary their wagers;
 - Identified characteristics that could be used to developed prevention and early intervention programs for problem gamblers;
 - Studied behaviors and thoughts that people use to control the amount they gamble (ex: budget-setting, avoidance, seeking help);

- Concluded that online gamblers who engaged in more than two types of gambling within their first month of play, and with high variability for wagers, were more likely to benefit from responsible gaming programs.
- Because of the limitations of some environments, there is not yet definitive evidence of any behavioral algorithm that can predict patterns of gambling disorder.

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Setting Gambling Limits

- The setting of gambling limits, also known as pre-commitment, is a strategy that offers gamblers the opportunity to predetermine the amount of time or money they wish to devote to gambling before play begins.
- Depending on the gaming venue or website, spending limits can include deposit, play, loss, win, bet, and time limits.
 - Time limits can be made for a session of play within daily, weekly, and monthly time frames.
- Studies in this area indicate that requiring individuals to set such limits may reduce overall money spent on gambling, but there is no evidence to suggest that this reduction occurred

in individuals who were experiencing gambling-related harms or that gambling-related harm was ultimately reduced.

- Example findings from research on this strategy:
 - Voluntary monetary limit setting was more effective than time limits in reducing gambling behavior;
 - Self-limiting gamblers played a wider variety of games and placed more bets than others prior to self-limiting. Self-limiters reduced their activity after imposing those limits, but did not reduce the amount they wagered per bet; and
 - Pre-commitment may have little effect on decreasing gambling expenditures among those who are intent on continued gambling, whose responses suggest they will find alternative options for gambling activity.
- The recent emergence of GameSense – a program based on in-house responsible gaming information centers or advisors, originally developed in Canada and promulgated by the Commonwealth of Massachusetts – and applications thereof like PlayMyWay (a limit setting tool) indicate regulation is moving in the direction of this strategy. Stakeholders warn that no evidence-base currently exists to support the effectiveness of these initiatives.

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Responsible Gaming-Oriented Game Features

- Responsible gaming-oriented game features are a harm-minimization strategy in which modifications are made to the structure or operation of games to assist individuals in making informed choices about their gambling and encourage responsible gaming behavior.
- Modifications explored in the literature include slowing down the rate of play, posting warning messages, clocks and “play money” modes.
- Research in this area is limited and is often focused on the use of warning messages.
- Key conclusions from the peer-reviewed literature include:
 - When warning messages appear in the middle of a screen they are recalled to a great extent and were reported as “more impactful and useful,” than messages on the periphery;
 - A majority of players in one study reported the cash display as helpful to controlling gambling activities. In the same study, the authors conclude that the clock and pre-commitment on gambling time may not be instrumental in promoting responsible gaming;
 - A study evaluating the effectiveness of five features – messages, bank meters, clocks, demo mode and charity donations – found that most participants were aware of at least one feature, but only a small portion actually utilized them. Gamblers who used one feature were more likely to also use additional features.
- Other research investigates game features perceived to contribute to problem gambling like electronic funds transfers and bill acceptors at machines.
- An analysis of 47 studies in this area suggests that attempts to develop and implement safety features for new gambling technology are promising but suffer from rudimentary methodology and limited scope.
- Overall, evidence for the efficacy of game features is mixed, and no research has shown that game features reduce harm in a real-world setting.

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Employee Training

- Training of casino employees in responsible gaming is a nearly universal practice, but few studies evaluating the effectiveness of such programs exist.
- Research in this area finds considerable disparity between staff and patron ratings of gambling disorder.
 - In a study where 22 of the patrons were classified as problem gamblers based on the Problem Gambling Severity Index, only one was classified as having some problems by venue staff. Further, venue staff identified 15 patrons as problem gamblers when the Problem Gambling Severity Index scores indicated no risk or low risk for these individuals.
- Studies indicate that employee training can improve employees' knowledge of responsible gambling, but there is no evidence to suggest that increasing this knowledge helps employees accurately identify casino patrons with a gambling disorder.
- Research also confirms that staff feel awkward about discussing personal issues, experience difficulty approaching patrons because of the uncertainty of the patron's problems or the patron's potential embarrassment. Common feelings included confusion, dilemmas, and apprehension.
 - The Responsible Gambling Council of Ontario identified a framework for improving the process of responding to patrons suspected of gambling problems using a review of the literature and existing policies, interviews with gaming staff, focus groups with individuals with gambling problems and their annual Insight Forum of responsible gaming stakeholders.

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Public Health

- Basic principles of gambling in the public health:
 - By understanding gambling and its potential impacts on the public's health, policy makers and health practitioners can minimize gambling's negative impacts and appreciate its potential benefits.
 - Contemporary public health perspectives are not limited to the biological and behavioral dimensions related to gambling and health; a public health perspective also can address the social and economic determinants of gambling such as income, employment and poverty.
 - A multidimensional public health framework could stimulate a better understanding of gambling, elucidate the determinants of disordered gambling and point to a range of interventions.
 - Four principles provide the basis for a public health perspective on gambling: (1) scientific research is the foundation of public health knowledge; (2) public health knowledge derives from population-based observations; (3) health initiatives are pro-active (e.g., health promotion and prevention are primary while treatment is secondary); and (4) public health is balanced and considers both the costs and benefits of gambling.
- Publicly funded problem gambling services are on the rise in the U.S.
 - The total number of states that reported publicly funded problem gambling services increased from 35 in 2006, to 37 in 2010, to 39 in 2013, to 40 in 2016.
 - The total amount of public funding allocated for problem gambling services in the U.S. increased 20%, from \$60.6 million in 2013 to \$73.0 million in 2016.
 - On a state-by-state basis, the amounts ranged from \$0 (ten states plus the District of Columbia did not provide any dedicated funding for problem gambling services) to \$8.47 million in California.
 - The average per capita allocation for problem gambling services in the 40 states with publicly funded services was 37 cents.
 - Among those states that fund problem gambling services, the most commonly supported services provided by state agencies (and affiliates of the National Council on Problem Gambling) were problem gambling awareness programs, counselor training, helplines, and problem gambling treatment.
 - In 2016, about one quarter of one percent of people who needed gambling disorder treatment received publicly funded care from a gambling treatment specialist. The average cost of problem gambling treatment, per client treatment episode, was \$1,333.
- While government-funded gambling treatment programs are a common mitigation strategy across the U.S., little research exists about their outcomes. One exception is the Iowa Gambling Treatment Program, where the following positive outcomes have been seen:
 - Among followed gamblers, 74% of treatment completers, 49% of substantial treatment completers, and 36% of dropouts and referrals were abstaining from gambling at 6-month follow-up.
 - In the same study, 85% of treatment completers, 88% of substantial treatment completers, and 65% of others had reduced their dollars lost per week at 6-month follow-up.

- Only 13% of gamblers followed in the Iowa Gambling Treatment Program study reported placing a bet after they were discharged and income had increased substantially for the majority of gamblers who, on average, had been able to halve their gambling debt on average. A majority of these gamblers also reported that their relationships, health and functioning had improved since they began treatment.

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Public Education and Informed Choice

- While individuals retain the ultimate responsibility over gambling choices and level of participation, optimal decision-making depends, among other factors, on the availability of reliable, comprehensive information
- The concept of the informed decision is pervasive and is essential to our systems of law and economics. It is at the heart of consumer protection, health promotion and all risk reduction strategies in any field.
- Across gaming jurisdictions worldwide, governments and gaming providers have recognized the importance of giving patrons information to make informed decisions about their gambling. They have set in place a wide variety of programs/strategies to inform gamblers about a range of topics, like: how gambling works, tips on managing play, factors that increase risk, and help resources for problem gambling.

- The modes of information delivery are also diverse, including pamphlets, brochures, television or radio commercials, posters, and on-site information centers,
- Concurrent with other attempts to inform policy strategy with respect to harm minimization in gambling there is a paucity of evidence pertaining to the impact that gambling advertising has on gambling behavior, gambling-related harm, and the efficacy of advertising regulations to minimize harm
 - One review of mass media responsible gaming awareness campaigns identified that such an approach would be relatively ineffective as a primary strategy to reduce problem gambling, due to the fact that research indicates that non-problem gamblers often do not pay attention to and retain the information.
 - A study conducted in Indiana surveyed 800 adult residents to evaluate the impact of a statewide advertising campaign designed to increase awareness of problem gambling. Results indicated, overall, little impact of the ad campaign and a low rate of exposure to it (8%). Billboards and slogans appeared to be the methods with strongest impact. The sample had a positive view of problem gambling awareness campaigns and appeared quite knowledgeable about problem gambling in general. Awareness of state resources to aid problem gamblers was lower.
- Advertising is only one of several environmental factors that may influence gambling behavior simultaneously, making it challenging to attempt to determine the specific impact of advertising on gambling-related harm. The impact of advertising is not likely to be overt, making measurement through observational or self-report methods of limited value.
- It is widely acknowledged that different messaging approaches may work better for different groups. A Canadian study reports:
 - Casual gamblers (new and occasional gamblers) need programs that enhance their gambling literacy – key safeguards, main risk factors, etc.
 - Frequent gamblers (at least one per month, but not weekly) need a deeper understanding of how gambling works – house edge, randomness, independence of events, etc.
 - Intensive gamblers (who visit weekly or more often) need to be informed of their play activity and offered self-assessment tools that draw attention to the consequences of their actions and the options available for help in addressing problems.

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The Reno Model

- Developed in 2004 by leading researchers in the field, The Reno Model is a strategic framework intended to advance and coordinate efforts to limit gambling-related problems.
- The blueprint for action provided by The Reno Model sets out principles to guide key stakeholders in the public health issue of gambling-related harms, including industry operators, health service and other welfare providers, interested community groups, consumers, and governments and their related agencies.
- Its key principles are:
 - Key stakeholders will commit to reducing the incidence and ultimately the prevalence of gambling-related harms.
 - Working collaboratively, the key stakeholders will inform and evaluate public policy aimed at reducing the incidence of gambling-related harms.
 - Key stakeholders will collaboratively identify short and long-term priorities thereby establishing an action plan to address these priorities within a recognized time frame.
 - Key stakeholders will use scientific research to guide the development of public policies. In addition, the gambling industry will use this scientific research as a guide to the development of industry-based strategic policies that will reduce the incidence and prevalence of gambling-related harms.
 - Once established, the action plan to reduce the incidence and prevalence of gambling-related harms will be monitored and evaluated using scientific methods.
- While it does not represent a critical and detailed review of the literature, The Reno Model is widely considered a seminal discussion on the topic of responsible gaming and has had meaningful impacts on modern responsible gaming models, approaches and regulations.
- A decade after its original publication, the authors reflected on the application of the model and observed that little commitment has been made to their recommendation for the development and implementation of “an infrastructure to systematically monitor the effectiveness of harm minimization regulation on the incidence of gambling-related harms.” In response, they produced an additional paper building upon this principle, providing additional guidelines and recommendations for its application.
- Critics of The Reno Model suggest it places too much responsibility on the individual and may be used by industry and governments to protect their own interests.

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Summary of Interviews Regarding Efforts to Mitigate Problem Gambling

In the interest of better understanding research, policy and strategies related to mitigation of the social costs of gambling, particularly problem gambling and gambling disorder, RMC and JLARC collectively identified relevant stakeholders with whom to conduct expert interviews. The following summarizes key themes that emerged from interviews with the subset of experts listed here as well as relevant insights from the Gambling & Risk-Taking Conference presented by the International Gaming Institute at the University of Nevada, Las Vegas (UNLV Conference) in May 2019. This summary should be viewed as a snapshot, not a holistic view, of current considerations around the mitigation of gambling-related harms.

Expert perspective included in this summary:

- Alex Blaszczynski, Ph.D., Professor of Clinical Psychology, Co-Director of the Gambling Research Unit, and Director of the Gambling Treatment Centre, University of Sydney, Australia
- Dean Hestermann, Corporate Director, Issues Management and Strategic Communications, Caesars Entertainment Corporation
- Connie Jones, Director of Responsible Gaming, Association of Gaming Equipment Manufacturers
- Debi A. LaPlante, Ph.D., Director, Division on Addictions, Cambridge Health Alliance and Assistant Professor of Psychiatry, Harvard Medical School
- Matthew Martens, Ph.D., Professor, Faculty Fellow for Academic Programs - Office of the Provost, University of Missouri
- Kevin Mullally, Vice President of Government Relations and General Counsel, Gaming Laboratories International
- Sarah E. Nelson, Ph.D., Director of Research, Division on Addictions, Cambridge Health Alliance and Assistant Director of Psychology, Harvard Medical School
- Kahlil Philander, Ph.D., Assistant Professor, Hospitality Business Management, Washington State University and Honorary Lecturer, School of Psychology, University of Sydney, Australia
- Nathan Smith, Doctoral Candidate, Department of Epidemiology, College of Public Health and Health Professions & College of Medicine, University of Florida
- Keith Whyte, Executive Director, National Council on Problem Gambling

Primary Issue: Funding of Critical Needs for Mitigation Efforts

Overwhelmingly, funding for two critical needs were raised by the gaming stakeholders interviewed: research and treatment. Because gambling is a state's right and because the prevalence of gambling disorder is very small compared to other substance use and mental health disorders, funding of research in this field – particularly federal funding – is limited. Lacking

funding, the body of research on gambling disorder and related fields (including mitigation thereof) is inherently limited and has been “muddied” by a proliferation of grey literature. For these and other reasons, stakeholders across the board agree there are no established “Best Practices,” for mitigation of problem gambling and gambling disorder, though there are “Common Practices” which are explored later in this summary. State efforts to address research needs are included in the “Current Trends” section.

Funding for the treatment of problem gambling and gambling disorder is nuanced and the needs are many. The three most common issues raised by stakeholders, which generally related to the concept of access, were: 1) funding for problem gambling treatment services, 2) funding for the training of treatment providers, and 3) funding for public education or awareness campaigns about available services. In the context of this issue, many stakeholders expressed concern about the use of funds committed to problem gaming services through state statutes or regulations, which are detailed in the “Common Concerns” section below.

Common Practices

As described above, stakeholders across all sectors agree that existing science on mitigation strategies for gambling-related harms cannot identify best practices in the field. However, several common practices were discussed. The following were the most frequently mentioned across stakeholder interviews and at the UNLV Conference:

Self-Exclusion

Sometimes called “voluntary exclusion,” self-exclusion is a policy allowing individuals the opportunity to ban themselves from participating in casino gambling. In some jurisdiction, third parties like a spouse also have the ability to exclude an individual. Self-exclusion is one of the most widely valued, researched and practiced strategies for the mitigation of gambling-related harms and, accordingly, is the only practice with a strong evidence base. Current considerations in the policy around self-exclusion include:

- *Jurisdiction:* Implementation of centralized self-exclusion programs, meaning statewide vs. site-specific, is most widely advocated. As gaming continues to expand, states are also beginning to explore the idea of a multi-jurisdictional approach, allowing interstate exclusion in addition to intrastate exclusion, though such a policy has not been ratified to date.
- *Exclusion Period:* While lifetime bans were a common offering when self-exclusion first launched, increasingly the research indicates that shorter-term commitments are more successful for individuals and less burdensome to those responsible for program management.
- *Pre-Commitment:* With the recent proliferation of sports betting legalization, some states are considering providing a self-exclusion opportunity before these new forms of play become operational. This pre-commitment strategy, also relevant to new gaming jurisdictions, is in line with other thinking around responsible gaming as seen in the “Current Trends” section below.

Cognitive Behavioral Therapy

Most researchers and treatment providers agree that Cognitive Behavioral Therapy, a common type of talk therapy or psychotherapy that treats problems and boosts happiness by modifying dysfunctional emotions, behaviors and thoughts, is the most effective in treating individuals with gambling disorder.

Stakeholder Collaboration

It is widely acknowledged that the most successful efforts for mitigation of gambling-related harms are driven by diverse groups of jurisdictional stakeholders, including representatives from government and public policy, treatment, public health, regulation, industry (commercial and tribal operators, lottery, racing, suppliers, etc.), community/advocacy groups, faith communities, law enforcement, corrections facilities, etc.

Spectrum of Mitigation Efforts

Many experts referred to the broad range of efforts required in any mitigation strategy, including:

- Research;
- Prevention;
- Intervention;
- Treatment; and
- Recovery.

It was noted that prioritization of and funding for these various efforts will ebb and flow over time as needs change in a jurisdiction. That is, research and prevention are often the immediate priorities in a jurisdiction at launch, but funding and resources committed to such efforts may necessarily shift to treatment and recovery needs as it develops.

Common Concerns

Perhaps due to the nature of these interviews and the inherent interest in providing “lessons learned”-style guidance to a developing jurisdiction, or perhaps as a reflection of the lacking evidence base for mitigation strategies, interviewed stakeholders shared considerably more about concerns and challenges in the area of mitigation than they did on other topics. The following themes emerged:

Gambling Disorder vs. Vulnerable Populations

While the prevalence of gambling disorder is important to understand *specifically* in any gaming jurisdiction, and the commitment of research dollars to do so is encouraged/emphasized, stakeholders generally agree that understanding the broader vulnerable population is equally meaningful. That is, strategies should be researched and implemented to protect those with gambling disorder as well as reduce risk for the larger population. For example, one expert shared that research suggests the group of veterans present an increased risk factor for problem gambling – as much as two to three times higher than the general population – and noted that this is a factor Virginia should take into consideration given its larger than average veteran population.

Use of Responsible Gaming/Problem Gambling Funds

The vast majority of gaming jurisdictions, commercial and tribal, commit some level of funding for support of responsible gaming or problem gambling services. These dollars most often are trimmed from or added to gaming tax rates. Interviewees expressed much concern over how such funds are ultimately put to use. Issues raised included:

- Unused funds in states where the rate is set too high or no clear plan is developed for its use;
- Redirection of funds to support other substance-use and mental health disorders or budget shortfalls in jurisdictions where dollars are provided without clear objectives or guidelines for use; and
- Return on investment, raised by several researchers relative to the Massachusetts model, which they applaud for its vision and commitment but believe has been flawed in execution and is not producing the quality or quantity of research the robust funds committed warrant.

Funding and Support of Problem Gambling Treatment Programs

Similar to above, several stakeholders emphasized the need for designated funding in support of treatment services for individuals with gambling disorder and problem gambling. In many states without legalized gambling, even those that border gaming jurisdictions, gambling disorder is not recognized as a need in their service system design. Providing funds to expand and support these services is a critical step in any mitigation effort. Further, support of these services will be an ongoing and shifting need (as mentioned in the “spectrum of mitigation efforts” section above). Earlier this year, the state of Oregon attempted to answer ongoing challenges in their services system by developing a best-practice problem gambling treatment program within a behavioral health treatment agency model.

Regulated Mitigation Strategies

A variety of concerns were raised about efforts to mitigate gambling-related harms through regulation and policy. The following are worthy of consideration:

Evidence-based Regulation

Interviewees expressed a great deal of frustration about the implementation of regulations intended to mitigate or minimize harm without any evidence base for the strategy. Current best-case-scenario is that regulated mitigation efforts are researched after implementation, when the opposite would be most experts’ preferred practice. A seemingly obvious recommendation that is apparently not common practice is to, at a minimum, look at things that have been tried and failed in other jurisdictions – there is no reason past mistakes need be repeated.

Unintended Consequences

With every risk control factor comes unintended consequences, which have not been well considered to-date in gaming regulatory practice. One such example offered was the implementation of time limits on play in Australia. While theoretically intended to create a cooling off period, in practice problem gamblers were motivated to increase bets and speed of

play as their time limit approached. Per above, such consequences may have been avoided if the strategy had been researched prior to implementation.

Measurement of Impacts

Building on the concern around unintended consequences, there was an overwhelming sentiment that mitigation strategies must be measured to understand whether they did what they were intended to do as well as what they may have done that was not anticipated.

Regulatory Build-Up

Adding responsible gaming requirements before measuring existing strategies can result in regulatory build-up. Whether it is the addition of help screens, responsible gaming messaging or employee training provisions, by adding new requirements without demonstrating the value of current one's regulators may waste resources, lose focus, deter stakeholder buy-in and/or create consumer skepticism.

Adjustments for Change

The concern over layered regulations without measurement of effectiveness is further exacerbated by the potential need for adjustment of regulations for changes in player behavior, changes in risk and/or changes to the industry. The evolution of anti-money laundering regulations for the gaming industry provides an excellent example of this challenge.

Resource Efficiency

Ultimately, gaming regulators are stewards of government resources and it is imperative those resources are used efficiently and effectively. Evidence and measurement are critical to ensuring such standards are met.

Clarity of Objectives

In order to achieve the aforementioned measurement objectives, it is fundamental that every regulatory requirement have a clearly defined and communicated policy objective. What risk is the regulation attempting to mitigate and/or what benefit will it promote?

Current Trends

Through the interview process and across three days of programming at the UNLV Conference, several connected trends around current thinking and practice for mitigation efforts emerged:

Proactive Practices

Historically, responsible gaming practices have been fairly passive in nature, requiring patrons to do the work of seeking out information and/or assistance. Operator-driven and regulated strategies are now trending in a more proactive direction. Most indicative is the emergence of GameSense, a regulated model from Ontario, now in use in Massachusetts and being adapted for operator-led application by MGM Resorts. While GameSense models vary, the intent is to provide a more customer-service oriented model for responsible gaming education in the casino environment. In the online gaming space, SkyBet recently developed a series of “safer gambling” tools developed using customer feedback.

Positive Play

SkyBet’s aforementioned “safer gambling” tools and the theory behind GameSense are indicative of the positive play trend, which attempts to remove the stigma of problem gambling from the dialogue around responsible gaming. Positive play concepts seem to be based on customer service models, informed choice and player education. Strategies considered include creating a rewards structure for use of responsible gaming tools and training loyalty club staff to normalize the discussion of responsible gaming strategies.

Primary Prevention

These trends continue to build on each other. The increase in proactive strategies and the concept of positive play are seemingly part of a larger trend toward primary prevention, which arguably serves as a first line of defense against problem gambling. That is, these efforts aim to change the dialogue and engage new/younger players earlier in their personal gambling history in the interest of arming them with more/better information about risks and realities of betting from the onset. Technological advancements are also increasing interest in “Just in Time” interventions, which can be triggered by player activity tied to loyalty cards or geolocation, with the intention of efficiently and conveniently delivering personalized feedback on play. Pre-commitment strategies like PlayMyWay are also evidence of this trend.

Prioritization of Research

The research-related concerns expressed by many stakeholders are beginning to be addressed. Massachusetts has been credited with setting a new bar for jurisdictional commitment to research with the creation of SEIGMA (Social and Economic Impacts of Gambling In Massachusetts), a comprehensive, multi-year research project awarded to the University of Massachusetts Amherst School of Public Health & Health Sciences in response to the “annual research agenda” required by the state’s Expanded Gaming Act. In Massachusetts and elsewhere, regulatory agencies are beginning to take the lead on organizing and measuring (or supervising the measurement of) impacts of mitigation efforts. To that end, systematic reviews of responsible gaming practices – both operator and regulator driven – are happening more and more. These audit-style processes are an important advancement in regulatory enforcement.

National and Regional Strategies

Finally, all of these pieces are beginning to come together in the form of national and regional strategies, some driven by industry, some by government, with varying forms of enforcement. Examples include:

- The American Gaming Association Code of Conduct for Responsible Gaming;
- The European Casino Association Responsible Gaming Framework and Responsible Gaming Certification Program;
- The National Strategy to Reduce Gambling Related Harms developed by Great Britain’s Gaming Commission;
- The Responsible Gaming Verification Program developed jointly by the National Association of State and Provincial Lotteries and the National Council on Problem Gambling; and

- A technical standard for responsible gaming strategies on device in development with the Association of Gaming Equipment Manufacturers and the Responsible Gaming Council of Ontario.

Key Considerations for Development of a Responsible Gaming Framework

Together with their licensed operators, legalized gaming jurisdictions the world over prioritize the safe and responsible consumption of casino entertainment through a variety of policies and practices. Such efforts, as well as the research and expert opinion thereof, have been detailed throughout this section. Based on this compilation of information, the following guidance is offered to Virginia for development of a Responsible Gaming Framework:

- Establish clear goals and objectives for the Framework;
- Organize a stakeholder group to develop the Framework;
- Create a funding mechanism to support the Framework;
- Identify and review the research on strategies to address the Framework’s goals and objectives;
- Ensure these strategies are measurable and measured; and
- Commit to regular auditing of the Framework’s effectiveness.

Key considerations and common practices relevant to each recommendation are provided below.

1. Establish Clear Goals and Objectives for the Framework

To guide regulators as well as ensure an efficient and effective use of resources, it is critically important to establish clear goals and objectives for your responsible gaming framework. What risks do you aim to address? What benefits do you aim to promote? Lacking such a clarity of mission, experts warn about a variety of potential challenges and paths to failure – see “Common Concerns – Regulated Mitigation Strategies” in the Interview Summary.

2. Organize a Stakeholder Group to Develop the Framework

From the academically-minded “Reno Model” to industry regulators and executives, it is widely agreed that the most successful efforts to mitigate problem gambling behavior are driven by diverse stakeholder groups. For more detail, see “The Reno Model” from the Research Summary and “Common Practices – Stakeholder Collaboration” from the Interview Summary earlier in this section. Given the wide-ranging needs of new jurisdictions and the varied expertise required to navigate those needs, it is strongly recommended Virginia embrace this guidance in the interest of producing the most useful, successful and effective efforts to mitigate the social costs of gambling.

3. Create a Funding Mechanism to Support Your Framework

Funding figures and mechanisms for responsible gaming efforts vary wildly across U.S. gaming jurisdictions. According to a 2016 Study by the National Council on Problem Gambling (NCPG), average per capita spending on problem gambling in the states that have public funding was 37 cents with a range from 1 cent (South Carolina) to \$1.46 (Delaware).⁹⁹⁹ NCPG recommends a minimum of 1% of gaming taxes be committed to such efforts. And as seen in **Exhibit 12**,

Summary of Statutory Funding for Responsible Gaming by State, many jurisdiction's commitments rise above NCPG's minimum.

In establishing a funding mechanism, the goals established by public policy makers in Virginia and the cost of accomplishing those goals should be carefully considered and the funding mechanism should be created to sufficiently meet those goals. Careful consideration should also be given to what segments of the gaming industry in Virginia should be contributing toward such funding (casinos, Lottery, horse racing, charitable gaming) to ensure that all segments share in the responsibility.

4. Identify and Review the Research on Strategies to Address the Framework's Goals and Objectives

A variety of common practices already exist to address many potential objectives of your responsible gaming framework as outlined in **Exhibit 11**, Summary of Responsible Gaming Statutes and Regulations by State. While application varies, the following practices are strongly recommended for use in Virginia:

- Voluntary Self-Exclusion
- Problem Gambling Treatment Funding
- Research Funding
- Information on Risks & Resources
- Required Responsible Gaming Plan

More detail on these strategies is available in the "Commonly Regulated Responsible Gaming Practices" portion of this section. With the exception of self-exclusion, the vast majority of these practices are not based in scientific evidence, as outlined in the "Research Summary." Despite this, it remains imperative to review the limited information that exists around them to 1) avoid unintended consequences, and 2) ensure resources are not committed to efforts that have been tried and failed.

5. Ensure These Strategies are Measurable and Measured

Interviewed experts from a variety of backgrounds, from academia to regulation, as well as meta-analyses in the area of problem gambling mitigation strategy, emphasize the fundamental and often overlooked need for instrument measurement. Untested and unmeasurable responsible gaming strategies are regularly put to use. Further, even when measurable, most often these strategies are not. Building on the last recommendation, Virginia is encouraged to prioritize the use of measurable practices and support research of their measurement in the interest of public health, effective resource allocation and the overall field of problem gambling mitigation.

6. Commit to Regular Auditing of the Framework's Effectiveness

Gaming operates on a constantly shifting landscape. The industry's heavy investment in technology, prioritization of customer service and synergy-driving financial model, leads to ongoing innovation. It is important that any framework be regularly evaluated in the context of the overall industry as well as measurements and assessments garnered through the framework process to ensure its ongoing effectiveness and address changing needs in public health.

State Expenditures from Gambling Revenue

There are several different approaches to the distribution of revenue across gaming states, with no real consensus on how the revenue should be spent (other than as a partial or total funding mechanism for the regulatory agency). Understandably, with vastly different geographic and economic profiles, states do not necessarily pattern their revenue distribution in any particular way. It should be noted that there does appear to be a common practice across states with expanded gaming to earmark at least some portion of the revenue for local use.

With respect to the peer states, Delaware earmarks funds for support of horseracing, but otherwise does not earmark its gaming revenue for any purpose, instead directing revenue into the general state fund. Kansas utilizes most of its revenue for reducing state debt, improving state infrastructure and reducing local property taxes, with a small portion (3% of revenue) distributed to local municipalities. Maryland has a laundry list of distributions, ranging from supporting horse racing purses to education to minority business development, along with a percentage going to local municipalities. Massachusetts has different distributions for the initial licensing fee (split between purposes ranging from health care to transportation to community college funds) and the ongoing taxes on gaming revenue (with revenue from the Category 1 casinos going to twelve different purposes and the Category 2 casino revenue being split between race horse development activities and local aid). Michigan's funds go towards both local municipalities (City of Detroit) and the school aid fund. Ohio directs its casino revenue primarily to local municipalities, with small amounts being utilized for its horse racing funds. Ohio directs its racino revenue to state educational funds. West Virginia also has a laundry list of purposes ranging from tourism promotion to horse racing funds to state capitol building improvements. Please see the respective State Summaries in section C.1 above for detailed funding breakdowns for each state.

CRIMINAL PROVISIONS AND PENALTIES

While a comprehensive summary of all criminal provisions and penalties related to gaming activity is beyond the scope of this report, it is important to highlight a sampling of gaming-specific criminal penalties that are applicable in each of the peer states. Please note that each state is somewhat unique in its approach to criminal penalties, but the sampling outlined below contains examples of basic criminal penalties applicable to illegal gambling that frequently pre-date the expansion of legal gambling as well as examples of criminal penalties that were enacted specifically in conjunction with the legalization of gambling.

Delaware Criminal Penalties

General violations of the gambling statutes or regulations are civil infractions, punishable by between \$1,000 and \$10,000.¹⁰⁰⁰ The Director may also seek a temporary restraining order, preliminary or permanent injunction preventing further violations.¹⁰⁰¹ Delaware law indicates that a lack of knowledge regarding a violation is not a valid defense to a violation.¹⁰⁰² Any licensed entity that employs an unlicensed employee must pay a fine of between \$1,000 and \$5,000 and is guilty of a Class A misdemeanor.¹⁰⁰³ Any individual or service company that works in a position that requires licensing without holding the appropriate license is guilty of a Class A misdemeanor.¹⁰⁰⁴ All key employees and gaming employees are prohibited to wager on table games or the video lottery in the place in which they are employed and are subject to a fine if they do so.¹⁰⁰⁵

Delaware also imposes criminal penalties for cheating at table games or video lottery machines¹⁰⁰⁶ as well as to possess paraphernalia for manufacturing cheating devices,¹⁰⁰⁷ possession or use of counterfeit tokens or gaming chips,¹⁰⁰⁸ and a variety of other similar behaviors.¹⁰⁰⁹ A first offense not involving currency is a Class A misdemeanor and the second and subsequent offense is a Class G felony.¹⁰¹⁰ If the offense involves currency of less than \$1,500, if the offense is between \$1,500 and \$50,000 it is a Class G felony, if it is between \$50,000 and \$100,000 it is a Class E felony, and if it is more than \$100,000 it is a Class C felony.¹⁰¹¹ It is illegal to offer or solicit a bribe to affect the outcome of a race, sporting event, contest or table game or to increase a wager after receiving knowledge not available to the general public that someone else has been bribed.¹⁰¹² Violation of the bribery section is a Class G felony.¹⁰¹³

The Director may issue a cease and desists order to any operator that violates the provisions in the Fantasy Sports Contest act.¹⁰¹⁴ Failure to comply with the order may result in a fine between \$1,000 and \$5,000 per day of violation.¹⁰¹⁵

Kansas Criminal Penalties

Kansas criminal statutes prohibit gambling other than in accordance with KELA, charitable gaming, or horse racing. It also prohibits dealing in gambling devices, unlawful possession of gambling devices, installing communication facilities for gamblers, or running an illegal bingo operation.¹⁰¹⁶ Violations are misdemeanors except for operating a commercial gambling place, dealing in gambling devices or installing communication facilities which are felonies. Kansas also

criminalizes underage gambling, placing a bet for a person not located at the facility, manipulating games, and possessing an ownership interest in a gambling facility by a state or local official while in office or within 5 years of leaving office.¹⁰¹⁷

Maryland Criminal Penalties

Maryland has a broad prohibition against gambling that results in a misdemeanor punishable by imprisonment of between 6 and 12 months and a fine of between \$200 and \$1000.¹⁰¹⁸ The exception is within Baltimore City, where a violation is merely a citation.¹⁰¹⁹ Notwithstanding the general provisions, Maryland has identified specific gambling games with different criminal penalties. Playing thimbles, little joker, craps or any other gaming device results in a misdemeanor punishable by imprisonment for between 6 months and 2 years and/or a fine not exceeding \$100.¹⁰²⁰ Owning a building in which gaming devices are located or where gambling occurs results in a misdemeanor punishable by imprisonment between 6 and 12 months and/or a fine not exceeding \$500.¹⁰²¹ Gambling or owning a vessel on water where gambling occurs results in a misdemeanor subject to imprisonment up to 1 year and/or a fine between \$200 through \$1,000.¹⁰²²

Maryland passed a limited exception to the criminal gambling statutes that authorizes a weekly poker night. So long as someone is 21 years old, conducts the game in a home, is limited to mah jong or a card game, is not conducted more than once a week, does not charge a fee for admission, and has a limit of \$1,000 in any 24-hour period, it does not run afoul of the general criminal prohibition against gambling.¹⁰²³

Massachusetts Criminal Penalties

Generally, Massachusetts defines illegal gambling as: “a banking or percentage game played with cards, dice, tiles or dominoes, or an electronic, electrical or mechanical device or machine for money, property, checks, credit or any representative of value.”¹⁰²⁴ With the passage of the gaming act, the legislature excluded any games conducted pursuant to the gaming law from the definition.

The IEB also coordinates with the State Police, local police, the Office of the Attorney General, and the Alcoholic Beverage Control Commission.¹⁰²⁵

Michigan Criminal Penalties

A disassociated person who enters a casino is guilty of criminal trespass punishable by imprisonment for not more than one year and a fine of not more than \$1,000, or both.¹⁰²⁶ Once an individual’s name has been entered on the list of disassociated persons, it remains there for the remainder of that person’s lifetime.¹⁰²⁷

Ohio Criminal Penalties

Allowing or participating in gambling in public other than in a casino or a VLT facility is a minor misdemeanor, unless previously convicted of a gambling offense, in which case it is a fourth-degree misdemeanor.¹⁰²⁸ Attempting to corrupt any bet, contest, bingo game, or sporting event. To do so is a first-degree misdemeanor, unless it involves sports in which case it is a fifth-degree felony.¹⁰²⁹

Casinos

There are several criminal penalties associated with violations of provisions of the rules and regulations. It is a first-degree misdemeanor for the first offense and a fifth-degree felony for subsequent offenses for making false statements on applications, permitting underage persons to gamble, aid, induce or cause an underage person to enter or attempt to enter a casino, for an underage person to enter a casino, or for a casino operator or employee to participate in casino gaming at a casino in which s/he has an interest in or at which s/he is employed.¹⁰³⁰ It is a fifth-degree felony for the first offence and a fourth-degree felony for subsequent offences for a person to attempt to cheat at card or casino games, sell any gaming paraphernalia that is not licensed, uses or possesses counterfeit chips or tokens, or operates an unlicensed gaming facility.¹⁰³¹ It is a third-degree felony for anyone to knowingly attempt to bribe a casino-related company or employee.¹⁰³² It is a fifth-degree felony for the first offence and a fourth-degree felony for each subsequent offense to cause or attempt to cause a casino to fail to file a required CTR or SAR report or structure a transaction in an attempt to avoid CTR or SAR reporting requirements.¹⁰³³

Racinos

Due to the limited ability of a customer to cheat a VLT, there are no enumerated criminal penalties in the statutes governing VLTs.

West Virginia Criminal Penalties

VLT

Generally, failure to abide by the rules established for VLTs results in misdemeanors punishable by up to a year and fines of up to \$10,000 for an individual or up to \$50,000 for an entity.¹⁰³⁴ For the limited VLT retailers, there are increasing penalties for allowing under-age players—\$200 for the first offense, \$1,000 for the second offense, \$5,000 for the third offense, and an increase of \$5,000 per fine for each subsequent offense.¹⁰³⁵ Other violations by service technicians and manufacturers have similar escalating fines.¹⁰³⁶

Limited VLT Offenses

The limited VLT statutes have several criminal offenses similar in nature to those in the VLT statutes.¹⁰³⁷ It is, however, a felony to possess a video gambling machine punishable by imprisonment between 1 and 3 years and a fine between \$50,000 and \$100,000 for an individual and \$100,000 to \$500,000 for entities.¹⁰³⁸ It is also a felony to use a device that gives a player an unauthorized advantage or knowingly violate the rules of play of a limited VLT punishable of between 1 and 10 years and between \$2,000 and \$5,000, unless the person profits less than \$1,000 in which case it is a misdemeanor.¹⁰³⁹

Table Games

The West Virginia State Police have exclusive jurisdiction over felony offenses committed on the grounds of racetracks.¹⁰⁴⁰ As with VLTs, most offenses are misdemeanors except for those related

to bribery, attempts to fix or assist in winning table games, possessing counterfeit gambling games or tokens.¹⁰⁴¹

¹ Mich AG Opinion 7002, 1998.

² www.americangaming.org/policies/next-generation-gaming/

³ Delaware passed the Horseracing Redevelopment Act authorizing slot machines at the existing racetracks, codified at 29 Del. §§ 4801, 4803, 4805, 4807, 4810, 4815, renumbering §§ 4820-4825 to §§ 4830-4835, adding §§ 4819-4823.

⁴ 2010 HB 310, codified at 29 Del. §§ 4803, 4805, 4815, 4819, 4820, 4822, 4827, adding §§ 4828-4837, renumbering §§ 4830-4835 as §§ 4850-4855, § 8203

⁵ <https://agriculture.delaware.gov/thoroughbred-racing-commission/>

⁶ <https://dpr.delaware.gov/boards/gaming/>. Its powers and duties are set forth in Chapter 15 of Title 28 of Delaware laws.

⁷ <https://www.pokernews.com/news/2013/11/delaware-becomes-first-state-to-launch-full-scale-gambling-16741.htm>

⁸ <https://www.delawareonline.com/story/news/2018/05/31/single-games-sports-bets-start-tuesday-delaware/661189002/>

⁹ 29 Del. § 4801(b).

¹⁰ 29 Del. § 4837.

¹¹ 29 Del. § 8236.

¹² Statistics compiled from <https://www.worldcasinodirectory.com/delaware> as well as <https://www.worldcasinodirectory.com/casino/harrington-raceway-2120>.

¹³ 29 Del. § 4830(a).

¹⁴ Delaware Division of Gaming Enforcement, *About the Division of Gaming Enforcement (DGE)*, <https://dge.delaware.gov/contentFolder/index-in.shtml?dc=aboutagency>.

¹⁵ 29 Del. § 4828(a); 10 Del. Admin. Code § 204-3.0; 29 Del. § 4825(c). Video Lottery operators do not need a separate license to offer table games but must submit a proposed business plan for table games with its video lottery application. The Lottery Director determines where sports wagering may occur at video lottery locations and does not require a separate license or application.

¹⁶ 29 Del. § 4829(b).

¹⁷ 29 Del. § 4829(a)(1).

¹⁸ 29 Del. § 4829(a)(2). Regular and continuing business is defined as selling \$400,000 or more to a single agent or \$750,000 or more to all agents within any twelve-month period. 10 Del. Admin. Code §§ 203-4.6.1, 4.6.2.

¹⁹ Gaming excursions are defined as an arrangement the purpose of which is to induce any person, selected or approved for participation therein on the basis of said person's ability to satisfy a financial qualification obligation related to said person's ability or willingness to gamble or on any other basis related to said person's propensity to gamble, to come to a video lottery facility for the purpose of gaming and pursuant to which, and as consideration for which, any or all of the cost of transportation, food, lodging, and entertainment for said person is directly or indirectly paid by a video lottery agent or employee thereof. 29 Del. § 4803(h). Regular and continuing business is defined as transactions of \$150,000 or more to a single agent and \$300,000 or more to all agents in any twelve-month period. 10 Del. Admin. Code §§ 203-4.7.1, 4.7.2.

²⁰ 29 Del. § 4829(a)(1).

²¹ 29 Del. § 4829(b).

²² 10 Del. Admin. Code § 203-4.22.

²³ 10 Del. Admin. Code § 203-4.23.

²⁴ 10 Del. Admin. Code § 203-4.5.1.

²⁵ 10 Del. Admin. Code § 203-2.0 defines an institutional investor as “a. A retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees; b. An investment company registered under the Investment Company Act of 1940 (15 U.S.C. §80a-1 et seq.); c. A collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency; d. A closed end investment trust; e. A chartered or licensed life insurance company or property and casualty insurance company; f. A banking or other chartered or licensed lending institution; g. An investment advisor registered under The Investment Advisors Act of 1940 (15 U.S.C. §80b-1 et seq.); and h. Any other persons whom the Director may reasonably determine to qualify as an institutional investor for reasons consistent with the purposes of Title 29, ch. 48, subch. I.”

²⁶ 10 Del. Admin. Code §§ 203-3.16, 203-3.16.1.

²⁷ A key employee is defined as a person employed in the operation of a video lottery facility and determined by the Director to be acting in a supervisory capacity or empowered to make discretionary decisions with respect to video

lottery machine or table game operations, including, without limitation, the chief executive, financial and operation managers, video lottery department managers, cashier and cage supervisors, credit executives, pit bosses or managers, gaming employee shift managers or any other employee so designated by the Director for reasons consistent with the public policies of this subchapter, and shall include any officer or any employee of an employee organization who has direct involvement with or who exercises authority, discretion or influence in the representation of employees of a Delaware video lottery agent in collective bargaining, grievance representation, labor disputes, salaries, wages, rates of pay, hours of employment or conditions of work. 29 Del. § 4803(o).

²⁸ A gaming room service employee is defined as a person employed to perform services or duties in a video lottery facility, who has access to the gaming area or restricted gaming area, but who is not included within the definition of "key employee" or "gaming employee." 29 Del. § 4803(i).

²⁹ A gaming employee is defined as a person employed in the operation of a video lottery facility and determined by the Director to have employment duties and responsibilities involving the security, maintenance, servicing, repair, or operation of video lottery machines and table game equipment, or is employed in a position that allows direct access to the internal workings of video lottery machines or table game equipment. Such employees shall include, without limitation: dealers; floor persons; video lottery machine personnel; video lottery machine technicians; count room and cage personnel; security and surveillance employees; employees responsible for handling assets and proceeds associated with the operation of gaming activity; and employees with responsibility for policies concerning complimentary or allowed to grant variances to policies concerning complimentary. 29 Del. § 4803(g).

³⁰ 29 Del. § 4828(b).

³¹ 29 Del. § 4828(c)(1).

³² 29 Del. § 4828(c)(2).

³³ 29 Del. § 4828(c)(3).

³⁴ 29 Del. § 4830(a).

³⁵ 29 Del. § 4830(b)(1).

³⁶ 29 Del. § 4830(b)(2).

³⁷ 29 Del. § 4830(c)(1) and (2).

³⁸ 29 Del. § 4830(b)(4).

³⁹ 29 Del. § 4830(d).

⁴⁰ 29 Del. § 4830(f)(1).

⁴¹ 29 Del. § 4830(h).

⁴² 10 Del. Admin. Code § 204-3.1; 10 Del. Admin. Code § 206-4.1.

⁴³ 29 Del. § 4863(b).

⁴⁴ 29 Del. § 4864.

⁴⁵ See organizational chart at **Exhibit 1**.

⁴⁶ 29 Del. § 4805(a)(11).

⁴⁷ 29 Del. § 4815(d)(1)(a).

⁴⁸ 29 Del. § 4815(b)(3)(a).

⁴⁹ 29 Del. § 4815(b)(1).

⁵⁰ *Id.*

⁵¹ 29 Del. § 4815(b)(3)(a)(1).

⁵² 29 Del. § 4815(d)(1)(b).

⁵³ 29 Del. § 4815(d)(1)(b).

⁵⁴ 29 Del. § 4815(d)(1)(b).

⁵⁵ 29 Del. § 4815(b)(3)(c).

⁵⁶ 29 Del. § 4815(b)(3)(c).

⁵⁷ Combined limited to \$1,000,000 pursuant to 29 Del. § 4815(b)(3)(d).

⁵⁸ 29 Del. § 4815(b)(3)(c).

⁵⁹ 29 Del. § 4815(c)(1). For racinos that offer only harness racing, the rate is 10.2% and for racinos that offer only thoroughbred races the rate is 9.6%.

⁶⁰ 29 Del. § 4815(e).

⁶¹ 29 Del. § 4815(e).

⁶² 29 Del. § 4815(e)(1).

⁶³ 29 Del. § 4815(d)(1).

⁶⁴ 29 Del. § 4819(d)(1)

⁶⁵ 29 Del. §4819(d)(1)
⁶⁶ 29 Del. §4819(d)(2)
⁶⁷ 29 Del. §4819(d)(2)
⁶⁸ 29 Del. §4819(d)(2)(a) and (b).
⁶⁹ 30 Del. §2301(d)(3).
⁷⁰ Revenue information from Delaware Auditor of Accounts Lottery Annual Report or Department of Lottery Annual Reports.
⁷¹ 29 Del. §4801(b).
⁷² 29 Del. §4801(a).
⁷³ 29 Del. §4801(c).
⁷⁴ 29 Del. §4860 *et seq.* The daily fantasy sports bill is slated to expire on July 1, 2019 unless reenacted.
⁷⁵ 29 Del. §4827(a)(3).
⁷⁶ 29 Del. §4827(a)(3).
⁷⁷ 29 Del. §4827(a)(3).
⁷⁸ 29 Del. §4819A(a).
⁷⁹ 29 Del. §4819A(a); 29 Del. §4837(c), The Division of Gaming Enforcement is charged with vetting the background, qualifications and suitability of each nominee.
⁸⁰ 29 Del. §4819A(e).
⁸¹ 29 Del. §4819A(b).
⁸² 29 Del. §4819A(c).
⁸³ 29 Del. §4819A(c).
⁸⁴ 29 Del. §4819A(j).
⁸⁵ 29 Del. §4819A(k)(1).
⁸⁶ 29 Del. §4819A(k)(1)(a)-(d).
⁸⁷ 29 Del. §4819A(k)(4).
⁸⁸ 29 Del. §4824(a).
⁸⁹ 29 Del. §4824(a)(1)-(4).
⁹⁰ 29 Del. §4824(d).
⁹¹ 29 Del. §4805(a)(26).
⁹² 29 Del. §4805(a)(27).
⁹³ 29 Del. §4825(d).
⁹⁴ 29 Del. § 4819(a).
⁹⁵ 29 Del. § 4820(a).
⁹⁶ 29 Del. § 4820(a).
⁹⁷ 29 Del. § 4820(b)(1).
⁹⁸ 29 Del. § 4820(e).
⁹⁹ 29 Del. §4826(b).
¹⁰⁰ 29 Del. §4826(c).
¹⁰¹ 29 Del. §4861(a)(1).
¹⁰² 29 Del. §4863(a)(1).
¹⁰³ See <https://fantasysports.delaware.gov/>.
¹⁰⁴ 29 Del. §4865(a)(1).
¹⁰⁵ 29 Del. §4865(a)(2).
¹⁰⁶ 29 Del. §4865(a)(4).
¹⁰⁷ 29 Del. §4865(a)(6).
¹⁰⁸ 29 Del. §4865(a)(13).
¹⁰⁹ 29 Del. §4865(h).
¹¹⁰ 29 Del. § 4830(e).
¹¹¹ 29 Del. §4830(j)(1)
¹¹² 29 Del. §4830(j)(2)
¹¹³ 29 Del. §4830(j)(2)
¹¹⁴ 29 Del. §4830(j)(2). The Administrative Procedures Act is codified at 29 Del. Chapter 10.
¹¹⁵ 29 Del. §4830(k).
¹¹⁶ 29 Del. §4801(a); 29 Del. § 4804(a).

¹¹⁷ 29 Del. §4804(b).
¹¹⁸ 29 Del. 4805(b)(1).
¹¹⁹ Information pulled from Delaware Lottery Annual Reports.
¹²⁰ 29 Del. §4837(a).
¹²¹ 29 Del. §4837(f).
¹²² 29 Del. §4837(a).
¹²³ 29 Del. §4837(a). Also see 29 Del. § 4837(d).
¹²⁴ 29 Del. §4837(a).
¹²⁵ 29 Del. §4837(c).
¹²⁶ 29 Del. §4837(e)(1) and (2).
¹²⁷ 29 Del. §4837(e)(3) and (4).
¹²⁸ 29 Del. §4837(e)(5).
¹²⁹ https://www.newspapers.com/clip/30058896/bet_on_slots_to_show_at_raceway/
¹³⁰ Operating expenses were \$9.6 million and \$11.1 million in 2011. See Delaware State Lottery Financial Statements June 30, 2012 and 2011.
¹³¹ General history derived from <https://www.krgc.ks.gov/index.php/overview/krgc/history-of-gaming-in-kansas>.
¹³² KS Const. Art. 15, § 3b.
¹³³ K.S.A. § 74-8801 *et seq.*
¹³⁴ Iowa Tribe of Kansas and Nebraska, Kickapoo Tribe of Kansas and Nebraska, Prairie Band Potawatomi Nation and Sac and Fox Nation of Missouri in Kansas and Nebraska. The respective compacts are available at <http://www.kansas.gov/ksga/Compacts.htm>.
¹³⁵ Ks. Exec. Order 95-177.
¹³⁶ K.S.A. § 74-9801 *et seq.*
¹³⁷ K.S.A. § 74-8733 *et seq.*
¹³⁸ K.S.A. § 74-8734(n)(2).
¹³⁹ K.S.A. § 74-8734(h)(19)(A)(iii); § 74-8744(b)(1).
¹⁴⁰ K.S.A. § 74-8737(a); § 74-8743(a)
¹⁴¹ General history derived from <https://www.krgc.ks.gov/index.php/overview/krgc/history-of-gaming-in-kansas>.
¹⁴² K.S.A. § 74-8734(d)
¹⁴³ K.S.A. § 74-8734(e)
¹⁴⁴ K.S.A. § 74-8734(g)(2). The southeast region initially had a minimum investment of \$225 million but was subsequently reduced in 2014 in response to no bidders being willing to come forward. 2014 KS HB 2772.
¹⁴⁵ K.S.A. § 74-8736(a).
¹⁴⁶ K.S.A. § 74-8736(b).
¹⁴⁷ K.S.A. § 74-8736(b).
¹⁴⁸ K.S.A. § 74-8736(e).
¹⁴⁹ K.S.A. § 74-8736(e).
¹⁵⁰ K.S.A. § 74-8736(e).
¹⁵¹ K.S.A. § 74-8741(a)
¹⁵² <https://www.krgc.ks.gov/index.php/overview/krgc/history-of-gaming-in-kansas>.
¹⁵³ Information derived from <https://www.worldcasinodirectory.com/kansas>.
¹⁵⁴ <https://www.krgc.ks.gov/index.php/overview/krgc/history-of-gaming-in-kansas>
¹⁵⁵ Kansas Racing and Gaming Commission, *History of Gaming in Kansas*, <https://www.krgc.ks.gov/index.php/overview/krgc/history-of-gaming-in-kansas> (last visited Jul. 24, 2019).
¹⁵⁶ K.S.A. § 74-8737(a).
¹⁵⁷ K.S.A. § 74-8737(c).
¹⁵⁸ K.S.A. § 74-8737(c).
¹⁵⁹ K.S.A. § 74-8734(h)(10).
¹⁶⁰ K.S.A. § 74-8734(h)(10).
¹⁶¹ K.S.A. § 74-8751(a).
¹⁶² K.S.A. § 74-8751(b).
¹⁶³ K.S.A. § 74-8751(b).
¹⁶⁴ K.S.A. § 74-8751(a).
¹⁶⁵ K.A.R. 112-100-2.

¹⁶⁶ K.A.R. 112-101-4.

¹⁶⁷ K.S.A. § 74-8751(a).

¹⁶⁸ K.A.R. 112-101-7; K.A.R. 112-102-9.

¹⁶⁹ K.A.R. 112-103-2. Level I employees are any person who has the authority to develop or administer policy and key employees such as chief financial officer, managers, directors of security, surveillance, electronic gaming machines, internal audit, marketing, information systems, hotel, restaurant or bar, and controller. Level II employees include pit area supervisors, dealers, supervising table games, repairing and maintaining gaming equipment, cashier, and many others. Level III employees are those who do not fall into either Level I or Level II.

¹⁷⁰ K.A.R. 112-103-3.

¹⁷¹ K.S.A. § 74-8734(h).

¹⁷² K.A.R. 112-102-2.

¹⁷³ K.A.R. 112-102-2.

¹⁷⁴ K.A.R. 112-102-5.

¹⁷⁵ K.S.A. § 74-8734(h)(6). As with the minimum investment fee, the licensing fee for the southeast region was reduced from \$25 million to \$5.5 million in 2014. 2014 KS HB 2772.

¹⁷⁶ K.S.A. § 74-8744(b)(3).

¹⁷⁷ From Kansas Lottery Financial and Compliance Audit Years Ended June 30, 2018 and 2017.

¹⁷⁸ K.S.A. § 74-8734(h)(12), (14) and (15). If the northeast and southwest region facilities are in a city, 1.5% goes to the city and 1.5% goes to the county; otherwise the full 3% goes to the county. If the southeast or south-central facilities are not in a city, 2% goes to the county in which the facility is located and 1% to all other counties within the region; if they are in a city, 1% goes to the city, 1% goes to the county in which the facility is located and 1% to all other counties within the region.

¹⁷⁹ K.S.A. § 74-8768.

¹⁸⁰ K.S.A. § 74-8757.

¹⁸¹ K.A.R. 112-101-10.

¹⁸² K.A.R. 112-101-11.

¹⁸³ With respect to racetrack facilities, applicants do not have to be approved by the LGFB. Instead, each racetrack facility management company must submit a plan regarding live racing and purses to the KRCG for approval prior to issuance of a license. The KRCG also performs background checks and investigations of the company and their owners, managers, officers and directors. With respect to EGMs placed at racetrack gaming facilities, the Lottery is not permitted to place any machines in Sedgwick County unless the licensee conducts at least 100 greyhound races are run each week for at least as many weeks as were run in 2003, including at least 13 live races conducted each day for not less than 5 days per week. For Wyandotte County, the minimum requirements are at least 60 live horse racing programs with at least 10 live races per program, along with a reasonable effort to try and at least 3 live races for quarter horses and 7 live races for thoroughbred horses per day, as well as the greyhound requirements outlined for Sedgwick County. For Crawford County, the licensee must conduct at least 85 greyhound races each week. The Lottery rules mandate that only 2,200 EGMs shall be allocated to racetrack gaming facilities until contracts have been executed at all racetrack gaming facilities in the state. Once that is finalized, lottery gaming facility managers and racetrack gaming facility managers may bid for the remaining EGMs, with a minimum bid per machine of \$2,500.

¹⁸⁴ K.S.A. § 74-8749.

¹⁸⁵ K.S.A. § 74-8709(a).

¹⁸⁶ K.S.A. § 74-8703(b).

¹⁸⁷ K.S.A. § 74-8709(a).

¹⁸⁸ K.S.A. § 74-8716(a).

¹⁸⁹ K.S.A. § 74-8709(d).

¹⁹⁰ K.S.A. § 74-8710(a).

¹⁹¹ KRGC Code of Conduct B(13).

¹⁹² K.S.A. § 74-8714(a).

¹⁹³ K.S.A. § 74-8735(a)

¹⁹⁴ K.S.A. § 74-8735(d)

¹⁹⁵ K.S.A. § 74-8735(b)

¹⁹⁶ 2007 Special Session, ch. 5, ratified Nov. 4, 2008. Codified at Md. Const. Art. XIX.

¹⁹⁷ Acts 2012, 2nd Sp. Sess., c. 1, § 1, eff. Oct. 1, 2012

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- ¹⁹⁸ Md. Code. State Government §9-1D-01.
- ¹⁹⁹ Md. Code Regs. 3.11.01. *et seq.*
- ²⁰⁰ See Maryland HB 48.
- ²⁰¹ Md. Code. State Government §9-1A-36.
- ²⁰² Md. Code. State Government §9-1A-36(f).
- ²⁰³ Md. Code. State Government §9-1A-36(j)(1).
- ²⁰⁴ Md. Code. State Government §9-1A-36(j)(3).
- ²⁰⁵ Md. Code. State Government §9-1A-36(k)(2).
- ²⁰⁶ Md. Code. State Government §9-1A-36(k)(3).
- ²⁰⁷ Md. Code. State Government §9-1A-36(k)(4).
- ²⁰⁸ Md. Const. Art. XIX, Sect. 1(c)(3)(i).
- ²⁰⁹ Md. Const. Art. XIX, Sect. 1(c)(3)(ii).
- ²¹⁰ Md. Const. Art. XIX, Sect. 1(c)(3)(iii).
- ²¹¹ Md. Const. Art. XIX, Sect. 1(c)(3)(iv).
- ²¹² Md. Const. Art. XIX, Sect. 1(c)(3)(v).
- ²¹³ Md. Code. State Government §9-1A-36(h)(1)(vi).
- ²¹⁴ Md. Code. State Government §9-1A-36(t).
- ²¹⁵ Information derived from Maryland Lottery and Gaming Control Agency Comprehensive Annual Financial Report for the Years Ended June 30, 2018 and 2017.
- ²¹⁶ Md. Const. Art. XIX, Sect. 1(c)(5).
- ²¹⁷ Md. Code. State Government §9-1A-10(a)3). To date, however, only Prince George's County has exercised its option.
- ²¹⁸ Md. Code. State Government §9-1A-31.
- ²¹⁹ Md. Code. State Government §9-1A-31(b)(1).
- ²²⁰ Md. Code. State Government §9-1A-31(b)(2)(i)(2).
- ²²¹ Md. Code. Criminal Law §13-101(b).
- ²²² Md. Code. Criminal Law §13-201(a).
- ²²³ Md. Code. Criminal Law §13-201(b).
- ²²⁴ Allegany, Anne Arundel, Baltimore City, Baltimore County, Calvert, Caroline, Carroll, Cecil, Charles, Dorchester, Frederick, Garrett, Harford, Howard, Kent, Montgomery, Prince George's, Queen Anne, St. Mary, Somerset, Talbot, Washington, Wicomico and Worcester. See Md. Code. Criminal Law §13-301 through §13-2601.
- ²²⁵ Md. Code. State Government §9-107(a).
- ²²⁶ Md. Code. State Government §9-1A-04(a).
- ²²⁷ Md. Code. State Government §9-1A-06(a). Security service providers are those who manage, operate, supply, provides security for, or provides service, maintenance or repairs for video lottery terminals or table games. Md. Code. State Government §9-1A-06(a)(4).
- ²²⁸ Md. Code. State Government §9-1A-12.
- ²²⁹ Md. Code. State Government §9-1A-07(c)(7).
- ²³⁰ Md. Code. State Government §9-1A-07(c)(7)(v).
- ²³¹ Md. Code. State Government §9-1A-08(a)(1).
- ²³² Md. Code. State Government §9-1A-08(a)(2).
- ²³³ Md. Code. State Government §9-1A-08(a)(3).
- ²³⁴ Md. Code. State Government §9-1A-08(a)(7).
- ²³⁵ Md. Code. State Government §9-1A-08(a)(12).
- ²³⁶ Md. Code. State Government §9-1A-20(b).
- ²³⁷ Md. Code. State Government §9-1A-20(d)(4).
- ²³⁸ Md. Code Regs. §36.03.02.01 *et seq.*
- ²³⁹ Md. Code. State Government §9-1A-07(f).
- ²⁴⁰ Md. Code. State Government §9-1A-13(a).
- ²⁴¹ Md. Code. State Government §9-1A-13(d).
- ²⁴² Md. Code. State Government §9-1A-13(c).

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- ²⁴³ Md. Code. State Government §9-1A-08(d)(1).
- ²⁴⁴ Md. Code Regs. §36.03.02.06
- ²⁴⁵ Md. Code Regs. §36.03.02.07
- ²⁴⁶ Md. Code Regs. §36.03.03.06
- ²⁴⁷ Md. Code Regs. §36.03.02.13
- ²⁴⁸ Md. Code Regs. §36.03.02.17. The full list of exempt companies includes public utilities, insurance companies, employee benefit plans, professional associations, federal, state, county and municipal government units, alcoholic beverage manufacturers, banks and savings and loans associations, providers of professional services, telecommunication service providers, shipping services, lobbyists, providers of educational or training opportunities, professional entertainers, media representatives, and providers of goods or services that the operator uses solely as player prizes.
- ²⁴⁹ Md. Code Regs. §36.03.02.12
- ²⁵⁰ Md. Code Regs. §36.03.02.12
- ²⁵¹ Md. Code Regs. §36.03.02.12
- ²⁵² Md. Code Regs. §36.03.02.12
- ²⁵³ Md. Code. State Government §9-1A-08(d)(8).
- ²⁵⁴ See Md. Code. State Government §9-1A-108(d)(2)-(10).
- ²⁵⁵ Md. Code. State Government §9-1A-14(c).
- ²⁵⁶ Md. Code. State Government §9-1A-16(a).
- ²⁵⁷ Md. Code. State Government §9-1A-04(g).
- ²⁵⁸ Md. Code. State Government §9-1A-27(d)(1).
- ²⁵⁹ Md. Code. State Government §9-1A-27(d)(2)(i).
- ²⁶⁰ Md. Code. State Government §9-1A-27(d)(2)(i).
- ²⁶¹ Md. Code. State Government §9-1A-27(d)(2)(ii).
- ²⁶² Md. Code. State Government §9-1A-33(a).
- ²⁶³ Md. Code. State Government §9-1A-22(a).
- ²⁶⁴ Md. Code. State Government §9-120(b)(1)(i).
- ²⁶⁵ Md. Code. State Government §9-1A-27(a)(2).
- ²⁶⁶ Md. Code. State Government §9-1A-27(b)(3).
- ²⁶⁷ Md. Code. State Government §9-1A-27(b)(1) & (2).
- ²⁶⁸ Md. Code. State Government §9-1A-27(a)(3).
- ²⁶⁹ Md. Code. State Government §9-1A-27(a)(4).
- ²⁷⁰ Md. Code. State Government §9-1A-27(a)(5)(ii).
- ²⁷¹ Md. Code. State Government §9-1A-27(a)(6)(i). For fiscal year 2018, this was diverted to the General Fund and for fiscal years 2019 and 2020, this was diverted to the Education Trust Fund. Beginning in fiscal year 2021, up to 5% not to exceed \$1,000,000 of the amount to be paid to the Small, Minority and Woman-Owned Business Account is diverted to the Nonprofit, Interest-Free, Micro Bridge Loan Account.
- ²⁷² Md. Code. State Government §9-1A-31(a)(2).
- ²⁷³ Md. Code. State Government §9-1A-31(a)(3)(i).
- ²⁷⁴ Md. Code. State Government §9-1A-31(a)(3)(ii).
- ²⁷⁵ Md. Code. State Government §9-1A-27(a)(7)(i)-(iii).
- ²⁷⁶ Md. Code. State Government §9-1A-27(a)(8).
- ²⁷⁷ Md. Code. State Government §9-1A-27(a)(9).
- ²⁷⁸ The facility opened in 2013.
- ²⁷⁹ Md. Code. State Government §9-1A-27(c)(1)(i).
- ²⁸⁰ Md. Code. State Government §9-1A-27(c)(1)(ii).
- ²⁸¹ Md. Code. State Government §9-1A-27(c)(1)(iii).
- ²⁸² Md. Code. State Government §9-1A-27(c)(1)(iv).
- ²⁸³ Md. Code. State Government §9-1A-27(c)(1)(v). For fiscal year 2018, this was diverted to the General Fund and for fiscal years 2019 and 2020, it will be diverted to the Education Trust Fund.
- ²⁸⁴ Md. Code. State Government §9-1A-27(c)(1)(vi).

²⁸⁵ Md. Code. State Government §9-1A-26(c).
²⁸⁶ Md. Code. State Government §9-1A-26(e).
²⁸⁷ Md. Code. State Government §9-120(b)(1)(i).
²⁸⁸ Md. Code. State Government §9-120(b)(1)(ii).
²⁸⁹ Md. Code. State Government §9-120(b)(1)(iii).
²⁹⁰ Md. Code. State Government §9-120(b)(1)(iv).
²⁹¹ Md. Code. State Government §9-120(b)(1)(iv).
²⁹² Md. Code. State Government §9-1A-28(a).
²⁹³ Md. Code. State Government §9-1A-28(c).
²⁹⁴ Md. Code. State Government §9-1A-28(g)(1)(i) & (ii). Funds received by the operator are specifically prohibited from being used to contribute to a campaign finance entity.
²⁹⁵ Md. Code. State Government §9-1A-28(d).
²⁹⁶ Md. Code. State Government §9-1A-28(f).
²⁹⁷ Md. Code. State Government §9-1A-28(e).
²⁹⁸ Md. Code. State Government §9-1A-05(a)(1).
²⁹⁹ Md. Code. State Government §9-1A-05(a)(2).
³⁰⁰ Md. Code. State Government §9-1A-36(i)(1).
³⁰¹ Md. Code. State Government §9-1A-36(i)(3)(i).
³⁰² Md. Code. State Government §9-1A-21(a)(1).
³⁰³ Md. Code. State Government §9-1A-21(a)(2).
³⁰⁴ Md. Code. State Government §9-1A-05(d)(2).
³⁰⁵ Md. Code. State Government §9-1A-19(a).
³⁰⁶ Md. Code. State Government §9-1A-19(b)(1).
³⁰⁷ Md. Code. State Government §9-1A-19(b)(2).
³⁰⁸ Md. Code. State Government §9-1A-10(a)(1)(ii).
³⁰⁹ See <https://goma.maryland.gov/Pages/mbe-Program.aspx>, visited 5/28/19. The Lottery department's liaison is Roslyn Fuller, roslyn.fuller@maryland.gov, 410-230-8831, 1800 Washington Boulevard, Suite 330, Baltimore, MD 21230.
³¹⁰ Md. Code. State Government §9-1A-11(b)(1).
³¹¹ Md. Code. State Government §9-1A-23(a).
³¹² Md. Code. State Government §9-1A-24(b)(1).
³¹³ Md. Code. State Government §9-1A-24(b)(2).
³¹⁴ Md. Code. State Government §9-1A-24(c)(1).
³¹⁵ Md. Code Regs. §36.03.03.08
³¹⁶ Md. Code Regs. §36.03.12.00 *et seq.*
³¹⁷ Md. Code Regs. §36.03.12.03.
³¹⁸ Md. Code Regs. §36.04.01.03
³¹⁹ Md. Code. State Government §9-1B-02(a).
³²⁰ Md. Code. State Government §9-1B-02(b). A family entertainment center is defined as a location whose primary purpose is providing amusement devices, received a majority of the gross receipts from amusement, merchandise, redemption, or skills-based devices, markets its business to families with children, offers amusement devices, arcade games, crane games, video games, interactive and sporting games, amusement rides, miniature golf, and bowling and has been in continuous operation in the same geographic location since 1975. Md. Code. State Government §9-1B-02(c).
³²¹ Md. Code. State Government §9-1B-02(d).
³²² Md. Code. State Government §9-1B-02(e).
³²³ Md. Code. State Government §9-1B-02(f).
³²⁴ Md. Code. State Government §9-1D-01.
³²⁵ Md. Code Regs. 3.11.01.00 *et seq.*
³²⁶ Md. Code. State Government §9-1A-18(a).
³²⁷ Md. Code Regs. 36.03.02.16(B).

