

1 4. All chips used in gaming shall be of such size and uniform color by
2 denomination as the commission shall require by regulation.

3 5. All gaming shall be conducted according to rules promulgated by the
4 commission. All wagers and pay-offs of winning wagers shall be made
5 according to rules promulgated by the commission, which shall establish
6 such limitations as may be necessary to assure the vitality of casino
7 operations and fair odds to patrons. Each slot machine shall have a
8 minimum payout of eighty-five percent.

9 6. Each gaming facility licensee shall make available in printed form
10 to any patron upon request the complete text of the rules of the commis-
11 sion regarding games and the conduct of gaming, pay-offs of winning
12 wagers, an approximation of the odds of winning for each wager, and such
13 other advice to the player as the commission shall require. Each gaming
14 facility licensee shall prominently post within a casino, according to
15 regulations of the commission such information about gaming rules, pay-
16 offs of winning wagers, the odds of winning for each wager, and such
17 other advice to the player as the commission shall require.

18 7. Each gaming table shall be equipped with a sign indicating the
19 permissible minimum and maximum wagers pertaining thereto. It shall be
20 unlawful for a gaming facility licensee to require any wager to be
21 greater than the stated minimum or less than the stated maximum;
22 provided, however, that any wager actually made by a patron and not
23 rejected by a gaming facility licensee prior to the commencement of play
24 shall be treated as a valid wager.

25 8. Testing of slot machines and associated devices. (a) Except as
26 herein provided, no slot machine shall be used to conduct gaming unless
27 it is identical in all electrical, mechanical and other aspects to a
28 model thereof which has been specifically tested and licensed for use by

1 the commission. The commission shall also test or cause to be tested any
2 other gaming device, gaming equipment, gaming-related device or gross-
3 revenue related device, such as a slot management system, electronic
4 transfer credit system or gaming voucher system as it deems appropriate.
5 In its discretion and for the purpose of expediting the approval proc-
6 ess, the commission may utilize the services of a private testing labo-
7 ratory that has obtained a plenary license as a casino vendor enterprise
8 to perform the testing, and may also utilize applicable data from any
9 such private testing laboratory or from a governmental agency of a state
10 authorized to regulate slot machines and other gaming devices, gaming
11 equipment, gaming-related devices and gross-revenue related devices used
12 in gaming, if the private testing laboratory or governmental agency uses
13 a testing methodology substantially similar to the methodology approved
14 or utilized by the commission. The commission, in its discretion, may
15 rely upon the data provided by the private testing laboratory or govern-
16 mental agency and adopt the conclusions of such private testing labora-
17 tory or governmental agency regarding any submitted device.

18 (b) Except as otherwise provided in paragraph (e) of this subdivision,
19 the commission shall, within sixty days of its receipt of a complete
20 application for the testing of a slot machine or other gaming equipment
21 model, approve or reject the slot machine or other gaming equipment
22 model. In so doing, the commission shall specify whether and to what
23 extent any data from a private testing laboratory or governmental agency
24 of a state was used in reaching its conclusions and recommendation. If
25 the commission is unable to complete the testing of a slot machine or
26 other gaming equipment model within this sixty day period, the commis-
27 sion may conditionally approve the slot machine or other gaming equip-
28 ment model for test use by a gaming facility licensee provided that the

1 commission represents that the use of the slot machine or other gaming
2 equipment model will not have a direct and materially adverse impact on
3 the integrity of gaming or the control of gross revenue. The commission
4 shall give priority to the testing of slot machines or other gaming
5 equipment that a gaming facility licensee has certified it will use in
6 its gaming facility in this state.

7 (c) The commission shall, by regulation, establish such technical
8 standards for licensure of slot machines, including mechanical and elec-
9 trical reliability, security against tampering, the comprehensibility of
10 wagering, and noise and light levels, as it may deem necessary to
11 protect the player from fraud or deception and to insure the integrity
12 of gaming. The denominations of such machines shall be set by the licen-
13 see; the licensee shall simultaneously notify the commission of the
14 settings.

15 (d) The commission shall, by regulation, determine the permissible
16 number and density of slot machines in a licensed gaming facility so as
17 to:

18 (1) promote optimum security for gaming facility operations;

19 (2) avoid deception or frequent distraction to players at gaming
20 tables;

21 (3) promote the comfort of patrons;

22 (4) create and maintain a gracious playing environment in the gaming
23 facility; and

24 (5) encourage and preserve competition in gaming facility operations
25 by assuring that a variety of gaming opportunities is offered to the
26 public.

27 Any such regulation promulgated by the commission which determines the
28 permissible number and density of slot machines in a licensed gaming

1 facility shall provide that all casinos shall be included in any calcu-
2 lation of the permissible number and density of slot machines in a
3 licensed gaming facility.

4 (e) Any new gaming equipment that is submitted for testing to the
5 commission or to a state licensed independent testing laboratory prior
6 to or simultaneously with submission of such new equipment for testing
7 in a jurisdiction other than this state, may, consistent with regu-
8 lations promulgated by the commission, be deployed by a gaming facility
9 licensee on the casino fourteen days after submission of such equipment
10 for testing. If the gaming facility or casino vendor enterprise licensee
11 has not received approval for the equipment fourteen days after
12 submission for testing, any interested gaming facility licensee may,
13 consistent with commission regulations, deploy the equipment on a field
14 test basis, unless otherwise directed by the executive director.

15 9. It shall be unlawful for any person to exchange or redeem chips for
16 anything whatsoever, except for currency, negotiable personal checks,
17 negotiable counter checks, other chips, coupons, slot vouchers or
18 complimentary vouchers distributed by the gaming facility licensee, or,
19 if authorized by regulation of the commission, a valid charge to a cred-
20 it or debit card account. A gaming facility licensee shall, upon the
21 request of any person, redeem that licensee's gaming chips surrendered
22 by that person in any amount over one hundred dollars with a check drawn
23 upon the licensee's account at any banking institution in this state and
24 made payable to that person.

25 10. It shall be unlawful for any gaming facility licensee or its
26 agents or employees to employ, contract with, or use any shill or barker
27 to induce any person to enter a gaming facility or play at any game or
28 for any purpose whatsoever.

1 11. It shall be unlawful for a dealer in any authorized game in which
2 cards are dealt to deal cards by hand or other than from a device
3 specifically designed for that purpose, unless otherwise permitted by
4 the rules of the commission.

5 § 1336. Certain wagering prohibited. 1. It shall be unlawful for any
6 casino key employee licensee to wager in any gaming facility in this
7 state.

8 2. It shall be unlawful for any other employee of a gaming facility
9 licensee who, in the judgment of the commission, is directly involved
10 with the conduct of gaming operations, including but not limited to
11 dealers, floor persons, box persons, security and surveillance employ-
12 ees, to engage in gambling in any gaming facility in which the employee
13 is employed or in any other gaming facility in this state which is owned
14 or operated by the gaming facility licensee or an affiliated licensee.

15 3. The prohibition against wagering set forth in subdivisions one and
16 two of this section shall continue for a period of thirty days commenc-
17 ing upon the date that the employee either leaves employment with a
18 gaming facility licensee or is terminated from employment with a gaming
19 facility licensee.

20 § 1337. Gratuities. 1. It shall be unlawful for any casino key
21 employee or boxman, floorman, or any other gaming employee who shall
22 serve in a supervisory position to solicit or accept, and for any other
23 gaming employee to solicit, any tip or gratuity from any player or
24 patron at the gaming facility where he is employed.

25 2. A dealer may accept tips or gratuities from a patron at the table
26 at which such dealer is conducting play, subject to the provisions of
27 this section. All such tips or gratuities shall be immediately deposit-
28 ed in a lockbox reserved for that purpose, unless the tip or gratuity is

1 authorized by a patron utilizing an automated wagering system approved
2 by the commission. All tips or gratuities shall be accounted for, and
3 placed in a pool for distribution pro rata among the dealers, with the
4 distribution based upon the number of hours each dealer has worked,
5 except that the commission may, by regulation, permit a separate pool to
6 be established for dealers in the game of poker, or may permit tips or
7 gratuities to be retained by individual dealers in the game of poker.

8 3. Notwithstanding the provisions of subdivision one of this section,
9 a gaming facility licensee may require that a percentage of the prize
10 pool offered to participants pursuant to an authorized poker tournament
11 be withheld for distribution to the tournament dealers as tips or gratu-
12 ities as the commission by regulation may approve.

13 § 1338. Limitation on certain financial access. In order to protect
14 the public interest, the commission shall adopt regulations that include
15 provisions that:

16 1. limit the number and location of and maximum withdrawal amounts
17 from automated teller machines;

18 2. prohibit authorized automated teller machines from accepting elec-
19 tronic benefit cards, debit cards, or similar negotiable instruments
20 issued by the state or political subdivisions for the purpose of access-
21 ing temporary public assistance;

22 3. prohibit the use of specified negotiable instruments at gaming
23 facilities and the use of credit cards, debit cards, and similar devices
24 in slot machines or at table games; and

25 4. prohibit consumers from cashing paychecks at gaming facilities.

26 § 1339. Credit. 1. Except as otherwise provided in this section, no
27 gaming facility licensee or any person licensed under this article, and

1 no person acting on behalf of or under any arrangement with a gaming
2 facility licensee or other person licensed under this article, shall:

3 (a) Cash any check, make any loan, or otherwise provide or allow to
4 any person any credit or advance of anything of value or which repres-
5 ents value to enable any person to take part in gaming activity as a
6 player; or

7 (b) Release or discharge any debt, either in whole or in part, or make
8 any loan which represents any losses incurred by any player in gaming
9 activity, without maintaining a written record thereof in accordance
10 with the rules of the commission.

11 2. No gaming facility licensee or any person licensed under this arti-
12 cle, and no person acting on behalf of or under any arrangement with a
13 gaming facility licensee or other person licensed under this article,
14 may accept a check, other than a recognized traveler's check or other
15 cash equivalent from any person to enable such person to take part in
16 gaming activity as a player, or may give cash or cash equivalents in
17 exchange for such check unless:

18 (a) The check is made payable to the gaming facility licensee;

19 (b) The check is dated, but not postdated;

20 (c) The check is presented to the cashier or the cashier's represen-
21 tative at a location in the gaming facility approved by the commission
22 and is exchanged for cash or slot tokens which total an amount equal to
23 the amount for which the check is drawn, or the check is presented to
24 the cashier's representative at a gaming table in exchange for chips
25 which total an amount equal to the amount for which the check is drawn;
26 and

27 (d) The regulations concerning check cashing procedures are observed
28 by the gaming facility licensee and its employees and agents. Nothing

1 in this subdivision shall be deemed to preclude the establishment of an
2 account by any person with a gaming facility licensee by a deposit of
3 cash, recognized traveler's check or other cash equivalent, or a check
4 which meets the requirements of subdivision seven of this section, or to
5 preclude the withdrawal, either in whole or in part, of any amount
6 contained in such account.

7 3. When a gaming facility licensee or other person licensed under this
8 article, or any person acting on behalf of or under any arrangement with
9 a gaming facility licensee or other person licensed under this article,
10 cashes a check in conformity with the requirements of subdivision two of
11 this section, the gaming facility licensee shall cause the deposit of
12 such check in a bank for collection or payment, or shall require an
13 attorney or casino key employee with no incompatible functions to pres-
14 ent such check to the drawer's bank for payment, within:

15 (a) seven calendar days of the date of the transaction for a check in
16 an amount of one thousand dollars or less;

17 (b) fourteen calendar days of the date of the transaction for a check
18 in an amount greater than one thousand dollars but less than or equal to
19 five thousand dollars; or

20 (c) forty-five calendar days of the date of the transaction for a
21 check in an amount greater than five thousand dollars.

22 Notwithstanding the foregoing, the drawer of the check may redeem the
23 check by exchanging cash, cash equivalents, chips, or a check which
24 meets the requirements of subdivision seven of this section in an amount
25 equal to the amount for which the check is drawn; or he or she may
26 redeem the check in part by exchanging cash, cash equivalents, chips, or
27 a check which meets the requirements of subdivision seven of this
28 section and another check which meets the requirements of subdivision

1 two of this section for the difference between the original check and
2 the cash, cash equivalents, chips, or check tendered; or he or she may
3 issue one check which meets the requirements of subdivision two of this
4 section in an amount sufficient to redeem two or more checks drawn to
5 the order of the gaming facility licensee. If there has been a partial
6 redemption or a consolidation in conformity with the provisions of this
7 subdivision, the newly issued check shall be delivered to a bank for
8 collection or payment or presented to the drawer's bank for payment by
9 an attorney or casino key employee with no incompatible functions within
10 the period herein specified. No gaming facility licensee or any person
11 licensed or registered under this article, and no person acting on
12 behalf of or under any arrangement with a gaming facility licensee or
13 other person licensed under this article, shall accept any check or
14 series of checks in redemption or consolidation of another check or
15 checks in accordance with this subdivision for the purpose of avoiding
16 or delaying the deposit of a check in a bank for collection or payment
17 or the presentment of the check to the drawer's bank within the time
18 period prescribed by this subdivision.

19 In computing a time period prescribed by this subdivision, the last
20 day of the period shall be included unless it is a Saturday, Sunday, or
21 a state or federal holiday, in which event the time period shall run
22 until the next business day.

23 4. No gaming facility licensee or any other person licensed or regis-
24 tered under this article, or any other person acting on behalf of or
25 under any arrangement with a gaming facility licensee or other person
26 licensed or registered under this article, shall transfer, convey, or
27 give, with or without consideration, a check cashed in conformity with
28 the requirements of this section to any person other than:

1 (a) The drawer of the check upon redemption or consolidation in
2 accordance with subdivision three of this section;

3 (b) A bank for collection or payment of the check;

4 (c) A purchaser of the gaming facility license as approved by the
5 commission; or

6 (d) An attorney or casino key employee with no incompatible functions
7 for presentment to the drawer's bank.

8 The limitation on transferability of checks imposed herein shall apply
9 to checks returned by any bank to the gaming facility licensee without
10 full and final payment.

11 5. No person other than a casino key employee licensed under this
12 article or a gaming employee registered under this article may engage
13 in efforts to collect upon checks that have been returned by banks with-
14 out full and final payment, except that an attorney-at-law representing
15 a gaming facility licensee may bring action for such collection.

16 6. Notwithstanding the provisions of any law to the contrary, checks
17 cashd in conformity with the requirements of this article shall be
18 valid instruments, enforceable at law in the courts of this state. Any
19 check cashed, transferred, conveyed or given in violation of this arti-
20 cle shall be invalid and unenforceable for the purposes of collection
21 but shall be included in the calculation of gross gaming revenue.

