PROGRAM BILL #10

AN ACT to amend the racing, pari-mutuel wagering and breeding law, the penal law, and the state finance law in relation to commercial gaming; and to amend the executive law, the state finance law, the executive law and the Indian law in relation to authorizing the settlement of disputes; and to amend the Indian law and the tax law in relation to identifying nations and tribes

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

Section 1. This act shall be known as the upstate New York gaming economic development act of 2013.

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

Article 13 Destination Resort Gaming

GENERAL PROVISIONS

1300. Legislative findings and purpose

1301. Definitions

1302. Auditing duties of the commission

1303. Equipment testing
1304. Commission reporting

1305. Supplemental power of the commission

1306. Powers of the board

1307. Required regulations

1308. Reports and recommendations

1309. Severability and preemption

FACILITY DETERMINATION AND LICENSING

1310. Development zones and regions

1311. License authorization

1312. Requests for applications

1313. Form of application

1314. License applicant eligibility

1315. Required capital investment

1316. Minimum license thresholds

1317. Investigation of license applicants

1318. Disqualifying criteria

1319. Investigative hearings

1320. Siting evaluation
1321. [Reserved]

OCCUPATIONAL LICENSING

1322. General provisions

1323. Key employee licenses

1324. Gaming employee registration

1325. Approval and denial of employee licenses and registrations

ENTERPRISE AND VENDOR LICENSING AND REGISTRATION

1326. Licensing of vendor enterprises

1327. Approval and denial of vendor registration

1328. Junket operator licensing

1329. Lobbyist registration

1330. Registration of labor organizations

REQUIREMENTS FOR CONDUCT AND OPERATION OF GAMING

1331. Operation certificate

1332. Age for gaming participation

1333. Hours of operation

1334. Internal controls
1335. Games and gaming equipment

1336. Certain wagering prohibited

1337. Gratuities

1338. Limitation on certain financial access

1339. Credit

1340. Alcoholic beverages

1341. Licensee leases and contracts

1342. Required exclusion of certain persons

1343. Exclusion, ejection of certain persons

1344. List of persons self-excluded from gaming activities

1345. Excluded person; forfeiture of winnings; other sanctions

1346. Labor peace agreements for certain facilities

1347. Prohibition of political contributions from gaming licensees and applicants

1348. Machine and table fees

1349. Regulatory investigatory fees

TAXATION AND FEES
1350. Additional regulatory costs
1351. Tax on gross gaming revenues; permissive supplemental fee
1352. Commercial gaming revenue fund
1353. Determination of tax liability
1354. Unclaimed funds
1355. Distributions to the racing industry

MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES

1356. Declarations
1357. Definitions
1358. Minority, women’s business contracts
1359. Penalties for violations
1360. Determining qualifications
1361. List of certified enterprises

PROBLEM GAMBLING

1362. Prevention and outreach efforts
1363. Advertising restrictions

MISCELLANEOUS PROVISIONS
1364. Smoking prohibited

1365. Conservatorship

1366. Zoning

1367. Sports wagering

GAMING INSPECTOR GENERAL

1368. Establishment of the office of gaming inspector general

1369. State gaming inspector general; functions and duties

1370. Powers

1371. Responsibilities of the commission and its officers and employees

1300. Legislative findings and purpose

The legislature hereby finds and declares that:

1. New York State is already in the business of gambling with nine video lottery facilities, five tribal class III casinos, and three tribal class II facilities;

2. New York State has more electronic gaming machines than any state in the Northeast or Mideast;
3. While gambling already exists throughout the state, the state does not fully capitalize on the economic development potential of legalized gambling;

4. In phase one of its casino development, the state should authorize three destination resort casinos in upstate New York;

5. Three upstate casinos can boost economic development, create thousands of well-paying jobs and provide added revenue to the state;

6. The upstate tourism industry constitutes a critical component of our State's economic infrastructure and that three upstate casinos will attract non-New York residents and bring downstate New Yorkers to upstate;

7. The casino sites and the licensed owners shall be selected on merit;

8. Local impact of the casino sites will be considered in the casino evaluation process;

9. Tribes whose gaming compacts are in good standing with the state will have their geographic exclusivity protected by this act;

10. Revenue realized from casinos shall be utilized to increase support for education beyond that of the state's education formulae and to provide real property tax relief to localities;
11. Casinos will be tightly and strictly regulated by the commission to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state and to prevent organized crime from any involvement in the casino industry;

12. The need for strict State controls extends to regulation to all persons, locations, practices and associations related to the operation of licensed enterprises and all related service industries as provided in this act;

13. The state and the casinos will develop programs and resources to combat compulsive and problem gambling;

14. The state will ensure that host municipalities of casinos are provided with funding to limit any potential adverse impacts of casinos;

15. Political contributions from the casino industry will be minimized to reduce the potential of political corruption from casinos; and

16. As thoroughly and pervasively regulated by the state, three upstate casinos will work to the betterment of all New York.

1301. Definitions

As used in this article the following words shall, unless the context clearly requires otherwise, have the following meanings:
1. "Affiliate". A person that directly or indirectly, through
one or more intermediaries, controls or is controlled by, or is
under common control with, a specified person.

2. "Applicant". Any person who on his own behalf or on
behalf of another has applied for permission to engage in any
act or activity which is regulated under the provisions of this
article.

3. "Application". A written request for permission to engage
in any act or activity which is regulated under the provisions
of this article.

4. "Authorized game". Any game determined by the commission
to be compatible with the public interest and to be suitable for
casino facility use after such appropriate test or experimental
period as the commission may deem appropriate. An authorized
game may include gaming tournaments in which players compete
against one another in one or more of the games authorized
herein or by the commission or in approved variations or
composites thereof if the tournaments are authorized.

5. "Board". The New York State gaming commission or a board
established by the commission pursuant to section one hundred
nine-a of this chapter.

6. "Business". A corporation, sole proprietorship,
partnership, limited liability company or any other organization
formed for the purpose of carrying on a commercial enterprise.
7. "Casino". One or more locations or rooms in a gaming facility that have been approved by the commission for the conduct of gaming in accordance with the provisions of this article.

8. "Casino employee". Any natural person, not otherwise included in the definition of casino key employee, who is employed by a casino licensee, or a holding or intermediary company of a casino licensee, and is involved in the operation of a licensed casino facility or performs services or duties in a casino facility or a restricted casino area; or any other natural person whose employment duties predominantly involve the maintenance or operation of gaming activity or equipment and assets associated therewith or who, in the judgment of the commission, is so regularly required to work in a restricted casino area that registration as a casino employee is appropriate.

9. "Casino key employee". Any natural person employed by a casino licensee or holding or intermediary company of a casino licensee, and involved in the operation of a licensed casino facility in a supervisory capacity or empowered to make discretionary decisions which regulate casino facility operations; or any other employee so designated by the commission for reasons consistent with the policies of this article.
10. "Casino license". Any license issued pursuant to this article which authorizes the holder thereof to own or operate a casino.

11. "Casino vendor enterprise". Any vendor offering goods or services which directly relate to casino or gaming activity, or any vendor providing to casino licensees or applicants goods and services ancillary to gaming activity. Notwithstanding the foregoing, any form of enterprise engaged in the manufacture, sale, distribution, testing or repair of slot machines within the state, other than antique slot machines, shall be considered a casino vendor enterprise for the purposes of this article regardless of the nature of its business relationship, if any, with casino applicants and licensees in this state.

12. "Close associate". A person who holds a relevant financial interest in, or is entitled to exercise power in, the business of an applicant or licensee and, by virtue of that interest or power, is able to exercise a significant influence over the management or operation of a gaming facility or business licensed under this article.


14. "Complimentary service or item". A service or item provided at no cost or at a reduced cost to a patron of a gaming facility.
15. "Conservator". A person appointed by the commission to temporarily manage the operation of a gaming facility.

16. "Credit card". A card, code or other device with which a person may defer payment of debt, incur debt and defer its payment, or purchase property or services and defer payment therefor, but not a card, code or other device used to activate a preexisting agreement between a person and a financial institution to extend credit when the person's account at the financial institution is overdrawn or to maintain a specified minimum balance in the person's account at the financial institution.

17. "Debt". Any legal liability, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent, including debt convertible into an equity security which has not yet been so converted, and any other debt carrying any warrant or right to subscribe to or purchase an equity security which warrant or right has not yet been exercised.

18. "Encumbrance". A mortgage, security interest, lien or charge of any nature in or upon property.


20. "Family". Spouse, domestic partner, partner in a civil union, parents, grandparents, children, grandchildren, siblings, uncles, aunts, nephews, nieces, fathers-in-law, mothers-in-law,
daughters-in-law, sons-in-law, brothers-in-law and sisters-in-law, whether by the whole or half blood, by marriage, adoption or natural relationship.

21. "Game". Any banking or percentage game located within the casino facility played with cards, dice, tiles, dominoes, or any electronic, electrical, or mechanical device or machine for money, property, or any representative of value which has been approved by the commission.

22. "Gaming" or "gambling". The dealing, operating, carrying on, conducting, maintaining or exposing for pay of any game.

23. "Gaming device" or "gaming equipment". Any electronic, electrical, or mechanical contrivance or machine used in connection with gaming or any game.

24. "Gaming facility". The premises approved under a gaming license which includes a gaming area and any other nongaming structure related to the gaming area and may include, but shall not be limited to, hotels, restaurants or other amenities.

25. "Gross gaming revenue". The total of all sums actually received by a casino licensee from gaming operations less the total of all sums paid out as winnings to patrons; provided, however, that the total of all sums paid out as winnings to patrons shall not include the cash equivalent value of any merchandise or thing of value included in a jackpot or payout; provided further, that the issuance to or wagering by patrons of
a gaming facility of any promotional gaming credit shall not be
taxable for the purposes of determining gross revenue.

26. "Holding company". A corporation, association, firm,
partnership, trust or other form of business organization, other
than a natural person, which, directly or indirectly, owns, has
the power or right to control, or has the power to vote any
significant part of the outstanding voting securities of a
corporation or any other form of business organization which
holds or applies for a gaming license; provided, however, that a
"holding company", in addition to any other reasonable use of
the term, shall indirectly have, hold or own any such power,
right or security if it does so through an interest in a
subsidiary or any successive subsidiaries, notwithstanding how
many such subsidiaries may intervene between the holding company
and the gaming licensee or applicant.

27. "Host municipality". A city, town or village in which a
gaming facility is located or in which an applicant has proposed
locating a gaming facility.

28. "Intermediary company". A corporation, association,
firm, partnership, trust or other form of business organization,
other than a natural person, which is a holding company with
respect to a corporation or other form of business organization
which holds or applies for a gaming license, and is a subsidiary
with respect to a holding company.
29. "Junket”. An arrangement intended to induce a person to come to a gaming facility to gamble, where the person is selected or approved for participation on the basis of the person's ability to satisfy a financial qualification obligation related to the person's ability or willingness to gamble or on any other basis related to the person's propensity to gamble and pursuant to which and as consideration for which, any of the cost of transportation, food, lodging, and entertainment for the person is directly or indirectly paid by a gaming licensee or an affiliate of the gaming licensee.

30. "Junket enterprise”. A person, other than a gaming licensee or an applicant for a gaming license, who employs or otherwise engages the services of a junket representative in connection with a junket to a licensed gaming facility, regardless of whether or not those activities occur within the state.

31. "Junket representative”. A person who negotiates the terms of, or engages in the referral, procurement or selection of persons who may participate in, a junket to a gaming facility, regardless of whether or not those activities occur within the state.