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- ³²⁸ Md. Code. State Government §9-1A-07(g)(2).
- ³²⁹ Md. Code. State Government §9-1A-25(b).
- ³³⁰ Md. Code Regs. 36.01.02.06 set forth the specific regulations governing contested case hearings.
- ³³¹ Md. Code. State Government §9-1A-06(d).
- ³³² Md. Code. State Government §9-1A-27(f).
- ³³³ Md. Code. State Government §9-105(a)(1).
- ³³⁴ Md. Code. State Government §9-105(a)(1).
- ³³⁵ Md. Code. State Government §9-105(b)(3).
- ³³⁶ Md. Code. State Government §9-105(b)(1).
- ³³⁷ Md. Code. State Government §9-105(b)(2).
- ³³⁸ Md. Code. State Government §9-108(d)(1)(i). Per the 2019 budget, commissioners receive a salary of \$17,123.86. See Maryland Department of Budget and Management, *Maryland Lottery and Gaming Control Agency*, <https://dbm.maryland.gov/budget/Documents/operbudget/2020/agency/MarylandLotteryandGamingControlAgency.pdf>.
- ³³⁹ Md. Code. State Government §9-109.
- ³⁴⁰ Md. Code. State Government §9-1A-37(a).
- ³⁴¹ Information pulled from Maryland Department of Budget and Management, *Maryland Lottery and Gaming Control Agency*, <https://dbm.maryland.gov/budget/Documents/operbudget/2020/agency/MarylandLotteryandGamingControlAgency.pdf>.
- ³⁴² See Maryland Lottery and Gaming Control Agency Comprehensive Annual Financial Report for the Years Ended June 30, 2018 and 2017.
- ³⁴³ Md. Code. State Government §9-1A-36(b).
- ³⁴⁴ Md. Code. State Government §9-1A-36(c).
- ³⁴⁵ Md. Code. State Government §9-1A-36(d).
- ³⁴⁶ Md. Code. State Government §9-1A-38(b).
- ³⁴⁷ Md. Code. State Government §9-1A-38(e).
- ³⁴⁸ Md. Code. State Government §9-1A-38(g).
- ³⁴⁹ Md. Code. State Government §9-1A-09(b)(1)(iii).
- ³⁵⁰ Md. Code. State Government §9-1A-29(d).
- ³⁵¹ Md. Code. State Government §9-1A-29(i).
- ³⁵² Massachusetts State Lottery Commission, *History*, <https://www.masslottery.com/about/history.html> (last visited Jun. 4, 2019).
- ³⁵³ Massachusetts State Lottery Commission, *Information Packet*, <https://www.masslottery.com/lib/downloads/about/MSLC%20Info%20Pack%201216.pdf>.
- ³⁵⁴ Massachusetts State Lottery Commission, *Information Packet*, <https://www.masslottery.com/lib/downloads/about/MSLC%20Info%20Pack%201216.pdf>. The State Lottery subsequently formed a Charitable Gaming division to regulate charitable gaming.
- ³⁵⁵ Massachusetts State Lottery Commission, *Information Packet*, <https://www.masslottery.com/lib/downloads/about/MSLC%20Info%20Pack%201216.pdf>.
- ³⁵⁶ Mass. Gen. Laws ch. 23K, § 1.
- ³⁵⁷ Mass. Gen. Laws ch. 23K, § 3.
- ³⁵⁸ Mass. Gen. Laws ch. 23K, § 19.
- ³⁵⁹ Mass. Gen. Laws ch. 23K, § 20.
- ³⁶⁰ The State Racing Commission was previously created pursuant to Mass Gen. Laws Ch. 6, §48.
- ³⁶¹ Play Massachusetts, *Daily Fantasy Sports Offerings In Massachusetts*, <http://tinyurl.com/v38vue3x>
- ³⁶² Andy Rosen, *Fantasy Sports Scores, Winning Legalization and a Tax Break in Massachusetts*, The Boston Globe (Aug. 9, 2018), <https://www.bostonglobe.com/business/2018/08/08/fantasy-sports-scores-winning-legalization-and-tax-break-massachusetts/BL42wD8dP4q17v5X4kNLDL/story.html>
- ³⁶³ H.68, 191st Gen. Court (Ma. 2019)
- ³⁶⁴ Massachusetts Gaming Commission, *Timeline*, <https://massgaming.com/historical-timeline/#4>

³⁶⁵ Massachusetts Gaming Commission, *Timeline*, <https://massgaming.com/historical-timeline/#10>. The applicants were MGM Springfield, Penn National Gaming, Plainridge Racecourse/Ourway Realty, Hard Rock MA, Wynn MA, Mohegan Sun Massachusetts, Sterling Suffolk Racecourse, Raynham Park, Mass Gaming & Entertainment, PPE Casino Resorts/The Cordish Companies, and Crossroads Massachusetts.

³⁶⁶ Mass. Gen. Laws ch. 23K, § 19(a); Mass. Gen. Laws ch. 23K, § 20(a).

³⁶⁷ Mass. Gen. Laws ch. 23K, § 19(a).

³⁶⁸ Mass Ch. 194 of Acts of 2011, § 91.

³⁶⁹ Massachusetts Gaming Commission, *Tribal-State Compact Between the Mashpee Wampanoag Tribe and the Commonwealth of Massachusetts*, <http://massgaming.com/wp-content/uploads/Tribal-State-Compact-Signed-3-19-13.pdf>.

³⁷⁰ 2016 WL 4190788 (D. Mass.)

³⁷¹ See *KG Urban Enterprises, LLC v. Deval Patrick, Chairman and Commissioners of the Massachusetts Gaming Commission*, Case No. 11-12070-NMG, Massachusetts Federal District Court.

³⁷² *Id.*, Memorandum and Order dated January 9, 2014. In the order, the court ruled that contrary to the plaintiff's arguments, there was no racial preference because any such preference was limited to an 18 month period (running from the passage of the Gaming Act to the commencement of the commercial application process) and such limited grace period was a "limited grace period" and not a "lengthy delay." *Id.*, pgs. 13-15.

³⁷³ Massachusetts Gaming Commission, *Timeline*, <https://massgaming.com/historical-timeline/#23>

³⁷⁴ Massachusetts Gaming Commission, *Timeline*, <https://massgaming.com/historical-timeline/#31>

³⁷⁵ Massachusetts Gaming Commission, *Timeline*, <https://massgaming.com/historical-timeline/#43>

³⁷⁶ Massachusetts Gaming Commission, *Timeline*, <https://massgaming.com/historical-timeline/?timeline-category=region-b#1>

³⁷⁷ Massachusetts Gaming Commission, *Timeline*, <https://massgaming.com/historical-timeline/?timeline-category=region-b#3>

³⁷⁸ Massachusetts Gaming Commission, *Timeline*, <https://massgaming.com/historical-timeline/?timeline-category=region-b#5>

³⁷⁹ Massachusetts Gaming Commission, *Timeline*, <https://massgaming.com/historical-timeline/?timeline-category=region-b#15>

³⁸⁰ Massachusetts Gaming Commission, *Timeline*, <https://massgaming.com/historical-timeline/#34>

³⁸¹ The MGC was also sued by residents alleging serial violations of Massachusetts Open Meeting Law act. That lawsuit was recently dismissed.

³⁸² Alexandra Berzon, Chris Kirkham, Elizabeth Bernstein, Kate O'Keeffe, *Dozens of People Recount Pattern of Sexual Misconduct by Las Vegas Mogul Steve Wynn*, Wall Street Journal (Jan. 27, 2018), <https://www.wsj.com/articles/dozens-of-people-recount-pattern-of-sexual-misconduct-by-las-vegas-mogul-steve-wynn-1516985953>.

³⁸³ Todd Prince, *Kim Sinatra Stepping Down from Role at Wynn Resorts*, Las Vegas Review-Journal (Jul. 5, 2018), <https://www.reviewjournal.com/business/casinos-gaming/kim-sinatra-stepping-down-from-role-at-wynn-resorts/>

³⁸⁴ The primary focus of the inquiry was Steve Wynn's omission from the application materials several settlements and substantial payments either he individually, entities he formed, or Wynn Resorts itself made to former employees who alleged sexual misconduct against Steve Wynn.

³⁸⁵ Information pulled from Massachusetts Gaming Commission 2018 Annual Report.

³⁸⁶ Mass. Gen. Laws ch. 23K, § 15. A host community is defined as "a municipality in which a gaming establishment is located or in which an applicant has proposed locating a gaming establishment" and a surrounding community is defined as "municipalities in proximity to a host community which the commission determines experience or are likely to experience impacts from the development or operation of a gaming establishment, including municipalities from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment." Mass. Gen. Laws ch. 23k, §2.

³⁸⁷ Mass. Gen. Laws ch. 23K, § 15(13). Prior to the election, the municipality must make public the host community agreement with the applicant.

³⁸⁸ Mass. Gen. Laws ch. 23K, § 15(13).

³⁸⁹ Mass. Gen. Laws ch. 23K, § 15(10).

³⁹⁰ Mass. Gen. Laws ch. 23K, § 17(a) and (b).

³⁹¹ Mass. Gen. Laws ch. 23K, § 17(c).

³⁹² Mass. Gen. Laws ch. 23K, § 17(c).

³⁹³ Mass. Gen. Laws ch. 23K, § 17(d).
³⁹⁴ Mass. Gen. Laws ch. 23K, § 17(e).
³⁹⁵ Mass. Gen. Laws ch. 23K § 61(b).
³⁹⁶ Mass. Gen. Laws ch. 23K, § 68(e).
³⁹⁷ Mass. Gen. Laws ch. 23K, § 68(e).
³⁹⁸ Mass. Gen. Laws ch. 23K, § 19(b).
³⁹⁹ Mass. Gen. Laws ch. 23K, § 20.
⁴⁰⁰ Mass. Gen. Laws ch. 23K, § 20.
⁴⁰¹ See Mass. Gen. Laws ch. 23K, § 21(a) for the entire list.
⁴⁰² Mass. Gen. Laws ch. 23K, § 14(c).
⁴⁰³ Mass. Gen. Laws ch. 23K, § 14(c). Institutional investors must show that they hold the securities for investment purposes and do not have an intention to influence or affect the affairs of the applicant.
⁴⁰⁴ See generally Mass. Gen. Laws ch. 23K, § 15.
⁴⁰⁵ All the objectives are found at Mass. Gen. Laws ch. 23K, § 18.
⁴⁰⁶ Mass. Gen. Laws ch. 23K, § 30(a).
⁴⁰⁷ Per St. 2017, c. 110, § 3, the MGC has discretion to exempt certain employees from licensure or registration.
⁴⁰⁸ A key employee is defined as one “(i) in a supervisory capacity; (ii) empowered to make discretionary decisions which regulate gaming establishment operations; or (iii) so designated by the commission.” A gaming employee is defined as one who “(i) is directly connected to the operation or maintenance of a slot machine or game taking place in a gaming establishment; (ii) provides security in a gaming establishment; (iii) has access to a restricted area of a gaming establishment; (iv) is connected with the operation of a gaming establishment; or (v) is so designated by the commission. A gaming service employee is defined anyone who is employed by a gaming establishment that is not a key employee or a gaming employee. Mass. Gen. Laws ch. 23K, § 2.
⁴⁰⁹ Mass. Gen. Laws ch. 23K, § 31.
⁴¹⁰ A non-gaming vendor is a business that offers good or services to a gaming establishment which are “not directly related to gaming.” 205 Mass. Code Regs. 134.04 (2018). Examples include construction companies, vending machine providers, linen suppliers, garbage handlers, maintenance companies, limousine services, food purveyors or suppliers of alcoholic beverages. Mass. Gen. Laws ch. 23K, § 31 (d).
⁴¹¹ 205 Mass. Code Regs. 134.04.
⁴¹² 205 Mass. Code Regs. 134.04.
⁴¹³ Massachusetts Gaming Commission, *Non-Gaming Vendor Registration Form*, <https://massgaming.com/wp-content/uploads/6-Non-Gaming-Vendor-Registration-Form.pdf>.
⁴¹⁴ Massachusetts Gaming Commission, *Casino Vendor Licensing and Registration*, <https://massgaming.com/licensing/vendor-licensing-and-registration/> (last visited Jun. 10, 2019).
⁴¹⁵ Mass. Gen. Laws ch. 23K, § 30(e); § 33(b); 205 Mass. Code Regs. 134.12.
⁴¹⁶ Mass. Gen. Laws ch. 23K, § 33 & § 32, respectively.
⁴¹⁷ Mass. Gen. Laws ch. 23K, § 13(a).
⁴¹⁸ Mass. Gen. Laws ch. 23K, § 16(a).
⁴¹⁹ Mass. Gen. Laws ch. 23K, § 16(b).
⁴²⁰ 205 Mass. Code Regs. 3.14.
⁴²¹ Mass. Gen. Laws ch. 10, § 38.
⁴²² Massachusetts Gaming Commission, *Budget*, <https://massgaming.com/the-commission/budget/> (last visited Jun. 10, 2019).
⁴²³ Mass. Gen. Laws ch. 23K, § 10(d).
⁴²⁴ Mass. Gen. Laws ch. 23K, § 10(a).
⁴²⁵ Mass. Gen. Laws ch. 23K, § 11(b).
⁴²⁶ Mass. Gen. Laws ch. 23K, § 11(a).
⁴²⁷ Mass. Gen. Laws ch. 23K, § 20(f).
⁴²⁸ Mass. Gen. Laws ch. 23K, § 55.
⁴²⁹ Mass. Gen. Laws ch. 23K, § 55. The horse racing committee makes recommendations on how to spend amounts in the Race Horse Development Fund. The committee is comprised of 5 people, with one being the governor or his designee, one being the treasurer or his designee, one being the chair of the MGC or his designee, one appointed by the New England Horsemen's Benevolent & Protective Association and the Massachusetts Thoroughbred Breeding

Program and one of whom shall be appointed by the Harness Horseman's Association of New England and the Massachusetts Standardbred Breeding Program

⁴³⁰ Mass. Gen. Laws ch. 23K, § 56(a); Mass. Gen. Laws ch. 23K, § 56(e).

⁴³¹ Massachusetts Gaming Commission, *Budget*, <https://massgaming.com/the-commission/budget/> (last visited Jun. 10, 2019).

⁴³² Massachusetts Gaming Commission, *Budget*, <https://massgaming.com/the-commission/budget/> (last visited Jun. 10, 2019).

⁴³³ Mass. Gen. Laws ch. 23K, § 59. Category 1 funds are allocated 2% to the Massachusetts cultural council, 1% to the Massachusetts Tourism Fund, 6.5% to the Community Mitigation Fund,

⁴³⁴ Mass. Gen. Laws ch. 23K, § 44.

⁴³⁵ Mass. Gen. Laws ch. 10, § 25.

⁴³⁶ Mass. Gen. Laws ch. 10, § 25.

⁴³⁷ Mass. Gen. Laws ch. 10, § 25.

⁴³⁸ Mass. Gen. Laws ch. 10, § 27A(c).

⁴³⁹ Mass. Gen. Laws ch. 10, § 37.

⁴⁴⁰ Mass. Gen. Laws ch. 10, § 37.

⁴⁴¹ Mass. Gen. Laws ch. 10, § 37.

⁴⁴² Mass. Gen. Laws ch. 10, § 37.

⁴⁴³ Massachusetts State Lottery Commission, *Information Packet*, p. 29, <https://www.masslottery.com/lib/downloads/about/MSLC%20Info%20Pack%201216.pdf>.

⁴⁴⁴ Mass. Gen. Laws ch. 23K, § 10.

⁴⁴⁵ Mass. Gen. Laws ch. 23K, § 1.

⁴⁴⁶ 205 Mass. Code Regs. 143.00.

⁴⁴⁷ Mass. Gen. Laws ch. 23K § 20.

⁴⁴⁸ Mass. Gen. Laws ch. 10, § 23.

⁴⁴⁹ Mass. Gen. Laws ch. 10, § 37.

⁴⁵⁰ Mass. Gen. Laws ch. 128A, § 9.

⁴⁵¹ Mass. Gen. Laws ch. 128A, § 9.

⁴⁵² 2016 Mass. Acts ch. 219.

⁴⁵³ 205 Mass. Code Regs. 147.00.

⁴⁵⁴ 205 Mass. Code Regs. 147.01.

⁴⁵⁵ Massachusetts Gaming Commission, *Table Game Rules*, <https://massgaming.com/regulations/table-games-rules/> (last visited Jun. 7, 2019).

⁴⁵⁶ 205 Mass. Code Regs. 143.00.

⁴⁵⁷ 205 Mass. Code Regs. 143.00.

⁴⁵⁸ 205 Mass. Code Regs. 144.00.

⁴⁵⁹ 205 Mass. Code Regs. 144.00.

⁴⁶⁰ Mass. Gen. Laws ch. 23K, § 27.

⁴⁶¹ Mass. Gen. Laws ch. 23K, § 27(f).

⁴⁶² Mass. Gen. Laws ch. 23K, § 28(a).

⁴⁶³ Mass. Gen. Laws ch. 23K, § 28(b).

⁴⁶⁴ Mass. Gen. Laws ch. 23K, § 34(a).

⁴⁶⁵ Mass. Gen. Laws ch. 23K, § 34(d) & (f).

⁴⁶⁶ Mass. Gen. Laws ch. 23K, § 22.

⁴⁶⁷ Mass. Gen. Laws ch. 23K, § 22.

⁴⁶⁸ Mass. Gen. Laws ch. 10, § 24.

⁴⁶⁹ Mass. Gen. Laws ch. 10, § 27A.

⁴⁷⁰ Mass. Gen. Laws ch. 10, § 37.

⁴⁷¹ Massachusetts State Lottery Commission, *Information Packet*, <https://www.masslottery.com/lib/downloads/about/MSLC%20Info%20Pack%201216.pdf>.

⁴⁷² 205 Mass. Code Regs. 4.01.

⁴⁷³ 205 Mass. Code Regs. 3.00.

⁴⁷⁴ 205 Mass. Code Regs. 5.00.

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- ⁴⁷⁵ 2008 Mass. Acts ch. 388.
- ⁴⁷⁶ PlayMA, *Daily Fantasy Sports Offerings in Massachusetts*, <https://www.playma.com/fantasy-sports/> (last visited Jun. 10, 2019); An Act Relative to Job Creation and Workforce Development, H.4569, 189th Gen. Court (2015-2016).
- ⁴⁷⁷ Andy Rosen, *Fantasy Sports Scores, Winning Legalization and a Tax Break in Massachusetts*, The Boston Globe (Aug. 9, 2018), <https://www.bostonglobe.com/business/2018/08/08/fantasy-sports-scores-winning-legalization-and-tax-break-massachusetts/BL42wD8dP4q17v5X4kNLDL/story.html>.
- ⁴⁷⁸ 940 Mass. Code Regs. 34.00.
- ⁴⁷⁹ 940 Mass. Code Regs. 34.00.
- ⁴⁸⁰ 205 Mass. Code Regs. 132.01.
- ⁴⁸¹ Mass. Gen. Laws ch. 23K, § 10(b).
- ⁴⁸² Mass. Gen. Laws ch. 23K, § 10(b).
- ⁴⁸³ Mass. Gen. Laws ch. 23K, § 20.
- ⁴⁸⁴ Mass. Gen. Laws ch. 23K, § 30(h).
- ⁴⁸⁵ Mass. Gen. Laws ch. 23K, § 36(a).
- ⁴⁸⁶ Mass. Gen. Laws ch. 23K, § § 37-43.
- ⁴⁸⁷ 205 Mass. Code Regs. 132.01.
- ⁴⁸⁸ Mass. Gen. Laws ch. 10, § 29.
- ⁴⁸⁹ Mass. Gen. Laws ch. 23K, § 3(a).
- ⁴⁹⁰ Mass. Gen. Laws ch. 23K, § 3(a).
- ⁴⁹¹ Mass. Gen. Laws ch. 23K, § 3(b).
- ⁴⁹² Mass. Gen. Laws ch. 23K, § 3(b).
- ⁴⁹³ Mass. Gen. Laws ch. 23K, § 3(c).
- ⁴⁹⁴ Mass. Gen. Laws ch. 23K, § 3(e).
- ⁴⁹⁵ Mass. Gen. Laws ch. 23K, § 3(i).
- ⁴⁹⁶ Mass. Gen. Laws ch. 23K, § 3(i).
- ⁴⁹⁷ Mass. Gen. Laws ch. 23K, § 3(t).
- ⁴⁹⁸ Mass. Gen. Laws ch. 23K, § 3(p)-(r).
- ⁴⁹⁹ Mass. Gen. Laws ch. 128A, § 9.
- ⁵⁰⁰ Mass. Gen. Laws ch. 128A, § 9.
- ⁵⁰¹ Mass. Gen. Laws ch. 23K, § 6 (2011).
- ⁵⁰² Massachusetts Gaming Commission, *Investigations and Enforcement Bureau*, <https://massgaming.com/the-commission/inside-mgc/investigations-and-enforcement-bureau/> (last visited Jul. 31, 2019).
- ⁵⁰³ 205 Mass. Code Regs. 105.01.
- ⁵⁰⁴ Mass. Gen. Laws ch. 23K, § 6 (2011).
- ⁵⁰⁵ Mass. Gen. Laws ch. 23K, § 6 (2011).
- ⁵⁰⁶ Mass. Gen. Laws ch. 10, § 72A.
- ⁵⁰⁷ Mass. Gen. Laws ch. 23K, § 26.
- ⁵⁰⁸ Mass. Gen. Laws ch. 23K, § 46.
- ⁵⁰⁹ Mass. Gen. Laws ch. 23K, § 68.
- ⁵¹⁰ Mass. Gen. Laws ch. 10, § 23.
- ⁵¹¹ Mass. Gen. Laws ch. 10, § 23.
- ⁵¹² Mass. Gen. Laws ch. 10, § 23.
- ⁵¹³ Mass. Gen. Laws ch. 10, § 23.
- ⁵¹⁴ Mass. Gen. Laws ch. 10, § 26.
- ⁵¹⁵ Michigan Gaming Control Board, *Tribal Casinos*, <https://www.michigan.gov/mgcb/0,4620,7-351-79129---.00.html>
- ⁵¹⁶ *Michigan Gaming Legal Resource Book*, Ch. 1, pp. 1-2.
- ⁵¹⁷ Michigan Gaming Control Board, *Race Track Location and Schedule*, https://www.michigan.gov/mgcb/0,4620,7-351-79130_79363-245449---.00.html
- ⁵¹⁸ Article IV, Section 41 of the *Michigan Constitution*.
- ⁵¹⁹ *2018 Comprehensive Annual Report of the Michigan Lottery*.
- ⁵²⁰ *Id.*
- ⁵²¹ *Michigan Gaming Legal Resource Book*, Ch. 1, pp. 9-11.

⁵²² https://www.michigan.gov/mgcb/0,4620,7-351-79129_79729-245318--,00.html

⁵²³ Michigan Gaming Control and Revenue Act, Public Act 69 of 1997, MCL 432.201 et. seq.

⁵²⁴ Michigan Gaming Control and Revenue Act, Public Act 69 of 1997, MCL 432.206(1)(b).

⁵²⁵ Detroit Code of Ords. Art. XIII, Sec. 18-13-1 et seq (1997).

⁵²⁶ Detroit Code of Ords. Art. XIII, Sec. 18-13-1 et seq. (1997)

⁵²⁷ **Michigan Gaming Legal Resource Book**, p. Ch. 1, pp. 20-21

⁵²⁸ **Michigan Gaming Legal Resource Book**, p. Ch. 1, pp. 21-22

⁵²⁹ *Lac Vieux Desert Band of Lake Superior Chippewa Indians v. Michigan Gaming Control Board et al*, Case No. 2:97-cv-67, W.D. Mich 2004.

⁵³⁰ **Michigan Gaming Legal Resource Book**, p. Ch. 1, p. 14

⁵³¹ Michigan Gaming Control and Revenue Act, Public Act 69 of 1997, MCL 432.204a(1)(a).

⁵³² Michigan Gaming Control and Revenue Act, Public Act 69 of 1997, MCL 432.204a(1)(k).

⁵³³ MCL 432.207a; MCL 432.208; R. 432.1302.

⁵³⁴ R. 432.1302(c).

⁵³⁵ R. 432.1332, 432.1333 and 432.1334

⁵³⁶ **Annual Report to the Governor from the MGCB 2018.**

⁵³⁷ **Annual Report to the Governor from the MGCB 2018.**

⁵³⁸ Revenue information is derived from annual reports posted to the MGCB's website.

⁵³⁹ Michigan Gaming Control and Revenue Act, Public Act 69 of 1997, MCL 432.204a(1).

⁵⁴⁰ MCL 432.204a (1)(m).

⁵⁴¹ R 432.11502(1)

⁵⁴² R 432.11502(2)

⁵⁴³ R 432.11502(2)

⁵⁴⁴ R 432.11502(2)

⁵⁴⁵ R 432.11502(4)

⁵⁴⁶ R 432.11502(5)

⁵⁴⁷ R 432.11503

⁵⁴⁸ Michigan Gaming Control and Revenue Act, Public Act 69 of 1997, MCL 432.217; R 432.1307(v).

⁵⁴⁹ Public Act 306 of 1969, MCL 24.203, et seq.

⁵⁵⁰ MCL 24.304(1)

⁵⁵¹ R 432.1307(3)

⁵⁵² Michigan Gaming Control and Revenue Act, Public Act 69 of 1997, 432.204a(1)(l).

⁵⁵³ R 432.1703

⁵⁵⁴ MCL 24.203(2)

⁵⁵⁵ MCL 24.302

⁵⁵⁶ MCL 24.304(1)

⁵⁵⁷ Michigan Gaming Control and Revenue Act, Public Act 69 of 1997, MCL 432.204(1).

⁵⁵⁸ Michigan Gaming Control and Revenue Act, Public Act 69 of 1997, MCL 432.204(2).

⁵⁵⁹ Michigan Gaming Control and Revenue Act, Public Act 69 of 1997, MCL 432.204(2).

⁵⁶⁰ MCL 432.204d(16)

⁵⁶¹ **Annual Report to the Governor from the MGCB 2018.**

⁵⁶² **2018 Comprehensive Annual Report of the Michigan Lottery**

⁵⁶³ **Annual Report to the Governor from the MGCB 2018.**

⁵⁶⁴ **2018 Comprehensive Annual Report of the Michigan Lottery**

⁵⁶⁵ Id.

⁵⁶⁶ Ohio Constitution, Article XV, Section 6(A)

⁵⁶⁷ Ohio Constitution, Article XV, Section 6(B)

⁵⁶⁸ Ohio Constitution, Article XV, Section 6(C)

⁵⁶⁹ Ohio Constitution, Article XV, Section 6(C)(9)

⁵⁷⁰ Ohio Admin. Code § 3772-4-03.

⁵⁷¹ Dave Davis, *Casino Gambling at Ohio's Race Tracks a Matter of Survival, Horse-Racing Industry Officials Say*, Cleveland.com (Apr. 2, 2011), https://www.cleveland.com/metro/2011/04/casino_gambling_at_states_race.html.

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- ⁵⁷² Dave Davis, *Casino Gambling at Ohio's Race Tracks a Matter of Survival*, *Horse-Racing Industry Officials Say*, Cleveland.com (Apr. 2, 2011), https://www.cleveland.com/metro/2011/04/casino_gambling_at_states_race.html.
- ⁵⁷³ Dave Davis, *Casino Gambling at Ohio's Race Tracks a Matter of Survival*, *Horse-Racing Industry Officials Say*, Cleveland.com (Apr. 2, 2011), https://www.cleveland.com/metro/2011/04/casino_gambling_at_states_race.html.
- ⁵⁷⁴ Ohio Constitution, Article II, Section II.01e.
- ⁵⁷⁵ Information derived from <https://www.worldcasinodirectory.com/Ohio>, 2018 Ohio Casino Control Commission Annual Report or Ohio Lottery 2018 Comprehensive Annual Financial Report.
- ⁵⁷⁶ Ohio Rev. Code § 3772.10(B).
- ⁵⁷⁷ Ohio Rev. Code § 3772.10(D).
- ⁵⁷⁸ Defined as companies that supply gaming-related equipment, goods or services that are directly related to or affect casino gaming including, but not limited to, the manufacture, sale, distribution, or repair of slot machines or table game equipment. Ohio Rev. Code § 3772.01(L).
- ⁵⁷⁹ A casino gaming employee is defined as all persons involved in operating a gaming pit, involved in handling money, involved in operating casino games, involved in operating and maintaining slot machines, involved in security, or similar type employees. A casino gaming employee does not include entertainment, hotel operation, maintenance, or food and beverage servers. Ohio Rev. Code § 3772.131.
- ⁵⁸⁰ A key employee is defined as any executive, employee or agent that has the power to exercise significant influence over decisions, including officers, directors, trustees, partners, individuals or entities who hold 5% or greater ownership interest, and the principal executive officer, principal operating officer, principal accounting officer, or equivalent officers. Ohio Rev. Code §.01(P). Ohio has specifically designated assistant general manager, internal audit director, regulatory compliance officer, chief financial officer, controller, information technology director, security director, slot director, gaming operations manager, general manager, human resources manager, marketing director, surveillance director and table games director as key employees. Ohio Admin. Code 3772-5-01(A).
- ⁵⁸¹ License application requirements for casino operators, management companies or holding companies are set forth in Ohio Rev. Code § 3772.11(A).
- ⁵⁸² Ohio Rev. Code § 3772.08.
- ⁵⁸³ Ohio Rev. Code § 3772.27.
- ⁵⁸⁴ Ohio Rev. Code § 3772.112.
- ⁵⁸⁵ Ohio Rev. Code § 3772.10(A).
- ⁵⁸⁶ Ohio Rev. Code § 3772.10(B).
- ⁵⁸⁷ Ohio Rev. Code § 3772.07.
- ⁵⁸⁸ Ohio Rev. Code § 3772.10(C).
- ⁵⁸⁹ Ohio Rev. Code § 3772.111. Full application requirements can be found at Ohio Admin. Code 3772-4-02.
- ⁵⁹⁰ Ohio Rev. Code § 3772.121(B).
- ⁵⁹¹ Ohio Rev. Code § 3772.13(C).
- ⁵⁹² Ohio Admin. Code § 3772-5-06 & § 3772-8-06.
- ⁵⁹³ Ohio Rev. Code § 3772.07.
- ⁵⁹⁴ Ohio Rev. Code § 3772.01(O).
- ⁵⁹⁵ Ohio Rev. Code § 3772.10(E)(1). The exercise of voting privileges does not rise to the level of attempting to influence the affairs of a licensee. Ohio Rev. Code § 3772.10(E)(2).
- ⁵⁹⁶ Ohio Admin. Code 3772-3-03(A).
- ⁵⁹⁷ Ohio Rev. Code § 3772.10(E)(3).
- ⁵⁹⁸ Ohio Rev. Code § 3772.10(E)(5).
- ⁵⁹⁹ Ohio Rev. Code § 3772.091(A). The exception is when an original licensee after the initial constitutional amendment obtains a majority interest in another initial licensee for the same casino facility and had previously been investigated as a parent, affiliate, subsidiary, key employee, partner or joint venture. Ohio Rev. Code § 3772.091(B).
- ⁶⁰⁰ Information includes the applicant's minor children, social security, passport, or federal tax information numbers, home address and telephone number, birth certificate, driver's license numbers, date and place of birth, personal financial information, email address, trade secrets, medical records, security information, or any information on a multijurisdictional personal history form. Ohio Rev. Code § 3772.16.
- ⁶⁰¹ Ohio Admin. Code 3772-1-01(A)(12).
- ⁶⁰² Ohio Admin. Code 3770:2-3-01(A)(3).
- ⁶⁰³ Ohio Rev. Code § 3770.05(B).
- ⁶⁰⁴ Ohio Rev. Code § 3770.05(C).

⁶⁰⁵ Ohio Rev. Code § 3770.05(F).
⁶⁰⁶ Ohio Rev. Code § 3770.05(G)(2).
⁶⁰⁷ Ohio Admin. Code 3770:2-3-03(E)(1).
⁶⁰⁸ Ohio Admin. Code 3770:2-3-03(A).
⁶⁰⁹ Ohio Admin. Code:2-3-01(7).
⁶¹⁰ Ohio Admin. Code 3770:2-4-01 *et seq.*
⁶¹¹ Ohio Admin. Code 3770:2-5-01 *et seq.*
⁶¹² Information includes the applicant's minor children, social security, passport, or federal tax information numbers, home address and telephone number, birth certificate, driver's license numbers, date and place of birth, personal financial information, email address, trade secrets, medical records, security information, or any information on a multijurisdictional personal history form. Ohio Rev. Code § 3770.22.
⁶¹³ Ohio Constitution, Article XV, Section 6(C)(2)
⁶¹⁴ Ohio Constitution, Article XV, Section 6(C)(4).
⁶¹⁵ Ohio Constitution, Article XV, Section 6(C)(5)
⁶¹⁶ Ohio Rev. Code § 3772.17.
⁶¹⁷ Ohio Constitution, Article XV, Section 6(C)(4)
⁶¹⁸ Ohio Admin. Code 3772-4-06(B).
⁶¹⁹ Ohio Constitution, Article XV, Section 6(C)(3)(a).
⁶²⁰ Ohio Constitution, Article XV, Section 6(C)(3)(b).
⁶²¹ Ohio Constitution, Article XV, Section 6(C)(3)(c).
⁶²² Ohio Constitution, Article XV, Section 6(C)(3)(d).
⁶²³ Ohio Constitution, Article XV, Section 6(C)(3)(e). Note that none of this funding may go to a racetrack operator who also owns a casino.
⁶²⁴ Ohio Constitution, Article XV, Section 6(C)(3)(f).
⁶²⁵ Ohio Constitution, Article XV, Section 6(C)(3)(g).
⁶²⁶ Graphics are pulled from the 2018 OCCC Annual Report.
⁶²⁷ Ohio Admin. Code 3772-5-03.
⁶²⁸ Ohio Admin. Code 3772-6-03.
⁶²⁹ Ohio Admin. Code 3772-8-03.
⁶³⁰ Ohio Admin. Code 3770:2-11-01.
⁶³¹ Ohio Admin. Code 3770:2-3-08
⁶³² Ohio Rev. Code § 3770.06(B).
⁶³³ Ohio Admin. Code 3770:2-11-01.
⁶³⁴ Ohio Constitution, Article XV, Section 6(C)(6)
⁶³⁵ Ohio Rev. Code § 3772.20(A).
⁶³⁶ Ohio Rev. Code § 3772.20(B).
⁶³⁷ Ohio Rev. Code § 3772.20(C) & (D).
⁶³⁸ Ohio Rev. Code § 3772.21(B).
⁶³⁹ Ohio Rev. Code § 3772.21(C).
⁶⁴⁰ Ohio Rev. Code § 3772.22(A).
⁶⁴¹ Ohio Rev. Code § 3772.22(B).
⁶⁴² Ohio Rev. Code § 3772.24(A).
⁶⁴³ Ohio Rev. Code § 3772.24(A).
⁶⁴⁴ Ohio Rev. Code § 3772.28(A).
⁶⁴⁵ Ohio Rev. Code § 3772.28(C).
⁶⁴⁶ Ohio Rev. Code § 3772.28(C).
⁶⁴⁷ Ohio Admin. Code 3772-29-01(B)(1).
⁶⁴⁸ Ohio Admin. Code 3772-29-01(G).
⁶⁴⁹ Ohio Rev. Code § 3772.31(A).
⁶⁵⁰ Ohio Rev. Code § 3772.31(B).
⁶⁵¹ Ohio Admin. Code 3772-1-07.
⁶⁵² Ohio Rev. Code § 3772.32.
⁶⁵³ Ohio Rev. Code § 3772.32(C).
⁶⁵⁴ Ohio Rev. Code § 3772.32(C).

⁶⁵⁵ Ohio Rev. Code § 3772.32(D).
⁶⁵⁶ Ohio Rev. Code § 3772.32(F), (G) and (H).
⁶⁵⁷ Ohio Rev. Code § 3772.32(L)(1).
⁶⁵⁸ Ohio Rev. Code § 3772.32(L)(2).
⁶⁵⁹ Ohio Admin. Code 3772-9-05 & Ohio Admin. Code 3772-11-06
⁶⁶⁰ See generally Ohio Admin. Code 3772-11-01 *et seq.*
⁶⁶¹ Generally, internal control requirements can be found at Ohio Admin. Code 3772-10-01 *et seq.*
⁶⁶² Ohio Admin. Code 3772-19-01 *et seq.* and 3772-20-01 *et seq.*
⁶⁶³ Ohio Rev. Code § 3772.04(A).
⁶⁶⁴ Ohio Rev. Code § 3772.04(A)(2).
⁶⁶⁵ Ohio Rev. Code § 3772.04(B)(1) through (19). These include whether the violation was knowingly, previous discipline actions, whether the licensee reasonably relied upon professional advice, if the licensee had a functioning compliance program, if the licensee realized a pecuniary gain, and several other factors.
⁶⁶⁶ Ohio Rev. Code § 3772.04(A)(4).
⁶⁶⁷ Ohio Rev. Code § 3772.04(G).
⁶⁶⁸ Ohio Admin. Code 3772-21-11
⁶⁶⁹ Ohio Rev. Code § 3772.30.
⁶⁷⁰ Ohio Rev. Code § 3772.99(A).
⁶⁷¹ Ohio Rev. Code § 3772.99(B).
⁶⁷² Ohio Admin. Code 3770:2-12-01.
⁶⁷³ Ohio Admin. Code 3770:2-12-01.
⁶⁷⁴ Ohio Rev. Code § 3770.21(C).
⁶⁷⁵ Ohio Constitution, Article XV, Section 6(C)(4). Commission members must be residents of Ohio. At least one member must have law enforcement experience, one must be a certified public accountant experienced in accounting and auditing, one must be an attorney, and one must be a resident within a county where one of the casinos. No more than 4 members may be affiliated with the same political party and no member may have any affiliation with a casino operator or facility. No member may serve more than 3 terms. Ohio Rev. Code § 3772.02(B)(1).
⁶⁷⁶ Ohio Rev. Code § 3772.02(C) & (F).
⁶⁷⁷ Ohio Rev. Code § 3772.02(K)
⁶⁷⁸ Ohio Constitution, Article XV, Section 10.
⁶⁷⁹ Ohio Casino Control Hearing Manual, § 5.4 (April 2018).
⁶⁸⁰ Ohio Rev. Code § 102.03(A)(10).
⁶⁸¹ Ohio Rev. Code § 3772.06(A)(1).
⁶⁸² Ohio Rev. Code § 3772.06(A)(1).
⁶⁸³ Ohio Rev. Code § 3772.06(B)(1) and (D).
⁶⁸⁴ Ohio Rev. Code § 3772.061.
⁶⁸⁵ Ohio Rev. Code § 3772.062(A) and (B); Ohio Rev. Code § 3770.02(K).
⁶⁸⁶ Ohio Rev. Code § 3770.01(A). No more than 5 commissioners may be from the same political party. Commission members must be residents of Ohio and represent the various geographic regions of Ohio. At least one member must have experience or training in the area of problem gaming or other addictions. All other members must have experience in business administration, management, sales, marketing or advertising. Commission terms are for 3 years.
⁶⁸⁷ Generally, see Scribd, *Ohio Charitable Gaming Laws*, <https://www.scribd.com/document/19037434/Ohio-Charitable-Gaming-Laws>.
⁶⁸⁸ Ohio Rev. Code § 2915.08.
⁶⁸⁹ Ohio Rev. Code § 2915.092.
⁶⁹⁰ 2018 Ohio Casino Control Commission Annual Report.
⁶⁹¹ Ohio Rev. Code § 3770.02(A).
⁶⁹² Ohio Rev. Code § 3770.02(B).
⁶⁹³ Ohio Rev. Code § 3770.02(F).
⁶⁹⁴ Information derived from Ohio Lottery Commission Annual Financial Reports.
⁶⁹⁵ W. Va. Const. art. 6, § 6-36.
⁶⁹⁶ W. Va. Code § 29-22-1 *et seq.*

⁶⁹⁷ Thalheimer, Richard. "Government restrictions and the demand for casino and parimutuel wagering." *Applied Economics*, 2008, 40, 773-791, 774; available at <https://pdfs.semanticscholar.org/88e0/80868630df5e1fde24331b5e37807c62bb29.pdf>

⁶⁹⁸ W. Va. Code § 29-22A-1 *et seq.*

⁶⁹⁹ Specifically, VLTs may only be placed at locations that operate a private club. W. Va. Code § 29-22B-328.

⁷⁰⁰ W. Va. Code § 29-22C-1 *et seq.*

⁷⁰¹ W. Va. HB 2934.

⁷⁰² W. Va. Code § 29-22A-2(e).

⁷⁰³ Patricia Sheridan, *Greenbrier Resort Has a Star-Spangled Casino Opening*, Pittsburgh Post-Gazette (Jul. 6, 2010); W. Va. Code § 29-25-9(b).

⁷⁰⁴ W. Va. Code § 29-22C-2(8); § 29-25-1(b).

⁷⁰⁵ Information derived from www.worldcasinodirectory.com/west-virginia.

⁷⁰⁶ W. Va. Code § 29-22A-8(b).

⁷⁰⁷ W. Va. Code § 29-22A-8(c).

⁷⁰⁸ W. Va. Code § 29-22C-7; § 29-25-7.

⁷⁰⁹ W. Va. Code § 29-22C-7(f) and (g); § 29-25-7(a) & (b).

⁷¹⁰ W. Va. Code § 29-22A-8(h).

⁷¹¹ W. Va. Code § 29-22A-8(j).

⁷¹² W. Va. Code § 29-22B-501(a).

⁷¹³ W. Va. Code § 29-22A-8(h).

⁷¹⁴ W. Va. Code § 29-22A-7(a) & § 29-22B-502.

⁷¹⁵ W. Va. Code § 29-22A-7(a)(6).

⁷¹⁶ W. Va. Code § 29-22A-7(f) & § 29-22B-514.

⁷¹⁷ W. Va. Code § 29-22B-503.

⁷¹⁸ W. Va. Code § 29-22B-1102.

⁷¹⁹ W. Va. Code § 29-22B-504.

⁷²⁰ W. Va. Code § 29-22C-6(b); § 29-25-8.

⁷²¹ W. Va. Code § 29-22C-12(b).

⁷²² W. Va. Code § 29-22C-8(d) & (e).

⁷²³ W. Va. Code § 29-22C-12(g).

⁷²⁴ W. Va. Code § 29-22C-13(e).

⁷²⁵ W. Va. Code § 29-22C-14(f).

⁷²⁶ W. Va. Code § 29-22C-15(a).

⁷²⁷ W. Va. C.S.R. § 179-8-18.1.c. Level 1 job classifications are casino manager, table games operations manager, casino shift manager, pit manager, manager of surveillance operations, cage managers, hard count or soft count room managers, table games financial controller, managers of personnel and human resource activities, and the patron check collection unit manager. W. Va. C.S.R. § 179-8-44.1.

⁷²⁸ W. Va. Code § 29-22A-10(b)(1). If costs do not rise to the 4% level, any excess is transferred into the State Lottery Fund. From 2011 through 2020, the excess funds are earmarked for the Licensed Racetrack Modernization Fund. W. Va. Code § 29-22A-10(b)(2). Racetracks are able to recoup 50% of the proportional amount the racetrack contributed to the Licensed Racetrack Modernization Fund for facilities improvements incurred after 2011. Facility improvements include acquisition of new VLTs and associated equipment.

⁷²⁹ West Virginia has provisions requiring that the county share of revenue is tied to historical amounts received in 1999. For counties that have racetracks that participated in the Thoroughbred Development Fund since or before 1999, any amount exceeding their 1999 revenue sharing must be split 50% to the county itself and 50% to the municipalities of the county on a per capita basis. For other counties that have a racetrack located within a municipality, any amounts above the 1999 revenue sharing amount are split 50% to the county and 50% to that municipality. W. Va. Code § 29-22A-10(c)(3).

⁷³⁰ Full details are located at W. Va. Code § 29-22A-10(c)(10)(A) and (B).

⁷³¹ Generally, see W. Va. Code § 29-22A-10(c).

⁷³² W. Va. Code § 29-25-20. The Historic Resort Hotel Fund distribution can be found at W. Va. Code § 29-25-2 and the Human Resource Benefit Fund distribution can be found at W. Va. Code § 29-25-22a.

⁷³³ The county funding is split in the same way outlined in footnote 29 above. See W. Va. Code § 29-22A-10b(a)(3).

⁷³⁴ W. Va. Code § 29-22A-10b(a).

⁷³⁵ W. Va. Code § 29-22A-10(c)(9)(B).
⁷³⁶ W. Va. Code § 29-22A-10(c)(5).
⁷³⁷ The exact percentage is tied to average daily revenue per VLT. If the amount is less than \$60, the percentage is 30%; \$61-80, 34%; \$81-100, 38%; \$101-120, 42%; \$121-140 46%, and more than \$140, 50%. W. Va. Code § 29-22B-1408(a)(3).
⁷³⁸ W. Va. Code § 29-1408(c).
⁷³⁹ W. Va. Code § 29-22C-8(a).
⁷⁴⁰ W. Va. Code § 29-22C-8(g).
⁷⁴¹ W. Va. Code § 29-25-8(e)(2) & (l).
⁷⁴² W. Va. Code § 29-22C-8(g).
⁷⁴³ W. Va. Code § 29-22C-26; § 29-25-21(a).
⁷⁴⁴ W. Va. Code § 29-25-21.
⁷⁴⁵ W. Va. Code § 29-22C-26.
⁷⁴⁶ W. Va. Code § 29-22C-27(a)(1).
⁷⁴⁷ W. Va. Code § 29-22C-27(b).
⁷⁴⁸ W. Va. Code § 29-22C-27(d).
⁷⁴⁹ W. Va. Code § 29-22C-27(c).
⁷⁵⁰ W. Va. Code § 29-22C-27a.
⁷⁵¹ W. Va. Code § 29-22C-27(a)(1) & (a)(2).
⁷⁵² W. Va. Code § 29-22D-16.
⁷⁵³ W. Va. Code § 29-22D-17.
⁷⁵⁴ W. Va. Code § 29-22E-16.
⁷⁵⁵ W. Va. Code § 29-22E-16.
⁷⁵⁶ West Virginia Lottery 2018 Comprehensive Annual Financial Report
⁷⁵⁷ W. Va. Code § 29-22C-24; § 29-25-6.
⁷⁵⁸ W. Va. Code § 29-22A-7(a)(1).
⁷⁵⁹ W. Va. Code § 29-22B-191 *et seq.*
⁷⁶⁰ W. Va. Code § 29-22A-9(f)(7).
⁷⁶¹ W. Va. Code § 29-22B-702.
⁷⁶² W. Va. Code § 29-22A-9(f)(9).
⁷⁶³ W. Va. Code § 29-22A-12(a). It may also petition the LC to install additional VLTs.
⁷⁶⁴ W. Va. Code § 29-22B-1101(a).
⁷⁶⁵ W. Va. Code § 29-22B-1101(b) & (c).
⁷⁶⁶ W. Va. Code § 29-22B-1202.
⁷⁶⁷ W. Va. Code § 29-22B-1104 & 1105. Additional VLTs were allocated by sealed bids as detailed in W. Va. Code § 29-22B-1106 & 1107, with the highest bidder receiving the allocation of the VLTs.
⁷⁶⁸ W. Va. Code § 29-22A-14(b) & § 29-22B-1205 & 1206
⁷⁶⁹ W. Va. Code § 29-22A-8(l).
⁷⁷⁰ W. Va. Code § 29-22A-5(a).
⁷⁷¹ W. Va. Code § 29-22A-6 & § 29-22B-901 *et seq.*
⁷⁷² W. Va. Code § 29-22A-6(c)(1).
⁷⁷³ W. Va. Code § 29-22A-5 & § 29-22B-802. Manufacturers must supply two copies of all technical manuals and two working models to the West Virginia lab.
⁷⁷⁴ W. Va. Code § 29-22C-4(a)(1).
⁷⁷⁵ W. Va. Code § 29-22C-15(b)(3).
⁷⁷⁶ W. Va. Code § 29-22C-21.
⁷⁷⁷ W. Va. Code § 29-22C-23(a).
⁷⁷⁸ W. Va. C.S.R. § 179-8-3.3a.
⁷⁷⁹ W. Va. Code § 29-22C-8(j).
⁷⁸⁰ W. Va. Code § 29-22C-9.
⁷⁸¹ W. Va. Code § 29-22C-10(a)(9).
⁷⁸² W. Va. Code § 29-22C-28(a).
⁷⁸³ W. Va. Code § 29-22C-34.
⁷⁸⁴ W. Va. C.S.R. § 179-8-15.

⁷⁸⁵ W.Va. C.S.R. § 179-8-20.

⁷⁸⁶ W.Va. C.S.R. § 179-8-25.

⁷⁸⁷ W.Va. C.S.R. § 179-8-113 *et seq.*

⁷⁸⁸ West Virginia began taking sports bets in August 2018.

⁷⁸⁹ W. Va. Code § 29-22D-6. These would be the four racinos and Greenbrier casino facility.

⁷⁹⁰ W. Va. Code § 29-22D-6(d).

⁷⁹¹ W. Va. Code § 29-22D-12.

⁷⁹² W. Va. Code § 29-22D-14.

⁷⁹³ W. Va. Code § 29-22D-15(b).

⁷⁹⁴ See generally W.Va. C.S.R. § 179-9-1 *et seq.*

⁷⁹⁵ Grove, Chris. “Wheeling Island and Mardi Gras Casinos Abruptly Suspend Sports Betting Operation.” Legal Sports Report, Mar 8, 2019; available at <https://www.legalsportsreport.com/30090/two-wv-casinos-halt-sports-betting/>

⁷⁹⁶ W. Va. Code § 29-22E-6. As the legislation is not effective yet, the West Virginia statutory compilation does not have the law codified. References are to the proposed codification contained in the bill that was enacted into law.

⁷⁹⁷ W. Va. Code § 29-22E-6(d).

⁷⁹⁸ W. Va. Code § 29-22E-7, § 29-22E-8 and § 29-22E-9.

⁷⁹⁹ See generally W. Va. Code § 47-21-1 *et al.*

⁸⁰⁰ If the organization has existed for at least 1 year, the top prize does not exceed \$4,000, total proceeds do not exceed \$15,000 in any calendar year, the organization is not required to be licensed. W. Va. Code § 47-21-3.

⁸⁰¹ W. Va. Code § 47-21-2(a); W. Va. Code § 47-21-4.

⁸⁰² W. Va. Code § 29-22A-2(d) & § 29-22B-203.

⁸⁰³ W. Va. Code § 29-22A-15(b) & § 29-22B-1501.

⁸⁰⁴ W. Va. Code § 29-22A-15(i) & § 29-22B-1503.

⁸⁰⁵ W. Va. Code § 29-22A-15(o) & (p) & § 29-22B-1504.

⁸⁰⁶ W. Va. Code § 29-22C-17(d).

⁸⁰⁷ W. Va. Code § 29-22C-31.

⁸⁰⁸ W.Va. C.S.R. § 179.2-1 *et seq.*

⁸⁰⁹ W. Va. Code § 29-22-4(a). Commission members must be West Virginia residents, with one lawyer, one certified public accountant, one computer expert, one with at least 5 years of law enforcement experience, and one with marketing experience. No more than 4 members may be from the same political party. Commission terms are overlapping 5-year terms.

⁸¹⁰ W. Va. Code § 29-22-4(a) and (b).

⁸¹¹ W. Va. Code § 29-22-5.

⁸¹² W. Va. Code § 29-22-6.

⁸¹³ W. Va. Code § 29-22-7.

⁸¹⁴ W. Va. Code § 29-22-9(b)(2) & § 29-22B-202(2).

⁸¹⁵ State of West Virginia Executive Budget: Volume II Operating Detail Fiscal Year 2019.

⁸¹⁶ Chart from West Virginia Lottery 2018 Comprehensive Annual Financial Report.

⁸¹⁷ Illinois Gaming Board, Home, <https://www.igb.illinois.gov/default.aspx> (last visited Jun. 19, 2019).

⁸¹⁸ Illinois Gaming Board, Home, <https://www.igb.illinois.gov/default.aspx> (last visited Jun. 19, 2019).

⁸¹⁹ 230 Ill. Comp. Stat. 10. / sec. 7(b)(8)(e)(1990).

⁸²⁰ 230 Ill. Comp. Stat. 10. / sec. 7(b)(8)(h) (1990).

⁸²¹ Darren A. Prum and Shannon Bybee, *Commercial Casino Gaming in the United States: A Jurisdictional Analysis of Gaming Taxes, Licenses, and Fees*, UNLV Gaming Research and Review Journal, Vol. 4, Issue 1 (1999).

⁸²² 230 Ill. Comp. Stat. 10. / sec. 7(b)(8)(e)(1990).

⁸²³ Illinois Gaming Board, Home, <https://www.igb.illinois.gov/default.aspx> (last visited Jun. 19, 2019).

⁸²⁴ 230 Ill. Comp. Stat. 10. / sec. 7(e)(1990).

⁸²⁵ 230 Ill. Comp. Stat. 10. / sec. 7(e)(1990).

⁸²⁶ 230 Ill. Comp. Stat. 10. / sec. 7(e)(1990).

⁸²⁷ 230 Ill. Comp. Stat. 10. / sec. 7(e)(1990).

⁸²⁸ 230 Ill. Comp. Stat. 10. / sec. 7(e)(1990).

⁸²⁹ 230 Ill. Comp. Stat. 10. / sec. 7(e)(1990).

⁸³⁰ 230 Ill. Comp. Stat. 10. / sec. 7(b)(2)(1990).

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- ⁸³¹ 230 Ill. Comp. Stat. 10. / sec. 7(b)(3)(1990).
⁸³² 230 Ill. Comp. Stat. 10. / sec. 7(b)(6)(1990).
⁸³³ 230 Ill. Comp. Stat. 10. / sec. 7(b)(4)(1990).
⁸³⁴ 230 Ill. Comp. Stat. 10. / sec. 7(b)(4.5)(1990).
⁸³⁵ 230 Ill. Comp. Stat. 10. / sec. 7(e)(1990).
⁸³⁶ 230 Ill. Comp. Stat. 10. / sec. 7(b)(1)(1990).
⁸³⁷ 230 Ill. Comp. Stat. 10. / sec. 7.5(1990).
⁸³⁸ 230 Ill. Comp. Stat. 10. / sec. 7.5(1)(1990).
⁸³⁹ 230 Ill. Comp. Stat. 10. / sec. 7.5(3)(1990).
⁸⁴⁰ 230 Ill. Comp. Stat. 10. / sec. 7.5(5)(1990).
⁸⁴¹ 230 Ill. Comp. Stat. 10. / sec. 7.5(7)(1990).
⁸⁴² 230 Ill. Comp. Stat. 10. / sec. 7.5(7)(1990).
⁸⁴³ 230 Ill. Comp. Stat. 10. / sec. 7.5(8)(1990).
⁸⁴⁴ Illinois Gaming Board, *Press Release: Seven Bids Submitted for 10th Casino License*,
<http://www.igb.illinois.gov/FilesRiverboatFAQ/bidsfor10thlicense.pdf>.
⁸⁴⁵ Deanna Bellandi, *Illinois's 10th Casino Opens in Des Plaines*, The State Journal-Register, (Jul. 18, 2011)
<https://www.sj-r.com/article/20110718/News/307189960>.
⁸⁴⁶ Illinois Gaming Board, *Summary of Applicants*,
<https://www.igb.illinois.gov/FilesRiverboatFAQ/081015Summaryofapplicants.pdf>.
⁸⁴⁷ Ill. SB 744 (2011).
⁸⁴⁸ Ill. SB 690 (2011).
⁸⁴⁹ Ill. SB 690 (2011); see article for more information on the bill and its implications Joe Barnas, *What You Need to Know About Illinois' Gambling Expansion*, Illinois Policy (Jun. 13, 2019), <https://www.illinoispolicy.org/what-you-need-to-know-about-illinois-gambling-expansion/>; Mitchell Armentrout, *All Bets Are On – Pritzker Signs \$45B Capital Plan, Massive Gambling Expansion*, Chicago Sun Times (Jun. 28, 2019), <https://chicago.suntimes.com/2019/6/28/18848959/pritzker-capital-plan-gambling-expansion-chicago-casino-sports-betting>.
⁸⁵⁰ Ind. Code § 4-33-3-1 (1993).
⁸⁵¹ Ind. Code § 4-33-6-1 (1993).
⁸⁵² Ind. Code § 4-33-6-1(a) (1993).
⁸⁵³ Ind. Code § 4-33-6-1(a) (1993).
⁸⁵⁴ Ind. Code § 4-33-1-1(1) (1993).
⁸⁵⁵ Ind. Code § 4-33-6-1(a)(5) (1993).
⁸⁵⁶ Ind. Code § 4-33-6-1(b) (1993); Ind. Code § 4-33-6.5-1 (1993).
⁸⁵⁷ *French Lick Resort Casino Officially Opens Its Doors to First Visitors*, Globe Newswire (Oct. 31, 2006)
<https://www.globenewswire.com/news-release/2006/10/31/350377/107794/en/French-Lick-Resort-Casino-Officially-Opens-Its-Doors-to-First-Visitors.html>.
⁸⁵⁸ Ind. Code § 4-33-6-2(a) (1993).
⁸⁵⁹ Ind. Code § 4-33-6-2(b) (1993).
⁸⁶⁰ Ind. Code § 4-33-6-2(c) (1993) applies to applicants who apply after June 30, 2009. While this subsection applies to all applicants moving forward, note that it did not apply to the original licensees.
⁸⁶¹ Ind. Code § 4-33-6-2(d) (1993).
⁸⁶² Ind. Code § 4-33-6-3.5(c) (1993).
⁸⁶³ Ind. Code § 4-33-6-4(a) (1993).
⁸⁶⁴ Ind. Code § 4-33-6-4 (1993).
⁸⁶⁵ Ind. Code § 4-33-6-4 (1993).
⁸⁶⁶ Ind. Code § 4-33-6-7(a) (1993).
⁸⁶⁷ Ind. Code § 4-33-6-18 (1993).
⁸⁶⁸ Ind. Code § 4-33-6-19(c) (1993); Ind. Code § 4-33-6-20 (1993).
⁸⁶⁹ Ind. Code § 4-33-6-19(f) (1993); Ind. Code § 4-33-6-20 (1993).
⁸⁷⁰ Ind. Code § 4-33-6-19(f) (1993).
⁸⁷¹ Ind. Code § 4-33-6-8 (1993).
⁸⁷² Ind. Code § 4-33-6-9 (1993).
⁸⁷³ Ind. Code § 4-33-6-11 (1993).

⁸⁷⁴ Ind. Code § 4-33-6-24 (2015).
⁸⁷⁵ Ind. Code § 4-33-9-1 (1993).
⁸⁷⁶ Ind. Code § 4-33-9-10.5 (2011).
⁸⁷⁷ Ind. Code § 4-35-7-1 (2007).
⁸⁷⁸ Indiana Horse Racing Commission, *Slot Revenue*, <https://www.in.gov/hrc/2443.htm> (last visited Jul. 10, 2019).
⁸⁷⁹ Iowa Racing and Gaming Commission Chronology, <https://irgc.iowa.gov/1990-1999>
⁸⁸⁰ Id.
⁸⁸¹ Id.
⁸⁸² Iowa Code § 99F.1, paragraph 21.
⁸⁸³ Iowa Racing and Gaming Commission Chronology <https://irgc.iowa.gov/about/chronology/2000-2009>
⁸⁸⁴ Iowa Code § 99F.7, paragraph 11a.
⁸⁸⁵ Iowa Code § 99F.7, paragraph 11b.
⁸⁸⁶ Iowa Code § 99F.6, paragraph 4.
⁸⁸⁷ <https://irgc.iowa.gov/rules-statutes/administrative-rules>
⁸⁸⁸ Iowa Racing and Gaming Commission Chronology, <https://irgc.iowa.gov/about/chronology/2010-present>
⁸⁸⁹ New York State Office of the State Comptroller, *Administration of Video Lottery Terminal Revenues*, <https://osc.state.ny.us/audits/allaudits/093012/10s56.pdf>.
⁸⁹⁰ N.Y. Tax Law § 1617-A(a)(1) (2001).
⁸⁹¹ N.Y. Rac. Pari-Mut. Wag. & Breed. § 1310(2)(a)(3).
⁸⁹² N.Y. Tax Law § 1617-A(a)(3) (2001).
⁸⁹³ N.Y. Rac. Pari-Mut. Wag. & Breed. § 208(4-a).
⁸⁹⁴ N.Y. Rac. Pari-Mut. Wag. & Breed. § 502; N.Y. Tax Law § 1617-A(a)(4) (2001).
⁸⁹⁵ N.Y. Tax Law § 1617-A(a)(2) (2001).
⁸⁹⁶ New York State Gaming Commission, *Annual Report 2002*, https://www.gaming.ny.gov/pdf/2002%20Annual%20Report_final.pdf.
⁸⁹⁷ New York State Gaming Commission, *Annual Report 2013*, https://www.gaming.ny.gov/pdf/GamingAnnualReport_2013_072114.pdf.
⁸⁹⁸ New York State Gaming Commission, *Annual Report 2013*, https://www.gaming.ny.gov/pdf/GamingAnnualReport_2013_072114.pdf.
⁸⁹⁹ 2013 N.Y. Laws Ch. 174; New York State, *Governor Cuomo Signs Upstate NY Gaming Economic Development Act*, <https://www.governor.ny.gov/news/governor-cuomo-signs-upstate-ny-gaming-economic-development-act> (last visited Jul. 8, 2019).
⁹⁰⁰ 2013 N.Y. Laws Ch. 174 § 1311.
⁹⁰¹ 2013 N.Y. Laws Ch. 174 § 1311.
⁹⁰² 2013 N.Y. Laws Ch. 174 § 1310; New York State Gaming Commission, *Annual Report 2014*, <https://www.gaming.ny.gov/pdf/AnnualReport2014FinalSM.pdf>.
⁹⁰³ New York State Gaming Commission, *Casinos in New York*, <https://gaming.ny.gov/gaming/casinos.php> (last visited Jul. 8, 2019).
⁹⁰⁴ New York State Gaming Commission, *Casinos in New York*, <https://gaming.ny.gov/gaming/casinos.php> (last visited Jul. 8, 2019).
⁹⁰⁵ New York State Gaming Commission, *Casinos in New York*, <https://gaming.ny.gov/gaming/casinos.php> (last visited Jul. 8, 2019).
⁹⁰⁶ New York State, *Governor Cuomo Signs Upstate NY Gaming Economic Development Act*, <https://www.governor.ny.gov/news/governor-cuomo-signs-upstate-ny-gaming-economic-development-act> (last visited Jul. 8, 2019).
⁹⁰⁷ New York State, *Governor Cuomo Signs Upstate NY Gaming Economic Development Act*, <https://www.governor.ny.gov/news/governor-cuomo-signs-upstate-ny-gaming-economic-development-act> (last visited Jul. 8, 2019).
⁹⁰⁸ 2013 N.Y. Laws Ch. 174 § 1313.
⁹⁰⁹ New York State, *Governor Cuomo Signs Upstate NY Gaming Economic Development Act*, <https://www.governor.ny.gov/news/governor-cuomo-signs-upstate-ny-gaming-economic-development-act> (last visited Jul. 8, 2019).

⁹¹⁰ Kenneth Lovett, Glenn Blain, *Catskills Getting \$630 Million Casino After New York State Board Approves 3 New Projects*, New York Daily News (Dec. 17, 2014), <https://www.nydailynews.com/new-york/catskills-630m-casino-ny-board-3-article-1.2048755>.

⁹¹¹ New York State Gaming Commission, *Annual Report 2014*, <https://www.gaming.ny.gov/pdf/AnnualReport2014FinalSM.pdf>.

⁹¹² New York State Gaming Commission, *Annual Report 2015*, <https://www.gaming.ny.gov/pdf/Annual%20Report%202015%20Final.pdf>.

⁹¹³ 2013 N.Y. Laws Ch. 174 § 1311.

⁹¹⁴ New York State Gaming Commission, *2017 Annual Report Commercial Gaming*, <https://gaming.ny.gov/about/index.php?ID=3>.

⁹¹⁵ K. Morrison, *Resorts World Catskills to Open Feb. 8*, World Casino News (January 18, 2018) <https://news.worldcasinodirectory.com/resorts-world-catskills-to-open-feb-8-52526>.

⁹¹⁶ New York State Gaming Commission, *Annual Report 2015*, <https://www.gaming.ny.gov/pdf/Annual%20Report%202015%20Final.pdf>.