22 7. Notwithstanding the provisions of subdivision two of this section
23 to the contrary, a gaming facility licensee may accept a check from a
24 person to enable the person to take part in gaming activity as a player,
25 may give cash or cash equivalents in exchange for such a check, or may
26 accept a check in redemption or partial redemption of a check issued in
27 accordance with subdivision two of this section, provided that:

1 (a) (1) The check is issued by a gaming facility licensee, is made
2 payable to the person presenting the check, and is issued for a purpose
3 other than employment compensation or as payment for goods or services
4 rendered;

5 (2) The check is issued by a banking institution which is chartered in
6 a country other than the United States on its account at a federally
7 chartered or state-chartered bank and is made payable to "cash," "bear-
8 er," a gaming facility licensee, or the person presenting the check;

9 (3) The check is issued by a banking institution which is chartered in
10 the United States on its account at another federally chartered or
11 state-chartered bank and is made payable to "cash," "bearer," a gaming
12 facility licensee, or the person presenting the check;

13 (4) The check is issued by a slot system operator or pursuant to an
14 annuity jackpot guarantee as payment for winnings from a multi-casino
15 progressive slot machine system jackpot; or

16 (5) The check is issued by an entity that holds a gaming facility
17 license in any jurisdiction, is made payable to the person presenting
18 the check, and is issued for a purpose other than employment compen-
19 sation or as payment for goods or services rendered;

20 (b) The check is identifiable in a manner approved by the commission
21 as a check authorized for acceptance pursuant to paragraph (a) of this
22 subdivision;

23 (c) The check is dated, but not postdated;

24 (d) The check is presented to the cashier or the cashier's represen-
25 tative by the original payee and its validity is verified by the drawer
26 in the case of a check drawn pursuant to subparagraph one of paragraph
27 (a) of this subdivision, or the check is verified in accordance with
28 regulations promulgated under this article in the case of a check issued

1 pursuant to subparagraph two, three, four or five of paragraph (a) of
2 this subdivision; and

3 (e) The regulations concerning check-cashing procedures are observed
4 by the gaming facility licensee and its employees and agents. No gaming
5 facility licensee shall issue a check for the purpose of making a loan
6 or otherwise providing or allowing any advance or credit to a person to
7 enable the person to take part in gaming activity as a player.

8 8. Notwithstanding the provisions of subdivisions two and three of
9 this section to the contrary, a gaming facility licensee may, at a
10 location outside the gaming facility, accept a personal check or checks
11 from a person for up to five thousand dollars in exchange for cash or
12 cash equivalents, and may, at such locations within the gaming facility
13 as may be permitted by the commission, accept a personal check or checks
14 for up to five thousand dollars in exchange for cash, cash equivalents,
15 tokens, chips, or plaques to enable the person to take part in gaming
16 activity as a player, provided that:

17 (a) The check is drawn on the patron's bank or brokerage cash manage-
18 ment account;

19 (b) The check is for a specific amount;

20 (c) The check is made payable to the gaming facility licensee;

21 (d) The check is dated but not post-dated;

22 (e) The patron's identity is established by examination of one of the
23 following: valid credit card, driver's license, passport, or other form
24 of identification credential which contains, at a minimum, the patron's
25 signature;

26 (f) The check is restrictively endorsed "For Deposit Only" to the
27 gaming facility licensee's bank account and deposited on the next bank-
28 ing day following the date of the transaction;

1 (g) The total amount of personal checks accepted by any one licensee
2 pursuant to this subdivision that are outstanding at any time, including
3 the current check being submitted, does not exceed five thousand
4 dollars;

5 (h) The gaming facility licensee has a system of internal controls in
6 place that will enable it to determine the amount of outstanding
7 personal checks received from any patron pursuant to this subdivision at
8 any given point in time; and

9 (i) The gaming facility licensee maintains a record of each such tran-
10 saction in accordance with regulations established by the commission.

11 9. A person may request the commission to put that person's name on a
12 list of persons to whom the extension of credit by a gaming facility as
13 provided in this section would be prohibited by submitting to the
14 commission the person's name, address, and date of birth. The person
15 does not need to provide a reason for this request. The commission shall
16 provide this list to the credit department of each gaming facility;
17 neither the commission nor the credit department of a gaming facility
18 shall divulge the names on this list to any person or entity other than
19 those provided for in this subdivision. If such a person wishes to have
20 that person's name removed from the list, the person shall submit this
21 request to the commission, which shall so inform the credit departments
22 of gaming facilities no later than three days after the submission of
23 the request.

24 § 1340. Alcoholic beverages. 1. Notwithstanding any law to the
25 contrary, the authority to grant any license or permit for, or to permit
26 or prohibit the presence of, alcoholic beverages in, on, or about any
27 premises licensed as part of a gaming facility shall exclusively be
28 vested in the commission.

1 2. Unless otherwise stated, and except where inconsistent with the
2 purpose or intent of this article or the common understanding of usage
3 thereof, definitions contained in the alcoholic beverage control law
4 shall apply to this section. Any definition contained therein shall
5 apply to the same word in any form.

6 3. Notwithstanding any provision of the alcoholic beverage control law
7 to the contrary, the commission shall have the functions, powers and
8 duties of the state liquor authority but only with respect to the issu-
9 ance, renewal, transfer, suspension and revocation of licenses and
10 permits for the sale of alcoholic beverages at retail for on-premise
11 consumption by any holder of a gaming facility license issued by the
12 commission including, without limitation, the power to fine or penalize
13 a casino alcoholic beverage licensee or permittee; to enforce all stat-
14 utes, laws, rulings, or regulations relating to such license or permit;
15 and to collect license and permit fees and establish application stand-
16 ards therefor.

17 4. Except as otherwise provided in this section, the provisions of the
18 alcoholic beverage control law and the rules, regulations, bulletins,
19 orders, and advisories promulgated by the state liquor authority shall
20 apply to any gaming facility holding a license or permit to sell alco-
21 holic beverages under this section.

22 5. Notwithstanding any provision to the contrary, the commission may
23 promulgate any regulations and special rulings and findings as may be
24 necessary for the proper enforcement, regulation, and control of alco-
25 holic beverages in gaming facilities when the commission finds that the
26 uniqueness of gaming facility operations and the public interest require
27 that such regulations, rulings, and findings are appropriate.

1 6. Notwithstanding any provision of law to the contrary, any manufac-
2 turer or wholesaler licensed under the alcoholic beverage control law
3 may as authorized under the alcoholic beverage control law, sell alco-
4 holic beverages to a gaming facility holding a retail license or permit
5 to sell alcoholic beverages for consumption on the premises issued under
6 this section, and any gaming facility holding a retail license or permit
7 to sell alcoholic beverages issued under this section may, as authorized
8 under the alcoholic beverage control law, purchase alcoholic beverages
9 from a manufacturer or wholesaler licensed under the alcoholic beverage
10 control law.

11 7. It shall be unlawful for any person, including any gaming facility
12 licensee or any of its lessees, agents or employees, to expose for sale,
13 solicit or promote the sale of, possess with intent to sell, sell, give,
14 dispense, or otherwise transfer or dispose of alcoholic beverages in, on
15 or about any portion of the premises of a gaming facility, unless said
16 person possesses a license or permit issued under this section.

17 8. It shall be unlawful for any person holding a license or permit to
18 sell alcoholic beverages under this section to expose, possess, sell,
19 give, dispense, transfer, or otherwise dispose of alcoholic beverages,
20 other than within the terms and conditions of such license or permit,
21 the provisions of the alcoholic beverage control law, the rules and
22 regulations promulgated by the state liquor authority, and, when appli-
23 cable, the regulations promulgated pursuant to this article. Notwith-
24 standing any other provision of law to the contrary the holder of a
25 license or permit issued under this section may be authorized to provide
26 complimentary alcoholic beverages under regulations issued by the
27 commission.

1 9. In issuing a casino alcoholic beverage license or permit, the
2 commission shall describe the scope of the particular license or permit,
3 and the restrictions and limitations thereon as it deems necessary and
4 reasonable. The commission may, in a single casino alcoholic beverage
5 license, permit the holder of such a license or permit to perform any or
6 all of the following activities, subject to applicable laws, rules and
7 regulations:

8 (a) To sell any alcoholic beverage by the glass or other open recepta-
9 cle including, but not limited to, an original container, for on-premise
10 consumption within a facility; provided, however, that no alcoholic
11 beverage shall be sold or given for consumption; delivered or otherwise
12 brought to a patron; or consumed at a gaming table unless so requested
13 by the patron.

14 (b) To sell any alcoholic beverage by the glass or other open recepta-
15 cle for on-premise consumption within a gaming facility.

16 (c) To sell any alcoholic beverage by the glass or other open recepta-
17 cle or in original containers from a room service location within an
18 enclosed room not in a gaming facility; provided, however, that any sale
19 of alcoholic beverages is delivered only to a guest room or to any other
20 room in the gaming facility authorized by the commission.

21 (d) To possess or to store alcoholic beverages in original containers
22 intended but not actually exposed for sale at a fixed location on a
23 gaming facility premises, not in a gaming facility; and to transfer or
24 deliver such alcoholic beverages only to a location approved pursuant to
25 this section; provided, however, that no access to or from a storage
26 location shall be permitted except during the normal course of business
27 by employees or agents of the licensee, or by licensed employees or
28 agents of wholesalers or distributors licensed pursuant to the alcoholic

1 beverage control law and any applicable rules and regulations; and
2 provided further, however, that no provision of this section shall be
3 construed to prohibit a casino alcoholic beverage licensee from obtain-
4 ing an off-site storage license from the state liquor authority.

5 10. The commission may revoke, suspend, refuse to renew or refuse to
6 transfer any casino alcoholic beverage license or permit, and may fine
7 or penalize the holder of any alcoholic beverage license or permit
8 issued under this section for violations of any provision of the alco-
9 holic beverage control law, the rules and regulations promulgated by the
10 state liquor authority, and the regulations promulgated by the commis-
11 sion.

12 11. Jurisdiction over all alcoholic beverage licenses and permits
13 previously issued with respect to the gaming facility is hereby vested
14 in the commission, which in its discretion may by regulation provide for
15 the conversion thereof into a casino alcoholic beverage license or
16 permit as provided in this section.

17 12. (a) Prior to issuing any license under this section, the commis-
18 sion, or its designee, shall consult with the state liquor authority, or
19 its designee, to confirm that such application and such gaming facility
20 conforms with all applicable provisions of the alcoholic beverage
21 control law, and all applicable rules, regulations, bulletins, orders
22 and advisories promulgated by the state liquor authority;

23 (b) Prior to commencing enforcement actions against any gaming facili-
24 ty licensed under this section, the commission, or its designee, shall
25 consult with the state liquor authority, or its designee, with respect
26 to the application of the applicable provisions of the alcoholic bever-
27 age control law, and all applicable rules, regulations, bulletins,

1 orders and advisories promulgated by the state liquor authority on the
2 alleged conduct of such licensee; and

3 (c) The commission, or its designee, shall consult with the state
4 liquor authority, or its designee, on a regular basis, but no less than
5 once every three months, regarding any pending applications and enforce-
6 ment matters.

7 § 1341. Licensee leases and contracts. 1. Unless otherwise provided
8 in this subdivision, no agreement shall be lawful which provides for the
9 payment, however defined, of any direct or indirect interest, percentage
10 or share of: any money or property gambled at a gaming facility; any
11 money or property derived from gaming activity; or any revenues, profits
12 or earnings of a gaming facility. Notwithstanding the foregoing:

13 (a) Agreements which provide only for the payment of a fixed sum which
14 is in no way affected by the amount of any such money, property, reven-
15 ues, profits or earnings shall not be subject to the provisions of this
16 subdivision; and receipts, rentals or charges for real property,
17 personal property or services shall not lose their character as payments
18 of a fixed sum because of contract, lease, or license provisions for
19 adjustments in charges, rentals or fees on account of changes in taxes
20 or assessments, cost-of-living index escalations, expansion or improve-
21 ment of facilities, or changes in services supplied.

22 (b) Agreements between a gaming facility licensee and a junket enter-
23 prise or junket representative licensed, qualified or registered in
24 accordance with the provisions this article and the regulations of the
25 commission which provide for the compensation of the junket enterprise
26 or junket representative by the gaming facility licensee based upon the
27 actual gaming activities of a patron procured or referred by the junket
28 enterprise or junket representative shall be lawful if filed with the

1 commission prior to the conduct of any junket that is governed by the
2 agreement.

3 (c) Agreements between a gaming facility licensee and its employees
4 which provide for gaming employee or casino key employee profit sharing
5 shall be lawful if the agreement is in writing and filed with the
6 commission prior to its effective date. Such agreements may be reviewed
7 by the commission.

8 (d) Agreements to lease an approved gaming facility or the land there-
9 under and agreements for the complete management of all gaming oper-
10 ations in a gaming facility shall not be subject to the provisions of
11 this subdivision.

12 (e) Agreements which provide for percentage charges between the gaming
13 facility licensee and a holding company or intermediary company of the
14 gaming facility licensee shall be in writing and filed with the commis-
15 sion but shall not be subject to the provisions of this subdivision.

16 (f) Written agreements relating to the operation of multi-casino or
17 multi-state progressive slot machine systems between one or more gaming
18 facility licensees and a licensed casino vendor enterprise or an eligi-
19 ble applicant for such license, which provide for an interest, percent-
20 age or share of the gaming facility licensee's revenues, profits or
21 earnings from the operation of such multi-casino or multi-state progres-
22 sive slot machines to be paid to the casino vendor enterprise licensee
23 or applicant shall not be subject to the provisions of this subdivision
24 if the agreements are filed with and approved by the commission.

25 2. Each gaming facility applicant or licensee shall maintain, in
26 accordance with the rules of the commission, a record of each written or
27 unwritten agreement regarding the realty, construction, maintenance, or
28 business of a proposed or existing gaming facility or related facility.

1 The foregoing obligation shall apply regardless of whether the gaming
2 facility applicant or licensee is a party to the agreement. Any such
3 agreement may be reviewed by the commission on the basis of the reason-
4 ableness of its terms, including the terms of compensation, and of the
5 qualifications of the owners, officers, employees, and directors of any
6 enterprise involved in the agreement, which qualifications shall be
7 reviewed according to the standards enumerated in section one thousand
8 three hundred twenty-three of this article. If the commission disap-
9 proves such an agreement or the owners, officers, employees, or direc-
10 tors of any enterprise involved therein, the commission may require its
11 termination.

12 Every agreement required to be maintained, and every related agreement
13 the performance of which is dependent upon the performance of any such
14 agreement, shall be deemed to include a provision to the effect that, if
15 the commission shall require termination of an agreement, such termi-
16 nation shall occur without liability on the part of the gaming facility
17 applicant or licensee or any qualified party to the agreement or any
18 related agreement. Failure expressly to include such a provision in the
19 agreement shall not constitute a defense in any action brought to termi-
20 nate the agreement. If the agreement is not maintained or presented to
21 the commission in accordance with commission regulations, or the disap-
22 proved agreement is not terminated, the commission may pursue any remedy
23 or combination of remedies provided in this article.

24 For the purposes of this subdivision, "gaming facility applicant"
25 includes any person required to hold a gaming facility license who has
26 applied to the commission for a gaming facility license or any approval
27 required.