32. "Operation certificate”. A certificate issued by the commission which certifies that operation of a casino and, if applicable, a simulcasting facility conforms to the requirements
of this article and applicable regulations and that its personnel and procedures are efficient and prepared to entertain the public.

33. "Person". Any corporation, association, operation, firm, partnership, trust or other form of business association, as well as a natural person.

34. "Registration". Any requirement other than one which requires a license as a prerequisite to conduct a particular business as specified by this article.

35. "Registrant". Any person who is registered pursuant to the provisions of this article.

36. "Restricted Casino Areas". The cashier's cage, the soft count room, the hard count room, the slot cage booths and runway areas, the interior of table game pits, the surveillance room and catwalk areas, the slot machine repair room and any other area specifically designated by the commission as restricted in a licensee's operation certificate.

37. "Qualification" or "qualified". The process of licensure set forth by the commission to determine that all persons who have a professional interest in a gaming license, or gaming vendor license, or the business of a gaming licensee or gaming vendor, meet the same standards of suitability to operate or conduct business with a gaming facility:
38. "Slot machine". A mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the individual playing or operating the machine to receive cash, or tokens to be exchanged for cash, or to receive merchandise or any other thing of value, whether the payoff is made automatically from the machine or in any other manner, except that the cash equivalent value of any merchandise or other thing of value shall not be included in determining the payout percentage of a slot machine.

39. "Sports wagering". The activity authorized by section one thousand three hundred sixty-seven of this article, provided that there has been a change in federal law authorizing such activity or upon ruling of a court of competent jurisdiction that such activity is lawful.

40. "Subsidiary". A corporation, a significant part of whose outstanding equity securities are owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company, or a significant interest in a firm, association, partnership, trust or other form of business organization, other than a natural person, which is
owned, subject to a power or right of control, or held with
power to vote, by a holding company or an intermediary company.

41. "Table game". A game, other than a slot machine, which
is authorized by the commission to be played in a gaming
facility.

42. "Transfer". The sale or other method, either directly or
indirectly, of disposing of or parting with property or an
interest therein, or the possession thereof, or of fixing a lien
upon property or upon an interest therein, absolutely or
conditionally, voluntarily or involuntarily, by or without
judicial proceedings, as a conveyance, sale, payment, pledge,
mortgage, lien, encumbrance, gift, security or otherwise;
provided, however, that the retention of a security interest in
property delivered to a corporation shall be deemed a transfer
suffered by such corporation.

1302. Auditing duties of the commission. The commission
shall audit as often as the commission determines necessary, but
not less than annually, the accounts, programs, activities, and
functions of all gaming facility licensees including the audit
of payments made pursuant to section one thousand three hundred
fifty-one. To conduct the audit, authorized officers and
employees of the commission shall have access to such accounts
at reasonable times and the commission may require the
production of books, documents, vouchers and other records relating to any matter within the scope of the audit, except tax returns. All audits shall be conducted in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants. In any audit report of the accounts, funds, programs, activities and functions of a gaming facility licensee issued by the commission containing adverse or critical audit results, the commission may require a response, in writing, to the audit results. The response shall be forwarded to the commission within fifteen days of notification by the commission.

1303. Equipment testing. Unless the commission otherwise determines it to be in the best interests of the state, the commission shall utilize the services of an independent testing laboratory that has been qualified and approved by the commission pursuant to this article to perform the testing of slot machines and other gaming equipment and may also utilize applicable data from the independent testing laboratory, or from a governmental agency of a state other than New York, authorized to regulate slot machines and other gaming equipment.

1304. Commission reporting. The commission shall report monthly to the governor, the senate and the assembly, the senate finance
committee and assembly ways and means committee, and the chairs
senate and assembly racing and gaming committees on economic
development and emerging technologies on the total gaming
revenues, prize disbursements and other expenses for the
preceding month and shall make an annual report to the same
recipients which shall include a full and complete statement of
gaming revenues, prize disbursements and other expenses,
including such recommendations as the commission considers
necessary or advisable. The commission shall also report
immediately to the aforementioned on any matter which requires
immediate changes in the laws in order to prevent abuses or
evasions of the laws, rules or regulations related to gaming or
to rectify undesirable conditions in connection with the
administration or operation of gaming in the state:

1305. Supplemental power of the commission

The commission shall have all powers necessary or convenient
to carry out and effectuate its purposes including, but not
limited to, the power to:

1. execute all instruments necessary or convenient for
accomplishing the purposes of this article;

2. enter into agreements or other transactions with a person,
including, but not limited to, a public entity or other
governmental instrumentality or authority in connection with its
powers and duties under this article;

3. require an applicant for a position which requires a
license under this article to apply for such license and approve
or disapprove any such application or other transactions, events
and processes as provided in this article;

4. require a person who has a business association of any
kind with a gaming licensee or applicant to be qualified for
licensure under this article;

7. determine a suitable debt-to-equity ratio for applicants
for a gaming license;

8. deny an application or limit, condition, restrict, revoke
or suspend a license, registration, finding of suitability or
approval, or fine a person licensed, registered, found suitable
or approved for any cause that the commission deems reasonable;

9. monitor the conduct of licensees and other persons having
a material involvement, directly or indirectly, with a licensee
for the purpose of ensuring that licenses are not issued to or
held by and that there is no direct or indirect material
involvement with a licensee, by an unqualified or unsuitable
person or by a person whose operations are conducted in an
unsuitable manner or in unsuitable or prohibited places as
provided in this article;
10. gather facts and information applicable to the 
commission's obligation to issue, suspend or revoke licenses,
work permits or registrations for:

a. a violation of this article or any regulation adopted by the 
commission;

b. willfully violating an order of the commission directed to a 
licensee;

c. the conviction of certain criminal offenses; or

d. the violation of any other offense which would disqualify 
such a licensee from holding a license, work permit or 
registration;

11. conduct investigations into the qualifications of any 
regulated entity and all applicants for licensure;

12. request and receive from the division of criminal justice 
services and the Federal Bureau of Investigation, such criminal 
history record information as necessary for the purpose of 
evaluating applicants for employment by any regulated entity, 
and evaluating licensees and applicants for licensure under this 
article;

13. be present, through its agents, at all times, in gaming 
facility for the purposes of:

a. certifying revenue;

b. receiving complaints from the public relating to the conduct 
of gaming and wagering operations;
c. examining records of revenues and procedures and inspecting
and auditing all books, documents and records of licensees;

d. conducting periodic reviews of operations and facilities for
the purpose of regulations adopted hereunder; and

e. exercising its oversight responsibilities with respect to

14. inspect and have access to all equipment and supplies in
a gaming facility or on premises where gaming equipment is
manufactured, sold or distributed;

15. seize and remove from the premises of a gaming licensee
and impound any equipment, supplies, documents and records for
the purpose of examination and inspection;

16. demand access to and inspect, examine, photocopy and
audit all papers, books and records of any affiliate of a gaming
licensee or gaming vendor whom the commission suspects is
involved in the financing, operation or management of the gaming
licensee or gaming vendor; provided, however, that the
inspection, examination, photocopying and audit may take place
on the affiliate's premises or elsewhere as practicable and in
the presence of the affiliate or its agent;

17. require that the books and financial or other records or
statements of a gaming licensee or gaming vendor be kept in a
manner that the commission considers proper;
18. levy and collect assessments, fees, fines and interest
and impose penalties and sanctions for a violation of this
article or any regulations promulgated by the commission;
19. collect taxes, fees and interest under this article;
20. restrict, suspend or revoke licenses issued under this
article;
21. refer cases for criminal prosecution to the appropriate
federal, state or local authorities; and
22. adopt, amend or repeal regulations for the
implementation, administration and enforcement of this article.

1306. Powers of the board. The New York state resort gaming
facility location board shall select, following a competitive
process and subject to the restrictions of this article, no more
than three entities to apply to the commission for gaming
facility licenses. In exercising its authority, the board shall
have all powers necessary or convenient to fully carry out and
effectuate its purposes including, but not limited to, the
following powers.

The board shall:
1. issue a request for applications for zone two gaming
facility licenses pursuant to section one thousand three hundred
twelve of this article;
2. assist the commission in prescribing the form of the
application for zone two gaming facility licenses including
information to be furnished by an applicant concerning an
applicant's antecedents, habits, character, associates, criminal
record, business activities and financial affairs, past or
present pursuant to section one thousand three hundred thirteen
of this article;

3. develop criteria, in addition to those outlined in this
article, to assess which applications provide the highest and
best value to the state, the zone and the region in which a
gaming facility is to be located;

4. determine a minimum fee for a gaming facility license in
each region in zone two, which shall be not less than
$50,000,000. Such licensing fee shall be paid into the
commercial gaming revenue fund by a licensee within thirty days
after the award of a commission license;

5. determine the minimum tax on gross gaming revenue at a
zone two gaming facility, which rate shall be set at no less
than twenty-five percent, unless a licensee has agreed within
its application to a level of taxation exceeding the
aforementioned threshold, in which such rate shall apply;

6. determine, from time to time, whether tribal-state gaming
compacts are in or remain in good standing for the purposes of
determining whether a casino gaming facility may be located in
areas designated by subdivision two of section one thousand
three hundred eleven of this article;

7. have the authority to conduct investigative hearings
concerning the conduct of gaming and gaming operations in
accordance with any procedures set forth in this article and any
applicable implementing regulations;

8. issue detailed findings of facts and conclusions
demonstrating the reasons supporting its decisions to select
applicants for commission licensure;

9. report annually to the governor, the speaker of the
assembly and the temporary president of the senate, its
proceedings for the preceding calendar year and any suggestions
and recommendations as it shall deem desirable;

10. promulgate any rules and regulations that it deems
necessary to carry out its responsibilities;

11. have the power to administer oaths and examine witnesses,
and may issue subpoenas to compel attendance of witnesses, and
the production of all relevant and material reports, books,
papers, documents, correspondence and other evidence;

12. be authorized to access the criminal history records of
the division of criminal justice services, pursuant to
subdivision eight-a of section eight hundred thirty-seven of the
executive law, in connection with executing the responsibilities
of the board relating to licensing including fingerprinting,
criminal history record checks and background investigations, of
entities applying for a gaming facility license. At the request
of the board, the division of criminal justice services shall
submit a fingerprint card, along with the subject's processing
fee, to the federal bureau of investigation for the purpose of
conducting a criminal history search and returning a report
thereon. The board shall also be entitled to request and
receive, pursuant to a written memorandum of understanding filed
with the department of state, any information in the possession
of the state attorney general relating to the investigation of
organized crime, gaming offenses, other revenue crimes or tax
evasion. Provided however, the attorney general may withhold any
information that (a) would identify a confidential source or
disclose confidential information relating to a criminal
investigation, (b) would interfere with law enforcement
investigations or judicial proceedings, (c) reveal criminal
investigative techniques or procedures, that, if disclosed,
could endanger the life or safety of any person, or (d)
constitutes records received from other state, local or federal
agencies that the attorney general is prohibited by law,
regulation or agreement from disclosing; and
13. be authorized to delegate the execution of any of its
powers under this article for the purpose of administering and
enforcing this article and the rules and regulations hereunder.
1307. Required regulations

1. The commission is authorized:
   a. to adopt, amend, or repeal such regulations, consistent with
      the policy and objectives of this article, as amended and
      supplemented, as it may deem necessary to protect the public
      interest in carrying out the provisions of this article; and
   b. to adopt, amend or repeal such regulations as may be
      necessary for the conduct of hearings before the commission and
      for the matters within all other responsibilities and duties of
      the commission imposed by this article.