⁹¹⁷ New York State Gaming Commission, *Annual Report 2015*, <https://www.gaming.ny.gov/pdf/Annual%20Report%202015%20Final.pdf>.

⁹¹⁸ New York State Gaming Commission, *Annual Report 2013*, https://www.gaming.ny.gov/pdf/GamingAnnualReport_2013_072114.pdf.

⁹¹⁹ This section was developed in consultation with and contributions from Mark S. Stewart of the Eckert Seamans Cherin & Mellott, LLC law firm.

⁹²⁰ 4 PA.C.S.A. § 1201.

⁹²¹ January 7, 2010, P.L. 1, No.1

⁹²² Pennsylvania later amended its act to provide for sports wagering, fantasy sports, a 4th license category and the legalization of video gaming terminals at truck stops.

⁹²³ 4 PA.C.S.A. § 1302(a).

⁹²⁴ 4 PA.C.S.A. § 1302(b).

⁹²⁵ 4 PA.C.S.A. § 1307.

⁹²⁶ 4 PA.C.S.A. § 1209(a).

⁹²⁷ In actuality, the PGCB conducted public input hearings relating to Category 1 applications in Erie on April 21, 2006, in Harrisburg on April 6, 2006, in Philadelphia on April 10-12 and May 12, 2006, in Pittsburgh on April 18-19 and May 10, 2006, and in the Poconos on April 27, 2016. See <https://gamingcontrolboard.pa.gov/?p=133>. At these hearings, the PGCB allotted each applicant 40 minutes of time for presentations on their application proposals.

⁹²⁸ Primer House Appropriations Committee Report Dated January 19, 2019, available at http://www.pahouse.com/Files/Documents/Appropriations/series/3075/BP_GamingAtAGlance_012219.pdf, pg. 3

⁹²⁹ Title 58 Pa. Code Part VII § 441a.3

⁹³⁰ The full list is contained at Title 58 Pa. Code Part VII § 441a.7.

⁹³¹ Map pulled from <http://www.visitpacasinos.com/PA-Casino-Map-PA-Casinos-Pennsylvania-Casinos.html>.

⁹³² See Detroit City Ordinance Sec. 18-13-6. The enabling statute read: “In the event that more than three (3) applicants meet the standards for eligibility and suitability provided for in subsections (4) and (5), licenses shall first be issued to those eligible and suitable applicants which submitted any casino gaming proposal for voter approval prior to January 1, 1995, in the city in which the casino will be located and the voters approved the proposal.” MCL § 432.206.

⁹³³ See *Lac Vieux Desert Band of Lake Superior Chippewa Indians v. Michigan Gaming Control Board et al*, Case No. 2:97-cv-67, W.D. Mich 2004.

⁹³⁴ Ohio Initiated Monopolies Amendment, Issue 2 (2015)

⁹³⁵ For litigation still pending, see *City of Revere et al and Mohegan Sun Massachusetts, LLC v. Massachusetts Gaming Commission et al*, Superior Court Business Litigation Session, Sussex County, Case No. 14-3253-BLS2; and *FBT Everett Realty, LLC v. Massachusetts Gaming Commission*, Superior Court, Case No. 1881-CV-00304-BLS1 (formerly Suffolk Superior Court Civil Case No. 2016-03481-BLS1).

⁹³⁶ See <https://massgaming.com/blog-post/a-statement-from-chairman-steve-crosby-regarding-his-decision-to-recuse-from-region-a-licensing-process/>

⁹³⁷ Md. Code. State Government §9–1A-36(t).

⁹³⁸ See for example Michigan (<https://tinyurl.com/y2jdge4l>) or Massachusetts (<https://tinyurl.com/y39gwvhd>).

⁹³⁹ *The Legal Status of Gaming and Its Impact on Licensing*, by Shannon Bybee, J.D., Gaming Research & Review Journal – Volume 2, Issue 1 1995.

⁹⁴⁰ <https://digitalscholarship.unlv.edu/cgi/viewcontent.cgi?article=1243&context=grrj>

⁹⁴¹ *Id.*, citing *State ex rel. Grimes v. Board of Commissioners of City of Las Vegas*, 1 P.2d 570, 572 (1931)

⁹⁴² *Id.*

⁹⁴³ *Id.* See discussion of Judicial Interpretation

⁹⁴⁴ Ex. Virginia

⁹⁴⁵ Complete Guide to USA Casino Gambling, www.casino.org/local/guide

⁹⁴⁶ 18 USC § 1084

⁹⁴⁷ United States Department of Justice Letter to Carolyn Adams, Illinois Lottery Superintendent, dated May 13, 2005.

⁹⁴⁸ 31 USC § 5362(10)

⁹⁴⁹ Department of Justice Memorandum entitled “WHETHER PROPOSALS BY ILLINOIS AND NEW YORK TO USE THE INTERNET AND OUT-OF-STATE TRANSACTION PROCESSORS TO SELL LOTTERY TICKETS TO IN-STATE ADULTS VIOLATE THE WIRE ACT” dated September 11, 2011.

⁹⁵⁰ Memorandum Opinion for the Acting Assistant Attorney General Criminal Division, entitled “Reconsidering Whether the Wire Act Applies to Non-Sports Gambling”. Confusingly, the Opinion, which was released on January 15, 2019, was dated November 2, 2018.

⁹⁵¹ *New Hampshire Lottery Commission, et. al. v. William Barr*,

Opinion No. 2019 DNH 091P (2019).

⁹⁵² <https://www.onlinepokerreport.com/37657/new-doj-memo-on-wire-act/>

⁹⁵³ <https://www.onlinepokerreport.com/bill-tracker/>

⁹⁵⁴ https://www.espn.com/chalk/story/_/id/19740480/the-united-states-sports-betting-where-all-50-states-stand-legalization

⁹⁵⁵ <https://www.legalsportsreport.com/integrity-fee/>

⁹⁵⁶ <https://onlinellm.usc.edu/blog/esports-law-growth/>

⁹⁵⁷ <https://www.vox.com/2018/6/27/17505604/esports-netflix-explained-video-gaming-league-of-legends>

⁹⁵⁸ <http://newsroom.mgmresorts.com/allied-esports-and-esports-arena-partner-with-mgm-resorts-international-for-flagship-venue-on-las-vegas-strip.htm>

⁹⁵⁹ <https://www.reviewjournal.com/sports/betting/esports-betting-company-gets-license-for-video-game-gambling/>

⁹⁶⁰ <https://www.esportsintegrity.com/>

⁹⁶¹ 31 C.F.R. § 103 *et seq.*

⁹⁶² The BSA is codified at 2 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5332

⁹⁶³ 18 U.S.C. §§1956 and 1957

⁹⁶⁴ See Financial Crimes Enforcement Network: Amendment to the Bank Secrecy Act Regulations—Requirement that Casinos and Card Clubs Report Suspicious Transactions; Final Rule and Notice; 67 Fed. Reg. 60721 (Sept. 26, 2002).

⁹⁶⁵ 31 C.F.R. § 1021.311. CTRs are filed on FinCEN Form 112

⁹⁶⁶ 31 C.F.R. § 1021.320. SARs are filed on FinCEN Form 111

⁹⁶⁷ 31 C.F.R. § 1021.210.

⁹⁶⁸ 31 C.F.R. § 1021.311 defines a currency transaction to include, but not be limited to, chip and token purchases and redemptions, front and safekeeping deposits or withdrawals, payments or advances on any form of credit, credit advances, bets of currency, wire transfers, purchases of a casino’s checks, foreign currency exchanges, bills inserted into electronic gaming devices, payments on bets, cashing of checks, travel and complimentary expenses and gaming incentives.

⁹⁶⁹ Defined as “the normal business day of a casino. For a casino that offers 24 hour gaming, the term means that 24 hour period by which the casino keeps its books and records for business, accounting, and tax purposes. For purposes of the regulations contained in this chapter, each casino may have only one gaming day, common to all of its division.”

⁹⁷⁰ 31 C.F.R. § 1021.100(d).

⁹⁷¹ 31 C.F.R. § 1010.306(1).

⁹⁷² 31 C.F.R. § 1021.320.

⁹⁷³ 31 C.F.R. § 1021.320(b)(3).

⁹⁷⁴ 31 C.F.R. § 1021.320(d).

⁹⁷⁵ 31 C.F.R. § 1021.320(e).

⁹⁷⁶ FIN-2017-G001, issued January 4, 2017.

⁹⁷⁵ See 31 C.F.R. § 1021.410.

⁹⁷⁶ 31 C.F.R. § 1010.312.

⁹⁷⁷ 31 C.F.R. § 1021.210(b).

⁹⁷⁸ The factors were outlined by Thomas Ott, Associate Director of Enforcement for FinCEN, at a speech at the 2016 National Title 31 Suspicious Activity & Risk Assessment Conference and Expo. The speech can be found at: <https://www.fincen.gov/news/speeches/prepared-remarks-fincen-associate-director-enforcement-thomas-ott-delivered-national>

⁹⁷⁹ 31 C.F.R. § 1010.820.

⁹⁸⁰ FinCEN Enforcement Action No. 2006-1.

⁹⁸¹ FinCEN Enforcement Action No. 2006-1, fn 3.

⁹⁸² Sources include the AGA's 2017 Best Practice Guide found at <https://www.americangaming.org/sites/default/files/Best%20Practice%202017.pdf>, an AGA Ernst & Young AML Report found at <https://www.americangaming.org/sites/default/files/AGA%20AML%20Research%20Report%20Final%20011916.pdf>, FinCEN AML Guidance Materials found at <https://www.fincen.gov/resources/statutes-regulations/guidance>, and the National Money Laundering Risk Assessment commissioned by the Treasury Department found at <https://www.treasury.gov/resource-center/terrorist-illicit-finance/Documents/National%20Money%20Laundering%20Risk%20Assessment%20%E2%80%932006-12-2015.pdf>.

⁹⁸³ Its webpage can be found at <https://www.oecd.org/>.

⁹⁸⁴ Public Act 106-102 (1999).

⁹⁸⁵ See “ . . . And the Eye in the Sky is Watching Us All”—The Privacy Concerns of Emerging Technological Advances in Casino Player Tracking by Stacy Norris, Volume 9 Number 2, UNLV Gaming Law Journal (2019).

⁹⁸⁶ 201 CMR 17.00.

⁹⁸⁷ 201 CMR 17.03.

⁹⁸⁸ 201 CMR 17.04.

⁹⁸⁹ The Ohio Data Protection Act (2018 SB 220) went into effect on November 2, 2018.

⁹⁹⁰ Center for Internet Security's Critical Security Controls; Federal Risk and Authorization Management Program; International Organization for Standardization/International Electrotechnical Commission's 27000 Family - Information Security Management Systems; National Institute of Standards and Technology (NIST) Cybersecurity Framework; or NIST Special Publication 800-171, 800-53, or 800-53a.

⁹⁹¹ The Federal Information Security Modernization Act of 2014; Health Insurance Portability and Accountability Act of 1996; Health Information Technology for Economic and Clinical Health Act; or Title V of the Gramm-Leach-Bliley Act of 1999.

⁹⁹² See NRS 603A.210.

⁹⁹³ Current standards can be found at www.pcisecuritystandards.org.

⁹⁹⁴ See Title 10 Delaware Administrative Code 203 Video and Table Game Regulations.

⁹⁹⁵ See KAR 112.104 *et seq.*

⁹⁹⁶ See MD. Code Regs 36.03.10 *et seq.*

⁹⁹⁷ See Mich Admin Code, R 432.11201 *et seq.*

⁹⁹⁸ See Title 179 Legislative Rule West Virginia Lottery Series 9.

⁹⁹⁹ 2016 National Survey of Problem Gambling Services, published by the NCPG at <https://www.ncpgambling.org/programs-resources/programs/2016-survey-problem-gambling-services/>

¹⁰⁰⁰ 29 Del. §4823(a)(1).

¹⁰⁰¹ 29 Del. §4823(a)(2).

¹⁰⁰² 29 Del. §4823(a)(3).

¹⁰⁰³ 29 Del. §4831(a).

¹⁰⁰⁴ 29 Del. §4831(b).

¹⁰⁰⁵ 29 Del. §4832.

¹⁰⁰⁶ Cheating is defined as the “means to alter the element of chance, method of selection, or criteria which determines: (1) The result of the game; (2) The amount or frequency of payment in a game, including intentionally taking advantage of a malfunctioning machine; (3) The value of a wagering instrument; or (4) The value of a wagering credit.” 11 Del. § 1470(a).

¹⁰⁰⁷ 11 Del. §1471(b).

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- 1008 11 Del. §1471(e).
1009 11 Del. §1471 (a) through (l).
1010 11 Del. §1472(a).
1011 11 Del. §1472(b)(1) through (4).
1012 11 Del. §1471(k).
1013 11 Del. §1472(c).
1014 29 Del. §4873(a).
1015 29 Del. §4873(b).
1016 K.S.A. §§ 21-6404-6408.
1017 K.S.A. §§ 74-8756; 8758-8762.
1018 Md. Code. Criminal Law §12-102(a) & (b).
1019 Md. Code. Criminal Law §12-102(c).
1020 Md. Code. Criminal Law §12-103.
1021 Md. Code. Criminal Law §12-104.
1022 Md. Code. Criminal Law §12-105.
1023 Md. Code. State Government §9-1c-01.
1024 Mass Gen. Laws ch. 4, § 7.
1025 Massachusetts Gaming Commission, *Investigations and Enforcement Bureau*, <https://massgaming.com/the-commission/inside-mgc/investigations-and-enforcement-bureau/>; Mass. Gen. Laws ch. 23K, § 6 (2011).
1026 Michigan Gaming Control and Revenue Act, Public Act 69 of 1997, MCL 432.225(13).
1027 Michigan Gaming Control and Revenue Act, Public Act 69 of 1997, MCL 432.225(5).
1028 Ohio R.C. 2915.04.
1029 Ohio R.C. 2915.05.
1030 Ohio R.C. 3772.99(D).
1031 Ohio R.C. 3772.99(E).
1032 Ohio R.C. 3772.99(G).
1033 Ohio R.C. 3772.99(H).
1034 W. Va. Code § 29-22A-16.
1035 W. Va. Code § 29-22B-1602.
1036 W. Va. Code § 29-22B-1604 & 1605.
1037 W. Va. Code § 29-22B-1701 *et seq.*
1038 W. Va. Code § 29-22B-1705
1039 W. Va. Code § 29-22B-1712 & 1713.
1040 W. Va. Code § 29-22C-24.
1041 See generally W. Va. Code § 29-22C-29 and § 29-25-25.

EXHIBIT 1: DELAWARE STATE LOTTERY ORGANIZATION CHART

Delaware State Lottery Organization Chart

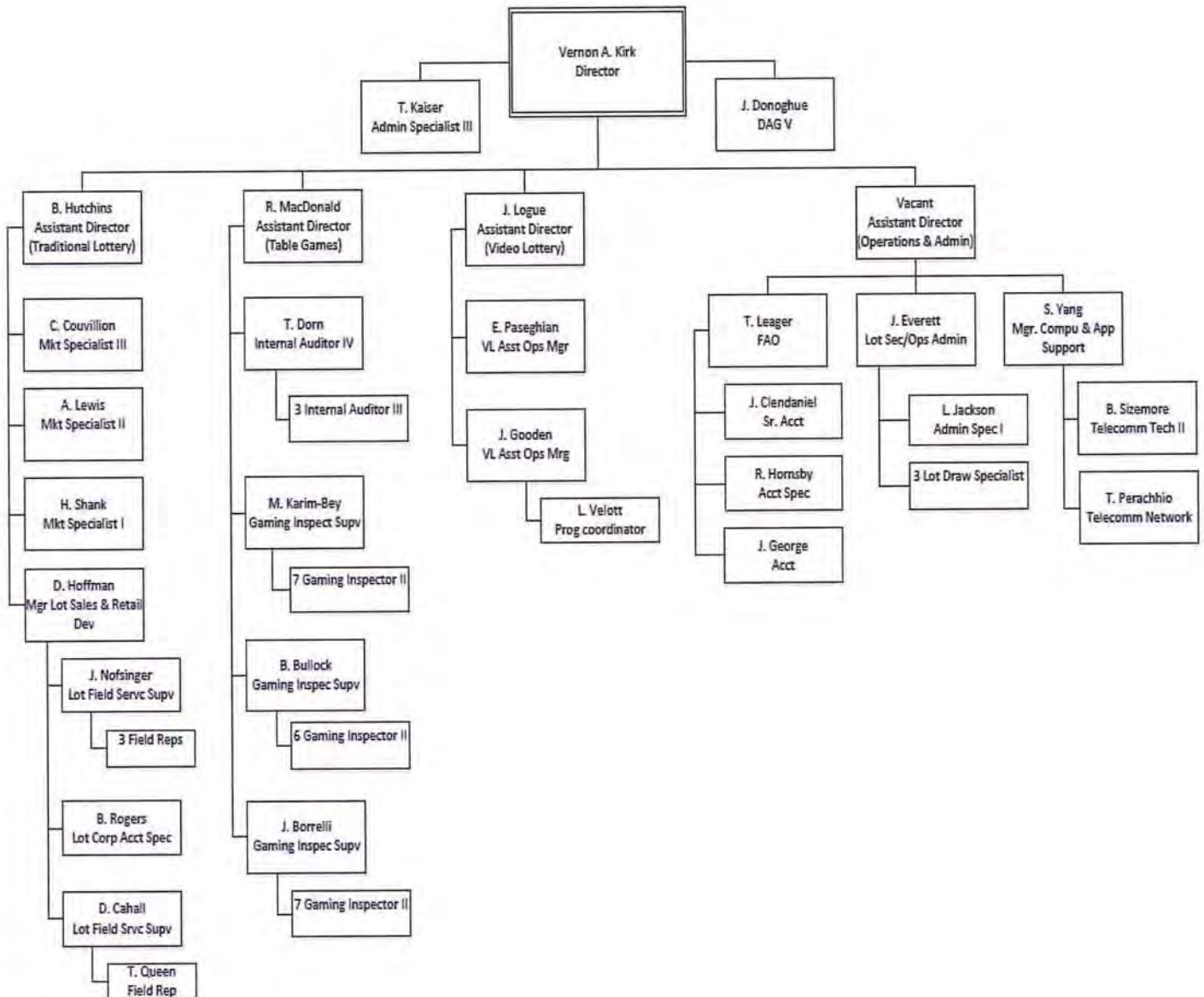


EXHIBIT 2: KANSAS RACING AND GAMING COMMISSION 2018 BUDGET ANALYSIS

KANSAS RACING AND GAMING COMMISSION

	Actual FY 2016	Agency Est. FY 2017	Gov. Rec. FY 2017	Agency Req. FY 2018	Gov. Rec. FY 2018	Agency Req. FY 2019	Gov. Rec. FY 2019
Operating Expenditures:							
State General Fund	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Other Funds	6,392,821	8,913,804	8,894,684	8,987,341	8,914,616	9,090,933	9,006,947
TOTAL	\$ 6,392,821	\$ 8,913,804	\$ 8,894,684	\$ 8,987,341	\$ 8,914,616	\$ 9,090,933	\$ 9,006,947
Capital Improvements:							
State General Fund	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0	0	0	0	0
TOTAL	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
GRAND TOTAL	\$ 6,392,821	\$ 8,913,804	\$ 8,894,684	\$ 8,987,341	\$ 8,914,616	\$ 9,090,933	\$ 9,006,947
Percentage Change:							
Operating Expenditures							
State General Fund	-- %	-- %	-- %	-- %	-- %	-- %	-- %
All Funds	(7.8)	39.4	39.1	0.8	0.2	1.2	1.0
FTE Positions	110.5	109.5	109.5	109.5	109.5	109.5	109.5
Non-FTE							
Perm.Uncl.Pos.	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	110.5	109.5	109.5	109.5	109.5	109.5	109.5

AGENCY OVERVIEW

In 1986, Kansas voters approved Article 15, Section 3b of the *Kansas Constitution*, which authorizes the regulation, licensing, and taxation of horse and dog racing and parimutuel wagering. The Legislature originally established the Kansas Racing Commission in 1987 as the entity charged with implementing provisions of the Kansas Parimutuel Racing Act. The Kansas Racing Commission was redesignated as the Kansas Racing and Gaming Commission on July 1, 1996, when the State Gaming Agency was attached for administrative and budget purposes. A portion of the budget request reflects the expenditures associated with this agency and the oversight of tribal casinos. The 2007 Legislature expanded the authority of the Kansas Racing and Gaming Commission by assigning regulatory duties with respect to expanded gaming activities defined in 2007 SB 66 and by appropriating expenditures from the Expanded Lottery Act Regulation Fund for staffing. The agency's budget includes the following three programs:

- **Expanded Gaming Regulation Program.** The Kansas Racing and Gaming Commission regulates each gaming facility, including oversight of internal controls, security, and background checks and auditing gaming facility revenues. The Kansas Expanded Lottery Act requires lottery and racetrack gaming facility managers to pay for all costs of oversight and regulation;
- **Parimutuel Gaming Program.** The Kansas Racing and Gaming Commission administers provisions of the Parimutuel Racing Act and serves as the regulatory entity for horse and greyhound racing. Although there currently are

no operating racetracks in the state, the Commission has the authority to issue racing dates, promulgate racing regulations as required to maintain public confidence in the parimutuel wagering system, ensure the safety and welfare of racing animals, monitor the public health and safety at Kansas racetracks, and encourage the growth of the horse and greyhound breeding industry; and

- **Tribal Gaming Regulation Program.** The 1996 Tribal Gaming Oversight Act statutorily created the State Gaming Agency in order to fulfill the duties in the gaming compacts and to enforce the provisions of the compacts and state laws, including general criminal statutes and specific criminal gaming statutes in the Tribal Gaming Oversight Act. The agency performs all necessary background investigations prior to licensing for casino employees, management contractors, manufacturers, and distributors at gaming facilities. In addition, the agency ensures gaming is conducted in accordance with the tribal compacts as well as applicable state and federal laws. The agency's staff may examine and inspect all tribal gaming facilities as well as the records, books, papers, machines, equipment, electronic records, surveillance and security tapes, and logs.

Four casinos have been opened in Kansas under provisions of the compacts: the Kickapoo Nation of Kansas casino, located on the tribe's land in southern Brown County, east of U.S. 75 on

K-20; the Prairie Band Potawatomi Nation casino, located on tribal land in Jackson County off U.S. 75; the Sac and Fox Nation of Missouri casino in Brown County on U.S. 75; and the

Iowa Tribe of Kansas and Nebraska casino near White Cloud in the northeast corner of the state.

MAJOR ISSUES FROM PRIOR YEARS

The **2013 Legislature** added language in FY 2013 through FY 2015 directing the agency that no funds shall be expended for compensation of Kansas Racing and Gaming Commission Board members exceeding, the \$35 per day of attendance of such board or subcommittee meeting, as described in KSA 75-3223.

The **2014 Legislature** added a proviso in Senate Sub. for HB 2231 increasing compensation to, \$88.66 per calendar day and a \$109.00 per calendar day substance of attendance of such board or subcommittee meeting, as described in KSA 46-137(a) in FY 2015.

The **2015 Legislature** added \$1.4 million for FY 2016 and \$1.3 million for FY 2017 for expenses related to the opening of a gaming facility in the Southeast Gaming Zone. The additional funding supported the Lottery Gaming Facility Review Board that was responsible for the selection of a facility manager and additional employee positions needed for the regulation of the new gaming facility.

In addition, the **2015 Legislature** appropriated the Gaming Machine Examination Fund with no limit expenditure authority for FY 2016 and FY 2017. Revenues to the fund include gaming machine manufacturers' deposits required for the testing of gaming machines. Expenditures from the fund include payments to laboratories that examine and certify gaming machines placed in the State-owned casinos.

BUDGET SUMMARY AND KEY POINTS

FY 2017 Agency Estimate

The **agency** estimates revised FY 2017 operating expenditures of \$8.9 million, all from special revenue funds. The request is a decrease of \$1,420, or 0.1 percent, below the

amount approved by the 2016 Legislature. The decrease is primarily attributable to decreased salary and wage expenditures.

FY 2017 Governor Recommendation

The **Governor** recommends FY 2017 operating expenditures of \$8.9 million, all from special revenue funds. The recommendation is a decrease of \$19,120, or 0.2 percent,

below the agency's revised FY 2017 estimate. The decrease is attributable to the Governor's recommendation to hold KPERS employer contributions at the FY 2016 amount.

FY 2018 Agency Request

The **agency** requests FY 2018 operating expenditures of \$9.0 million, all from special revenue funds. The request is an increase of \$73,537, or 0.8 percent, above the agency's revised

FY 2017 request. The increase is attributable to increased salary and wage expenditures, partially offset by reduced capital outlay expenditures.

FY 2018 Governor Recommendation

The **Governor** recommends FY 2018 operating expenditures of \$8.9 million, all from special revenue funds. The recommendation is a decrease of \$72,725, or 0.8 percent, below the agency's FY 2018 request. The decrease is attributable to the Governor's recommendation to hold KPERS

employer contributions at the FY 2016 amount, which results in an all funds reduction of \$59,561, and to provide a moratorium on employer contributions for death and disability for one quarter, which results in an all funds reduction of \$13,164.

FY 2019 Agency Request

The **agency** requests FY 2019 operating expenditures of \$9.1 million, all from special revenue funds. The request is an increase of \$103,592, or 1.2 percent, above the FY 2018

request. The increase is primarily attributable to increased salary and wage expenditures, specifically employer KPERS contributions.

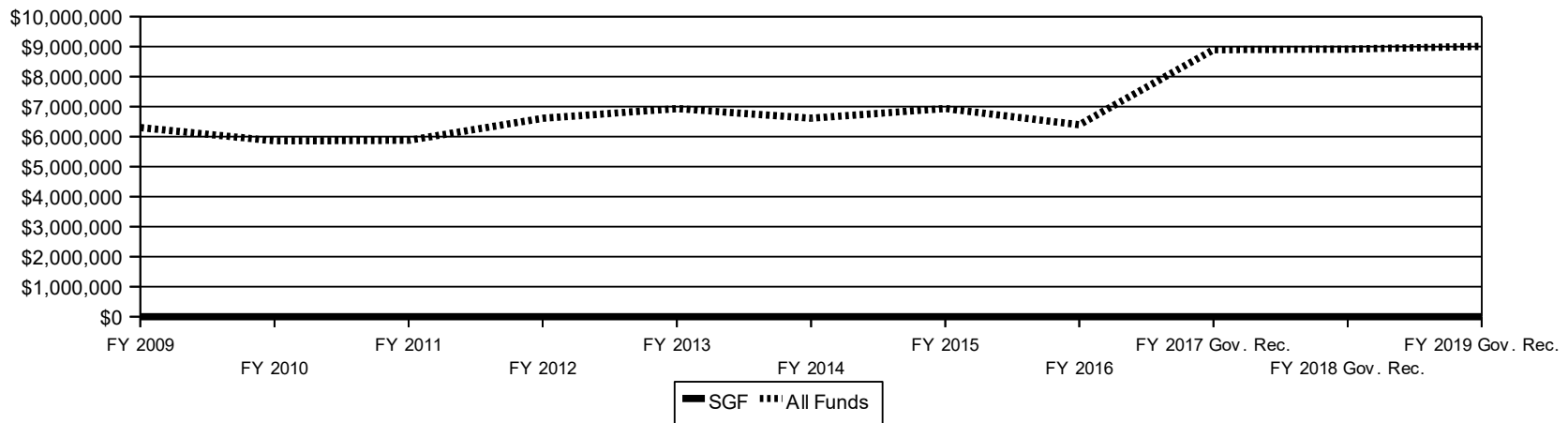
FY 2019 Governor Recommendation

The **Governor** recommends FY 2019 operating expenditures of \$9.0 million, all from special revenue funds. The recommendation is a decrease of \$83,986, or 0.9 percent,

below the agency's FY 2019 request. The decrease is attributable to the Governor's recommendation to hold KPERS employer contributions at the FY 2016 amount.

BUDGET TRENDS

OPERATING EXPENDITURES FY 2009 – FY 2019



Fiscal Year	SGF	% Change	All Funds	% Change	FTE
2009	\$ 0	-- %	\$ 6,299,242	(17.3)%	73.5
2010	0	--	5,858,720	(7.0)	80.0
2011	0	--	5,877,410	0.3	73.5
2012	0	--	6,609,144	12.4	99.5
2013	0	--	6,932,712	4.9	98.0
2014	0	--	6,610,135	(4.7)	91.5
2015	0	--	6,935,786	4.9	93.5
2016	0	--	6,392,821	(7.8)	110.5
2017 Gov. Rec.	0	--	8,894,684	39.1	109.5
2018 Gov. Rec.	0	--	8,914,616	0.2	109.5
2019 Gov. Rec.	0	--	9,006,947	1.0	109.5
Eleven-Year Change	\$ 0	-- %	\$ 2,707,705	43.0 %	36.0

Summary of Operating Budget FY 2016 - FY 2018

		Agency Estimate				Governor's Recommendation			
	Actual 2016	Estimate FY 2017	Request FY 2018	Dollar Change from FY 17	Percent Change from FY 17	Rec. FY 2017	Rec. FY 2018	Dollar Change from FY 17	Percent Change from FY 17
By Program:									
Expanded Gaming Regulation	\$ 5,045,792	\$ 7,324,475	\$ 7,410,293	\$ 85,818	1.2 %	\$ 1,579,090	\$ 1,557,853	\$ (21,237)	(1.3)%
Tribal Gaming Regulation	1,341,120	1,582,486	1,570,272	(12,214)	(0.8)	7,308,767	7,350,046	41,279	0.6
Parimutual Gaming	5,909	6,843	6,776	(67)	(1.0)	6,827	6,717	(110)	(1.6)
TOTAL	<u>\$ 6,392,821</u>	<u>\$ 8,913,804</u>	<u>\$ 8,987,341</u>	<u>\$ 73,537</u>	<u>0.8 %</u>	<u>\$ 8,894,684</u>	<u>\$ 8,914,616</u>	<u>\$ 19,932</u>	<u>0.2 %</u>
By Major Object of Expenditure:									
Salaries and Wages	\$ 5,291,910	\$ 7,184,888	\$ 7,402,981	\$ 218,093	3.0 %	\$ 7,165,768	\$ 7,330,256	\$ 164,488	2.3 %
Contractual Services	929,893	1,259,808	1,257,790	(2,018)	(0.2)	1,259,808	1,257,790	(2,018)	(0.2)
Commodities	82,505	170,620	170,920	300	0.2	170,620	170,920	300	0.2
Capital Outlay	82,239	291,492	155,650	(135,842)	(46.6)	291,492	155,650	(135,842)	(46.6)
Debt Service	0	0	0	0	--	0	0	0	--
Subtotal - Operations	\$ 6,386,547	\$ 8,906,808	\$ 8,987,341	\$ 80,533	0.9 %	\$ 8,887,688	\$ 8,914,616	\$ 26,928	0.3 %
Aid to Local Units	0	0	0	0	--	0	0	0	--
Other Assistance	6,274	6,996	0	(6,996)	(100.0)	6,996	0	(6,996)	(100.0)
TOTAL	<u>\$ 6,392,821</u>	<u>\$ 8,913,804</u>	<u>\$ 8,987,341</u>	<u>\$ 73,537</u>	<u>0.8 %</u>	<u>\$ 8,894,684</u>	<u>\$ 8,914,616</u>	<u>\$ 19,932</u>	<u>0.2 %</u>
Financing:									
State General Fund	\$ 0	\$ 0	\$ 0	\$ 0	-- %	\$ 0	\$ 0	\$ 0	-- %
Expanded Gaming Regulation Fund	4,802,995	7,000,079	7,085,878	85,799	1.2	6,985,087	7,028,253	43,166	0.6
Tribal Gaming Fund	1,341,083	1,580,986	1,569,272	(11,714)	(0.7)	1,579,090	1,557,853	(21,237)	(1.3)
All Other Funds	248,743	332,739	332,191	(548)	(0.2)	330,507	328,510	(1,997)	(0.6)
TOTAL	<u>\$ 6,392,821</u>	<u>\$ 8,913,804</u>	<u>\$ 8,987,341</u>	<u>\$ 73,537</u>	<u>0.8 %</u>	<u>\$ 8,894,684</u>	<u>\$ 8,914,616</u>	<u>\$ 19,932</u>	<u>0.2 %</u>

Summary of Operating Budget FY 2018 - FY 2019

By Program:

Expanded Gaming Regulation
Tribal Gaming Regulation
Parimutual Gaming

TOTAL

By Major Object of Expenditure:

Salaries and Wages
Contractual Services
Commodities
Capital Outlay
Debt Service

Subtotal - Operations

Aid to Local Units
Other Assistance

TOTAL

Financing:

State General Fund
Expanded Gaming Regulation Fund
Tribal Gaming Fund
All Other Funds

TOTAL

Agency Estimate				Governor's Recommendation			
Request FY 2018	Request FY 2019	Dollar Change from FY 18	Percent Change from FY 18	Rec. FY 2018	Rec. FY 2019	Dollar Change from FY 18	Percent Change from FY 18
\$ 7,410,293	\$ 7,496,981	\$ 86,688	1.2 %	\$ 1,557,853	\$ 1,572,467	\$ 14,614	0.9 %
1,570,272	1,586,754	16,482	1.0	7,350,046	7,427,362	77,316	1.1
6,776	7,198	422	6.2	6,717	7,118	401	6.0
<u>\$ 8,987,341</u>	<u>\$ 9,090,933</u>	<u>\$ 103,592</u>	<u>1.2 %</u>	<u>\$ 8,914,616</u>	<u>\$ 9,006,947</u>	<u>\$ 92,331</u>	<u>1.0 %</u>
\$ 7,402,981	\$ 7,505,073	\$ 102,092	1.4 %	\$ 7,330,256	\$ 7,421,087	\$ 90,831	1.2 %
1,257,790	1,257,790	0	0.0	1,257,790	1,257,790	0	0.0
170,920	170,920	0	0.0	170,920	170,920	0	0.0
155,650	157,150	1,500	1.0	155,650	157,150	1,500	1.0
0	0	0	--	0	0	0	--
<u>\$ 8,987,341</u>	<u>\$ 9,090,933</u>	<u>\$ 103,592</u>	<u>1.2 %</u>	<u>\$ 8,914,616</u>	<u>\$ 9,006,947</u>	<u>\$ 92,331</u>	<u>1.0 %</u>
0	0	0	--	0	0	0	--
0	0	0	--	0	0	0	--
<u>\$ 8,987,341</u>	<u>\$ 9,090,933</u>	<u>\$ 103,592</u>	<u>1.2 %</u>	<u>\$ 8,914,616</u>	<u>\$ 9,006,947</u>	<u>\$ 92,331</u>	<u>1.0 %</u>
\$ 0	\$ 0	\$ 0	-- %	\$ 0	\$ 0	\$ 0	-- %
7,085,878	7,155,790	69,912	1.0	7,028,253	7,089,345	61,092	0.9
156,927	1,585,754	16,482	1.1	1,557,853	1,572,467	14,614	0.9
332,191	349,389	17,198	5.2	328,510	345,135	16,625	5.1
<u>\$ 8,987,341</u>	<u>\$ 9,090,933</u>	<u>\$ 103,592</u>	<u>1.2 %</u>	<u>\$ 8,914,616</u>	<u>\$ 9,006,947</u>	<u>\$ 92,331</u>	<u>1.0 %</u>

BUDGET OVERVIEW

A. FY 2017 – Current Year

Adjustments to Approved State General Fund Budget

The agency's revised budget does not include any State General Fund expenditures.

CHANGE FROM APPROVED BUDGET					
	Legislative Approved FY 2017	Agency Estimate FY 2017	Agency Change from Approved	Governor Rec. FY 2017	Governor Change from Approved
State General Fund	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
All Other Funds	8,915,224	8,913,804	(1,420)	8,894,684	(20,540)
TOTAL	\$ 8,915,224	\$ 8,913,804	\$ (1,420)	\$ 8,894,684	\$ (20,540)
FTE Positions	110.5	109.5	(1.0)	109.5	(1.0)

The **agency** estimates revised FY 2017 operating expenditures of \$8.9 million, all from special revenue funds. The request is a decrease of \$1,420, or 0.1 percent, below the amount approved by the 2016 Legislature. The decrease is primarily attributable to decreased salary and wage expenditures. The estimate is detailed below by category of expenditure:

- **Salaries and Wages.** The agency estimates expenditures of \$7.2 million, all from special revenue funds. The estimate is a decrease of \$159,090, or 2.2 percent, below the amount approved by the 2016 Legislature. The decrease

is attributable to the delayed in expected opening of the Kansas Crossing facility in Southeast Kansas. Initially, the agency had budgeted for a full year of regulation associated with that facility;

- **Contractual Services.** The agency estimates expenditures of \$1.3 million, all from special revenue funds. The estimate is an increase of \$19,200, or 1.5 percent, above the amount approved by the 2016 Legislature. The increase is attributable to rent associated with the agency's office space. The previously submitted

FY 2017 estimate incorrectly accounted for these costs; and

- **Capital Outlay.** The agency estimates expenditures of \$291,492, all from special revenue funds. The estimate is an increase of \$131,310, or 82.0 percent, above the amount approved by the 2016 Legislature. The increase is attributable to computer software and

hardware expenditures associated with the expected opening of the Kansas Crossing facility in Southeast Kansas.

The **Governor** recommends FY 2017 operating expenditures of \$8.9 million, all from special revenue funds. The recommendation is a decrease of \$19,120, or 0.2 percent, below the agency's revised FY 2017 estimate. The decrease is attributable to the Governor's recommendation to hold KPERS employer contributions at the FY 2016 amount.

B. FY 2018 – Budget Year

FY 2018 OPERATING BUDGET SUMMARY			
	Agency Request	Governor's Recommendation	Difference
Total Request/Recommendation	\$ 8,987,341	\$ 8,914,616	\$ (72,725)
FTE Positions	109.5	109.5	0.0
Change from FY 2017:			
<i>Dollar Change:</i>			
State General Fund	\$ 0	\$ 0	
All Other Funds	73,537	19,932	
TOTAL	<u>\$ 73,537</u>	<u>\$ 19,932</u>	
<i>Percent Change:</i>			
State General Fund	-- %	-- %	
All Other Funds	0.8	0.2	
TOTAL	<u>0.8 %</u>	<u>0.2 %</u>	
Change in FTE Positions	0.0	0.0	

The **agency** requests FY 2018 operating expenditures of \$9.0 million, all from special revenue funds. The request is an increase of \$73,537, or 0.8 percent, above the agency's revised FY 2017 request. The increase is attributable to increased salary and wage expenditures, partially offset by reduced capital outlay expenditures.

The request is detailed below by category of expenditure:

- **Salaries and Wages.** The agency estimates expenditures of \$7.4 million, all from special revenue funds. The request is an increase of \$218,093, or 3.0 percent, above the revised FY 2017 estimate. The increase is primarily attributable to increased wages for unclassified, specifically as a result of a full year of operation of the SE Gaming Zone and employer

contribution costs, specifically group health insurance and KPERS;

- **Capital Outlay.** The agency estimates expenditures of \$155,650, all from special revenue funds. The request is a decrease of \$135,842, or 46.6 percent, below the agency's revised FY 2017 estimate. The decrease is attributable to one-time software and hardware expenditures in FY 2017 associated with the expected opening of the Kansas Crossing facility in Southeast Kansas; and
- **Other Assistance.** The agency estimates expenditures of \$0, which is a decrease of \$6,996, or 100.0 percent, below the agency's

revised FY 2017 estimate. The decrease is attributable to agency expenses related to the 2011 Voluntary Retirement Incentive Program. Agencies provided five years of health insurance for participants in the program and those costs conclude in FY 2017.

The **Governor** recommends FY 2018 operating expenditures of \$8.9 million, all from special revenue funds. The recommendation is a decrease of \$72,725, or 0.8 percent, below the agency's FY 2018 request. The decrease is attributable to the Governor's recommendation to hold KPERS employer contributions at the FY 2016 amount, which results in an all funds reduction of \$59,561, and to provide a moratorium on employer contributions for death and disability for one quarter, which results in an all funds reduction of \$13,164.

C. FY 2019 – Budget Year

FY 2019 OPERATING BUDGET SUMMARY			
	Agency Request	Governor's Recommendation	Difference
Total Request/Recommendation	\$ 9,090,933	\$ 9,006,947	\$ (83,986)
FTE Positions	109.5	109.5	0.0
Change from FY 2018:			
<i>Dollar Change:</i>			
State General Fund	\$ 0	\$ 0	
All Other Funds	103,592	92,331	
TOTAL	\$ 103,592	\$ 92,331	
<i>Percent Change:</i>			
State General Fund	-- %	-- %	
All Other Funds	1.2	1.0	
TOTAL	1.2 %	1.0 %	
Change in FTE Positions	0.0	0.0	

The **agency** requests FY 2019 operating expenditures of \$9.1 million, all from special revenue funds. The request is an increase of \$103,592, or 1.2 percent, above the FY 2018 request. The increase is almost entirely attributable to increased salary and wage expenditures, specifically employer KPERS contributions. The request is detailed below by category of expenditure:

- **Salaries and Wages.** The agency estimates expenditures of \$7.5 million, all from special revenue funds. The request is an increase of

\$102,092, or 1.4 percent, above the FY 2018 request. The increase is primarily attributable to increased employer contribution costs, specifically group health insurance and KPERS.

The **Governor** recommends FY 2019 operating expenditures of \$9.0 million, all from special revenue funds. The recommendation is a decrease of \$83,986, or 0.9 percent, below the agency's FY 2019 request. The decrease is attributable to the Governor's recommendation to hold KPERS employer contributions at the FY 2016 amount.

Governor's Recommended Salary and Wage Adjustments

27th Payroll Period. The average fiscal year contains 26 biweekly payroll periods. Because of the biweekly nature of the payroll system and how the pay dates have fallen on the calendar since the system was implemented, a 27th payroll period occurs in FY 2017. The last time this occurred was in FY 2006. The current estimate for the cost of the 27th pay period is \$107.2 million, including \$40.3 million from the State General Fund. The next anticipated occurrence of a 27th pay period will be in FY 2028.

Longevity Bonus Payments. For FY 2017, FY 2018, and FY 2019, the Governor recommends funding longevity bonus payments for eligible state employees at the statutory rate of \$40 per year of service, with a 10-year minimum (\$400) and a 25-year maximum (\$1,000). Classified employees hired after June 15, 2008, are not eligible for longevity bonus payments. The estimated cost for the recommended FY 2017 payments is \$4.9 million, including \$1.8 million from the State General Fund. For FY 2018, the estimated cost is \$5.1 million, including \$1.9 million from the State General Fund. For FY 2019, the estimated cost is \$4.4 million, including \$1.6 million from the State General Fund. **For this agency, FY 2017 longevity payments total \$4,440, all from special revenue funds; FY 2018 longevity payments total \$4,960, all from special revenue funds; and FY 2019 longevity payments total \$2,160, all from the special revenue funds.**

Kansas Public Employees Retirement System (KPERS) Adjustments.

KPERS Employer Contributions. The employer retirement contribution rate for KPERS State and School is scheduled to be 10.81 percent in FY 2017, 12.01 percent for FY 2018, and 13.21 percent for FY 2019. For FY 2017, FY 2018, and FY 2019, the Governor recommends the employer contribution amounts be reduced, with the intention of holding employer contributions in these fiscal years to a similar amount as FY 2016 actual employer contributions, which included a quarter moratorium. This proposal

also eliminates the scheduled contribution rate increases for FY 2017 through FY 2019. The estimated expenditure reduction to freeze KPERS employer contributions is \$87.8 million, including \$85.9 million from the State General Fund, in FY 2017; \$141.6 million, including \$140.2 million from the State General Fund, for FY 2018; and \$202.3 million, including \$198.5 million from the State General Fund, for FY 2019. Additionally, the Governor recommends not to pay approximately \$97.4 million, all from the State General Fund, in delayed FY 2016 employer contributions, in FY 2018 with 8.0 percent interest per annum. **For this agency, reducing employer contributions to KPERS would reduce expenditures by \$19,120, all from special revenue funds, in FY 2017; by \$59,561, all from special revenue funds, for FY 2018; and by \$83,986, all from special revenue funds, for FY 2019.**

Death and Disability. The Governor recommends extending the current FY 2017 moratorium on employer contributions to the Group Insurance Reserve Fund through the first quarter of FY 2018. The employer contribution rate is recommended to return to 1.0 percent for FY 2019. The estimated expenditure reduction for the recommended moratorium on the first quarter of FY 2018 contributions is \$12.6 million, including \$10.1 million from the State General Fund. **For this agency, a one quarter moratorium on Group Insurance Reserve Fund contributions would reduce expenditures by \$13,164, all from special revenue funds, for FY 2018.**

KPERS Policy Changes. The Governor recommends extending the amortization period on the unfunded actuarial liability (UAL) by ten years. Currently, the UAL is scheduled to be amortized in FY 2033. In addition, the Governor recommends the combined KPERS State and School employer contribution rate be decoupled. Currently, a contribution rate is established for the combined KPERS State and the KPERS School group. The KPERS State group has a considerably lower UAL than the KPERS School group and the actuarial recommended contribution rate for the KPERS State group is consistently below the combined KPERS State and School rate.

Funding Sources

Funding Source	Agency Req. Percent of Total FY 2018	Gov. Rec. Percent of Total FY 2018	Agency Req. Percent of Total FY 2019	Gov. Rec. Percent of Total FY 2019
State General Fund	0.0 %	0.0 %	0.0 %	0.0 %
Expanded Gaming Regulation Fund	78.8	78.8	78.7	78.7
Tribal Gaming Fund	17.5	17.5	17.5	17.5
All Other Funds	3.7	3.7	3.8	3.8
TOTAL	100.0 %	100.0 %	100.0 %	100.0 %

Note: Totals may not add due to rounding.

Expanded Lottery Regulation Fund

The Expanded Lottery Act stipulates the cost of regulation is to be incurred by the lottery gaming facility managers. Revenue to the Expanded Lottery Regulation Fund includes billings and payments from the currently operating state-owned casinos for

the Racing and Gaming Commission's direct and indirect costs associated with the operations of the casinos. Payments are received in advance of expenditure on a quarterly billing cycle.

Resource Estimate	Actual FY 2016	Agency Estimate FY 2017	Governor Rec. FY 2017	Agency Request FY 2018	Governor Rec. FY 2018	Agency Request FY 2019	Governor Rec. FY 2019
Beginning Balance	\$ 3,054,001	\$ 3,243,415	\$ 3,243,415	\$ 2,712,113	\$ 2,727,105	\$ 2,712,113	\$ 2,784,730
Revenue	4,992,409	6,468,777	6,468,777	7,085,878	7,085,878	7,155,790	7,155,790
Transfers in	0	0	0	0	0	0	0
Total Funds Available	\$ 8,046,410	\$ 9,712,192	\$ 9,712,192	\$ 9,797,991	\$ 9,812,983	\$ 9,867,903	\$ 9,940,520
Less: Expenditures	4,802,995	7,000,079	6,985,087	7,085,878	7,028,253	7,155,790	7,089,345
Transfers Out	0	0	0	0	0	0	0
Off Budget Expenditures	0	0	0	0	0	0	0
Ending Balance	<u>\$ 3,243,415</u>	<u>\$ 2,712,113</u>	<u>\$ 2,727,105</u>	<u>\$ 2,712,113</u>	<u>\$ 2,784,730</u>	<u>\$ 2,712,113</u>	<u>\$ 2,851,175</u>
Ending Balance as Percent of Expenditures	67.5%	38.7%	39.0%	38.3%	39.6%	37.9%	40.2%

Tribal Gaming Regulation Fund

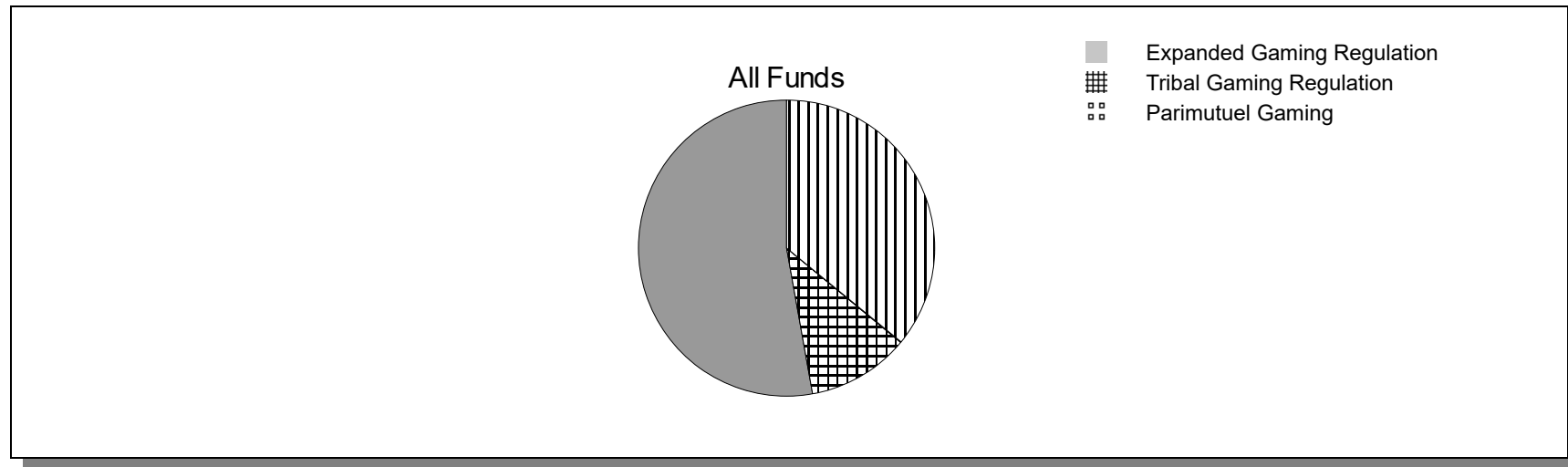
The Tribal Gaming Fund is funded by assessments paid three times a year by the four tribal casinos. On July 1st of each fiscal year, the State Gaming Agency receives \$450,000, all from the State General Fund, to cover operational costs for July,

August, and September before the first assessments are submitted from the tribes in September. As revenues become available, the State General Fund cash advance is repaid.

Resource Estimate	Actual FY 2016	Agency Estimate FY 2017	Governor Rec. FY 2017	Agency Request FY 2018	Governor Rec. FY 2018	Agency Request FY 2019	Governor Rec. FY 2019
Beginning Balance	\$ 432,058	\$ 263,394	\$ 263,394	\$ 13,000	\$ 16,396	\$ 13,000	\$ 28,815
Revenue	1,172,456	1,332,092	1,332,092	1,570,272	1,570,272	1,586,754	1,586,754
Transfers in	450,037	451,500	451,500	451,000	451,000	451,000	451,000
Total Funds Available	\$ 2,054,551	\$ 2,046,986	\$ 2,046,986	\$ 2,034,272	\$ 2,037,668	\$ 2,050,754	\$ 2,066,569
Less: Expenditures	1,341,120	1,582,486	1,579,090	1,570,272	1,557,853	1,586,754	1,572,467
Transfers Out	450,037	451,500	451,500	451,000	451,000	451,000	451,000
Off Budget Expenditures	0	0	0	0	0	0	0
Ending Balance	<u>\$ 263,394</u>	<u>\$ 13,000</u>	<u>\$ 16,396</u>	<u>\$ 13,000</u>	<u>\$ 28,815</u>	<u>\$ 13,000</u>	<u>\$ 43,102</u>
Ending Balance as Percent of Expenditures	19.6%	0.8%	1.0%	0.8%	1.8%	0.8%	2.7%

PROGRAM DETAIL

EXPENDITURES BY PROGRAM – GOVERNOR’S FY 2018 RECOMMENDATION



Program	Gov. Rec. All Funds FY 2018	Percent of Total	Gov. Rec. SGF FY 2018	Percent of Total
Expanded Gaming Regulation	\$ 7,350,046	82.4 %	\$ 0	-- %
Tribal Gaming Regulation	1,557,853	17.5	0	--
Parimutuel Gaming	6,717	0.1	0	--
TOTAL	\$ 8,914,616	100.0 %	\$ 0	-- %

FTE POSITIONS BY PROGRAM FY 2016 – FY 2019

Program	Actual FY 2016	Agency Est. FY 2017	Gov. Rec. FY 2017	Agency Req. FY 2018	Gov. Rec. FY 2018	Agency Req. FY 2019	Gov. Rec. FY 2019
Tribal Gaming Regulation	19.0	18.0	18.0	18.0	18.0	18.0	18.0
Expanded Gaming Regulation	91.5	91.4	91.4	91.4	91.4	91.4	91.4
Parimutual Gaming	0.1	0.1	0.1	0.1	0.1	0.1	0.1
TOTAL	110.5	109.5	109.5	109.5	109.5	109.5	109.5

A. Expanded Gaming Regulation

The Expanded Gaming Regulation program provides regulatory oversight of lottery and racetrack gaming facility managers and their operations in Kansas. There currently are no operating racetrack gaming facilities. There are, however, four lottery gaming facilities: the Northeast Gaming Zone in Wyandotte County houses the Hollywood Casino; the South Central Gaming Zone located in Sedgwick and Sumner counties houses the Kansas Star Casino; the Southwest Gaming Zone located in Ford County houses the Boot Hill Casino & Resort; and the Southeast Gaming Zone located in Crawford and Cherokee counties will house the Kansas Crossing Casino, pending the outcome of current litigation. Expanded Gaming Regulation program goals include the following:

- **Integrity of Gaming.** Uphold and promote the integrity of gaming at lottery and racetrack facilities, protect gaming operations from those seeking to harm the integrity of gaming, and

protect Kansas and its citizens from criminal activity related to operation of gaming facilities;

- **Accountability and Compliance.** Ensure Kansas is receiving its fair share of gaming revenue and patrons are receiving the gaming experience according to state law, and ensure compliance with Kansas Racing and Gaming Commission rules and regulations and other applicable state and federal laws;
- **Illegal Gaming Enforcement.** Coordinate with state agencies and local authorities to reduce and minimize illegal gaming in Kansas; and
- **Responsible Gaming.** Promote responsible gambling in Kansas *via* the Voluntary Exclusion Program (VEP) and approve each lottery gaming facility's responsible gambling plan.

**EXPANDED GAMING REGULATION
SUMMARY OF EXPENDITURES FY 2016 – 2019**

Item	Actual FY 2016	Agency Est. FY 2017	Gov. Rec. FY 2017	Agency Req. FY 2018	Gov. Rec. FY 2018	Agency Req. FY 2019	Gov. Rec. FY 2019
Expenditures:							
Salaries and Wages	\$ 4,193,272	\$ 5,922,174	\$ 5,906,466	\$ 6,152,548	\$ 6,092,301	\$ 6,237,736	\$ 6,168,117
Contractual Services	701,534	989,893	989,893	987,875	987,875	987,875	987,875
Commodities	72,563	139,270	139,270	139,570	139,570	139,570	139,570
Capital Outlay	72,149	266,142	266,142	130,300	130,300	131,800	131,800
Debt Service	0	0	0	0	0	0	0
<i>Subtotal - Operations</i>	<i>\$ 5,039,518</i>	<i>\$ 7,317,479</i>	<i>\$ 7,301,771</i>	<i>\$ 7,410,293</i>	<i>\$ 7,350,046</i>	<i>\$ 7,496,981</i>	<i>\$ 7,427,362</i>
Aid to Local Units	0	0	0	0	0	0	0
Other Assistance	6,274	6,996	6,996	0	0	0	0
TOTAL	\$ 5,045,792	\$ 7,324,475	\$ 7,308,767	\$ 7,410,293	\$ 7,350,046	\$ 7,496,981	\$ 7,427,362
Financing:							
State General Fund	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
All Other Funds	5,045,792	7,324,475	7,308,767	7,410,293	7,350,046	7,496,981	7,427,362
TOTAL	\$ 5,045,792	\$ 7,324,475	\$ 7,308,767	\$ 7,410,293	\$ 7,350,046	\$ 7,496,981	\$ 7,427,362
FTE Positions	91.5	91.4	91.4	91.4	91.4	91.4	91.4
Non-FTE Uncl.Perm.Pos.	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	91.5	91.4	91.4	91.4	91.4	91.4	91.4

The **agency** requests FY 2018 expenditures of \$7.4 million, all from special revenue funds, for expanded gaming regulation. The request is an increase of \$85,818, or 1.2 percent, above the revised FY 2017 estimate. The request includes increased salary and wage expenditures offset, in part, by reduced capital outlay expenditures.

Major changes from the agency's revised FY 2017 estimate include the following:

- **Salaries and Wages.** The agency estimates expenditures of \$6.2 million, all from special revenue funds. The request is an increase of \$230,374, or 3.9 percent, above the revised FY 2017 estimate. The increase is primarily

attributable to increased employer contribution costs, specifically group health insurance and KPERS;

- **Capital Outlay.** The agency estimates expenditures of \$130,300, all from special revenue funds. The request is a decrease of \$135,842, or 51.0 percent, below the agency's revised FY 2017 estimate. The decrease is attributable to one-time software and hardware expenditures in FY 2017 associated with the expected opening of the Kansas Crossing facility in Southeast Kansas; and
- **Other Assistance.** The agency estimates expenditures of \$0, which is a decrease of \$6,996, or 100.0 percent, below the agency's revised FY 2017 estimate. The decrease is attributable to agency expenses related to the 2011 Voluntary Retirement Incentive Program. Agencies provided five years of health insurance for participants in the program and those costs conclude in FY 2017.

B. Tribal Gaming Regulation

The Kansas State Gaming agency is responsible for the oversight, monitoring, and compliance of class III gaming conducted pursuant to the four tribal-state compacts and the Tribal Gaming Oversight Act. The agency ensures gaming is conducted in accordance with compacts and applicable state and federal laws; protects citizens from criminal activity in the

The **Governor** recommends FY 2018 operating expenditures of \$7.4 million, all from special revenue funds, for expanded gaming regulation. The recommendation is a decrease of \$60,247, or 0.8 percent, below the agency's FY 2018 request. The decrease is attributable to the Governor's recommendation to hold KPERS employer contributions at the FY 2016 amount and to provide a moratorium on employer contributions for death and disability payments for one quarter.

The **agency** requests FY 2019 operating expenditures of \$7.5 million, all from special revenue funds, for agency administration. The request is an increase of \$86,688, or 1.2 percent, above FY 2018 agency request. The increase is primarily attributable to increased salary and wage expenditures, specifically employer KPERS contributions.

The **Governor** recommends FY 2019 operating expenditures of \$7.4 million, all from special revenue funds, for expanded gaming regulation. The recommendation is a decrease of \$69,619, or 0.9 percent, below the agency's FY 2019 request. The decrease is attributable to the Governor's recommendation to hold KPERS employer contributions at the FY 2016 amount.

tribal gaming arena; ensures accurate and complete information is provided to the different tribal gaming commissions for licensing purposes; conducts background investigations; and can review all licensing and disciplinary actions and reports of non-compliance with the tribal-state compacts.

**TRIBAL GAMING REGULATION
SUMMARY OF EXPENDITURES FY 2016 – 2019**

Item	Actual FY 2016	Agency Est. FY 2017	Gov. Rec. FY 2017	Agency Req. FY 2018	Gov. Rec. FY 2018	Agency Req. FY 2019	Gov. Rec. FY 2019
Expenditures:							
Salaries and Wages	\$ 1,093,774	\$ 1,256,871	\$ 1,253,475	\$ 1,244,657	\$ 1,232,238	\$ 1,261,139	\$ 1,246,852
Contractual Services	227,314	268,915	268,915	268,915	268,915	268,915	268,915
Commodities	9,942	31,350	31,350	31,350	31,350	31,350	31,350
Capital Outlay	10,090	25,350	25,350	25,350	25,350	25,350	25,350
Debt Service	0	0	0	0	0	0	0
<i>Subtotal - Operations</i>	<i>\$ 1,341,120</i>	<i>\$ 1,582,486</i>	<i>\$ 1,579,090</i>	<i>\$ 1,570,272</i>	<i>\$ 1,557,853</i>	<i>\$ 1,586,754</i>	<i>\$ 1,572,467</i>
Aid to Local Units	0	0	0	0	0	0	0
Other Assistance	0	0	0	0	0	0	0
TOTAL	\$ 1,341,120	\$ 1,582,486	\$ 1,579,090	\$ 1,570,272	\$ 1,557,853	\$ 1,586,754	\$ 1,572,467
Financing:							
State General Fund	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
All Other Funds	1,341,120	1,582,486	1,579,090	1,570,272	1,557,853	1,586,754	1,572,467
TOTAL	\$ 1,341,120	\$ 1,582,486	\$ 1,579,090	\$ 1,570,272	\$ 1,557,853	\$ 1,586,754	\$ 1,572,467
FTE Positions	19.0	18.0	18.0	18.0	18.0	18.0	18.0
Non-FTE Uncl.Perm.Pos.	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	19.0	18.0	18.0	18.0	18.0	18.0	18.0

The **agency** requests FY 2018 expenditures of \$1.6 million, all from special revenue funds, for tribal gaming regulation. The request is a decrease of \$12,214, or 0.8 percent, below the revised FY 2017 estimate. The decrease is attributable to reduced salary and wage expenditures as a result of returning to the normal 26 pay period schedule as there was one additional pay period in FY 2017.

The **Governor** recommends FY 2018 operating expenditures of \$1.6 million, all from special revenue funds, for tribal gaming regulation. The recommendation is a decrease of \$12,419, or 0.8 percent, below the agency's FY 2018 request. The decrease is attributable to the Governor's recommendation to hold KPERS employer contributions at the FY 2016 amount and to provide a moratorium on employer contributions for death and disability payments for one quarter.

The **agency** requests FY 2019 operating expenditures of \$1.6 million, all from special revenue funds, for tribal gaming regulation. The request is an increase of \$16,482, or 1.0 percent, above the FY 2018 agency request. The increase is primarily attributable to increased salary and wage expenditures, specifically employer KPERS contributions.

C. Parimutuel Gaming

The Parimutuel Gaming program provides oversight for the parimutuel racing industry and racetracks. The Racing and Gaming Commission is the legal authority for regulation and staff in this program to carry out the Commission's policies and procedures. There currently are no parimutuel racetracks operating in Kansas. All funding for the program is supported by

The **Governor** recommends FY 2019 operating expenditures of \$1.6 million, all from special revenue funds, for tribal gaming regulation. The recommendation is a decrease of \$14,287, or 0.9 percent, below the agency's FY 2019 request. The decrease is attributable to the Governor's recommendation to hold KPERS employer contributions at the FY 2016 amount.

the State Racing Fund, which is currently being funded by horse registration fees. The Parimutuel Gaming program budget for FY 2017 through FY 2019 is built on the assumption that no parimutuel racing will occur in Kansas during that period. The agency will continue to administer the Kansas Bred Registry program.

PARIMUTUEL GAMING
SUMMARY OF EXPENDITURES FY 2016 – 2019

Item	Actual FY 2016	Agency Est. FY 2017	Gov. Rec. FY 2017	Agency Req. FY 2018	Gov. Rec. FY 2018	Agency Req. FY 2019	Gov. Rec. FY 2019
Expenditures:							
Salaries and Wages	\$ 4,864	\$ 5,843	\$ 5,827	\$ 5,776	\$ 5,717	\$ 6,198	\$ 6,118
Contractual Services	1,045	1,000	1,000	1,000	1,000	1,000	1,000
Commodities	0	0	0	0	0	0	0
Capital Outlay	0	0	0	0	0	0	0
Debt Service	0	0	0	0	0	0	0
<i>Subtotal - Operations</i>	<i>\$ 5,909</i>	<i>\$ 6,843</i>	<i>\$ 6,827</i>	<i>\$ 6,776</i>	<i>\$ 6,717</i>	<i>\$ 7,198</i>	<i>\$ 7,118</i>
Aid to Local Units	0	0	0	0	0	0	0
Other Assistance	0	0	0	0	0	0	0
TOTAL	\$ 5,909	\$ 6,843	\$ 6,827	\$ 6,776	\$ 6,717	\$ 7,198	\$ 7,118
Financing:							
State General Fund	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
All Other Funds	5,909	6,843	6,827	6,776	6,717	7,198	7,118
TOTAL	\$ 5,909	\$ 6,843	\$ 6,827	\$ 6,776	\$ 6,717	\$ 7,198	\$ 7,118
FTE Positions	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Non-FTE Uncl.Perm.Pos.	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.1	0.1	0.1	0.1	0.1	0.1	0.1

The **agency** requests FY 2018 expenditures of \$6,776, all from special revenue funds, for the parimutuel gaming program. The request is a decrease of \$67, or 1.0 percent, below the revised FY 2017 estimate. The decrease is attributable to reduced salary and wage expenditures as a result of returning to the normal 26 pay period schedule as there was one additional pay period in FY 2017.

The **Governor** recommends FY 2018 operating expenditures of \$6,717, all from special revenue funds, for parimutuel gaming regulation. The recommendation is a decrease of \$59, or 0.9 percent, below the agency's FY 2018 request. The decrease is attributable to the Governor's recommendation to hold KPERS employer contributions at the FY 2016 amount and to provide a moratorium on employer contributions for death and disability payments for one quarter.

The **agency** requests FY 2019 operating expenditures of \$7,198, all from special revenue funds, for agency administration. The request is an increase of \$422, or 6.2 percent, above FY 2018 agency request. The increase is primarily attributable to increased salary and wage expenditures, specifically employer KPERS contributions.

The **Governor** recommends FY 2019 operating expenditures of \$7,118, all from special revenue funds, for tribal gaming regulation. The recommendation is a decrease of \$80, or 1.1 percent, below the agency's FY 2019 request. The decrease is attributable to the Governor's recommendation to hold KPERS employer contributions at the FY 2016 amount.

PERFORMANCE MEASURES					
Measure	Gov. Rec. for FY 2016	Actual FY 2016	Gov. Rec. FY 2017	Gov. Rec. FY 2018	Gov. Rec. FY 2019
Slot machine inspections:					
Tribal gaming regulation program	450	595	500	500	500
Expanded gaming regulation program	1,600	871	1,571	1,571	1,571
Number of background investigations completed:					
Tribal gaming regulation program	500	489	470	470	470
Expanded gaming regulation program	1,025	988	1,275	1,025	1,025

EXHIBIT 3: WRITTEN RESPONSES FROM MARYLAND LOTTERY AND GAMING CONTROL AGENCY

Questions from Regulatory Management Counselors

1. What is your total annual budget and if that includes oversight of areas other than commercial gaming, what is the allocation – from tax payments, administrative fees separate from taxes, or from general fund?