1 3. Nothing in this article shall be deemed to permit the transfer of
2 any license, or any interest in any license, or any certificate of
3 compliance or any commitment or reservation without the approval of the
4 commission.

5 § 1342. Required exclusion of certain persons. 1. The commission
6 shall, by regulation, provide for the establishment of a list of persons
7 who are to be excluded or ejected from any licensed gaming facility.
8 Such provisions shall define the standards for exclusion, and shall
9 include standards relating to persons:

10 (a) Who are career or professional offenders as defined by regulations
11 promulgated hereunder; or

12 (b) Who have been convicted of a criminal offense under the laws of
13 any state or of the United States, which is punishable by more than
14 twelve months in prison, or any crime or offense involving moral turpi-
15 tude.

16 The commission shall promulgate definitions establishing those catego-
17 ries of persons who shall be excluded pursuant to this section, includ-
18 ing cheats and persons whose privileges for licensure or registration
19 have been revoked.

20 2. Any enumerated class listed in subdivision one of section two
21 hundred ninety-six of the human rights law shall not be a reason for
22 placing the name of any person upon such list.

23 3. The commission may impose sanctions upon a licensed gaming facility
24 or individual licensee or registrant in accordance with the provisions
25 of this article if such gaming facility or individual licensee or regis-
26 trant knowingly fails to exclude or eject from the premises of any
27 licensed gaming facility any person placed by the commission on the list
28 of persons to be excluded or ejected.

1 4. Any list compiled by the commission of persons to be excluded or
2 ejected shall not be deemed an all-inclusive list, and licensed gaming
3 facilities shall have a duty to keep from their premises persons known
4 to them to be within the classifications declared in subdivisions one
5 and two of this section and the regulations promulgated thereunder, or
6 known to them to be persons whose presence in a licensed gaming facility
7 would be inimical to the interest of the state or of licensed gaming
8 therein, or both, as defined in standards established by the commission.

9 5. Prior to placing the name of any person on a list pursuant to this
10 section, the commission shall serve notice of such fact and of the
11 opportunity for a hearing to such person by personal service or by
12 certified mail at the last known address of such person.

13 6. Within thirty days after service of the petition in accordance with
14 subdivision five of this section, the person named for exclusion or
15 ejection may demand a hearing before the executive director or the exec-
16 utive director's designee, at which hearing the executive director or
17 the executive director's designee shall have the affirmative obligation
18 to demonstrate by substantial evidence that the person named for exclu-
19 sion or ejection satisfies the criteria for exclusion established by
20 this section and the applicable regulations. Failure to demand such a
21 hearing within thirty days after service shall preclude a person from
22 having an administrative hearing, but shall in no way affect his or her
23 right to judicial review as provided herein.

24 7. The commission may make a preliminary placement on the list of a
25 person named in a petition for exclusion or ejection pending completion
26 of a hearing on the petition. The hearing on the application for prelim-
27 inary placement shall be a limited proceeding at which the commission
28 shall have the affirmative obligation to demonstrate by substantial

1 evidence that the person satisfies the criteria for exclusion estab-
2 lished by this section and the applicable regulations. If a person has
3 been placed on the list as a result of an application for preliminary
4 placement, unless otherwise agreed by the executive director and the
5 named person, a hearing on the petition for exclusion or ejection shall
6 be initiated within thirty days after the receipt of a demand for such
7 hearing or the date of preliminary placement on the list, whichever is
8 later.

9 8. If, upon completion of the hearing on the petition for exclusion or
10 ejection, the executive director determines that the person named there-
11 in does not satisfy the criteria for exclusion established by this
12 section and the applicable regulations, the executive director shall
13 issue an order denying the petition. If the person named in the petition
14 for exclusion or ejection had been placed on the list as a result of an
15 application for preliminary placement, the executive director shall
16 notify all gaming facility licensees of the person's removal from the
17 list.

18 9. If, upon completion of a hearing on the petition for exclusion or
19 ejection, the executive director determines that placement of the name
20 of the person on the exclusion list is appropriate, the executive direc-
21 tor shall make and enter an order to that effect, which order shall be
22 served on all gaming facility licensees. Such order shall be subject to
23 review by the commission in accordance with regulations promulgated
24 thereunder, which final decision shall be subject to review pursuant to
25 article seventy-eight of the civil practice law and rules.

26 § 1343. Exclusion, ejection of certain persons. 1. A gaming facility
27 licensee may exclude or eject from its gaming facility any person who is

1 known to it to have been convicted of a crime or disorderly conduct
2 committed in or on the premises of any gaming facility.

3 2. Nothing in this section or in any other law of this state shall
4 limit the right of a gaming facility licensee to exercise its common law
5 right to exclude or eject permanently from its gaming facility any
6 person who disrupts the operations of its premises, threatens the secu-
7 urity of its premises or its occupants, or is disorderly or intoxicated.

8 § 1344. List of persons self-excluded from gaming activities. 1. The
9 commission shall provide by regulation for the establishment of a list
10 of persons self-excluded from gaming activities at all licensed gaming
11 facilities. Any person may request placement on the list of self-exclud-
12 ed persons by acknowledging in a manner to be established by the commis-
13 sion that the person is a problem gambler and by agreeing that, during
14 any period of voluntary exclusion, the person may not collect any
15 winnings or recover any losses resulting from any gaming activity at
16 such gaming facilities.

17 2. The regulations of the commission shall establish procedures for
18 placements on, and removals from, the list of self-excluded persons.
19 Such regulations shall establish procedures for the transmittal to
20 licensed gaming facilities of identifying information concerning self-
21 excluded persons, and shall require licensed gaming facilities to estab-
22 lish procedures designed, at a minimum, to remove self-excluded persons
23 from targeted mailings or other forms of advertising or promotions and
24 deny self-excluded persons access to credit, complimentaries, check
25 cashing privileges, club programs, and other similar benefits.

26 3. A licensed gaming facility or employee thereof acting reasonably
27 and in good faith shall not be liable to any self-excluded person or to

1 any other party in any judicial proceeding for any harm, monetary or
2 otherwise, which may arise as a result of:

3 (a) the failure of a licensed gaming facility to withhold gaming priv-
4 ileges from, or restore gaming privileges to, a self-excluded person; or

5 (b) otherwise permitting a self-excluded person to engage in gaming
6 activity in such licensed gaming facility while on the list of self-ex-
7 cluded persons.

8 4. Notwithstanding any other law to the contrary, the commission's
9 list of self-excluded persons shall not be open to public inspection.

10 Nothing herein, however, shall be construed to prohibit a gaming facili-
11 ty licensee from disclosing the identity of persons self-excluded pursu-
12 ant to this section to affiliated gaming entities in this state or other
13 jurisdictions for the limited purpose of assisting in the proper admin-
14 istration of responsible gaming programs operated by such gaming affil-
15 iated entities.

16 5. A licensed gaming facility or employee thereof shall not be liable
17 to any self-excluded person or to any other party in any judicial
18 proceeding for any harm, monetary or otherwise, which may arise as a
19 result of disclosure or publication in any manner, other than a willful-
20 ly unlawful disclosure or publication, of the identity of any self-ex-
21 cluded person.

22 § 1345. Excluded person; forfeiture of winnings; other sanctions. 1.
23 A person who is prohibited from gaming in a licensed gaming facility by
24 any order of the executive director, commission or court of competent
25 jurisdiction, including any person on the self-exclusion list pursuant
26 to subdivision one of section one thousand three hundred forty-four of
27 this title, shall not collect, in any manner or proceeding, any winnings

1 or recover any losses arising as a result of any prohibited gaming
2 activity.

3 2. For the purposes this section, any gaming activity in a licensed
4 gaming facility which results in a prohibited person obtaining any money
5 or thing of value from, or being owed any money or thing of value by,
6 the gaming facility shall be considered, solely for purposes of this
7 section, to be a fully executed gambling transaction.

8 3. In addition to any other penalty provided by law, any money or
9 thing of value which has been obtained by, or is owed to, any prohibited
10 person by a licensed gaming facility as a result of wagers made by a
11 prohibited person shall be subject to forfeiture following notice to the
12 prohibited person and opportunity to be heard. A licensed gaming facili-
13 ty shall inform a prohibited person of the availability of such notice
14 on the commission's website when ejecting the prohibited person and
15 seizing any chips, vouchers or other representative of money owed by a
16 gaming facility to the prohibited person as authorized by this subdivi-
17 sion. All forfeited amounts shall be deposited into the commercial
18 gaming revenue fund.

19 4. In any proceeding brought by the commission against a licensee or
20 registrant for a willful violation of the commission's self-exclusion
21 regulations, the commission may order, in addition to any other sanction
22 authorized, an additional fine of double the amount of any money or
23 thing of value obtained by the licensee or registrant from any self-ex-
24 cluded person. Any money or thing of value so forfeited shall be
25 disposed of in the same manner as any money or thing of value forfeited
26 pursuant to subdivision three of this section.

27 § 1346. Labor peace agreements for certain facilities. 1. As used in
28 this section:

1 (a) "Gaming facility" means any gaming facility licensed pursuant to
2 this article or a video lottery gaming facility as may be authorized by
3 paragraph three of subdivision (a) of section one thousand six hundred
4 seventeen-a of the tax law, as amended by section nineteen of the chap-
5 ter of the laws of two thousand thirteen that added this section
6 licensed by the commission. A gaming facility shall not include any
7 horse racing, bingo or charitable games of chance, the state lottery for
8 education, or any gaming facility operating pursuant to the federal
9 Indian Gaming Regulatory Act, 25 U.S.C. § 2710 et seq. A gaming facility
10 shall include any hospitality operation at or related to the gaming
11 facility.

12 (b) "Labor peace agreement" means an agreement enforceable under 29
13 U.S.C. § 185(a) that, at a minimum, protects the state's proprietary
14 interests by prohibiting labor organizations and members from engaging
15 in picketing, work stoppages, boycotts, and any other economic interfer-
16 ence with operation of the relevant gaming facility.

17 (c) "License" means any permit, license, franchise or allowance of the
18 commission and shall include any franchisee or permittee.

19 (d) "Proprietary interest" means an economic and non-regulatory inter-
20 est at risk in the financial success of the gaming facility that could
21 be adversely affected by labor-management conflict, including but not
22 limited to property interests, financial investments and revenue shar-
23 ing.

24 2. The state legislature finds that the gaming industry constitutes a
25 vital sector of New York's overall economy and that the state through
26 its operation of lotteries and video lottery facilities and through its
27 ownership of the properties utilized for horse racing by The New York
28 Racing Association Inc. has a significant and ongoing economic and non-

1 regulatory interest in the financial viability and competitiveness of
2 the gaming industry. The state legislature further finds that the award
3 or grant of a license by the commission to operate a gaming facility is
4 a significant state action and that the commission must make prudent and
5 efficient decisions to maximize the benefits and minimize the risks of
6 gaming. The state legislature further recognizes that casino gaming
7 industry integration can provide a vital economic engine to assist,
8 nurture, develop, and promote regional economic development, the state
9 tourism industry and the growth of jobs in the state. Additionally, the
10 state legislature also finds revenues derived directly by the state from
11 such gaming activity will be shared from gross gaming receipts, after
12 payout of prizes but prior to deductions for operational expenses.

13 Therefore, the state legislature finds that the state has a substan-
14 tial and compelling proprietary interest in any license awarded for the
15 operation of a gaming facility within the state.

16 3. The commission shall require any applicant for a gaming facility
17 license who has not yet entered into a labor peace agreement to produce
18 an affidavit stating it shall enter into a labor peace agreement with
19 labor organizations that are actively engaged in representing or
20 attempting to represent gaming or hospitality industry workers in the
21 state. In order for the commission to issue a gaming facility license
22 and for operations to commence, the applicant for a gaming facility
23 license must produce documentation that it has entered into a labor
24 peace agreement with each labor organization that is actively engaged in
25 representing and attempting to represent gaming and hospitality industry
26 workers in the state. The commission shall make the maintenance of such
27 a labor peace agreement an ongoing material condition of licensure.

1 A license holder shall, as a condition of its license, ensure that
2 operations at the gaming facility that are conducted by contractors,
3 subcontractors, licensees, assignees, tenants or subtenants and that
4 involve gaming or hospitality industry employees shall be done under a
5 labor peace agreement containing the same provisions as specified above.

6 4. If otherwise applicable, capital projects undertaken by a gaming
7 facility shall be subject to article eight of the labor law and shall be
8 subject to the enforcement of prevailing wage requirements by the
9 department of labor.

10 5. If otherwise applicable, capital projects undertaken by a gaming
11 facility shall be subject to section one hundred thirty- five of the
12 state finance law.

13 6. If otherwise applicable, any gaming facility entering into a
14 contract for a gaming facility capitol project shall be deemed to be a
15 state agency, and such contract shall be deemed to be a state contract,
16 for purposes of article fifteen-A of the executive law and section two
17 hundred twenty-two of the labor law.

18 TITLE 6

19 TAXATION AND FEES

20 Section 1348. Machine and table fees.

21 1349. Regulatory investigatory fees.

22 1350. Additional regulatory costs.

23 1351. Tax on gaming revenues; permissive supplemental fee.

24 1352. Commercial gaming revenue fund.

25 1353. Determination of tax liability.

26 1354. Unclaimed funds.

27 1355. Racing support payments.

1 § 1348. Machine and table fees. In addition to any other tax or fee
2 imposed by this article, there shall be imposed an annual license fee of
3 five hundred dollars for each slot machine and table approved by the
4 commission for use by a gaming licensee at a gaming facility; provided,
5 however, that not sooner than five years after award of an original
6 gaming license, the commission may annually adjust the fee for
7 inflation. The fee shall be imposed as of July first of each year for
8 all approved slot machines and tables on that date and shall be assessed
9 on a pro rata basis for any slot machine or table approved for use ther-
10 eafter.

11 Such assessed fees shall be deposited into the commercial gaming
12 revenue fund established pursuant to section one thousand three hundred
13 fifty-two of this article.

14 § 1349. Regulatory investigatory fees. The commission may establish
15 fees for any investigation into a violation of this article or regu-
16 lation promulgated hereunder by a gaming facility licensee to be paid by
17 the gaming facility licensee including, but not limited to, billable
18 hours by commission staff involved in the investigation and the costs of
19 services, equipment or other expenses that are incurred by the commis-
20 sion during the investigation.

21 § 1350. Additional regulatory costs. 1. Any remaining costs of the
22 commission necessary to maintain regulatory control over gaming facili-
23 ties that are not covered by the fees set forth in section one thousand
24 three hundred forty-nine of this title; any other fees assessed under
25 this article; or any other designated sources of funding, shall be
26 assessed annually on gaming licensees under this article in proportion
27 to the number of gaming positions at each gaming facility. Each gaming

1 licensee shall pay the amount assessed against it within thirty days
2 after the date of the notice of assessment from the commission.