2. The commission shall, without limitation include the
   following specific provisions in its regulations in accordance
   with the provisions of this article:
   a. Prescribing the methods and forms of application and
      registration which any applicant or registrant shall follow and
      complete;
   b. Prescribing the methods, procedures and form for delivery of
      information concerning any person's family, habits, character,
      associates, criminal record, business activities and financial
      affairs;
   c. Prescribing such procedures for the fingerprinting of an
      applicant, employee of a licensee, or registrant, and methods of
      identification which may be necessary to accomplish effective
1 enforcement of restrictions on access to the casino floor and
2 other restricted areas of the gaming facility;
3 d. Prescribing the method of notice to an applicant, registrant
4 or licensee concerning the release of any information or data
5 provided to the commission by such applicant, registrant or
6 licensee;
7 e. Prescribing the manner and procedure of all hearings
8 conducted by the commission or any hearing examiner, including
9 special rules of evidence applicable thereto and notices
10 thereof;
11 f. Prescribing the manner and method of collection of payments
12 of taxes, fees, interest and penalties;
13 g. Defining and limiting the areas of operation, the rules of
14 authorized games, odds, and devices permitted, and the method of
15 operation of such games and devices;
16 h. Regulating the practice and procedures for negotiable
17 transactions involving patrons, including limitations on the
18 circumstances and amounts of such transactions, and the
19 establishment of forms and procedures for negotiable instrument
20 transactions, redemptions, and consolidations;
21 i. Prescribing grounds and procedures for the revocation or
22 suspension of operating certificates, licenses and
23 registrations;
j. Governing the manufacture, distribution, sale, deployment, and servicing of gaming devices and equipment;
k. Prescribing for gaming operations the procedures, forms and methods of management controls, including employee and supervisory tables of organization and responsibility, and minimum security and surveillance standards, including security personnel structure, alarm and other electrical or visual security measures; provided, however, that the commission shall grant an applicant broad discretion concerning the organization and responsibilities of management personnel who are not directly involved in the supervision of gaming operations;
l. Prescribing the qualifications of, and the conditions pursuant to which, engineers, accountants, and others shall be permitted to practice before the commission or to submit materials on behalf of any applicant or licensee; provided, however, that no member of the Legislature, nor any firm with which said member is associated, shall be permitted to appear or practice or act in any capacity whatsoever before the commission regarding any matter whatsoever, nor shall any member of the family of the Governor or of a member of the Legislature be permitted to so practice or appear in any capacity whatsoever before the commission regarding any matter whatsoever;
m. Prescribing minimum procedures for the exercise of effective control over the internal fiscal affairs of a licensee,
including provisions for the safeguarding of assets and revenues, the recording of cash and evidence of indebtedness, and the maintenance of reliable records, accounts, and reports of transactions, operations and events, including reports to the commission;

n. Providing for a minimum uniform standard of accountancy methods, procedures and forms; a uniform code of accounts and accounting classifications; and such other standard operating procedures, as may be necessary to assure consistency, comparability, and effective disclosure of all financial information, including calculations of percentages of profit by games, tables, gaming devices and slot machines;

o. Requiring quarterly financial reports and the form thereof, and an annual audit prepared by a certified public accountant licensed to do business in this state, attesting to the financial condition of a licensee and disclosing whether the accounts, records and control procedures examined are maintained by the licensee as required by this article and the regulations promulgated hereunder;

p. Governing the gaming-related advertising of licensees, their employees and agents, with the view toward assuring that such advertisements are not deceptive; and

q. Governing the distribution and consumption of alcoholic beverages on the premises of the licensee.
3. The commission shall, in its regulations, prescribe the manner and procedure of all hearings conducted by the commission, including special rules of evidence applicable thereto and notices thereof.

1308. Reports and recommendations. The commission shall carry on a continuous study of the operation and administration of casino control laws which may be in effect in other jurisdictions, literature on this subject which may from time to time become available, federal laws which may affect the operation of casino gaming in this state. It shall be responsible for ascertaining any defects in this article or in the rules and regulations issued thereunder, formulating recommendations for changes in this article. The commission shall make to the Governor and the Legislature within its annual report an accounting of all revenues, expenses and disbursements, and shall include therein such recommendations for changes in this article as the commission deems necessary or desirable.

1309. Severability and preemption

1. If any clause, sentence, subparagraph, paragraph, subsection, section, article or other portion of this article or the application thereof to any person or circumstances shall be
held to be invalid, such holding shall not affect, impair or
invalidate the remainder of this article or the application of
such portion held invalid to any other person or circumstances,
but shall be confined in its operation to the clause, sentence,
paragraph, subparagraph, subsection, section, article or other
portion thereof directly involved in such holding or to the
person or circumstance therein involved.

2. If any provision of this article is inconsistent with, in
conflict with, or contrary to any other provision of law, such
provision of this article shall prevail over such other
provision and such other provision shall be deemed to be
amended, superseded or repealed to the extent of such
inconsistency or conflict. Notwithstanding the provisions of any
other law to the contrary, no local government unit of this
state may enact or enforce any ordinance or resolution
conflicting with any provision of this article or with any
policy of this state expressed or implied herein, whether by
exclusion or inclusion. The commission shall have exclusive
jurisdiction over all matters delegated to it or within the
scope of its powers under the provisions of this article.

FACILITY DETERMINATION AND LICENSING

1310. Development zones and regions
1. Development zones. There are hereby created two casino development zones to be known as the zone one and zone two. Zone one shall include the city of New York and the counties of Nassau, Putnam, Rockland, Suffolk, and Westchester. Zone two shall include all the other counties of the state.

2. Development regions. Each zone shall be divided into development regions.

a. The three development regions in zone one shall be comprised of the following counties:

(1) Region one shall consist of Putnam, Rockland and Westchester counties;

(2) Region two shall consist of Bronx, Kings, New York, Queens and Richmond counties. No casino shall be authorized in region two; and

(3) Region three shall consist of Nassau and Suffolk counties.

b. The four development regions in zone two shall be comprised of the following counties:

(1) Region one shall consist of Columbia, Delaware, Dutchess, Greene, Orange, Sullivan and Ulster counties;

(2) Region two shall consist of Albany, Fulton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, and Washington counties

(3) Region three shall consist of Clinton, Essex, Franklin, Hamilton, Jefferson, Saint Lawrence and Warren counties;
(4) Region four shall consist of Cayuga, Chenango, Cortland,
Herkimer, Lewis, Madison, Oneida, Onondaga, Oswego and Otsego
counties;
(5) Region five shall consist of Broome, Chemung (east of State
Route 14), Seneca, Schuyler (east of State Route 14), Tioga,
Tompkins, and Wayne (east of State Route 14) counties; and
(6) Region six shall consist of Allegany, Cattaraugus,
Chautauqua, Chemung (west of State Route 14), Erie, Genesee,
Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler (west of
State Route 14), Steuben, Wayne (west of State Route 14),
Wyoming, and Yates counties.

1311. License authorization

1. Three casino gaming facilities shall hereafter be licensed
by the commission to conduct or operate casino gambling within
regions one, two, five, and six of zone two. No more than one
license shall be awarded in any casino development region in the
zone two.

2. Notwithstanding the foregoing, no casino gaming facility
shall be authorized:

a. in the counties of Clinton, Essex, Franklin, Hamilton,
Jefferson, Lewis, Saint Lawrence and Warren, if the tribal-state
compact executed pursuant to the Indian Gaming Regulatory Act of
1166-1168) between the Saint Regis Mohawk Tribe and the State of New York as executed pursuant to article 590 of the laws of two thousand four is in good standing as determined from time to time by the commission;

b. within the following area: (i) to the east, State Route 14 from Sodus Point to the Pennsylvania border with New York; (ii) to the north, the border between New York and Canada; (iii) to the south, the Pennsylvania border with New York; and (iv) to the west, the border between New York and Canada and the border between Pennsylvania and New York, if the tribal-state compact executed pursuant to the Indian Gaming Regulatory Act of 1988 (P.L. 100-497; 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§ 1166-1168), between the Seneca Nation of Indians and the State of New York as executed pursuant to article 383 of the laws of two thousand one is in good standing as determined from time to time by the commission; and

c. in the counties of Cayuga, Chenango, Cortland, Herkimer, Lewis, Madison, Oneida, Onondaga, Oswego and Otsego counties, if the nation-state compact executed pursuant to the Indian Gaming Regulatory Act of 1988 (P.L. 100-497; 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§ 1166-1168), between the Oneida Nation of New York and the State of New York as amended pursuant to a stipulation entered in which the United States District Court for the
Northern District of New York entered an order in State of New York, et al. v. Salazar, et al., 6:08-cv-644 (LEK), approving a Settlement Agreement by the Oneida Nation, the State of New York, the County of Madison and the County of Oneida and dismissing that litigation as provided in Section VI(A)(1)(a) of such Agreement is in good standing as determined from time to time by the commission.

1312. Requests for applications

1. The board shall issue within ninety days of a majority of members being appointed a request for applications for a casino gaming facility license in regions one, two, five, and six in zone two; provided, however, that the board shall not issue any requests for applications for any region in zone one; and further provided that the board shall not issue any requests for applications with respect to any casino subsequently authorized until five years following the commencement of casino gaming activities in zone two. Such all requests for applications shall include:

a. the time and date for receipt of responses to the request for applications, the manner they are to be received and the address of the office to which the applications shall be delivered;

b. the form of the application and the method for submission;
c. a general description of the anticipated schedule for
processing the application;

d. the contact information of board employees responsible for
handling applicant questions; and

e. any other information that the board determines.

Board activities shall be subject to section one hundred
thirty-nine and section one hundred thirty-nine k of the state
finance law.

2. Requests for applications pursuant to subsection one shall
be advertised in a newspaper of general circulation and on the
official internet website of the commission and the board.

3. The board shall establish deadlines for the receipt of all
applications. Applications received after the deadline shall not
be reviewed by the board.