The FY 2018 budget for the Maryland Lottery and Gaming Control Agency's ("MLGCA" or "Agency") casino gaming program totaled \$17.3 million. Of that amount, \$10.2 million were special funds, the equivalent of 1.0% of the gross gaming revenue from video lottery terminals (slot machines). The remaining \$7.1 million came from the General Fund. The budget primarily consists of: salaries for casino compliance representatives and licensing personnel and the costs for a central system, which monitors transactions on all slot machines. Prior to FY 2018, the MLGCA owned the slot machines, thus the costs of the casino gaming program in those years was substantially greater.

2. Is your department combined with Lottery, Horse Racing or charitable gaming?

MLGCA does not oversee horse racing or charitable gaming. The agency operates Maryland's lottery and serves as the regulator of the state's six licensed casinos. In addition, the agency has regulatory oversight of electronic instant bingo machines housed at 13 locations and an Instant Ticket Lottery Machine (ITLM) program exclusive to veterans' organizations (currently 85 locations). Maryland Lottery and Gaming also oversees a registration program for owners of skills-based amusement devices and regulates online fantasy competitions.

The state receives a portion of the revenue generated by the ITLM program, but does not receive revenue from the instant bingo machines, skills-based amusement devices or online fantasy competitions.

3. Are there benefits to that arrangement? Drawbacks?

Maryland decided it would be better to allow certain gaming boards or commissions the individual autonomy of overseeing the gaming activity under their bailiwick rather than having all gaming activities centralized under one gaming board or commission. Some state agencies oversee gaming activities that mainly benefit private entities, where the state is not receiving financial benefits. For example, horse racing is overseen by the Maryland Racing Commission, which is part of the Maryland Department of Labor, Licensing and Regulation. Charitable gaming is overseen by the Maryland Secretary of

State's Office and the local gaming and permitting offices. These specific types of gaming activities financially benefit private entities.

Having MLGCA regulate and oversee both lottery and casino operations allows one agency and commission to be fully focused on the two gaming activities that are revenue-generating enterprises for the State of Maryland and its good causes.

4. If you could split or combine the commercial gaming regulation with other regulatory areas, would you and why?

5. What is your viewpoint on mobile and internet gambling? Would it be good or bad for your state? What additional resources do you see are needed from traditional regulatory staffing levels for commercial land based casinos?

Mobile and internet gambling could assist the state in generating additional sources of revenue for our casino partners and the state itself. However, the legislature has not introduced any legislation specifically authorizing these additional platforms of commercial gambling.

6. What comprises your state's responsible gaming program? What does it do well and what does it not do well?

Maryland Lottery and Gaming has integrated responsible gaming into its full range of operations, led by a full-time responsible gambling director.

The Agency offers a Voluntary Exclusion Program (VEP) for both lottery and casino customers. After enrolling in the VEP, individuals are given a citations for trespassing if they are found at any of the state's casinos. The individuals must then appear in court and are typically sentenced to community service for first-time violations. Our responsible gambling director has encouraged prosecutors and the court system to require VEP violators to undergo problem gambling assessment and counseling, which is available free of charge for Maryland residents. A statutory funding mechanism enables these free services.

Funding for responsible gambling treatment and research is provided through assessments paid by casino operators. Casinos pay \$425 annually for each slot machine and \$500 annually for each table game. In Fiscal Year 2018, these assessments totaled nearly \$5.3 million. MLGCA ensures that these assessments are transferred to the Department of Health, which administers the funds. See State Government Article (SG) [§9-1A-33](#).

In 2010, the year Maryland's first casino opened, the MLGCA formed the [Maryland Alliance for Responsible Gambling \(MARG\)](#). The organization includes other gambling stakeholders and representatives from across state government and the casino industry. One of MARG's founding members is the Maryland Center of Excellence on Problem Gambling, which is operated by the state's Department of Health. The Center of Excellence staffs the 1-800-GAMBLER helpline number and provides training to licensed counselors throughout the state. MARG provides a collaborative forum to facilitate the development of resources to assist individuals who have gambling problems.

Maryland Lottery and Gaming has also achieved responsible gambling certifications offered by the North American Association of State and Provincial Lotteries (NASPL) and the World Lottery Association (WLA). Achieving these certifications requires the ongoing enhancement of responsible gambling programs.

7. If you could redesign the responsible gaming program, what would you do and why?

8. How did your state select the sites of the casinos?

Legislation passed in 2007 by the Maryland General Assembly and approved by voters in a 2008 referendum permitted the establishment of video lottery terminal (VLT) facilities in five jurisdictions: Allegany County, Anne Arundel County, Baltimore City, Cecil County and Worcester County. See enabling legislation ([Ch. 4 of 2007](#) Special Session).

Legislation and a referendum approved in 2012 permitted the establishment of a sixth casino in Prince George's County, 24-hour operations and table games at all six casinos. See enabling legislation ([Ch. 1 of 2012](#) Second Special Session).

The legislature was highly specific in statute regarding the locations of VLT facilities. The statute specifically states that in order to qualify for a video lottery operation license, a proposed VLT facility could only be located in one of the following:

- (i) a location in Anne Arundel County, within 2 miles of MD Route 295;
- (ii) a location in Cecil County, within 2 miles of Interstate 95;
- (iii) a location on State property associated with the Rocky Gap State Park in Allegany County;

(iv) a location in Worcester County, within 1 mile of the intersection of Route 50 and Route 589;

(v) a location in Baltimore City that is:

1. located:

A. in a nonresidential area;

B. within one-half mile of Interstate 95;

C. within one-half mile of MD Route 295; and

D. on property that is owned by Baltimore City on the date on which the application for a video lottery operation license is submitted; and

2. not adjacent to or within one-quarter mile of property that is:

A. zoned for residential use; and

B. used for a residential dwelling on the date the application for a video lottery operation license is submitted; or

(vi) a location in Prince George's County within a 4-mile radius of the intersection of Bock Road and St. Barnabas Road.

See SG [§9-1A-36](#).

9. What went well with that process and what were some of the challenges?

The statute largely defined the locations.

10. If you could have changed the site selection process, what would you do differently and why?

11. What role does the local community play in the process (i.e., referendum, community agreements, revenue sharing mechanisms)?

According to the state's constitution, any expansion of commercial gambling in Maryland requires the approval of voters in a referendum. A majority of the state's voters approved a 2008 referendum allowing the state's first five casinos. In 2012, another referendum asked for voter approval of a sixth casino to be located in Prince George's County, 24-hour operations at all casinos and table games at all casinos. [See SB1, 2012 Second Special Session](#). In addition, the 2012 bill carried a provision stating that the Maryland Lottery and Gaming Control Commission ("the Commission") may not issue an operator license for a casino in Prince George's County unless a majority of that county's voters approved the referendum. The Commission is a seven-person oversight panel whose members are appointed to five-year terms by the Governor of Maryland.

Some jurisdictions also had specific local requirements through community benefit agreements, such as maintaining a percentage of employees from the local jurisdiction; offering investment opportunities for local residents; and contracting with minority businesses. [See](#) MGM National Harbor's [Community Benefits Agreement with Prince George's County](#).

The allocation of casino gaming revenues is spelled out in statute. [See](#) SG [§9-1A-27](#).

A portion of slot machine revenue goes to local impact grants that are awarded in the six jurisdictions where the casinos are located, specifically for the communities in immediate proximity to the casinos. The law established Local Development Councils (LDCs) in each of those jurisdictions and also defined the composition of the LDCs. Each LDC must include local residents, representatives of the local business community, representatives of the casino and members of the Maryland General Assembly who represent the district where the casino is located. The LDCs review applications for local impact grants and make recommendations to the jurisdiction as to the awarding of those grants. [See](#) SG [§9-1A-31](#).

A portion of table game revenue is allocated to the jurisdictions where the casinos are located. Those funds are used at each jurisdiction's discretion.

12. How did your state select the operators of the casinos? RFP? Competitive bid process?

The 2007 legislation authorizing the first five casinos created an ad hoc Video Lottery Facility Location Commission (“VLFLC”) that awarded operator licenses through an RFP and competitive bidding process. See SG [§9-1A-36](#).

In awarding video lottery operation licenses, the VLFLC evaluated specific enumerated factors in the manner specified. For example, the VLFLC’s decision to award a license had to be weighted by 70% based on business and market factors; 15% based on economic development factors; and 15% based on location siting factors.

While the VLFLC was evaluating the proposals, the Commission – through the work of MLGCA staff – was investigating the qualifications of the applicants. See generally, [SG § 9-1A-07](#). When investigations were complete and the Commission found the applicant qualified, the VLFLC was notified and could then decide whether to award the license.

After a license was awarded, the applicant could proceed with submission of required plans to the MLGCA, construction, etc. When the applicant had all required approvals and was ready to open for business, the Commission issued a license to operate.

13. What went well with that process and what were some of the challenges?

The process greatly benefited from the resources that were devoted to it. The VLFLC was staffed by two employees from the Department of Legislative Services (DLS) until all six licenses had been awarded. DLS issued an RFP for financial consulting services to assist the VLFLC in evaluating the proposals, and paid for the financial consultant.

The fiscal note for the original 2007 legislation authorizing casinos in Maryland included two assistant attorneys general and one support staff position to support the casino licensing and operation processes. One assistant attorney general was hired almost immediately, and a second was hired later to support ongoing casino operations. The MLGCA’s Principal Counsel devoted quite substantial time to the new casino program, as did an assistant attorney general assigned to advise the General Assembly.

The MLGCA’s chief procurement officer devoted substantially all of his work time to the casino licensing process, which included several rounds of RFPs for the casino operators, as well as the RFP for the operator of the central control system for the VLTs. The MLGCA hired approximately 10 new staff in its Licensing and Gaming

Divisions (which have continued to grow as each casino opened), and a new IT professional dedicated to VLT operations. The Agency also retained a consultant to assist its staff and assistant attorneys general in writing the regulations to govern the casino industry.

The primary challenge was in regulating an industry that was entirely new to the state, and developing an entirely new body of administrative law. Substantial endeavors included structuring the processes for evaluating proposals; ensuring that applicants were qualified; conducting public meetings and hearings of both the VLFLC and the Commission; and structuring these processes to guard against legal challenges from unsatisfied applicants. Legal challenges did arise involving the Anne Arundel County and Baltimore City licenses. The MLGCA also had to establish processes and forms by which staff could receive information, approve or deny licenses, and review and audit casino operations.

14. If you could have changed the operator selection process, what would you do differently and why?

15. What do you think your commission does better than others? To what do you attribute that?

The Commission was expanded from five members to seven members with the additional responsibility for overseeing casino gaming. In taking on this new responsibility, the legislature wanted to ensure that the Commission had certain subject-matter experts for dealing with a wide array of issues. For example, each Commissioner has to be knowledgeable and experienced in fiscal matters and shall have substantial experience:

1. as an executive with fiduciary responsibilities in charge of a large organization or foundation;
2. in an academic field relating to finance or economics; or
3. as an accountant, economist, or financial analyst, or as a professional in a similar profession relating to fiscal matters or economics.

In addition, the legislature wanted to ensure that members of the Commission reflect the geographic, racial, and gender makeup of the State. See SG [§9–105](#)

16. What do you think your commission needs to improve on compared with others states? To what do you attribute that?

17. What tool or feature of regulation do you wish you had that you don't now

18. If you were picking your replacement, what qualities or qualifications would you look for? Are there any qualities you would want to avoid?

19. How has regulation in your state evolved over time?

We have developed an annual review of casino regulations that has substantially streamlined the process of introducing or amending regulations.

Originally, the Agency received multiple requests for regulatory changes from each casino throughout the year. Each of those requests separately progressed through a multi-level regulatory review -- first by Agency staff and the Commission, followed by the state's required legislative review and public comment period. Typically, the process requires four to six months at a minimum, and because regulations weren't submitted according to a schedule, there were numerous regulations at various stages of the process at any given time.

In 2014, MLGCA staff instituted an annual review process, according to the following timeline:

January: Casino operators meet and compile a single list of requested regulatory changes/additions. The list is submitted to the Agency by March.

Mid-March: MLGCA staff begins reviewing the requests.

April-May: Agency staff meet with casino operators to discuss proposed regulations. Beginning in 2017, representatives from the American Gaming Association were invited to participate in these discussions. The AGA has supported this collaborative approach on the part of the casinos. Conversations are expanded, as necessary, to include additional stakeholders (e.g. gaming equipment manufacturers).

June: New regulations that are supported by Agency staff are submitted to the Commission for approval. Once approved, the regulations go through legislative review and are available for public comment before being finalized and published.

In addition, the Agency made a change in October 2016, removing the gameplay rules for table games from the regulatory framework and instituting them as ["Standard Table Game Rules."](#) The Standard Rules must be approved by Agency staff, and the Commission is informed of any changes, however Commission approval, legislative

review and public comment are not required. This approach made the process of approving new gameplay rules much more efficient, allowing casinos to be more responsive to player trends and more quickly expand their menu of games.

Importantly, the security and integrity elements involved in the operation of table games remain in regulation. Changes to those elements of table games can't be changed without legislative review and the opportunity for public comment.

20. How do you handle debt approvals for licensees if at all? Do you have or have you considered shelf approvals?

There is a statutory requirement for licensees to notify us of any changes in the information contained within their original application for a license. Therefore, if a licensee is taking on additional debt, they are required to inform us in writing. Depending on the circumstances, we conduct the appropriate level of investigation and follow the Commission's protocols for approval.

Since the law requires that licensees notify us of any changes to their original application, we have not considered shelf approvals.

21. Technology approval process – how does the process work? State or private lab, or combination?

The following procedures are required for approving all video lottery terminals (slot machines) at Maryland's six casinos:

- Manufacturers submit prototypes of their devices to one of our approved independent testing labs: Gaming Laboratories International (GLI), BMM TestLabs, or Eclipse Compliance Testing. (Note: Manufacturers may choose any of the three. In most cases, the manufacturers choose GLI because it is approved to test equipment in many jurisdictions nationally and internationally, and many jurisdictions have similar requirements).
- The lab determines if the devices meet Maryland's technical standards and submits a report to MLGCA staff.
- MLGCA staff reviews the lab report and submits the devices to the Maryland Lottery and Gaming Commission for approval.
- Devices that receive Commission approval can be selected by any casino for additional review and subsequent installation.

- When a casino selects devices it would like to install, MLGCA staff conduct a second round of testing to ensure compatibility with our central monitoring and control system, which monitors transactions on all slot machines in real time.
- After passing that compatibility testing, the devices can be installed.
- A third test occurs after installation, ensuring devices are communicating with the casino's management system and the state's central monitoring and control system. Once the machine has passed this test, it can be put into operation for live play.

22. How do you balance regulation with growth and revenue increase?

The annual review of casino regulations has helped the casino industry and MLGCA strive to find a fair and equitable balance in amending existing regulations and allowing casinos to achieve growth. MLGCA is vigilant about ensuring that consumer protection safeguards remain in place while incremental adjustments in regulations are proposed for customer convenience and experience purposes.

23. If you could go back to when you started, what would be three pieces of advice you'd tell yourself?

EXHIBIT 4: WRITTEN RESPONSES FROM MASSACHUSETTS GAMING COMMISSION

1. What is your total annual budget and if that includes oversight of areas other than commercial gaming, what is the allocation – from tax payments, administrative fees separate from taxes, or from general fund?

The Gaming Commission is funded through an annual fee per slot machine (set forth in the Gaming Act at \$600 per slot) as well as additional assessments and fees to licensees and applicants.

The Commission is not funded with tax-payer monies, or state appropriations.

Learn more about MGC's budget, including initial funding, licensing fees and gaming revenue: <https://massgaming.com/the-commission/budget/>

View [budget chart](#).

2. Is your department combined with Lottery, Horse Racing or charitable gaming?

MGC oversees [commercial gaming](#) and [horse racing](#).

3. Are there benefits to that arrangement? Drawbacks?

N/A

4. If you could split or combine the commercial gaming regulation with other regulatory areas, would you and why?

N/A

5. What is your viewpoint on mobile and internet gambling? Would it be good or bad for your state? What additional resources do you see are needed from traditional regulatory staffing levels for commercial landbased casinos?

Here is a [white paper](#) authored by the MGC on sports betting, which includes information about online gambling.

6. What comprises your states responsible gaming program? What does it do well and what does it not do well?

The MGC adopted this updated [responsible gaming framework](#) in 2018. The Framework is intended to inform gambling regulation in Massachusetts and provide an overall orientation to responsible gaming practice and policy adopted by the Massachusetts Gaming Commission and gaming licensees. The Framework is not designed to function as a regulation, but to guide the Commission's decisions as it promulgates regulation and develops programs and practices to support responsible gaming. The Framework is based on the commitment by the MGC and its gaming licensees to the guiding value of ethical and responsible behavior.

A central element to our responsible gaming efforts is our [GameSense program](#) and our [research agenda](#). Learn more about our dedicated approach to responsible gaming [here](#).

Learn more about coordinated research efforts to help in reducing gambling-related harm and improve services for problem gamblers and their families [here](#).

7. If you could redesign the responsible gaming program, what would you do and why?
N/A

8. How did your state select the sites of the casinos?

VIDEO: Here is an [explanation and video](#) about how MGC approached the evaluation of casino applications.

Here is the comprehensive [meeting archive](#) for the evaluation of the Region A (Eastern Massachusetts) casino licensing process. It provides in great detail the evaluation process and the commission's approach to assessing the competitive bids.

Here is the comprehensive [meeting archive](#) for the evaluation of the Region B (Western Massachusetts) casino licensing process.

Here is the comprehensive [meeting archive](#) for the slots-only license.

9. What went well with that process and what were some of the challenges?

N/A

10. If you could have changed the site selection process, what would you do differently and why?

N/A

11. What role does the local community play in the process (i.e., referendum, community agreements, revenue sharing mechanisms)?

The gaming law provides for a significant amount of local control. Here is a link that more fully explains [Host Communities and Surrounding Communities](#). Here is a link to all [Host Community agreements](#). Here is a link to all [Surrounding Community and related agreements](#).

12. How did your state select the operators of the casinos? RFP? Competitive bid process?

See evaluation links above.

13. What went well with that process and what were some of the challenges?

N/A

14. If you could have changed the operator selection process, what would you do differently and why?

N/A

15. What do you think your commission does better than others? To what do you attribute that?

The Massachusetts gaming law is strong. It places significant priority on local control, responsible gaming, mitigation, research, diversity, public safety and other critical issues.

16. What do you think your commission needs to improve on compared with others states? To what do you attribute that?

MGC solicits independent evaluations of our programs and has the most extensive research agenda ever undertaken by a gaming jurisdiction. We are constantly seeking ways to improve our systems and make evidence-based policy decisions.

17. What tool or feature of regulation do you wish you had that you don't now?

We are currently supporting updated racing legislation that will provide the Commission with expanded authority over decision-making.

18. If you were picking your replacement, what qualities or qualifications would you look for? Are there any qualities you would want to avoid?

N/A

19. How has regulation in your state evolved over time?

In Fall 2017, the Massachusetts Legislature passed a statutory amendment to the Gaming Act which provided MGC the authority to exempt certain "Gaming Service Employee" level job positions (e.g., certain kitchen and restaurant, reception, maintenance, and office staff positions) from the mandatory registration process. With careful consideration of Commission criteria, MGC works collaboratively with licensees to identify an appropriate list of job categories. While all casino employees undergo some level of background check, this amendment allows for greater eligibility for applicants interested in many of these newly posted positions.

Learn more [here](#) about the decision to provide service employee exemptions.

20. How do you handle debt approvals for licensees if at all? Do you have or have you considered shelf approvals?

21. Technology approval process – how does the process work? State or private lab, or combination?

MGC predominately uses a private lab.

22. How do you balance regulation with growth and revenue increase?

23. If you could go back to when you started, what would be three pieces of advice you'd tell yourself?

Early in the MGC's inception, the Commission adopted a [mission statement and core values](#). The MGC has remained loyal to its mission and values throughout a challenging implementation of the state's casino gaming industry.

EXHIBIT 5: WRITTEN RESPONSES FROM MICHIGAN GAMING CONTROL BOARD

Michigan Gaming Control Board Response to Commonwealth of Virginia/July 2019

- 1. What is your total annual budget and if that includes oversight of areas other than commercial gaming, what is the allocation – from tax payments, administrative fees separate from taxes, or from general fund?**

Commercial Casino Gaming

The Michigan Gaming Control & Revenue Act requires each of the three Detroit commercial casinos to pay an annual assessment equal to one third of \$25 million adjusted annually by multiplying the previous year's assessment by the Detroit consumer price index, as defined and reported by the United States Department of Labor, Bureau of Labor Statistics. Based on this formula that accounts for inflation, the three Detroit casinos was assessed and paid a combined total of \$34,629,405 for calendar year 2018, or about \$10.3 million each, and a combined total of \$34,156,664 for fiscal year 2018.

This fee covers all casino-related regulatory and enforcement costs, compulsive gambling programs and other casino-related programs, activities and services conducted by the MGCB, the Michigan State Police, the Attorney General's Office, Michigan Department of Health and Human Services and other state agencies.

The MGCB is authorized by the Gaming Control & Revenue Act to collect various license application fees to fund the agency's cost of conducting required background investigations of applicants for casino, supplier and occupational licenses. After an applicant is determined eligible and suitable for licensure, the Act authorizes the MGCB to assess and collect license fees for both the initial issuance and subsequent renewals of these licenses.

The Act also authorizes the MGCB to order reimbursement of investigative costs and to impose fines as disciplinary actions to penalize violators of the Act or Administrative Rules. MGCB collected application and license fees and other authorized fees, fines and reimbursement costs totaling \$1,727,338 for calendar year 2018, and \$1,783,798 for fiscal year 2018.

Tribal Gaming

The tribes pay the agency to oversee their compacts, which require payments of a stipulated percentage of annual net win derived from all all Class III electronic games of chance.

Lab Fund

The manufacturer or distributor of gaming devices and equipment distributed to the Detroit casinos must pay the MGCB for the cost of testing. The lab charges \$105 per hour for associated equipment evaluation (actual hours spent) and a standard rate of \$325 may apply for evaluations of modifications to equipment approved previously.

Horse Racing

Through an executive order in 2009, the state transferred regulatory authority for live, pari-mutuel horse racing to the MGCB executive director effective Jan. 17, 2010. Funding for the function comes from the Michigan Department of Agriculture and Rural Development. The funds come from a 3.5 percent tax on simulcast wagering at the pari-mutuel track.

Millionaire Party

A 2012 executive order transferred the licensing and regulation of charitable casino-style millionaire party gaming to the MGCB executive director. Funding of the function is retained by the Michigan Lottery through the State Lottery Fund.

2018 Revenues and Expenditures

In 2018, the agency collected \$36.7 million in revenue, and its expenditures totaled \$29.175 million. It received \$4.3 million in transfers from other funds and transferred \$12.1 million to other funds (e.g., State Services Fee Fund, State Lottery Fund, Equine Development Fund). The agency's statement of revenues and expenditures for 2018 can be found on its website (www.michigan.gov/mgcb) in its annual report (pages 27-28).

2. Is your department combined with Lottery, Horse Racing or charitable gaming?

The agency's regulatory authority includes pari-mutuel horse racing and a form of casino-style charitable gaming called millionaire parties. The MGCB also oversees Native American casinos' compliance with Tribal-State Compact provisions.

In addition to administering the state lottery, Michigan Lottery also administers Bingo and other forms of charitable gaming (excluding millionaire parties).

Both MGCB and Michigan Lottery are part of the Department of Treasury.

3. Are there benefits to that arrangement? Drawbacks?

The benefit is the agency is better suited to regulate charitable gaming millionaire parties after the events grew into quasi-casino gaming.

The drawbacks tend to be the perception or complaints the casino industry is favored over horse racing and millionaire parties. The other industries say the agency protects the casino industry and doesn't allow them (horse racing and charities) to do what they would like to do.

4. If you could split or combine the commercial gaming regulation with other regulatory areas, would you and why?

If horse racing were bigger, it would make sense to split it from the agency. We probably would not combine with other regulatory areas.

The Michigan Liquor Control Commission primarily is responsible for enforcing the state's liquor laws, but our Gaming Act requires the MGCB to enforce the liquor law in our casinos, holding the casinos responsible for underage drinking. This responsibility can be a distraction from our main mission of regulating gaming. Our agency must spend time dealing with these issues rather than devoting it to pure gaming-related concerns.

5. What is your viewpoint on mobile and internet gambling? Would it be good or bad for your state? What additional resources do you see are needed from traditional regulatory staffing levels for commercial land-based casinos?

We are prepared to regulate whatever the Michigan Legislature and governor decide. People increasingly expect internet gaming, and the casinos will need it to stay competitive. We are not sure about staffing but believe it will require about a dozen additional regulatory agents.

Whether internet gaming will yield additional revenue for the State of Michigan is an unanswered question and largely depends on the tax structure determined by the Legislature. If internet gaming cannibalizes Michigan's iLottery sales, the state may see a negative impact on revenue.

6. What comprises your state's responsible gaming program? What does it do well and what does it not do well?

The Michigan Gaming Control & Revenue Act established a voluntary self-exclusion program for individuals who believe they have a gambling problem and applies to the three Detroit commercial casinos (see Section 432.225). Persons placed on the Disassociated Persons List (DPL) voluntarily pledge to exclude themselves from visiting the Detroit casinos for life. An applicant must register for the list in person at the agency's Detroit office.

The individual's name and application information are exempt from public disclosure and not open for public inspection.

Our agency approaches persons who wish to exclude themselves with compassion. Applicants are greeted and welcomed, and the MGCB facilitator takes time to explain the

process, review the application, answer questions and offer counseling services. The application is completed off the casino premises to alleviate further temptation to gamble and provide the individual with time to make a rational decision to self-exclude outside of the gaming environment.

The first time a person on the DPL shows up in the casinos, he or she is diverted to a treatment program. Nearly 800 people have been offered the diversion program since it was launched in 2011, and more than 620 people have completed the program since its inception.

Those who complete the counseling are not charged with criminal trespassing. Criminal trespassing is punishable by imprisonment for not more than one year, a fine of not more than \$1,000 or both.

The list does not offer an opt-out option although a bill introduced during the current Legislature session would change the law to allow an opt-out.

The Michigan Department of Health and Human Services receives funding from the Detroit casinos to operate a 24-hour, toll-free helpline (800-270-7117) and other gambling disorder services. The toll-free number is publicized on MDHHS and MGCB websites, social media, radio, television, outdoor displays, printed casino literature and the backside of lottery tickets. MDHHS also places public service advertisements (TV, radio, outdoor and transit) and promotes awareness through a speakers' bureau. DHHS website also offers information on prevention, treatment providers, responsible gambling and related resources.

Statistics

DPL: 4,647 applications processed from 2001 through June 1, 2019

MDHHS Gambling Disorder Treatment: 313 admissions statewide during FY 2018 (annual reports available on MDHHS website)

The Gaming Control & Revenue Act provides all casino-related regulatory and enforcement costs, compulsive gambling programs and other casino-related programs, activities and services conducted by the MGCB, Michigan State Police, Attorney General's Office, MDHHS and other agencies shall be paid from annual fees assessed on the three Detroit commercial casino licensees.

From the annual assessment fees paid each year by the licensees, \$2 million must be deposited in the State of Michigan's Compulsive Gambling Prevention Fund. Up to \$1.040 million may be distributed annually to the Domestic Violence and Treatment Board administered by MDHHS. The remaining \$960,000 is used exclusively for the treatment, prevention, education, training, research and evaluation of compulsive gamblers and their families as determined by the MDHHS director.

7. If you could redesign the responsible gaming program, what would you do and why?

If the agency were to redesign the program, it would seek to streamline the application process while enhancing our level of customer service. For example, the MGCB may consider automating some aspects of the process and translating the application into other languages (e.g., Spanish, Arabic).

I also would suggest greater resources be available for prevention and treatment.

8. How did your state select the sites of the casinos?

The sites were selected by the city of Detroit after a Michigan statewide ballot initiative, Proposal E, passed on Nov. 5, 1996. The 1996 ballot initiative permitted up to three gaming casinos in Detroit and established a Gaming Control Board to regulate casino gaming.

In 1998, then-Detroit Mayor Dennis Archer finalized and approved development agreements with the three firms that won the city's bidding process in 1997: MGM Grand Detroit, MotorCity Casino and Greektown Casino.

9. What went well with that process and what were some of the challenges?

The city of Detroit convened a Casino Advisory Committee. In June 1997, the committee recommended the city "cluster" all three casinos in a 100-acre area in Detroit's Central Business District. Then-Mayor Dennis Archer rejected the "cluster" recommendation and established several areas where the casinos could be located.

In November 1997, Mayor Archer announced his choice of three proposed casino operators from 11 proposals, including bids from several of the major Las Vegas and New Jersey casino companies. The winners were: Atwater/CircusCircus, Greektown/Sault Ste. Marie Tribe of Chippewa Indians and MGM Grand).

The casinos moved into temporary locations in existing buildings and received gaming licenses following regulatory review. MGM Grand Detroit built a brand-new gaming and hotel facility, but the other two venues — MotorCity and Greektown casinos — remodeled and expanded their temporary locations and added new hotels.

Questions about the process should be redirected to the City of Detroit.

10. If you could have changed the site selection process, what would you do differently and why?

The MGCB was not involved in the site selection process. It was managed by the City of Detroit.

11. What role does the local community play in the process (i.e., referendum, community agreements, revenue sharing mechanisms)?

A 1996 statewide ballot proposal authorized up to three gaming casinos in Detroit and imposed an 18 percent state tax on gross gaming revenues. The tax revenue was divided:

- 55 percent to Detroit (9.9 percent)
- 45 percent to the state (8.1 percent)

The number was raised for Detroit to 10.9 percent, and various development agreements can add a percentage or two. Some of the development agreements required money to be set aside for community benefit or economic development activities.

The Detroit casino tax makes up a significant portion of the city's budget.

In calendar year 2018, the three Detroit casinos paid a combined total \$182,937,021 in wagering taxes to the city.

12. How did your state select the operators of the casinos? RFP? Competitive bid process?

The city selected the operators in 1997. After receiving 11 proposals, it chose three proposed operators.

13. What went well with that process and what were some of the challenges?

The MGCB did not play a role in the selection process. It was managed by the City of Detroit.

14. If you could have changed the operator selection process, what would you do differently and why?

The MGCB did not play a role in the selection process. It was managed by the City of Detroit.

15. What do you think your commission does better than others? To what do you attribute that?

The MGCB works well with other jurisdictions and is willing to collaborate with them. We have invited representatives from other jurisdictions to visit us to learn more about what we do and how we do it.

Our agency also focuses on customer service and has completed several initiatives to streamline the licensing process to improve customer satisfaction.

16. What do you think your commission needs to improve on compared with other states? To what do you attribute that?

The MGCB needs an updated enterprise IT system because our current systems are outdated. The agency has undertaken a project to develop a new system with better online interface with licensees.

17. What tool or feature of regulation do you wish you had that you don't now?

Michigan's Gaming Control and Revenue Act includes strong civil and criminal provisions, which are essential to regulation. We would recommend any state include similar provisions in its law.

As noted earlier, we are working on improving technology, and there is much to consider. For example, enforcement officers could become more efficient if tablets (iPad or other devices) were assigned to each officer to carry when away from the desktop computer. The portable device would give the regulation officer the ability to access the agency's systems, forms, reports, monitoring inspection(s), etc. while on the gaming floor or at another property. This would expedite report writing, responses to emails and monitoring inspection information and provide access to the Gaming Act and Rules and the casinos' Internal Control Systems.

18. If you were picking your replacement, what qualities or qualifications would you look for? Are there any qualities you would want to avoid?

Luckily, the Gaming Act and our last three Governors have treated the position as apolitical. The term of Executive Director is six years and is not tied to an election year. Although the Governor appoints, it also requires an affirmative vote from the Michigan Senate.

I would look for quality of leadership and the ability to lead and manage public servants. A person with a high degree of ethics that can make the right decision not just the popular one. A law or criminal justice background would be a plus. Understanding an urban

environment that our casinos operate in is helpful, both for the risks it presents and to understand the issues these companies face. Having a business-friendly approach to regulation is also a plus. Our casinos do a really good job of following our regulations. It's important we listen to them when they have issues in compliance and not rush to regulatory action.

19. How has regulation in your state evolved over time?

The agency has worked to become more business friendly and maximize its resources:

- Streamlined licensing processes for suppliers
- Citations for dealing with minors in casinos
- Less stringent reporting requirements for non-gaming suppliers

The MGCB developed administrative rules to help it implement the Gaming Control & Revenue Act. The rules were updated in 2010 and again in 2019.

The Legislature also has the option to amend the Gaming Control and Revenue Act. Proposed bills to amend the Act currently are under consideration in the Legislature.

20. How do you handle debt approvals for licensees if at all? Do you have or have you considered shelf approvals?

Casino licensees' debt transactions require Board approval. Board staff evaluates the impact on the financial viability of the casino enterprise before making a recommendation to the Board. For material transactions, this includes engaging a financial consultant to assist in the review process. The agency does use shelf approvals for debt transactions, typically with a transaction date no later than 120 days from the date of the Board's approval. The Board also delegates authority to the Executive Director to approve amendments to debt transactions with certain restrictions.

21. Technology approval process – how does the process work? State or private lab, or combination?

All electronic gaming device and associated equipment manufacturers who want to do business with the three Detroit casinos must first submit the product to one of two independent test laboratories (ITLs): BMM Testlabs of Las Vegas and Gaming Laboratories International of Lakewood, N.J. The agency has used them since July 1, 2017.

Once the ITL certification letter/documentation is received, the manufacturer must submit the product and certification documentation to the agency for final approval prior to shipping to the Detroit casinos.

The MGCB Gaming Lab personnel consider the results from the ITLs when determining whether to approve or deny the electronic gaming device or associated equipment. Agency lab staff ensure the testing methodologies are consistent with Michigan's technical standards. Lab staff conduct a quarterly audit to ensure compliance with the Michigan Gaming Control & Revenue Act and Administrative Rules.

The ITLs' seven-day turnaround time for reviewing and processing submissions greatly improved the former in-house response time of weeks or possibly months as the agency's internal testing was not as advanced as the independent test labs' testing.

Most states with regulated gaming use private laboratories for gaming equipment testing. All costs are paid by the manufacturers. The State of Michigan does not have a contract with the independent laboratories.

22. How do you balance regulation with growth and revenue increase?

It's difficult. The fears about organized crime proved unfounded, but close oversight is needed. As the industry evolved, we've had to be flexible. For example, the licensing process for non-gaming suppliers can be expensive, limit competition and cut Michigan firms out of the market. We've streamlined it by lightening up the requirements.

Our most recent challenge was in 2012, when the agency took over the Millionaire Party program from the Michigan Lottery Charitable Gaming Division under an Executive Order. The agency reviewed the demographics of the program and determined staffing needed to handle properly licensing and investigating the organizations, suppliers, locations and events.

We currently are considering potential staffing needs for sports betting/iGaming as proposed in several bills before the Michigan Legislature. Staff has contacted several other jurisdictions with successful programs to gain insights on regulation and enforcement. The agency is monitoring the bills so it can be prepared to create rules needed to regulate additional forms of gaming.

23. If you could go back to when you started, what would be three pieces of advice you'd tell yourself?

- 1) Learn what you can about finance and lending to large corporations. The learning curve is steep without the ability to understand the terms and related requirement under the law for both private and publicly traded companies.
- 2) Surround yourself with people well versed in the technical requirement in audit, accounting, and investigations. You need people you can trust to get you and the gaming board the best information possible to make decisions.

- 3) Invest in your employees. Reward those who do a great job and deal with those who don't or coach them back to focus on good customer service, both for the public we serve or the casinos, suppliers or employees we license.

EXHIBIT 6: WRITTEN RESPONSES FROM OHIO LOTTERY COMMISSION

5/31/19 conference call re: gaming

Attendees on the call will include:

- Robert Russell, Gaming Analyst – RMC Legal
- JJ Burchman, Attorney -- RMC Legal
- Stefanie Papps, Senior Legislative Analyst, Joint Legislative Audit and Review Commission (JLARC)
- Joe Angelillo, Deputy Director, VLT Operations
- Connie Miller, Operations Director
- Danielle Frizzi-Babb, Communications Director

Below is the number we will use for the call: 888-453-4395 code 206473#

1. What is your total annual budget and if that includes oversight of areas other than commercial gaming, what is the allocation – from tax payments, administrative fees separate from taxes, or from general fund?

Our program oversees VLTs at seven racinos. The program budget includes 24/7 staffing at the buildings (65-70 staff), a regulatory team (10 staff), administrative costs, travel, and a central monitoring system (\$4M/year). We are a lottery, so we use the language “commission” rather than “tax payments” and we are a self-funded agency, so operations are deducted from earnings. We do present a budget with spending authority to the legislature for approval each biennium.

Fiscal 2019 program budget is \$12 M. (I will get a breakdown)

Please see link for VLT Lottery income:

<https://www.ohiolottery.com/ohiolottery/media/pdfs/VLT/July%202018/VLT-Statewide-Monthly-Revenue-Report-FY-2018.pdf>

2. Is your department combined with Lottery, Horse Racing or charitable gaming?

The Lottery oversees the VLTs at Racinos. We coordinate employee licensing and other reviews with the Ohio State Racing Commission. The Casino Control Commission regulates 4 commercial casinos and daily fantasy sports.

3. Are there benefits to that arrangement? Drawbacks?

The OCCC regulates 2 operators – JACK and Penn. The OLC regulates JACK, Penn, Eldorado, Boyd, MGM, and a joint Delaware North / Churchill Downs property. The two agencies coordinated on the reviews of JACK and Penn, but we have different standards on the items being reviewed and their importance.

The OLC operates with a partnership model; the OCCC uses an enforcement model.

4. If you could split or combine the commercial gaming regulation with other regulatory areas, would you and why?

In Ohio, private entities led a ballot initiative to approve the four commercial casinos. When the initiative passed, the OLC put forth a proposal to offer a combined agency with subsidiary units. The legislature chose to create a new commission. As noted above, this means that corporate reviews, tech providers, and employees are frequently subject to dual licensing / reviews.

At this time the two Commissions have evolved with enough differences with respect to licensure and how gaming is monitored that combining is not worth it.

5. What is your viewpoint on mobile and internet gambling? Would it be good or bad for your state? What additional resources do you see are needed from traditional regulatory staffing levels for commercial land-based casinos?

The Ohio Lottery is in the process of procuring and launching an iLottery solution, we do feel that it will be a new sales channel and is responsive to changing consumer purchasing habits. More consumers are using their mobile devices to make their purchases on the internet. Given this we are moving closer to a cash-less society.

Our commercial casinos are not authorized to offer mobile gaming.

6. What comprises your states responsible gaming program? What does it do well and what does it not do well?

We feel that our programs are leaders in the nation. The Lottery, Casino Control, Racing Commission, and Dept of Mental Health and Addiction Services have a combined program – Ohio for Responsible Gambling which includes industry leading education and awareness programs. We fund professional training as well as inpatient / outpatient treatment programs; are certified by NASPL and WLA; and operate a statewide Voluntary Exclusion Program (VEP) covering the casinos and racinos. We also hosted the 2018 NCPG conference and are assisting with coordinating in 2019.

7. If you could redesign the responsible gaming program, what would you do and why?

When we launched Video Lottery, we did not have the ability to protect the privacy of patrons who voluntarily excluded themselves. Therefore, we required the individual license holders to have a responsible gaming program. A legislative change allowed us to redesign the voluntary exclusion program to the racinos and casinos, to protect the privacy, and to allow for one-stop statewide exclusion.

I think our program is amazing, but coordinator Karen Russo may have some suggestions if you wish to ask her. Karen.Russo@lottery.ohio.gov

8. How did your state select the sites of the casinos?

The commercial casino locations – identified by real estate parcel number – were included in the statewide referendum. One facility requested a relocation and had to go back to the voters to get the move approved.

The video lottery program was tied to racing permits. Three of the tracks relocated following approval of VLTs. Those relocations were approved by the Lottery and the OSRC. One relocation was due to the existing track being on county fairground owned land and was approved to relocate within 10 miles. The other two relocations required a relocation fee of \$75M. A fourth property had an option to move within 25 miles for a \$25 fee, but they chose not to exercise it.

9. What went well with that process and what were some of the challenges?

See above

10. If you could have changed the site selection process, what would you do differently and why?

No changes / doesn't really apply

11. What role does the local community play in the process (i.e., referendum, community agreements, revenue sharing mechanisms)?

Voted for the referendum in support of the commercial casinos, and they receive a portion of revenues from those building. The local community had no role in the approval of the racetrack VLT program.

12. How did your state select the operators of the casinos? RFP? Competitive bid process?

- *The referendum dictated the operators for the casino.*
- *The racinos are operated by the permit holders of the racetracks. They are approved by the State Racing Commission.*

13. What went well with that process and what were some of the challenges?

No selection process occurred.

14. If you could have changed the operator selection process, what would you do differently and why?

Any private sector driven ballot initiative has definite winners and losers. The State of Ohio engaged a private company to renegotiate additional licensing fees from the commercial casinos. A competitive process might have been more advantageous to the State.

No changes for the racinos as they were existing operators and locations.

15. What do you think your commission does better than others? To what do you attribute that?

The lottery creates a better environment for the patrons and is able to ensure fair and equitable games by using a central monitoring system.

In developing the program, we worked hard to choose best practices over traditional processes. We relied heavily on other states notably NV and WV, and on the AGA best practices to adapt standards for licensing, shipping, and other processes.

16. What do you think your commission needs to improve on compared with others states? To what do you attribute that?

There is always need for improvements, but Lottery regulators have an advantage in that we do not see each other as adversaries. We share Powerball and Mega Millions, and common concerns about integrity as well as a deep reliance on technically complex and redundant systems. If we have a question or concern, we have 13 U.S. and 4 Canadian lotteries in an active workgroup that is really responsive.

Our interactions have proven so effective that the Pennsylvania Gaming Control Board frequently joins us, and we have a partnership with them to share licensing and investigation results.

17. What tool or feature of regulation do you wish you had that you don't now?

Ohio Lottery investigators – both traditional and racino – do not have law enforcement capabilities so they are unable to access some databases and AML information which could make us more effective.

18. If you were picking your replacement, what qualities or qualifications would you look for? Are there any qualities you would want to avoid?

- *Industry knowledge!*
- *AML/ FINCEN compliance is a rising area that you should pay attention to within your staff or your partners.*

19. How has regulation in your state evolved over time?

We deliberately moved technical standards, internal controls, and other items which evolve out of the Administrative Rules process to allow us to adapt rapidly to changes.

20. How do you handle debt approvals for licensees if at all? Do you have, or have you considered shelf approvals?

We do not segregate debt approvals, we review the operator for all aspects of licensing. We use a third party for financial reviews as well as SEC filings, annual audit reports, and other documents.

21. Technology approval process – how does the process work? State or private lab, or combination?

All manufacturers must submit each cabinet to a vendor-operated (Intralot) test lab for verification of meter processing and interoperability.

Private labs that are licensed by Ohio approve hardware, software, and supplemental equipment e.g. kiosks. We rely on GLI standards in most areas.

22. How do you balance regulation with growth and revenue increase?

No issues so far.

23. If you could go back to when you started, what would be three pieces of advice you'd tell yourself?

- *Promotional credits and player rewards are proprietary to the properties, but they are also an area that is open to: scrutiny by the public /legislature (especially if untaxed); complaints from the players; and manipulation by third parties. I would be aggressive in requiring post-event redemption reports and in analyzing them for anomalies.*
 - *Example: Most recently we've been approached about branded credit cards with the chance to earn rewards. It's one thing to earn free play from eating at the buffet – at least you're in the building. Do we want people building up free play from their grocery bill? The purpose of rewards is not just reward, we need the player to take out their wallet too.*
- *Don't believe you can write a new and better standard – research, question, and pick the best model.*
- *Build a network of contacts in other states and leverage the investigations already completed as much as possible.*

EXHIBIT 7: PEER STATE MATRIX

	DE	KS	MD	MA	MI	OH	WV
Gross Gaming Revenue							
Table Games							
FY 2018	NA	NA	\$632,290,000	\$170,016,148	\$1,444,099,784	\$827,135,518	\$105,517,300
FY 2017	\$53,117,143	\$389,660,762	\$535,074,000	\$158,267,980	\$1,400,536,681	\$796,123,253	\$115,502,106
FY 2016	\$54,010,328	\$364,449,309	\$402,279,000	\$166,046,937	\$1,385,601,766	\$817,178,322	\$129,727,289
FY 2015	\$51,455,977	\$367,783,294	\$356,401,000	\$0	1,376,408,437	\$808,673,302	\$139,744,640
VLT							
FY 2018	NA	NA	\$1,050,000,000	NA	NA	\$987,300,000	\$877,207,000
FY 2017	\$353,154,583	NA	\$885,900,000	NA	NA	\$926,600,000	\$872,612,000
FY 2016	\$361,081,224	NA	\$741,700,000	NA	NA	\$868,900,000	\$903,030,000
FY 2015	\$357,744,515	NA	\$681,800,000	NA	NA	\$773,000,000	\$935,094,000
Sports Wagering							
FY 2018	NA	NA	NA	NA	NA	NA	NA
FY 2017	\$46,114,509	NA	NA	NA	NA	NA	NA
FY 2016	\$39,398,130	NA	NA	NA	NA	NA	NA
FY 2015	\$37,857,048	NA	NA	NA	NA	NA	NA
License Fees							
FY 2018	NA	NA	\$7,488,000	\$5,046,401	\$1,727,338	\$3,680,784	NA
FY 2017	\$3,172,411	\$1,333	\$7,607,000	\$9,220,998	\$1,783,798	\$2,414,748	NA
FY 2016	\$3,199,100	\$276	\$5,766,000	\$8,607,448	\$2,764,440	\$6,086,429	NA
FY 2015	\$3,220,300	\$807	\$6,781,000	\$6,349,829	\$3,171,749	\$3,987,985	NA
Igaming							
FY 2018	NA	NA	NA	NA	NA	NA	NA
FY 2017	\$2,701,931	NA	NA	NA	NA	NA	NA
FY 2016	\$2,559,090	NA	NA	NA	NA	NA	NA
FY 2015	NA	NA	NA	NA	NA	NA	NA
State Gaming Lab?	Private	Private	Private	Public/Private	Public/Private	Private	Public/Private
For more detail, see Ex 12							
Regulatory Expenditures	\$10.5MM	\$7.5MM	\$17.2MM	\$29.15-30.96MM	\$30.7MM	\$12-12.5MM	\$24MM
Number of FTEs	59 (28 in table games, 4 in video lottery)	109.5 (91.4 gaming-related)	163	68 in 2017	136 current, 12 current openings	107	175 at Lottery
Average Salary	\$93,333	\$67,607	\$48,731	\$84,449 (as of 2017)	\$113,054	\$96,385	\$57,611
Licensing Fees/Taxes							

	DE	KS	MD	MA	MI	OH	WV
Gaming Tax Rate	15.5% table games, 42.5% VLTs (unless revenue <\$107.5 MM, then 41.5%)	25% gaming facilities	20% table games, 40%-61% for VLTs (each facility has different rate)	25% casino, 49% slots	19%	33% table games/33.5% VLTs	35% table games; 53.5% VLTs
Taxation of Free Play?	Partial	No	Partial	No	No	No	Partial
Operator License Fee	Annual fee of \$3MM split between three operators.	\$25MM in northeast & south-central regions; \$5.5MM in southeast & southwest regions	Initial \$3MM fee for every 500 gaming machines	\$85MM for casino, \$25MM for slots initially; \$600 per gaming machine annually	\$50,000 application, \$25,000 license fee annually	\$50MM for VLTs initially; \$1.5MM casino, \$10,000 racino	\$1000/VLT/year; \$1.5MM initially for table games, \$2.5MM annual renewal; \$65,000 first year casino, \$250,000 second year, \$500,000 third year, then between \$500,000-\$2.5MM annually
Operator License Term	Perpetual	15 years initially	15 years initially; 10 years renewal	15 years casino, 5 years slots	1 year	3 years	1 year
Supplier License Fee	\$2,000-4,000	No fee	Manufacturer: \$10,000 Tier 1 app, \$1,200 Tier 2 app, \$5,000 Tier 1 fee, \$800 Tier 2 fee; Distributor \$1,000	Non-gaming \$100; secondary \$5,000; primary \$15,000	\$5,000	\$15,000	Manufacturer \$10,000; Supplier \$100
Supplier License Term	3 years	2 years	5 years	3 years for gaming; 5 years for non-gaming	1 year	3 years	1 year

	DE	KS	MD	MA	MI	OH	WV
Occupational License Fee	\$500/\$200/ fingerprint cost	No fee	\$437.25 for Gaming; \$187.24 for Non-Gaming	\$1,000/\$300/ \$75	\$500 app, \$250 fee Level 1; \$100 app, \$100 fee Level 2; \$50 app, \$50 fee Level 3	\$250/\$50	\$100
Occupational License Term	Key employees, officers, directors, owners 2yr initial, 3 yr renewal; gaming employees, sports lottery employees initial 3 yr, renewal 4 yr; gaming room service employees initial 5 yr, renewal 6 yr	2 years and 1 month	5 years	5 years	2 years	3 Years	1 year
Social Mitigation Programs							
Self-Exclusion List	Y	Y	Y	Y	Y	Y	Y/N; not statewide, up to each facility
Gaming Suppliers							
Gaming and # of Licensees?	Yes	Provide equipment for casino games, maintenance, junket >\$250,000 services/year	Manufacture of VLTs, table games, software \$10,000 - \$299,000/year	Primary conducts business on "regular or continuing basis"; secondary over \$250,000/year sales or \$100,000/3 mos	Yes	Yes	Yes
Non-Gaming and # of Licensees?	Yes			Non-gaming	Yes	No	No
Construction and # of Licensees?	NA	NA	Y	NA	Yes	No	No

	DE	KS	MD	MA	MI	OH	WV
Occupational Categories	Key, Gaming, Gaming Room Service	Level I, Level II, Level III	Principal, Gaming, Non-Gaming	Key Gaming, Gaming, Gaming Service	Level 1, Level 2, Level 3	Casino Gaming, Key	Level 1 policy-makers; Level 2
Temporary License?	Y	Y	Y	Y	Y	Y	Y
Exemption Available?	Under \$10k nongaming	Under \$250,000 nongaming	Y	Y	Y	Y	Y
Ownership % Disclosure Level?	10%	0.5%	5%	5%	5% public/ 1% private	5%	5% public/ 1% private
Operator Licensing							
Key Person?	10% owner	Between 0.5% and 5%	Y	Y	5%	Y	5% ownership
Director?	Y	Y	Y	Y	Y	Y	Y
Outside Director?	Y	Y	Y	Y	Y	Y	Y
Temporary License?	Y	Y	Y	Y	Y	Y	Y
Institutional Investor Licensing							
Ownership %?	15%	Between 0.5% and 15%	5%	15%	Between 5 and 15%	At least 5% and not more than 15%	5%
Waiver and Requirements?	Yes; certify won't affect affairs.	Yes	Under \$300k for one/\$600k all for contractors; Under \$10k for nongaming	Yes; lenders do not have to be licensed in certain instances	Yes	Certify that investor holds investment in ordinary course and does not intend to influence affairs of licensee	Yes
Gaming Board							
Number of Members?	Lottery Commission; 5.	Lottery Commission; 5 and Lottery Gaming Facility Board; 7	Lottery & Video Lottery Commission--7; Joint Committee on Gaming Oversight; 8	Gaming Commission; 5	Gaming Control Board; 5	Casino Control Commission; 7 and Lottery Commission; 9	Lottery Commission; 7

	DE	KS	MD	MA	MI	OH	WV
Paid?	\$250/meeting	N	Y	3/4 of the commissioner of administration salary	Unpaid	\$30,000/ year	\$20,000/year
Selection Process?	Appointed by governor	Lottery Commission by Governor; Lottery Gaming Facility Board, 3 by Gov, 2 by Senate Pres, 2 by Speaker of House	Lottery Comm appnt by Gov and subject to advice of Senate; Video Lottery Facility 3 appnt by Gov, 2 by Pres of Senate, 2 by Speaker of House; Gaming Oversight 4 appnt by Pres of Senate, 4 by Speaker of House	One appointed by Governor; one by AG; one by Treasurer; 2 by majority vote of Gov, AG, Treasurer	Appointed by governor, advice and consent of Senate	Appointed by governor, advice and consent of Senate	Appointed by governor, advice and consent of Senate
Term?	5 years	4 years	5 years	5 years	4 years	4 years	5 years
Ex Parte Restrictions?	N	Y	Y	Y	Y	Y (OCC)	No
Pre or Post-Employment Restriction?	Yes; certify won't affect affairs.	Yes; 5 years pre	Yes; cannot have financial interest in gaming, horse racing, lottery, be an elected official	Yes; cannot hold or run for office, nor serve in political party	Yes; cannot hold public office or work for person who has interest in or is licensed in casino operations	Yes; cannot represent client at agency for 2 yrs post-employment	Yes; cannot represent client at agency for 1 yr post-employment
What Forms of Gaming Are Authorized?	Lottery, table games, iGaming, VLTs, charitable gaming	Lottery, table games, slots, charitable gaming	VLTs, lottery, table games, charitable gaming	Slots, table games, lottery, charitable gaming, pari-mutuel for horse racing, simulcasting	Pari-mutuel, lottery, iLottery, table games, slots, millionaire parties, Indian gaming	VLTs, lottery, charitable gaming, table games, slots, racinos, fantasy sports	Table games, VLTs, greyhound racing, simulcasting, lottery, horse racing

	DE	KS	MD	MA	MI	OH	WV
What Entity Regulates Each Form?	Lottery; Division of Professional Regulation Board of Charitable Gaming	Lottery - lottery; Racing and Gaming Commission - casino, horse/dog racing; State Gaming Agency - tribal gaming; Department of Revenue - charitable gaming	Lottery and Gaming - casino, lottery, electronic bingo, instant ticket lottery, skills-based devices, online fantasy	Gaming Commission - casino, racino, horse racing; Lottery - lottery, charitable gaming; Attorney General - daily fantasy sports	Gaming Control Board - casino, horse racing, charitable millionaire parties, Indian gaming; Lottery - lottery, charitable gaming	Casino Control Commission - casino; Lottery Commission - lottery, racino; Attorney General - charitable gaming	State Lottery Commission - all gambling; Department of Agriculture and Consumer Services Charitable Gaming Board - charitable gaming
Statutory # of FTE Required?							
Political Contribution Ban?	No	No	No	Yes	Yes	Yes	Yes
Enforcement of Gray Markets							
Who Enforces?	Division of Gaming Enforcement	Racing and Gaming Commission	Lottery and Gaming	Investigations Enforcement Bureau	Attorney general and MGCB	Casino Control Commission	Lottery
Miscellaneous							
Age of Gambler?	21; 18 for Lottery and DFS	21	\$21	21	21	21	21
Smoking Permitted?	No	Yes	No	No	Partial	No	Yes
Hours of Operation?	24 hrs	24 hrs; Kansas Crossing open 11AM-9PM, 10PM weekends	24 hrs	24 hrs	24 hrs	24 hrs	24 hrs; Greenbrier limited hours
Liquor Restrictions?	No comp alcohol	No comp alcohol	No comp alcohol	Comp alcohol; Encore to serve until 4am	Comp alcohol	No comp alcohol	Comp alcohol
Minimum Hotel Room ?	No	No	No	No	Y--in Development Agr	No	No

	DE	KS	MD	MA	MI	OH	WV
Minimum Capital Investment?	No	\$225MM NE & SC regions; \$50MM SE & SW regions	No	\$500MM casino; \$125MM slots	No	\$250MM + \$1 MM bond casino; \$150MM VLTs	No

EXHIBIT 8: COMBINED REQUEST LETTERS AND RESPONSES

RMC

Regulatory Management Counselors, P.C.

A LAW FIRM

321 W. Lake Lansing Road • East Lansing, MI 48823
Phone: 517.507.3860 • Fax: 517.908.0235
www.rmclegal.com

Writer's Data

Direct Dial Number: 517-507-3858

E-mail Address: russell@rmclegal.com

June 10, 2019

Via email

American Gaming Association ("AGA")
c/o Andrew Smith & LaVonne Withey
799 9th St NW
Suite 700
Washington, D.C. 20001

Dear Mr. Smith and Ms. Withey:

Our firm, www.rmclegal.com has been selected by the State of Virginia to assist with a third party report on the introduction of commercial casino gaming into the state. We will be looking at providing a summary of the regulatory models of certain peer states, as well as identifying the pluses and minuses associated with different approaches. In connection with this review, we wanted to provide the gaming industry with an opportunity to address issues that the AGA feels would be particularly instructive for a jurisdiction such as Virginia to consider as it debates and crafts a new regulatory model.

If the AGA would like to prepare a position statement on issues and regulatory approaches it feels are important for Virginia to consider, we would like to include the AGA's views in some form with the report we submit to the Commonwealth of Virginia.

Very Truly Yours,
Regulatory Management Counselors, P.C.



Robert Russell
Gaming Analyst

RMC

Regulatory Management Counselors, P.C.

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E-mail Address: russell@rmclegal.com

June 10, 2019

Association of Gaming Equipment Manufacturers ("AGEM")
c/o Marcus Prater, Executive Director
P.O. Box 50049
Henderson, NV 89016-0049

Dear Mr. Prater:

Our firm, www.rmclegal.com has been selected by the State of Virginia to assist with a third party report on the introduction of commercial casino gaming into the state. We will be looking at providing a summary of the regulatory models of certain peer states, as well as identifying the pluses and minuses associated with different approaches. In connection with this review, we wanted to provide the gaming industry, and the manufacturers in particular, with an opportunity to address issues that AGEM feels would be particularly instructive for a jurisdiction such as Virginia to consider as it debates and crafts a new regulatory model.

If AGEM would like to prepare a position statement on issues and regulatory approaches it feels are important for Virginia to consider, we would like to include AGEM's views in some form with the report we submit to the Commonwealth of Virginia.

Very Truly Yours,
Regulatory Management Counselors, P.C.



Robert Russell
Gaming Analyst

RMC

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E-mail Address: russell@rmclegal.com

June 10, 2019

Gaming Standards Association ("GSA")
c/o Peter W. DeRaedt, President
5177 Brandin Court
Fremont, CA 94538

Dear Mr. DeRaedt:

Our firm, www.rmclegal.com has been selected by the State of Virginia to assist with a third party report on the introduction of commercial casino gaming into the state. We will be looking at providing a summary of the regulatory models of certain peer states, as well as identifying the pluses and minuses associated with different approaches. In connection with this review, we wanted to provide the gaming industry with an opportunity to address issues that the GSA feels would be particularly instructive for a jurisdiction such as Virginia to consider as it debates and crafts a new regulatory model.

If the GSA would like to prepare a position statement on issues and regulatory approaches it feels are important for Virginia to consider, we would like to include the GSA's views in some form with the report we submit to the Commonwealth of Virginia.

Very Truly Yours,
Regulatory Management Counselors, P.C.



Robert Russell
Gaming Analyst

UNLV | International Center *for* GAMING REGULATION

June 27, 2019

State of Virginia
c/o Regulatory Management Consultants, P.C.
321 West Lake Lansing Road
East Lansing, Michigan. 48823

RE:

To Whom It May Concern:

This letter is written to document the availability of the UNLV International Center for Gaming Regulation ("ICGR") to serve as a resource for the Commonwealth of Virginia as it establishes systems, structures, and processes to regulate land-based casino gambling in the state.

The ICGR was created over three years ago with a three-prong mission: (1) to support research into areas affecting or that are affected by gambling regulation; (2) to provide education on gambling regulatory topics; and (3) to centralize information with the ultimate aim of developing regulatory best practices.

As the Commonwealth of Virginia contemplates how to regulate casino gambling, the ICGR would welcome being a resource to the state and any gaming control agency to discuss the various areas of regulation, including the core components of audit, enforcement, pre-licensing suitability, post-licensing compliance, and technology and testing.

Sincerely,



Jennifer Roberts

Associate Director

UNLV International Center for Gaming Regulation

Jennifer.roberts@unlv.edu

www.unlv.edu/icgr

July 3, 2019

Robert Russell
Gaming Analyst
Regulatory Management Counselors, PC
321 West Lake Lansing
East Lansing, Michigan 48823

Dear Robert:

Thank you for the opportunity to provide input into your efforts to assist the State of Virginia as they assemble a report for the introduction of casino gambling in their state.

The Gaming Standards Association (GSA) is a uniquely placed and unbiased non-profit standards forum that creates value for gaming manufacturers, suppliers, operators and regulators by facilitating the identification, definition, development, promotion and implementation of standards to enable interoperability, innovation, education and communication for the benefit of the entire industry.

As standards setting organization, we have been assisting state regulatory bodies for more than 20 years. To illustrate, GSA has initiated the following programs:

- GSA created the Game Authentication (GAT) standard (widely adopted by US jurisdictions),
- GSA established a regulatory committee in which 10 US regulators,
- In Europe GSA is the co-project leader for the CEN (European Standards Setting body) TC456 technical committee,
- GSA has donated its draft documents, Regulatory Data Set and Regulatory Reporting Interface, to the CEN TC456 technical committee,
- GSA created the CDI standard (*) (successfully adopted by the Ohio Casino Control Commission),
- GSA commissioned and produced 2 documents:
 - "Lessons Learned, And Value Created from Implementing GSA Standards."
 - "Why Understanding This Gaming Technology History Lesson Will Make You Money."

GSA facilitates dialogue between the Policy and Industry Domains. We stand ready to assist and provide the State of Virginia with education and assistance as needed.

Please don't hesitate to contact us with any questions.

Kind regards,


Peter DeRaedt
President
Gaming Standards Association

(*) The CDI standard enables gaming commissions to receive consistent, defined data from each lab, allowing for the ability to fuse all of the data into a single data repository easily. Additionally, CDI allows for automatic synchronized data with each lab, in real time, as changes occur. Last, with CDI, commissions can easily expand the defined data and functionality of CDI to exchange information with casino operators and manufacturers.

Platinum members: Aristocrat Technologies Inc.; International Game Technology (IGT); Konami Gaming Inc.; Microgaming Software Systems, LTD.; NOVOMATIC AG; Playtech, (PTEC.L) & Scientific Games International (SGMS). **Other members:** Adlink Technology Inc.; Ainsworth Game Technology Inc.; Alphaslot; Amatic Industries GmbH; AmTote International; APEX pro gaming; Ares Way; Aruze Gaming America, Inc.; Atlantic Lottery Corporation; AxesNetwork Solutions Inc.; BMM Testlabs; Canadian Bank Note Company, Limited; Canadian Gaming Association; Casinos Austria; ComTrade Gaming; Combination AB; Crane Payment Innovations (CPI); European Casino Association; Everi; Fortunet; Foxwoods Resort Casino; Gaming Laboratories International, LLC. (GLI); Gaming Consultants International; Gaming Technologies Association; Gauselman GmbH; Genlot Game Technology Co., Ltd.; Grand Vision Gaming; Incredible Technologies; Intralot S.A. (INLr.AT); Inspired Gaming Group Ltd.; Interblock USA; JCM Global; Macao Polytechnic Institute; Macau Gaming Equipment Manufacturers Association; Manitoba Liquor & Lotteries Corporation; Maxgaming; Mobile Gaming Monitoring On GmbH; Multi-State Lottery Association; Nidec Sankyo Corporation; Oregon Lottery; Paltronics Australasia Pty. Ltd.; PSM Tech; PVS Australia Pty, Ltd.; Quixant; Radical Blue Gaming; Random Consulting; Sega Sammy Creation, Inc.; Seminole Tribe of Florida; Seoul National University of Science & Technology; Smernax Holdings Ltd.; Synergy Blue; U1 Gaming; Universal de Desarrollos Electronicos, S.A.; UNLV International Gaming Institute; VEIKKAUS; Western Canada Lottery Corporation.

LESSONS LEARNED, AND VALUE CREATED FROM
IMPLEMENTING GSA STANDARDS

CASE STUDY

(based on interviews with operators and regulators between February and June 2018)

GAMING STANDARDS



ASSOCIATION

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OBJECTIVE

In their 2018 strategic plan, the Gaming Standards Association (GSA) board of directors directed staff to learn about the adoption of GSA standards, value derived and impediments. This case study represents their findings.

PARTICIPANTS

The GSA met with North American regulators and operators who volunteered to share their insights and real-world experience on their journey to adopt GSA standards.

IMPACT OF GAMING STANDARDS

This case study will reveal the intended vision, impediments to implementation to be aware of, and the real, measurable value and benefits achieved. We thank all those who participated in this process for their time and expertise and hope it can help others that are on their GSA standards journey.

METHODOLOGY

The meetings were held either in-person or via teleconference and the participants were provided with a series of questions in advance. The questions were open-ended and geared towards generating dialogue. Detailed notes were taken during each meeting.

The result is this case study that presents the benefits and the value-add the standards provide as identified by the interviewees. It further articulates their original vision and goals and identifies the impediments experienced as they sought to implement their vision.

The case study is comprised of Operator and Regulator sections. Each consists of three parts: Vision, Findings and Conclusion. The last section represents an overarching set of conclusions the GSA staff derived from the information shared with them.

EXECUTIVE SUMMARY

The Operators and Regulators interviewed clearly and unequivocally communicated that their use of the standards created by the GSA have added significant value to their companies and jurisdictions.

By gaining access to new data and driving increased levels of operational efficiencies to enhancing gaming software integrity, GSA standards provide a clear return on investment.

Those aware of how widely GSA standards have been adopted across the world agree that the gaming industry in the United States would also benefit from this.

Users of GSA standards are taking advantage of the functionality a new and extensible protocol provides versus the limited capabilities of an antiquated and near impossible to enhance protocol such as SAS and other old-tech protocols.