3 2. If the fees collected in section one thousand three hundred forty-
4 nine of this title exceed the cost required to maintain regulatory
5 control, the surplus funds shall be credited in proportional shares
6 against each gaming licensee's next assessment.

7 § 1351. Tax on gaming revenues; permissive supplemental fee. 1. For a
8 gaming facility in zone two, there is hereby imposed a tax on gross
9 gaming revenues. The amount of such tax imposed shall be as follows;
10 provided, however, should a licensee have agreed within its application
11 to supplement the tax with a binding supplemental fee payment exceeding
12 the aforementioned tax rate, such tax and supplemental fee shall apply
13 for a gaming facility:

14 (a) in region two, forty-five percent of gross gaming revenue from
15 slot machines and ten percent of gross gaming revenue from all other
16 sources.

17 (b) in region one, thirty-nine percent of gross gaming revenue from
18 slot machines and ten percent of gross gaming revenue from all other
19 sources.

20 (c) in region five, thirty-seven percent of gross gaming revenue from
21 slot machines and ten percent of gross gaming revenue from all other
22 sources.

23 § 1352. Commercial gaming revenue fund. 1. The commission shall pay
24 into an account, to be known as the commercial gaming revenue fund as
25 established pursuant to section ninety-seven-nnnn of the state finance
26 law, under the joint custody of the comptroller and the commissioner of
27 taxation and finance, all taxes and fees imposed by this article; any
28 interest and penalties imposed by the commission relating to those

1 taxes; the appropriate percentage of the value of expired gaming related
2 obligations; all penalties levied and collected by the commission; and
3 the appropriate funds, cash or prizes forfeited from gambling activity.

4 2. The commission shall require at least monthly deposits by the
5 licensee of any payments pursuant to section one thousand three hundred
6 fifty-one of this article, at such times, under such conditions, and in
7 such depositories as shall be prescribed by the state comptroller. The
8 deposits shall be deposited to the credit of the commercial gaming
9 revenue fund as established by section ninety-seven-nnnn of the state
10 finance law. The commission may require a monthly report and reconcil-
11 iation statement to be filed with it on or before the tenth day of each
12 month, with respect to gross revenues and deposits received and made,
13 respectively, during the preceding month.

14 § 1353. Determination of tax liability. The commission may perform
15 audits of the books and records of a gaming facility licensee, at such
16 times and intervals as it deems appropriate, for the purpose of deter-
17 mining the sufficiency of tax or fee payments. If a return or deposit
18 required with regard to obligations imposed is not filed or paid, or if
19 a return or deposit when filed or paid is determined by the commission
20 to be incorrect or insufficient with or without an audit, the amount of
21 tax, fee or deposit due shall be determined by the commission. Notice
22 of such determination shall be given to the licensee liable for the
23 payment of the tax or fee or deposit. Such determination shall finally
24 and irrevocably fix the tax or fee unless the person against whom it is
25 assessed, within thirty days after receiving notice of such determi-
26 nation, shall apply to the commission for a hearing in accordance with
27 the regulations of the commission.

1 § 1354. Unclaimed funds. Unclaimed funds, cash and prizes shall be
2 retained by the gaming facility licensee for the person entitled to the
3 funds, cash or prize for one year after the game in which the funds,
4 cash or prize was won. If no claim is made for the funds, cash or prize
5 within one year, the funds, cash or equivalent cash value of the prize
6 shall be deposited in the commercial gaming revenue fund.

7 § 1355. Racing support payments. 1. If an applicant who possesses a
8 pari-mutuel wagering franchise or license awarded pursuant to article
9 two or three of this chapter, or who possessed in two thousand thirteen
10 a franchise or a license awarded pursuant to article two or three of
11 this chapter or is an articulated entity or such applicant, is issued a
12 gaming facility license pursuant to this article, the licensee shall:

13 (a) Maintain payments made from video lottery gaming operations to the
14 relevant horsemen and breeders organizations at the same dollar level
15 realized in two thousand thirteen, to be adjusted annually pursuant to
16 changes in the consumer price index for all urban consumers, as
17 published annually by the United States department of labor bureau of
18 labor statistics;

19 (b) All racetracks locations awarded a gaming facility license shall
20 maintain racing activity and race dates pursuant to articles two and
21 three of this chapter.

22 2. If an applicant that does not possess either a pari-mutuel wagering
23 license or franchise awarded pursuant to article two or three of this
24 chapter is issued a gaming facility license pursuant to this article,
25 the licensee shall pay:

26 (a) an amount to horsemen for purses at the licensed racetracks in the
27 region that will assure the purse support from video lottery gaming
28 facilities in the region to the licensed racetracks in the region to be

1 maintained at the same dollar levels realized in two thousand thirteen
2 to be adjusted by the consumer price index for all urban consumers, as
3 published annually by the United States department of labor bureau of
4 labor statistics; and

5 (b) amounts to the agricultural and New York state horse breeding
6 development fund and the New York state thoroughbred breeding and devel-
7 opment fund to maintain payments from video lottery gaming facilities in
8 the region to such funds to be maintained at the same dollar levels
9 realized in two thousand thirteen to be adjusted by the consumer price
10 index for all urban consumers, as published annually by the United
11 States department of labor bureau of labor statistics.

12 TITLE 7

13 PROBLEM GAMBLING

14 Section 1362. Prevention and outreach efforts.

15 1363. Advertising restrictions.

16 § 1362. Prevention and outreach efforts. 1. Each gaming facility
17 licensee, management company, and holding company involved in the appli-
18 cation and ownership or management of a gaming facility shall provide to
19 the commission, as applicable, an applicant's problem gambling plan. An
20 applicant's problem gambling plan shall be approved by the commission
21 before the commission issues or renews a license. Each plan shall at
22 minimum include the following:

23 (a) The goals of the plan and procedures and timetables to implement
24 the plan;

25 (b) The identification of the individual who will be responsible for
26 the implementation and maintenance of the plan;

27 (c) Policies and procedures including the following:

- 1 (1) The commitment of the applicant and the gaming facility licensee
2 to train appropriate employees;
- 3 (2) The duties and responsibilities of the employees designated to
4 implement or participate in the plan;
- 5 (3) The responsibility of patrons with respect to responsible gambl-
6 ing;
- 7 (4) Procedures for compliance with the voluntary exclusion program;
- 8 (5) Procedures to identify patrons and employees with suspected or
9 known problem gambling behavior, including procedures specific to loyal-
10 ty and other rewards and marketing programs;
- 11 (6) Procedures for providing information to individuals regarding the
12 voluntary exclusion program and community, public and private treatment
13 services, gamblers anonymous programs and similar treatment or addiction
14 therapy programs designed to prevent, treat, or monitor problem gamblers
15 and to counsel family members;
- 16 (7) Procedures for responding to patron and employee requests for
17 information regarding the voluntary exclusion program and community,
18 public and private treatment services, gamblers anonymous programs and
19 similar treatment or addiction therapy programs designed to prevent,
20 treat, or monitor compulsive and problem gamblers and to counsel family
21 members;
- 22 (8) The provision of printed material to educate patrons and employees
23 about problem gambling and to inform them about the voluntary exclusion
24 program and treatment services available to problem gamblers and their
25 families. The applicant shall provide examples of the materials to be
26 used as part of its plan, including, brochures and other printed materi-
27 al and a description of how the material will be disseminated;

1 (9) Advertising and other marketing and outreach to educate the gener-
2 al public about the voluntary exclusion program and problem gambling;

3 (10) An employee training program, including training materials to be
4 utilized and a plan for periodic reinforcement training and a certif-
5 ication process established by the applicant to verify that each employ-
6 ee has completed the training required by the plan;

7 (11) Procedures to prevent underage gambling;

8 (12) Procedures to prevent patrons impaired by drugs or alcohol, or
9 both, from gambling; and

10 (13) The plan for posting signs within the gaming facility, containing
11 information on gambling treatment and on the voluntary exclusion
12 program. The applicant shall provide examples of the language and graph-
13 ics to be used on the signs as part of its plan;

14 (d) A list of community, public and private treatment services,
15 gamblers anonymous programs and similar treatment or addiction therapy
16 programs designed to prevent, treat, or monitor problem gamblers and to
17 counsel family members; and

18 (e) Any other information, documents, and policies and procedures that
19 the commission requires.

20 2. Each applicant or gaming facility licensee shall submit any amend-
21 ments to the problem gambling plan to the commission for review and
22 approval before implementing the amendments.

23 3. Each gaming facility licensee shall submit an annual summary of its
24 problem gambling plan to the commission.

25 4. Each gaming facility licensee shall submit quarterly updates and an
26 annual report to the commission of its adherence to the plans and goals
27 submitted under this section.

28 § 1363. Advertising restrictions. 1. As used in this section:

1 (a) "advertisement" shall mean any notice or communication to the
2 public or any information concerning the gaming-related business of a
3 gaming facility licensee or applicant through broadcasting, publication
4 or any other means of dissemination, including electronic dissemination.
5 Promotional activities are considered advertisements for purposes of
6 this section.

7 (b) "direct advertisement" shall mean any advertisement as described
8 in paragraph (a) of this subdivision that is disseminated to a specific
9 individual or individuals.

10 2. Advertising shall be based upon fact, and shall not be false,
11 deceptive or misleading, and no advertising by or on behalf of a gaming
12 facility licensee shall:

13 (a) Use any type, size, location, lighting, illustration, graphic
14 depiction or color resulting in the obscuring of any material fact;

15 (b) Fail to clearly and conspicuously specify and state any material
16 conditions or limiting factors;

17 (c) Depict any person under the age of twenty-one engaging in gaming
18 and related activities; or

19 (d) Fail to designate and state the name and location of the gaming
20 facility conducting the advertisement. The location of the gaming facil-
21 ity need not be included on billboards within thirty miles of the gaming
22 facility.

23 3. Each advertisement shall, clearly and conspicuously, state a prob-
24 lem gambling hotline number.

25 4. Each direct advertisement shall, clearly and conspicuously,
26 describe a method or methods by which an individual may designate that
27 the individual does not wish to receive any future direct advertisement.

28 (a) The described method must be by at least two of the following:

1 (1) Telephone;

2 (2) Regular U.S. mail; or

3 (3) Electronic mail.

4 (b) Upon receipt of an individual's request to discontinue receipt of
5 future advertisement, a gaming facility licensee or applicant shall
6 block the individual in the gaming facility licensee's database so as to
7 prevent the individual from receiving future direct advertisements with-
8 in fifteen days of receipt of the request.

9 5. Each gaming facility licensee or applicant shall provide to the
10 commission at its main office a complete and accurate copy of all adver-
11 tisements within five business days of the advertisement's public
12 dissemination. Gaming facility licensees or applicants shall discontinue
13 the public dissemination upon receipt of notice from the commission to
14 discontinue an advertisement.

15 6. A gaming facility licensee or applicant shall maintain a complete
16 record of all advertisements for a period of at least two years.
17 Records shall be made available to the commission upon request.

18 TITLE 8

19 MISCELLANEOUS PROVISIONS

20 Section 1364. Smoking prohibited.

21 1365. Conservatorship.

22 1366. Zoning.

23 1367. Sports wagering.

24 § 1364. Smoking prohibited. Smoking shall not be permitted, and no
25 person shall smoke in the indoor areas of facilities licensed pursuant
26 to this article, except that the provisions of section one thousand
27 three hundred ninety-nine-q of the public health law shall be applicable
28 to facilities licensed pursuant to this article.

1 § 1365. Conservatorship. 1. Upon revocation or suspension of a gaming
2 facility license or upon the failure or refusal to renew a gaming facil-
3 ity license, the commission may appoint a conservator to temporarily
4 manage and operate the business of the gaming licensee relating to the
5 gaming facility. Such conservator shall be a person of similar experi-
6 ence in the field of gaming management and, in the case of replacing a
7 gaming facility licensee, shall have experience operating a gaming
8 facility of similar caliber in another jurisdiction, and shall be in
9 good standing in all jurisdictions in which the conservator operates a
10 gaming facility. Upon appointment, a conservator shall agree to all
11 licensing provisions of the former gaming licensee.

12 2. A conservator shall, before assuming, managerial or operational
13 duties, execute and file a bond for the faithful performance of its
14 duties payable to the commission with such surety and in such form and
15 amount as the commission shall approve.

16 3. The commission shall require that the former or suspended gaming
17 licensee purchase liability insurance, in an amount determined by the
18 commission, to protect a conservator from liability for any acts or
19 omissions of the conservator during the conservator's appointment which
20 are reasonably related to and within the scope of the conservator's
21 duties.

22 4. During the period of temporary management of the gaming facility,
23 the commission shall initiate proceedings under this article to award a
24 new gaming facility license to a qualified applicant whose gaming facil-
25 ity shall be located at the site of the preexisting gaming facility.

26 5. An applicant for a new gaming facility license shall be qualified
27 for licensure under this article; provided, however, that the commission

1 shall determine an appropriate level of investment by an applicant into
2 the preexisting gaming facility.

3 6. Upon award of a new gaming facility license, the new gaming facili-
4 ty licensee shall pay the original licensing fee required under this
5 article.

6 § 1366. Zoning. Notwithstanding any inconsistent provision of law,
7 gaming authorized at a location pursuant to this article shall be deemed
8 an approved activity for such location under the relevant city, county,
9 town, or village land use or zoning ordinances, rules, or regulations.

10 § 1367. Sports wagering. 1. As used in this section:

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

13 (b) "Commission" means the commission established pursuant to section
14 one hundred two of this chapter;

15 (c) "Collegiate sport or athletic event" means a sport or athletic
16 event offered or sponsored by or played in connection with a public or
17 private institution that offers educational services beyond the second-
18 ary level;

19 (d) "Operator" means a casino which has elected to operate a sports
20 pool;

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

25 (f) "Prohibited sports event" means any collegiate sport or athletic
26 event that takes place in New York or a sport or athletic event in which
27 any New York college team participates regardless of where the event
28 takes place;

1 (g) "Sports event" means any professional sport or athletic event and
2 any collegiate sport or athletic event, except a prohibited sports
3 event;

4 (h) "Sports pool" means the business of accepting wagers on any sports
5 event by any system or method of wagering; and

6 (i) "Sports wagering lounge" means an area wherein a sports pool is
7 operated.

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

11 3. (a) In addition to authorized gaming activities, a licensed gaming
12 facility may when authorized by subdivision two of this section operate
13 a sports pool upon the approval of the commission and in accordance with
14 the provisions of this section and applicable regulations promulgated
15 pursuant to this article. The commission shall hear and decide promptly
16 and in reasonable order all applications for a license to operate a
17 sports pool, shall have the general responsibility for the implementa-
18 tion of this section and shall have all other duties specified in this
19 section with regard to the operation of a sports pool. The license to
20 operate a sports pool shall be in addition to any other license required
21 to be issued to operate a gaming facility. No license to operate a
22 sports pool shall be issued by the commission to any entity unless it
23 has established its financial stability, integrity and responsibility
24 and its good character, honesty and integrity.