1313. Form of application

1. The commission and the board shall prescribe the initial
form of the application for gaming licenses which shall require,
but not be limited to:

a. the name of the applicant;

b. the mailing address and, if a corporation, the name of the
state under the laws of which it is incorporated, the location
of its principal place of business and the names and addresses
of its directors and stockholders;
c. the identity of each person having a direct or indirect
interest in the business and the nature of such interest;
provided, however, that if the disclosed entity is a trust, the
application shall disclose the names and addresses of all
beneficiaries; provided further, that if the disclosed entity is
a partnership, the application shall disclose the names and
addresses of all partners, both general and limited; and
provided further, that if the disclosed entity is a limited
liability company, the application shall disclose the names and
addresses of all members;

d. an independent audit report of all financial activities and
interests including, but not limited to, the disclosure of all
contributions, donations, loans or any other financial
transactions to or from a gaming entity or operator in the past
five years;
e. clear and convincing evidence of financial stability
including, but not limited to, bank references, business and
personal income and disbursement schedules, tax returns and
other reports filed by government agencies and business and
personal accounting check records and ledgers;
f. information and documentation to demonstrate that the
applicant has sufficient business ability and experience to
create the likelihood of establishing and maintaining a
successful gaming facility;
g. a full description of the proposed internal controls and security systems for the proposed gaming facility and any related facilities;

h. the designs for the proposed gaming facility, including the names and addresses of the architects, engineers and designers, and a timeline of construction that includes detailed stages of construction for the gaming facility, non-gaming structures, where applicable;

i. the number of construction hours estimated to complete the work;

j. a description of the ancillary entertainment services and amenities to be provided at the proposed gaming facility;

k. the number of employees to be employed at the proposed gaming facility, including detailed information on the pay rate and benefits for employees;

l. completed studies and reports as required by the commission, which shall include, but not be limited to, an examination of the proposed gaming facility's:

(i) economic benefits to the region and the state;

(ii) local and regional social, environmental, traffic and infrastructure impacts;

(iii) impact on the local and regional economy, including the impact on cultural institutions and on small businesses in the host and nearby municipalities;
(iv) cost to the host municipality, nearby municipalities and
the state for the proposed gaming facility to be located at the
proposed location; and
(v) the estimated state tax revenue to be generated by the
gaming facility;
m. the names of proposed vendors of gaming equipment;
n. the location of the proposed gaming facility, which shall
include the address, maps, book and page numbers from the
appropriate registry of deeds, assessed value of the land at the
time of application and ownership interests over the past 20
years, including all interests, options, agreements in property
and demographic, geographic and environmental information and
any other information requested by the commission;
o. the type and number of games to be conducted at the proposed
gaming facility and the specific location of the games in the
proposed gaming facility;
p. the number of hotels and rooms, restaurants and other
amenities located at the proposed gaming facility and how they
measure in quality to other area hotels and amenities;
g. whether the applicant's proposed gaming facility is part of a
regional or local economic plan; and
r. whether the applicant purchased or intends to purchase
publicly-owned land for the proposed gaming facility.
2. Applications for licenses shall be public records; provided however, that trade secrets, competitively-sensitive or other proprietary information provided in the course of an application for a gaming license under this article, the disclosure of which would place the applicant at a competitive disadvantage, may be withheld from disclosure pursuant to the freedom of information law.

1314. License applicant eligibility

1. Gaming licenses shall only be issued to applicants who are qualified under the criteria set forth in this article, as determined by the commission.

2. Within any casino development region, if the commission is not convinced that there is an applicant that has met the eligibility criteria or the board finds that no applicant has provided convincing evidence that its proposal will provide value to the region in which the gaming facility is proposed to be located, no gaming license shall be awarded in that region.

1315. Required capital investment

1. The board shall establish the minimum capital investment for a gaming facility by zone and region. Such investment shall include, but not be limited to, a gaming area, at least one hotel and other amenities; and provided further, that the board
shall determine whether it will include the purchase or lease
price of the land where the gaming establishment will be located
or any infrastructure designed to support the site including,
but not limited to, drainage, utility support, roadways,
interchanges, fill and soil or groundwater or surface water
contamination issues. The board may consider private capital
investment made during the three years previous to the effective
date of this law, but may, in its discretion, discount a
percentage of the investment made. Upon award of a gaming
license by the commission, the applicant shall be required to
deposit ten percent of the total investment proposed in the
application into an interest-bearing account. Monies received
from the applicant shall be held in escrow until the final stage
of construction, as detailed in the timeline of construction
submitted with the licensee's application and approved by the
commission, at which time the deposit shall be returned to the
applicant to be applied for the final stage. Should the
applicant be unable to complete the gaming establishment, the
deposit shall be forfeited to the state. In place of a cash
deposit, the commission may allow for an applicant to secure a
deposit bond insuring that ten percent of the proposed capital
investment shall be forfeited to the state if the applicant is
unable to complete the gaming establishment.
2. A licensee who fails to begin gaming operations within one year after the date specified in its construction timeline, as approved by the commission, shall be subject to suspension or revocation of the gaming license by the commission and may, after being found by the commission after a hearing to have acted in bad faith in its application, be assessed a fine of up to $50,000,000.

3. Each applicant shall submit its proposed capital investment with its application to the board which shall include stages of construction of the gaming establishment and the deadline by which the stages and overall construction and any infrastructure improvements will be completed. In awarding a license, the commission shall determine at what stage of construction a licensee shall be approved to open for business; provided, however, that a licensee shall not be approved to open for business until the commission has determined that at least the gaming area and other ancillary entertainment services and non-gaming amenities, as required by the board, have been built and are of a superior quality as set forth in the conditions of licensure; and provided further, that total infrastructure improvements onsite and around the vicinity of the gaming establishment, shall be completed before the gaming establishment shall be approved for opening by the commission.
The commission shall not approve a gaming establishment to open for business before the completion of the permanent gaming area.

4. The board shall determine the minimum licensing fee for each region, which shall not be less than $50,000,000, to be paid by a licensee within thirty days after the award of the license. The license shall set forth the conditions to be satisfied by the licensee before the gaming establishment shall be opened to the public. The commission shall set any renewal fee for such license based on the cost of fees associated with the evaluation of a licensee under this article which shall be deposited into the commercial gaming revenue fund. Such renewal fee shall be exclusive of any subsequent licensing fees under this section.

5. The commission shall determine the sources and total amount of an applicant's proposed capitalization to develop, construct, maintain and operate a proposed gaming establishment under this article. Upon award of a gaming license, the commission shall continue to assess the capitalization of a licensee for the duration of construction of the proposed gaming establishment and the term of the license.

1316. Minimum license thresholds
No applicant shall be eligible to receive a gaming license unless the applicant meets the following criteria and clearly states as part of an application that the applicant shall:

1. in accordance with the design plans submitted with the licensee's application to the board, invest not less than the required capital under this article into the gaming facility;

2. own or acquire, within sixty days after a license has been awarded, the land where the gaming facility is proposed to be constructed; provided, however, that ownership of the land shall include a tenancy for a term of years under a lease that extends not less than sixty years beyond the term of the gaming license issued under this article;

3. meet the licensee deposit requirement;

4. demonstrate that it is able to pay and shall commit to paying the gaming licensing fee;

5. demonstrate to the commission how the applicant proposes to address problem gambling concerns, workforce development and community development and host and surrounding municipality impact and mitigation issues;

6. identify the infrastructure costs of the host municipality incurred in direct relation to the construction and operation of a gaming facility and commit to a community mitigation plan for the host municipality;
7. identify the service costs of the host municipality incurred for emergency services in direct relation to the operation of a gaming facility and commit to a community mitigation plan for the municipality;

8. pay to the commission a nonrefundable application fee of $1,000,000 to defray the costs associated with the processing of the application and investigation of the applicant; provided, however, that if the costs of the investigation exceed the initial application fee, the applicant shall pay the additional amount to the commission within thirty days after notification of insufficient fees or the application shall be rejected;

9. comply with state building and fire prevention codes;

10. have received the approval required from the host municipality and the host county pursuant to section one thousand three hundred twenty of this article;

11. provide a community impact fee to the host municipality;

12. formulate for board approval and abide by a marketing program by which the applicant shall identify specific goals, expressed as an overall program goal applicable to the total dollar amount of contracts, for utilization of:

(i) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the design of the gaming facility;
(ii) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the construction of the gaming facility; and

(iii) minority business enterprises, women business enterprises and veteran business enterprises to participate as vendors in the provision of goods and services procured by the gaming facility and any businesses operated as part of the gaming facility; and

13. formulate for board approval and abide by an affirmative action program of equal opportunity whereby the applicant establishes specific goals for the utilization of minorities, women and veterans on construction jobs.

1317. Investigation of license applicants

1. Upon receipt of an application for a gaming license, the commission shall cause to be commenced an investigation into the suitability of the applicant. In evaluating the suitability of the applicant, the commission shall consider the overall reputation of the applicant including, without limitation:

a. the integrity, honesty, good character and reputation of the applicant;

b. the financial stability, integrity and background of the applicant;
c. the business practices and the business ability of the applicant to establish and maintain a successful gaming facility;

d. whether the applicant has a history of compliance with gaming licensing requirements in other jurisdictions;

e. whether the applicant, at the time of application, is a defendant in litigation involving its business practices;

f. the suitability of all parties in interest to the gaming license, including affiliates and close associates and the financial resources of the applicant; and

g. whether the applicant is disqualified from receiving a license under this article; provided, however, that in considering the rehabilitation of an applicant for a gaming license, the commission shall not automatically disqualify an applicant if the applicant affirmatively demonstrates, by clear and convincing evidence, that the applicant has financial responsibility, character, reputation, integrity and general fitness as such to warrant belief by the commission that the applicant will act honestly, fairly, soundly and efficiently as a gaming licensee.

2. If the investigating entity determines during its investigation that an applicant has failed to:
(i) establish the applicant's integrity or the integrity of any affiliate, close associate, financial source or any person required to be qualified by the commission; (ii) demonstrate responsible business practices in any jurisdiction; or (iii) overcome any other reason, as determined by the commission, as to why it would be injurious to the interests of the state in awarding the applicant a gaming license, the bureau shall cease any further review and recommend that the commission deny the application.

3. If the investigating entity has determined that an applicant is suitable to receive a gaming license, the entity shall recommend that the commission commence a review of the applicant's entire application.

1318. Disqualifying criteria

1. The commission shall deny a license to any applicant who is disqualified on the basis of any of the following criteria: a. failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this article; b. failure of the applicant to provide information, documentation and assurances required by this article or requested by the commission, or failure of the applicant to
reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria;
c. the conviction of the applicant, or of any person required to be qualified under this article as a condition of a license, of any offense in any jurisdiction which is or would be a felony or other crime involving public integrity, embezzlement, theft, fraud or perjury;
d. committed prior acts which have not been prosecuted or in which the applicant, or of any person required to be qualified under this article as a condition of a license, was not convicted but form a pattern of misconduct that makes the applicant unsuitable for a license under this article; or
e. if the applicant, or of any person required to be qualified under this article as a condition of a license, has affiliates or close associates that would not qualify for a license or whose relationship with the applicant may pose an injurious threat to the interests of the state in awarding a gaming license to the applicant.

2. Any other offense under present state or federal law which indicates that licensure of the applicant would be inimical to the policy of this article; provided, however, that the automatic disqualification provisions of this section shall not apply with regard to any conviction which did not occur within
the ten year period immediately preceding application for
licensure and which the applicant demonstrates by clear and
convincing evidence does not justify automatic disqualification
pursuant to this subsection and any conviction which has been
the subject of a judicial order of expungement or sealing;

3. Current prosecution or pending charges in any
jurisdiction of the applicant or of any person who is required
to be qualified under this article as a condition of a license,
for any of the offenses enumerated in paragraph c of subsection
one; provided, however, that at the request of the applicant or
the person charged, the commission shall defer decision upon
such application during the pendency of such charge;

4. The pursuit by the applicant or any person who is
required to be qualified under this article as a condition of a
license of economic gain in an occupational manner or context
which is in violation of the criminal or civil public policies
of this state, if such pursuit creates a reasonable belief that
the participation of such person in casino gambling operations
would be inimical to the policies of this article. For purposes
of this section, occupational manner or context shall be defined
as the systematic planning, administration, management, or
execution of an activity for financial gain;

5. The identification of the applicant or any person who is
required to be qualified under this article as a condition of a
license as a career offender or a member of a career offender
cartel or an associate of a career offender or career offender
cartel in such a manner which creates a reasonable belief that
the association is of such a nature as to be inimical to the
policy of this article. For purposes of this section, career
offender shall be defined as any person whose behavior is
pursued in an occupational manner or context for the purpose of
economic gain, utilizing such methods as are deemed criminal
violations of the public policy of this state. A career offender
cartel shall be defined as any group of persons who operate
together as career offenders;

6. The commission by the applicant or any person who is
required to be qualified under this article as a condition of a
license of any act or acts which would constitute any offense
under paragraph c of subsection one, even if such conduct has
not been or may not be prosecuted under the criminal laws of
this state or any other jurisdiction or has been prosecuted
under the criminal laws of this state or any other jurisdiction
and such prosecution has been terminated in a manner other than
with a conviction;

7. Flagrant defiance by the applicant or any person who is
required to be qualified under this article of any legislative
investigatory body or other official investigatory body of any
state or of the United States when such body is engaged in the
investigation of crimes relating to gaming, official corruption,
or organized crime activity; and

8. Failure by the applicant or any person required to be
qualified under this article as a condition of a license to make
required payments in accordance with a child support order,
repay an overpayment for public assistance benefits, or repay
any other debt owed to the state unless such applicant provides
proof to the director's satisfaction of payment of or
arrangement to pay any such debts prior to licensure.