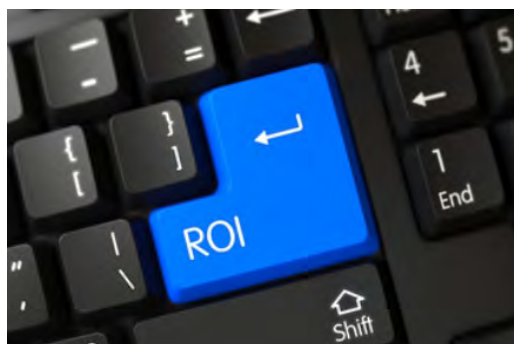
These users have indicated their support for ongoing GSA standards deployment and for the creation and use of a certification program to ensure uniformity across all implementations. They likewise have asked for curbing so called 'Private' or 'Proprietary' extensions that dilute the standards by effectively creating competing versions.

Lastly both Operators and Regulators are realizing that the most efficient way for GSA standards to be more broadly adopted within the United States is to have Regulatory Authorities mandate them, just like other products and processes have been mandated in the past.

This idea of Regulatory mandate appeared to be equivalent to regulatory overreach for some. Some were also not aware that many of the gaming machines on casino floors in the United States had GSA standards within them. Why should Operators and Regulators in other countries benefit from these technologies while those in the United States lag behind?

A mandate to use GSA standards need not put untenable burdens on Operators, rather they can start small by requiring coexistence of protocols, such as SAS and G2S, in the same gaming device. This would provide added value to Operators without having to change their slot accounting system. Regulators would get value from being able to connect regulatory reporting systems to those same gaming devices without impacting the slot accounting system.

In summary, the standards work and add tremendous value while greatly improving efficiency. Read on to find out more on the value and how you can benefit.

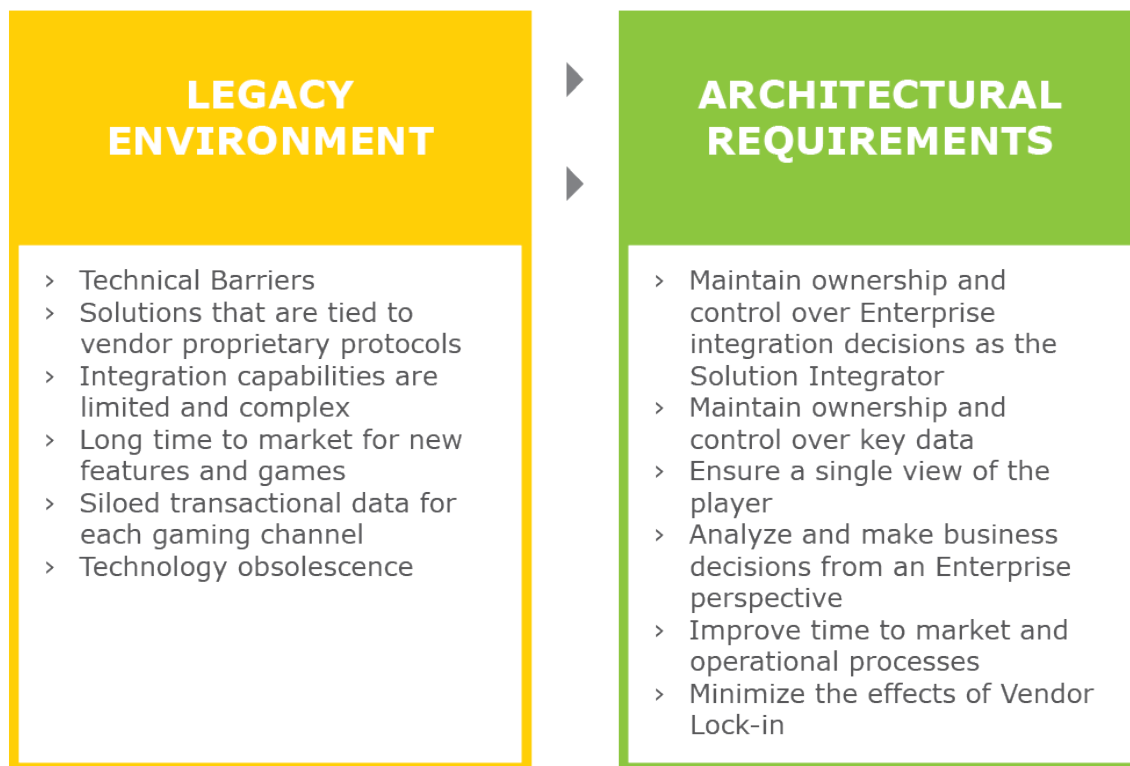


SECTION 1: OPERATOR INPUT

OPERATOR VISION

Ten years ago, Canadian operators gathered to discuss their vision for their future operations: *A long-term transformational initiative intended to evolve a gaming Service Oriented Architecture (SOA) through system enhancement, acquisition, integration and development.*

The group decided that the Gaming Standards Association would be the best vehicle with which to achieve their goals.



A. Technology Priorities identified by Operators

- Support business needs across multiple gaming channels providing improved analytics
- Improve operational efficiencies through increasing business agility and reducing time to market
- Improve relationship management by better understanding the customer

B. Building the Foundation for Business intelligence

Delivering the right game, in the right place at the right time

To position the enterprise for future growth by:

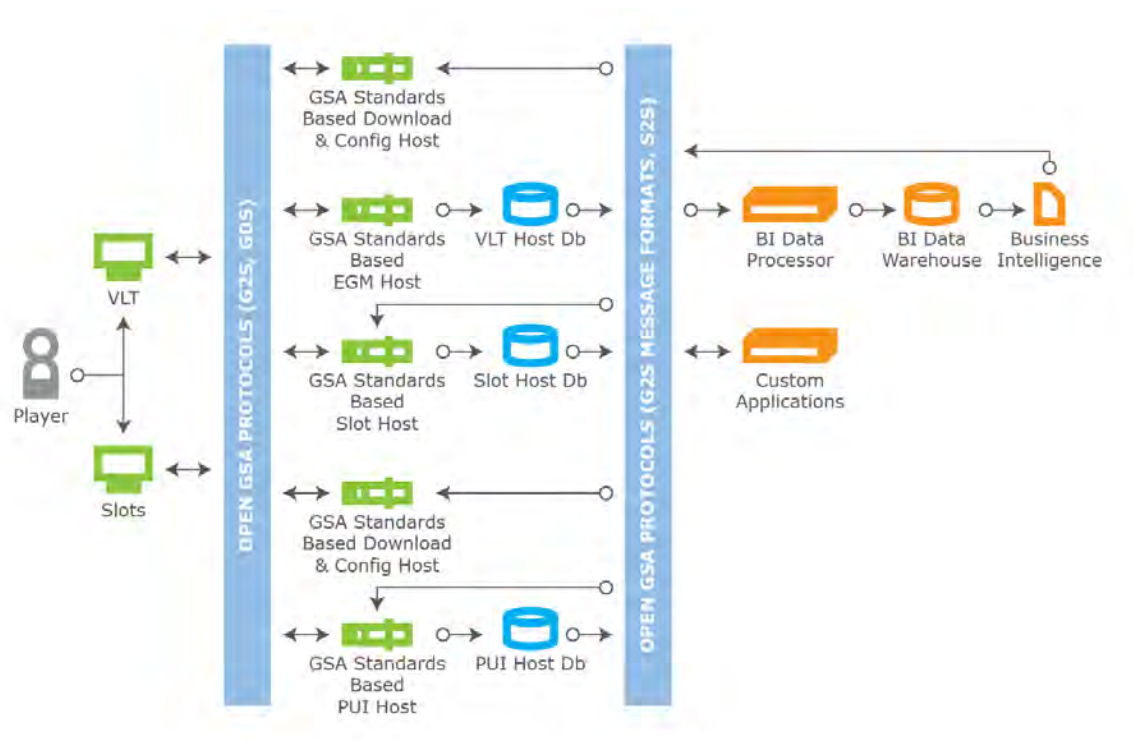
- Ensuring seamless systems integration through standardization
- Increasing the agility to respond to market demands

To improve products analytics across gaming streams by:

- Enhancing the ability to make better product purchasing and placement decisions
- Being able to create comparisons between multiple gaming channels
- Obtaining better insight to the financial performance of the network

To obtain a single view of the customer by:

- Offering a seamless and consistent experience to the customer
- Implementing consistent social responsible programs
- Offering products to the customer in the right place



OPERATOR FINDINGS

A. GSA Standards Benefits and Value

- The GSA standards:
 - Have been successfully implemented. The technology is solid.
 - Provide traceability due to the level of data transparency from EGM to System.
 - Have made a tremendous amount of data available that we had not been able to take advantage of before. We now have access to slot data that was not possible using SAS. We can pull this data and provide it to the Slot Analysts in a format that enables them to utilize their tools to identify potential changes needed to increase slot revenues.
 - Have provided us a significantly more stable operating environment both at the System (Host) and EGM OS levels. We have never been as stable as we are now with the implementation of the Game to System (G2S) protocol.
 - Have resulted in faster time to market, higher operational quality and optimization of staff levels.
 - Allow us to update marketing and promotional messages to all EGMs quickly using the Player User Interface (PUI). This provides our Marketing team with the flexibility needed to attract and retain players through engaging and fresh content.
 - Allow the Slot Operations staff to process a Jackpot in seconds instead of minutes using G2S's Jackpot tax W2G report accrual functionality. This not only makes the winning experience better for the players, it allows them to get back in the action faster providing significant value.



- The GSA standards have by far exceeded expectations in a variety of different areas:

- The level of operational efficiency resulting from implementing this protocol versus the previous way things were done using the older protocol, has led to a multi-million dollar savings for our organization.



- The standards have significantly enhanced our capabilities to manage our business and have provided the awareness we were looking for.
- The standards have provided us way more than we thought they could ever offer us.



- The standards have opened up opportunities for future growth we could not even envision.

- The G2S standard allows us to utilize and apply the same IT tools and processes to manage the slot floor as we use to manage the enterprise network. This reduces risk, increases uptime, and lets Slot Operations focus on maximizing revenue while IT looks after the infrastructure.
- With the GSA standards, we can remotely log into the network, troubleshoot individual EGMs and take corrective action to bring that EGM back online. This functionality enables authorized Slot Operations personnel to resolve issues within 5 to 10 minutes instead of hours.

An extremely compelling value proposition for the casino operator is the ability to manage many EGM administrative tasks from downloading Operating System (OS) & Peripheral device code to adding other customer-value services.

B. Operator Recognition of The Critical Importance of GSA Certification

- Not insisting on GSA Certification resulted in:
 - Initial integration challenges between Host and EGM providers due to the variety of interpretations on how to implement the standard. To resolve this:
 - We were forced to create our own 'how to' guideline that documents how a vendor should build a platform for this market, and how to implement the various classes and messages.
 - The device providers take our 'how to' guidelines and build to that spec. As a result we don't have to act as an integrator anymore. This leads to almost seamless integrations.
- What would we have done differently?
 - We should have forced the manufacturers to get together and figure out product integration without us having to be the middleman.
 - We should have asked GSA to be more actively involved in the integration testing.
 - We all should have agreed on a gold standard. GSA Certification is the critical requirement to get to interoperable solutions. Our inability to insist on GSA certification, led to both short-term and long-term pains.

C. OPERATOR OBSERVATION

- Our Host supplier single handedly took a position on any ambiguity in the standard and decided how it should be implemented. GSA was not consulted.
- Today Host suppliers still insist that EGM suppliers sign NDAs before the Host suppliers share their book of 'trade secrets' or the parameters that are unique to their system on how to implement the standard as they interpreted and defined it.
- Supplier extensions to the G2S standard which are protected via NDAs are diluting the value of the standard. The extensions create new proprietary protocol versions. So instead of having one standard we have multiple unique versions. Proprietary extensions should be part of the open standards.
- Few Slot Operators involve IT and Marketing in purchasing decisions. This perpetuates the status quo, i.e. if the Operators are not demanding G2S then why should Suppliers spend valuable resource time switching to it. SAS must be good enough.
- GSA members, who are mostly Suppliers, have a good understanding of G2S capabilities. However, because the Operator member community has diminished greatly, this knowledge is not being shared with them – the consumers.

OPERATOR CONCLUSION

The following conclusions can be drawn from the operator comments:

- Operators confirmed that GSA standards are providing an extremely compelling value proposition that is far exceeding any of their initial expectations.
- Operators recognize that the awareness GSA standards provide is invaluable for overall casino operations.
- Not insisting on full GSA certification by operators was a mistake that has led to unnecessary long-term pains and interoperability issues.
- In the US the segregation of core business units within the casino operation is working counterproductive to the business objectives of optimizing business revenues. The study demonstrates the power of collaboration between casino operations, casino marketing and IT departments but identifies the large shadow over the industry due to supplier secrecy and control modus operandi.
- Individuals managing gaming floors have more technical knowledge about their notebooks or computers than they do about the multimillion dollar EGM's and system equipment that is at the core of their business, but they are eager to know.
- The case study further contrasts the significant lack of knowledge between those operators who have never participated in GSA and those who have been an active part of GSA.
- Operators who implement GSA standards see value across the board:

	WITHOUT GSA STANDARDS	WITH GSA STANDARDS
GAMING FLOOR	Serial connections leveraging a vendor proprietary legacy protocol	Open standards extensible protocol, high-speed floor
INTEROPERABILITY	High risk, high cost, high time to market	Certified platforms can be deployed with minimal risk & cost
RESPONSIVENESS TO CHANGE	Limited	Operator-initiated download and configuration to their EGM from a single central system
PLAYER ENGAGEMENT	None	Bi-directional communication with players
BUSINESS INTELLIGENCE	Aggregate data designed to meet the EGM Host's needs	Predictive analytics and real-time dashboards
SECURITY	Vendor proprietary security solutions	Single deployment of shared components, single view of the player
GAMING CHANNEL CONVERGENCE	Monolithic, siloed gaming channels	Open standard extensible protocol, high-speed floor

In conclusion, for operators to protect their gaming investments, they need to mandate devices that support open standards and/or be part of the only organization that is working on furthering innovation and transparency. Industry change can be facilitated to the benefit of the industry and policy domains.

SECTION 2: REGULATOR INPUT

REGULATOR VISION

Regulators are seeking to remain neutral when it comes to protocols used in gaming. They remain focused on ensuring the integrity of gaming, preventing fraud and protecting players. However, to achieve each of those goals they require data. As gaming has continued to evolve they are finding that newer technologies, including protocols, are more capable of providing them with the tools they need to achieve their objectives. Their vision is to see these newer technologies implemented, and to do so either in partnership with the Industry Domain jointly agreeing to adoption, or by gently nudging the industry in that direction. When necessary, some regulators have no issues with mandating the use of certain technologies.

REGULATOR FINDINGS

A. SAS:

Some regulators clearly see that SAS is no longer a viable protocol

- SAS has gone as far as it can go. We are starting to see a variety of issues with this protocol. One example is that suppliers are doing things that the protocol was never designed to do. They are trying to extend its life by doing things such as putting data in buckets they are not supposed to put them into; buckets that were not intended for the purpose they are now being used for. As regulators we are not going to allow that anymore.

B. GSA Standards Benefits and Value

Game Authentication Terminal standard (GAT note 1):

This standard is being used in every gaming jurisdiction interviewed.

- In some jurisdictions, Gaming Regulations require that all gaming equipment support the GSA GAT standard and the regulators rely exclusively on GAT to verify all software, both in the lab and in the field. In other jurisdictions, the regulations specify the methodology that must be met and allow a variety of tools to achieve authentication.
- Prior to implementing GAT there was zero standardization on how gaming components were verified. If we did not have GAT then we would have had to support all of these other verification procedures. We would have had to maintain potentially different verification procedures for every single cabinet. GAT has made it a lot easier to verify the gaming devices.
- GAT and the application we use allow us to collect all data elements needed to store machine specific information. If an issue occurs with a particular piece of software, we can quickly identify where all the machines are and take steps to mitigate the problem. We love the protocol and it is working very well for us.

- Our end goal, the Holy Grail, is to use G2S's GAT capability across the network. That way we can authenticate any applicable device in the field using a single terminal remotely.
- We have communicated to the suppliers that our goal is to use G2S's GAT so we can verify software over the network.
- We are very interested in using GAT 4.0 which updates the encryption algorithm to SHA3 and includes support for Peripheral Devices.

Certification Database Interface standard (CDI note 2):

This standard was identified as a need by the regulators that participate in the GSA Regulator's Committee. CDI is being adopted and is seen as starting to provide the expected value.

- We require independent test labs (ITLs) to also support the CDI.
- We don't yet require the suppliers to support CDI, however that is planned.
- The CDI standard is definitely helping us by providing product testing result data in a consistent way from multiple ITLs.

Game to System standard (G2S note 3):

This standard is seen as having the most potential to help regulators achieve their objectives more efficiently. However, there are implementation and adoption issues that the regulators are seeking to overcome in a manner consistent with their operational methodologies.

- Some regulators are partnering with the industry moving slowly towards full G2S adoption:
 - As a regulator we were struggling on how to move the industry into the semi-modern era. We realized that things would not change without a nudge, so we are now considering a policy giving operators a reasonable period of time to migrate all their EGMs to be G2S compliant and that those EGMs have multiple port support and that those ports are fully open and accessible by multiple systems.
 - We are considering requiring EGM's to support both G2S and SAS. We have frequent conversations with the suppliers to evaluate their ability to support this functionality as it will allow a regulatory server to talk directly to the EGMs.
 - We were also interested in knowing whether or not they supported simultaneous G2S and SAS communication on their devices. At least at that point we could require the game to support G2S without disrupting the casino operator's ability to use their legacy accounting system. Enabling us to report on gaming devices by running GAT over the network would be a win for all of us regulators.

- Other regulators are taking a more forceful approach seeking to utilize G2S capabilities as soon as possible:
 - We are likely to mandate the use of the G2S standard (note 6) in the same way that we required GAT within our jurisdiction.
 - The large suppliers have a solid support base for G2S but some of the smaller suppliers do not. The policy change would provide those smaller suppliers the incentive and time to catch up with the larger ones.

Regulatory Reporting Interface standard (RRI note 4):

There is strong interest in this standard and how it provides for a single data exposing methodology for both land-based and on-line gaming, including sports betting:

- We believe that there is value in having one standard - GSA's Regulatory Reporting Interface standard - that provides information from every gaming system/vertical from land-based to online to sports wagering. Especially if it is aligned to G2S and can provide GAT related data, as an example.
- We see having a single data feed as very positive.

Third-party Game Interface standard (TPI note 5):

Some regulators are very interested in the value that this standard is providing:

- The integrations between Remote Gaming Systems (RGS) and Internet Gaming Platforms (iGP) was problematic for us. Many Operators are not getting the content they want because of the integration costs for the smaller suppliers. We wish TPI had been out and we could have adopted it before we launched on-line gaming.

C. Regulatory Observations

- Regulators would like to see GSA take a more active role in creating applications and tools:
 - Provide software tools that are not created by ITL's to support regulators so that they own their own data.
 - Create an application to use GAT that could work with all the suppliers' EGMs (or at least those of the GSA members) instead of forcing regulators to create their own.
 - Create a GAT application that comes with a database to store the tested and approved software signatures.

- Regulators see the lack of awareness within the industry as a major impediment to implementation of GSA standards.
 - Many within the industry are simply not aware of what is available and the value that can be added.
 - There is a complete disconnect within the supplier industry pertaining to GSA standards.
 - Some suppliers have no idea about RRI or CDI. CDI is a standard suppliers can tremendously benefit from. The people responsible for lab submissions have no knowledge of this capability. This is a big deal.

REGULATOR CONCLUSION

The following conclusions can be drawn from the regulator comments:

- GSA is creating standards that are adding value to regulators. Regulators wish that these standards would be more broadly adopted as older technologies are no longer viable.
- Some regulators are realizing that absent a regulatory mandate SAS will continue to exist and perhaps even to proliferate, forcing all to use antiquated technology and holding the industry back. Others are not yet willing to take that approach.
- Some regulators understand that they have the authority, and are even obligated, to require certain technologies, functionality, or processes through mandate. By their very nature, regulations require, or mandate, what suppliers and operators must do to do business legally within this industry.
- Some regulators are looking to implement a intermediate step requiring that gaming devices support both SAS and G2S simultaneously. This will allow regulators and operators to benefit from the additional functionality and data reporting capabilities without impacting the legacy slot accounting system.
- Some regulators have, or are investigating, allowing access to that data over wireless communication eliminating the need for networked casino floors. This access would require the appropriate technical fire-walls and security measures.
- As regulators see great value in participating in the Regulatory Committee but question why other regulators, including Tribal regulators, are not participating?

GSA STAFF DERIVED FINDINGS

INDUSTRY PROTECTIONISM & IMPEDIMENTS

- Suppliers believe they know best, but:
 - Supplier's Sales Staff are not trained on protocols, but rather on the game themes, game mechanics, target market and revenue generation (this game is doing 2X house average down the street....). Consequently, they cannot advise on functionality that is critical to IT and Marketing.
 - Even Suppliers that have a G2S-based system do not expose all the data that G2S can collect from an EGM. Instead they decide what data an Operator really needs. As a result, they inadvertently 'dumb down' the capabilities inherent to G2S.
 - EGM suppliers are not supporting or enabling the multi-host connectivity that is a core G2S functionality. This prevents operators from connecting multiple systems to the EGMs and gaining access to the machine data independent of the Host supplier's Casino Management System (CMS).
- Slot Operations often work within a silo:
 - Slot Operations is tasked with maximizing slot revenue by making the right purchasing decisions within a tight budget. The protocol the EGM speaks is the furthest thing from their mind, as a protocol is not thought to impact revenue.
- Operators in general don't know what they don't know:
 - Operators have a very limited understanding of the capabilities that G2S enables because they have not been participating in GSA and rely solely on their Supplier's Sales staff for information.
 - Operators are uninformed about the benefits of G2S and they are led by equally uninformed Sales staff to purchase EGMs using antiquated protocols with limited technical and data sharing capabilities.
 - Operators are unaware that G2S is a multi-host protocol allowing multiple systems to connect to the same EGM and subscribe to data based on each system's function. The freedom G2S affords Operators to select the best-in-class systems to perform a task is completely lost. They are forced to buy a 'bundled' product from a single supplier.
- Regulator Challenge
 - The argument that Regulators cannot mandate requirements that will cause suppliers or operators to incur costs is a baseless one. Regulators today mandate that suppliers must have their gaming products tested by Independent Test Labs costing those suppliers millions of dollars annually. Obtaining a copy of all the land-based GSA standards, for unlimited use world-wide, costs a gaming company just \$11,200 annually.

- If regulators do not mandate the use of GSA standards that can benefit them, then the industry will continue to rely on outdated technology for as long as they can. The larger suppliers have implemented GSA because it is required in many parts of the world, but they continue to sell older technology in the US because operators do not know better. The smaller suppliers are potentially never going to implement it because they need a reason to do so.
- The result of the lack of regulatory mandate is that the Gaming Industry in the US is stagnating technologically, while in Europe things are moving forward fast because Regulators are willing to work together and to mandate change. GSA Europe is currently working with Regulatory Authorities from 13 countries collaborating to create a single pan-European standard.
- Some regulators in the US are still applying outdated restrictions to gaming devices such as prohibiting them from being accessed via network outside of the casino. This while simultaneously some jurisdictions are allowing internet-based online gaming and many others are rushing to allow internet-based sports wagering. The idea that online wagering is secure but connecting casino-floor games to online networks is not, seems incongruous.

MANDATE TO CHANGE THE INDUSTRY

The only way change will happen in the Gaming Industry is when an entity that has power – a regulator - mandates that all EGMs support both SAS and G2S and provides a reasonable migration period to enable that change to happen.

It's the same as saying that by 2030 all vehicles in the US must meet fuel efficiency standards of 54 miles per gallon. The regulator, the enforcing agency, will have to insist on this sort of change, otherwise – left to its own devices - this industry will trod along with the old stuff forever.

What would happen if regulators mandate that every EGM by 2020 support both SAS and G2S (note 6)?

- This is a small ask for the major EGM suppliers since in addition to SAS, they already have or are implementing G2S to be able to sell slot machines into the growing number of jurisdictions that already require G2S.
- This will provide an incentive for smaller suppliers to implement G2S and in the interest of fairness, provide them the time to achieve that.
- Regulators can then install a G2S-based reporting system using all the benefits of G2S such as performing remote GAT spot-checks, verifying all software and subscribing to key data in real-time. This can be accomplished without the need for networked floors, by using wireless and appropriate fire-walling of local in-casino servers and the outside world.

- Operators are not negatively impacted because they don't have to change their slot accounting system. On the contrary, Operators are positively impacted because they too can connect to each EGM using systems that co-exist with other systems, to subscribe to all the data G2S provides which older protocols do not.
- System suppliers are also not negatively impacted. They don't have to develop a G2S-based casino management or slot accounting system.

Who wins?

- Regulators win because they can implement systems that create efficiencies and even help eliminate risks for the operators.
- Operators win because they can tap into all the data that they don't have access to today.
- Suppliers win because it's a minor change to support both SAS and G2S on the EGM side and requires no change to Casino Management systems.
- The industry wins, by becoming more efficient, by harmonizing processes between land-based and on-line and leveraging the latest technology to further secure and make gaming transparent which directly translates into integrity.

NOTES

Note 1: Game Authentication Terminal (GAT): This serial communication protocol is used for identifying and authenticating gaming software and firmware in the field. Used by regulators and operators, GAT allows a master to connect to an EGM via a serial cable and to authenticate the software and firmware components within the EGM. This function is also available within the Game to System (G2S) standard.

Note 2: Certification Database Interface (CDI): This specification addresses the data interchange needs of regulators, test labs, and suppliers. It defines a standard interface for exchanging product approval information amongst regulators, test labs, and suppliers – for example, certification requests, product component information, pay table information, software signatures, associated documents, etc. Future releases will address additional needs, such as field issue notifications and product shipments.

Note 3: Game To System (G2S): This communication protocol unlocks the power of networked gaming and revolutionizes the way information is exchanged between Electronic Gaming Machines (EGMs) and back-of-house systems (hosts). The protocol enables many advanced features such as software download, remote configuration, remote software verification, and a native embedded player user interface (PUI), which are completely new features for most protocols, as well as for many EGMs.

Note 4: Regulatory Reporting Interface (RRI): The diverse reporting requirements for online gaming operations present a major challenge to suppliers of iGaming Platforms, Remote Game Servers, and Progressive Jackpot Controllers. Unique jurisdictional requirements are a major barrier to entry in some markets and have stymied efforts to introduce shared liquidity across jurisdictional boundaries. GSA is working with suppliers and regulators to introduce a new set of standardized reporting requirements that will meet the core needs of the regulatory community while being flexible enough to allow extensions for jurisdiction-specific needs.

Note 5: Third Party Interface (TPI): This new specification describes a standardized interface between iGaming Platforms, Remote Game Servers, and Progressive Jackpot Controllers for launching games, recording monetary transactions, posting progressive contributions, awarding progressive jackpots, reconciling interrupted games, etc. The specification fully supports online gaming operations that service multiple operators, affiliates, and jurisdictions, allowing the activity associated with each stakeholder to be easily isolated and reported.

Note 6: Implementing G2S does not mean that every message within the G2S specification must be supported. Rather a small subset of all the functionality supported by G2S, will be identified and agreed to and required by Regulators, such that only the features and functions desired are supported.



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WHY UNDERSTANDING THIS GAMING TECHNOLOGY
HISTORY LESSON WILL MAKE YOU MONEY

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GAMING STANDARDS



ASSOCIATION

Obstacles Preventing Operators From Getting Access

The amount of data generated, processed, stored and reported on, in today's modern casino is staggering. Data transmitted from Electronic Gaming Machines (EGMs) to Systems and from Systems to other Systems, used for regulated purposes, such as determining game outcome, calculating gross gaming revenue, or transactions containing personal identifiable information (PII) must be exchanged in a secure fashion. The need to secure that data ensuring it is not accessed by unauthorized persons or tampered with in violation of regulations is of paramount importance.

The amount of unique data elements, pieces of information generated by EGMs during play, also continues to increase. Casino Operators, looking to better understand customer preferences, identify trends, and improve their marketing capabilities, would find great value in having access to that data. However, there are obstacles that are preventing operators from getting that access.

Due to the speed with which technology is adopted in the gaming industry, data security on the casino floor is often still thought of in the physical sense. EGMs with tamper-proof tape on the Central Processing Unit (CPU) enclosure door, perhaps more tape on the Game Theme and Operating System media (E-Proms, SD Chips, Hard Drives, etc.) to aid in identifying unauthorized access and changes, are examples of this. Requiring that the data connection from an EGM to a Casino Management System (CMS) use physical wire on a closed-loop network with the CMS servers being in the Casino's computer room, are other examples. In the current era of internet and mobile device banking, mobile device payment systems, and online retail transactions, those casino requirements seem to be archaic.

However, many of those requirements are still in place because of legacy devices, legacy systems, legacy communication protocols, legacy EGM capabilities and legacy thinking.

Legacy Devices

It used to be that EGMs had a single serial communication port that was used by the CMS system via a Slot Machine Interface Board (SMIB) that was plugged into it. As used in this document, CMS is inclusive of Slot Accounting System functionality. The SMIB was wired to the CMS in some cases through a Bank Controller that acted as a switch allowing multiple EGMs (wire-in) to connect to it and one connection (wire-out) connecting it to the CMS.

When non-CMS systems were developed that needed to connect to the EGM, secondary serial communication ports were added by slot manufacturers. This allowed an External Bonusing system or a Wide Area Progressive system to get meter information from the EGM and send bonus or progressive information back to the EGM.

As high-speed networks became more common, a network port was introduced. Over time, CMS SMIBs started to use the network port as opposed to the serial port. However, they were still limited by the casino's legacy network capabilities, in many cases using twisted-pair wiring, and the communication protocols used between EGMs and systems. The reason for this limitation is that Operators could not justify the cost of running high-speed network cable (CAT5 or CAT6) which in some cases required significant operational disruption such as jack-hammering concrete casino floors.

Legacy Systems

CMS's were originally developed in a world where only one system could connect to an EGM. That system was often referred to as the System of Record, and it was responsible for collecting all the data necessary (such as wagers, wins, etc.) to calculate Gross Gaming Revenue which forms the basis for gaming taxes paid by a casino. Since only one system could be connected to the EGMs, the functionality provided by these systems continued to grow. They evolved from basic slot accounting systems, adding online monitoring capabilities, then player tracking, analysis, marketing, and the list goes on. These systems became huge, monolithic and the source of all the data that a casino operator and regulator had access to.

However, as feature rich as they became, the CMSs were still limited by the communication protocol used to connect to the EGMs and therefore only had access to the data that it was designed to provide. When CMSs were needed to connect to other systems, such as for checking player credit or connecting to payment systems, proprietary interfaces were created. These interfaces, known as Application Program Interfaces (APIs) were purpose-built and managed by either the CMS or other system developer.

Legacy Protocols

The most commonly used legacy protocol is the Slot Accounting System (SAS). Many others existed, such as BESS, DXS, QCOM and VLC just to name a few. As its name implies, the SAS serial protocol was developed to collect information necessary for a system to perform slot accounting. SAS evolved over time adding functionality such as Ticket-in / Ticket-out, Real-time Event mode reporting, and more. However, adding functionality to this type of protocol is difficult and often results in breaking backwards compatibility. SAS version 6.02 was released 12 years ago and after that decade plus, SAS version 6.03 was just released with minimal additional functionality required to support Regulatory Authority mandated requirements. Despite its enhancements, SAS remains a relatively slow speed serial protocol even though, in some cases, it is being run on high-speed networks.

Legacy EGM Capabilities

Many people think of an EGM as some sort of mysterious black box. Perhaps this is a hold-over from the early days of mechanical slot machines whose multiple gears, springs, and fans were true engineering marvels that not many people understood. The advent of electro-mechanical slots perhaps further increased the mystery of how these machines worked. Today EGMs are computers using the same sort of CPUs, Random Access Memory (RAM) and Graphics Processing Units (GPUs) as high-end video gaming computers that can be purchased from companies such as ASUS, Dell, HP and MSI.

The graphics and processing capabilities of today's EGMs have advanced considerably, many supporting 4 or more high-definition monitors, some with 3-D, and incredibly rich audio. So too have the applications, the game theme software that runs on these EGM computers, advanced. The richness of the games being developed today, the number of bonus rounds, types of play mechanics, and options that a player has, are terrific. However, one area of EGM operation has changed very little. That area is related to the data elements they transmit to the CMS and how it is sent.

While enhancements to the entertainment delivering aspects of EGMs continued to ratchet upwards, the type of data being provided remained largely stagnant. The means to communicate that data was still, in most cases, the SAS protocol which had not changed in over a decade. The connectivity between EGM and CMS continued to be via SMIB and driven by CMS providers. Even though, the amount of data available from each EGM increased commensurate with the advancements in game design. The Legacy Protocol and Legacy Devices have dampened the ability to make advances in data element and data transmission capabilities.

Legacy Thinking

Perhaps the adage of “If it ain’t broke, don’t fix it!” best describes what seems to have happened. The regulatory data needed to oversee gaming was and continues to be supported by SAS and CMS’s via their SMIBs. By and large, given the maturity of the protocol and systems, there are few issues with the accuracy of the data. The physical security of tamper-evident tape, physical wire, and closed-loop networks, have passed the test of time. It all ‘works’, so why change it.

Checking in to a hotel by writing your name on a ledger, paying in cash and getting a physical key, all ‘worked’ too, yet very few of us would think that that process ‘works’ given today’s technology. Going to a bank and waiting in line to speak with a Teller to access cash or cash a check, also ‘worked’, yet few would consider giving up the efficiency of ATMs, internet and mobile banking. So, if technology advancements have made things better in the Hotel, Banking and in so many other industries, why has technology advancement been arrested on the casino floor? Perhaps Legacy Thinking is the reason.

How do we Remove these 'legacy' Barriers?

As with many other industries looking to modernize, changes must be applied in an incremental manner ensuring that the various constituents affected by those changes are all satisfied that from their perspective, at best things have improved and at worst nothing has been taken away.

There are a few things that can be implemented which will provide Operators access to the incremental data being generated by EGMs while maintaining the status quo for all other constituents, even as the foundation for further improvements is being established.

Data is being created by an 'ecosystem' which as we described above is comprised of EGMs, SMIBs, Protocols and CMSs. To be viable, the solution must not require wholesale changes to EGMs, must not require implementation of high-speed networks, and must not touch SMIBs or CMSs but rather work in parallel with them.

The solution has already been developed, is proven, and exists within many EGMs being used on casino floors today. That solution is the Game-to-System (G2S) protocol. Many EGM manufacturers already have EGM Operating Systems (OS) that run G2S because there are gaming jurisdictions around the world that require the use of G2S in EGMs.

G2S is the right solution because:

- It does not require replacing EGMs, just upgrading the OS in ones that allow it, to the manufacturer's OS version that supports G2S. A very minor update.
- It eliminates the need to run new cabling by either using an existing high-speed network or using an in-EGM wireless communication device. Cellular communication is recommended.
- It can run on a simple G2S data collection system that is separate from and does not touch the existing SMIB and CMS. The G2S data collection system is connected to the EGMs network port and subscribes, i.e. only gets, the information that is needed for its specific purpose, such as data analysis, marketing, security etc.
- It is designed to allow a single EGM to be connected to multiple servers running different systems via the EGM's network port. This is identical to how one networked printer can be shared by multiple computers using different applications.
- It allows for secure firewall protection between the G2S data collection system and EGMs ensuring that no data can be transmitted from the system to EGMs.
- It resolves the Legacy Protocol issues in that it is a modern protocol designed to operate over high-speed TCP/IP networks and enables transmission of the additional data elements available within the EGMs that older protocols like SAS do not.

- It is a secure protocol utilizing the same level of Transport Layer Security (TLS) encryption and data security as is used for online gaming, online banking and online retail transactions.
- It sets the foundation for future enabling of other G2S functionality, such as direct Player Tracking system connectivity to the EGM (instead of being done via CMS SMIB) and even future elimination of the SMIB altogether (via G2S enabled CMSs).

Using G2S on the portion of EGMs that can have their OS's upgraded and using wireless communication starts to provide Operators with access to bottom-line improving information without the significant cost of EGM replacement and re-wiring the casino floor. The replacement cycle of EGMs may never go back to pre-recessionary times. This means that we will continue to deal with floor mix that will contain EGMs of various capabilities. The G2S wireless solutions looks to exploit the capabilities of newer EGMs while waiting for the older ones to be finally replaced. If enough value is seen through the incremental data being collected from the newer EGMs via G2S, then perhaps that may provide an ROI that will expedite the replacement cycle.

SUMMARY

Using G2S provides Casino Operators with access to the richer, deeper, and more granular data they need to improve their analysis, marketing and to efficiently deal with auditing and accounting tasks. It does so without touching the System of Record, the CMS and SMIB which today convey regulated data via SAS over a physical wire on a closed-loop network. It also provides the data without requiring costly network cable replacement. This means that nothing in how things are done today changes, but it allows Casino Operators with access to data they cannot get today. Lastly it sets the foundation for additional improvements, when, through normal or perhaps expedited replacement, the entire casino floor is running G2S capable EGMs.

G2S was developed by volunteer engineers from the largest slot machine manufacturers and CMS developers who are members of the Gaming Standards Association (GSA). It is a protocol that leverages Computer Industry standards and extensible, i.e. it can easily be updated without breaking backwards compatibility, to support future needs.

To learn more or to get involved in GSA, please contact GSA and to participate, consider joining GSA, which has membership levels for Suppliers, Operators (including the Operators-only Operators Advisory Committee) and Regulators (Regulator-only Regulatory Committee).







AGA CODE OF CONDUCT FOR RESPONSIBLE GAMING



AMERICAN
GAMING
ASSOCIATION

The American Gaming Association (AGA) and its members pledge to prioritize responsible gaming as an integral part of our industry's daily operations across the United States.

This pledge includes provisions on employee assistance and training, alcohol service, the provision of casino games including sports betting in person and online, and the advertising and marketing of casino gambling including sports betting. This Code also covers the commitment of our members to continue support for research initiatives and public awareness surrounding responsible gaming and underage gambling.

The following Code of Conduct details how we fulfill this pledge.

PLEDGE TO OUR PATRONS

To Promote Responsible Gaming

- AGA members will make information available promoting responsible gaming and where to find assistance, including a toll-free help line number. This information will be available and visible on casino floors and at cash access devices.
- AGA members will make available on their gaming-related websites information describing responsible gaming, their policies and practices related to responsible gaming and where to find assistance.
- AGA members, where permitted by law, will make available to patrons and employees information generally explaining the probabilities of winning or losing at the various gambling games offered by the casino.
- Each AGA casino and sports betting company will have a policy in effect for all of its casino properties providing opportunities for patrons to request in writing the revocation of their privileges for specific services such as:
 - Casino-issued markers;
 - Player club/card privileges;
 - On-site check-cashing;
 - Complimentaries; and
 - Gambling promotions.
- In addition, each AGA member shall make reasonable efforts on a facility-by-facility basis to honor a written request from any person, that it not knowingly grant that person access to gambling activities. For each person who makes such a request, the casino will provide the person with a listing of resources in the area surrounding the casino where assistance with gambling – related problems is available.

- AGA members reserve the right to exclude a patron from gambling, without a request from the patron.

To Prevent Underage Gambling and Unattended Minors in Casinos

- AGA member companies will make diligent efforts to prevent underage individuals from participating in any gambling or sports betting at casinos, loitering in the gaming area of a casino or from gaining access to online, mobile or in-room gambling opportunities.
- AGA member companies will communicate the legal age to gamble through messaging, as appropriate, in their properties, on their casinos' online platforms and in gambling and sports betting promotions.
- Employees working in relevant areas will receive training in procedures for dealing with unattended children, underage gambling and the purchase and consumption of alcohol and tobacco by minors.
- If a child appears to be unsupervised or in violation of local curfews and other laws, security or appropriate personnel will be contacted and reasonable steps will be taken to locate the parent or responsible adult on property or by telephone.

To Serve Alcoholic Beverages Responsibly

- AGA member companies will observe a responsible beverage service policy including the following elements:
 - Casinos will not knowingly serve alcoholic beverages to a minor.
 - Casinos will not knowingly serve alcoholic beverages to a visibly intoxicated patron.
 - Casinos will make a diligent effort not to permit casino gambling by a visibly intoxicated patron.
- AGA casino companies will ensure that appropriate casino employees are trained in the company's responsible alcoholic beverage service policy, and will provide periodic refresher training to those employees.

To Advertise Responsibly

- This Code applies to AGA member companies' advertising and marketing of casino gambling including sports betting. It does not pertain to advertising and marketing that is primarily of hotels, restaurants and entertainment that may be associated with or operated or promoted by casinos.
- For the purposes of this code, advertising and marketing includes, among other media: radio and television ads, print, direct mail, social media, billboards and Internet promotions.

- Casino gambling including sports betting advertising and marketing will:
 - Contain a responsible gaming message and/or a toll-free help line number where practical.
 - Reflect generally accepted contemporary standards of good taste.
 - Strictly comply with all state and federal standards to make no false or misleading claims or create a suggestion that the probabilities of winning or losing at the various games offered by the casino, or by betting on sports contests, are different than those actually experienced.
- Casino gambling including sports betting advertising and marketing will not:
 - Contain images, symbols, celebrity/entertainer endorsements and/or language designed to appeal specifically to children and minors.
 - Feature anyone who is or appears to be below the legal age to participate in gambling or sports betting activity or imply that underage persons engage in casino gambling or sports betting.
 - Depart from contemporary standards of good taste that apply to all commercial messaging, as suits the context of the message or the medium utilized.
 - Be placed with such intensity and frequency that they represent saturation of that medium or become excessive.
 - Contain claims or representations that gambling activity will guarantee an individual's social, financial or personal success.
 - Be placed before any audience where most of the audience is ordinarily expected to be below the legal age to participate in gambling or sports betting activity.
 - Imply or suggest any illegal activity of any kind.

PLEDGE TO OUR EMPLOYEES

- AGA members will educate new employees on responsible gaming.
- AGA members will train gaming employees on responsible gaming and provide annual or periodic refresher training. Employee training should highlight the differences between responsible gaming and gambling that is problematic.
- AGA members will implement communications programs for employees to improve their understanding of responsible gaming and related policies and procedures.
- AGA members will provide information to new and existing employees about responsible gaming, the member company's policies and practices related to responsible gaming, and where to find assistance. AGA members will also ensure that employees receive timely updates regarding new research and new topics that should be integrated into the industry's responsible gaming training programs.
- AGA members will post responsible gaming awareness information, including a toll-free help-line number, at various locations where employees congregate.

PLEDGE TO THE PUBLIC

- AGA will work with stakeholders to assist in the distribution of information and raise awareness regarding the industry commitment to responsible gaming.
- AGA members will support and promote research-based policies on responsible gaming. AGA members will continue to provide funding for the National Center for Responsible Gaming, which is the leading source of science-based research and information on gambling and health.
- AGA members will use this research to identify the best practices for casinos to follow to promote responsible gaming.
- AGA members will continue to develop a dialogue surrounding scientific research on gambling and health to communicate to and educate patrons, employees and policy-makers.

To Provide Oversight and Review

- Each AGA member company will implement the Code and conduct annual reviews of its Responsible Gaming program.

References in this Code to providing certain "information" to employees and customers mean that AGA members will use those means of communication appropriate for each message, which may include any or all of a range of traditional, electronic and social media such as written brochures, posters, website postings or direct electronic messages.

****All aspects of AGA's Code of Conduct are subject to local, state and federal laws.****

ACKNOWLEDGMENT OF CODE OF CONDUCT FOR RESPONSIBLE GAMING (Signature required)

NAME OF COMPANY

NAME

TITLE

SIGNATURE

DATE



AMERICAN
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BEST PRACTICES FOR
ANTI-MONEY LAUNDERING
COMPLIANCE
- 2017 -

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ABOUT AMERICAN GAMING ASSOCIATION

The American Gaming Association is the premier national trade group representing the \$240 billion U.S. casino industry, which supports 1.7 million jobs in 40 states.

AGA members include commercial and tribal casino operators, suppliers and other entities affiliated with the gaming industry. It is the mission of the AGA to be the single most effective champion of the industry, relentlessly protecting against harmful and often misinformed public policies, and paving a path for growth, innovation and reinvestment.



INTRODUCTION

The U.S. gaming industry is one of the most heavily regulated and controlled business sectors across the globe. In addition to comprehensive and stringent state gaming regulations, U.S. gaming operations are subject to federal anti-money laundering (AML) requirements.

The modern casino is an entertainment venue that offers its patrons highly regulated gaming, often combined with hotels, multiple dining options and live entertainment. To facilitate gaming activity, casinos ordinarily provide some financial services to their patrons. Although the vast majority of patrons visit casinos for entertainment, leisure and diversion, those engaged in illegal activity may attempt to use the casino's financial services to conceal or transfer illicit wealth.

To discourage such behavior and safeguard the integrity of the casino industry and the U.S. financial system, casino companies have developed effective risk-based programs in an effort to ensure compliance with the legal requirements of the federal Bank Secrecy Act (BSA) and associated anti-money laundering (AML) statutes and regulations.

This document is an attempt to distill the practices that a wide range of casinos and Internet gaming sites have adopted to meet these challenges. This document uses the term "casino" to cover both in-person and lawful Internet gaming operations, because the BSA/AML compliance effort applies to both.

This document is not intended to be a checklist of actions required of every casino and should not be applied arbitrarily to any individual situation, or on a blanket basis. In some instances, industry practices may go beyond a legal requirement established by statute or regulation, so this document should not be considered a guide to those legal requirements.

In addition, because AML programs are risk based and casinos have different risk profiles, individual casinos will have good reasons for departing from or modifying a procedure in this document, or for developing supplemental or alternative procedures, including appropriate approvals and documentation of decision-making.

The goal of this document is to provide a resource for industry and law enforcement to help guide their efforts to protect the gaming industry and the broader financial system from money launderers and others involved in illegal activity.

BACKGROUND

Since 1985, commercial casinos have been defined as “financial institutions” under the Bank Secrecy Act (BSA). Accordingly, they must file currency transaction reports (CTRs) when a patron either provides to the casino or takes away from the casino more than \$10,000 in currency during a casino’s defined 24-hour gaming day.

Casinos also must file suspicious activity reports (SARs) when a casino knows, suspects, or has reason to suspect that a transaction aggregating at least \$5,000:

- Involves funds derived from illegal activity;
- Is intended to disguise funds or assets derived from illegal activity;
- Is designed to avoid BSA reporting or recordkeeping requirements;
- Uses the casino to facilitate criminal activity;
- Has no economic, business or apparent lawful purpose; or
- Is not the sort of transaction in which the particular patron would be expected to engage, and the casino knows of no reasonable explanation for the transaction after examining the available facts.

More broadly, the BSA also requires casinos to design and implement risk-based AML programs that include, at a minimum, a system of internal controls, policies, and procedures to assure ongoing compliance, which should include procedures for using all reasonably available information to determine:

- When required by BSA regulations, the name, permanent address, Social Security number, and other information, and verification of the same, of a person;
- Whether SARs need to be filed;
- Whether any other record required under the BSA must be made and retained;
- Internal and/or external independent testing for compliance;
- Appropriate, ongoing training of casino personnel;
- An individual or individuals charged with assuring day-to-day compliance (the “AML officer”); and
- Lastly, to assure compliance by integrating and sharing data as appropriate and feasible among different parts of the casino enterprise.

In the interest of maintaining the integrity of gaming, each casino company implements a comprehensive and robust anti-money laundering compliance program that identifies and mitigates its risks and also ensures that it submits appropriate CTRs and SARs as required.

A discussion of criteria for casino compliance programs appears at the website of the Financial Crimes Enforcement Network of the U.S. Department of the Treasury (FinCEN).

This risk-based compliance effort involves many complexities. For our patrons, casinos are generally not viewed as financial institutions, but rather entertainment venues they enter and leave as it suits them. Many patrons are not, and never will be, personally known to casino employees.

Even those patrons who become identified to the casino, because they are frequent visitors or because they require assistance with financial transactions, ordinarily have no reason to disclose to casino employees their business or professional activities. Most are, after all, at the casino to pursue entertainment.

Some, for legitimate personal reasons, may not care to have their gambling activities known. In addition, the relatively small number of patrons who may attempt to launder funds through casinos take considerable pains to conceal that purpose from the casino.



To help address money laundering risks, casinos have developed comprehensive risk-based programs to identify patrons whose gaming activity approaches the CTR reporting threshold. That requires the aggregation of currency transactions from several different parts of the casino: the gaming tables, electronic gaming machines, and casino cage activity, including credit (or marker limit) and front-money transactions.

To detect and report suspicious activity, casino employees and supervisors must make complex, nuanced judgments based on available information about a patron's activities. The legal standard for filing a SAR is a subjective one, applying to situations where the casino "knows, suspects, or has reason to suspect" reportable activity.

Moreover, as stressed in the National Money Laundering Risk Assessment issued by the U.S. Department of the Treasury in June 2015, "most often criminals who use casinos to launder illicit proceeds do it through gambling and spending on entertainment"¹ – the exact same activities that the casino's other patrons are pursuing. Consequently, there is often little observable basis for distinguishing between those patrons laundering funds in the casino and all other casino patrons.

In some situations, suspicions can be confirmed or disproved only with information that is ordinarily unavailable to the casino, or by making inquiries of the patron – for example, concerning the source of the patron's funds. Senior managers – rather than front-line employees – may be best suited to determine whether to make such an inquiry and to conduct the inquiry.

For instance, the matter may involve issues that the casino ordinarily would have no business reason to investigate, and some patrons may have little or no incentive to review those issues with the casino. The involvement of senior managers may facilitate the interaction with the patron, as well as signal the importance of the inquiry.

¹National Money Laundering Risk Assessment, www.treasury.gov/resource-center/terrorist-illicit-finance/Documents/National%20Money%20Laundering%20Risk%20Assessment%20E2%80%932006-12-2015.pdf, page 75, (June 2015).

CASINOS' CULTURE OF COMPLIANCE

Risk-based AML compliance efforts and a strong culture of compliance are essential to the casino industry.²

To promote and foster a culture of compliance, casinos should allocate substantial employee time to AML compliance, which includes:

- Establishing a system of internal controls and policies and procedures to assure ongoing compliance with AML requirements;
- Ensuring independent testing of AML compliance, of a scope and frequency that matches the money laundering and terrorist financing risks present;
- Training casino personnel, as warranted for individual jobs, in the identification of unusual financial transactions or suspicious activities, in the recording and aggregation of currency transactions, and all legal requirements and the casino's compliance policies and procedures; and
- Designating an individual or individuals responsible for assuring day-to-day AML compliance at all venues.

Casinos also should consult with FIN-2014-A007³, which discusses "Promoting a Culture of Compliance."

Forging effective working partnerships with law enforcement agencies is another important way to nurture a culture of compliance, ensuring that employees understand how BSA-required reports are used to achieve national policy goals that may override business concerns.⁴

Casinos also have found it useful to participate in the voluntary information-sharing program with other entities defined as financial institutions under Section 314(b) of the USA PATRIOT Act.

There is no more effective way to foster a positive culture than to have the casino's senior leadership and Board of Directors (whether directly or through the Board's Audit or Compliance Committee) engaged in the AML compliance effort, receiving periodic updates on regulatory developments, changes to the program, resources, and audit findings by regulators and by other independent compliance reviews.

²A good compliance culture is one where doing the right thing is rewarded, and where 'looking the other way' has consequences." Please see Treasury Blog Note by Acting Director of FinCEN, Jamal El-Hindi, Culture of Compliance and Casinos, www.treasury.gov/connect/blog/Pages/Culture-of-Compliance-and-Casinos.aspx (finding that "casinos appear to be steadily improving their anti-money laundering efforts.").

³See also, Advisory to U.S. Financial Institutions on Promoting a Culture of Compliance, FIN-2014-A007 (Aug. 11, 2014), www.fincen.gov/resources/advisories/fincen-advisory-fin-2014-a007.

⁴A recent study by Ernst & Young for the American Gaming Association surveyed officials from twenty-three law enforcement and gaming regulatory agencies and found that the casino industry has made concerted efforts to enhance AML compliance and reporting. Investing in America's Financial Security: Casinos' Commitment to Anti-Money Laundering Compliance, p. 27. www.americangaming.org/sites/default/files/AGA%20AML%20Research%20Report%20Final%20011916.pdf



RISK ASSESSMENT

Because every financial institution is potentially at risk of being used for illegal purposes or accepting funds that were obtained illegally, casinos should identify and assess their money laundering risks and adopt effective measures to mitigate those risks.

The risk assessment should be tailored to each specific casino venue and the nature and characteristics of its location, enterprise and customers. Many factors may be relevant to the risk assessment for a specific casino, but the risk assessment process begins with asking basic questions:

- First, what are the entry and exit points at the casino for patron funds that may come from illicit sources?
- Second, what casino departments or employees are best positioned to detect the entry and exit of such funds?
- Finally, what are characteristics of transactions that may involve illicit funds, or of patrons who are more likely to engage in suspicious activity?

In answering these questions, a casino will assess the BSA-related risks present at different parts of its business. Regulators, independent auditors, and law enforcement officials may also provide important guidance concerning risks that are arising in the financial system generally, and in the gaming industry specifically.

There is no substitute for the exercise of judgment based on experience with casino transactions. Nevertheless, some basic characteristics of a casino's business can guide the assessment of the risk that a casino transaction may involve the proceeds of illegal activity or involve money laundering.

State Regulatory Requirements

Every state that grants casino licenses also imposes exacting regulation on casino operations, though specific requirements vary from state to state. State regulations define the games that can be offered and the rules of each game; they also establish what financial services can be offered and the procedures casinos must follow in providing them. State regulation also will extend to the nature of the surveillance and security measures employed at the casino.

Gaming Volume and Character

Different gaming venues may have differing risks based on their unique product mix and customer pool, while risks may evolve over time as a venue's business model changes.

Because money launderers often deal with substantial amounts of money, they may be drawn to larger casinos with higher gaming activity, where large-value transactions are more frequent and less likely to draw attention, and where the casino's surveillance systems may have greater capacity.

For the same reasons, money laundering may be more likely to involve patrons bringing large amounts of money to a casino and playing games at higher-dollar values. Accordingly, larger gaming venues will likely need more AML/BSA compliance procedures than smaller dollar volume casinos.

Nevertheless, smaller volume casinos must be alert to a patron's departure from ordinary patterns of play and the suspicious use of the financial services offered by the casino; similarly, the structuring of transactions to avoid reporting requirements can occur at any casino, regardless of business volume.



Range of Financial Services

The broader the array of financial services available at the casino (e.g., front-money deposit accounts, marker limit/credit extensions, wire transfer procedures, the receipt and issuance of negotiable instruments, the offering of safe deposit boxes), the greater the opportunity for a money launderer to exploit several different services for illicit purposes.

Characteristics of Certain Games

The rules of certain games may make money laundering more likely. For example, if a game allows patrons to bet either side of a bet (e.g., baccarat, craps or roulette), confederated patrons might bet both sides in order to launder funds through the game. Similar risks may arise in the case of sports betting when a patron places a bet with a legally operating sports book on behalf of an unidentified third party, concealing the origin and owner of the funds.⁵

Because poker is not a house-banked game, transactions at the poker tables may occur between customers, rather than with the casino. Accordingly, the casino may be less likely to detect potential suspicious activity because poker -- unlike table games, race and sports book wagers, or electronic games -- does not afford the casino the ability to determine verified win/loss. If a casino does not permit cash wagering in poker rooms, the risk of money laundering may be correspondingly reduced.

Country Risk

Some patrons with casino accounts may be deemed to present a higher risk if the casino learns that they are non-resident aliens or foreign nationals or residents of countries that have been defined by the United States as jurisdictions of concern for narcotics trafficking, human trafficking, money laundering, terrorism, or other forms of illicit finance, or if the foreign nation has been identified as non-cooperative by the Financial Action Task Force, or if the foreign nation has been identified by Transparency International or a similar reputable organization as having a high level of public corruption.⁶

Politically Exposed Persons (PEPs)

Also known as Senior Political Figures, Politically Exposed Persons (PEPs) are individuals who have been entrusted with a prominent public function, or individuals who are closely related to such persons. PEPs and their transactions may warrant further inquiry and consideration by the casino, such as investigating their source of wealth or funds. As appropriate, casinos should identify and assess the risks of both foreign and domestic PEPs.

Patron Behaviors

Unusual patterns of patron behavior on the gambling floor may suggest the risk of money laundering. For example, a patron's betting activity or his financial transaction activity may increase significantly without explanation.

Or a patron may appear to be coordinating his gaming with another patron or patrons (e.g., passing chips or cash back and forth) in an attempt to evade notice. Or a patron might abruptly change the methods he uses for bringing money into or out of the casino, or unexpectedly use multiple sources or multiple destinations for funds. A patron also may request multiple monetary instruments for a jackpot or wager win.

All of these behaviors may be entirely legitimate, but casinos should be attentive to the risk that they are not. Many of these considerations are detailed further in later sections of this document.

⁵See FinCEN Correspondence with the American Gaming Association Regarding Sports Betting Conducted on Behalf of Third Parties, www.fincen.gov/statutes_regs/guidance/pdf/01162015.pdf, (Jan. 16, 2015).

⁶For example, see the State Department's annual International Narcotics Control Strategy Report and regulations and guidance issued by FinCEN.

In addition, the U.S. Department of the Treasury noted in its 2015 National Money Laundering Risk Assessment, that money laundering activity at a casino most often involves exactly the same activities – gambling and spending money – that all casino patrons engage in.

That reality may limit the utility of applying data analytics to casino information, given that licit and illicit activity so often look the same to the casino's compliance team. Nevertheless, data analytics may help identify certain specific types of illicit activity, such as "bill stuffing" in slot machines.

Results of Independent Audit and IRS Examination

Independent auditors' evaluations and Internal Revenue Service (IRS) examinations of the casino's AML compliance program should be carefully analyzed and reviewed. The casino should undertake corrective actions in response to issues that arise during an examination or audit, and revise its AML program accordingly or make a determination that no such action is necessary.

Patron Characteristics

In some instances, a casino may learn information about a specific patron which warrants further inquiry or examination of the patron's transactions. Examples of such information include formal actions against the patron by law enforcement agencies, public reports of negative information concerning the patron's integrity, or evidence that the patron is under investigation by law enforcement.

When such reports arise about a patron, casinos may wish to review any previous transactions with the patron that may appear suspicious in light of the newer information. Casinos may also determine to review such patron's future activity, if any, after a prescribed period of time (e.g. 90 days).

In addition, information about the patron's financial situation may be relevant, to the extent known by the casino, including (as examples) the presence of IRS tax liens or personal bankruptcies in recent years.

Because all of these criteria are necessarily general, individual casinos have adopted a range of implementation measures and guidelines that aim to detect, block, and report efforts to present illicit funds at casinos.

The following discussion of available compliance techniques should not be viewed as mandatory for every casino. Variations in patron mix, games offered, volume of gaming, and many other factors may render some steps listed below less applicable to a specific casino, or may warrant measures in that casino that are not identified in this document. A discussion of risk assessment factors for casinos (FIN-2010-G002) appears at the FinCEN website, www.fincen.gov, along with responses to Frequently Asked Questions.



BSA/AML COMPLIANCE OFFICER

As required by federal BSA regulations, at least one employee at a casino must be designated as responsible for compliance with BSA and AML requirements, policies, and training, and should be available to other employees to consult on related questions as they arise. The BSA/AML compliance officer should be fully knowledgeable of the BSA and all related regulations.

The BSA/AML compliance officer should also understand the casino's products, services, customers, entities, and geographic locations, and the potential money laundering and terrorist financing risks associated with those factors, as well as how BSA-required reports are used by law enforcement agencies.

The BSA/AML compliance officer, along with the AML compliance function more broadly, should be vested with appropriate authority and resources to implement the program and assist the casino in managing risk.

EMPLOYEE TRAINING

Ongoing training on AML procedures and BSA compliance requirements should be provided to employees who assist with or review patron transactions that may be subject to the BSA. The extent and intensity of the training should vary according to the responsibilities of the employee, but should address CTR and SAR reporting and the casino's AML Program.

Training materials should be updated regularly to reflect regulatory and enforcement developments under the BSA. If such regulatory developments may warrant a revision in the casino's compliance practices, relevant personnel should receive information on a timely basis about both those developments and any revised casino practice.

The following categories of employees should receive training at least once per year, and more frequently if changes in the law or circumstances require it. Following the training, the employees should be required to pass a test on the subjects covered and to sign an acknowledgement form agreeing to comply with company BSA/AML policies.

Training should extend to the following general categories of employees:

- Those engaged in the operation of casino games (table games, poker, slots, keno and bingo, and sports betting), at least beginning with supervisors and above;
- Casino marketing employees, including domestic and international hosts, branch office employees, and if applicable special events employees;
- Cage employees;
- Surveillance employees;
- Property compliance and AML compliance employees;
- Audit employees, including Internal Audit and Fraud Department employees; and
- Senior gaming management, Board of Directors, Audit Committee or Compliance Committee, as applicable.

Training on BSA and AML policies of the casino also may be incorporated in job training for other casino employees, such as dealers.

The casino's AML compliance performance, as well as the compliance actions of individual employees, should be a factor in performance reviews of those employees involved with BSA compliance, and should be considered in calculating compensation and bonus and in determining any negative personnel action, including performance improvement plans through to termination from employment.



PREVENTATIVE STEPS

Casinos should consider adopting policies and procedures that have the purpose of preventing patrons from attempting transactions that have a higher likelihood of involving BSA violations or other violations of law. Such policies and procedures should be tailored to the casino's specific business profile.

Some examples of such policies and procedures may include:

- Requiring that "ticket-in/ticket-out" (TITO) redemptions at slot machine kiosks be capped at an amount determined by the risk assessment for such transactions at that casino.
- Barring cash for cash exchanges above a threshold consistent with the risk assessment for such transactions at that casino, while permitting senior management to approve such exchanges above that threshold for an appropriate business purpose (e.g., foreign currency exchanges for established patrons at reasonable levels). Such approvals should be documented.
- Declining to accept cash to purchase a casino check or other monetary instrument or to initiate a wire transfer. This would not restrict the cage from issuing a check or funds transfer for documented casino winnings, or from doing so in legitimate circumstances. Such approvals should be documented. Concern would be heightened with respect to checks or wire transfers which originate from a labor union, charitable/non-profit organization or foundation, Interest on Lawyer's Trust Account ("IOLTA") or other type of trust account. A casino may determine to reject and/or reverse such checks and wire transfers.
- Issuing casino checks and wires to a patron only for the amount of his/her winnings, in the absence of legitimate circumstances for such actions (e.g. the remaining funds from a cashier's check which already has been negotiated).
- A check for winnings should be payable only to the patron, and a wire transfer should be made only to the patron's account or, if applicable, to the account from which the originating wire was received.
- Casinos may wish to consider adopting procedures allowing cage management or senior management to approve making checks and/or wires payable to the patron's business or other account, or to someone other than the patron, when an appropriate business purpose for the action is documented, and/or an appropriate connection is documented between the patron and the business.
- Suspending a patron's loyalty club account and/or barring the patron if the patron's activity has generated the filing of an incomplete CTR and the patron has declined to produce the required information, until the missing information is provided. Filing a SAR for the episode should be considered. In such instances, the patron may be prohibited from further gaming and redemption of complimentaries.
- Senior management should have discretion on such matters if the patron is cooperative, the complimentaries were already earned, and the expectation is that acquisition of verifying identification will be facilitated by maintaining the patron relationship.
- Although not required by law, directing International Branch Offices of the casino to adhere to the same recordkeeping and reporting requirements under the BSA that are consistent with the laws of the jurisdiction in which the International Branch Office is located.
- Additionally, all traveling marketing executives, prior to travel outside the U.S. should be trained on the laws that relate to gaming and marketing for the specific jurisdiction(s) they are visiting. If a traveling marketing executive is authorized to conduct a financial transaction in an international location, the casino may also need to report the transaction under the BSA.
- Eliminating cash play at poker tables.



CUSTOMER DUE DILIGENCE

The risk-based approach to BSA compliance is driven by a periodic risk assessment that identifies those customers and transactions that potentially pose the greatest risk of money laundering, so higher levels of scrutiny and evaluation can be applied to those situations, when appropriate.

As noted above, the risk assessment allows casinos to determine and implement proportionate controls to mitigate the different levels of risk present in differing circumstances.

Patron Identification and Verification

No front money or marker limit/credit account or safety deposit box agreement will be opened, nor will any transaction involving such services be conducted, unless the patron provides a full name, a permanent address and (for U.S. citizens) a Social Security number (as required by law or regulation). This requirement does not apply to the establishment or use of player loyalty club accounts.

No transaction(s) known to be reportable under the BSA or AML procedures will be completed unless the individual conducting the transaction(s) provides valid, current, Government-issued photo identification, including Government-issued Real IDs and a permanent address.

If the patron asserts that his only permanent address is a post office box, the casino should confirm this assertion by examining available databases and acquiring the patron's attestation to this fact.

Examples of acceptable government-issued photo identification are:

- Driver's License⁷
- Passport
- Alien Registration Card
- State Issued Identification Card (including Real IDs)⁸

Other than a Driver's Authorization Card, a casino generally may rely on government-issued identification as verification of a customer's identity; however, if a document shows obvious indications of fraud, the casino must consider that factor in determining whether it can form a reasonable belief that it knows the customer's true identity.

In some instances, information in the casino's records will suggest that certain information on the official identification document – most often, the patron's permanent address – is no longer accurate.

In those situations, if the casino is able to verify by reasonable inquiry the more recent information, it may wish to report the more recent information on any CTRs and SARs filed for that patron. The reason for using an address other than one on the customer's government-issued ID should be maintained in the casino's records.

If the patron is a U.S. citizen, or a U.S. resident with a Social Security number, a Social Security number is also required, in certain circumstances. Patrons may verbally provide a Social Security number. If the casino knows or has reason to believe that a previous Social Security number provided by the patron was incorrect, then the patron may be required to complete and sign a W-9 Form before any pending transaction can be completed. Casinos should consider filing a SAR if inconsistencies in identifying information are suspicious.

⁷This does not include "driver authorization" cards or international driver's licenses/permits, which are not an acceptable form of identification.

⁸All state issued IDs that are compliant with the Real ID Act are sufficient for BSA reporting purposes, even those that contain the disclaimer, 'Not for Federal Identification.'