25 No later than five years after the date of the issuance of a license
26 and every five years thereafter or within such lesser periods as the
27 commission may direct, a licensee shall submit to the commission such
28 documentation or information as the commission may by regulation

1 require, to demonstrate to the satisfaction of the executive director of
2 the commission that the licensee continues to meet the requirements of
3 the law and regulations.

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

8 (c) The operator of a sports pool shall establish or display the odds
9 at which wagers may be placed on sports events.

10 (d) An operator shall accept wagers on sports events only from persons
11 physically present in the sports wagering lounge. A person placing a
12 wager shall be at least twenty-one years of age.

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

15 (f) The holder of a license to operate a sports pool may contract with
16 an entity to conduct that operation, in accordance with the regulations
17 of the commission. That entity shall obtain a license as a casino vendor
18 enterprise prior to the execution of any such contract, and such license
19 shall be issued pursuant to the provisions of section one thousand three
20 hundred twenty-seven of this article and in accordance with the regu-
21 lations promulgated by the commission.

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

27 4. (a) All persons employed directly in wagering-related activities
28 conducted within a sports wagering lounge shall be licensed as a casino

1 key employee or registered as a gaming employee, as determined by the
2 commission. All other employees who are working in the sports wagering
3 lounge may be required to be registered, if appropriate, in accordance
4 with regulations of the commission.

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

9 5. Except as otherwise provided by this article, the commission shall
10 have the authority to regulate sports pools and the conduct of sports
11 wagering under this article to the same extent that the commission regu-
12 lates other gaming. No casino shall be authorized to operate a sports
13 pool unless it has produced information, documentation, and assurances
14 concerning its financial background and resources, including cash
15 reserves, that are sufficient to demonstrate that it has the financial
16 stability, integrity, and responsibility to operate a sports pool. In
17 developing rules and regulations applicable to sports wagering, the
18 commission shall examine the regulations implemented in other states
19 where sports wagering is conducted and shall, as far as practicable,
20 adopt a similar regulatory framework. The commission shall promulgate
21 regulations necessary to carry out the provisions of this section,
22 including, but not limited to, regulations governing the:

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

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

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

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

1 (e) method of issuing tickets;

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

3 (g) types of records which shall be kept;

4 (h) use of credit and checks by patrons;

5 (i) type of system for wagering; and

6 (j) protections for a person placing a wager.

7 6. Each operator shall adopt comprehensive house rules governing
8 sports wagering transactions with its patrons. The rules shall specify
9 the amounts to be paid on winning wagers and the effect of schedule
10 changes. The house rules, together with any other information the
11 commission deems appropriate, shall be conspicuously displayed in the
12 sports wagering lounge and included in the terms and conditions of the
13 account wagering system, and copies shall be made readily available to
14 patrons.

15 TITLE 9

16 GAMING INSPECTOR GENERAL

17 Section 1368. Establishment of the office of gaming inspector general.

18 1369. State gaming inspector general; functions and duties.

19 1370. Powers.

20 1371. Responsibilities of the commission and its officers and
21 employees.

22 § 1368. Establishment of the office of gaming inspector general.

23 There is hereby created within the commission the office of gaming
24 inspector general. The head of the office shall be the gaming inspector
25 general who shall be appointed by the governor by and with the advice
26 and consent of the senate. The inspector general shall serve at the
27 pleasure of the governor. The inspector general shall report directly to
28 the governor. The person appointed as inspector general shall, upon his

1 or her appointment, have not less than ten years professional experience
2 in law, investigation, or auditing. The inspector general shall be
3 compensated within the limits of funds available therefor, provided,
4 however, such salary shall be no less than the salaries of certain state
5 officers holding the positions indicated in paragraph (a) of subdivision
6 one of section one hundred sixty-nine of the executive law.

7 § 1369. State gaming inspector general; functions and duties. The
8 state gaming inspector general shall have the following duties and
9 responsibilities:

10 1. receive and investigate complaints from any source, or upon his or
11 her own initiative, concerning allegations of corruption, fraud, crimi-
12 nal activity, conflicts of interest or abuse in the commission;

13 2. inform the commission members of such allegations and the progress
14 of investigations related thereto, unless special circumstances require
15 confidentiality;

16 3. determine with respect to such allegations whether disciplinary
17 action, civil or criminal prosecution, or further investigation by an
18 appropriate federal, state or local agency is warranted, and to assist
19 in such investigations;

20 4. prepare and release to the public written reports of such investi-
21 gations, as appropriate and to the extent permitted by law, subject to
22 redaction to protect the confidentiality of witnesses. The release of
23 all or portions of such reports may be deferred to protect the confiden-
24 tiality of ongoing investigations;

25 5. review and examine periodically the policies and procedures of the
26 commission with regard to the prevention and detection of corruption,
27 fraud, criminal activity, conflicts of interest or abuse;

1 6. recommend remedial action to prevent or eliminate corruption,
2 fraud, criminal activity, conflicts of interest or abuse in the commis-
3 sion; and

4 7. establish programs for training commission officers and employees
5 regarding the prevention and elimination of corruption, fraud, criminal
6 activity, conflicts of interest or abuse in the commission.

7 § 1370. Powers. The state gaming inspector general shall have the
8 power to:

9 1. subpoena and enforce the attendance of witnesses;

10 2. administer oaths or affirmations and examine witnesses under oath;

11 3. require the production of any books and papers deemed relevant or
12 material to any investigation, examination or review;

13 4. notwithstanding any law to the contrary, examine and copy or remove
14 documents or records of any kind prepared, maintained or held by the
15 commission;

16 5. require any commission officer or employee to answer questions
17 concerning any matter related to the performance of his or her official
18 duties. The refusal of any officer or employee to answer questions
19 shall be cause for removal from office or employment or other appropri-
20 ate penalty;

21 6. monitor the implementation by the commission of any recommendations
22 made by the state inspector general; and

23 7. perform any other functions that are necessary or appropriate to
24 fulfill the duties and responsibilities of the office.

25 § 1371. Responsibilities of the commission and its officers and
26 employees. 1. Every commission officer or employee shall report prompt-
27 ly to the state gaming inspector general any information concerning
28 corruption, fraud, criminal activity, conflicts of interest or abuse by

1 another state officer or employee relating to his or her office or
2 employment, or by a person having business dealings with the commission
3 relating to those dealings. The knowing failure of any officer or
4 employee to so report shall be cause for removal from office or employ-
5 ment or other appropriate penalty under this article. Any officer or
6 employee who acts pursuant to this subdivision by reporting to the state
7 gaming inspector general or other appropriate law enforcement official
8 improper governmental action as defined in section seventy-five-b of the
9 civil service law shall not be subject to dismissal, discipline or other
10 adverse personnel action.

11 2. The commission chair shall advise the governor within ninety days
12 of the issuance of a report by the state gaming inspector general as to
13 the remedial action that the commission has taken in response to any
14 recommendation for such action contained in such report.

15 § 3. Section 225.00 of the penal law is amended by adding eighteen new
16 subdivisions 13 through 30 to read as follows:

17 13. "Authorized gaming establishment" means any structure, structure
18 and adjacent or attached structure, or grounds adjacent to a structure
19 in which casino gaming, conducted pursuant to article thirteen of the
20 racing, pari-mutuel wagering and breeding law, or Class III gaming, as
21 authorized pursuant to a compact reached between the state of New York
22 and a federally recognized Indian nation or tribe under the federal
23 Indian Gaming Regulatory Act of 1988, is conducted and shall include all
24 public and non-public areas of any such building, except for such areas
25 of a building where either Class I or II gaming are conducted or any
26 building or grounds known as a video gaming entertainment facility,
27 including facilities where food and drink are served, as well as those
28 areas not normally open to the public, such as where records related to

1 video lottery gaming operations are kept, except shall not include the
2 racetracks or such areas where such video lottery gaming operations or
3 facilities do not take place or exist, such as racetrack areas or fair-
4 grounds which are wholly unrelated to video lottery gaming operations,
5 pursuant to section sixteen hundred seventeen-a and paragraph five of
6 subdivision a of section sixteen hundred twelve of the tax law, as
7 amended and implemented.

8 14. "Authorized gaming operator" means an enterprise or business enti-
9 ty authorized by state or federal law to operate casino or video lottery
10 gaming.

11 15. "Casino gaming" means games authorized to be played pursuant to a
12 license granted under article thirteen of the racing, pari-mutuel wager-
13 ing and breeding law or by federally recognized Indian nations or tribes
14 pursuant to a valid gaming compact reached in accordance with the feder-
15 al Indian Gaming Regulatory Act of 1988, Pub. L. 100-497, 102 Stat.
16 2467, codified at 25 U.S.C. §§ 2701-21 and 18 U.S.C. §§ 1166-68.

17 16. "Cash equivalent" means a treasury check, a travelers check, wire
18 transfer of funds, transfer check, money order, certified check, cash-
19 iers check, payroll check, a check drawn on the account of the author-
20 ized gaming operator payable to the patron or to the authorized gaming
21 establishment, a promotional coupon, promotional chip, promotional
22 cheque, promotional token, or a voucher recording cash drawn against a
23 credit card or charge card.

24 17. "Cheques" or "chips" or "tokens" means nonmetal, metal or partly
25 metal representatives of value, redeemable for cash or cash equivalent,
26 and issued and sold by an authorized casino operator for use at an
27 authorized gaming establishment. The value of such cheques or chips or
28 tokens shall be considered equivalent in value to the cash or cash

1 equivalent exchanged for such cheques or chips or tokens upon purchase
2 or redemption.

3 18. "Class I gaming" and "Class II gaming" means those forms of gaming
4 that are not Class III gaming, as defined in subsection eight of section
5 four of the federal Indian Gaming Regulatory Act, 25 U.S.C. § 2703.

6 19. "Class III gaming" means those forms of gaming that are not Class
7 I or Class II gaming, as defined in subsections six and seven of section
8 four of the federal Indian Gaming Regulatory Act, 25 U.S.C. § 2703 and
9 those games enumerated in the Appendix of a gaming compact.

10 20. "Compact" or "gaming compact" means the agreement between a feder-
11 ally recognized Indian tribe and the state of New York regarding Class
12 III gaming activities entered into pursuant to the federal Indian Gaming
13 Regulatory Act, Pub. L. 100-497, 102 Stat. 2467, codified at 25 U.S.C.
14 §§ 2701-21 and 18 U.S.C. §§ 1166-68 (1988 & Supp. II).

15 21. "Gaming equipment or device" means any machine or device which is
16 specially designed or manufactured for use in the operation of any Class
17 III or video lottery game.

18 22. "Gaming regulatory authority" means, with respect to any author-
19 ized gaming establishment on Indian lands, territory or reservation, the
20 Indian nation or tribal gaming commission, its authorized officers,
21 agents and representatives acting in their official capacities or such
22 other agency of a nation or tribe as the nation or tribe may designate
23 as the agency responsible for the regulation of Class III gaming, joint-
24 ly with the state gaming agency, conducted pursuant to a gaming compact
25 between the nation or tribe and the state of New York, or with respect
26 to any casino gaming authorized pursuant to article thirteen of the
27 racing, pari-mutuel wagering and breeding law or video lottery gaming
28 conducted pursuant to section sixteen hundred seventeen-a and paragraph

1 five of subdivision a of section sixteen hundred twelve of the tax law,
2 as amended and implemented.

3 23. "Premises" includes any structure, parking lot, building, vehicle,
4 watercraft, and any real property.

5 24. "Sell" means to sell, exchange, give or dispose of to another.

6 25. "State gaming agency" shall mean the New York state gaming commis-
7 sion, its authorized officials, agents, and representatives acting in
8 their official capacities as the regulatory agency of the state which
9 has responsibility for regulation with respect to video lottery gaming
10 or casino gaming.

11 26. "Unfair gaming equipment" means loaded dice, marked cards, substi-
12 tuted cards or dice, or fixed roulette wheels or other gaming equipment
13 which has been altered in a way that tends to deceive or tends to alter
14 the elements of chance or normal random selection which determine the
15 result of the game or outcome, or the amount or frequency of the payment
16 in a game.

17 27. "Unlawful gaming property" means:

18 (a) any device, not prescribed for use in casino gaming by its rules,
19 which is capable of assisting a player:

20 (i) to calculate any probabilities material to the outcome of a
21 contest of chance; or

22 (ii) to receive or transmit information material to the outcome of a
23 contest of chance; or

24 (b) any object or article which, by virtue of its size, shape or any
25 other quality, is capable of being used in casino gaming as an improper
26 substitute for a genuine chip, cheque, token, betting coupon, debit
27 instrument, voucher or other instrument or indicia of value; or

28 (c) any unfair gaming equipment.

1 28. "Video lottery gaming" means any lottery game played on a video
2 lottery terminal, which consists of multiple players competing for a
3 chance to win a random drawn prize pursuant to section sixteen hundred
4 seventeen-a and paragraph five of subdivision a of section sixteen
5 hundred twelve of the tax law, as amended and implemented.

6 29. "Voucher" means an instrument of value generated by a video
7 lottery terminal representing a monetary amount and/or play value owed
8 to a customer at a specific video lottery terminal based on video
9 lottery gaming winnings and/or amounts not wagered.

10 § 4. The penal law is amended by adding ten new sections 225.55,
11 225.60, 225.65, 225.70, 225.75, 225.80, 225.85, 225.90 and 225.95 to
12 read as follows:

13 § 225.55 Gaming fraud in the second degree.

14 A person is guilty of gaming fraud in the second degree when he or
15 she:

16 1. with intent to defraud and in violation of the rules of the casino
17 gaming, misrepresents, changes the amount bet or wagered on, or the
18 outcome or possible outcome of the contest or event which is the subject
19 of the bet or wager, or the amount or frequency of payment in the casino
20 gaming; or

21 2. with intent to defraud, obtains anything of value from casino
22 gaming without having won such amount by a bet or wager contingent ther-
23 eon.

24 Gaming fraud in the second degree is a class A misdemeanor.

25 § 225.60 Gaming fraud in the first degree.

26 A person is guilty of gaming fraud in the first degree when he or she
27 commits a gaming fraud in the second degree, and:

28 1. The value of the benefit obtained exceeds one thousand dollars; or

1 2. He or she has been previously convicted within the preceding five
2 years of any offense of which an essential element is the commission of
3 a gaming fraud.

4 Gaming fraud in the first degree is a class E felony.

5 § 225.65 Use of counterfeit, unapproved or unlawful wagering instru-
6 ments.

7 A person is guilty of use of counterfeit, unapproved or unlawful
8 wagering instruments when in playing or using any casino gaming designed
9 to be played with, received or be operated by chips, cheques, tokens,
10 vouchers or other wagering instruments approved by the appropriate
11 gaming regulatory authority, he or she knowingly uses chips, cheques,
12 tokens, vouchers or other wagering instruments other than those approved
13 by the appropriate gaming regulating authority and the state gaming
14 agency or lawful coin or legal tender of the United States of America.