1319. Investigative hearings. The commission and the board
shall have the independent authority to conduct investigative
hearings concerning the conduct of gaming and gaming operations
in accordance with any procedures set forth in this article and
any applicable implementing regulations.

1320. Siting evaluation

In determining whether an applicant shall be eligible for a
casino gaming facility license, the board shall evaluate and
issue a finding of how each applicant proposes to advance the
following objectives.

1. The decision by the board to select a casino license
facility applicant shall be weighted by sixty-five percent based
on economic activity and business development factors including:
a. realizing maximum capital investment exclusive of land acquisition and infrastructure improvements;
b. maximizing revenues received by the state and localities;
c. providing the highest number of quality jobs in the gaming facility;
d. building a gaming facility of the highest caliber with a variety of quality amenities to be included as part of the gaming facility;
e. offering the highest and best value to patrons to create a secure and robust gaming market in the region and the state;
f. providing a market analysis detailing the benefits of the site location of the gaming facility and the estimated recapture rate of gaming-related spending by residents travelling to out-of-state gaming facility;
g. offering the fastest time to completion of the full gaming facility;
h. demonstrating the ability to fully finance the gaming facility; and
i. demonstrating experience in the development and operation of quality gaming facility.

2. The decision by the board to select a casino gaming facility license applicant shall be weighted by twenty percent based on local impact and siting factors including:
a. mitigating potential impacts on host and nearby municipalities which might result from the development or operation of the gaming facility; b. gaining public support in the host and nearby municipalities which may be demonstrated through the passage of local laws or public comment received by the board or gaming applicant; and c. operating in partnership with and promoting local hotels, restaurants, retail facilities, and live entertainment establishments so that patrons experience the full diversified regional tourism industry.

3. The decision by the board to select a casino gaming facility license applicant shall be weighted by fifteen percent based on workforce and societal enhancement factors including: a. implementing a workforce development plan that utilizes the existing labor force, including the estimated number of construction jobs a proposed gaming facility will generate, the development of workforce training programs that serve the unemployed and methods for accessing employment at the gaming facility; b. taking additional measures to address problem gambling including, but not limited to, training of gaming employees to identify patrons exhibiting problems with gambling; c. utilizing sustainable development principles including, but not limited to:
(i) having new and renovation construction certified under the appropriate certification category in the Leadership in Energy and Environmental Design Green Building Rating System created by the United States Green Building Council;

(ii) efforts to mitigate vehicle trips;

(iii) efforts to conserve water and manage storm water;

(iv) demonstrating that electrical and HVAC equipment and appliances will be EnergyStar labeled where available;

(v) procuring or generating on-site ten percent of its annual electricity consumption from renewable sources; and

(vi) developing an ongoing plan to submeter and monitor all major sources of energy consumption and undertake regular efforts to maintain and improve energy efficiency of buildings in their systems;

d. establishing, funding and maintaining human resource hiring and training practices that promote the development of a skilled and diverse workforce and access to promotion opportunities through a workforce training program that:

(i) establishes transparent career paths with measurable criteria within the gaming facility that lead to increased responsibility and higher pay grades that are designed to allow employees to pursue career advancement and promotion;

(ii) provides employee access to additional resources, such as tuition reimbursement or stipend policies, to enable employees
to acquire the education or job training needed to advance
career paths based on increased responsibility and pay grades;
and
(iii) establishes an on-site child day-care program;
e. purchasing, whenever possible, domestically manufactured slot
machines for installation in the gaming facility;
f. implementing a marketing program that identifies specific
goals, expressed as an overall program goal applicable to the
total dollar amount of contracts, for the utilization of:
(i) minority business enterprises, women business enterprises
and veteran business enterprises to participate as contractors
in the design of the gaming facility;
(ii) minority business enterprises, women business enterprises
and veteran business enterprises to participate as contractors
in the construction of the gaming facility; and
(iii) minority business enterprises, women business enterprises
and veteran business enterprises to participate as vendors in
the provision of goods and services procured by the gaming
facility and any businesses operated as part of the gaming
facility;
g. implementing a workforce development plan that:
(i) incorporates an affirmative action program of equal
opportunity by which the applicant guarantees to provide equal
employment opportunities to all employees qualified for
licensure in all employment categories, including persons with
disabilities;
(ii) utilizes the existing labor force in the state;
(iii) estimates the number of construction jobs a gaming
facility will generate and provides for equal employment
opportunities and which includes specific goals for the
utilization of minorities, women and veterans on those
construction jobs;
(iv) identifies workforce training programs offered by the
gaming facility; and
(v) identifies the methods for accessing employment at the
gaming facility; and
h. demonstrating that the applicant has a contract with
organized labor, including hospitality services, and has the
support of organized labor for its application, which specifies:
(i) the number of employees to be employed at the gaming
facility, including detailed information on the pay rate and
benefits for employees and contractors;
(ii) the total amount of investment by the applicant in the
gaming facility and all infrastructure improvements related to
the project; and
(iii) whether the applicant has included detailed plans for
assuring labor harmony during all phases of the construction,
reconstruction, renovation, development and operation of the
gaming facility.

1321. [intentionally omitted]

OCCUPATIONAL LICENSING

1322. General provisions

1. It shall be the affirmative responsibility of each
applicant or licensee to establish by clear and convincing
evidence its individual qualifications, and for a casino license
the qualifications of each person who is required to be
qualified under this article.

2. Any applicant, licensee, registrant, or any other person
who must be qualified pursuant to this article shall provide all
required information and satisfy all requests for information
pertaining to qualification and in the form specified by
regulation. All applicants, registrants, and licensees shall
waive liability as to the state, and its instrumentalities and
agents, for any damages resulting from any disclosure or
publication in any manner, other than a willfully unlawful
disclosure or publication, of any material or information
acquired during inquiries, investigations or hearings.
3. All applicants, licensees, registrants, intermediary companies, and holding companies shall consent to inspections, searches and seizures and the supplying of handwriting exemplars as authorized by this article and regulations promulgated hereunder.

4. All applicants, licensees, registrants, and any other person who shall be qualified pursuant to this article shall have the continuing duty to provide any assistance or information required by the commission, and to cooperate in any inquiry, investigation or hearing conducted by the commission.

If, upon issuance of a formal request to answer or produce information, evidence or testimony, any applicant, licensee, registrant, or any other person who shall be qualified pursuant to this article refuses to comply, the application, license, registration or qualification of such person may be denied or revoked.

5. Each applicant or person who must be qualified under this article shall be photographed and fingerprinted for identification and investigation purposes in accordance with procedures set forth by regulation.

6. All licensees, all registrants, and all other persons required to be qualified under this article shall have a duty to inform the commission of any action which they believe would constitute a violation of this act. No person who so informs the
commission shall be discriminated against by an applicant, licensee or registrant because of the supplying of such information.

1323. Key employee licenses

1. No licensee or a holding or intermediary company of a licensee may employ any person as a key casino employee unless the person is the holder of a valid casino key employee license issued by the commission.

2. Each applicant for a casino key employee license must, prior to the issuance of any casino key employee license, produce information, documentation and assurances concerning the following qualification criteria:

a. Each applicant for a casino key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursements schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission.
b. Each applicant for a casino key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity. Such information shall include, without limitation, data pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the ten year period immediately preceding the filing of the application. Each applicant shall notify the commission of any civil judgments obtained against such applicant pertaining to antitrust or security regulation laws of the federal government, of this State or of any other state, jurisdiction, province or country. In addition, each applicant shall, upon request of the commission, produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what that information is. If the applicant has been associated with gaming operations in any capacity, position or employment in a jurisdiction which permits such activity, the applicant shall, upon request of the
commission, produce letters of reference from the gaming
enforcement or control agency, which shall specify the
experience of such agency with the applicant, his associates and
his participation in the gaming operations of that jurisdiction;
provided, however, that if no such letters are received from the
appropriate law enforcement agencies within sixty days of the
applicant's request therefor, the applicant may submit a
statement under oath that he is or was during the period such
activities were conducted in good standing with such gaming
enforcement or control agency.

c. Each applicant employed by a casino licensee shall be a
resident of the state prior to the issuance of a casino key
employee license; provided, however, that upon petition by the
holder of a license, the commission may waive this residency
requirement for any applicant whose particular position will
require him to be employed outside the state; and provided
further that no applicant employed by a holding or intermediary
company of a licensee shall be required to establish residency
in this state.

d. For the purposes of this section, each applicant shall submit
to the commission the applicant's name, address, fingerprints
and written consent for a criminal history record background
check to be performed. The commission is hereby authorized to
exchange fingerprint data with and receive criminal history
record information from the state division of criminal justice
services and the Federal Bureau of Investigation consistent with
applicable state and federal laws, rules and regulations. The
applicant shall bear the cost for the criminal history record
check, including all costs of administering and processing the
check. The state division of criminal justice services shall
promptly notify the commission in the event a current or
prospective licensee, who was the subject of a criminal history
record check pursuant to this section, is arrested for a crime
or offense in this state after the date the check was performed.

3. The commission shall deny a casino key employee license to
any applicant who is disqualified on the basis of the criteria
contained in section one thousand three hundred twenty-four.

4. Upon petition by the holder of a license, the commission
may issue a temporary license to an applicant for a casino key
employee license, provided that:

a. The applicant for the casino key employee license has filed a
completed application as required by the commission;

b. The petition for a temporary casino key employee license
certifies, and the commission finds, that an existing casino key
employee position of the petitioner is vacant or will become
vacant within sixty days of the date of the petition and that
the issuance of a temporary key employee license is necessary to
fill the said vacancy on an emergency basis to continue the
efficient operation of the casino, and that such circumstances are extraordinary and not designed to circumvent the normal licensing procedures of this act;

6. Unless otherwise terminated pursuant to this article, any temporary casino key employee license issued pursuant to this subsection shall expire nine months from the date of its issuance.

1324. Gaming employee registration

1. No person may commence employment as a casino employee unless such person has a valid registration on file with the commission, which registration shall be prepared and filed in accordance with the regulations promulgated hereunder.

2. A casino employee registrant shall produce such information as the commission by regulation may require. Subsequent to the registration of a casino employee, the executive director may revoke, suspend, limit, or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of the criteria contained in section one thousand three hundred twenty-four. If a casino employee registrant has not been employed in any position within a casino facility for a period of three years, the registration of that casino employee shall lapse.
3. Notwithstanding the provisions of paragraph b of this section, no casino employee registration shall be revoked on the basis of a conviction of any of the offenses enumerated in this article as disqualification criteria or the commission of any act or acts which would constitute any offense under section one thousand three hundred twenty-four, provided that the registrant has affirmatively demonstrated the registrant's rehabilitation. In determining whether the registrant has affirmatively demonstrated the registrant's rehabilitation the director shall consider the following factors:

a. The nature and duties of the registrant's position;

b. The nature and seriousness of the offense or conduct;

c. The circumstances under which the offense or conduct occurred;

d. The date of the offense or conduct;

e. The age of the registrant when the offense or conduct was committed;

f. Whether the offense or conduct was an isolated or repeated incident;

g. Any social conditions which may have contributed to the offense or conduct;

h. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational
schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the registrant under their supervision.