If a patron declines to provide a Social Security number when one is required, the casino should not complete any pending reportable transaction with that patron. If the patron has exceeded the reporting threshold for a CTR without providing a Social Security number, a casino employee will attempt to acquire that information from publicly available information. Declining to provide a Social Security number may warrant completion of a SAR for the incident, although it is not, by itself, automatically and in all circumstances a suspicious activity that should trigger the filing of a SAR.

If the patron does not provide proper identification and/or required information, the casino should consider whether to continue engaging in transactions with that patron and whether the patron should be barred from further gaming activity until satisfactory identification and/or the required information is provided. Documentation of the incident should be added to the patron's account in the management information system.

The same patron identification requirements apply to any person(s) who, acting as an Agent(s) for another person, performs transactions on behalf of that patron, and to any person who performs transactions in conjunction with that other patron, if the transactions trigger a CTR filing.

In those circumstances, both the person(s) conducting the reportable currency transactions as well as the person on whose behalf they are acting must provide the identification and required information described above. If any of these individuals cannot provide the identification and/or required information, that individual will be barred from further gaming activity, and the casino will consider filing a SAR.

For purposes of currency reporting, independent agents that contract with the casino are agents for the patron and not the casino if that designation has been established in the independent agent agreement. Independent agents should acknowledge, in writing, the responsibility of the casino under the BSA and the casino's obligations to report suspicious activity and agree to report to the casino any suspicious activity they become aware of.

Although separate from BSA/AML requirements, casinos should check whether patrons and related entities appear on the list of "Specially Designated Nationals" maintained by the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury⁹. Such due diligence may be conducted on a risk basis, and should encompass procedures for checking against updates to the OFAC list.

Ongoing Due Diligence

The casino's compliance policies should be calibrated to increase scrutiny of customer play and background in situations that pose greater risk of money laundering and the use of funds that may derive from criminal activity.

For high-volume patrons, whose activity (in terms of bills-in, marker play, or total play) exceeds a level determined by the risk assessment for that casino or who are otherwise identified as posing a risk of BSA/AML violations, the casino should review the patron's identity against public records and third-party database(s) to determine whether that person (or related entity):

- Is a Politically Exposed Person ("PEP");
- Is the subject of negative reports concerning possible criminal activity or doubtful business practices; or
- Has a prior criminal history, relevant to AML risk.

For high-volume patrons or transactions identified as possibly posing a risk of BSA/AML violations, the casino also may need to assess the source of the funds being used by the patron to gamble and whether they may derive from illegal activity or from legitimate sources.

⁹US persons and entities (including casinos) are prohibited from doing business with persons or entities designated by OFAC, and any assets of the designees must be "frozen" immediately.



This may require the casino to obtain information concerning the patron's financial and business circumstances by querying available databases, through information-sharing arrangements with other financial institutions or through the government's program under Section 314(b) of the USA PATRIOT Act, or directly from the patron, to reach judgments on whether the patron:

- Has sources of wealth or income commensurate with his or her gaming activity; and
- Has provided the casino with identification information and business-related information that can be readily confirmed.

Further due diligence may be warranted if the casino has information indicating that the patron:

- Has financial fiduciary obligations (e.g., trustee, accountant, attorney, nonprofit/charity executive) that may create a risk of misappropriation or other illicit financial activity;
- Is associated with individuals or entities known to be connected with the illicit generation of funds;
- Claims connections with businesses that have no actual operations;
- Proposes transactions with entities of unknown ownership or control;
- Is the subject of substantial tax liens, or has gone through a recent personal bankruptcy proceeding; or
- Otherwise may present an unacceptable risk of money laundering or violating the casino's AML policies.

Databases that may be relevant to consult in such situations include records of court activity such as PACER, the antifraud website maintained by the Federal Trade Commission, the listing of "Specially Designated Nationals" of the Office of Foreign Assets Control (OFAC), and commercial screening products offered by third-party vendors, though such resources are considerably more limited for persons and activity located in non-U.S. jurisdictions.

TRANSACTION MONITORING

On a regular basis, compliance personnel will complete a review of those transactions above thresholds determined by the risk assessment for that casino. To facilitate this effort, data held by relevant casino departments and functions should be consulted, and such data should be shared and integrated to the extent feasible among those relevant departments and functions.

As warranted by the facts of any situation reviewed, compliance personnel may further review third-party databases (as described in the previous paragraph) to determine the patron's business connections and history and any other information that will assist in explaining the patron's transactions or in determining the source of funds presented to the casino by the patron, in order to decide whether or not to file a SAR and/or terminate the relationship.

Circumstances warranting such review may include the following:

- Patrons with large cash-in transactions with no cash-out transactions, which cannot be reasonably explained through transaction review (i.e., little or no gaming activity);
- Patrons with large cash-out transactions with limited cash-in transactions, which cannot be reasonably explained through transaction review;
- Patrons with large credit card advances with limited play;
- Patrons with cash transactions, including aggregated transactions, that are just below the CTR reporting threshold;
- Checks or wire transfers received for the benefit of the patron (or multiple patrons) from third parties whose connection to the patron is not known;
- Multiple transactions over a period of time with the apparent purpose of avoiding BSA reporting requirements; and
- A single payment received by the casino (e.g., negotiable instrument or wire transfer) for the benefit of multiple patrons if the casino cannot determine a relationship or business association between the source of the payment and the beneficiaries.



In addition, compliance personnel should conduct a review of relevant daily audit summaries, logs and reports, such as Marker Summaries, Front-Money/Safekeeping Summaries, multiple transaction logs, Monetary Instrument Logs, Check Logs and wire reports to identify potential suspicious activity.

Based on the result of due diligence reviews of high-volume patrons or of certain events identified by the risk assessment for that casino (e.g., the filing of one or multiple SARs for a patron, or the receipt of a law enforcement request for information concerning a patron), the casino may consider whether to terminate its relationship with a patron. The termination of a patron relationship will be warranted if the patron's activities present an actual or unacceptable risk of violation of Title 18 §1956 or §1957 or the casino's AML policies.

POTENTIAL SUSPICIOUS ACTIVITY

The BSA requires casinos to file a suspicious activity report (SAR) if the casino knows, suspects, or has reason to suspect that a transaction or attempted transaction aggregating at least \$5,000:

- Involves funds derived from illegal activity;
- Is intended to disguise funds or assets derived from illegal activity;
- Is designed to avoid BSA reporting or recordkeeping requirements;
- Involves the use of the casino to facilitate criminal activity;
- Has no economic, business or apparent lawful purpose; or
- Is not the sort in which the particular patron would normally be expected to engage, and the casino knows of no reasonable explanation for the transaction after examining the available facts.

Given that the SAR rule encompasses attempted transactions, casinos should ensure that they monitor both attempted and completed transactions for potential SAR filings.

The following categories are examples of potentially suspicious situations that often will prompt consideration of whether a SAR should be filed under the casino's risk assessment criteria.

Casinos also should consult with FIN-2008-G007¹⁰, which discusses "red flags" for suspicious activity at casinos.

Gaming Floor Activity

- Minimal gaming despite large financial transactions with the casino;
- Structuring of transactions to stay at or slightly below the \$10,000 reporting threshold for CTRs;
- Placing currency in a slot machine, then cashing out after minimal or no play and redeeming the TITO ticket at a kiosk on the gaming floor ("bill stuffing");
- At a racing venue, inserting cash into a tote machine, cashing out for vouchers and then cashing vouchers at a teller's station with little or no wagering;
- A transaction that has no apparent economic, business or lawful purpose (e.g., confederated gamblers placing offsetting bets on red and black on a roulette wheel);
- Patrons pass a large quantity of chips, cash, or TITO tickets between themselves, in an apparent effort to conceal the ownership of the chips, cash, or TITO tickets although if patrons are closely related, such activity may not be suspicious;
- A patron's gaming activity dramatically increases with no known substantiation for the source of those funds;

¹⁰See, FinCEN Guidance, 'Recognizing Suspicious Activity – Red Flags for Casinos and Card Clubs' (July 31, 2008), www.fincen.gov/resources/advisories/fincen-guidance-fin-2008-g007.



- A patron leaves the casino floor with a significant amount of chips in his possession without offsetting chip redemptions or chip buy-ins at another table, and there is no known disposition or whereabouts of the chips, although this may not be deemed suspicious if there is a reasonable, experience-based expectation that the patron will return to the casino in the near future; or
- A patron with a safe-deposit box connected to the poker room accesses that safe-deposit box with a frequency that is disproportionately high when compared to the time and frequency of his poker play.

Race and Sports Book Activity

- Inquiring with race and sports book staff about reporting and identification thresholds either before or after a wager and possibly adjusting wagering activity to fall below the applicable thresholds;
- Structuring wagers across multiple tickets/locations so the payout of each ticket is under the reportable identification thresholds, but in aggregate, would have exceeded the thresholds on one ticket;
- Indications of insufficient wealth or income to support betting patterns; or
- Significant changes in wagering patterns or unusual spike in play that cannot be explained.

Cage-Focused Activity

- Presenting a third-party check or wire transfer – whether apparently deriving from a business or an individual – for payment of markers or for use in gambling-related activity in an amount at or above a threshold determined by the risk assessment for that casino.
 - In such situations, the casino should ascertain whether the beneficiary (patron) has a documented connection to the sender (e.g., spouse or immediate family member or business), either in the casino's records or by means of a database search or other reasonable inquiry. If no appropriate connection can be established between the source of the funds and the patron, those employees responsible for deciding whether to file a SAR also may consider whether or not to proceed with the transaction;
- A negotiable instrument or wire transfer is presented for the benefit of multiple patrons, or multiple patrons engage in play on a single patron account;
- A negotiable instrument or wire transfer is presented for the benefit of an individual and originates from a law firm's Interest on Lawyer's Trust Account (IOLTA) account, or is from a charitable/non-profit organization or foundation, another type of trust or labor union account;
- A patron refuses to provide required information for the completion of a CTR, or identifying information more broadly;
- A patron requests information about how to avoid BSA reporting requirements;
- A patron requests establishment of an "AKA" account in a name other than the one by which the casino knows the patron;
- A patron attempts to deposit front money or to make payments using complex means, such as multiple sources of funds or multiple methods of transmission, which could mask the true source of the funds transmitted;
- A patron presents funds which the casino has a basis for suspecting to be the proceeds of illegal activity;
- A patron presents funds in any form that derive from a foreign jurisdiction declared by the United States government to be a jurisdiction of concern for narcotics trafficking, human trafficking, money laundering, terrorism, or other illicit activity, or if the foreign jurisdiction has been identified as non-cooperative by the Financial Action Task Force, or by Transparency International or similar reputable organization as a country with a high degree of public corruption;¹¹

¹¹For example, see the State Department's annual International Narcotics Control Strategy Report (www.state.gov/documents/organization/239561.pdf) and regulations and guidance issued by FinCEN.



- A patron provides a wire transfer, cashier's check or other form of payment and such instrument reflects that the transaction is being made for a purpose other than related to gaming and;
- A patron presents chips for cashing and there is little or no gaming activity recorded for the patron in the casino's system to establish the source of the chips.

Information from Back of the House

- Law enforcement agencies deliver to the casino a formal request for records concerning the patron;
- News articles or other media reports allege acts of financial wrongdoing or other illegal conduct by the patron;
- Patron is the owner of a business, the nature of which has been profiled by the Federal Trade Commission as high risk for fraud schemes;
- A patron raises his or her financial transactions to levels well above the ordinary levels for that patron with no reasonable explanation.
- An external actor attempts to compromise or gain unauthorized electronic access to the casino's electronic systems, services, resources, or information, in pursuit of illegal activities.¹²

This list is by no means exhaustive; other patron activities may trigger BSA/AML concerns due to the circumstances in which they arise. Each casino should develop its own scenarios tailored to its business.

Further, the SAR requirement encompasses suspicious activity conducted by employees/insiders. Therefore, casinos should have adequate communication lines between the group(s) responsible for employee-related investigations and disciplinary issues, and the team(s) responsible for filing SARs to ensure detection of potential collusion between an employee and customer to circumvent internal policies or ordinary practices, or an employee's violation of casino policies and procedures.

SUSPICIOUS ACTIVITY REPORT REVIEW PROCEDURES

A suspicious activity report (SAR) review – aimed at determining whether a SAR should be filed for a situation – may be prompted by direct observations by property employees, by data analysis performed through back-of-house procedures, or by other means (e.g., incoming law enforcement inquiry).

On an annual basis and as part of its ongoing risk assessment, the casino should review its filed SARs for the previous year to analyze patterns of suspicious activity. The SAR review measures identified in this section ordinarily should be performed by AML/BSA compliance personnel.

In examining the casino's SAR procedures, the casino's review should consider the following components of a SAR compliance effort:

- If prompted by direct observation, information about a transaction and the patron should be gathered promptly (e.g., patron name, Social Security number, player's card number, observed suspicious activity with supporting documentation) without alerting the patron that filing a SAR is being considered;
- The compliance officer or committee will examine the transaction in light of other available facts known about the patron or established during a due diligence review of the situation and the patron, plus the background or possible purpose of the transaction;

¹²Please see, FinCEN Advisory to Financial Institutions on Cyber – Events and Cyber – Enabled Crime (October 25, 2016), <www.fincen.gov/sites/default/files/advisory/2016-10-25/Cyber%20Threats%20Advisory%20-%20FINAL%20508_2.pdf>



- Based on that investigation, the compliance officer may determine that there is a reasonable, non-suspicious explanation for the transaction and that no SAR should be filed, or that a SAR should be filed; and
- In either event, the compliance officer will make a record of that review and its conclusions. The situation then may be reviewed by the casino's SAR Committee or those employees responsible for SAR filings. If that review determines that a SAR should not be filed, the reason for not filing should be documented.

Among the further steps that may be warranted:

- Review when a single patron conducted payments to or deposited funds with the casino through the use of multiple instruments deriving from more than one financial institution, in an aggregated amount exceeding a threshold determined by the casino's risk assessment, or in transactions spread over multiple days in an aggregated amount exceeding such a threshold;
 - Trace redeemed sports tickets above a certain transaction amount, consistent with the casino's risk assessment, to the original wagers to determine whether the patron redeeming the ticket was the same as the patron making the wager;
 - Ensure that the casino has identified those individuals (some of whom may be independent agents registered with state regulatory agencies) who have organized visits to the casino by patrons and that all patrons arriving due to the efforts of such individuals have been identified so that available funds for each patron are accurately reflected in the patron management system and the play of each patron is recorded as warranted;
 - For chip redemptions in excess of a threshold determined by the casino's risk assessment, examine recorded play to determine whether the patron had a significant value of unredeemed chips at the end of play and how the chips were obtained;
 - For front-money deposits and marker payments above a level consistent with the risk assessment for that casino, analyze that patron's deposit and payment patterns;
 - Gather the technical details of relevant electronic activity, including IP addresses, timestamps, Indicators of Compromise (IOCs), and other data regarding the digital footprint of the individuals behind the activity when responding to an external attempt to compromise or gain unauthorized access to electronic systems, services, resources, or information (such as through an e-mail compromise scheme); and / or
 - If the casino participates in voluntary information sharing under Section 314(b) of the USA PATRIOT Act, it may contact officials at other participating casinos or banks or other financial institutions for additional information concerning a patron's business connections and other relevant matters.
-
- Receipts for slot tickets purchased with chips will be reviewed if they exceed a threshold determined by the casino's risk assessment, to determine if those tickets were used for gaming or cashed out.
 - Once a decision has been made to file a SAR, the fields on the SAR form must be completed correctly and thoroughly, and the narrative should be sufficiently detailed to explain the circumstances, individuals, and amounts involved. Explanatory documents and other due diligence materials acquired from the transaction/ patron should be maintained and, where appropriate, be attached to the copy of the SAR retained by the casino as part of the casino's recordkeeping processes.
 - A SAR should include all contact information (e.g., mobile telephone numbers, email addresses) that is reasonably available from the casino's records for those persons who are the subject of the SAR.
 - In some circumstances, when a SAR is filed for a patron, compliance personnel should evaluate further activity by the patron for the following 90 days, and consider whether a continuing report of suspicious activity should be filed within 120 days of the previous SAR.
 - When one or more SARs is filed for a patron's activities, casino management may consider whether the casino wishes to continue its relationship with that patron.
 - Casinos also shall establish controls for maintaining the confidentiality of SARs and any information that reveals that a SAR was filed.



AUDIT PROCEDURES

The BSA regulations require independent testing of the casino's overall program, as well as specific functions, by qualified independent auditors. The independent test must cover all elements of the casino's AML program, including but not limited to:

- Customer due diligence;
- Transaction monitoring;
- Required reporting and recordkeeping;
- Training; and
- The AML Officer function.

Independent auditors of BSA/AML compliance may be either external or internal to the casino, depending on the casino's corporate structure and practices.

The independent auditors should report their findings to senior management officials who have the authority to direct those corrective actions warranted by audit findings.

For each audit finding that raises concerns about the casino's AML program, as well as findings by independent auditors or Internal Revenue Service examiners, the casino should undertake corrective action or make a specific documented determination that no such action is necessary.

If the casino utilizes an internal audit function, that function must be independent from AML compliance, in order to ensure the independence of the internal audit function. Casinos also may consider a reporting process to communicate to the Board of Directors the results of AML independent testing.

Independent Testing Procedures for CTRs

On a scheduled basis, the casino's independent auditor, or audit team for CTR filings, will review currency transactions by using all relevant records, including but not limited to Multiple Transaction Logs (MTLs), player-rating records, and patron deposit and withdrawal records, that were prepared during the 24-hour reporting period, as well as all system reports for the period.

A detailed audit program should be maintained to document all audit procedures performed by independent auditors.

An initial audit should ensure:

- That a CTR has been prepared for all reportable transactions – either single or aggregated – that exceed \$10,000;
- That the information recorded on the CTR is complete and accurate; and
- CTRs shall be electronically filed within 15 days of the transaction date.

If the initial findings indicate possible weaknesses in the AML program, the audit may need to be expanded to confirm or disprove those indications.

The Monetary / Negotiable Instrument Log (MIL/NIL) will also be reviewed by independent auditors for proper completion and for retention for at least five years.



A system query should identify those patrons, if any, who inserted into a gaming device bill validator(s) funds in excess of a threshold determined by the casino's risk assessment. For patrons who have reached the log threshold for the gaming day, the total of their inserted bills shall be entered onto the multiple transaction log for reporting when required by law.

All currency transactions above an amount established by the risk assessment for that casino will be logged, with the exception of slot jackpots, which are not reportable on CTRs.

Exception notices will be prepared for all instances of noncompliance noted during the daily audit, including but not limited to logging errors, MIL/NIL completion errors, inaccurate identification, missing information and other requirements not met.

The exception notices should be sent to applicable casino supervisory personnel at the conclusion of the independent audit and secondary review. Exception notices should be returned within a reasonable time indicating corrective action taken, and the results of these periodic audits should be part of the firm's overall independent testing.

Independent Testing Procedures for SARs

The independent test function will establish testing parameters for both SAR and no-SAR decisions. This review will consider the completeness of investigation processes and documentation and timeliness of the review. In instances where SARs were filed, the independent auditors will test the completeness of SAR fields and narrative and timeliness of the filing. This review also should test the casino's monitoring systems (if appropriate) and how the system(s) fits into the casino's overall suspicious activity monitoring and reporting process.

The independent auditors will test information flow across the casino, including but not limited to the fraud/security and host functions, as well as test whether information regarding employee misconduct is appropriately communicated to the group responsible for SAR decisions.

When evaluating the effectiveness of the casino's monitoring systems, independent auditors should consider the casino's overall risk profile based on its products, services, customers, entities, geographic locations volume of transactions, and adequacy of staffing.

RECORDKEEPING AND RETENTION

The casino shall adopt a recordkeeping system to preserve the following for each patron who is the subject of customer due diligence procedures:

- A record of those specific procedures performed to analyze a patron's gaming patterns and financial transactions;
- Any due diligence report created;
- Any risk determination; and
- Any action taken as a result, including monitoring of the patron, reports to law enforcement agencies, or changes in casino services available to the patron.

Such records should be maintained for at least five years after the relationship is terminated.

The casino also shall maintain CTRs, SARs (and supporting documentation) for at least five years after filing. In order to assist law enforcement, the casino may elect to establish a protocol for receiving and responding to authorized requests for SAR supporting documentation without a subpoena.



CONCLUSION

These steps reflect the continuing efforts of the AGA member casino operators to mitigate the risks of money laundering and illegal activity connected with their businesses. The guidelines in this document must be adapted to match the specific circumstances of individual casinos and companies.

When dealing with businesses as complex as modern casinos, and with judgments as subjective as those required by the BSA, no compliance effort can be perfect or immune from retrospective re-evaluation.

Casinos should reconsider their AML/BSA compliance efforts on a regular basis to ensure they account for new risks and emerging patterns of illegal activity.

Though perfection cannot be expected of a process that involves so many variables and periodic shifts in financial practices and regulations, effective AML/BSA compliance programs should ensure that the gaming industry continues not to attract significant illegal money laundering activity.



GLOSSARY

Bank Secrecy Act (“BSA”): Adopted in 1970 and amended several times since, the statute authorizes the U.S. Secretary of the Treasury to impose on U.S. financial institutions the requirement to keep such records and submit such reports that have a high degree of usefulness in criminal, tax, and regulatory matters and in the conduct of intelligence activities to protect against international terrorism. 31 U.S.C. §§ 5311, et seq.

Cage: A secured area adjacent to the gambling floor of a casino where casino cashiers conduct marker/credit, front-money and other gambling-related transactions, and where currency and chips are often kept. Safe-deposit boxes are often available at the cage. A large casino may have more than one cage location.

Chip Walk: When a patron leaves the casino floor with a significant amount of chips in their possession without offsetting chip redemptions or chip buy-ins at another table, and there is no known disposition or whereabouts of the chips. A chip walk may not be deemed suspicious if there is a reasonable, experience-based expectation that the patron will return to the casino in the near future.

Credit: Under the regulations of many state licensing authorities, casinos are authorized to issue gaming chips or other representatives of value to patrons for gambling purposes up to the amount of a “marker” (see below), which is a negotiable instrument signed by the patron and made out to the benefit of the casino by the patron. Although state regulations refer to such arrangements as credit transactions, the markers may be negotiated immediately at the discretion of the casino.

Front money: Cash, wired funds, or negotiable instruments that are deposited with the casino by a patron who will draw down on those funds for gambling. Front-money accounts are sometimes described as safekeeping accounts.

Interest On Lawyer’s Trust Account (IOLTA): A financial account set up by a law firm, in which the funds are held in trust for the benefit of the firm’s clients, and are by state law or supreme court rule to be held separate and apart from the funds belonging to the law firm.

Marker: A negotiable instrument (sometimes called a “counter-check”) executed by a casino patron and made payable to the casino that authorizes the casino to recover the amount of the marker from the patron’s bank account. The casino will advance funds to the patron up to the amount of the marker. Under state casino regulations, casinos are not required to conduct full credit investigations before issuing a marker, but will confirm that the patron’s bank account contains sufficient funds to cover the requested marker.

Monetary/Negotiable Instrument Log: Required by the BSA, it must reflect transactions of monetary instruments (e.g., money orders, cashier’s checks, traveler’s checks and bank drafts) between the casino and the patron with a value above \$3,000.

Multiple Transaction Log: This is a record of cash-in and cash-out transactions at or above pre-determined amount which also records identifying information about the patron in order to determine when a person is approaching or has exceeded a reportable threshold.

Risk Assessment: The formal process of examining a casino’s mix of gambling activity, patrons, and overall economic environment in order to identify those activities and levels of play or other transaction that pose a risk of money laundering to be addressed by the casino’s AML compliance procedures.

Ticket In/Ticket Out (“TITO”): A system for slot machine play through the use of a barcoded paper ticket. The ticket may be purchased in advance of slot machine play, or issued from the slot machine if there are credits remaining at the conclusion of the patron’s gaming session. When the patron has completed his play, balances on the ticket can be redeemed for cash at a kiosk or the casino cage, or used for further play at the casino that issued the ticket.



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Policy Considerations for Regulation and Oversight of Gaming and Wagering Equipment

July 12, 2019

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Introduction

Any regulatory scheme should be designed to protect the integrity and accountability of the industry through investigative, licensing, enforcement of laws, regulations and in the case of gaming and wagering equipment, technical standards. Properly protecting the integrity and accountability of the industry and specifically the gaming and wagering equipment is critical to the growth and success of the industry as it instills public trust and confidence that the gaming and wagering activity is conducted fairly.

Gaming jurisdictions around the world differ in their approach to ensuring the integrity and accountability of gaming or wagering equipment, or gaming technology, but best practices have emerged over the past 20 years which should be considered by any jurisdiction, new or existing, in the areas of the testing, approval, and ongoing oversight of gaming technology operation.

About the Authors



André Wilsenach, Senior Vice-President, Government Relations

André Wilsenach is a graduate of the University of Pretoria, South Africa and amongst others worked for the Africa Institute of South Africa, the Development Bank of Southern Africa, Ernst & Young as well as the South African Government prior to a longstanding career in gaming regulation.

Wilsenach's career in gaming started in 1995, when he was appointed to the South African Lotteries and Gambling Board which was set up to advise the Mandela government on the legalization of gambling in South Africa. During the period 1995 to 2000 he was the Executive Officer of the Mpumalanga Gaming Board while serving as a member of the National Gambling Board. In 2001 he was appointed as the first Executive Officer of Zonke Monitoring Systems, a private company established to render electronic monitoring services to the National Gambling Board of South Africa. In 2002 he was appointed Executive Director of the Alderney Gambling Control Commission which regulated online gambling. In 2016 he joined the University of Nevada Las Vegas to set up the International Center for Gaming Regulation. He held the position of Executive Director of the Center until the end of 2018.

André is a former President of the International Association of Gaming Regulators and an active member of the International Masters of Gaming Law and the International Association of Gaming Advisors.



Travis Foley, Chief Operations Officer

Travis Foley is a graduate from the University of Nevada Reno with a degree in Electrical Engineering. Foley's career in gaming started in 1996 while working for a gaming device manufacturer developing gaming devices and associated equipment for the Nevada gaming market. In 1998 he joined the Nevada Gaming Control Board as a Lab Engineer. Travis spent over 13 years with the Nevada Gaming Control Boards Technology Division where he ultimately was appointed as the Chief of the Technology Division.

During his career with the Nevada Gaming Control Board, he was involved in the creation of regulations and standards for new technologies such as server based gaming, system supported gaming, and mobile gaming and oversaw the testing and deployment of these and other new technologies such as mobile sports wagering, cashless wagering, and mobile gaming.

Background

Over the last 38 years BMM has invested specifically to grow our global footprint and provide worldwide coverage for the fast-growing regulated gaming markets. We currently have 14 locations, are approved in all other major commercial jurisdictions in the United States, and service over 440 gaming jurisdictions globally with 330 serviced in North America.

Dating back to the early 1980s, well before any private gaming lab was conceived in the United States, one of BMM's first assignments was to assist the Victorian government gaming regulator with the upgrade of the computer systems for its off-track betting system, the Victorian TAB. The result was a highly reliable system that ran successfully for over 20 years. In 1983, BMM was asked to undertake electronic gaming machine software validation on behalf of the Tasmanian Gaming Commission for Australia's first casino, Wrest Point, in Hobart, Tasmania. Over the course of the next 10 years, BMM conducted and managed testing, certification and interoperability tests for the fast-growing Australian industry, and on behalf of all Australian regulators.

In 1992, BMM established a full hardware, software, and integration laboratory to meet the compliance certification requirements for the newly established gaming industry in Victoria. Based on the success, BMM further expanded our operations to cover all Australian and New Zealand gaming jurisdictions, continuing to test and certify all forms of gaming, wagering, and lottery systems.

By the late 1990s, BMM was firmly established as the leading independent gaming systems test lab recognized by all regulated gaming jurisdictions in Australia, New Zealand, and Southeast Asia, and widely recognized as the most experienced and technically competent. The technical standards BMM authored on behalf of the Victorian gaming regulator served as the basis for the

Australian and New Zealand Gaming Machines National Standards and have since been used in the development of a number of other widely recognized electronic gaming machine technical standards globally.

BMM played a key role in the development of the technical standards adopted by virtually all Australian and Asian gaming regulators, and is widely recognized as the largest, most thorough and experienced Accredited Testing Facility in Australia and Asia.

From a global perspective, BMM continues to be actively involved with every major market as well as emerging markets. BMM has participated in technical committees for Singapore and Macau in the drafting of standards. In addition, BMM is currently working in Latin American countries such as Peru, Colombia, Chile, and Bolivia as well as several provinces in Argentina as they embark in the process of improving their technical standards or trying to implement oversight of the regulators. BMM is committed to working with regulators through active involvement in the process of developing technical standards, minimum internal controls, trainings, and field audits.



In North America specifically, BMM established its first North American operations in 2001 in Las Vegas Nevada. Since then, BMM has relocated its global headquarters Las Vegas, built an outstanding and diverse team of professionals all while actively obtaining the licenses necessary to provide effective coverage for all major gaming manufacturers in the North America.

Gaming Equipment Testing Strategy

Globally, it is widely accepted that prior to exposing gaming technology to the public that the gaming technology must be tested and approved. Jurisdictions differ in their strategy as to who conducts the testing of gaming technology. Before the proliferation of regulated gaming, testing was generally conducted by gaming regulators. Jurisdictions such as Nevada and New Jersey opted to establish a testing laboratory in-house staffed by employees of the regulator at a time when independent testing laboratories (ITL) did not exist. During expansion of gaming to other states, jurisdictions such as Michigan, Mississippi, and Pennsylvania also chose to establish in-house laboratories. Due to the global nature of the gaming industry, budget and bureaucratic restrictions, the pace of technology evolution, and speed with which equipment can be approved to maintain a competitive balance with neighboring jurisdictions, the predominate decision or best practice among both new and well established gaming jurisdictions today is to outsource the testing activity to accredited independent testing laboratories.

Once the decision has been made to outsource testing services, the method in which is chooses to do so can have a significant impact on the success and economic marketplace of the industry. Jurisdictions can decide to recognize a single ITL or multiple ITL's to service the jurisdiction. If the jurisdiction chooses to recognize a single ITL, it can create an environment of public policy risk as well as limit the success of the overall testing strategy.

Public Policy Benefits of Multiple ITL Use

The use of a qualified certification ITL should be exactly like the use of any other professional service firm. ITL's professional services are not unlike a lawyer, accountant, doctor, a pharmacist or a veterinarian. As with all professional firms, they are independently accredited to offer the services they provide, and private entities or individuals have a choice to pick the services of any and all who qualify. When no such choice exists, the end result is a state-sponsored monopoly, where one firm decides the timing and priority of all gaming product submissions and certifications in the jurisdiction.

All gaming manufacturer licensees in the state are forced to utilize the exclusive ITL. The exclusive firm is wholly immune from market-based forces such as service, price and quality.

The use of multiple qualified certification and testing firms will better support the jurisdictions gaming objectives of timeliness and competitiveness in the face of stiff competition from other nearby gaming jurisdictions.

The allowance of multiple ITLs would:

- **Allow for a greater level of transparency** to the testing process and the selection of ITLs.
- **Prompt delivery of competitive products to the marketplace** through greater testing capacity and fewer backlogs. With only one ITL, many manufacturers and suppliers are unable to get timely product approvals. In particular, small manufacturers that have less overall business to give to the current ITL frequently fall victim to higher priorities given to the larger companies. In some instances, certain manufacturers even refuse to use the sole ITL, effectively meaning their product, innovative or otherwise, will never be offered in the jurisdiction. Prompt testing of the products will also result in the jurisdiction receiving its tax revenues more quickly. Further, manufacturers often introduce their newest products, which typically generate more revenues, in jurisdictions which promptly and efficiently test them. Those jurisdictions which are slower in testing, often obtain the products later, which causes state tax revenues to be received later.
- **Allow for competitive pricing.** Multiple ITLs promote price competition and improve the quality and efficiency of the testing process.
- **Allow the regulator to utilize and leverage the extensive training, consultation and support** offered by multiple certification firms to the regulator as a key stakeholder in the process, at no cost to the regulator. This is particularly critical given the pace at which gaming technology keeps changing in this space. ITL's are important partners to the regulatory bodies in this process of ensuring that the jurisdiction and its personnel remain on the cutting edge of understanding and approving the most-advanced products the gaming industry has to offer.
- **Ensure access to multiple points of view** on policy, rules, industry happenings and game standards, leading to more comprehensive regulatory review and, ultimately, more effective regulation.
- **Provide an important check and balance** against one ITL's uncontested and unfettered opinions as they relate to product certification matters. It is important to have a "checks and balances" approach to any matters that arise with respect to a service an ITL provides.

Developments Across the Country

Regulators in Indiana, Kansas, Delaware, Colorado, Missouri, Michigan and Nevada have made the switch to a multi-lab market. In jurisdictions where gaming was just becoming legalized, such as Ohio, Maryland and Massachusetts, regulators also elected for a multi-lab model.

Regulators in New York published a framework for a multi-lab testing model following the expansion of gaming in that state. Arkansas regulators also opened their compliance market to competition. Illinois, the last remaining state utilizing a sole source ITL, has recently passed legislation ensuring a multi-lab competitive environment.

Based on these recent decisions, 100 percent of the commercial gaming jurisdictions in North America that use independent testing labs now allow a multi-company market.

Rather than pursue procurement where an exclusive choice is made between vendors, the overwhelming recent trend across the country has been to follow the worldwide model and open this market to qualified and accredited companies that can complete the compliance testing on behalf of the state. Additionally, the established best practice is to allow the manufacturers and suppliers to choose which jurisdiction designated ITL they wish to use.

Like any other professional service in the gaming industry, independent testing labs should be licensed, qualified and accredited to perform their work.

Minimum ITL Requirements

When using multiple ITLs regulators have defined the minimum qualifications required to be licensed or recognized. This minimum criterion is important to ensure that the ITL's can provide quality test results where the gaming equipment meets the expectations of the jurisdiction.

Common minimum requirements for an ITL include:

- Must be able to demonstrate independence from manufacturers and operators
- Must be accredited in accordance with ISO/IEC 17025
- Demonstrate technical competence or experience
- Key personnel are subject to individual background investigations

According to most regulatory agencies, in order for an ITL to be considered independent from a manufacturer, distributor, or operator, the ITL or its employees must not have any financial interest in a manufacturer, distributor, or operator. The ITL must also not be involved in the manufacturing or design of the products it tests. An ITL can indicate if they believe something is compliant or not but cannot provide direction on how to comply.

At minimum, an ITL must hold an ISO/IEC 17025 accreditation from a reputable agency. The 17025-accreditation summarized as, "General requirements for the competence of testing and calibration laboratories," outlines the requirements for the competence to carry out scientific tests through the establishment of management systems for quality, administrative and technical operations. Obtaining and maintaining this accreditation demonstrates the competence to perform testing services. Jurisdictions may also require the testing lab to hold an

ISO 17020 accreditation if it intends to utilize field services from the independent testing laboratory. ISO 17020 applies to inspection bodies, where examination of a product for conformity with standards once placed in the field is desired.

Beyond the competency needed to obtain and maintain the ISO 17025 accreditation, some jurisdictions look to have the ITL demonstrate competency in the areas of gaming technology and gaming regulations through experience and existing services. While subjective, this can be demonstrated through the known history and competence of the testing laboratory, the jurisdictions services are provided to, and the skill sets of the laboratory staff.

Finally, gaming jurisdictions typically require ITL key personnel to be subjected to individual background investigations. This routinely includes ownership and executive management.

The Certification and Approval Process

Once the product from a manufacturer is submitted to an ITL, the product is then put through a series of tests. Once the product is deemed suitable in accordance with regulatory requirements, the ITL prepares and disseminates a certification report and provides it to the requesting manufacturer. This certificate of compliance is then provided by the manufacturer to relevant regulatory authorities as a viable product for that gaming market. The regulatory agency then issues the approval based on their own internal set of internal controls.

The approval process once the certification report from an ITL is received, should be one that does not hinder the ability for new technologies to reach the casino floor; however, it is recommended that the regulator issue final approval based on the ITL recommendation. BMM believes the most effective process is one where the regulator issues approval based upon the completeness of the submission and the positive recommendation where reserving the right to perform additional review of the product.

A risk-based approach would focus on new products or new functionality not previously seen with the jurisdiction. For example, a brand-new gaming device platform would typically be reviewed in detail prior to final approval. However, a payable change or a change to graphics typically would not require any additional review.

There is no evidence to suggest that the risk-based approach has any significant increase or risk to the jurisdiction.

Technical Standards for Gaming Equipment

All jurisdictions utilize a set of minimum requirements, or technical standards, which gaming and wagering equipment must adhere to in order to be deemed allowable for public consumption. These standards can be very comprehensive or simple; however, all are intended to ensure the integrity and accountability of the gaming technology.

Best practice and the most common framework are for a gaming jurisdiction to ensure they have the authority to develop and adopt their own standards for gaming equipment. In North America, approximately 95% of all standards are effectively equivalent. All regulatory standards are a variation of existing standards, such as Nevada and New Jersey as well as those offered and recommended by ITLs. ITL developed standards are commonly accepted in whole or in part when regulators are developing their own standards. Regardless of the origin of the standard, it is important for the regulator to have the ability to modify industry accepted standards to fit their overall statutory, regulatory, and environment requirements and needs.

BMM Recommendations:

- Regulators should employ subject matter expert(s) to evaluate, interpret and enforce standards.
- BMM believes in standardization but recommends that each jurisdiction adopt their own standards even if identical to other publicly available standards.
- Each jurisdiction should ensure that the standard adoption process is one that can keep up with the pace of changing technology while allowing for industry input into the process.

The most critical recommendation is that of employing subject matter expert(s). This is necessary as one of the most challenging areas with technical standards is the understanding of the intent of the regulatory standards. Also, it is important to have subject matter experts that can provide oversight of ITLs. Ensuring the ITLs are properly applying technical standards and are held accountable for the quality of their work is important to the overall success of the testing process.

The second recommendation above may sound confusing since we support standardization but are recommending the adoption of standards by each jurisdiction. This recommends that each jurisdiction adopt their own standards while making every attempt to use industry common standards. For example, a jurisdiction could adopt an ITL, Nevada, etc. standards but should do so by adopting the language in the standards and avoid simply calling out the standard by name. The reason for this is that using a state standard such as Nevada could create challenges as the Nevada standards at times may specifically address requirements unique to Nevada. Using the

standard from GLI without adopting the specific language of the standards could undermine the authority of the regulator and call independence into question, even if simply perception based.

Finally, it is critical that the adoption process for standards be one that does not hinder the ability for standards to be updated or added to address new technology expeditiously. Technology can change quickly and the inability to update standards in a timely matter will result in delays for new product to get to the market. Any process put in place should also ensure industry input into the rulemaking process.

Internal Control System

The purpose of an Internal Control System (ICS) is to provide operating licensees with a set of minimum internal controls, which form the basis for regular onsite and offsite audits of the licensee's operation to assess whether the licensee is conducting its business in a controlled manner and in conformity with all the laws, regulations and the procedures and standards contained in the ICS.

As against the technical standards which are more prescriptive, the ICS serves as a set of guidelines or directives which i) allows the licensee to assess the extent to which these controls are applicable to its business, ii) to be used as a basis for agreeing with the Regulatory Authority the controls that are appropriate to the licensee's business; and iii) serves as the basis for the Regulatory Authority to conduct its audits.

Following from the above, the Regulatory Authority in the first instance publishes a set of Minimum Internal Controls (MICS). The licensee is then required to review the MICS with a view to prepare a written system of internal controls delineating detailed operating procedures that broadly comply with the MICS. It is normal practice for the licensee's written system of internal controls to be reviewed by an independent accountant who is required to confirm annually that the system complies with the requirements set out in the MICS. It is also the licensee's duty to ensure that all its employees are trained to comply with the MICS in conducting their daily gaming operations.

Importantly, the ICS is a 'living document' and can be amended by the licensee to take account of operational changes and circumstances subject to regular reporting and approval by the Regulatory Authority.

The ICS typically provides for the following:

- i) **Administrative control**, which includes details of the licensee's organizational structure and details all appropriate procedures and decision-making processes regarding the administration of transactions.

- ii) **Controlling gaming taxes**, forms an important component of the licensee's control system. The ICS should establish administrative and accounting procedures for the purpose of determining the licensee's liability for taxes and fees under the relevant statutes and for the purpose of exercising effective control over the licensee's internal fiscal affairs.
- iii) **Accounting control**, which includes the structure of this function, and all procedures and records concerning the safeguarding of assets and the reliability of financial records, so as to provide reasonable assurances on the following:
 - a. Transactions are executed in accordance with management's general and specific authorization, including the requirements of the jurisdiction's online gambling legislation.
 - b. Transactions are so recorded to permit the preparation of financial statements
 - c. Access to assets is permitted only in accordance with management authorization.
 - d. The segregation of incompatible functions so that no employee is able to perpetrate or conceal errors or irregularities or engage in theft or other collusive and improper behaviors.
- iv) **Controls applicable to the offering of various gaming and wagering products** (e.g. bingo, casino slots, poker, card games, keno, pari-mutual games, race and sports and table games)
- v) **Controls applicable to cage and credit**, which are typically applicable to race and sports, slots, keno, bingo and the cage deports.
- vi) **Controls applicable to all information technology**, including gaming and entertainment tax related applications, and the underlying databases and operating systems.
- vii) **Control over the operation of customer accounts and the protection of player funds** in the case of online gaming and wagering.
- viii) **Safeguards in relation to the physical and electronic security** of the licensee's systems.
- ix) **Policies, procedures and controls for the purpose of forestalling, preventing and detecting money laundering and terrorist financing.**

Although ITL's would not typically become involved in the auditing of the ICS, they should consider the minimum internal controls in conducting its testing and certification of gaming and wagering products and systems.

Conclusion

BMM cannot emphasize strongly enough the significant economic impact that regulatory authorities have in the gaming industry, something which is not always well appreciated. The role of gaming regulators is not merely limited to their statutory obligations of addressing probity, integrity, skills and safety, but also impacts the economic aspects of the industry, specifically, in so far as it relates to their procurement practices. Although, most jurisdictions

around the world follow a transparent, fair and competitive approach towards the procurement of ITL services, we have seen first-hand the negative impact that sole-source procurement practices can have on the efficient commerce of equipment manufacturers, operators and regulators – not only in their home jurisdiction but regionally and globally.

BMM wish to encourage existing and new jurisdictions to take advantage of the wealth of experience of regulators, manufacturers, independent testing laboratories and others to develop a testing and compliance strategy which incorporates best practices that provide for an open, fair, and transparent environment.



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GLI Europe BV
GLI Italy
GLI South America

July 11, 2019

Mr. Robert Russell
Gaming Analyst
Regulatory Management Counselors, PC
321 West Lake Lansing
East Lansing, MI 48823

RE: Virginia Gaming Governance Structure Project – Qualifications for Testing Laboratories

Dear Mr. Russell:

Per your request, I am writing on behalf of Gaming Laboratories International, LLC (GLI), to summarize the policies governing quality assurance for laboratories that test gaming equipment on behalf of government gaming regulators. This critical function is something that is required by every recognized gaming regulator in the world, which represents approximately 475 government and tribal agencies and organizations. The requirements outlined below represent global best practices for ensuring only qualified labs are approved, the testing is of the highest quality and labs are truly independent and serving at the direction and control of the regulator. This letter is formatted so that certain items highlighted in bold text can help enumerate the **list of best practices** that we are recommending based on GLI's 30 years of experience as the most widely utilized gaming equipment testing laboratory in the world, serving more than 475 government regulators globally.

Process for Certification of Testing Laboratories

It is very important to have a robust process for the certification of testing laboratories to ensure independence and quality of testing. In the U.S. this was originally done by the issuance of competitive RFPs to select a single lab of the highest quality that reported directly to the regulator. Heavy lobbying by less qualified labs has led to the demise of this method, but it remains the best way to ensure that the most qualified lab is doing the testing and provides the regulator with the most control over the testing process.

As a result, the most prevalent method of ensuring the quality of gaming equipment testing involves having the regulatory agency establish strict qualifications for testing labs that must be independently verified by the regulator. This requires a detailed investigation of the testing laboratory, its ownership, management and key employees. The investigation includes a thorough review of the company's finances, capital structure, physical plant, equipment, personnel and testing processes.

The laboratory certification process is similar to a licensing process but does not involve the granting of a license, but rather the issuance of a certification to test on behalf of the regulator. The reason is two-fold. First, testing laboratories are not involved in the operation of gaming, but rather are service providers for the regulatory agency. Thus, licensing is not the correct tool for overseeing lab quality and suitability. Second, there are often many requirements in gaming statutes and regulations that apply to all licensees. If the gaming laboratory was licensed, it would be looped into these requirements, which are often inappropriate to an entity that is a service provider to the regulator.

The cost of the certification should be borne by the licensee. This is typically accomplished by a registration fee to cover the costs of a full investigation, a review of testing processes, tools and personnel and an on-site visit of the principal location where testing will be conducted. We suggest a \$15,000.00 initial non-refundable registration fee, which should be sufficient to cover the costs. It is also useful to provide that if the costs of the investigation exceed the registration fee, the applicant is responsible for paying the balance. In addition, an annual fee of \$10,000.00 would cover the cost of recertification with the balance going into a fund for the gaming regulator to pay for the cost of ongoing technical training, technology tools used for managing/validating gaming equipment and consulting.

Minimum Laboratory Qualifications

Independently evaluating gaming equipment is a highly skilled process that requires a variety of specific qualifications, equipment, facilities and resources. The following is a list of basic qualifications that are essential to establish the minimum qualifications needed to ensure the regulator that the laboratory's work can be relied upon and that it maintains the appropriate level of expertise and independence. If high standards for minimum qualifications are not set and accompanied by a robust verification process, a "race to the bottom" ensues, where unqualified, poorly staffed and equipped labs are performing testing that serves the interests of their financial gain and self-interest rather than putting quality first and the focus on maintaining the integrity of Virginia's regulatory requirements.

ISO Accreditation

The International Organization for Standardization (ISO) is the worldwide organization responsible for the development and publication of consensus-based standards embraced by both government and private sector firms to ensure superior quality performance, dependability, and equity in their operation. Accreditation bodies are independent organizations that are assessed through an international peer evaluation process that certifies an accreditation body to grant, deny, suspend and revoke the accreditation status of any lab they have accredited against the applicable ISO standard. Accreditation bodies that are certified through this peer evaluation process become signatories to a mutual recognition agreement administered by the International Laboratory Accreditation Cooperation (ILAC). The American Association for Laboratory Accreditation (A2LA) is the largest multi-discipline accreditation body in the U.S., and the second largest in the world, and is a signatory to the mutual recognition agreement. Thus, it is important that the regulator validate that a laboratory has ISO accreditation, and that it is from a trusted accreditation body.

The first step in the regulator's due diligence process should be to ensure that the laboratory is accredited to ISO/IEC 17025:2017, *General requirements for the competence of testing and calibration laboratories*. When a laboratory is accredited to ISO/IEC 17025, the accreditation body issues a certificate attesting to the laboratory's technical competence for a defined scope of testing and the operation of a laboratory's Quality Management system. This accreditation gives assurance to the regulator that the laboratory complies with the requirements of the ISO standard; however, the regulator should implement a process to verify that the laboratory has certain key elements in place.

The regulator should ensure that each lab has a full-time ISO Quality Manager on staff responsible for ensuring the ISO compliance of its offices. The Quality Management system encompasses a broad range of activities and responsibilities the laboratory must fulfill to maintain their accreditation and ensure the quality of their work. Following the guidelines of the accreditation keeps the lab's work at the highest standards of quality and keeps them independent.

Furthermore, the regulator should verify that each lab has a **Document and Inventory Control System** to ensure that all test methods, standards, forms and other relevant documents used in the laboratory are controlled and maintained on a master list. These documents must be approved by management before they are issued and must be reviewed periodically for suitability. All employees are required to use only approved documents from the master list. This ensures that only the most current revisions of approved documents are used. An accredited laboratory is required to maintain an inventory of all equipment and authorized versions of software. Records for equipment requiring calibration are maintained and kept current.

Virginia should require that each laboratory has a process for taking **corrective actions** to remediate inevitable, but hopefully rare, occurrences of nonconforming work.¹ A corrective action report is followed by an investigation overseen by the laboratory's management staff to resolve the issue. In resolving corrective actions, managers ensure that the related facts are thoroughly examined to determine why the problem occurred, what was done to resolve it, and how it is prevented in the future.

Each laboratory should be required to establish and maintain a **training program for its employees** to ensure they can adequately meet the needs of the industry and the laboratory's clients. Training records should be required to be maintained for all employees involved in the testing and certification process. Training deficiencies should be required to be recorded as corrective actions and addressed during management review meetings and during annual recertification of the laboratory.

Each laboratory's ISO Quality Manager should be required to maintain an **Internal Audit Program**. A team of trained internal auditors check the lab's various departments and processes over the course of a calendar year to ensure procedures are documented and followed accordingly. Auditors check for problems in documentation, communication, compliance with procedure and verify competency. Audit nonconformities are logged as high priority corrective actions. Field Inspectors are assessed for competence in their inspection tasks.

Certified laboratories should be required to develop a **program to check the integrity and consistency of results** obtained during testing. The data from this Quality Control program is used to improve testing methods. All testing performed by the lab is required to be traceable to a test method that has been suitably validated. All measurements conducted by the lab are documented. If any measurements result in an uncertain application to a regulatory requirement, the issue is disclosed to ensure there is no misconception about the accuracy or applicability of results obtained during testing.

It is very important for each laboratory to demonstrate that it has an adequate system for **Customer Service, Independence & Continual Improvement**. Regulators should require that labs be focused on

¹ Nonconforming work occurs when laboratory procedures are not followed; procedures are required to be changed due to an unforeseen development or when unsatisfactory conditions exist.

meeting the regulator's requirements. As such, complaints should be tracked and handled in the same manner as corrective actions. The laboratory is also required to solicit feedback as required by the ISO standard to ensure they are meeting the needs of the regulators.² Finally, the laboratory must prove a commitment to and a pattern of continual improvement in all their processes. This is evidenced by staff augmentation, training, development of new methods and the implementation of better technology to improve performance and customer service.

The regulator's certification process should include requirements for **external accrediting organizations to perform on-site audits** at each of the laboratories' testing sites to ensure that each site operates under the same Quality system. The external auditors check to ensure that each location operates in compliance with ISO standards and with internal documentation. The auditors also verify the competency of the lab's personnel. Deficiencies cited during an external audit are logged as high priority corrective actions. Maintaining their status as an accredited test lab is hinged on successfully passing an external audit and the timely resolution of any resulting corrective actions.

Minimum Staffing Requirements

The first step in being able to evaluate whether a lab has sufficiently qualified staff is for **the regulator to acquire its own technical staff to oversee the testing laboratory and to formulate and administer technical policies and IT security**. Technology is constantly evolving which requires the regulatory staff to work with the testing laboratory to establish new policies governing gaming equipment that did not exist when the gaming statute or existing regulations were drafted. Moreover, qualified staff is needed to understand how to read and evaluate gaming equipment certification reports issued by the testing laboratory, so the regulator can maintain quality control. This expertise is also needed to evaluate if a laboratory has the appropriate technical staff expertise, experience and bandwidth to properly ensure the integrity of gaming equipment to comply with the standards set for Virginia. Once the regulator has established its own technical staff, they should verify that each lab meets the following **minimum staffing and qualification requirements**.

Each certified laboratory should have **adequate support for the regulators** (e.g., 24/7 hotline) by providing in-office personnel coverage. This is imperative because a large part of the actual gaming activity occurs outside of normal business hours and on weekends. The laboratory should be prohibited from using outside "consultants" that are on-call. Regulators often show concern with this approach as **confidential information of the regulators and suppliers** would need to be distributed to contractors that may not have undergone proper probity check. Most regulators want to know that laboratory staff is always under their control and within regulatory reach.

During the initial installations or any subsequent upgrades with respect to any component within the facility, the laboratory should have **dedicated staff that specializes in field inspections**. The test laboratories' field inspection staff is needed to assist and/or train the local gaming agents on the security, compliance, and accounting auditing practices that should be used. Furthermore, having extensive field experience is critical to troubleshooting complex problems that occur in almost every new installation. Finally, given the integrated configuration of today's networked gaming floors, it is essential that the laboratory have extensive resources devoted to **monitoring network security**.

² Compliance with ISO standards require that the test laboratory disclose those portions of testing they do not or cannot perform, so nothing is unclear to the client. Along with making certain that testing and results can be clearly understood, standards require laboratory testing to remain free of any undue external pressures and influences that may lead to a failure to perform testing properly.

The laboratory must have **adequate personnel in each of the required disciplines** that require experts. While the specific areas of expertise are detailed below, it is important to regulators to understand that not a single person or a small group of persons attempt to do all the job functions that are somehow required to be a “testing laboratory.” For instance, an electrical engineer is trained on hardware while a software engineer specializes in software creation and algorithm design. Hardware review is done by the former, software review by the latter. Neither should be doing the mathematics, as that involves a very different specialization.³

Another critical quality control element is **for a testing laboratory to have various levels of review**, so that no one person’s opinion goes unchecked throughout the testing process. Individual review of a submission could make the entire test results invalid. Thus, **quality review and independent verification** within an organization is the cornerstone to any quality assurance system.

It is important that **staffing specialization requirements be specified and evaluated**. Virginia should require that certified laboratories be staffed, at a minimum, with the following areas of specialization:

- **Mathematicians** – The laboratory must have mathematicians on staff to allow for mathematic development, development of mathematical models for random number generators and independent verification of mathematics provided to the laboratory. Regulators should not allow reliance on math models submitted by the supplier or allow the math analysis to be outsourced. Math modeling is the core of the testing process. It is needed during randomness calculations and while developing new randomness models depending on the algorithms used. It is needed to estimate levels of skill and the payback percentage and odds of all types of games. The math required today is not simply a college level probability and statistics course. Rather research and development must be done continuously to keep up with the math demands of a qualified laboratory.
- **Mechanical, Electrical and Software Engineering Staff** – The laboratory must have adequate personnel to understand completely both the hardware and software of the gaming equipment submitted. This generally requires specialized hardware and software engineers as well as protocol specialists.⁴ As one can easily deduce, testing of gaming machines and systems in a laboratory environment takes a team of individuals as no one person or no group of five individuals may be able to perform all of these complex tasks. Then, overlay the fact that laboratories must perform “White Box” testing on multiple suppliers and their multiple platforms – and it can then be clearly seen that this single issue in terms of specialized engineers and enough “bandwidth” of skills is a primary concern of regulators when reviewing laboratories and their suitability. The laboratory must have **adequate personnel to understand, debug and verify software code on a code (line-by-line) level**. Less sophisticated “Black Box” testing where the game is just played and verified as if it “appears” to operate a certain way, is not sufficient.

³ Gaming math has become increasingly complex and requires the ability to create mathematical models to evaluate many different kinds of proprietary math algorithms, model games of skill, games of chance that include intricate re-spin features and a growing array of other bonusing systems.

⁴ This relates to Black Box testing versus White Box testing. A hardware engineer assists with testing hardware and reviews schematics on a hardware level. They understand what goes wrong on that level. Software engineers understand the device’s operating system and game program code and work with other engineers in identifying key algorithms and determine whether or not what the supplier has submitted was actually implemented in the game.

- **Compliance Engineering Staff** – The laboratory must have **adequate and separate staff** to independently review the work of the testing engineers and determine whether proper tests were performed and whether those tests were performed correctly. **Independence of the laboratory and independent auditors within the laboratory environment is essential** to producing accurate results. Regulators understand clearly (as does the ISO quality community) and mandate that another department that is independent to the primary tester must review test results. The Compliance Engineering staff should also be the point contact for the regulators when field issues arise, or further technical assistance is needed.
- **Accounting System & Communication Protocol Engineering Specialists** – Minimum qualifications for testing labs should include requirements for a **Systems Division** responsible for testing systems on a detailed level using protocol testing tools to the back-end system. This ensures proper review of database design and database reporting. There is a large difference in skill sets required today (and over the past five years) when it comes to testing systems versus testing gaming devices. Device testers must specialize in devices while systems testers must understand networked systems and system architecture and system software.⁵ The Communication Protocol Engineering staff must be qualified on wireless networks and constantly up-to-date with the latest hacking and security information to be able to communicate the information to the regulators, where this technology is used.
- **Experienced and Highly Trained Engineering Staff for New & Emerging Technology** – It is essential for a testing laboratory to have specialized staff that constantly researches and is educated at a higher technical level on current and emerging technology. These staff members are to be independent of the testing group and have the ability to convert the information from a very technical level to layman's terms to effectively communicate the details to the regulators and other stakeholders within the industry. A qualified testing laboratory must have engineering staff that specializes in interfacing with suppliers regarding the development of new technology and communicating potential policy issues that often accompany emerging technology to the regulator.⁶
- **Forensic Specialists** – A qualified testing laboratory must be able to **perform forensic evaluations** on any gaming device, associated equipment or system. Should a piece of equipment fail or become subject to an investigation involving potential cheating or a malfunction, an investigation is launched to determine the root cause of the issue. It is imperative that the regulator and the Independent Lab work together to determine the root cause of the failure, malfunction or cheat. It is critical that this staff be available to the regulator immediately at all hours and that the lab understands how to conduct itself during a forensic review that will likely result in critical evidence in a future criminal investigation, disciplinary case, consumer dispute or civil lawsuit. Specialized equipment and skill sets of specialized engineers are required when conducting a forensic evaluation. In addition, having **experience as**

⁵ For instance, they must understand operating systems, system security, high level programming languages, SQL database and database design so they can understand how ticket data and cashless wagering data is created, stored, and modified. This testing usually calls for a separate division of people to handle new systems and system modifications while interfacing with the device and protocol engineers when doing an end-to-end test.

⁶ Independent research is often done with respect to the technology to determine implementation and regulatory problems with what is being proposed. In addition, assessment of cheating methods, both current and future with respect to the new and current technology, must be undertaken. Moreover, Regulators rely on independent test laboratories to report incidents and issues to them that have occurred in other jurisdictions so they can adequately react to safeguard gaming within their jurisdiction.

an expert witness, understanding the court system, rules of evidence, and security of the evidence is important to the process.

- **Quality Assurance Staff** – A proper gaming equipment certification process requires every test result is checked by at least two levels of Engineering Management, the Technical Compliance Department, and lastly an **independent Quality Assurance Department who does not report through the same chain of command as those that perform the engineering work**. The Quality Assurance group is to be responsible for producing the certification documentation and performing further checks and balances prior to the final issuance of the certification. When failures in the testing process are noted then tests are re-done, the failure is documented, a root-cause analysis is performed, and future work is monitored to determine whether subsequent failures occur. Clearly, this is not possible, when a single engineer or only a few team members are doing the work, reviewing the work and creating the certification documentation. Allowing this type of testing is risky and should not be permitted. - Regulators should not allow this, as they must be assured that internal errors and external errors (those that get out of the lab) are tracked and assessed by an independent quality group.
- **In-House Legal Staff** – The disparity and nuances in regulatory requirements for various jurisdictions require that the laboratory have experienced legal staff to ensure full compliance with Virginia’s specific regulatory requirements. This increasing emphasis on consumer privacy, protection of confidential information and the importance of network security pose a variety of complex legal issues that must be addressed by a qualified testing laboratory. Some labs rely on outside counsel, but this often presents conflict of interest issues as such counsel often also represents operators, suppliers and gaming industry investors. Having experienced in-house regulatory counsel is the best way to ensure you are working with a compliant and independent testing laboratory.

Minimum Testing Process & Equipment Requirements

Virginia should require that each regulation be “independently” tested for by the test laboratory and that the test laboratory must independently verify every fact relied upon before issuing a certification report. This is the highest standard and eliminates testing methods where math is “checked” rather than performed. It eliminates the practice where the supplier’s submission documentation is reviewed and checked rather than independently testing the device. It is common for labs to employ this method when time is short, and resources are thin or to increase profit margins by cutting costs at the expense of quality. This is not “testing” at all but rather “documenting”. Ninety-five percent of gaming regulators, both Tribal and State, and foreign federal governments require independent testing, verification, and validation.

In addition, some labs will rely on the work of another lab without knowing the quality of the underlying work. **Labs should be required to perform and stand behind their work**. As an example, some testing laboratories rely on any previous tests, documentation, reports **from other testing laboratories, or reports from the manufacturers themselves** as evidence of compliance for current testing. These certifications may not be genuine, they may be outdated or superseded, or they may be based on policy considerations of another client who has waived rules or accommodated a non-passing score in their jurisdictions. Some test results may be attempted to be passed to a regulator that has no original content at all, just parts from other labs’ reports where the other labs have no idea that their reports are being relied on or used. Thus, these testing methods should be prohibited.

The test laboratory should have **access to multiple back-end systems** to have the ability to test equipment in multiple configurations, including other peripheral equipment such as bill validators, coin

acceptors, signage and progressive meters, kiosks, and ticket in/ticket out systems. Access to peripheral items in all floor configurations is important as a change in a seemingly optional piece(s) of equipment may cause software and hardware malfunctions. Independent testing labs must have **the ability to review, test, document, and understand how all the items above may interface with the gaming device or back office systems** and what their effect is on other equipment should they fail.

Virginia should require **White Box testing** unless circumstances justify another method. Some less qualified laboratories prefer Black Box testing to White Box testing. Black Box testing takes much less technical expertise. Black Box testing involves plugging something in and playing the game and “seeing” if the results from the “play” meet the requirement. Conversely, White Box testing involves engineers understanding what goes on “inside the box” to determine whether or not the device under test will pass every time or whether there are some conditions that will cause the game to fail and fail badly.⁷

Laboratories should be properly equipped and have appropriate security to ensure protection of the vast amount of confidential information they will be handling. Virginia should establish strict requirements for the following list of physical plant and security features and independently verify that each laboratory remains in compliance:

- Building security and surveillance
- Secure storage areas for software and confidential information
- A robust document management system that ensures proper handling of regulated information
- An online database of approved software and equipment⁸
- Testing tools and equipment needed to test and validate the new and emerging technology⁹
- Independent verification tools
- Communication Protocol Testing Tools¹⁰

It is essential that these resource and physical plant requirements are regularly inspected. Kansas, Missouri, Nevada and Ohio each have robust inspection requirements that might serve as helpful examples.

⁷ White Box testing also discovers whether what the engineer “sees” is different than how the device works, such as skill stops. For instance, when connected to slot system, most of the time the game must only have to respond to a few dozen messages from the system. If one were to attach the game to a system and play it for a while, one might think that everything is fine even though only a fraction of the total system messages was generated. What happens if another device was added, or another 10? There is no way to know unless one conducts White Box Testing. That is, for a White Box test, look at every communication protocol message, look at the message timing, and send messages that should not be responded to, or passed to other devices on the system.

⁸ The regulator must have the ability to receive the results quickly and accurately and be able to have the results updated if the status of the results changes. It is important that the information be available at any time after the release of the documentation to assist in special instructions during field installs or any problems that may arise in the field where the regulator can access the laboratories reports without having to physically bring every certification or an approved report with them.

⁹ This includes the creation of independent mathematical modeling software, protocol analysis tools, hardware and software testing tools including emulators and other microprocessor-level test equipment to survey the characteristics of the hardware and software that has been submitted.

¹⁰ During the detailed communication protocol tests that are performed on the device side and the system side, the test laboratory must use testing tools and testing techniques that are developed in compliance with the protocol used. The laboratory must have the ability to develop such tools independently, without having to rely on the manufacturer for the equipment.

Minimum Financial Stability Requirements and Litigation History

It is important that the regulator only authorize testing laboratories that it can trust and which have demonstrated they conduct their affairs in a suitable, prudent manner that avoids risk. Financial stability is important to prevent the regulator from having to rely on gaming equipment certification reports from a laboratory that is forced out of business or to sell to a new, unproven owner. Moreover, labs that are in perilous financial condition create the risk of cutting corners to gain suppliers as customers or to reduce costs. Thus, it is important to establish strong financial benchmarks to ensure the laboratory Virginia entrusts to ensure the integrity of gaming equipment is on sound financial footing.¹¹


Technical Standards

Virginia will need to adopt technical standards to provide guidance to the industry on the requirements for gaming equipment that will be allowed in the various types of venues you choose to authorize. Technical standards established by a jurisdiction are used by all testing laboratories certified by the jurisdiction's regulator and are the basis for creating test scripts that must be approved by the regulator. The GLI Standards Series™ contains the most widely adopted technical standards in the world. GLI does not charge or make money from the use its technical standards. We offer them as a value-added service to our regulatory clients and as a benefit to the industry. We follow a process very similar to state rulemaking that involves extensive public comment periods involving the global community of regulators, industry stakeholders and consumers. The result is a consensus view of global best practices that is regularly reviewed and updated. Many regulators adopt the standards in their entirety and others use them as a template from which to start. GLI does not gain an advantage from either method. We offer them for your consideration, as they can be found at <https://gaminglabs.com/gli-standards/>.

Summary

The information provided in this letter includes standards, requirements, processes and benchmarks that regulators have used to ensure the quality, reliability and efficiency of testing. It is a complex and esoteric area of regulation that requires careful attention to detail because the increasingly complex equipment that comprises today's gaming floors play such an essential part in the customer experience and are at the core of gaming regulation. We hope you find this information helpful and stand ready to assist you with any questions you might have or additional information you require. I can be reached at 732-719-1133.

Respectfully,



Kevin P. Mullally
Vice-President of Government Relations and
General Counsel
Gaming Laboratories International, LLC

¹¹ Balance sheet assessment, minimum liquidity ratios, efficiency ratios (average collection periods), leverage ratios and profitability ratios are some benchmarks that have been used to evaluate financial suitability.