15 Possession of more than one counterfeit, unapproved or unlawful wager-
16 ing instrument described in this section is presumptive evidence of
17 possession thereof with knowledge of its character or contents.

18 Use of counterfeit, unapproved or unlawful wagering instruments is a
19 class A misdemeanor.

20 § 225.70 Possession of unlawful gaming property in the third degree.

21 A person is guilty of possession of unlawful gaming property in the
22 third degree when he or she possesses, with intent to use such property
23 to commit gaming fraud, unlawful gaming property at a premises being
24 used for casino gaming.

25 Possession of unlawful gaming property in the third degree is a class
26 A misdemeanor.

27 § 225.75 Possession of unlawful gaming property in the second degree.

1 A person is guilty of possession of unlawful gaming property in the
2 second degree when:

3 1. He or she makes, sells, or possesses with intent to sell, any
4 unlawful gaming property at a casino gaming facility, the value of which
5 exceeds three hundred dollars, with intent that it be made available to
6 a person for unlawful use; or

7 2. He or she commits possession of unlawful gaming property in the
8 third degree as defined in section 225.70 of this article, and the face
9 value of the improper substitute property exceeds five hundred dollars;
10 or

11 3. He or she commits the offense of possession of unlawful gaming
12 property in the third degree and has been previously convicted within
13 the preceding five years of any offense of which an essential element is
14 possession of unlawful gaming property.

15 Possession of unlawful gaming property in the second degree is a class
16 E felony.

17 § 225.80 Possession of unlawful gaming property in the first degree.

18 A person is guilty of possession of unlawful gaming property in the
19 first degree when:

20 1. He or she commits the crime of unlawful possession of gaming prop-
21 erty in the third degree as defined in section 225.70 of this article
22 and the face value of the improper substitute property exceeds one thou-
23 sand dollars; or

24 2. He or she commits the offense of possession of unlawful gaming
25 property in the second degree as defined in subdivision one or two of
26 section 225.75 of this article and has been previously convicted within
27 the preceding five years of any offense of which an essential element is
28 possession of unlawful gaming property.

1 Possession of unlawful gaming property in the first degree is a class
2 D felony.

3 § 225.85 Use of unlawful gaming property.

4 A person is guilty of use of unlawful gaming property when he or she
5 knowingly with intent to defraud uses unlawful gaming property at a
6 premises being used for casino gaming.

7 Use of unlawful gaming property is a class E felony.

8 § 225.90 Manipulation of gaming outcomes at an authorized gaming estab-
9 lishment.

10 A person is guilty of manipulation of gaming outcomes at an authorized
11 gaming establishment when he or she:

12 1. Knowingly conducts, operates, deals or otherwise manipulates, or
13 knowingly allows to be conducted, operated, dealt or otherwise manipu-
14 lated, cards, dice or gaming equipment or device, for themselves or for
15 another, through any trick or sleight of hand performance, with the
16 intent of deceiving or altering the elements of chance or normal random
17 selection which determines the result or outcome of the game, or the
18 amount or frequency of the payment in a game; or

19 2. Knowingly uses, conducts, operates, deals, or exposes for play, or
20 knowingly allows to be used, conducted, operated, dealt or exposed for
21 play any cards, dice or gaming equipment or device, or any combination
22 of gaming equipment or devices, which have in any manner been altered,
23 marked or tampered with, or placed in a condition, or operated in a
24 manner, the result of which tends to deceive or tends to alter the
25 elements of chance or normal random selection which determine the result
26 of the game or outcome, or the amount or frequency of the payment in a
27 game; or

1 3. Knowingly uses, or possesses with the intent to use, any cards,
2 dice or other gaming equipment or devices other than that provided by an
3 authorized gaming operator for current use in a permitted gaming activ-
4 ity; or

5 4. Alters or misrepresents the outcome of a game or other event on
6 which bets or wagers have been made after the outcome is made sure but
7 before it is revealed to players.

8 Possession of altered, marked or tampered with dice, cards, or gaming
9 equipment or devices at an authorized gambling establishment is presump-
10 tive evidence of possession thereof with knowledge of its character or
11 contents and intention to use such altered, marked or tampered with
12 dice, cards, or gaming equipment or devices in violation of this
13 section.

14 Manipulation of gaming outcomes at an authorized gaming establishment
15 is a class A misdemeanor provided, however, that if the person has
16 previously been convicted of this crime within the past five years this
17 crim shall be a class E felony.

18 § 225.95 Unlawful manufacture, sale, distribution, marking, altering or
19 modification of equipment and devices associated with gaming.

20 A person is guilty of unlawful manufacture, sale, distribution, mark-
21 ing, altering or modification of equipment and devices associated with
22 gaming when if he or she:

23 1. Manufactures, sells or distributes any cards, chips, cheques,
24 tokens, dice, vouchers, game or device and he or she knew or reasonably
25 should have known it was intended to be used to violate any provision of
26 this article; or

27 2. Marks, alters or otherwise modifies any associated gaming equipment
28 or device in a manner that either affects the result of the wager by

1 determining win or loss or alters the normal criteria of random
2 selection in a manner that affects the operation of a game or determines
3 the outcome of a game, and he or she knew or reasonably should have
4 known that it was intended to be used to violate any provision of this
5 article.

6 Unlawful manufacture, sale, distribution, marking, altering or modifi-
7 cation of equipment and devices associated with gaming is a class A
8 misdemeanor provided, however, that if the person has previously been
9 convicted of this crime within the past five years this crim shall be a
10 class E felony.

11 § 5. Section 109-a of the racing, pari-mutuel wagering and breeding
12 law is REPEALED and a new section 109-a is added to read as follows:

13 § 109-a. Separate board for facility siting. The commission shall
14 establish a separate board to be known as the New York gaming facility
15 location board to perform designated functions under article thirteen of
16 this chapter, the following provisions shall apply to the board:

17 1. The commission shall select five members and name the chair of the
18 board. Each member of the board shall be a resident of the state of New
19 York. No member of the legislature or person holding any elective or
20 appointive office in federal, state or local government shall be eligi-
21 ble to serve as a member of the board.

22 2. Qualifications of members. Members of the board shall each possess
23 no less than ten years of responsible experience in fiscal matters and
24 shall have any one or more of the following qualifications:

25 (a) significant service as an accountant economist, or financial
26 analyst experienced in finance or economics;

27 (b) significant service in an academic field relating to finance or
28 economics;

1 (c) significant service and knowledge of the commercial real estate
2 industry; or

3 (d) significant service as an executive with fiduciary responsibil-
4 ities in charge of a large organization or foundation.

5 3. No member of the board:

6 (a) may have a close familial or business relationship to a person
7 that holds a license under this chapter;

8 (b) may have any direct or indirect financial interest, ownership, or
9 management, including holding any stocks, bonds, or other similar finan-
10 cial interests in any gaming activities, including horse racing, lottery
11 or gambling;

12 (c) may receive or share in, directly or indirectly, the receipts or
13 proceeds of any gaming activities, including horse racing, lottery or
14 gambling;

15 (d) may have a beneficial interest in any contract for the manufacture
16 or sale of gaming devices, the conduct of any gaming activity, or the
17 provision of any independent consulting services in connection with any
18 establishment licensed under this chapter.

19 4. Board members are entitled to actual and necessary expenses
20 incurred in the discharge of their duties but may not receive compen-
21 sation for their service on the board.

22 5. (a) The commission shall provide staff to the board.

23 (b) The board shall contract with an outside consultant to provide
24 analysis of the gaming industry and to support the board's comprehensive
25 review and evaluation of the applications submitted to the board for
26 gaming facility licenses.

27 (c) The board may contract with attorneys, accountants, auditors and
28 financial and other experts to render necessary services.

1 (d) All other state agencies shall cooperate with and assist the board
2 in the fulfillment of its duties under this article and may render such
3 services to the board within their respective functions as the board may
4 reasonably request.

5 6. Utilizing the powers and duties prescribed for it by article thir-
6 teen of this chapter, the board shall select, through a competitive
7 process consistent with provisions of article thirteen of this chapter,
8 not more than four gaming facility license applicants. Such selectees
9 shall be authorized to receive a gaming facility license, if found suit-
10 able by the commission. The board may select another applicant for
11 authorization to be licensed as a gaming facility if a previous selectee
12 fails to meet licensing thresholds, is revoked or surrenders a license
13 opportunity.

14 § 6. Subdivision 2 of section 99-h of the state finance law, as
15 amended by section 1 of part V of chapter 59 of the laws of 2006, is
16 amended to read as follows:

17 2. Such account shall consist of all revenues resulting from tribal-
18 state compacts executed pursuant to article two of the executive law
19 [and], a tribal-state compact with the St. Regis Mohawk tribe executed
20 pursuant to chapter five hundred ninety of the laws of two thousand four
21 and the Oneida Settlement Agreement referenced in section eleven of the
22 executive law.

23 § 7. Subdivision 3 of section 99-h of the state finance law, as
24 amended by section 1 of part W of chapter 60 of the laws of 2011, is
25 amended to read as follows:

26 3. Moneys of the account, following the segregation of appropriations
27 enacted by the legislature, shall be available for purposes including
28 but not limited to: (a) reimbursements or payments to municipal govern-

1 ments that host tribal casinos pursuant to a tribal-state compact for
2 costs incurred in connection with services provided to such casinos or
3 arising as a result thereof, for economic development opportunities and
4 job expansion programs authorized by the executive law; provided, howev-
5 er, that for any gaming facility located in the city of Buffalo, the
6 city of Buffalo shall receive a minimum of twenty-five percent of the
7 negotiated percentage of the net drop from electronic gaming devices the
8 state receives pursuant to the compact, and provided further that for
9 any gaming facility located in the city of Niagara Falls, county of
10 Niagara a minimum of twenty-five percent of the negotiated percentage of
11 the net drop from electronic gaming devices the state receives pursuant
12 to the compact shall be distributed in accordance with subdivision four
13 of this section, and provided further that for any gaming facility
14 located in the county or counties of Cattaraugus, Chautauqua or Allega-
15 ny, the municipal governments of the state hosting the facility shall
16 collectively receive a minimum of twenty-five percent of the negotiated
17 percentage of the net drop from electronic gaming devices the state
18 receives pursuant to the compact; and provided further that pursuant to
19 chapter five hundred ninety of the laws of two thousand four, a minimum
20 of twenty-five percent of the revenues received by the state pursuant to
21 the state's compact with the St. Regis Mohawk tribe shall be made avail-
22 able to the counties of Franklin and St. Lawrence, and affected towns in
23 such counties. Each such county and its affected towns shall receive
24 fifty percent of the moneys made available by the state; and provided
25 further that the state shall annually make twenty-five percent of the
26 negotiated percentage of the net drop from all gaming devices the state
27 actually receives pursuant to the Oneida Settlement Agreement confirmed
28 by section eleven of the executive law as available to the county of

1 Oneida, and a sum of three and one-half million dollars to the county of
2 Madison. Additionally, the state shall distribute for a period of nine-
3 teen and one-quarter years, an additional annual sum of two and one-half
4 million dollars to the county of Oneida. Additionally, the state shall
5 distribute the one-time eleven million dollar payment received by the
6 state pursuant to such agreement with the Oneida Nation of New York to
7 the county of Madison by wire transfer upon receipt of such payment by
8 the state; and (b) support and services of treatment programs for
9 persons suffering from gambling addictions. Moneys not segregated for
10 such purposes shall be transferred to the general fund for the support
11 of government during the fiscal year in which they are received.

12 § 7-a. Subdivision 3 of section 99-h of the state finance law, as
13 amended by section 1 of part QQ of chapter 59 of the laws of 2009, is
14 amended to read as follows:

15 3. Moneys of the account, following appropriation by the legislature,
16 shall be available for purposes including but not limited to: (a)
17 reimbursements or payments to municipal governments that host tribal
18 casinos pursuant to a tribal-state compact for costs incurred in
19 connection with services provided to such casinos or arising as a result
20 thereof, for economic development opportunities and job expansion
21 programs authorized by the executive law; provided, however, that for
22 any gaming facility located in the city of Buffalo, the city of Buffalo
23 shall receive a minimum of twenty-five percent of the negotiated
24 percentage of the net drop from electronic gaming devices the state
25 receives pursuant to the compact, and provided further that for any
26 gaming facility located in the city of Niagara Falls, county of Niagara
27 a minimum of twenty-five percent of the negotiated percentage of the net
28 drop from electronic gaming devices the state receives pursuant to the

1 compact shall be distributed in accordance with subdivision four of this
2 section, and provided further that for any gaming facility located in
3 the county or counties of Cattaraugus, Chautauqua or Allegany, the
4 municipal governments of the state hosting the facility shall collec-
5 tively receive a minimum of twenty-five percent of the negotiated
6 percentage of the net drop from electronic gaming devices the state
7 receives pursuant to the compact; and provided further that pursuant to
8 chapter five hundred ninety of the laws of two thousand four, a minimum
9 of twenty-five percent of the revenues received by the state pursuant to
10 the state's compact with the St. Regis Mohawk tribe shall be made avail-
11 able to the counties of Franklin and St. Lawrence, and affected towns in
12 such counties. Each such county and its affected towns shall receive
13 fifty percent of the moneys made available by the state; and provided
14 further that the state shall annually make twenty-five percent of the
15 negotiated percentage of the net drop from all gaming devices the state
16 actually receives pursuant to the Oneida Settlement Agreement as
17 confirmed by section eleven of the executive law as available to the
18 county of Oneida, and a sum of three and one-half million dollars to the
19 county of Madison. Additionally, the state shall distribute for a period
20 of nineteen and one-quarter years, an additional annual sum of two and
21 one-half million dollars to the county of Oneida. Additionally, the
22 state shall distribute the one-time eleven million dollar payment
23 received by the state pursuant to such agreement with the Oneida Nation
24 of New York to the county of Madison by wire transfer upon receipt of
25 such payment by the state; and (b) support and services of treatment
26 programs for persons suffering from gambling addictions. Moneys not
27 appropriated for such purposes shall be transferred to the general fund

1 for the support of government during the fiscal year in which they are
2 received.