4. For the purposes of this section, each registrant shall submit to the commission the registrant's name, address, fingerprints and written consent for a criminal history record check to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the state division of criminal justice services and the Federal Bureau of Investigation consistent with applicable state and federal laws, rules and regulations. The registrant shall bear the cost for the criminal history record check, including all costs of administering and processing the check. The state division of criminal justice services shall promptly notify the commission in the event a current or prospective licensee, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this state after the date the check was performed.

1325. Approval and denial of employee licenses and registrations

1. Upon the filing of an application for a casino key employee license required by this article and after submission
of such supplemental information as the commission may require,
the commission shall conduct or cause to be conducted such
investigation into the qualification of the applicant, and the
commission shall conduct such hearings concerning the
qualification of the applicant, in accordance with its
regulations, as may be necessary to determine qualification for
such license.

2. After such investigation, the commission may either deny
the application or grant a license to an applicant whom it
determines to be qualified to hold such license.

3. The commission shall have the authority to deny any
application pursuant to the provisions of this article. When an
application for a casino key employee license is denied, the
commission shall prepare and file its order denying such
application with the general reasons therefor, and if requested
by the applicant, shall further prepare and file a statement of
the reasons for the denial, including the specific findings of
fact.

4. When the commission grants an application, the commission
may limit or place such restrictions thereupon as it may deem
necessary in the public interest.

5. Casino employee registration shall be effective upon
issuance, and shall remain in effect unless revoked, suspended,
limited, or otherwise restricted by the commission.
Notwithstanding the foregoing, if a casino employee registrant has not been employed in any position within a casino facility for a period of three years, the registration of that casino employee shall lapse.

6. After an application for a casino key employee license is submitted, final action of the commission shall be taken within ninety days after completion of all hearings and investigations and the receipt of all information required by the commission.

7. Not later than five years after obtaining a casino key employee license, and every five years thereafter, the licensee shall submit such information and documentation as the commission may by regulation require, to demonstrate to the satisfaction of the commission that it continues to meet the requirements of this article. Upon receipt of such information, the commission may take such action on the license, including suspension or revocation, as it deems appropriate.

8. Registrations for casino employees issued shall remain valid unless suspended or revoked or unless such registration expires or is voided pursuant to law.

9. The commission shall establish by regulation appropriate fees to be paid upon the filing of the informational filings required. Such fees shall be deposited into the Casino Gaming Fund.
ENTERPRISE AND VENDOR LICENSING AND REGISTRATION

1. Any business to be conducted with a casino applicant or licensee by a vendor offering goods or services which directly relate to gaming activity, including gaming equipment manufacturers, suppliers, repairers, and independent testing laboratories, shall be licensed as a casino vendor enterprise in accordance with the provisions of this article prior to conducting any business whatsoever with a casino applicant or licensee, its employees or agents; provided, however, that upon a showing of good cause by a casino applicant or licensee, the executive director may permit an applicant for a casino vendor enterprise license to conduct business transactions with such casino applicant or licensee prior to the licensure of that casino vendor enterprise applicant under this subsection for such periods as the commission may establish by regulation.

2. In addition to the requirements of subsection one, any casino vendor enterprise intending to manufacture, sell, distribute, test or repair slot machines within the state shall be licensed in accordance with the provisions of this article prior to engaging in any such activities; provided, however, that upon a showing of good cause by a casino applicant or licensee, the executive director may permit an applicant for a
casino vendor enterprise license to conduct business

transactions with the casino applicant or licensee prior to the
licensure of that casino vendor enterprise applicant under this
subsection for such periods as the commission may establish by
regulation; and provided further, however, that upon a showing
of good cause by an applicant required to be licensed as a
casino vendor enterprise pursuant to this subsection, the
executive director may permit the casino vendor enterprise
applicant to initiate the manufacture of slot machines or engage
in the sale, distribution, testing or repair of slot machines
with any person other than a casino applicant or licensee, its
employees or agents, prior to the licensure of that casino
vendor enterprise applicant under this subsection.

3. Vendors providing goods and services to casino licensees
or applicants ancillary to gaming shall be required to be
licensed as an ancillary casino vendor enterprise and shall
comply with the standards for casino vendor license applicants.

4. Each casino vendor enterprise required to be licensed
pursuant to subsection one, as well as its owners; management
and supervisory personnel; and employees if such employees have
responsibility for services to a casino applicant or licensee,
must qualify under the standards, except residency, established
for qualification of a casino key employee under this article.
5. Any vendor that offers goods or services to a casino applicant or licensee that is not included in subsection one or two including, but not limited to site contractors and subcontractors, shopkeepers located within the facility, gaming schools that possess slot machines for the purpose of instruction, and any non-supervisory employee of a junket enterprise licensed under subsection three, shall be required to register with the commission in accordance with the regulations promulgated under this article.

Notwithstanding the provisions aforementioned, the executive director may, consistent with the public interest and the policies of this article, direct that individual vendors registered pursuant to this subsection be required to apply for either a casino vendor enterprise license pursuant to subsection one, or an ancillary vendor industry enterprise license pursuant to subsection three, as directed by the commission. The executive director may also order that any enterprise licensed as or required to be licensed as an ancillary casino vendor enterprise pursuant to subsection three be required to apply for a casino vendor enterprise license pursuant to subsection one. The executive director may also, in his discretion, order that an independent software contractor not otherwise required to be registered be either registered as a vendor pursuant to this
subsection or be licensed pursuant to either subsection one or
three.

Each ancillary casino vendor enterprise required to be
licensed pursuant to subsection three, as well as its owners,
management and supervisory personnel, and employees if such
employees have responsibility for services to a casino applicant
or licensee, shall establish their good character, honesty and
integrity by clear and convincing evidence and shall provide
such financial information as may be required by the commission.

Any enterprise required to be licensed as an ancillary casino
vendor enterprise pursuant to this section shall be permitted to
transact business with a casino licensee upon filing of the
appropriate vendor registration form and application for such
licensure.

4. Any applicant, licensee or qualifier of a casino vendor
enterprise license or of an ancillary casino vendor enterprise
license under subsection one, and any vendor registrant under
subsection five shall be disqualified in accordance with the
criteria contained in section one thousand three hundred
thirteen, except that no such ancillary vendor industry
enterprise license under subsection three or vendor registration
under subsection five shall be denied or revoked if such vendor
registrant can affirmatively demonstrate rehabilitation as
provided in subsection three of section one thousand three hundred eighteen.

5. No casino vendor enterprise license or ancillary casino vendor enterprise license shall be issued pursuant to subsection one to any person unless that person shall provide proof of valid business registration with the New York department of state.

6. For the purposes of this section, each applicant shall submit to the commission the name, address, fingerprints and a written consent for a criminal history record check to be performed, for each person required to qualify as part of the application. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the state division of criminal justice services and the Federal Bureau of Investigation consistent with applicable state and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record check, including all costs of administering and processing the check. The state division of criminal justice services shall promptly notify the commission in the event a current or prospective qualifier, who was the subject of a criminal history record check pursuant to this section, is arrested for a crime or offense in this state after the date the check was performed.
7. Subsequent to the licensure of any entity pursuant to subsection one, including any finding of qualification as may be required as a condition of licensure, or the registration of any vendor pursuant to subsection three, the executive director may revoke, suspend, limit, or otherwise restrict the license, registration or qualification status upon a finding that the licensee, registrant or qualifier is disqualified on the basis of the criteria set forth in section one thousand three hundred thirteen.

8. A hearing prior to the suspension of any license, registration or qualification issued pursuant to subsection seven shall be a limited proceeding at which the commission shall have the affirmative obligation to demonstrate that there is a reasonable possibility that the licensee, registrant or qualifier is disqualified on the basis of the criteria set forth in section one thousand three hundred thirteen.

1327. Approval and denial of vendor registration

1. A casino vendor registration shall be effective upon issuance, and shall remain in effect unless revoked, suspended, limited, or otherwise restricted by the commission. Notwithstanding the foregoing, if a vendor registrant has not conducted business with a casino facility for a period of three years, the registration of that vendor registrant shall lapse.
2. The commission shall establish by regulation appropriate fees to be imposed on each vendor registrant who provides goods or services to a casino, regardless of the nature of any contractual relationship between the vendor registrant and casino, if any. Such fees shall be deposited into the commercial gaming revenue fund.

1328. Junket operator licensing

1. No junkets may be organized or permitted except in accordance with the provisions of this article. No person may act as a junket representative or junket enterprise except in accordance with this section.

2. A junket representative employed by a casino licensee, an applicant for a casino license or an affiliate of a casino licensee shall be licensed as a casino key employee; provided, however, that said licensee need not be a resident of this state. No casino licensee or applicant for a casino license may employ or otherwise engage a junket representative who is not so licensed.

3. Junket enterprises that, and junket representatives not employed by a casino licensee or an applicant for a casino license or by a junket enterprise who, engage in activities governed by this section shall be licensed as an ancillary casino vendor enterprise in accordance with subsection three of
section one thousand three hundred twenty, unless otherwise
directed by the commission; provided, however, that any such
junket enterprise or junket representative who has disqualified
shall not be entitled to establish his rehabilitation from such
disqualification. Any non-supervisory employee of a junket
enterprise or junket representative licensed as an ancillary
vendor industry enterprise in accordance with subsection three
of section one thousand three hundred twenty shall be
registered.

4. Prior to the issuance of any license required by this
section, an applicant for licensure shall submit to the
jurisdiction of the state and shall demonstrate that he is
amenable to service of process within this state. Failure to
establish or maintain compliance with the requirements of this
subsection shall constitute sufficient cause for the denial,
suspension or revocation of any license issued pursuant to this
section.

5. Upon petition by the holder of a casino license, an
applicant for a casino key employee license intending to be
employed as a junket representative may be issued a temporary
license by the commission in accordance with regulations
promulgated, provided that:

a. the applicant for licensure is employed by a casino licensee;
b. the applicant for licensure has filed a completed application as required by the commission;

6. The commission shall have the authority to immediately suspend, limit or condition any temporary license issued pursuant to this section, pending a hearing on the qualifications of the junket representative.

7. Unless otherwise terminated, any temporary license issued pursuant to this subsection shall expire twelve months from the date of its issuance, and shall be renewable by the commission for one additional six-month period.

8. Every agreement concerning junkets entered into by a casino licensee and a junket representative or junket enterprise shall be deemed to include a provision for its termination without liability on the part of the casino licensee, if the commission orders the termination upon the suspension, limitation, conditioning, denial or revocation of the licensure of the junket representative or junket enterprise. Failure to expressly include such a condition in the agreement shall not constitute a defense in any action brought to terminate the agreement.

9. A casino licensee shall be responsible for the conduct of any junket representative or junket enterprise associated with it and for the terms and conditions of any junket engaged in on
its premises, regardless of the fact that the junket may involve
persons not employed by such a casino licensee.