EXHIBIT 9 GAMING LABORATORY SUMMARY*

Jurisdiction	Accepted Certification Lab Information	State Lab (Yes or No)	Secondary Review	Testing Standards	Time of Approval	Other
Delaware	Accepts certification reports from ITL's.	No State Lab.	No	Proprietary rules/regs as well as GLI 11 3.0 (for gaming devices), GLI-19 (for Internet Gaming) and other GLI standards dependent on the technology type.	At time of issuance of certification report from ITL	
Kansas	Accepts certification reports from ITL's but then has secondary process prior to jurisdictional approval.	No State Lab. Review/approval process performed by KRGC after ITL testing.	Yes. KRGC has a secondary approval process. Before approval, submission documentation is reviewed and the ITL can be questioned on testing details.	Proprietary rules/regs as well as GLI 11 2.0 (for gaming devices) and other GLI standards dependent on the technology type.	Approvals take place at Monthly Commission meeting	ITL also required to perform interoperability testing.
Maryland	Accepts certification reports from ITL's but then has secondary process prior to jurisdictional approval.	No State Lab. Review/approval process performed by MD Lottery after ITL testing.	Yes. MD Lottery has a secondary approval process. Before approval submission documentation is reviewed.	Proprietary rules/regs	Approvals take place at Monthly Commission meeting	
Massachusetts	Accepts certification reports from ITL's.	State Lab, primarily focussed on system interoperability testing for revenue tracking and not testing of gaming device submissions.	No	Proprietary rules/regs as well as GLI 11 3.0 (for gaming devices) and other GLI standards dependent on the technology type.	At time of issuance of certification report from ITL	
Michigan	Accepts certification reports from ITL's but then has secondary process prior to jurisdictional approval.	State lab who have ability to perform spot testing of submissions received by supplier. Do not test all submissions that come there way.	Yes. MGC has a secondary approval process where the supplier is required to provide a submission package with one of the items being an ITL certification report. MGC has the ability to perform spot check testing on submissions as they come in but it is our understanding that they do not bring up each of the pieces of software submitted.	Proprietary rules/regs	Post Issuance of ITL Certification and receipt/vetting of Supplier submission package.	
Ohio Lottery	Accepts certification reports from ITL's.	No State Lab.	The OH Lottery performs a review on new game themes and then assigns a Game Slick number prior to certification testing being performed by the lab.	Proprietary rules/regs as well as GLI 11 3.0 (for gaming devices) and other GLI standards dependent on the technology type.	At time of issuance of certification report from ITL	ITL also required to perform interoperability testing.
West Virginia	Accepts certification reports from ITL's but then has secondary process prior to jurisdictional approval.	State Lab focussed on game content review and game/system connectivity (interoperability testing). Review/approval process performed by WV Lottery after ITL testing.	Yes. WV Lottery has a secondary approval process with the ITL needing to supply deliverables to the WV lab for review/testing. The WV lab does not perform full regulatory testing, but does bring each piece of software up to ensure the game rules are accurate to what has been vetted by the ITL, and to ensure the software comes up with no issues when connected to the central system.	Proprietary rules/regs	Approvals take place at Monthly Commission meeting	ITL also required to perform interoperability testing.

*(Information provided by Gaming Labs International)

EXHIBIT 10: LIST OF INTERVIEWS CONDUCTED

Last Name	First Name	Affiliation	Title
Angelillo	Joe	Ohio Lottery	Deputy Director of VLT Operations
Anthony	Rick	Ohio Casino Control Commission	Deputy Executive Director and Director of Operations
Bean	Mary Kay	Michigan Gaming Control Board	Communications Specialist
Bedrosian	Ed	Massachusetts Gaming Commission	Executive Director
Biaszczyński	Alex	University of Sydney, Australia	Co-Director, Gambling Research Unit and Professor of Clinical Psychology
Blue	Catherine	Massachusetts Gaming Commission	General Counsel
Bradley	David	West Virginia Lottery	Deputy Director Casino Gaming and Limited Video Lottery
Brownlee	Don	Kansas Racing and Gaming Commission	Executive Director
Cabot	Anthony	UNLV Boyd School of Law	Distinguished Fellow of Gaming Law
Copp	Kimberly	Taft Stettinius & Hollister LLP	Attorney
Courtney	Deborah	Virginia Lottery Department	Director of Finance
DeRaedt	Peter	Gaming Standards Association	President
Dilworth	Amy	Virginia Lottery Department	General Counsel
DiMasi	F. Steven	Scientific Games	Vice President of Global Governmental Affairs
Driscoll	Elaine	Massachusetts Gaming Commission	Communications Director
Ehrecke	Wes	Iowa Gaming Association	President
Elkin	Seth	Maryland Lottery and Gaming Control Agency	Public Affairs Specialist
Foley	Travis	BMM Testlabs	Chief Operating Officer
Franks	Jessica	Ohio Casino Control Commission	Director of Communications
Frizzi-Babb	Danielle	Ohio Lottery Commission	Communications Director
Gee	Kelly	Virginia Lottery Department	Manager of Governmental Relations
Gustafson	Dan	Oneida Indian Nation Gaming Commission	Executive Director
Hall	Kevin	Virginia Lottery Department	Executive Director
Hensel	Susan	Pennsylvania Gaming Control Board	Director of Licensing
Herridge	Joe	Kansas Racing and Gaming Commission	Director of Security & Licensing Division
Hestermann	Dean	Caesars Entertainment Corp.	Corporate Director, Issues Management and Strategic Communications
Jones	Connie	Association of Gaming Manufacturers	Director of Responsible Gaming
Kalm	Rick	Michigan Gaming Control Board	Executive Director
LaPlante	Debi	Harvard Medical School	Director, Division on Addictions, Cambridge Health Alliance and Assistant Professor of Psychology
Lennon	Derek	Massachusetts Gaming Commission	CFO
Lopez	DJ	Kansas Racing and Gaming Commission	Officer of Licensing and Backgrounds
Martens	Matthew	University of Missouri	Professor and Faculty Fellow for Academic Programs – Office of the Provost
Medenica	Gordon	Maryland Lottery and Gaming Control Agency	Director
Moreland	Larry	Kansas Racing and Gaming Commission	Regional Security Director
Mullally	Kevin	Gaming Laboratories International	Vice President of Government Affairs and General Counsel
Myers	Joe	Kansas Racing and Gaming Commission	Training and Legislative Affairs Manager
Myers	John	West Virginia Lottery	Director
Nelson	Sarah	Harvard Medical School	Director of Research, Division on Addictions and Assistant Professor of Psychology
Oyster	Matt	Ohio Casino Control Commission	General Counsel and Director of Licensing and Investigations
Philanderer	Kahili	Washington State University	Assistant Professor, Hospitality Business Management
Prater	Marcus	Association of Gaming Manufacturers	Executive Director
Roberts	Jennifer	International Center for Gaming Regulation	Associate Director
Scherer	Scott	Brownstein Hyatt Farber Schreck	Attorney
Schuler	Matt	Ohio Casino Control Commission	Executive Director
Sicuso	Phil	Bose McKinney & Evans LLP	Attorney
Smith	Nathan	University of Florida	Doctoral Candidate, Department of Epidemiology, College of Public Health and Health Professions & College of Medicine
Stewart	David O.	American Gaming Association	Lawyer and AGA Consultant
Stewart	Mark	Eckert Seamans Cherin & Mellott, LLC	Attorney
Swoik	Tom	Illinois Casino Gaming Association	Executive Director
Vander Linden	Mark	Massachusetts Gaming Commission	Director of Research and Responsible Gaming
Webb	Tracy	West Virginia Lottery	General Counsel
Whyte	Keith	National Council on Problem Gambling	Executive Director
Withey	LaVonne R.	American Gaming Association	Director of State Affairs
Ziemba	John	Massachusetts Gaming Commission	Ombudsman

EXHIBIT 11: SUMMARY OF EXISTING RESPONSIBLE GAMING REGULATIONS

Summary of Responsible Gaming Statutes and Regulations by State

	Advertising Restrictions	Alcoholic Beverage Restrict	Credit Restrict	Employee Training	Financial Instruments Restrictions	Information on Risks & Resources	Required Responsible Gaming Plan	Self-Exclusion	Treatment & Research Funding	Wager /Time Limits
AR	•		•	•		•	•	•		•
CO	•	•	•	•					•	•
DE	•	•	•	•		•		•	•	•
DC	•		•	•		•	•	•	•	•
FL	•		•	•	•	•	•	•	•	
IL						•		•	•	
IN						•		•	•	
IA	•			•	•	•	•	•	•	•
KS	•		•			•	•	•	•	
LA	•		•	•	•	•	•	•	•	
ME			•	•	•		•	•	•	
MD	•	•	•		•	•	•	•	•	
MA		•	•		•	•	•	•	•	•
MI			•		•	•		•	•	
MS								•		
MO		•	•					•	•	
MT			•					•		
NV			•	•	•	•		•	•	•
NH							•	•	•	•
NJ	•		•	•		•		•	•	•
NM	•	•	•	•	•	•	•	•	•	
NY	•	•	•	•	•	•	•	•	•	•
OH	•		•			•	•	•	•	
OK				•			•			
PA	•	•	•	•	•	•	•	•	•	•
RI	•	•		•			•	•	•	•
SD			•						•	•
TN				•					•	•
WV	•	•	•		•	•		•	•	•

Source: Responsible Gaming Regulations & Statutes, American Gaming Association, 2019

COMMONLY REGULATED RESPONSIBLE GAMING PRACTICES

Across the U.S. gaming industry, casino-driven responsible gaming (RG) programs operate in compliance and in parallel with state laws and regulations on RG, including the funding and provision of problem gambling services. It should be noted that the RG programs implemented by many gaming businesses – operators and suppliers – often go beyond what is required by law or regulation. The following categorizes commonly regulated RG practices and compiles in detail the statutes and regulations addressing them in the six peer states identified by JLARC with RMC for the purposes of regulatory comparison. We also provide a chart summarizing their broader implementation across 24 states with commercial casino structures.

Under each category, the relevant statutes and regulations of each peer state are presented in the same sequence: constitutional provisions, statutory provisions, and then administrative regulations. Note: Some states have separate regulatory provisions for different types of gaming venues (e.g., video lottery outlets, land-based casinos, etc.).

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RESPONSIBLE GAMING PLANS

As a condition of licensing, commercial casino states may mandate that casinos prepare and submit for approval a wide-ranging plan for addressing RG issues. Required elements of the plan often include employee training and public awareness efforts and other policies that other states have addressed specifically through standalone statutes or regulations that address only a single subject. The required elements of these plans vary by state.

DELAWARE: N/A

KANSAS

Regulation: K.A.R. §112-112-3. Responsible gambling plan.

(a) Each applicant for a facility manager certificate shall submit a responsible gambling plan to the commission with its initial application or at least 90 days before opening a racetrack gaming facility. The responsible gambling plan shall not be inconsistent with any facility manager's contractual obligation with the Kansas lottery. A responsible gambling plan shall be approved by the commission before the commission issues or renews a certificate. Each plan shall include the following:

- (1) The goals of the plan and the procedures and deadlines for implementation of the plan;
- (2) the identification of the individual at each applicant or facility manager location who will be responsible for the implementation and maintenance of the plan;
- (3) procedures for maintaining the confidentiality of the information regarding the persons on the self-exclusion list, as specified in K.A.R. 112-112-7;
- (4) procedures for informing patrons about self-transaction exclusion programs;
- (5) procedures for compliance with the commission's self-exclusion program;
- (6) procedures for creating and disseminating promotional material to educate patrons about problem gambling and to inform patrons about treatment services available. The applicant or facility manager shall provide examples of the material to be used as part of its promotional materials, including signs, brochures, and other media, and a description of how the material will be disseminated;
- (7) details of the training about responsible gambling for the applicant's or facility manager's employees;
- (8) the duties and responsibilities of the employees designated to implement or participate in the plan;
- (9) procedures to prevent underage gambling;
- (10) procedures to prevent patrons impaired by drugs or alcohol, or both, from gambling;
- (11) an estimation of the cost of development, implementation, and administration of the plan; and
- (12) any other policies and procedures to prevent problem gambling and encourage responsible gambling.

(b) Each applicant or facility manager shall submit any amendments to the responsible gambling plan to the commission for review and approval before implementing the amendments.

Each facility manager shall report to the commission semiannually on the status and success of the responsible gambling plan.

MARYLAND

Regulation: COMAR 36.07.07.01. Responsible Gaming Plan.

- A. A facility shall establish a responsible gaming plan that includes at least the following elements:
 - (1) Goals;
 - (2) Procedures and deadlines for implementation;
 - (3) Identification of facility personnel responsible for implementation;
 - (4) Responsibilities of facility personnel identified as responsible for implementation;
 - (5) Training for facility personnel on problem gambling;
 - (6) Means of educating players about:
 - (a) Problem gambling; and
 - (b) Problem gambling treatment resources, including treatment and prevention programs;
 - (7) Placement of responsible gambling awareness materials in the facility; and
 - (8) Any other element required by the Commission.
- B. A facility operator shall submit to the Commission the responsible gaming plan required under A of this regulation for review and approval.
- C. A facility operator shall submit any amendments to a facility's responsible gaming plan to the Commission prior to implementation.
- D. A facility operator shall submit to the Commission an annual report describing the operation of the facility's responsible gaming plan.

MASSACHUSETTS

Statute: M.G.L. Ch. 23K, § 9. Application for gaming licenses.

- Section 9.(a) The commission shall prescribe the form of the application for gaming licenses which shall require, but not be limited to:
- (8) an agreement that the applicant shall mitigate the potential negative public health consequences associated with gambling and the operation of a gaming establishment, including:
 - (i) maintaining a smoke-free environment within the gaming establishment under section 22 of chapter 270;
 - (ii) providing complimentary on-site space for an independent substance abuse and mental health counseling service to be selected by the commission;

- (iii) prominently displaying information on the signs of problem gambling and how to access assistance;
- (iv) describing a process for individuals to exclude their names and contact information from a gaming licensee's database or any other list held by the gaming licensee for use in marketing or promotional communications; and
- (v) instituting other public health strategies as determined by the commission[.]

Statute: M.G.L. Ch. 23K, § 15. Criteria for eligibility to receive gaming license.

Section 15. No applicant shall be eligible to receive a gaming license unless the applicant meets the following criteria and clearly states as part of an application that the applicant shall:

- (6) demonstrate to the commission how the applicant proposes to address lottery mitigation, compulsive gambling problems, workforce development and community development and host and surrounding community impact and mitigation issues as set forth in the memoranda of understanding required under this chapter[.]

Statute: M.G.L., Ch. 23K, § 18. Objective to be advanced in determining granting of license; statement of findings.

In determining whether an applicant shall receive a gaming license, the commission shall evaluate and issue a statement of findings of how each applicant proposes to advance the following objectives:

- (6) taking additional measures to address problem gambling including, but not limited to, training of gaming employees to identify patrons exhibiting problems with gambling and prevention programs targeted toward vulnerable populations[.]

Statute: M.G.L., Ch. 23K, § 21. Form of gaming license and condition for licensees.

- (a) The commission shall prescribe the form of the gaming license, which shall include, but not be limited to, the following license conditions for each licensee. The licensee shall:
 - (16) provide complimentary on-site space for an independent substance abuse, compulsive gambling and mental health counseling service and establish a program to train gaming employees in the identification of and intervention with customers exhibiting problem gaming behavior;
 - (17) keep conspicuously posted in the gaming area a notice containing the name and a telephone number for problem gambling assistance; provided, however, that the commission may require the gaming licensee to provide this information in more than 1 language;
 - (18) provide a process for individuals to exclude their names and contact information from the gaming licensee's database or any other list held by the gaming licensee for use in marketing or promotional communications;
 - (19) institute additional public health strategies as required by the commission[.]

Regulation: 205 CMR 119.01: Contents of the Application.

The RFA-2 application form shall be designed to require applicants to demonstrate that they have thought broadly and creatively about creating an innovative and unique gaming establishment that will create a synergy with, and provide a significant and lasting benefit to, the residents of the host community, the surrounding communities, the region, and the Commonwealth of Massachusetts, and will deliver an overall experience that draws both residents and tourists to the gaming establishment and the Commonwealth of Massachusetts. Further, the RFA-2 application shall require attestation of the applicant under the pains and penalties of perjury as to the truthfulness of the contents of the submission, and shall require, at a minimum, provision of the following information on and in the form prescribed by the commission:

- (25) an agreement that the applicant shall mitigate the potential negative public health consequences associated with gambling and the operation of a gaming establishment, and the construction of a gaming establishment, including:
 - (a) maintaining a smoke-free environment within the gaming establishment under M.G.L. c. 270, § 22;
 - (b) providing complimentary on-site space for an independent substance abuse and mental health counseling service to be selected by the commission;
 - (c) prominently displaying information on the signs of problem gambling and how to access assistance;
 - (d) describing a process for individuals to exclude their names and contact information from a gaming licensee's database or any other list held by the gaming licensee for use in marketing or promotional communications; and
 - (e) instituting other public health strategies as determined by the commission; and
- (26) how the applicant proposes to take measures to address problem gambling including, but not limited to, training of gaming employees to identify patrons exhibiting problems with gambling and prevention programs targeted toward vulnerable populations; and how the applicant proposes to cooperate and support the commission in the development of an annual research agenda as provided in M.G.L. c. 23K, § 71

Regulation: 205 CMR 119.03. Evaluation of the Application by the Commission.

- (2) In determining which applicant will be awarded a Category 1 gaming license in accordance with M.G.L. c.23K, §19, and a Category 2 gaming license in accordance with M.G.L. c. 23K, § 20, the commission will evaluate the RFA-2 application to determine, and shall issue a statement of findings of how the applicant proposes to advance the objectives specified in M.G.L. c. 23K, § 18. In no particular order and without assigning any particular weights, the commission will evaluate the applicant's overall response on how it addresses the following categories of information which may be expanded upon in the RFA-2 application form:

- (e) Mitigation criteria including:

2. Demonstration of plan for mitigation of lottery impact and compulsive gambling problems, community development, and host and surrounding community impact and mitigation issues
8. Measures to address problem gambling.

MICHIGAN: N/A

OHIO

Regulation 3772-12-06. An applicant's compulsive and problem gambling plan.

- (A) Each casino operator shall provide to the casino control commission a compulsive and problem gambling plan for approval. Each plan shall at a minimum include the following:
- (1) The goals of the plan and procedures and timetables to implement the plan;
 - (2) The identification of the position responsible for the implementation and maintenance of the plan;
 - (3) Policies and procedures including the following:
 - (a) Procedures for compliance with the Ohio VEP including, at a minimum:
 - (i) Procedures preventing employees from permitting an individual in the Ohio VEP from entering the facility;
 - (ii) Procedures identifying and removing individuals in the Ohio VEP from the facility;
 - (iii) Procedures for preventing dissemination of any advertisement, promotion, or other direct marketing mailing fifteen days after the individual has been placed in the Ohio VEP;
 - (iv) Procedures for preventing an Ohio VEP participant from having access to credit or from receiving complimentary services, check-cashing services, junket participation, and other benefits;
 - (v) Procedures for ensuring the confidentiality of the identity and the information of the Ohio VEP participants; and
 - (vi) Any other procedure required by the commission, executive director, or designee thereof.
 - (b) The duties and responsibilities of the employees designated to implement or participate in the plan;
 - (c) The responsibility of patrons with respect to responsible gambling;
 - (d) Procedures to identify patrons and employees with suspected or known compulsive and problem gambling behavior, including procedures specific to loyalty and other rewards and marketing programs;
 - (e) Procedures for providing information to individuals regarding the Ohio VEP and community, public and private treatment services, gamblers anonymous programs, and similar treatment or addiction therapy programs designed to prevent, treat, or monitor compulsive and problem gamblers and to counsel family

members; including for providing the information upon the request of a patron or employee;

- (f) The provision of printed material to educate patrons and employees about compulsive and problem gambling and to inform them about the Ohio VEP and treatment services available to compulsive and problem gamblers and their families. The casino operator shall provide casino control commission staff examples of the materials to be used, including, brochures and other printed material and a description of how the material will be disseminated;
 - (g) Advertising and other marketing and outreach to educate the general public about the Ohio VEP and compulsive and problem gambling;
 - (h) An employee training program, including training materials to be utilized and a plan for periodic reinforcement training and a certification process established by the applicant to verify that each employee has completed the training required by the plan;
 - (i) Procedures to prevent underage gambling;
 - (j) Procedures to prevent patrons impaired by drugs or alcohol, or both, from gambling;
 - (k) The plan for posting signs within the casino facility containing information on gambling treatment and on the Ohio VEP, including examples of the language and graphics to be used on the signs;
- (4) A list of community, public, and private treatment services, gamblers anonymous programs, and similar treatment or addiction therapy programs designed to prevent, treat, or monitor compulsive and problem gamblers and to counsel family members; and
- (5) Any other information, documents, and policies and procedures that the casino control commission requires.
- (B) Each casino operator shall submit quarterly updates and an annual report to the casino control commission of its adherence to the plans and goals submitted under this rule, including any information that the casino operator has received related to bankruptcy, divorce, crime, and attempted suicide related to gambling at a casino facility.

WEST VIRGINIA: N/A

VOLUNTARY EXCLUSION PROGRAMS (SELF-EXCLUSION)

Many states require that patrons have the ability to authorize a casino to refuse their right to gamble and to expel them if they are found gambling (or, in some cases, otherwise found) on the premises. Program management models vary; in some cases they are run by the state or a state-appointed group, in others they are managed directly by licensees. State statutes vary in the length of the self-exclusion periods available – typically ranging from one and/or five -year bans to lifetime restriction – and in the procedures for reversing self-exclusion. In some states, third parties also have the ability to voluntarily exclude patrons exhibiting problem gambling behavior. Many state laws specify that in addition to banning play, the casino must also eliminate direct promotional outreach to these individuals as well as exclude them from complimentary offerings (“comps”) or access to credit.

DELAWARE

Statute 29 Del. C. § 4834. List of persons self-excluded from gaming activity.

- (a) The Director shall provide by regulation for the establishment of a list of persons self-excluded from gaming activity at video lottery facilities or through the Internet lottery. A person may request placement on the list of self-excluded persons by acknowledging in a manner to be established by the Director that the person is a problem gambler and by agreeing that, during the period of voluntary exclusion, the person may not collect any winnings or recover any losses resulting from any gaming activity at a video lottery facility or through the Internet lottery.
- (b) A person may request placement on the list of self-excluded persons for any of the following periods:
 - (1) Lifetime;
 - (2) Five years;
 - (3) One year.
- (c) The Director shall establish procedures for placements on and removals from the list of self-excluded persons and procedures for the transmittal to operators of a video lottery facility of identifying information concerning self-excluded persons.
- (d) Director shall require licensed agents of video lottery facilities to establish procedures designed to:
 - (1) Prevent self-excluded persons from engaging in any gaming activity;
 - (2) Remove them from any forms of advertising or promotions; and
 - (3) Deny self-excluded persons access to credit, complimentaries, check cashing privileges, and similar benefits.

Statute: 29 Del. C. § 4836. Penalties for wagering by excluded persons

- (b) Any person whose name has been placed on the self-exclusion list, who thereafter knowingly enters a gaming area or engages in the Internet lottery, is guilty of a class A misdemeanor.

KANSAS

Regulation: K.A.R. §112-112-4. Self-exclusion list.

(a) A “self-exclusion list” shall consist of the names of those persons who have complied with the requirements of this article and have been placed on the list by the executive director. The self-exclusion list shall provide the means for each individual with issues related to gambling to formally notify the commission that the individual has a gambling problem and that the individual will refrain from visiting gaming facilities, parimutuel licensee locations, and fair association race meets in Kansas.

(b) Each facility manager shall be notified by the executive director of the placement of any person on the self-exclusion list. Any or all information contained on the person’s application may be disclosed to each facility manager and the facility manager’s agents or employees by the executive director.

Regulation: K.A.R. §112-112-5. Requirements for placement on the self-exclusion list.

(a) Any person may seek placement on the self-exclusion list by performing the following:

(1) Requesting an application in person from commission staff at any gaming facility, parimutuel licensee location, or fair association race meet or at the commission’s Topeka office during regular business hours; and

(2) completing and executing the application with a commission staff person.

(b) If the person is unable to appear in person at a gaming facility, parimutuel licensee location, or fair association race meet or at the Topeka office, the person may contact the commission’s Topeka office during regular business hours so that other arrangements can be made.

(c) Each completed application shall be a closed record pursuant to K.S.A. 45-221(a)(30) and amendments thereto.

(d)

(1) Each application shall contain a statement that the applicant will refrain from visiting gaming facilities, parimutuel licensee locations, and fair association race meets in Kansas. Each person seeking placement on the self-exclusion list shall also acknowledge on the application that by being placed on the list, that person may be subject to a charge of trespass pursuant to K.S.A. 21-3721, and amendments thereto, if that person is discovered at a gaming facility, parimutuel licensee location, or fair association race meet by any agent or employee of the commission or by facility manager staff.

(2) The applicant shall acknowledge that the applicant’s request to be placed on the self-exclusion list could result in being denied service or access to gaming and entertainment facilities in other jurisdictions. Furthermore, the applicant shall acknowledge that the commission and all facility managers will prohibit the applicant from entering the premises of all gaming facilities, parimutuel licensee locations, and fair association race meets.

(e)

(1) As a part of the application, each applicant shall agree that facility managers and their employees have the right to communicate information in the application to entities affiliated with the facility manager that have a need to know the information for the purpose of complying with this article.

(2) Each facility manager shall be responsible for maintaining the confidentiality of the information provided in the application and shall use the information exclusively to deny persons on the self-exclusion list access to facilities under the control of the facility manager and its affiliates.

(f) An applicant's failure to provide any information or to complete any forms provided by the commission may result in a denial of a request for placement on the self-exclusion list.

(g) Self-exclusion list application forms shall include at a minimum a waiver of liability of the commission and its agents, the Kansas lottery and its agents, the state of Kansas, any person licensed pursuant to the Kansas expanded lottery act or parimutuel racing act, and any other person deemed necessary by the commission for any claims or damages that arise out of or relate to the self-exclusion list or its use.

(h) Upon an applicant's submission of a completed self-exclusion list application, a notice of placement on the self-exclusion list may be filed by the executive director. Each notice of placement shall be a closed record pursuant to K.S.A. 45-221(a)(30) and amendments thereto, except that the application and notice may be disclosed to facility managers and their agents, employees, and affiliates who have a need to know the information for the purpose of complying with this article.

(i) A copy of the notice of placement on the self-exclusion list shall be delivered by the executive director to the applicant by regular U.S. mail to the home address specified on the application. The applicant shall be deemed to be placed on the self-exclusion list when that person submits the application to the executive director for placement on the self-exclusion list, not at the time the notice is delivered to the applicant.

(j) If the executive director finds that an applicant does not qualify for placement on the self-exclusion list or that the applicant should be allowed to withdraw the application, the applicant shall be notified by the executive director by regular U.S. mail sent to the home address specified on the application.

Regulation: K.A.R. §112-112-6. Mandatory surrenders to the state.

Each person who has been placed on the self-exclusion list shall surrender to the commission all prizes, jackpots, chips or tokens in play, pay vouchers, coupons, and electronic credits obtained at a facility manager's location after the person's placement on the self-exclusion list. The items surrendered to the commission shall be liquidated or redeemed and shall be transferred to the state's problem gambling and addictions fund.

Regulation: K.A.R. §112-112-8. Facility manager conduct regarding self-excluded persons.

(a) Each facility manager, including its agents and employees, that identifies a person at the facility manager's location who is suspected of being on the self-exclusion list shall at that time notify or cause to notify the commission agent on duty or the facility manager's senior security officer on duty. Once it is confirmed that the person is on the self-exclusion list and at the facility manager's location, the facility manager shall perform the following:

(1) Remove the self-excluded person from the gaming facility, parimutuel licensee location, or fair meet; and

(2) cooperate with the commission agent on duty with respect to any further actions or investigations.

(b) Each facility manager shall have 30 days from the effective date of this regulation to submit a list of internal controls, which shall be subject to approval by the commission. This list shall specify the following:

(1) The facility manager's plan for removing those persons on the self-exclusion list from mailing lists advertising the facility manager's Kansas operation, including marketing offers, slot club programs, VIP member programs, telemarketing programs, and other marketing promotions. However, this paragraph shall not be construed to prohibit mass mailings to "Resident"; and

(2) the facility manager's plan for denying access by persons on the self-exclusion list to the following:

(A) Check cashing, bank machine, and cash advance privileges;

(B) special club programs, including slot clubs and VIP cards; and

(C) the issuance of credit, if applicable.

(c) Any facility manager and its agents or employees may be disciplined by the commission if any of the following conditions is met:

(1) It can be shown by a preponderance of the evidence that the facility manager or its employees or agents knew or should have known that a person on the self-exclusion list was present at the facility manager's location and the facility manager failed to follow the procedures required by these regulations.

(2) The facility manager or its employees or agents failed to follow procedures for complying with the regulations relating to self-exclusion.

(3) The facility manager reveals any information regarding self-exclusion that is considered a closed record under these regulations to any party not permitted under this act or these regulations.

Regulation: K.A.R. §112-112-9. Procedure for removal from the self-exclusion list.

(a) At any time after two years from the original date of application for placement on the self-exclusion list, any person on the self-exclusion list may petition the executive director for removal from the self-exclusion list. The authority to approve or deny each petition shall rest with the executive director. To be eligible for removal from the self-exclusion list, each person shall provide documentation acceptable to the commission that the applicant has met all of the following conditions:

(1) The person has undergone a problem gambling assessment with a gambling counselor certified by the Kansas department of social and rehabilitation services or through any other method approved by the commission.

(2) The person has completed a commission-approved education program on healthy lifestyle choices and problem gambling awareness.

(3) The person has met any other requirements deemed necessary by the commission.

(4) The person has executed an authorization and release to be removed from the self-exclusion list on a form provided by the commission.

(b) Each facility manager shall retain the ability to deny gambling privileges at a gaming facility, parimutuel licensee location, or fair association race meet to the persons who have been removed from the self-exclusion list for any other reason ordinarily available to the facility manager.

(c) Any person who has been removed from the self-exclusion list may reapply for placement on the list at any time as provided in this article.

(d) Upon approval of a petition for removal from the self-exclusion list, a notice of removal from the self-exclusion list shall be drafted by the executive director. Each notice shall be a closed record pursuant to the Kansas open records act, including K.S.A. 45-221(a)(30) and amendments thereto, except that the notice shall be disclosed to all facility managers and their agents and employees.

(e) A copy of the notice of removal from the self-exclusion list shall be delivered by the executive director to the petitioner by regular U.S. mail to the home address specified on the petition. The petitioner shall be deemed to be removed from the self-exclusion list when the executive director mails the approved notice to the petitioner.

(f) If the executive director finds that a petitioner does not qualify for removal from the self-exclusion list, the petitioner shall be notified by the executive director by regular U.S. mail, using the home address specified on the petition. The petitioner shall remain on the self-exclusion list pursuant to this article.

MARYLAND

Statute: Md. Code Ann., State Govt. Law, § 9-1A-24. Compliance.

(e) Commission to adopt regulations to reduce or mitigate effects of problem gambling; exclusion list.

(1) By regulation, the Commission shall adopt measures that are intended to reduce or mitigate the effects of problem gambling.

(2) The regulations shall:

(i) include establishment of a voluntary exclusion list of individuals with gambling problems who have requested to be excluded from any video lottery operation licensed under this subtitle; and

(ii) provide a simple mechanism for an individual who is sober and informed to request placement on the voluntary exclusion list for a specified period of time.

- (3) A video lottery operation licensee may not permit an individual on the voluntary exclusion list to enter into the video lottery facility or to play a video lottery terminal.
- (4) The Commission may impose sanctions on a licensee in accordance with this subtitle if the licensee knowingly fails to exclude from the premises of the licensee an individual on the voluntary exclusion list.

Regulation: COMAR 36.01.03.02. Application for Voluntary Exclusion.

A. An application for voluntary exclusion shall be available at:

- (1) Each licensed video lottery facility upon request of Commission staff; and
- (2) Each licensed instant bingo facility with more than 10 instant bingo machines; and
- (3) The Agency's offices.

B. An individual may request to be excluded from a video lottery facility or lottery play in the State, or an instant bingo facility with more than 10 instant bingo machines by submitting a completed application form to Commission staff.

C. An individual may request to be excluded from an instant bingo facility with more than 10 instant bingo machines by submitting a completed application form to instant bingo facility staff.

D. An application for voluntary exclusion shall include:

(1) The individual's:

- i. Name, including any nickname or alias;
- ii. Residential address;
- iii. Telephone numbers;
- iv. Date of birth;
- v. Valid, unexpired, government-issued identification that includes a photograph of the applicant;
- vi. Gender;
- vii. Physical description, including any birthmarks, scars, or tattoos;
- viii. Race or ethnic origin;
- ix. For non-United States citizens, country of citizenship, and passport and alien registration number;
- x. Signature; and
- xi. Any other information about the individual that the Commission requires;

(2) The length of requested period of placement on the voluntary exclusion list, which shall be for:

- (a) At least 2 years or;
- (b) Life

- (3) Information pertaining to problem gambling programs; and
- (4) A signed statement by which the individual declares that the individual:

- a. Has a gambling problem and is unable to gamble responsibly;
- b. Is sober and informed;
- c. Releases and holds harmless the State of Maryland, the Agency, and their employees, and agents from any liability that may arise from the application or the individual's placement on the voluntary exclusion list;
- d. Acknowledges that the Commission is collecting information from the individual that the:

- I. Individual may request to inspect or correct under General Provisions Article, §4-502, Annotated Code of Maryland; and
- II. Commission will maintain as sociological information under General Provisions Article, §4-330, Annotated Code of Maryland;
- III. Authorizes the release of information to the persons specified in Regulation .07;

- e. Authorizes the release of information to the persons specified in Regulation .07;
- f. Acknowledges that the individual will be, for the entire term of the requested period of exclusion:

- I. Prohibited from entering a video lottery facility or playing table games or a video lottery terminal in the State;
- II. Prohibited from playing a lottery game; or
- III. Prohibited from playing an instant bingo machine at an instant bingo facility with more than 10 instant bingo machines; or
- IV. Any combination of the three;

- g. Acknowledges that if the requested period of placement on the voluntary exclusion list was 2 years, the individual will not be removed from the voluntary exclusion list unless the Commission grants the individual's request for removal under Regulation .05 of this chapter; and
- h. Acknowledges that the individual may be subject to criminal charges if, during the period of exclusion, the individual enters a video lottery facility in the State;
- i. Otherwise acknowledges that the individual understands the individual's responsibilities and possible consequences associated with being placed on the State's voluntary exclusion list; and
- j. Is voluntarily applying.

- D. Upon receipt of a completed application for voluntary exclusion, trained Commission staff shall:

- (1) Interview the individual in order to ascertain that the individual:

- (a) Is voluntarily applying for exclusion;

- (b) Confirms the information provided in the application; and
- (c) Is fully informed of the consequences of being placed on the voluntary exclusion list.

- (2) Decide whether to grant the request for voluntary exclusion; and
- (3) Deliver to the individual by regular U.S. mail a written notice of:

- (a) Placement on the voluntary exclusion list; or
- (b) Denial of the request for voluntary exclusion.

E. Notice to Excluded Individual. The Agency's notice of an individual's placement on the voluntary exclusion list for video lottery facilities shall include:

- (1) A statement from each video lottery facility informing the individual not to enter the video lottery facility; and
- (2) Notice that, if the individual enters a video lottery facility, the individual shall be subject to a criminal trespass charge.

Regulation: COMAR 36.01.03.03. Voluntary Surrender of Lottery Game Playing Privileges.

A. In this regulation, the following term has the meaning indicated.

B. Term Defined. "Unredeemed item":

- (1) Means a token, voucher, check, ticket, chip, coupon, or similar item that has monetary value, and that a player has:
 - (a) Won by playing a video lottery terminal or table game;
 - (b) Inserted into a video lottery terminal;
 - (c) Played at a table game;
 - (d) Received by converting cash, check or wire transfer at a video lottery facility;
 - (e) Obtained while trying to play a lottery game in the State; or
 - (f) Won by playing an instant bingo machine at an instant bingo facility with more than 10 instant bingo machines.
- (2) Does not mean cash.

C. An individual who applies to be placed on the voluntary exclusion list may contractually agree to:

- (1) Redeem or liquidate an unredeemed item with monetary value that the individual has received since being placed on the voluntary exclusion list; and
- (2) Designate that the proceeds of the redeemed item be contributed to the Problem Gambling Fund established under State Government Article, §9-1A-33(b), Annotated Code of Maryland.

Regulation: COMAR 36.01.03.05. Removal from Voluntary Exclusion List.

- A. After an individual has been on the voluntary exclusion list for at least 2 years, the individual may request that the Commission remove the individual from the list.
- B. An individual's request under §A of this regulation shall be submitted to the Commission in writing and shall be accompanied by documentation that the individual has:

- (1) Completed:

- a. A problem gambling assessment with a professional who is licensed by the State to conduct problem gambling assessments or who is otherwise approved by the Commission and fulfilled any recommended treatment;
 - b. A problem gambling treatment and prevention program approved by the Commission; or
 - c. A healthy decision-making program that is sponsored or approved by the Commission with a licensed professional counselor or other person approved by the Commission;

- (2) Executed an authorization and release to be removed from the voluntary exclusion list; and

- (3) Complied with any other requirements deemed necessary by the Commission.

- C. The Commission is not required to hold a hearing in order to review the request for removal.

- D. If the Commission:

- (1) Grants the request, it shall:

- (a) Deliver to the individual by regular U.S. mail a notice of removal from the voluntary exclusion list; and
 - (b) Notify the State's facility operators of the individual's removal from the voluntary exclusion list; or

- (2) Denies the request, it shall deliver to the individual by regular U.S. mail a notice that the:

- (a) Request was denied; and
 - (b) Individual shall remain on the voluntary exclusion list.

MASSACHUSETTS

Statute: M.G.L., Ch. 23K, § 45. Regulation and procedure for the exclusion and self-exclusion of persons from gaming establishments.

- (f) The commission shall establish a list of self-excluded persons from gaming establishments. A person may request such person's name to be placed on the list of self-excluded persons by filing a statement with the commission acknowledging that the

person is a problem gambler and by agreeing that, during any period of voluntary exclusion, the person shall not collect any winnings or recover any losses resulting from any gaming activity at a gaming establishment. The commission shall adopt further regulations, under section 5, for the self-excluded persons list including procedures for placement, removal and transmittal of such list to gaming establishments. The commission may revoke, limit, condition, suspend or fine a gaming establishment if the establishment knowingly or recklessly fails to exclude or eject from its premises any person placed on the list of self excluded persons.

- (g) Gaming establishments shall not market to persons on any excluded persons list and shall deny access to complimentarys, check cashing privileges, club programs and other similar benefits to persons on the self-excluded persons list.
- (h) Notwithstanding any other general or special law to the contrary, the self-excluded persons list shall not be open to public inspection. Nothing in this section, however, shall prohibit a gaming establishment from disclosing the identity of persons on the self-excluded persons list under this section to affiliated gaming establishments in this commonwealth or other jurisdictions for the limited purpose of assisting in the proper administration of responsible gaming programs operated by affiliated gaming establishments.
- (i) As used in this subsection the following words shall have the following meanings unless the context clearly requires otherwise:
 - (1) “Immediate family”, the spouse, parent, child, brother or sister of an individual.
 - (2) “Problem gambler”, a person who chronically or habitually gambles to the extent that such gambling substantially interferes with the person’s social or economic functioning or that the person has lost the power of self control over that person’s gambling. An immediate family member or guardian may petition, in writing, a district court for an order of exclusion from gaming establishments applicable to a person whom the petitioner has reason to believe is a problem gambler. Upon receipt of a petition for an order of exclusion of a person and any sworn statements the court may request from the petitioner, the court shall immediately schedule a hearing on the petition and shall cause a summons and a copy of the petition to be served upon the person as provided in section 25 of chapter 276. The person may be represented by legal counsel and may present independent expert or other testimony. The court shall order examination by a qualified psychologist. If after a hearing the court based upon competent testimony finds that the person is a problem gambler and there is a likelihood of serious harm as a result of the person’s gambling, the court may order that such person be prohibited from gaming in gaming establishments. The court shall communicate this order to the commission, which shall place the person’s name on the list of excluded persons.
- (j) A person who is prohibited from gaming in a gaming establishment under this section shall not collect any winnings or recover losses arising as a result of prohibited gaming winnings obtained by a person who is prohibited from gaming in a gaming establishment and such winnings shall be forfeited to the commission and deposited into the Gaming Revenue Fund.
- (k) The commission shall pursue an interstate compact for the purposes of sharing information regarding the excluded persons list.

Regulation: 205 CMR 133. 01. Voluntary Exclusion.

In accordance with M.G.L. c. 23K, § 45(f), 205 CMR 133.00 shall govern the procedures and protocols relative to the list of self-excluded persons from entering the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed. The voluntary self-exclusion list shall consist of the names and information relative to those individuals who have complied with the requirement of 205 CMR 133.00 and have been placed on the list by the commission. Placement of one's name on the voluntary self-exclusion list is intended to offer individuals one means to help address problem gambling behavior or deter an individual with family, religious, or other personal concerns from entering the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed.

For purposes of 205 CMR 133.00, the term 'problem gambler' shall mean an individual who believes their gambling behavior is currently, or may in the future without intervention, cause problems in their life or on the lives of their family, friends, and/or co-workers.

Regulations: 205 CMR 133.02: Placement on the Self-exclusion List.

- (1) An individual whose name is placed on the voluntary self-exclusion list shall be prohibited from entering the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed for the duration of the exclusion period, and shall not collect any winnings or recover any losses resulting from any gaming activity at a gaming establishment. Provided, however, that an employee of a gaming licensee or vendor who is licensed or Registered as a key gaming employee, gaming employee, or gaming service employee in accordance with 205 CMR 134.00: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations and who is on the voluntary self-exclusion list may be in the gaming area of a gaming establishment or an area in which pari-mutuel or simulcasting wagers are placed solely for purposes of performing their job functions.
- (2) An individual may request to have their name placed on the voluntary self-exclusion list by completing the application and procedure outlined in 205 CMR 133.02. Applications shall be submitted on a form approved by the commission and shall be available on the commission's website and at designated locations on and off the premises of the gaming establishments as determined by the commission.
- (3) An application for placement on the voluntary self-exclusion list may only be accepted, and an intake performed, by a designated agent. An individual may only become a designated agent by successfully completing a course of training approved and administered by the commission or its designee. The course of training shall include, at a minimum, instruction on completion of the application, information relative to problem gambling and available resources, and an understanding of 205 CMR 133.00. A designated agent must be a licensed, certified, or registered health or mental health professional or employee thereof, or an employee of a gaming licensee, the commission, a gaming licensee, or other government entity. The commission may refuse to offer training to any individual whose service as a designated agent it determines would be contrary to the aims of 205 CMR 133.00.
- (4) Upon submission of an application, a designated agent shall review with the applicant the contents and statements contained in the application, as provided by 205 CMR 133.03. If

the application is complete, the designated agent shall sign the application indicating that the review has been performed and the application has been accepted.

- (5) A designated agent may not sign an application if (a) any required information is not provided or (b) they are of the belief that the applicant is not capable of understanding the responsibilities and consequences of being placed on the self-exclusion list.
- (6) The designated agent shall forward the signed application for voluntary self-exclusion to the commission within 48 hours of completion in a manner directed by the commission.
- (7) Upon receipt of an application, the commission, or its designee, shall review it for completeness. If the application meets all requirements of 205 CMR 133.02 the application shall be approved and the individual's name shall be added to the voluntary self-exclusion list. If the application is incomplete, the commission, or its designee, may deny the application and make efforts to contact the applicant advising them of such.
- (8) If the gaming licensee utilizes an internal management system to track individuals on the self-exclusion list, they shall update that system at least every 72 hours with names of individuals being added or removed from the self-exclusion list.
- (9) The commission, or its designee, shall add to the list of voluntarily self-excluded persons the name of any individual provided from a gaming jurisdiction outside of Massachusetts, with which the commission has entered into an interstate compact, upon a determination that the individual voluntarily requested that their name be added to the list of the referring jurisdiction and that they were notified, either directly or by operation of law, that their name may be placed on similar lists in other jurisdictions.
- (10) If the applicant has elected the services identified in 205 CMR 133.03(8) the commission, or its designee, shall contact the designated coordinating organization for the provision of requested services.

Regulation: 205 CMR 133.03: Contents of the Application.

The application for voluntary self-exclusion shall require provision of, at a minimum, the following content:

- (1) Name, home address, email address, telephone number, date of birth, and social security number of the applicant;
- (2) A passport style photo of the applicant without headwear;
- (3) A statement from the applicant that one or more of the following apply:
 - (a) they identify as a problem gambler as defined in 205 CMR 133.01;
 - (b) they feel that their gambling behavior is currently causing problems in their life or may, without intervention, cause problems in their life; or
 - (c) there is some other reason why they wish to add their name to the list.
- (4) Election of the duration of the exclusion in accordance with 205 CMR 133.04;
- (5) An acknowledgement by the applicant that the individual will not enter the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed for the duration of the exclusion period (except as provided by 205 CMR 133.02(1)) and that it is their sole responsibility to refrain from doing so;
- (6) An acknowledgment by the applicant that the individual shall not collect any winnings or recover any losses resulting from any gaming activity at a gaming establishment for the duration of the exclusion period;

- (7) An acknowledgement by the applicant that he or she will forfeit all rewards or points earned through a player reward card program;
- (8) An offer by the commission or the designated agent completing the self-exclusion application to assist the applicant to access information about gambling disorders, self-guided help or counseling services with a clinician approved by the Massachusetts Department of Public Health;
- (9) An acknowledgment of understanding by the applicant that by placing their name on the voluntary self-exclusion list the prohibitions identified in 205 CMR 133.02(1) apply to all gaming establishments licensed by the commission in Massachusetts, any affiliates of the gaming licensee, whether within Massachusetts or another jurisdiction, and that the commission may share the list with other domestic or international gaming jurisdictions resulting in placement on those lists;
- (10) An acknowledgment by the applicant that he or she is submitting the application freely, knowingly, and voluntarily;
- (11) A statement that the individual is not under the influence of a substance or suffering from a mental health condition that would impair their ability to make an informed decision;
- (12) An acknowledgement by the applicant that if they violate their agreement to refrain from entering a gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed during the exclusion period, the applicant shall notify the commission of such violation within 24 hours of their presence within the gaming area of the gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed; and releasing the Commonwealth of Massachusetts, the commission, the licensee, and all affiliated employees from any claims associated with their breach of the agreement; and
- (13) An acknowledgement by the applicant that once their name is placed on the self exclusion list they may be refused entry and/or ejected from the gaming area of a gaming establishment by the gaming licensee, an agent of the commission, or law enforcement personnel

Regulation: 205 CMR 133.04: Duration of Exclusion and Removal from the List.

- (1) As part of the request for voluntary self-exclusion, the individual must select the duration for which they wish to be voluntarily excluded. An individual may select any of the following time periods as a minimum length of exclusion:
 - (a) One year;
 - (b) Three years;
 - (c) Five years; or
 - (d) Lifetime (An individual may only select the lifetime duration if their name has previously appeared on the voluntary self-exclusion list for at least six months.)
- (2) An individual on the voluntary self-exclusion list may not apply to decrease the duration of exclusion. An individual who is on the list may submit a request to increase the minimum length of exclusion.
- (3) Upon expiration of the selected duration of exclusion, individuals may request that their name be removed from the list or petition for exclusion for a new duration. Individuals shall remain on the list after the expiration of the selected duration of exclusion until such

time as they submit a petition for removal in accordance with 205 CMR 133.04(4) and it is approved by the commission or its designee.

- (4) At any time after the expiration of the selected duration of exclusion, an individual may request that their name be removed from the voluntary self-exclusion list by submitting a petition for removal on a form approved by the commission. The petition shall include confirmation from a designated agent that the individual completed an exit session in accordance with 205 CMR 133.04(5). Any petition for removal received by the commission prior to the expiration of the duration of the selected exclusion period shall be denied. The commission shall approve a completed petition for removal. An individual who has selected a lifetime duration in accordance with 205 CMR 133.04(1)(e) may not submit a petition for removal of their name from the list. An incomplete application, including one that fails to demonstrate completion of an exit session in accordance with 205 CMR 133.04(5) shall be denied until such time as the application is completed.
- (5) To be eligible for removal from the voluntary self-exclusion list the petitioner shall participate in an exit session with a designated agent. The exit session shall include a review of the risks and responsibilities of gambling, budget setting and a review of problem gambling resources should the petitioner wish to seek them. Upon completion of the exit session the designated agent shall sign the individual's petition for removal from the list attesting to the fact that the exit session was conducted.
- (6) Upon approval of a petition for removal from the voluntary self-exclusion list, a written notice of removal from the list shall be forwarded by the commission, or its designee, to each gaming licensee and to the petitioner. Notice may be forwarded to the petitioner by email or first class mail to the email address or home address provided by the petitioner in the petition. The petitioner shall be deemed to be removed from the voluntary self exclusion list when the notice is sent by the commission or its designee.
- (7) If a petitioner does not meet the eligibility requirements for removal from the list provided in 205 CMR 133.04(4), the petition shall be denied. The petitioner shall be notified of the denial by email or first class mail to the email address or home address provided by the petitioner in the petition. In the event of a denial of a petition, the individual shall remain on the voluntary self-exclusion list until such time as the eligibility requirements have been satisfied.
- (8) An individual whose name has been removed from the voluntary self-exclusion list may reapply for placement on the list at any time by submitting an application in accordance with 205 CMR 133.02.
- (9) An individual whose name was added to the voluntary self-exclusion list in Massachusetts in accordance with 205 CMR 133.02(9) shall be removed from the list notwithstanding 205 CMR 133.04(4) through (6) upon receipt of written notice from the referring jurisdiction that the individual's name has been removed from that jurisdiction's list.

Regulation: 205 CMR 133.05. Maintenance and Custody of the List.

- (1) The commission shall maintain an up-to-date database of the voluntary self-exclusion list. Gaming licensees shall be afforded access to the voluntary self-exclusion list. The voluntary self-exclusion list may only be accessed by individuals authorized in accordance with the gaming licensee's approved system of internal controls in accordance with 205 CMR 133.00. All information contained in approved applications for voluntary exclusion may be disclosed to a gaming licensee.

- (2) The list of voluntary self-exclusion is exempt from disclosure under M.G.L. c. 66 and shall not be publicly disclosed by a gaming licensee. However, a gaming licensee may share the list with other gaming licensees in Massachusetts or its affiliates in other jurisdictions for the purpose of assisting in the proper administration of responsible gaming programs operated by affiliated gaming establishments.
- (3) The commission may disclose de-identified information from the self-exclusion list to one or more research entities selected by the commission for the purpose of evaluating the effectiveness and ensuring the proper administration of the self-exclusion process.

Regulation: 205 CMR 133.06: Responsibilities of the Gaming Licensees

A gaming licensee shall have the following responsibilities relative to the administration of the voluntary self-exclusion list:

- (1) A gaming licensee shall eject from or refuse entry into the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed any individual whose name appears on the voluntary self-exclusion list;
- (2) A gaming licensee shall promptly notify the commission, or its designee, if an individual on the voluntary self-exclusion list is found in the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed;
- (3) A gaming licensee shall not market to individuals on the voluntary self-exclusion list;
- (4) A gaming licensee shall deny access to complimentary services or items, check cashing privileges, player reward programs, and other similar benefits to persons on the list;
- (5) Individuals on the voluntary self-exclusion list shall not be permitted to participate in a cashless wagering system. A gaming licensee shall take steps to ensure that it denies entry into and terminates all access and privileges associated with its cashless wagering program to individuals on the voluntary list of self-excluded persons;
- (6) A gaming licensee shall not extend credit to an individual on the voluntary self exclusion list;
- (7)(a) A gaming licensee shall not pay any winnings derived from gaming to an individual who is prohibited from gaming in a gaming establishment by virtue of having placed their name on the voluntary self-exclusion list in accordance with 205 CMR 133.00. Winnings derived from gaming shall include, but not be limited to, such things as proceeds derived from play on a slot machine/electronic gaming device and a wager, or series of wagers, placed at a table game. Where reasonably possible, the gaming licensee shall confiscate from the individual in a lawful manner, or shall notify a commission agent who shall confiscate, or shall refuse to pay any such winnings derived from gaming or any money or thing of value that the individual has converted or attempted to convert into a wagering instrument whether actually wagered or not. A wagering instrument shall include, but not be limited to, chips, tokens, prizes, non-complimentary pay vouchers, electronic credits on a slot machine/electronic gaming device, and vouchers representing electronic credits/TITO slips. The monetary value of the confiscated winnings and/or wagering instrument shall be paid to the commission for deposit into the Gaming Revenue Fund within 45 days;

- (b) If an individual wishes to contest the forfeiture of winnings or things of value, the individual may request a hearing in writing with the commission within 15 days of the date of the forfeiture. The request shall identify the reason why the winnings or things of value should not be forfeited. A hearing shall be conducted in accordance with 205 CMR 101.00:M.G.L. c. 23K Adjudicatory Proceedings to determine whether the subject funds were properly forfeited in accordance with 205 CMR 133.06(7)(a);
- (8) In cooperation with the commission, and where reasonably possible, the gaming licensee shall determine the amount wagered and lost by an individual who is prohibited from gaming. The monetary value of the losses shall be paid to the commission for deposit into the Gaming Revenue Fund within 45 days.
- (9) A gaming licensee shall submit a written policy for compliance with the voluntary self-exclusion program for commission approval at least 60 days before the gaming establishment opening. The commission shall review the plan for compliance with 205 CMR 133.00. If approved, the plan shall be implemented and followed by the gaming licensee. The plan for compliance with the voluntary self-exclusion program, shall include at a minimum procedures to:
 - (a) Prevent employees from permitting an individual on the voluntary exclusion list from engaging in gambling activities at the gaming establishment;
 - (b) Identify and remove self-excluded individuals from the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed;
 - (c) Remove individuals on the self-exclusion list from marketing lists and refrain from sending or transmitting to them any advertisement, promotion, or other direct marketing mailing from the gaming establishment more than 30 days after receiving notice from commission that the individual has been placed on the voluntary self-exclusion list;
 - (d) Prevent an individual on the voluntary self-exclusion list from having access to credit, cashless wagering program access, or from receiving complimentary services, check-cashing services, junket participation and other benefits from the gaming establishment;
 - (e) Ensure the confidentiality of the identity and personal information of the voluntarily self-excluded individual;
 - (f) Training of employees relative to the voluntary self-exclusion program to be provided in conjunction with its problem gambling training program.
- (10) A gaming licensee shall notify the commission within ten days if an employee or agent fails to exclude or eject from its premises any individual on the list of self-excluded persons, or otherwise fails to perform a responsibility of the gaming establishment identified in 205 CMR 133.06 including any provision of its approved written policy for compliance with the voluntary self-exclusion program.

Regulation: 205 CMR 133.07. Sanctions Against a Gaming Licensee.

- (1) Grounds for Action. A gaming license may be conditioned, suspended, or revoked, and/or the gaming licensee assessed a civil administrative penalty if it is determined that a gaming licensee has:

- (a) knowingly or recklessly failed to exclude or eject from its premises any individual placed on the list of self-excluded persons. Provided, it shall not be deemed a knowing or reckless failure if an individual on the voluntary self-exclusion list shielded their identity or otherwise attempted to avoid identification while present at a gaming establishment; or
 - (b) failed to abide by any provision of 205 CMR 133.00, M.G.L. c. 23K, § 45, the gaming licensee's approved written policy for compliance with the voluntary self-exclusion program pursuant to 205 CMR 133.06(9), or any law related to the voluntary self-exclusion of patrons in a gaming establishment. Provided, a gaming licensee shall be deemed to have marketed to an individual on the self-exclusion list only if marketing materials are sent directly to an address, email address, telephone number, or other contact identified by the individual on their application.
- (2) Finding and Decision. If the bureau finds that a gaming licensee has violated a provision of 205 CMR 133.07(1), it may issue a written notice of decision recommending that the commission suspend, revoke, and or condition said gaming licensee. Either in conjunction with or in lieu of such a recommendation, the bureau may issue a written notice assessing a civil administrative penalty upon said licensee. Such notices shall be provided in writing and contain a factual basis and the reasoning in support the decision including citation to the applicable statute(s) or regulation(s) that supports the decision.
- (3) Civil Administrative Penalties. The bureau may assess a civil administrative penalty on a gaming licensee in accordance with M.G.L. c. 23K, § 36 for a violation of 205 CMR 133.07(1). (4) Review of Decision. A recommendation made by the bureau to the commission that a gaming license be suspended or revoked shall proceed directly to the commission for review in accordance with 205 CMR 101.01:
- (4) Hearings before the Commission. If the gaming licensee is aggrieved by a decision made by the bureau to assess a civil administrative penalty in accordance with 205 CMR 133.07(2) and (3), it may request review of said decision in accordance with 205CMR 101.00: M.G.L. c. 23K Adjudicatory Proceedings.

Regulation: 205 CMR 133.08. Collection of Debts.

- (1) An individual who is prohibited from gaming in a gaming establishment under 205 CMR 133.00 shall not be entitled to recover losses as a result of prohibited gaming based solely on their inclusion on the list.
- (2) Nothing in 205 CMR 133.00 shall be construed so as to prohibit a gaming licensee from seeking payment of a debt from an individual whose name is on the voluntary self exclusion list if the debt was accrued by the individual before their name was placed on the list.

MICHIGAN

Statute: MCL 432.225. Disassociated Persons.

- 1. The board shall create a list of disassociated persons. The board shall, with the assistance of casino licensees, inform each patron of the list of disassociated persons and explain how the patron may add his or her name to the list.

2. The board may add an individual's name to the list of disassociated persons if the individual has notified the board in writing of his or her pledge not to visit a casino in this state by filing an application for placement on the list of disassociated persons with the board.
3. The board shall create and make available an application for placement on the list of disassociated persons. The application shall include all of the following information about the individual who is applying:
 - a. Full name and all aliases.
 - b. Physical description including height, weight, hair and eye color, skin color, and any other noticeable physical characteristics.
 - c. Occupation.
 - d. Current home and work addresses and phone numbers.
 - e. Social security number.
 - f. Date of birth.
 - g. Statement that the individual believes he or she is a problem gambler and is seeking treatment.
 - h. A photograph suitable for the board and casino licensees to use to identify the individual,
 - i. Other information that the board considers necessary.
4. An individual's name shall be placed on the list of disassociated persons after all of the following have occurred:
 - a. The individual has submitted an application to be placed on the list of disassociated persons to the Michigan gaming control board.
 - b. The application has been verified by a representative of the board.
 - c. The individual has signed an affidavit in which he or she affirms that he or she wishes to be placed on the list of disassociated persons and authorizing the board to release the contents of his or her application to all casino licensees in this state.
 - d. The individual signs a form releasing the state of Michigan, the board, and the casino licensees from any injury the individual suffers as a consequence of placing his or her name on the list of disassociated persons.
 - e. The individual signs a form stating that he or she understands and authorizes all of the following:
 - i. That a criminal complaint for trespassing will be filed against him or her if he or she is found on the premises of a casino in this state and he or she will be immediately removed from the casino premises.
 - ii. That if he or she enters a casino and wins any money, the board will confiscate the winnings.
5. An individual who has his or her name placed on the list of disassociated persons shall remain on the list for the remainder of his or her life.
6. After an application has been submitted to the board, the chairperson of the board shall file a notice of placement on the list of disassociated persons with the board at the next closed session. Information contained in an application under subsection (4) is exempt from disclosure under section 4c of this act and is not open for public inspection. The

information shall be disclosed to the board, each casino licensee in this state, the department of attorney general, and the department of state police.

7. The list of disassociated persons shall be provided to each casino licensee, the department of attorney general, and the department of state police.
8. Each casino licensee in this state shall submit to the board a plan for disseminating the information contained in the applications for placement on the list of disassociated persons. The board shall approve the plan. The plan shall be designed to safeguard the confidentiality of the information but shall include dissemination to all of the following:
 - (a) The general casino manager or the managerial employee who has responsibility over the entire casino operations.
 - (b) All security and surveillance personnel.
 - (c) The department of state police.
9. A casino licensee shall not extend credit, offer check cashing privileges, offer coupons, market its services, or send advertisements to, or otherwise solicit the patronage of, those persons whose names are on the list of disassociated persons.
10. The casino licensee shall keep a computer record of each individual whose name is on the list of disassociated persons. If a casino licensee identifies a person on the premises of a casino, the licensee shall immediately notify the board, a representative of the board, or a representative of the department of state police who is on the premises of the casino. After the licensee confirms that the individual has filed an affidavit under this section, the licensee shall do all of the following:
 - (a) Immediately remove the individual from the casino premises.
 - (b) Report the incident to the prosecutor for the county in which the casino is located.
11. A casino licensee who violates this act is subject to disciplinary action by the board.
12. The board shall promulgate rules to implement and administer this act.
13. An individual who has placed his or her name on the list of disassociated persons who enters a casino in this state is guilty of criminal trespassing punishable by imprisonment for not more than 1 year, a fine of not more than \$1,000.00, or both.
14. This act does not create any right or cause of action on behalf of the individual whose name is placed on the list of disassociated persons against the state of Michigan, the board, or a casino licensee.
15. Any winnings collected by the board under this act shall be deposited into the compulsive gaming prevention fund.

OHIO:

Statute: Ohio Rev. Code Ann. §3772.03. Authority of commission; adoption of rules.

(D) The commission shall adopt, and as advisable and necessary shall amend or repeal, rules that include all of the following:

(10) Establishing and implementing a voluntary exclusion program that provides all of the following:

- (a) Except as provided by commission rule, a person who participates in the program shall agree to refrain from entering a casino facility.
- (b) The name of a person participating in the program shall be included on a list of persons excluded from all casino facilities.
- (c) Except as provided by commission rule, no person who participates in the program shall petition the commission for admittance into a casino facility.
- (d) The list of persons participating in the program and the personal information of those persons shall be confidential and shall only be disseminated by the commission to a casino operator and the agents and employees of the casino operator for purposes of enforcement and to other entities, upon request of the participant and agreement by the commission.
- (e) A casino operator shall make all reasonable attempts as determined by the commission to cease all direct marketing efforts to a person participating in the program.
- (f) A casino operator shall not cash the check of a person participating in the program or extend credit to the person in any manner. However, the program shall not exclude a casino operator from seeking the payment of a debt accrued by a person before participating in the program.
- (g) Any and all locations at which a person may register as a participant in the program shall be published.

Regulation: Ohio Admin. Code §3772-10-10. Patron financial transactions at the cashier's cage.

(C) Before processing each financial transaction at the cashier's cage, the casino cashier shall verify the identity of the patron and ensure that the patron is not a part of the commission's voluntary or involuntary exclusion programs.

Regulation: Ohio Admin. Code §3772-12-01. Scope and purpose of the Ohio voluntary exclusion program.

(A) The purpose of this chapter is to help curtail compulsive and problem gambling in the state of Ohio by combining the voluntary exclusion program operated by the casino control commission, created pursuant to section 3772.03 of the Revised Code, with the voluntary exclusion program operated by the lottery commission, created pursuant to section 3770.03 of the Revised Code. As used in this chapter, the combined voluntary exclusion programs shall be referred to as the "Ohio voluntary exclusion program" or "Ohio VEP." This chapter is to be read in tandem with Chapter 3770:2-8 of the Administrative Code.

(B) Participants in the Ohio VEP agree to exclude themselves from all casino facilities and all video lottery terminal facilities in the state of Ohio, collectively known as "excluded facilities." Except as described in rule 3772-12-07 of the Administrative Code, no person shall be able to voluntarily exclude themselves from solely either the casino facilities or the video lottery terminal facilities.

(C) Nothing in this chapter shall prohibit participants in the Ohio VEP from entering an excluded facility for the purpose of carrying out the duties of their employment. Any such individual must submit notification of their employment in accordance with the procedure described on a prescribed form.

Regulation: Ohio Admin. Code §3772-12-02 Application for Ohio voluntary exclusion.

(A) An application to participate in the Ohio VEP is available for completion at all Ohio casino facilities and video lottery terminal facilities. If an individual is unable to appear in person at any of these facilities to complete an application, the individual may contact staff from the lottery commission or the casino control commission during regular business hours to make alternative arrangements to complete the application.

(B) All applications to join the Ohio VEP must be completed in the presence of either commission's staff on a prescribed form. No application will be accepted if it was not completed in the presence of either commission's staff.

(C) As part of the request for voluntary exclusion, the individual must select the duration of their participation in the Ohio VEP. An individual may select any of the following time periods as a length of exclusion:

- (1) A minimum of one year;
- (2) A minimum of five years; or
- (3) Lifetime, subject to paragraph (D) of rule 3772-12-05 of the Administrative Code.

(D) After receipt of a completed and unaltered application for the Ohio voluntary exclusion program, either commission's staff shall ensure the individual is:

- (1) Voluntarily applying for exclusion;
- (2) Fully informed of the consequences of participation in the Ohio VEP; and
- (3) Able to confirm the information provided in the application.

(E) If, at any time while an individual is completing an application to join the Ohio VEP, they appear to be doing so involuntarily or while impaired, their application shall be rejected.

(F) After an individual's request for voluntary exclusion has been processed, delivery of written confirmation of their participation in the Ohio VEP will be attempted in the manner they requested on their application. Failure of delivery of the notification does not negate the individual's participation in the Ohio VEP.

Regulation: Ohio Admin. Code §3772-12-03. Responsibilities of voluntarily excluded individuals.

(A) Participants in the Ohio VEP agree to abide by all terms listed in the application for the Ohio voluntary exclusion program described in paragraph (B) of rule 3772-12-02 of the Administrative Code, including refraining from entering an excluded facility or otherwise participating or attempting to participate in any wagering activity offered at any of those facilities.

(B) Participants in the Ohio VEP who violate the terms of the VEP at a casino facility shall agree to surrender to the casino control commission any money or thing of value the individual has converted or attempted to convert into a wagering instrument for deposit in the state problem gambling and addictions fund.

(C) Participants in the Ohio VEP shall agree to forfeit all points or complimentaries earned by the individual on or before the date the individual completed their application for the Ohio voluntary exclusion program. However, if at the time the individual completed the application, the individual is owed a cash amount from an excluded facility, the individual still has the right to receive that amount from the facility, even after placement on the voluntary exclusion program. To the extent that complimentaries or points described above may be redeemed for cash under the facility's marketing program, the individual is entitled to receive that amount.

(D) A voluntarily excluded individual who violates the terms of the Ohio VEP by entering any of the excluded facilities may face charges for criminal trespass.

(E) The individual must remain a participant in the Ohio VEP for at least the minimum duration of their selected length of exclusion before they may request to be removed, subject to paragraph (D) rule 3772- 12-05 of the Administrative Code.

(F) An Ohio VEP participant may always request to increase their length of exclusion.

Regulation: Ohio Admin. Code §3772-12-04. Responsibilities of excluded facilities.