3 § 8. Subdivision 3 of section 99-h of the state finance law, as
4 amended by section 23 of part HH of chapter 57 of the laws of 2013, is
5 amended to read as follows:

6 3. Moneys of the account, following the segregation of appropriations
7 enacted by the legislature, shall be available for purposes including
8 but not limited to: (a) reimbursements or payments to municipal govern-
9 ments that host tribal casinos pursuant to a tribal-state compact for
10 costs incurred in connection with services provided to such casinos or
11 arising as a result thereof, for economic development opportunities and
12 job expansion programs authorized by the executive law; provided, howev-
13 er, that for any gaming facility located in the county of Erie or
14 Niagara, the municipal governments hosting the facility shall collec-
15 tively receive a minimum of twenty-five percent of the negotiated
16 percentage of the net drop from electronic gaming devices the state
17 receives pursuant to the compact and provided further that for any
18 gaming facility located in the county or counties of Cattaraugus, Chau-
19 tauqua or Allegany, the municipal governments of the state hosting the
20 facility shall collectively receive a minimum of twenty-five percent of
21 the negotiated percentage of the net drop from electronic gaming devices
22 the state receives pursuant to the compact; and provided further that
23 pursuant to chapter five hundred ninety of the laws of two thousand
24 four, a minimum of twenty-five percent of the revenues received by the
25 state pursuant to the state's compact with the St. Regis Mohawk tribe
26 shall be made available to the counties of Franklin and St. Lawrence,
27 and affected towns in such counties. Each such county and its affected
28 towns shall receive fifty percent of the moneys made available by the

1 state; and provided further that the state shall annually make twenty-
2 five percent of the negotiated percentage of the net drop from all
3 gaming devices the state actually receives pursuant to the Oneida
4 Settlement Agreement confirmed by section eleven of the executive law
5 available to the county of Oneida, and a sum of three and one-half
6 million dollars to the county of Madison. Additionally, the state shall
7 distribute, for a period of nineteen and one-quarter years, an addi-
8 tional annual sum of two and one-half million dollars to the county of
9 Oneida. Additionally, the state shall distribute the one-time eleven
10 million dollar payment actually received by the state pursuant to the
11 Oneida Settlement Agreement to the county of Madison by wire transfer
12 upon receipt of such payment by the state; and (b) support and services
13 of treatment programs for persons suffering from gambling addictions.
14 Moneys not segregated for such purposes shall be transferred to the
15 general fund for the support of government during the fiscal year in
16 which they are received.

17 § 9. Section 99-h of the state finance law, as amended by chapter 747
18 of the laws of 2006, is amended by adding a new subdivision 3-a to read
19 as follows:

20 3-a. Ten percent of any of the funds actually received by the state
21 pursuant to the tribal-state compacts and agreements described in subdi-
22 vision two of this section that are retained in the fund after the
23 distributions required by subdivision three of this section, but prior
24 to the transfer of unsegregated moneys to the general fund required by
25 such subdivision, shall be distributed to counties in each respective
26 exclusivity zone provided they do not otherwise receive a share of said
27 revenues pursuant to this section. Such distribution shall be made among
28 such counties on a per capita basis, excluding the population of any

1 municipality that receives a distribution pursuant to subdivision three
2 of this section.

3 § 10. The state finance law is amended by adding a new section 97-nnnn
4 to read as follows:

5 § 97-nnnn. Commercial gaming revenue fund. 1. There is hereby estab-
6 lished in the joint custody of the comptroller and the commissioner of
7 taxation and finance an account in the miscellaneous special revenue
8 fund to be known as the "commercial gaming revenue fund".

9 2. Such account shall consist of all revenues from all taxes and fees
10 imposed by article thirteen of the racing, pari-mutuel wagering and
11 breeding law; any interest and penalties imposed by the New York state
12 gaming commission relating to those taxes; the percentage of the value
13 of expired gaming related obligations; and all penalties levied and
14 collected by the commission. Additionally, the state gaming commission
15 shall pay into the account any appropriate funds, cash or prizes
16 forfeited from gambling activity.

17 3. Moneys of the account shall be available as follows, unless other-
18 wise specified by the upstate New York gaming economic development act
19 of two thousand thirteen, following appropriation by the legislature:

20 a. eighty percent of the moneys in such fund shall be appropriated or
21 transferred only for elementary and secondary education or real property
22 tax relief.

23 b. ten percent of the moneys in such fund shall be appropriated or
24 transferred from the commercial gaming revenue fund equally between the
25 host municipality and host county.

26 c. ten percent of the moneys in such fund, as attributable to a
27 specific licensed gaming facility, shall be appropriated or transferred
28 from the commercial gaming revenue fund among counties within the

1 region, as defined by section one thousand three hundred ten of the
2 racing, pari-mutuel wagering and breeding law, hosting said facility for
3 the purpose of real property tax relief and for education assistance.
4 Such distribution shall be made among the counties on a per capita
5 basis, subtracting the population of host municipality and county.

6 4. a. As used in this section, the term "base year gaming revenue"
7 shall mean the sum of all revenue generated to support education from
8 video lottery gaming as defined by section sixteen hundred seventeen-a
9 of the tax law in the twelve months preceding the operation of any
10 gaming facility pursuant to either article thirteen of the racing, pari-
11 mutuel wagering and breeding law or pursuant to paragraph four of
12 section one thousand six hundred seventeen-a of the tax law.

13 b. Amounts transferred in any year to support elementary and secondary
14 education shall be calculated as follows:

15 (i) an amount equal to the positive difference, if any, between the
16 base year gaming revenue amount and the sum of all revenue generated to
17 support education from video lottery gaming as defined by section
18 sixteen hundred seventeen-a of the tax law in the current fiscal year
19 provided that such positive amount, if any, shall be transferred to the
20 state lottery fund; and

21 (ii) the amount of revenue collected in the prior state fiscal year,
22 to be distributed pursuant to paragraph a of subdivision three of this
23 section, and in excess of any amounts transferred pursuant to subpara-
24 graph (i) of this paragraph in such prior fiscal year, if any.

25 c. Notwithstanding any provision of law to the contrary, amounts
26 appropriated or transferred from the commercial gaming revenue fund
27 pursuant to subparagraph (ii) of this paragraph shall not be included
28 in: (i) the allowable growth amount computed pursuant to paragraph dd of

1 subdivision one of section thirty-six hundred two of the education law,
2 (ii) the preliminary growth amount computed pursuant to paragraph ff of
3 subdivision one of section thirty-six hundred two of the education law,
4 and (iii) the allocable growth amount computed pursuant to paragraph gg
5 of subdivision one of section thirty-six hundred two of the education
6 law.

7 5. Notwithstanding the foregoing, monies received pursuant to:

8 a. sections one thousand three hundred forty-five and one thousand
9 three hundred forty-eight of this article shall be exclusively appropri-
10 ated to the office of alcoholism and substance abuse services to be used
11 for problem gambling education and treatment purposes.

12 b. section one thousand three hundred forty-nine of this article shall
13 be exclusively appropriated to the commission for regulatory investi-
14 gations.

15 c. section one thousand three hundred fifty of this article shall be
16 exclusively appropriated to the commission for costs regulation.

17 § 11. The penal law is amended by adding a new section 156.40 to read
18 as follows:

19 § 156.40 Operating an unlawful electronic sweepstakes.

20 1. As used in this section the following words and terms shall have
21 the following meanings:

22 (a) "Electronic machine or device" means a mechanically, electrically
23 or electronically operated machine or device that is owned, leased or
24 otherwise possessed by a sweepstakes sponsor or promoter, or any spon-
25 sors, promoters, partners, affiliates, subsidiaries or contractors ther-
26 eof; that is intended to be used by a sweepstakes entrant; that uses
27 energy; and that displays the results of a game entry or game outcome to
28 a participant on a screen or other mechanism at a business location,

1 including a private club; provided, that an electronic machine or device
2 may, without limitation:

3 (1) be server-based;

4 (2) use a simulated game terminal as a representation of the prizes
5 associated with the results of the sweepstakes entries;

6 (3) utilize software such that the simulated game influences or deter-
7 mines the winning or value of the prize;

8 (4) select prizes from a predetermined finite pool of entries;

9 (5) utilize a mechanism that reveals the content of a predetermined
10 sweepstakes entry;

11 (6) predetermine the prize results and stores those results for deliv-
12 ery at the time the sweepstakes entry results are revealed;

13 (7) utilize software to create a game result;

14 (8) require deposit of any money, coin or token, or the use of any
15 credit card, debit card, prepaid card or any other method of payment to
16 activate the electronic machine or device;

17 (9) require direct payment into the electronic machine or device, or
18 remote activation of the electronic machine or device;

19 (10) require purchase of a related product having legitimate value;

20 (11) reveal the prize incrementally, even though it may not influence
21 if a prize is awarded or the value of any prize awarded;

22 (12) determine and associate the prize with an entry or entries at the
23 time the sweepstakes is entered; or

24 (13) be a slot machine or other form of electrical, mechanical, or
25 computer game.

26 (b) "Enter" or "entry" means the act or process by which a person
27 becomes eligible to receive any prize offered in a sweepstakes.

1 (c) "Entertaining display" means any visual information, capable of
2 being seen by a sweepstakes entrant, that takes the form of actual game
3 play or simulated game play.

4 (d) "Prize" means any gift, award, gratuity, good, service, credit or
5 anything else of value, which may be transferred to a person, whether
6 possession of the prize is actually transferred, or placed on an account
7 or other record as evidence of the intent to transfer the prize.

8 (e) "Sweepstakes" means any game, advertising scheme or plan, or other
9 promotion, which, with or without payment of any consideration, a person
10 may enter to win or become eligible to receive any prize, the determi-
11 nation of which is based upon chance.

12 2. A person is guilty of operating an unlawful electronic sweepstakes
13 when he or she knowingly possesses with the intent to operate, or place
14 into operation, an electronic machine or device to:

15 (a) conduct a sweepstakes through the use of an entertaining display,
16 including the entry process or the reveal of a prize; or

17 (b) promote a sweepstakes that is conducted through the use of an
18 entertaining display, including the entry process or the reveal of a
19 prize.

20 3. Nothing in this section shall be construed to make illegal any
21 activity which is lawfully conducted as the New York state lottery for
22 education as authorized by article thirty-four of the tax law; pari-mu-
23 tuel wagering on horse races as authorized by articles two, three, four,
24 five-A, and ten of the racing, pari-mutuel wagering and breeding law;
25 the game of bingo as authorized pursuant to article fourteen-H of the
26 general municipal law; games of chance as authorized pursuant to article
27 nine-A of the general municipal law; gaming as authorized by article

1 thirteen of the racing, pari-mutuel wagering and breeding law; or pursu-
2 ant to the federal Indian Gaming Regulatory Act.

3 Operating an unlawful electronic sweepstakes is a class E felony.

4 § 12. The legislature hereby finds that long-standing disputes between
5 the Oneida Nation of New York and the State of New York, Madison County
6 and Oneida County, have generated litigation in state and federal courts
7 regarding property and other taxation, the status of Oneida Nation lands
8 and transfer of such lands to the United States to be held in trust for
9 the Oneida Nation, and that such litigation and disputes have caused
10 decades of unrest and uncertainty for the citizens and residents of the
11 Central New York region of this state. The legislature further finds
12 that it is in the best interests of all citizens, residents and poli-
13 tical subdivisions of this state to remove any uncertainty that such
14 litigation or disputes have created regarding the title to and jurisdic-
15 tional status of land within the state. The legislature recognizes that
16 negotiated settlement of these disputes will facilitate a cooperative
17 relationship between the state, the counties and the Oneida Nation.
18 Therefore, the legislature declares that the following provisions are
19 enacted to implement the settlement agreement that has been negotiated
20 and executed by the governor on behalf of the people of this state.

21 § 13. Section 11 of the executive law is REPEALED and a new section 11
22 is added to read as follows:

23 § 11. Indian settlement agreements. 1. Oneida settlement agreement.
24 Notwithstanding any other provision of law, upon filing with the secre-
25 tary of state, the settlement agreement executed between the governor,
26 the counties of Oneida and Madison, and the Oneida Nation of New York
27 dated the sixteenth day of May, two thousand thirteen, to be known as
28 the Oneida Settlement Agreement, including, without limitation, the

1 provisions contained therein relating to arbitration and judicial review
2 in state or federal courts and, for the sole purpose thereof, a limited
3 waiver of the state's Eleventh Amendment sovereign immunity from suit,
4 shall upon its effective date be deemed approved, ratified, validated
5 and confirmed by the legislature. It is the intention of the legislature
6 in enacting this section to ensure that the settlement agreement shall
7 be fully enforceable in all respects as to the rights, benefits, respon-
8 sibilities and privileges of all parties thereto.

9 § 14. Notwithstanding any inconsistent provision of law, the Nation-
10 State compact entered into by the State on April 16, 1993 and approved
11 by the United States Department of the Interior on June 4, 1993, which
12 approval was published at 58 Fed. Reg. 33160 (June 15, 1993), is deemed
13 ratified, validated and confirmed nunc pro tunc by the legislature.

14 § 15. Sections 2 and 3 of the Indian law are renumbered sections 3 and
15 4 and a new section 2 is added to read as follows:

16 § 2. New York state Indian nations and tribes. The term "Indian nation
17 or tribe" means one of the following New York state Indian nations or
18 tribes: Cayuga Nation, Oneida Nation of New York, Onondaga Nation, Poos-
19 patuck or Unkechaug Nation, Saint Regis Mohawk Tribe, Seneca Nation of
20 Indians, Shinnecock Indian Nation, Tonawanda Band of Seneca and Tuscaro-
21 ra Nation.

22 § 16. The Indian law is amended by adding a new section 16 to read as
23 follows:

24 § 16. Indian settlement agreements. Notwithstanding any other
25 provision of law, the provisions of the Oneida Settlement Agreement
26 referenced in section eleven of the executive law shall be deemed to
27 supersede any inconsistent laws and regulations.

1 § 17. Subdivision 18 of section 282 of the tax law, as added by
2 section 3 of part K of chapter 61 of the laws of 2005, is amended to
3 read as follows:

4 18. "Indian nation or tribe" means one of the following New York state
5 Indian nations or tribes: Cayuga [Indian] Nation [of New York], Oneida
6 [Indian] Nation of New York, Onondaga Nation [of Indians], Poospatuck or
7 Unkechauge Nation, [St.] Saint Regis Mohawk Tribe, Seneca Nation of
8 Indians, Shinnecock [Tribe] Indian Nation, Tonawanda Band of [Senecas]
9 Seneca and Tuscarora Nation [of Indians].

10 § 18. Subdivision 14 of section 470 of the tax law, as added by
11 section 1 of part K of chapter 61 of the laws of 2005, is amended to
12 read as follows:

13 14. "Indian nation or tribe." One of the following New York state
14 Indian nations or tribes: Cayuga [Indian] Nation [of New York], Oneida
15 [Indian] Nation of New York, Onondaga Nation [of Indians], Poospatuck or
16 Unkechauge Nation, [St.] Saint Regis Mohawk Tribe, Seneca Nation of
17 Indians, Shinnecock [Tribe] Indian Nation, Tonawanda Band of [Senecas]
18 Seneca and Tuscarora Nation [of Indians].

19 § 19. Intentionally omitted.

20 § 20. Intentionally omitted.

21 § 21. Intentionally omitted.

22 § 22. Intentionally omitted.

23 § 23. Intentionally omitted.

24 § 24. Intentionally omitted.

25 § 25. Section 104 of the racing, pari-mutuel wagering and breeding law
26 is amended by adding a new subdivision 21 to read as follows:

27 21. The commission shall promptly make available for public inspection
28 and copying via electronic connection to the commission's website a copy

1 of any report received from the New York state board of elections pursu-
2 ant to article fourteen of the election law.