10. A casino licensee shall be responsible for any violation
or deviation from the terms of a junket. Notwithstanding any
other provisions of this article, the commission may order
restitution to junket participants, assess penalties for such
violations or deviations, prohibit future junkets by the casino
licensee, junket enterprise or junket representative, and order
such further relief as it deems appropriate.

11. The commission shall, by regulation, prescribe methods,
procedures and forms for the delivery and retention of
information concerning the conduct of junkets by casino
licensees. Without limitation of the foregoing, each casino
licensee, in accordance with the rules of the commission, shall:
a. Maintain on file a report describing the operation of any
junket engaged on its premises;
b. Submit to the commission a list of all its employees who are
acting as junket representatives.

12. Each casino licensee, junket representative or junket
enterprise shall, in accordance with the rules of the
commission, file a report with the commission with respect to
each list of junket patrons or potential junket patrons
purchased directly or indirectly by the casino licensee, junket
representative or enterprise.
13. The commission shall have the authority to determine, either by regulation, or upon petition by the holder of a casino license, that a type of arrangement otherwise included within the definition of "junket" shall not require compliance with any or all of the requirements of this section. In granting exemptions, the commission shall consider such factors as the nature, volume and significance of the particular type of arrangement, and whether the exemption would be consistent with the public policies established by this article. In applying the provisions of this subsection, the commission may condition, limit, or restrict any exemption as it may deem appropriate.

14. No junket enterprise or junket representative or person acting as a junket representative may:

a. Engage in efforts to collect upon checks that have been returned by banks without full and final payment;

b. Exercise approval authority with regard to the authorization or issuance of credit;

c. Act on behalf of or under any arrangement with a casino licensee or a gaming patron with regard to the redemption, consolidation, or substitution of the gaming patron's checks awaiting deposit;

d. Individually receive or retain any fee from a patron for the privilege of participating in a junket;
e. Pay for any services, including transportation, or other
items of value provided to, or for the benefit of, any patron
participating in a junket.

1329. Lobbyist registration

1. For purposes of this section, the terms “lobbyist”,
“lobbying”, “lobbying activities” and “client” shall have the
same meaning as those terms are defined by legislative law
section one-c.

2. In addition to any other registration and reporting
required by law, each lobbyist seeking to engage in lobbying
activity on behalf of a client or a client’s interest before the
commission shall first register with the secretary of the
commission. The secretary shall cause a registration to be
available on the commission’s website within five days of
submission.

1330. Registration of labor organizations

1. Each labor organization, union or affiliate seeking to
represent employees who are employed in a casino facility by a
casino licensee shall register with the commission biennially,
and shall disclose such information to the commission may
require, including the names of all affiliated organizations,
pension and welfare systems and all officers and agents of such
organizations and systems; provided, however, that no labor
organization, union, or affiliate shall be required to furnish
such information to the extent such information is included in a
report filed by any labor organization, union, or affiliate with
the Secretary of Labor pursuant to 29 U.S.C. §431 et seq. or
§1001 et seq. if a copy of such report, or of the portion
thereof containing such information, is furnished to the
commission pursuant to the aforesaid federal provisions. The
commission may in its discretion exempt any labor organization,
union, or affiliate from the registration requirements of this
subsection where the commission finds that such organization,
union or affiliate is not the certified bargaining
representative of any employee who is employed in a casino
facility by a casino licensee, is not involved actively,
directly or substantially in the control or direction of the
representation of any such employee, and is not seeking to do
so.
2. No person may act as an officer, agent or principal
employee of a labor organization, union or affiliate registered
or required to be registered pursuant to this section if the
person has been found disqualified by the commission in
accordance with the criteria contained in section one thousand
three hundred thirteen. The commission may, for purposes of
this subsection, waive any disqualification criterion consistent
with the public policy of this article and upon a finding that
the interests of justice so require.

3. Neither a labor organization, union or affiliate nor its
officers and agents not otherwise individually licensed or
registered under this article and employed by a casino licensee
may hold any financial interest whatsoever in the casino
facility or casino licensee whose employees they represent.

4. The commission may maintain a civil action and proceed in
a summary manner, without posting bond, against any person,
including any labor organization, union or affiliate, to compel
compliance with this section, or to prevent any violations, the
aiding and abetting thereof, or any attempt or conspiracy to
violate this section.

5. In addition to any other remedies provided in this
section, a labor organization, union or affiliate registered or
required to be registered pursuant to this section may be
prohibited by the commission from receiving any dues from any
employee licensed or registered under this article and employed
by a casino licensee or its agent, if any officer, agent or
principal employee of the labor organization, union or affiliate
has been found disqualified and if such disqualification has not
been waived by the commission in accordance with subsection two.

REQUIREMENTS FOR CONDUCT AND OPERATION OF GAMING
1331. Operation certificate

1. Notwithstanding the issuance of a license therefor, no casino facility may be opened or remain open to the public, and no gaming activity, except for test purposes, may be conducted therein, unless and until a valid operation certificate has been issued to the casino licensee by the commission. Such certificate shall be issued by the executive director upon a determination that a casino complies in all respects with the requirements of this article and regulations promulgated hereunder, and that the casino facility are prepared in all respects to receive and entertain the public.

2. An operation certificate shall remain in force and effect unless revoked, suspended, limited, or otherwise altered by the commission in accordance with this article.

3. It shall be an express condition of continued operation under this article that a casino licensee shall maintain either electronically or in hard copy at the discretion of the casino licensee, copies of all books, records, and documents pertaining to the licensee's operations and approved hotel in a manner and location approved by the commission, provided, however, that the originals of such books, records and documents, whether in electronic or hard copy form, may be maintained at the offices or electronic system of an affiliate of the casino licensee, at
the discretion of the casino licensee. All such books, records
and documents shall be immediately available for inspection
during all hours of operation in accordance with the rules of
the commission and shall be maintained for such period of time
as the commission shall require.

1332. Age for gaming participation

1. No person under the age at which a person is authorized to
purchase and consume alcoholic beverages shall enter, or wager
in, a licensed casino; provided, however, that such a person may
enter a casino facility by way of passage to another room, and
provided further, however, that any such person who is licensed
or registered under the provisions of this article may enter a
casino facility in the regular course of the person's permitted
activities.

2. Any person disqualified per subsection one entitled to
funds, cash or prizes from gambling activity shall forfeit same.
Such forfeited funds, cash or prizes shall be remitted to the
commission and deposited into the commercial gaming revenue
fund.

1333. Hours of operation
1. Each casino licensed pursuant to this article shall be permitted to operate twenty-four hours a day unless otherwise directed by the commission.

2. A casino licensee shall file with the commission a schedule of hours prior to the issuance of an initial operation certificate. If the casino licensee proposes any change in scheduled hours, such change may not be effected until such licensee files a notice of the new schedule of hours with the commission. Such filing must be made thirty days prior to the effective date of the proposed change in hours.

3. Nothing herein shall be construed to limit a casino licensee in opening its casino later than, or closing its casino earlier than, the times stated in its schedule of operating hours; provided, however, that any such alterations in its hours shall comply with the provisions of subsection one and with regulations of the commission pertaining to such alterations.

1334. Internal controls

1. Each applicant for a casino license shall create, maintain, and file with the commission a description of its internal procedures and administrative and accounting controls for gaming operations that conform to commission regulations and provide adequate and effective controls, establish a consistent overall system of internal procedures and administrative and
accounting controls and conform to generally accepted accounting
principles, and ensure that casino procedures are carried out
and supervised by personnel who do not have incompatible
functions. A casino licensee's internal controls shall contain
a narrative description of the internal control system to be
utilized by the casino, including, but not limited to:

a. Accounting controls, including the standardization of forms
and definition of terms to be utilized in the gaming operations;
b. Procedures, forms, and, where appropriate, formulas covering
the calculation of hold percentages; revenue drop; expense and
overhead schedules; complimentary service or item; junkets; and
cash equivalent transactions;
c. Procedures within the cashier's cage and simulcast facility
for the receipt, storage and disbursal of chips, cash, and other
cash equivalents used in gaming and simulcast wagering; the
cashing of checks; the redemption of chips and other cash
equivalents used in gaming and simulcast wagering; the pay-off
of jackpots and simulcast wagers; and the recording of
transactions pertaining to gaming operations;
d. Procedures for the collection and security of moneys at the
gaming tables;
e. Procedures for the transfer and recordation of chips between
the gaming tables and the cashier's cage;
f. Procedures for the transfer of moneys from the gaming tables to the counting process;

g. Procedures and security for the counting and recordation of revenue;

h. Procedures for the security, storage and recordation of cash, chips and other cash equivalents utilized in the gaming;

i. Procedures for the transfer of moneys or chips from and to the slot machines;

j. Procedures and standards for the opening and security of slot machines;

k. Procedures for the payment and recordation of slot machine jackpots;

l. Procedures for the cashing and recordation of checks exchanged by casino patrons;

m. Procedures governing the utilization of the private security force within the casino facility;

n. Procedures and security standards for the handling and storage of gaming apparatus including cards, dice, machines, wheels and all other gaming equipment;

o. Procedures and rules governing the conduct of particular games and the responsibility of casino personnel in respect thereto;

p. Procedures for the orderly shutdown of casino operations in the event that a state of emergency is declared and the casino
licensee is unable or ineligible to continue to conduct casino
operations during such a state of emergency, which procedures
shall include, without limitation, the securing of all keys and
gaming assets.

2. No minimum staffing requirements shall be included in
the internal controls created in accordance with subsection one.

1335. Games and gaming equipment

1. This article shall not be construed to permit any gaming
except the conduct of authorized games in a casino room in
accordance with this article and the regulations promulgated
hereunder.

2. Gaming equipment shall not be possessed, maintained or
exhibited by any person on the premises of a casino facility
except in a casino room or in restricted casino areas used for
the inspection, repair or storage of such equipment and
specifically designated for that purpose by the casino licensee
with the approval of the commission. Gaming equipment that
supports the conduct of gaming in a casino facility but does not
permit or require patron access, such as computers, may be
possessed and maintained by a casino licensee or a qualified
holding or intermediary company of a casino licensee in
restricted areas specifically approved by the commission. No
gaming equipment shall be possessed, maintained, exhibited,
brought into or removed from a casino room facility by any person unless such equipment is necessary to the conduct of an authorized game, has permanently affixed, imprinted, impressed or engraved thereon an identification number or symbol authorized by the commission, is under the exclusive control of a casino licensee or casino licensee's employees, or of any individually qualified employee of a holding company or casino licensee and is brought into or removed from the casino room or simulcasting facility following twenty-four hour prior notice given to an authorized agent of the commission.

Notwithstanding any other provision of this section, computer equipment used by the slot system operator of a multi-casino progressive slot system to link and communicate with the slot machines of two or more casino licensees for the purpose of calculating and displaying the amount of a progressive jackpot, monitoring the operation of the system, and any other purpose that the commission deems necessary and appropriate to the operation or maintenance of the multi-casino progressive slot machine system may, with the prior approval of the commission, be possessed, maintained and operated by the slot system operator either in a restricted area on the premises of a casino hotel or in a secure facility inaccessible to the public and specifically designed for that purpose off the premises of a casino hotel with the written permission of the commission.
Notwithstanding the foregoing, a person may, with the prior approval of the commission and under such terms and conditions as may be required by the commission, possess, maintain or exhibit gaming equipment in any other area of the casino hotel, provided that such equipment is used for nongaming purposes. Notwithstanding any other provision of this article to the contrary, the commission may, by regulation, authorize the linking of slot machines of one or more casino licensees and slot machines located in casinos licensed by another state of the United States. Wagering and account information for a multi-state slot system shall be transmitted by the operator of such multi-state slot system to either a restricted area on the premises of a casino hotel or to a secure facility inaccessible to the public and specifically designed for that purpose with the written permission of the commission, and from there to slot machines of state casino licensees, provided all locations are approved by the commission.