(A) This rule shall only apply to excluded facilities under the jurisdiction of the casino control commission. Each excluded facility shall maintain a system for indicating whether an individual is in the Ohio VEP and shall have approved procedures to update the system with changes in the enrollment status of those individuals at least once every seven days.

(B) The excluded facility shall immediately notify commission staff if an Ohio VEP participant is found on the premises of the facility. Within seventy-two hours of the incident, the facility shall provide to the applicable commission, in writing, the following:

- (1) The individual's name;
- (2) The individual's date of birth;
- (3) The circumstances of discovery of the individual's presence at the facility; and
- (4) The individual's gaming activity, if any.

(C) Each excluded facility shall comply with the compulsive and problem gambling plan established under rule 3772-12-06 of the Administrative Code.

(D) Nothing in this chapter shall prohibit an excluded facility or its employees and agents from seeking payment of a debt from an Ohio VEP participant if the debt was accrued prior to their placement in the Ohio VEP.

Regulation: Ohio Admin. Code §3772-12-05. Removal from the Ohio voluntary exclusion program.

(A) A participant in the Ohio VEP is not automatically removed from the program at the end of the applicable exclusion period.

(B) Upon reaching the selected minimum length of voluntary exclusion, an individual may request removal from the Ohio VEP.

(C) An individual may be removed from the one-year or five-year exclusion by requesting and completing an unaltered application for removal.

(D) An individual may be removed from the lifetime exclusion, if the individual has:

- (1) Remained in the Ohio VEP for at least five years;
- (2) Completed the Ohio VEP education program on problem gambling awareness;
- (3) Once the program described in paragraph (D)(2) of this rule is completed, undergo a problem gambling assessment with a medical or clinical professional qualified to treat gambling disorder. Such professional must have received problem gambling-specific training, undergone voluntary exclusion training offered by the state of Ohio at least once in the last twenty-four months, and include problem gambling in the scope of the professional's practice; and
- (4) Requested and completed an unaltered application for removal.

WEST VIRGINIA

Regulation: WV CSR § 179-8-126. Exclusion List; duty to exclude.

1. Entry into the casino shall be denied to any person who is excluded under this rule. If the Director places a person on the Commission's exclusion list, the person is prohibited from entering the casino until a determination is made by the Commission or a court to the contrary.
2. The casino licensee shall exclude or eject any excluded person from its premises if the casino licensee or the licensee's agents know or reasonably should know that the person is on the Commission's exclusion list.
3. The casino licensee shall inform the Commission, in writing, of the names of persons that it knows or should know who meet the criteria for placement on an exclusion list and the reason the person meets the exclusion criteria.
4. This rule does not preclude the casino licensee from ejecting or barring a person from its casino for reasons considered necessary by the licensee. The casino licensee may seek to have a person it has ejected or barred from its premises placed on the Commission exclusion list.

Regulation: WV CSR §179-8-127. Distribution and availability of exclusion lists.

1. The Commission shall maintain a list of persons to be ejected or excluded from the casino. The exclusion list is a public record. The list may be distributed to law enforcement agencies. All of the following information, to the extent known, shall be provided for each excluded person:
 - a. The person's full name and date of birth and all aliases;
 - b. A physical description of the person;
 - c. The effective date the person's name was placed on the exclusion list;
 - d. A photograph of the person, if available;
 - e. The person's occupation and current home and business addresses; and
 - f. Any other information considered necessary by the Director to facilitate identification of the person placed on the exclusion list.

Regulation: WV CSR 179-8-128. Criteria for exclusion and placement on exclusion list.

1. The Director may place a person on the exclusion list pending a hearing if any of the following provisions apply to the person:
 - (e) The person has realized that he or she has a compulsive gaming disorder and has requested in writing to be excluded from the casino and/or all of the state's four parimutuel racetracks.

Regulation: WV CSR § 179-8-129. Procedure for entry of names on exclusion list.

1. Upon a determination that a person comes under any of the criteria for exclusion, the person may be subject to exclusion and the Director shall file a notice of exclusion. The notice shall include all of the following information:
 - a. The identity of the person;
 - b. The nature and scope of the circumstances or reasons that the person should be placed on the exclusion list;

- c. The names of potential witnesses; and
 - d. A recommendation as to whether the exclusion or ejection should be permanent.
- The notice shall also inform the person of the availability of a hearing before the Commission.

RESTRICTIONS ON ALCOHOL SERVICE

States may require casinos to limit alcoholic beverage service on the gaming floor, or to limit access to gambling services for patrons who are visibly intoxicated.

DELAWARE

Statute: 4 Del. C. § 706. Sale or service of alcoholic liquors to intoxicated person.

Any licensee, or employee of a licensee, or person in charge of a licensed premises shall refuse to sell or serve alcoholic liquors to any individual if such individual is intoxicated or appears to be intoxicated. Such licensee, employee of a licensee or person in charge of American Gaming Association 10 the licensed premises shall not be liable to any individual for damages claimed to arise from the refusal to sell alcoholic liquors if such refusal is based upon this section.

KANSAS: N/A

MARYLAND

Statute: Md. Code Ann., State Govt. Law, § 9-1A-24. Compliance.

(b)(1) The county alcoholic beverages licensing authority for the county in which a video lottery facility is located shall ensure that the video lottery licensee complies with the 63 Responsible Gaming Regulations & Statutes requirements of this subsection. –

(3) Any food or alcoholic beverages offered by a video lottery operation licensee for sale to individuals may be offered only at prices that are determined by the county alcoholic beverages licensing authority to be commensurate with the price of similar types of food and alcoholic beverages at restaurants in the county in which the video lottery facility is located.

(c) A video lottery operation licensee shall ensure that intoxicated individuals and individuals under the age of 21 years are not allowed to play video lottery terminals or table games and are not allowed in areas of the video lottery facility where video lottery terminals or table games are located.

MASSACHUSETTS

Regulation: 205 CMR 136.02. General Provisions.

(1) No person may sell or distribute alcoholic beverages to be drunk on the premises of a gaming establishment except as allowed by a gaming beverage license. Alcoholic beverages served in a licensed area in accordance with the terms of a gaming beverage license may be consumed in any part of the premises of the gaming establishment subject to any restrictions or conditions placed on the gaming beverage license in the interest of the integrity of gaming and/or public health, welfare, or safety.

Regulation: 205 CMR 136.07: Practices and Conditions of License.

- (5) Postings. The gaming beverage licensee shall post in a location continuously conspicuous to the public within each licensed area and wherever alcoholic beverages are served:
 - (a) a copy of the licensed area addendum pursuant to 205 CMR 136.09(2) for the licensed area, and
 - (b) a summary of M.G.L. c. 90, § 24 prohibiting driving under the influence and stating the maximum penalties provided therefore.
- (7) Prohibited Distribution. A gaming beverage licensee, jointly responsible person, and their respective agents and employees, except as otherwise provided by 205 CMR 136.07:
 - (a) may not offer or deliver more than two drinks to one individual at a time (except that a bottle of wine may be served to one or more patrons);
 - (b) may not sell, offer to sell or deliver to any person an unlimited number of drinks during any set period of time for a fixed price (i.e. open bar), except at invitation-only private functions not open to the public;
 - (c) may not increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week;
 - (d) may not offer or deliver malt beverages or mixed drinks by the pitcher except to two or more persons at any one time;
 - (e) may not encourage or permit any game or contest which involves drinking alcoholic beverages or the awarding of alcoholic beverages as prizes;
 - (f) may not serve an alcoholic beverage to any person who is visibly intoxicated;
 - (g) may not serve an alcoholic beverage to any person who is younger than 21 years old; and
 - (h) may not serve or distribute alcoholic beverages at the gaming establishment between 2:00 A.M. and 8:00 A.M.; and
 - (i) may, with the commission's approval, serve alcoholic beverages between the hours of 2:00 A.M. and 4:00 A.M. to patrons of the gaming establishment who are actively engaged in gambling, as defined by M.G.L. c. 23K, § 2, in the gaming area. Such service shall be conducted in accordance with the procedures approved in accordance with 205 CMR 138.12.

Regulation: 205 CMR 138.12: Alcoholic Beverage Control.

A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include policies and procedures designed to ensure compliance with 205 CMR including, at a minimum, procedures designed to ensure proper training of employees involved in the service of alcoholic beverages, procedures designed to prevent serving alcoholic beverages to underage or visibly intoxicated individuals, procedures to ensure that visibly intoxicated or impaired patrons are not permitted to play slot machines or table games (as further detailed in 205 CMR 138.14), and procedures to ensure that alcohol is properly secured and stored. . If the gaming licensee intends to serve alcoholic beverages between the hours of

2:00 A.M. and 4:00 A.M., it shall include policies and procedures in its alcoholic beverage control submission designed to ensure that such service is only provided to patrons who are in the gaming area and actively engaged in gambling as defined by M.G.L. c. 23K, § 2.

MICHIGAN: N/A

OHIO: N/A

WEST VIRGINIA:

Statute: §29-22A-9. General duties of all video lottery license and permit holders; duties of permitted manufacturers; duties of permitted service technicians; duties of permitted validation managers; duties of floor attendants; duties of licensed racetracks.

(a) All video lottery license and permit holders shall:

(7) Monitor video lottery terminals to prevent access to or play by persons who are under the age of eighteen years or who are visibly intoxicated.

Statute: W. Va. Code §29-22B-702. Additional duties of limited video lottery retailers.

In addition to the general duties imposed on all licensees in section 22B-701, a limited video lottery retailer shall:

(8) Monitor video lottery terminals to prevent access to or play by persons who are under the age of twenty-one years or who are visibly intoxicated.

Statute: W. Va. Code §29-25-31. The specific video lottery duties required of the gaming facility.

The gaming facility licensee shall:

(g) Monitor video lottery terminals to prevent access to or play by persons who are under the age of twenty-one years or who are visibly intoxicated.

EMPLOYEE TRAINING

States may specify that casino employees should receive training on gambling disorder and/or RG practices. Some states require this training include instruction on the complex question of how to identify problem gamblers on the gaming floor.

DELAWARE

Statute: 29 Del. C. §4805. Director — Powers and duties.

(a) The Director shall have the power and the duty to operate and administer the state lottery and to promulgate such rules and regulations governing the establishment and operation of the lottery as the Director deems necessary and desirable in order that the lottery be initiated at the earliest feasible time and in order that the system shall produce the maximum amount of net revenues consonant with the dignity of the State and the general welfare of the people. The rules shall provide for all matters necessary or desirable for the efficient and economical operation and administration of the system and for the convenience of the purchasers of lottery tickets and the holders of winning tickets, and the players of all state lottery games including, but not limited to, the following:

(29) The regulations and procedures for the display and presentation of messages concerning responsible gaming and the regulations, procedures and training for identification of and assistance to compulsive gambler

MARYLAND: N/A

MASSACHUSETTS: N/A

MICHIGAN: N/A

OHIO: N/A

WEST VIRGINIA: N/A

TREATMENT AND RESEARCH FUNDING

Some states earmark a percentage of their gaming revenues, and/or require a licensee to do the same, to support treatment for individuals with gambling disorder, education services concerning gambling disorder and RG practices, and/or related research.

DELAWARE

Statute: 29 Del. C. § 4815. Funding for treatment.

(c) Application of funds retained by the state lottery. The funds retained by the state lottery shall be applied as follows: first, to the administrative costs and expenses in respect of the video lottery including, but not limited to, administrative expenses including payroll and other employment costs attributable to the operation of the video lottery by the State Lottery Office, law-enforcement and security expenses, including payroll and other employment costs of the state lottery, the Office of the Attorney General and the Delaware State Police, attributable to the operation by the state lottery of a video lottery; second, \$1,000,000 or 1%, whichever is greater, of the proceeds returned to the State under this paragraph (b)(2), to the Division of Substance Abuse and Mental Health of the Department of Health and Social Services for funding programs for the treatment, education and assistance of compulsive gamblers and their families; third, costs of the Administrator of Racing and racing inspectors referenced in Chapters 100 and 101 of Title 3; fourth, the State's contribution to the Delaware Standardbred Breeder's Program and Delaware Certified Thoroughbred Program (DCTP); and fifth, the remainder shall be paid into the State's General Fund.

KANSAS

Statute: K.S.A. §74-8734. Lottery gaming facilities; gaming zones; gaming facility management contract requirements; privilege fees; revenue distribution; eminent domain prohibited.

(h) Any management contract approved by the commission under this section shall:

(13) include a provision for 2% of lottery gaming facility revenues to be paid to the problem gambling and addictions grant fund established by K.S.A. 2018 Supp. 79-4805, and amendments thereto.

Statute: K.S.A. §74-8747. Net electronic gaming machine income; distribution.

(a) Net electronic gaming machine income from a racetrack gaming facility shall be distributed as follows:

(6) 2% of net electronic gaming machine income shall be credited to the problem gambling and addictions grant fund established by K.S.A. 2018 Supp. 79-4805, and amendments thereto.

Statute: K.S.A. §79-4805. Problem gambling and addictions grant fund.

(a) There is hereby established in the state treasury the problem gambling and addictions grant fund. All moneys credited to such fund shall be used only for the awarding of

grants under this section. Such fund shall be administered in accordance with this section and the provisions of appropriation acts.

(b) All expenditures from the problem gambling and addictions grant fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved in the manner prescribed by law.

(c)

(1) There is hereby established a state grant program to provide assistance for the direct treatment of persons diagnosed as suffering from pathological gambling and to provide funding for research regarding the impact of gambling on residents of Kansas. Research grants awarded under this section may include, but need not be limited to, grants for determining the effectiveness of education and prevention efforts on the prevalence of pathological gambling in Kansas. All grants shall be made after open solicitation of proposals and evaluation of proposals against criteria established in rules and regulations adopted by the secretary of the Kansas department for aging and disability services. Both public and private entities shall be eligible to apply for and receive grants under the provisions of this section.

(2) Moneys in the problem gambling and addictions grant fund may be used to treat alcoholism, drug abuse and other addictive behaviors.

(d) The secretary for aging and disability services is hereby authorized to receive moneys from any grants, gifts, contributions or bequests made for the purpose of funding grants under this section and to expend such moneys for the purpose for which received.

(e) All grants made in accordance with this section shall be made from the problem gambling and addictions grant fund. The secretary shall administer the provisions of this section and shall adopt rules and regulations establishing criteria for qualification to receive grants and such other matters deemed necessary by the secretary for the administration of this section. Such rules and regulations shall include, but need not be limited to, a requirement that each recipient of a grant to provide treatment for pathological gamblers report at least annually to the secretary the grantee's measurable achievement of specific outcome goals.

(f) For the purpose of this section "pathological gambling" means the disorder by that name described in the most recent edition of the diagnostic and statistical manual.

(g) On the effective date of this act the director of accounts and reports shall transfer all moneys in the problem gambling grant fund to the problem gambling and addictions grant fund. Thereupon the problem gambling grant fund shall be and is hereby abolished.

Statute: K.S.A. §79-4806. Transfers to problem gambling grant fund.

On July 1 of each year or as soon thereafter as sufficient moneys are available, \$80,000 credited to the state gaming revenues fund shall be transferred and credited to the problem gambling grant fund established by K.S.A. 2018 Supp. 79-4805, and amendments thereto.

MARYLAND

Statute: Md. Code Ann., State Govt. Law, § 9-1A-33. Problem Gambling Fund.

(a) Duties of Commission.

(1) The Commission shall:

- (i) establish an annual fee of \$ 425, to be paid by each video lottery operation licensee, for each video lottery terminal operated by the licensee during the year, based on the maximum number of terminal positions in use during the year; and
 - (ii) distribute the fees collected under item (i) of this paragraph to the Problem Gambling Fund established in subsection (b) of this section.
- (2) The Commission may establish an annual fee of up to \$ 500 for each table game to be paid by each video lottery operation licensee and distributed to the Problem Gambling Fund under subsection (b) of this section in order to ensure sufficient funds are available to provide requested services.

(b) Fund established. –

- (1) (i) There is a Problem Gambling Fund in the Department of Health and Mental Hygiene.
 - (ii) The purpose of the Fund is primarily to provide funding for problem gambling treatment and prevention programs, including:
 1. inpatient and residential services;
 2. outpatient services;
 3. intensive outpatient services;
 4. continuing care services;
 5. educational services;
 6. services for victims of domestic violence; and
 7. other preventive or rehabilitative services or treatment.
- (2) The Problem Gambling Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.
- (3) Money in the Problem Gambling Fund shall be invested and reinvested by the Treasurer, and interest and earnings shall accrue to the Fund.
- (4) Except as provided in paragraph (5) of this subsection, expenditures from the Problem Gambling Fund shall be made only by the Department of Health and Mental Hygiene to:
- (i) establish a 24-hour hotline for compulsive and problem gamblers and to provide counseling and other support services for compulsive and problem gamblers; and
 - (ii) establish an outreach program for compulsive and problem gamblers, including individuals who requested placement on the voluntary exclusion list established by the Commission under § 9-1A-24 of this subtitle, for the purpose of participating in problem gambling treatment and prevention programs; and

- (iii) develop and implement free or reduced cost problem gambling treatment and prevention programs, including the programs established under Title 19, Subtitle 8 of the Health - General Article.
- (5) After satisfying the requirements of paragraph (4) of this subsection, any unspent funds American Gaming Association 64 in the Problem Gambling Fund may be expended by the Department of Health and Mental Hygiene on drug and other addiction treatment services.
- (6) Expenditures from the Problem Gambling Fund shall be made in accordance with an appropriation approved by the General Assembly in the annual State budget or by the budget amendment procedure provided for in § 7-209 of the State Finance and Procurement Article.

MASSACHUSETTS

Statute: M.G.L., Ch. 23K, § 56. Fees and annual assessment of costs not otherwise covered by fees or other sources of funding.

- (a) In addition to any other tax or fee imposed by this chapter, there shall be imposed an annual license fee of \$600 for each slot machine approved by the commission for use by a gaming licensee at a gaming establishment; provided, however, that not sooner than 5 years after award of an original gaming license, the commission may annually adjust the fee for inflation. The fee shall be imposed as of July 1 of each year for all approved slot machines on that date and shall be assessed on a pro rata basis for any slot machine approved for use thereafter.
- (b) The commission shall establish fees for any investigation into a violation of this chapter or regulation promulgated hereunder by a gaming licensee to be paid by the gaming licensee including, but not limited to, billable hours by commission staff involved in the investigation and the costs of services, equipment or other expenses that are incurred by the commission during the investigation.
- (c) Any remaining costs of the commission necessary to maintain regulatory control over gaming establishments that are not covered by:
 - (i) the fees set forth in subsections (a) and (b);
 - (ii) any other fees assessed under this chapter; or
 - (iii) any other designated sources of funding, shall be assessed annually on gaming licensees under this chapter in proportion to the number of gaming positions at each gaming establishment. Each gaming licensee shall pay the amount assessed against it within 30 days after the date of the notice of assessment from the commission.
- (d) If the fees collected in subsections (a) and (b) exceed the cost required to maintain regulatory control, the surplus funds shall be credited in proportional shares against each gaming licensee's next assessment.
- (e) In addition to the fees collected under this section and any additional costs of the commission, the commission shall assess an annual fee of not less than \$5,000,000 in proportional shares against each gaming licensee in proportion to the number of gaming positions at each gaming establishment for the costs of service and public health programs dedicated to addressing problems associated with compulsive gambling or

other addiction services. Such assessed fees shall be deposited into the Public Health Trust Fund established in section 58.

- (f) All fees and assessments collected under this section, except those collected under subsection (e), shall be deposited into the Gaming Control Fund established in section 57.

Statute: M.G.L., Ch. 23K, § 58. Public Health Trust Fund.

There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Public Health Trust Fund. The fund shall consist of fees assessed under section 56 and all other monies credited or transferred to the fund from any other source under law. The secretary of health and human services shall be the trustee of the fund and may only expend monies in the fund, without further appropriation, to assist social service and public health programs dedicated to addressing problems associated with compulsive gambling including, but not limited to, gambling prevention and addiction services, substance abuse services, educational campaigns to mitigate the potential addictive nature of gambling and any studies and evaluations necessary, including the annual research agenda under section 71, to ensure the proper and most effective strategies.

Statute: M.G.L., Ch. 23K, § 59. Gaming Revenue Fund.

There shall be established and set up on the books of the commonwealth a Gaming Revenue Fund which shall receive revenues collected from the tax on gross gaming revenue received from gaming licensees. The commission shall be the trustee of the fund and shall transfer monies in the fund as follows:

- (2) 100 per cent of the revenue received from a category 1 licensee shall be transferred as follows:

- (k) 5 per cent to the Public Health Trust Fund established in section 58.

Statute: M.G.L., Ch. 23K, § 71. Development of annual research agenda in furtherance of understanding the social and economic effects of expanded gaming in the commonwealth.

The commission, with the advice of the gaming policy advisory committee, shall develop an annual research agenda in order to understand the social and economic effects of expanding gaming in the commonwealth and to obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology and etiology of gambling. The secretary of health and human services, with the advice and consent of the commission, may expend funds from the Public Health Trust Fund established in section 58 to implement the objectives of the research agenda which shall include, but not be limited to:

- (1) a baseline study of the existing occurrence of problem gambling in the commonwealth; provided, however, that the study shall examine and describe the existing levels of problem gambling and the existing programs available that prevent and address the harmful consequences of problem gambling; provided further, that the commission shall contract with scientists and physicians to examine the current research as to the causes for problem gambling and the health effects of problem gambling and the treatment methods currently available in the commonwealth;

provided further, that the commission shall report on the findings of the baseline study and provide recommendations to the house and senate committees on ways and means, the joint committee on economic development and emerging technologies, the joint committee on mental health and substance abuse and the joint committee on public health relative to methods to supplement or improve problem gambling prevention and treatment services;

- (2) comprehensive legal and factual studies of the social and economic impacts of gambling in the commonwealth on: (a) state, local and Indian tribal governments; and (b) communities and social institutions generally, including individuals, families and businesses within such communities and institutions; provided, however, that the matters to be examined in such studies shall include, but not be limited to:
 - (i) a review of existing federal, state, local and Indian tribal government policies and practices with respect to the legalization or prohibition of gambling, including a review of the costs of such policies and practices;
 - (ii) an assessment of the relationship between gambling and levels of crime and of existing enforcement and regulatory practices intended to address any such relationship;
 - (iii) an assessment of pathological or problem gambling, including its impact on individuals, families, businesses, social institutions and the economy;
 - (iv) an assessment of the impact of gambling on individuals, families, businesses, social institutions and the economy generally, including the role of advertising in promoting gambling and the impact of gambling on depressed economic areas;
 - (v) an assessment of the extent to which gaming has provided revenues to other state, local and Indian tribal governments;
 - (vi) an assessment of the costs of added infrastructure, police force, increased unemployment, increased health care and dependency on public assistance;
 - (vii) an assessment of the impact of the development and operation of the gaming establishment on small businesses in host communities and surrounding communities, including a review of any economic harm experienced and potential solutions to mitigate associated economic harm; and
 - (viii) the costs of implementing this chapter.
- (3) individual studies conducted by academic institutions and individual researchers in the commonwealth to study topics which shall include, but not be limited to: (i) reward and aversion, neuroimaging and neuroscience in humans, addiction phenotype genotype research, gambling-based experimental psychology and mathematical modeling of reward-based decision making; (ii) the sociology and psychology of gambling behavior, gambling technology and marketing; and (iii) the epidemiology and etiology of gambling and problem gambling in the general population; provided, however, that when contracting with researchers to study such issues, the commission shall encourage the collaboration among researchers in the commonwealth and other states and jurisdictions.

The commission and the committee shall annually make scientifically-based recommendations which reflect the results of this research to the house and senate

committees on ways and means, the joint committee on economic development and emerging technologies, the joint committee on mental health and substance abuse and the joint committee on public health. The commission shall consider any such recommendations, research and findings in all decisions related to enhancing responsible gambling and mitigating problem gambling.

Regulation: 205 CMR 121.01. Licensing and Assessment Fees.

- (3) The following fees are due and payable to the commission for each gaming establishment:
 - (c) An annual fee, as provided by M.G.L. c. 23K, § 56(e) reflecting each gaming establishment's share of at least \$5,000,000 to be deposited into the Public Health Trust Fund in proportion to the number of gaming positions projected for the gaming establishment; provided, however, that such assessment may be adjusted by the commission at any time after payment is made where required to reflect the actual number of gaming positions at a gaming establishment, and accordingly, the payment of additional funds may be required or a credit may be issued towards the payment due the following year;
- (4) The fee required under 205 CMR 121.01(3)(c) shall be assessed on or about 30 days prior to the start of the commission fiscal year. The commission will assess this fee commencing with fiscal year 2016.
- (5) All license fees and assessments due to the commission shall be due and payable within 30 days of receipt of an invoice from the commission.
- (6) All license fees and assessments shall be submitted in the form of a certified check or secure electronic funds transfer payable to the "Massachusetts Gaming Commission."
- (7) In the event that a licensee fails to pay any fees or assessments as provided in 205 CMR 121.01, the commission may take any remedial action it deems necessary up to and including revocation of the gaming license.

MICHIGAN

Statute: MCL 432. 212a. Payment of regulatory and enforcement costs, programs, activities, and services; total annual assessment; state services fee fund.

- (1) In addition to application and license fees described in this act, compulsive gambling programs shall be paid by casino licensees as provided by this section.
- (2) The total annual assessment for the first year in which any casino licensee under this act begins operating a casino in this state shall be \$25,000,000.00.
- (3) The total annual assessment required under this subsection shall be adjusted each year by multiplying the annual assessment for the immediately preceding year by the Detroit consumer price index for the immediately preceding year. As used in this subsection, "Detroit consumer price index" means the annual consumer price index for Detroit consumers as defined and reported by the United States department of labor, bureau of labor statistics.
- (4) On or before the date the casino licensee begins operating the casino and annually on that date thereafter, each casino licensee shall pay to the state treasurer an equal share of the

total annual assessment required under this section. In no event shall a casino's assessment exceed 1/3 of the total annual assessment required under this section.

- (5) From the amount collected under subsection (4) [annual casino assessment], \$2,000,000.00 shall be deposited in the compulsive gaming prevention fund.

Statute: MCL 432. 253. Compulsive gaming prevention fund; creation; disposition; distributions; investment; credit of interest and earnings; lapsed funds; fees for addiction treatment.

- (1) The compulsive gaming prevention fund is created within the department of treasury.
- (2) All of the following shall be deposited in the compulsive gaming prevention fund:
 - a. The money appropriated from the state services fee fund created under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432. 201 to 432. 216, for the compulsive gaming prevention fund.
 - b. A percentage of the net revenue in the state lottery fund created in section 41 of the McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL 432. 41, that is equal to not less than 10% of each year's state lottery advertising budget but not to exceed \$1,000,000.00.
 - c. A percentage of the Michigan agriculture equine industry development fund created in section 20 of the horse racing law of 1995, 1995 PA 279, MCL 431. 320, that is equal to 1/10 of 1% of the gross wagers made each year in each of the racetracks licensed under the horse racing law of 1995, 1995 PA 279, MCL 431. 301 to 431.336.
- (3) Of the funds available in the compulsive gaming prevention fund, up to \$1,040,000.00 may be distributed annually to the violence and treatment board created in section 2 of 1978 PA 389, MCL 400.1502. The remaining money in the compulsive gaming prevention fund shall be distributed as determined by the director of community health to be used exclusively for the treatment, prevention, education, training, research, and evaluation of pathological gamblers and their families and to fund the toll-free compulsive gaming helpline number.
- (4) Funds remaining in the compulsive gaming prevention fund at the close of the fiscal year shall remain in the compulsive gaming prevention fund and shall not lapse to the general fund.
- (5) Money remaining in the compulsive gaming prevention fund at the close of the fiscal year shall remain in the compulsive gaming prevention fund and shall not lapse to the general fund.
- (6) The department of community health may establish fees for the treatment of pathological gambling addictions.

Statute: MCL 432. 254. Distribution of funds; authorization; use.

- (1) If the director of the department of community health determines that the money in the compulsive gaming prevention fund is inadequate to fund the services, programs, or research required under this act, the Michigan gaming control board may assess a fee on each of the 3 casinos licensed under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432. 201 to 432. 216, that will equal the additional amount needed to adequately fund the services, programs, and research required under this act.

- (4) The director of the department of community health, after consulting with the racing commissioner, the commissioner of the state lottery, and the chairperson of the Michigan gaming control board, shall authorize the distribution of funds from the compulsive gaming prevention fund to be used exclusively for the treatment, prevention, education, training, research, and evaluation of pathological gamblers and their families.

Statute: MCL § 432. 255. Funding levels; changes; submission of results and recommendations; assessment of fee on casinos licensed under MCL §§432. 201 to 432. 216.

- (1) The results of funded studies and recommendations for any changes in funding levels shall be submitted to the racing commissioner, the commissioner of the state lottery, the chairperson of the Michigan gaming control board, the chairs of the senate and house committees on gaming issues, the senate and house of representatives appropriations committees and the director of the department of community health.
- (2) If the director of the department of community health determines that the money in the compulsive gaming prevention fund is inadequate to fund the services, programs, or research required under this act, the Michigan gaming control board may assess a fee on each of the 3 casinos licensed under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.216, that will equal the additional amount needed to adequately fund the services, programs, and research required under this act.

Statute: MCL 432. 256. Public funds for treatment of pathological gamblers; legislative intent.

It is the intent of the legislature to preserve the funds appropriated for the department of community health for the treatment of individuals pursuant to the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106. Therefore, public funds for the treatment of pathological gamblers shall be taken exclusively from the compulsive gaming prevention fund.

OHIO

Ohio Constitution, Article XV, Section 6(C).

- (g) Two percent of the tax on gross casino revenue shall be distributed to a state problem gambling and addictions fund which shall be used for the treatment of problem gambling and substance abuse, and related research.

Statute: Ohio Rev. Code Ann. § 3793.032. Problem casino gambling and addictions fund; administration.

The director of alcohol and drug addiction services shall administer the problem casino gambling and addictions fund. The director shall use the money in the fund to support programs that provide gambling addiction services, alcohol and drug addiction programs that provide alcohol and drug addiction services, other programs that relate to gambling addiction and substance abuse, and research that relates to gambling addiction and substance abuse. Treatment services provided under programs supported by money in the fund under this section shall be services that are provided by alcohol and drug addiction treatment programs certified by the department of alcohol and drug addiction services or provided by counselors

who are certified by the department. Prevention services provided under programs supported by money in the fund under this section shall be services that are provided by alcohol and drug addiction prevention programs certified by the department of alcohol and drug addiction services.

Statute: 5119.47 Problem casino gambling and addictions fund; administration.

The director of mental health and addiction services shall administer the problem casino gambling and addictions fund. The director shall use the money in the fund to support gambling addiction services, alcohol and drug addiction services, other services that relate to gambling addiction and substance abuse, and research that relates to gambling addiction and substance abuse. Treatment and prevention services supported by money in the fund under this section shall be services that are certified by the department of mental health and addiction services.

The director shall prepare an annual report describing the use of the fund for these purposes. The director shall submit the report to the Ohio casino control commission, the speaker and minority leader of the house of representatives, the president and minority leader of the senate, and the governor.

WEST VIRGINIA

Statute: W. Va. Code 29-22A-19. Compulsive gambling treatment fund.

- (a) There is hereby created and established a separate special account to be known as the “Compulsive Gambling Treatment Fund”. The fund shall be appropriated from the Commission’s administrative expense account and shall be not less than one hundred fifty thousand dollars nor more than five hundred thousand dollars per fiscal year, as determined by the Commission, as well as other amounts designated for in this chapter to provide funds for compulsive gambling treatment programs in the state.
- (b) The Department of Health and Human Resources shall administer the grants and funds issued from the “Compulsive Gambling Treatment Fund”.
- (k) Once any contract to render services under a compulsive gambling treatment program is awarded pursuant to this section, the contract shall be administrated by the Department of Health and Human Resources and the department shall maintain all records pertaining to each request for reimbursement and disbursement for under said contract for a minimum of five (5) years.
- (l) The contractor may prominently promote, display or advertise the Compulsive Gambler’s Treatment Program, its purpose, its hotline, or its program events in any location in which the Lottery Commission promotes, displays advertises or conducts its operations or in any other location: Provided, That the Lottery Commission’s name, logo or other indicia may not appear on any advertising, marketing or promotional material of the contractor

Statute: W. Va. Code 29-22B-1408. Distribution of state’s share of gross terminal income.

- (a) The state’s share of gross terminal income is calculated as follows:

1. From this amount, not less than one hundred fifty thousand dollars nor more than one million dollars per fiscal year, as determined by the commission each year, shall be transferred to the compulsive gambling treatment fund created in section 29-22A-19 of this chapter. In the event that the percentage allotted under this subsection for the commission's costs and expenses incurred in administering this article generates a surplus, the surplus shall be allowed to accumulate to an amount not to exceed two hundred fifty thousand dollars.

Statute: W. Va. Code 29-22C-27. West Virginia Lottery Racetrack Table Games Fund; Community-Based Service Fund; State Debt Reduction Fund; distribution of funds.

- (g) All expenses of the commission incurred in the administration and enforcement of this article shall be paid from the Racetrack Table Games Fund, including reimbursement of state law-enforcement agencies for services performed at the request of the commission pursuant to this article. . . . From this allowance, the commission shall transfer at least \$100,000 but not more than \$500,000 into the Compulsive Gambling Treatment Fund created in section nineteen, article twenty-two-a of this chapter.

INFORMATION ON RISKS AND RESOURCES

States may require that casinos post signs and/or offer brochures identifying the risks of gambling, signs of gambling disorder, the odds of casino games and/or toll-free phone numbers and other resources for assistance.

DELAWARE:

Statute: 29 Del. C. §4826. Internet lottery.

- (d) The Director shall cause each Internet site on which the Internet lottery is conducted to include an advertisement for and link to additional information for services for the treatment, education and assistance of compulsive gamblers and their families.

Regulation: 10 Del. Admin. Code 204-6.0. Agents Duties.

- 6.1 The following duties are required of all agents:
 - 6.1.13 Conduct agency approved advertising and promotional activities related to sports lottery operations.
 - 6.1.14 Install, post and display prominently at locations within or about the premises signs, redemption information and other promotional material as may be required by the agency.

KANSAS

Regulation: K.A.R. §112-101-10. Advertising; promotion of responsible gaming.

- (e) Each on-site advertisement of a facility manager's business shall comply with the facility manager's responsible gaming plan that has been approved by the commission pursuant to

article 112. Each advertisement shall reference the Kansas toll-free problem gambling help line in a manner approved by the executive director.

MARYLAND

Regulation: COMAR 36.03.06.03. Requirements.

A. Definitions.

(1) In this regulation the following terms have the meaning indicated.

(2) Terms Defined.

(a) “Advertisement” means any material that is:

(i) Disseminated to the public through broadcasting, publication, mail, or any other means; and

(ii) Intended to encourage video lottery terminal or table game play.

(b) “Billboard advertisement” means a roadside sign, aviation banner, or event banner that is intended to encourage video lottery terminal or table game play.

(c) “Gambling assistance message” means a phrase approved by the Commission to encourage responsible play;

(d) “Printed advertisement” means an advertisement that appears in or on a sign, direct mailing, poster, brochure or other written material and is intended to encourage video lottery terminal or table game play.

(e) “Responsible gambling awareness materials” means a sticker, a brochure, a wallet card, or other material that conveys only problem gambling resource information.

(f) “Underage warning message” means the phrase: “No patron under the age of 21 is permitted on the casino floor”.

B. A facility operator shall:

1. Post signage approved by the Commission that prominently bears the gambling assistance message and the underage warning message at each customer entrance to the gaming floor;
2. Include the gambling assistance message on an advertisement that is intended to encourage video lottery terminal play at its facility;
3. Ensure that a printed advertisement bears the gambling assistance message and meets requirements of COMAR 36.03.03.08;
4. Ensure that a billboard bearing a printed advertisement bears the gambling assistance message and meets requirements of COMAR 36.03.03.08;
5. Ensure that a radio, television, or video advertisement bears the gambling assistance message and meets requirements of COMAR 36.03.03.08;
6. Ensure that the gambling assistance message is printed on a paper product that is associated with player consumption of food or beverage if the paper product is: a. Special ordered; and b. Branded with the facility’s logo;
7. Ensure that the gambling assistance message is printed on ticket stock; and

8. Shall place in the facility responsible gambling awareness materials according to its responsible gaming plan required under Regulation .02 of this chapter.

MASSACHUSETTS

Statute: M.G.L., Ch. 23K, § 21. Form of gaming license and condition for licensees.

- (a) The commission shall prescribe the form of the gaming license, which shall include, but not be limited to, the following license conditions for each licensee. The licensee shall:
 - (17) keep conspicuously posted in the gaming area a notice containing the name and a telephone number for problem gambling assistance; provided, however, that the commission may require the gaming licensee to provide this information in more than 1 language.

MICHIGAN

Statute: MCL 432. 209c: Toll-free compulsive gaming helpline number.

- (1) A person who holds a casino license issued pursuant to this act shall conspicuously post at each entrance and exit of the casino, on each electronic funds transfer terminal, and at each credit location a visually prominent sign on which is printed a toll-free compulsive gaming helpline number.

OHIO

Regulation: Ohio Admin. Code §3772-13-02. Advertising; promotion of responsible gaming.

- (B) Each advertisement shall, clearly and conspicuously, state the problem gambling hotline number established under section 3772.062 of the Revised Code.

WEST VIRGINIA

Statute: W. Va Code §29-22B-907. Display of information on terminal face or screen.

- (4) A label prominently displaying information on how to locate and contact persons or organizations available for help, assistance or treatment for persons who may have a gambling addiction, together with the telephone number “1-800-GAMBLER.”

Statute: W. Va. Code §29-22E-4. Commission duties and powers.

- (1) Rules promulgated by the commission may include, but are not limited to, those governing the acceptance of wagers on interactive games; maximum wagers which may be accepted by an operator from any one patron on any one interactive game; method of accounting to be used by operators; types of records which shall be kept; use of credit and checks by patrons; type of system for wagering; protections for patrons placing wagers; and promotion of social responsibility, responsible gaming, and inclusion of the statement, “If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER”, in every designated area

approved for interactive wagering and on any mobile application or other digital platform used to place wagers.

Regulation: WV CSR §179-9-13. Additional requirements for wagers placed on mobile applications and other digital platforms [online sports pools].

13.4. Each online sports pool website or mobile application shall display a responsible gaming logo in a manner approved by the Lottery to direct a patron to the site's responsible gaming page. The responsible gaming page shall be accessible to a patron during a patron session and shall contain, at a minimum, the following:

13.4.1 A prominent message, which states "If you or someone you know has a gambling problem and wants help, call 1-800-Gambler";

13.4.2 A direct link to the Problem Gamblers Help Network of West Virginia and one other organization based in the United States dedicated to helping people with potential gambling problems;

13.4.3 A clear statement of the online sports pool operator's policy and commitment to responsible gaming;

13.4.4 Rules governing self-imposed responsible gaming limits and the ability for the patron to establish those limits.

ADVERTISING RESTRICTIONS

States may require that casino advertising (in print, on billboards, or on electronic media) include an RG message, including a toll-free helpline number.

DELAWARE:

Regulation: 10 Del. Admin. Code 204-6.0. Agents Duties.

6.1 The following duties are required of all agents:

6.1.13 Conduct agency approved advertising and promotional activities related to sports lottery operations.

6.1.14 Install, post and display prominently at locations within or about the premises signs, redemption information and other promotional material as may be required by the agency.

Regulation: 10 Del. Admin. Code 204-10.0. Standards for Advertising, Marketing and Promotional Materials.

10.1 All advertising, marketing and promotional materials, related to the sports lottery or referencing the sports lottery, to be utilized by an agent or person acting on behalf of the agent shall be submitted to the agency for review and approval prior to use, except that such materials need not be submitted for review and approval if identical materials have been previously submitted and approved. Materials are not identical for purposes of this provision if they vary in any respect, such as in the size of a billboard.

10.2 The agency shall review any materials submitted pursuant to this section and approve their use unless in the judgment of the agency such materials, if used, would result in an

appearance which reflects adversely on the agency, would reasonably be expected to offend a substantial number of people, contain inaccurate or misleading information, or otherwise be inappropriate.

KANSAS

Regulation: K.A.R. §112-101-10. Advertising; promotion of responsible gaming.

(e) Each on-site advertisement of a facility manager's business shall comply with the facility manager's responsible gaming plan that has been approved by the commission pursuant to article 112. Each advertisement shall reference the Kansas toll-free problem gambling help line in a manner approved by the executive director.

MARYLAND

Regulation: COMAR 36.03.06.03. Requirements.

C. A facility operator shall:

3. Ensure that a printed advertisement bears the gambling assistance message and meets requirements of COMAR 14.01.11.08;
4. Ensure that a billboard bearing a printed advertisement bears the gambling assistance message and meets requirements of COMAR 14.01.11.08;
5. Ensure that a radio, television or video advertisement bears the gambling assistance message and meets requirements of COMAR 4.01.11.08;

MASSACHUSETTS

Statute: M.G.L. Ch.23K, §21. Form of gaming license and condition for licensees.

(a) The commission shall prescribe the form of the gaming license, which shall include, but not be limited to, the following license conditions for each licensee. The licensee shall:

- (18) provide a process for individuals to exclude their names and contact information from the gaming licensee's database or any other list held by the gaming licensee for use in marketing or promotional communications.

MICHIGAN

Statute: MCL 432. 209c: Toll-free compulsive gaming helpline number.

- (2) A person who holds a casino license shall include a toll-free compulsive gaming helpline number on all of its printed advertisement and promotional materials.

OHIO:

Regulation: Ohio Admin. Code §3772-13-02. Advertising; promotion of responsible gaming.

(B) Each advertisement shall, clearly and conspicuously, state the problem gambling hotline number established under section 3772.062 of the Revised Code.

WEST VIRGINIA:

Statute: W. Va Code §29-22B-907. Display of information on terminal face or screen.

(4) A label prominently displaying information on how to locate and contact persons or organizations available for help, assistance or treatment for persons who may have a gambling addiction, together with the telephone number “1-800-GAMBLER.”

Statute: W. Va. Code §29-22E-4. Commission duties and powers.

(1) Rules promulgated by the commission may include, but are not limited to, those governing the acceptance of wagers on interactive games; maximum wagers which may be accepted by an operator from any one patron on any one interactive game; method of accounting to be used by operators; types of records which shall be kept; use of credit and checks by patrons; type of system for wagering; protections for patrons placing wagers; and promotion of social responsibility, responsible gaming, and inclusion of the statement, “If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER”, in every designated area approved for interactive wagering and on any mobile application or other digital platform used to place wagers.

Regulation: WV CSR §179-9-13. Additional requirements for wagers placed on mobile applications and other digital platforms [online sports pools].

13.4. Each online sports pool website or mobile application shall display a responsible gaming logo in a manner approved by the Lottery to direct a patron to the site’s responsible gaming page. The responsible gaming page shall be accessible to a patron during a patron session and shall contain, at a minimum, the following:

13.4.1 A prominent message, which states “If you or someone you know has a gambling problem and wants help, call 1-800-Gambler”;

13.4.2 A direct link to the Problem Gamblers Help Network of West Virginia and one other organization based in the United States dedicated to helping people with potential gambling problems;

13.4.3 A clear statement of the online sports pool operator’s policy and commitment to responsible gaming;

13.4.4 Rules governing self-imposed responsible gaming limits and the ability for the patron to establish those limits.

CASINO CREDIT RESTRICTIONS

Some state laws aim to protect patrons from betting more than they can afford to lose by banning casinos from offering credit advances.

DELAWARE

Regulation: 10 Del. Admin. Code 204- 6.0. Agents Duties.

6.1 The following duties are required of all agents:

6.1.10 Exercise caution and good judgment in extending credit for sports lottery play if the agent is a licensed video lottery agent authorized to extend such credit and comply with all applicable federal and state laws

KANSAS

Statute: K.S.A. §74-8756. Wager, loan and credit restrictions; criminal penalties.

(a) Wagers shall be received only from a person at the location where the electronic gaming machine or lottery facility game is authorized pursuant to the Kansas expanded lottery act. No person present at such location shall place or attempt to place a wager on behalf of another person who is not present at such location.

(b) No employee or contractor of, or other person who has any legal affiliation with, a racetrack gaming facility manager shall loan money to or otherwise extend credit to patrons of the parimutuel licensee.

(c) No employee or contractor of, or other person who has any legal affiliation with, a lottery gaming facility manager shall loan money to or otherwise extend credit to patrons of a lottery gaming facility.

(d) Violation of this section is a class A nonperson misdemeanor upon a conviction for a first offense. Violation of this section is a severity level 9, nonperson felony upon conviction for a second or subsequent offense.

MARYLAND

Regulation: COMAR 36.03.10.24. Credit Authorization.

B. A facility operator may not extend a line of credit to a player to enable the player to take part in gaming which exceeds the player's authorized credit limit.

MASSACHUSETTS

Statute: M.G.L. Ch. 23K, § 27. Issuance of credit by gaming licensee to patron of a gaming establishment.

- (g) A person may petition the commission to place the person's name on a list of persons to whom the extension of credit by a gaming establishment shall be prohibited. Any person filing such petition shall submit to the commission the person's name, address and date of birth. The person shall not be required to provide a reason for the request. The commission shall provide this list to the credit department of each gaming establishment; provided, however, that neither the commission nor the credit department of a gaming establishment shall divulge the names on this list to any person or entity other than those provided for in this subsection. If such a person wishes to have their name removed from the list, the person shall petition the commission in accordance with procedures for removal set forth by the commission. If the commission approves the request, the commission shall so inform the credit department of the gaming establishments not later than 7 days after approving the request.

Regulation: 205 CMR 138.43. Procedures for Establishing Patron Credit Accounts, and Recording Checks Exchanged, Redeemed or Consolidated.

- (1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a description of its policies and procedures governing the issuance of credit to a patron to take part in gaming activity at its gaming establishment. A gaming licensee's policies and procedures governing the issuance of credit shall ensure at a minimum that:
- (b) Credit is not extended to an individual in an amount beyond that which the information reviewed demonstrates that they have a reasonable ability to repay;
 - (c) Credit will only be extended to patrons who the gaming licensee determines qualify for a minimum threshold of \$10,000.00 and will not exceed the amount requested by the patron;
 - (d) Credit will not be offered to any individual who self-identifies as a problem gambler during the credit application process, places themselves on a voluntary credit suspension list in accordance with 205 CMR 138.44, or is on public assistance;
 - (e) Credit requests, including increases, will not be accepted from or granted to patrons who are visibly intoxicated or exhibiting behaviors suggestive of impaired mental competency;
 - (f) Credit applications require patrons to acknowledge that they have reviewed a problem gambling self-assessment and indicate a desire to proceed with the process
 - (g) Credit officers will obtain verbal verification from credit applicants that they are comfortable losing up to the amount of credit requested and granted.
- (2) In addition to the provisions required in accordance with 205 CMR 138.43(1), the policies and procedures governing the issuance of credit shall contain provisions including, but not limited to, the following:
- (a) The creation of a credit file for each patron shall be prepared by a general cage cashier or credit department representative with no incompatible functions prior to the gaming licensee's approval of a patron's credit limit. All patron credit limits and changes thereto shall be supported by the information contained in the credit file. Such file shall contain a credit application form.

10. Prior to processing a gaming patron's credit application, a gaming licensee shall clearly and conspicuously provide the patron with the following disclosures on a piece of paper separate and apart from the credit application and any related documents; provided that each statement shall be separately signed, dated, and acknowledged by said patron. Upon signing said disclosures, a copy shall be provided to the gaming patron.
- (a) "You are applying for a credit extension from [name of gaming licensee], facilitated through a personal check or counter check (also known as a 'marker') on your bank account. If you fail to repay [name of gaming licensee] by [the date specified in this agreement], [name of gaming licensee] will attempt to recover the amount identified on the personal check or 'marker' from your bank account (by date marker will be deposited with the bank) or thereafter. If there are insufficient funds in your account, [name of gaming licensee] may initiate debt collection proceedings against you. Failure to timely repay your debt to [name of gaming licensee] may result in legal consequences, and will likely have a negative effect on your credit."
 - (b) "If you are concerned that you may have difficulty managing your gambling, or wish for any reason to exclude yourself from receiving credit from a gaming establishment in Massachusetts, you may add yourself to the gaming credit suspension list. Massachusetts gaming establishments are prohibited from providing credit to individuals appearing on this list. To sign up for the list, please visit www.massgaming.com or call 1-800-426-1234."
 - (c) Prior to the gaming licensee's approval of the patron's credit limit, a general cage cashier or credit department representative with no ability to grant credit or credit limit increases shall perform the following in a commercially reasonable manner and document the patron's file accordingly:
 - (5) Verify that the patron's name is not designated on the list of individuals who have voluntarily requested suspension of credit privileges pursuant to 205 CMR 138.44 or placed their name on the voluntary self-exclusion list pursuant to 205 CMR 133.00: Voluntary Self-exclusion.
 - (i) The gaming licensee's credit department shall verify the patron's address, current casino credit limits and outstanding balances, outstanding indebtedness, checking account information, confirm that the patron is not on the list of patrons who have requested suspension of their credit privileges, and confirm that the patron is not on the list of patrons who have placed themselves on the voluntary self-exclusion list, as required by 205 CMR 138.43(2)(c)1. through 5. prior to the issuance of a counter check to a patron whose credit file has been inactive for a six month period.

Regulation: 205 CMR 138.44. Patron Request for Suspension of Credit Privileges.

- (1) Any person may voluntarily suspend his or her credit privileges at all gaming establishments by submitting a written request to the commission in accordance with 205 CMR 138.44. Such requests shall be submitted to a designated agent as described in accordance with 205 CMR 138.44(3) or mailed to a designated address with a notarized signature in accordance with 205 CMR 138.44(2)(h). An individual requesting

suspension of credit privileges shall present a valid government issued photo identification.

(2) A request for suspension of credit privileges shall be submitted on a form prescribed by the commission, which shall include the following:

- (a) The name of the person requesting suspension of credit privileges;
- (b) The address of the person's residence;
- (c) The person's date of birth;
- (d) The name of each gaming establishment where the person currently has an approved line of credit;
- (e) The duration for which they wish to have their credit privileges suspended. An individual may select any of the following time periods as a minimum length of suspension:
 - 1. Six months;
 - 2. One year;
 - 3. Three years;
 - 4. Five years; or
 - 5. Lifetime.
- (f) The signature of the person requesting suspension of credit privileges acknowledging the following statement: "I certify that the information which I have provided above is true and accurate. I am aware that my signature below authorizes the Massachusetts Gaming Commission to direct all Massachusetts gaming licensees to suspend my credit privileges for a minimum period of six months from the date of this request and indefinitely thereafter, until such time as I submit a written request to the Commission for the reinstatement of any such credit privileges.";
- (g) If the request for suspension of credit privileges is made in person:
 - 1. The type of government issued photo identification examined; and
 - 2. The signature of the designated agent indicating that the signature of the person requesting suspension of credit privileges appears to agree with that contained on his or her government issued photo identification and that the photograph of the person appears to agree with his or her actual appearance; and
 - 3. If the request for suspension of credit privileges is made by mail, a certificate of acknowledgement executed by a notary public or other person empowered by law to take oaths attesting to the identity of the person who is making the request for suspension of credit privileges.

(3) (a) An application for suspension of credit privileges made in person may only be accepted by a designated agent. An individual may only become a designated agent by successfully completing a course of training approved and administered by the commission or its designee. The course of training shall include, at a minimum, instruction on completion of the application, information relative to problem gambling and available resources, and an understanding of 205 CMR 138.40 through 138.46. A designated agent must be a licensed, certified, or registered health or mental health professional or employee thereof, or an employee of a gaming licensee, the commission, or other government entity. The commission may refuse to offer training

- to any individual whose service as a designated agent it determines would be contrary to the aims of 205 CMR 138.40 through 138.46.
- (b) Upon submission of an application, a designated agent shall review the application with the applicant. If the application is complete, the designated agent shall sign the application indicating that the review has been performed and the application has been accepted.
 - (c) A designated agent may not sign an application if any required information is not provided.
 - (d) The designated agent shall forward the signed application for suspension of credit to the commission within 24 hours of completion in a manner directed by the commission.
 - (e) Upon receipt of an application, the commission, or its designee, shall review it for completeness. If the application meets all requirements of 205 CMR 138.40 through 138.46 the application shall be approved, and the individual's name shall be added to the credit suspension list. If the application is incomplete, the commission, or its designee, may deny the application and make efforts to contact the applicant advising them of such.
 - (f) In addition to 205 CMR 138.44(3)(d), if an application is made in person at a gaming establishment, the designated agent shall promptly transmit a completed application to the gaming licensee's credit department such that any existing credit line for that individual may be immediately suspended and that no new credit may be extended.
- (4) The commission shall maintain an updated master list of all persons who have requested suspension of credit privileges pursuant to 205 CMR 138.44, and shall update the master list in the database.
- (a) Each gaming licensee shall suspend the credit privileges of any listed individual, promptly upon receipt of notice that such individual's name has been added to the list.
 - (b) Each gaming licensee shall note any suspension or reinstatement of credit privileges pursuant to 205 CMR 138.44 in any existing credit file for the affected patron, including the following:
 - 1. A copy of any applicable commission notice of the suspension or reinstatement of credit privileges;
 - 2. The date, time and signature of the credit department representative making the suspension or reinstatement entry in the credit file.
- (5) Any person whose credit privileges have been suspended pursuant to 205 CMR 138.44 may, no sooner than six months after the request for suspension of credit privileges, request reinstatement of his or her credit privileges by submitting a written request to the commission in accordance with the procedures specified in 205 CMR 138.44(1).
- (a) Such request shall be in a form prescribed by the commission, which shall include the following:
 - 1. The information specified in 205 CMR 138.44; and

2. The signature of the person requesting reinstatement of credit privileges, indicating acknowledgement of the following statement: "I certify that the information which I have provided above is true and accurate. I am aware that my signature below constitutes a revocation of my previous request for suspension of credit privileges, and authorizes the Massachusetts Gaming Commission to permit any Massachusetts gaming licensee to reinstate my credit privileges."
- (b) The commission shall remove such individual's name from the list established pursuant to 205 CMR 138.44, and update the master list in the database within seven days of receipt of the request.
- (c) Upon receipt of notice that such individual's name has been removed from the list, a gaming licensee may reinstate such person's credit upon re-verification of the information required by 205 CMR 138.43(2)(c)1. through 4. or may extend credit to such person in accordance with the procedures set forth in 205 CMR 138.43.
- (6) Information furnished to or obtained by the commission pursuant to 205 CMR 138.44 shall be securely maintained. No gaming licensee shall divulge any information relative to the placement of an individual's name on the master list other than to authorized credit department employees at the gaming establishment or to an authorized commission employee.

MICHIGAN

Statute: MCL 432-225. Disassociated persons.

- (9) A casino licensee shall not extend credit to those persons whose names are on the list of disassociated persons.

OHIO:

Statute: Ohio Rev. Code Ann. §3772.23. Purchase of tokens, chips, or electronic cards; promotional gaming credits; prohibited licenses.

- (C) Casino operators and management companies shall not do any of the following:
 - (2) Obtain a license to provide loans under sections 1321.01 to 1321.19 [Small Loans] of the Revised Code;
 - (3) Obtain a license to provide loans under sections 1321.35 to 1321.48 [Short-term lenders] of the Revised Code.

WEST VIRGINIA:

Regulation: W CSR §179-8-113. Credit extension procedures; establishment of procedures.

- 113.1 The casino licensee may extend credit to a patron only in the manner provided in its credit procedure approved by the Commission. The casino licensee is responsible for

establishing policies and procedures to extend credit to patrons. The policies and procedures shall provide that each credit transaction is promptly and accurately recorded.

RESTRICTIONS ON FINANCIAL INSTRUMENTS

States may specify that casinos may not accept government issued checks or stored-value cards that represent public benefits, paychecks, ATM transactions or credit and debit cards.

DELAWARE: N/A

KANSAS: N/A

MARYLAND

Statute: Md. Code Ann., State Govt. Law, § 9-1A-24. Compliance.

- (f) Provisions to be included in regulations. -- In order to protect the public interest, the regulations shall include provisions that:
- (1) limit the number and location of and maximum withdrawal amounts from automated teller machines;
 - (2) prohibit authorized automated teller machines from accepting electronic benefit cards, debit cards, or similar negotiable instruments issued by the Department of Human Resources for the purpose of accessing temporary cash assistance;
 - (3) require payouts above an amount adopted by the Commission to be made by check;
 - (4) require conspicuous disclosures related to the payout of video lottery terminals;
 - (5) limit the dollar amount that video lottery terminals will accept;
 - (6) prohibit the use of specified negotiable instruments at video lottery facilities and the use of credit cards, debit cards, and similar devices in video lottery terminals;
 - (7) provide consumers with a record of video lottery terminal spending levels if marketing measures are utilized that track consumer spending at video lottery facilities;
 - (8) prohibit consumers from cashing paychecks at video lottery facilities; and
 - (9) prohibit video lottery operation licensees from engaging in or contracting with another to engage in predatory marketing practices.

MASSACHUSETTS

Statute: M.G.L. Ch. 23K, § 27. Issuance of credit by gaming licensee to patron of a gaming establishment.

- (f) The commission shall, in consultation with the department of transitional assistance, the department of labor and workforce development, the department of housing and community development or the applicable administering agency, establish by regulation procedures and standards to prohibit a gaming establishment or any person acting on behalf of a gaming establishment from:
- (i) cashing a government-issued check;
 - (ii) from operating on its premises any credit card or automated teller machine that would allow a patron to obtain cash from a government-issued electronic benefits transfer card; and
 - (iii) from extending or issuing credit to a patron of a gaming establishment who receives any form of income-based public assistance including, but not limited to, the supplemental nutrition assistance program, temporary assistance for needy families,

emergency aid to elders, disabled and children, public housing assistance, MassHealth and unemployment insurance. The procedures and standards established shall ensure the privacy of all patrons receiving public assistance.

Regulation: 205 CRM 138.40. Procedure for Acceptance of Checks, Cash Equivalents, Wire Transfers, and Credit/Debit Cards; Issuance of Counter Checks.

A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include policies and procedures relative to the acceptance of checks and cash equivalents presented by patrons, and the issuance of counter checks to patrons for gaming purposes. These policies and procedures shall include, but not be limited to:

- (8) Procedures to ensure that any credit card or automated teller machine operating in the gaming establishment does not allow a patron to obtain cash from a government-issued electronic benefits transfer card or to process a credit card cash advance transaction.

MICHIGAN:

Statute: MCL 432.209a. Electronic funds transfer terminal.

- (1) A person who holds a casino license shall not install, own, or operate or allow another person to install, own, or operate an electronic funds transfer terminal on the premises of the casino that is less than 50 feet from any game in the casino.

- (2) A person who holds a casino license shall not install, own, or operate or allow another person to install, own, or operate on the premises of the casino a game that is played with a device that allows a player to operate the game by transferring funds electronically from a credit or debit card.

- (3) As used in this section, “electronic funds transfer terminal” means an information processing device used for the purpose of executing deposit account transactions between financial institutions and their customers by either the direct transmission of electronic impulses or the recording of electronic impulses for delayed processing. The fact that a device is used for other purposes does not prevent it from being an electronic funds transfer terminal.

OHIO: N/A

WEST VIRGINIA

Statute: W. Va. Code 29-22B-702. Additional duties of limited video lottery retailers.

- (10) Provide no access by a player to an automated teller machine (ATM) in the restricted access adult-only facility where video lottery games are played, accept no credit card or debit card from a player for the exchange or purchase of video lottery game credits or for an advance of coins or currency to be utilized by a player to play video lottery games and extend no credit, in any manner, to a player so as to enable the player to play a video lottery game;

OTHER

Less common or easily categorized regulations like regulator-drive RG programs, bet limits, RG education in schools, and dedicated casino floor space for the dissemination of RG information to patrons have been categorized here.

DELAWARE: N/A

MARYLAND

Regulation: COMAR 36.01.03.07. Responsible Gaming Program.

- A. The Commission may establish a responsible gaming program.
- B. A responsible gaming program established by the Commission under §A of this regulation shall be designed to:
 - (1) Reduce or mitigate the effects of problem gambling in the State; and
 - (2) Maximize the access of individuals who have a gambling problem to problem gambling resources.

MASSACHUSETTS

Statute: M.G.L., Ch. 23K, § 21. Form of gaming license and condition for licensees.

- Section 21. (a) The commission shall prescribe the form of the gaming license, which shall include, but not be limited to, the following license conditions for each licensee. The licensee shall:
- (16) provide complimentary on-site space for an independent substance abuse, compulsive gambling and mental health counseling service and establish a program to train gaming employees in the identification of and intervention with customers exhibiting problem gaming behavior.

MICHIGAN: N/A

OHIO: N/A

WEST VIRGINIA: N/A

WAGER AND TIME LIMITS

States with account-based online gaming or sports betting may implement mandatory wagering limits or require online operators to provide a mechanism through which patrons may establish self-imposed limits on deposits, losses, wagering amounts and time spent gambling.

DELAWARE

Statute: 29 Del. C. §4826. Internet Lottery.

(c) The Director shall have the duty to promulgate such rules and regulations governing the Internet lottery as the Director deems necessary and desirable in order that the Internet lottery be initiated at the earliest feasible time in a manner that provides for the security and effective administration of such games, including but not limited to:

(5) Mechanisms by which the Office or persons playing Internet lottery games may place limits on the amount of money being wagered per game or during any specified time period, or the amount of losses incurred during any specified time period.

Regulation: 10 Del. Admin. Code 204- 7.0. Sports Lottery.

7.12 The Director will determine:

7.12.3 The maximum wager limit amount that can be wagered on a single sports lottery wager, whether it is head-to-head or parlay betting.

KANSAS: N/A

MARYLAND: N/A

MASSACHUSETTS

Statute: M.G.L. Ch.23K, §29. Cashless wagering systems; setting and adjustment of betting limits; monthly statements; annual report to the commission.

A gaming establishment offering a cashless wagering system shall allow individuals to monitor and impose betting limits on their cashless wagering. The gaming establishment shall allow individuals to set betting limits on their cashless wagering including, but not limited to, per bet limits, hourly limits, daily limits, weekly limits and monthly limits. An individual may lower limits and increase limits; provided, however, that the individual shall not increase betting limits more than once in a 24-hour period. The gaming establishment shall issue to each patron who has been issued a rewards card or who participates in a cashless wagering system by the gaming establishment a monthly statement, mailed to the patron at the patron's physical mailing address, which shall include the patron's total bets, wins and losses; provided, however, that a patron shall be given the opportunity to decline receiving a monthly statement at the time the rewards card is issued or during initial participation in a cashless wagering system; provided further, that a patron may later opt out of receiving monthly statements by providing a written request to cease monthly statements to the gaming establishment. A gaming licensee who has implemented such a program

or system shall annually report to the commission the amount of money spent and lost by patrons who have been issued a rewards card or who participated in a cashless wagering system, aggregated by zip code. Activity under this section shall be monitored by the commission. Individuals on the list of excluded persons shall not be permitted to participate in a cashless wagering system.

MICHIGAN: N/A

SUMMARY CHART

See Appendix A

RESOURCES

The bulk of this information was based upon and updated from [*Responsible Gaming Regulations and Statutes, September 2019*](#), published by the American Gaming Association.

Appendix A | Summary of Responsible Gaming Statutes and Regulations by State

	Advertising Restrictions	Alcoholic Beverage Restrict	Credit Restrict	Employee Training	Financial Instruments Restrictions	Information on Risks & Resources	Required Responsible Gaming Plan	Self-Exclusion	Treatment & Research Funding	Wager /Time Limits
AR	•		•	•		•	•	•		•
CO	•	•	•	•					•	•
DE	•	•	•	•		•		•	•	•
DC	•		•	•		•	•	•	•	•
FL	•		•	•	•	•	•	•	•	
IL						•		•	•	
IN						•		•	•	
IA	•			•	•	•	•	•	•	•
KS	•		•			•	•	•	•	
LA	•		•	•	•	•	•	•	•	
ME			•	•	•		•	•	•	
MD	•	•	•		•	•	•	•	•	
MA		•	•		•	•	•	•	•	•
MI			•		•	•		•	•	
MS								•		
MO		•	•					•	•	
MT			•					•		
NV			•	•	•	•		•	•	•
NH							•	•	•	•
NJ	•		•	•		•		•	•	•
NM	•	•	•	•	•	•	•	•	•	
NY	•	•	•	•	•	•	•	•	•	•
OH	•		•			•	•	•	•	
OK				•			•			
PA	•	•	•	•	•	•	•	•	•	•
RI	•	•		•			•	•	•	•
SD			•						•	•
TN				•					•	•
WV	•	•	•		•	•		•	•	•

Source: Responsible Gaming Regulations & Statutes, American Gaming Association, 2019

EXHIBIT 12:
Statutory Funding for Responsible Gaming by State

State	Statutory Funding for Responsible Gaming
Colorado	2% casino gaming revenue
Delaware	\$1M or 1% of casino gaming revenue, whichever is greater; \$250,000 or 1% of interactive gaming revenue, whichever greater
Florida	\$250,000 per casino
Illinois	Subject to annual appropriation
Indiana	Riverboats: 3.33% of supplemental wagering tax; Racinos: \$500K per licensee
Iowa	Up to \$6M annually
Kansas	2% casino gaming revenue
Louisiana	1% casino gaming revenue; max. \$500K per facility
Maine	Land-Based: 3% on gaming machine revenue; Racinos: \$100,000 from gaming machine revenue and 9% table game revenue
Maryland	\$425 per gaming machine and \$500 per table game
Massachusetts	At least \$5M annually
Michigan	\$2M annually
Mississippi	Subject to annual appropriation
Missouri	\$0.01 of casino admission fee
Nevada	\$2 per gaming machine
New Jersey	\$600,000 annually, plus \$250,000 per Internet gaming licensee
New Mexico	0.25% casino gaming revenue
New York	N/A
Ohio	Land-Based: 2% on gaming revenue; Racinos: 0.5% on gaming revenue
Oklahoma	N/A
Pennsylvania	\$2M or 0.2% casino gaming revenue, whichever is greater, plus additional \$3M
Rhode Island	\$100,000 per casino
South Dakota	Up to \$30,000 transferred annually from state gaming fund
West Virginia	Subject to annual appropriation

Source: State of the States 2019: The AGA Survey of the Commercial Casino Industry, American Gaming Association