3 § 26. Section 1617-a of the tax law is amended by adding a new subdivi-
4 vision g to read as follows:

5 g. Every video lottery gaming license, and every renewal license,
6 shall be valid for a period of five years, except that video gaming
7 licenses issued before the effective date of this subdivision shall be
8 for a term expiring on June thirtieth, two thousand fourteen.

9 The gaming commission may decline to renew any license after notice
10 and an opportunity for hearing if it determines that:

11 (1) the licensee has violated section one thousand six hundred seven
12 of this article;

13 (2) the licensee has violated any rule, regulation or order of the
14 gaming commission;

15 (3) the applicant or its officers, directors or significant stockhold-
16 ers, as determined by the gaming commission, have been convicted of a
17 crime involving moral turpitude; or

18 (4) that the character or fitness of the licensee and its officers,
19 directors, and significant stockholders, as determined by the gaming
20 commission is such that the participation of the applicant in video
21 lottery gaming or related activities would be inconsistent with the
22 public interest, convenience or necessity or with the best interests of
23 video gaming generally.

24 (h) The gaming commission, subject to notice and an opportunity for
25 hearing, may revoke, suspend, and condition the license of the video
26 gaming licensee, order the video gaming licensee to terminate the
27 continued appointment, position or employment of officers and directors,

1 or order the video gaming licensee to require significant stockholders
2 to divest themselves of all interests in the video gaming licensee.

3 § 27. Clause (G) of subparagraph (ii) of paragraph 1 of subdivision b
4 of section 1612 of the tax law is REPEALED and a new clause (G) is added
5 to read as follows:

6 (G) Notwithstanding any provision to the contrary, when a vendor track
7 is located within regions one, two, or five of development zone two as
8 defined by section thirteen hundred ten of the racing, pari-mutuel
9 wagering and breeding law, such vendor track shall receive an additional
10 commission at a rate equal to the percentage of revenue wagered at the
11 vendor track after payout for prizes pursuant to this chapter less ten
12 percent retained by the commission for operation, administration, and
13 procurement purposes and payment of the vendor's fee, marketing allow-
14 ance, and capital award paid pursuant to this chapter and the effective
15 tax rate paid on all gross gaming revenue paid by a gaming facility
16 within the same region pursuant to section thirteen hundred fifty-one of
17 the racing, pari-mutuel wagering and breeding law. The additional
18 commission shall be paid to the vendor track within sixty days after the
19 conclusion of the state fiscal year based on the calculated percentage
20 during the previous fiscal year.

21 § 28. Intentionally omitted.

22 § 29. Intentionally omitted.

23 § 30. The opening paragraph of subparagraph (ii) of paragraph 1 of
24 subdivision b of section 1612 of the tax law, as amended by section 6 of
25 part K of chapter 57 of the laws of 2010, is amended to read as follows:

26 less a vendor's fee the amount of which is to be paid for serving as a
27 lottery agent to the track operator of a vendor track or the operator of
28 a resort facility:

1 § 31. Section 1 of part HH of chapter 57 of the laws of 2013 relating
2 to providing for the administration of certain funds and accounts
3 related to the 2013-14 budget, is amended by adding a new subdivision 39
4 to read as follows:

5 39. Commercial gaming revenue fund:

6 a. Commercial gaming revenue account.

7 § 32. Subdivision a of section 1617-a of the tax law, as amended by
8 section 2 of part O-1 of chapter 57 of the laws of 2009, is amended to
9 read as follows:

10 a. The division of the lottery is hereby authorized to license, pursu-
11 ant to rules and regulations to be promulgated by the division of the
12 lottery, the operation of video lottery gaming:

13 (1) at Aqueduct, Monticello, Yonkers, Finger Lakes, and Vernon Downs
14 racetracks,

15 (2) or at any other racetrack licensed pursuant to article three of
16 the racing, pari-mutuel wagering and breeding law that are located in a
17 county or counties in which video lottery gaming has been authorized
18 pursuant to local law, excluding the licensed racetrack commonly
19 referred to in article three of the racing, pari-mutuel wagering and
20 breeding law as the "New York state exposition" held in Onondaga county
21 and the racetracks of the non-profit racing association known as Belmont
22 Park racetrack and the Saratoga thoroughbred racetrack,

23 (3) at facilities established, pursuant to a competitive process to be
24 determined by the state gaming commission within regions one, two, and
25 five of zone two as established by section one thousand three hundred
26 ten of the racing, pari-mutuel wagering and breeding law following local
27 governmental consultation and consideration of market factors including
28 potential revenue impact, anticipated job development and capital

1 investment to be made. The facilities authorized pursuant to this para-
2 graph shall be deemed vendors for all purposes under this article, and
3 need not be operated by licensed thoroughbred or harness racing associ-
4 ations or corporations.

5 Such rules and regulations shall provide, as a condition of licensure,
6 that racetracks to be licensed are certified to be in compliance with
7 all state and local fire and safety codes, that the division is afforded
8 adequate space, infrastructure, and amenities consistent with industry
9 standards for such video gaming operations as found at racetracks in
10 other states, that racetrack employees involved in the operation of
11 video lottery gaming pursuant to this section are licensed by the racing
12 and wagering board, and such other terms and conditions of licensure as
13 the division may establish. Notwithstanding any inconsistent provision
14 of law, video lottery gaming at a racetrack pursuant to this section
15 shall be deemed an approved activity for such racetrack under the rele-
16 vant city, county, town, or village land use or zoning ordinances,
17 rules, or regulations. No entity licensed by the division operating
18 video lottery gaming pursuant to this section may house such gaming
19 activity in a structure deemed or approved by the division as "tempo-
20 rary" for a duration of longer than eighteen-months. Nothing in this
21 section shall prohibit the division from licensing an entity to operate
22 video lottery gaming at an existing racetrack as authorized in this
23 subdivision whether or not a different entity is licensed to conduct
24 horse racing and pari-mutuel wagering at such racetrack pursuant to
25 article two or three of the racing, pari-mutuel wagering and breeding
26 law.

27 The division, in consultation with the racing and wagering board,
28 shall establish standards for approval of the temporary and permanent

1 physical layout and construction of any facility or building devoted to
2 a video lottery gaming operation. In reviewing such application for the
3 construction or reconstruction of facilities related or devoted to the
4 operation or housing of video lottery gaming operations, the division,
5 in consultation with the racing and wagering board, shall ensure that
6 such facility:

7 (1) possesses superior consumer amenities and conveniences to encour-
8 age and attract the patronage of tourists and other visitors from across
9 the region, state, and nation.

10 (2) has adequate motor vehicle parking facilities to satisfy patron
11 requirements.

12 (3) has a physical layout and location that facilitates access to and
13 from the horse racing track portion of such facility to encourage patro-
14 nage of live horse racing events that are conducted at such track.

15 § 33. Subparagraph (ii) of paragraph 1 of subdivision b of section
16 1612 of the tax law is amended by adding a new clause (H-1) to read as
17 follows:

18 (H-1) Notwithstanding clauses (A), (B), (C), (D), (E), (F), (G) and
19 (H) of this subparagraph where the vendor is authorized pursuant to
20 paragraph three of subdivision a of section sixteen hundred seventeen-a
21 of this article, at a rate of forty percent of the total revenue wagered
22 at the facility after payout for prizes. All facilities authorized
23 pursuant to paragraph three of subdivision a of section sixteen hundred
24 seventeen-a of this article shall not be eligible for any vendor's capi-
25 tal award but are entitled to the vendor's marketing allowance of ten
26 percent authorized by subparagraph (iii) of this paragraph. Facilities
27 authorized by paragraph three of subdivision a of section sixteen
28 hundred seventeen-a of this article shall pay

1 (i) an amount to horsemen for purses at the licensed racetracks in the
2 region that will assure the purse support from video lottery gaming
3 facilities in the region to the licensed racetracks in the region to be
4 maintained at the same dollar levels realized in two thousand thirteen
5 to be adjusted by the consumer price index for all urban consumers, as
6 published annually by the United States department of labor bureau of
7 labor statistics; and

8 (ii) amounts to the agricultural and New York state horse breeding
9 development fund and the New York state thoroughbred breeding and devel-
10 opment fund to maintain payments from video lottery gaming facilities in
11 the region to such funds to be maintained at the same dollar levels
12 realized in two thousand thirteen to be adjusted by the consumer price
13 index for all urban consumers, as published annually by the United
14 States department of labor bureau of labor statistics.

15 § 34. Section 54-1 of the state finance law, as added by section 1 of
16 part J of chapter 57 of the laws of 2011, paragraph b of subdivision 2
17 as amended by section 1 of part EE of chapter 57 of the laws of 2013, is
18 amended to read as follows:

19 § 54-1. State assistance to eligible cities and eligible municipi-
20 palities in which a video lottery gaming facility is located. 1. Defi-
21 nitions. When used in this section, unless otherwise expressly stated:

22 a. "Eligible city" shall mean a city with a population equal to or
23 greater than one hundred twenty-five thousand and less than one million
24 in which a video lottery gaming facility is located and operating as of
25 January first, two thousand nine pursuant to section sixteen hundred
26 seventeen-a of the tax law.

27 b. "Eligible municipality" shall mean a county, city, town or village
28 in which a video lottery gaming facility is located pursuant to section

1 sixteen hundred seventeen-a of the tax law that is not located in a city
2 with a population equal to or greater than one hundred twenty-five thou-
3 sand.

4 c. "Newly eligible city" shall mean a city with a population equal to
5 or greater than one hundred twenty-five thousand and less than one
6 million in which a video lottery gaming facility pursuant to section
7 sixteen hundred seventeen-a of the tax law is located and which was not
8 operating as of January first, two thousand thirteen.

9 d. "Newly eligible municipality" shall mean a county, city, town or
10 village in which a video lottery gaming facility is located pursuant to
11 section sixteen hundred seventeen-a of the tax law that is not located
12 in a city with a population equal to or greater than one hundred twen-
13 ty-five thousand and which was not operating as of January first, two
14 thousand thirteen.

15 e. "Estimated net machine income" shall mean the estimated full annual
16 value of total revenue wagered after payout for prizes for games known
17 as video lottery gaming as authorized under article thirty-four of the
18 tax law during the state fiscal year in which state aid payments are
19 made pursuant to subdivision two of this section.

20 2. a. Within the amount appropriated therefor, an eligible city shall
21 receive an amount equal to the state aid payment received in the state
22 fiscal year commencing April first, two thousand eight from an appropri-
23 ation for aid to municipalities with video lottery gaming facilities.

24 b. Within the amounts appropriated therefor, eligible municipalities
25 shall receive an amount equal to fifty-five percent of the state aid
26 payment received in the state fiscal year commencing April first, two
27 thousand eight from an appropriation for aid to municipalities with
28 video lottery gaming facilities.

1 c. A newly eligible city shall receive a state aid payment equal to
2 two percent of the "estimated net machine income" generated by a video
3 lottery gaming facility located in such eligible city. Such state aid
4 payment shall not exceed twenty million dollars per eligible city.

5 d. A newly eligible municipality shall receive a state aid payment
6 equal to two percent of the "estimated net machine income" generated by
7 a video lottery gaming facility located within such newly eligible muni-
8 cipality as follows: (i) twenty-five percent shall be apportioned and
9 paid to the county; and (ii) seventy-five percent shall be apportioned
10 and paid on a pro rata basis to eligible municipalities, other than the
11 county, based upon the population of such eligible municipalities. Such
12 state aid payment shall not exceed twenty-five percent of an eligible
13 municipality's total expenditures as reported in the statistical report
14 of the comptroller in the preceding state fiscal year pursuant to
15 section thirty-seven of the general municipal law.

16 3. a. State aid payments made to an eligible city or to a newly eligi-
17 ble city pursuant to [paragraph] paragraphs a and c of subdivision two
18 of this section shall be used to increase support for public schools in
19 such city.

20 b. State aid payments made to [an] eligible [municipality] muni-
21 palities and newly eligible municipalities pursuant to [paragraph] para-
22 graphs b and d of subdivision two of this section shall be used by such
23 eligible municipality to: (i) defray local costs associated with a video
24 lottery gaming facility, or (ii) minimize or reduce real property taxes.

25 4. Payments of state aid pursuant to this section shall be made on or
26 before June thirtieth of each state fiscal year to the chief fiscal
27 officer of each eligible city and each eligible municipality on audit
28 and warrant of the state comptroller out of moneys appropriated by the

1 legislature for such purpose to the credit of the local assistance fund
2 in the general fund of the state treasury.

3 § 35. Section 1 of chapter 50 of the laws of 2013, State Operations
4 budget, is amended by repealing the items hereinbelow set forth in
5 brackets and by adding to such section the other items underscored in
6 this section.

7 NEW YORK STATE GAMING COMMISSION

8 STATE OPERATIONS 2013-14

9 For payment according to the following schedule:

	APPROPRIATIONS	REAPPROPRIATIONS
11 Special Revenue Funds - Other	[111,604,700]	0
	<u>111,772,700</u>	
13	-----	-----
14 All Funds	[111,604,700]	0
	<u>111,772,700</u>	
16	=====	=====

17 SCHEDULE

18 ADMINISTRATION OF GAMING COMMISSION PROGRAM ...	[1,000,000]	<u>1,168,000</u>
19	-----	

- 20 Special Revenue Funds - Other
- 21 Miscellaneous Special Revenue Fund
- 22 Commercial Gaming Revenue Account

1 For services and expenses related to the
 2 administration and operation of the
 3 commercial gaming revenue account, provid-
 4 ing that moneys hereby appropriated shall
 5 be available to the program net of
 6 refunds, rebates, reimbursements and cred-
 7 its. A portion of this appropriation may
 8 be used for suballocation to the New York
 9 state gaming facility location board or
 10 other agencies for services and expenses,
 11 including fringe benefits.

12 Notwithstanding any provision of law to the
 13 contrary, the money hereby appropriated
 14 may not be, in whole or in part, inter-
 15 changed with any other appropriation with-
 16 in the state gaming commission, except
 17 those appropriations that fund activities
 18 related to the administration of gaming
 19 commission program.

20 PERSONAL SERVICE

21	<u>Personal service--regular</u>	<u>100,000</u>
22	<u>Amount available for personal service</u>	<u>100,000</u>
23		<u>-----</u>

1 NONPERSONAL SERVICE

2 Travel 10,000

3 Fringe benefits 55,000

4 Indirect costs 3,000

5 _____

6 Amount available for nonpersonal service 68,000

7 _____

8 Special Revenue Funds - Other

9 Miscellaneous Special Revenue Fund

10 New York State Gaming Commission Account

11 For services and expenses related to the
12 administration and operation of the admin-
13 istration of gaming commission program,
14 providing that moneys hereby appropriated
15 shall be available to the program net of
16 refunds, rebates, reimbursements and cred-
17 its.

18 Notwithstanding any provision of law to the
19 contrary, the money hereby appropriated
20 may not be, in whole or in part, inter-
21 changed with any other appropriation with-
22 in the state gaming commission, except
23 those appropriations that fund activities
24 related to the administration of gaming
25 commission program.