3. Each casino facility shall contain a count room and such other secure facilities as may be required by the commission for the counting and storage of cash, coins, tokens, checks, plaques, gaming vouchers, coupons, and other devices or items of value used in wagering and approved by the commission that are received in the conduct of gaming and for the inspection, counting and storage of dice, cards, chips and other
representatives of value. The commission shall promulgate regulations for the security of drop boxes and other devices in which the foregoing items are deposited at the gaming tables or in slot machines, and all areas wherein such boxes and devices are kept while in use, which regulations may include certain locking devices. Said drop boxes and other devices shall not be brought into or removed from a casino room or simulcasting facility, or locked or unlocked, except at such times, in such places, and according to such procedures as the commission may require.

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

5. All gaming shall be conducted according to rules promulgated by the commission. All wagers and pay-offs of winning wagers shall be made according to rules promulgated by the commission, which shall establish such limitations as may be necessary to assure the vitality of casino operations and fair odds to patrons. Each slot machine shall have a minimum payout of 85 percent.

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

7. Each gaming table shall be equipped with a sign indicating
the permissible minimum and maximum wagers pertaining thereto.

It shall be unlawful for a casino licensee to require any wager
to be greater than the stated minimum or less than the stated
maximum; provided, however, that any wager actually made by a
patron and not rejected by a casino licensee prior to the
commencement of play shall be treated as a valid wager.

8. Testing of slot machines and associated devices.
a. Except as herein provided, no slot machine shall be used to
conduct gaming unless it is identical in all electrical,
mechanical and other aspects to a model thereof which has been
specifically tested and licensed for use by the commission. The
commission shall also test or cause to be tested any other
gaming device, gaming equipment, gaming-related device or gross-
revenue related device, such as a slot management system,
electronic transfer credit system or gaming voucher system as it
deems appropriate. In its discretion and for the purpose of
expediting the approval process, the commission may utilize the
services of a private testing laboratory that has obtained a plenary license as a casino vendor enterprise to perform the testing, and may also utilize applicable data from any such private testing laboratory or from a governmental agency of a state authorized to regulate slot machines and other gaming devices, gaming equipment, gaming-related devices and gross-revenue related devices used in casino gaming, if the private testing laboratory or governmental agency uses a testing methodology substantially similar to the methodology approved or utilized by the commission. The commission, in its discretion, may rely upon the data provided by the private testing laboratory or governmental agency and adopt the conclusions of such private testing laboratory or governmental agency regarding any submitted device.

b. Except as otherwise provided in paragraph e, the commission shall, within sixty days of its receipt of a complete application for the testing of a slot machine or other gaming equipment model, approve or reject the slot machine or other gaming equipment model. In so doing, the commission shall specify whether and to what extent any data from a private testing laboratory or governmental agency of a state was used in reaching its conclusions and recommendation. If the commission is unable to complete the testing of a slot machine or other gaming equipment model within this sixty day period, the
commission may conditionally approve the slot machine or other
gaming equipment model for test use by a casino licensee
provided that the commission represents that the use of the slot
machine or other gaming equipment model will not have a direct
and materially adverse impact on the integrity of gaming or the
control of gross revenue. The commission shall give priority to
the testing of slot machines or other gaming equipment that a
casino licensee has certified it will use in its casino in this
state.

c. The commission shall, by regulation, establish such technical
standards for licensure of slot machines, including mechanical
and electrical reliability, security against tampering, the
comprehensibility of wagering, and noise and light levels, as it
may deem necessary to protect the player from fraud or deception
and to insure the integrity of gaming. The denominations of such
machines shall be set by the licensee; the licensee shall
simultaneously notify the commission of the settings.
d. The commission shall, by regulation, determine the
permissible number and density of slot machines in a licensed
casino so as to:
(1) promote optimum security for casino operations;
(2) avoid deception or frequent distraction to players at gaming
tables;
(3) promote the comfort of patrons;
(4) create and maintain a gracious playing environment in the casino; and

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

Any such regulation promulgated by the commission which determines the permissible number and density of slot machines in a licensed casino shall provide that all casino floor space shall be included in any calculation of the permissible number and density of slot machines in a licensed casino.

e. Any new gaming equipment that is submitted for testing to the commission or to a state licensed independent testing laboratory prior to or simultaneously with submission of such new equipment for testing in a jurisdiction other than this state, may, consistent with regulations promulgated by the commission, be deployed by a casino licensee on the casino floor fourteen days after submission of such equipment for testing. If the casino or casino vendor enterprise licensee has not received approval for the equipment fourteen days after submission for testing, any interested casino licensee may, consistent with commission regulations, deploy the equipment on a field test basis, unless otherwise directed by the executive director.

9. It shall be unlawful for any person to exchange or redeem chips for anything whatsoever, except for currency, negotiable
personal checks, negotiable counter checks, other chips,
coupons, slot vouchers or complimentary vouchers distributed by
the casino licensee, or, if authorized by regulation of the
commission, a valid charge to a credit or debit card account. A
casino licensee shall, upon the request of any person, redeem
that licensee's gaming chips surrendered by that person in any
amount over $100 with a check drawn upon the licensee's account
at any banking institution in this state and made payable to
that person.

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

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

1336. Certain wagering prohibited

1. It shall be unlawful for any casino key employee licensee
to wager in any casino facility in this state.

2. It shall be unlawful for any other employee of a casino
licensee who, in the judgment of the commission, is directly
involved with the conduct of gaming operations, including but
not limited to dealers, floor persons, box persons, security and
surveillance employees, to wager in any casino facility in which
the employee is employed or in any other casino facility in this
state which is owned or operated by an affiliated licensee.

3. The prohibition against wagering set forth in paragraphs a
and b shall continue for a period of thirty days commencing upon
the date that the employee either leaves employment with a
casino licensee or is terminated from employment with a casino
licensee.

1337. Gratuities

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

2. A dealer may accept tips or gratuities from a patron at
the table at which such dealer is conducting play, subject to
the provisions of this section.

3. All such tips or gratuities shall be immediately deposited
in a lockbox reserved for that purpose, unless the tip or
gratuity is authorized by a patron utilizing an automated
wagering system approved by the commission. All tips or
gratuities shall be accounted for, and placed in a pool for
distribution pro rata among the dealers, with the distribution 
based upon the number of hours each dealer has worked, except 
that the commission may, by regulation, permit a separate pool 
to be established for dealers in the game of poker, or may 
permit tips or gratuities to be retained by individual dealers 
in the game of poker.

4. Notwithstanding the provisions of subsection one, a casino 
licensee may require that a percentage of the prize pool offered 
to participants pursuant to an authorized poker tournament be 
withheld for distribution to the tournament dealers as tips or 
gratuities as the commission by regulation may approve.

1338. Limitation on certain financial access

In order to protect the public interest, the commission shall 
adopt regulations that include provisions that:

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

2. prohibit authorized automated teller machines from 
accepting electronic benefit cards, debit cards, or similar 
negotiable instruments issued by the state or political 
subdivisions for the purpose of accessing temporary public 
assistance;
3. prohibit the use of specified negotiable instruments at casino gaming facilities and the use of credit cards, debit cards, and similar devices in slot machines or at table games; 
4. prohibit consumers from cashing paychecks at video lottery facilities

1339. Credit

1. Except as otherwise provided in this section, no casino licensee or any person licensed under this article, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this article, shall:
   a. Cash any check, make any loan, or otherwise provide or allow to any person any credit or advance of anything of value or which represents value to enable any person to take part in gaming activity as a player; or
   b. Release or discharge any debt, either in whole or in part, or make any loan which represents any losses incurred by any player in gaming activity, without maintaining a written record thereof in accordance with the rules of the commission.

2. No casino licensee or any person licensed under this article, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this article, may accept a check, other than a recognized
traveler's check or other cash equivalent from any person to enable such person to take part in gaming or simulcast wagering activity as a player, or may give cash or cash equivalents in exchange for such check unless:

a. The check is made payable to the casino licensee;
b. The check is dated, but not postdated;
c. The check is presented to the cashier or the cashier's representative at a location in the casino approved by the commission and is exchanged for cash or slot tokens which total an amount equal to the amount for which the check is drawn, or the check is presented to the cashier's representative at a gaming table in exchange for chips which total an amount equal to the amount for which the check is drawn; and
d. The regulations concerning check cashing procedures are observed by the casino licensee and its employees and agents.

Nothing in this subsection shall be deemed to preclude the establishment of an account by any person with a casino licensee by a deposit of cash, recognized traveler's check or other cash equivalent, or a check which meets the requirements of subsection seven, or to preclude the withdrawal, either in whole or in part, of any amount contained in such account.

3. When a casino licensee or other person licensed under this article, or any person acting on behalf of or under any arrangement with a casino licensee or other person licensed
under this article, cashes a check in conformity with the
requirements of subsection two, the casino licensee shall cause
the deposit of such check in a bank for collection or payment,
or shall require an attorney or casino key employee with no
incompatible functions to present such check to the drawer's
bank for payment, within:

a. seven calendar days of the date of the transaction for a
check in an amount of $1,000 or less;
b. fourteen calendar days of the date of the transaction for a
check in an amount greater than $1,000 but less than or equal to
$5,000; or
c. forty-five calendar days of the date of the transaction for a
check in an amount greater than $5,000.

Notwithstanding the foregoing, the drawer of the check may
redeem the check by exchanging cash, cash equivalents, chips, or
a check which meets the requirements of subsection seven in an
amount equal to the amount for which the check is drawn; or he
may redeem the check in part by exchanging cash, cash
equivalents, chips, or a check which meets the requirements of
subsection seven and another check which meets the requirements
of subsection two for the difference between the original check
and the cash, cash equivalents, chips, or check tendered; or he
can issue one check which meets the requirements of subsection
two in an amount sufficient to redeem two or more checks drawn
to the order of the casino licensee. If there has been a partial
redemption or a consolidation in conformity with the provisions
of this subsection, the newly issued check shall be delivered to
a bank for collection or payment or presented to the drawer's
bank for payment by an attorney or casino key employee with no
incompatible functions within the period herein specified. No
casino licensee or any person licensed or registered under this
act, and no person acting on behalf of or under any arrangement
with a casino licensee or other person licensed under this act,
shall accept any check or series of checks in redemption or
consolidation of another check or checks in accordance with this
subsection for the purpose of avoiding or delaying the deposit
of a check in a bank for collection or payment or the
presentment of the check to the drawer's bank within the time
period prescribed by this subsection.

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

4. No casino licensee or any other person licensed or
registered under this article, or any other person acting on
behalf of or under any arrangement with a casino licensee or
other person licensed or registered under this article, shall
transfer, convey, or give, with or without consideration, a
check cashed in conformity with the requirements of this section
to any person other than:
a. The drawer of the check upon redemption or consolidation in
accordance with subsection three;
b. A bank for collection or payment of the check;
c. A purchaser of the casino license as approved by the
commission; or
d. An attorney or casino key employee with no incompatible
functions for presentment to the drawer's bank.

The limitation on transferability of checks imposed herein
shall apply to checks returned by any bank to the casino
licensee without full and final payment.

5. No person other than a casino key employee licensed under
this article or a casino employee registered under this article
may engage in efforts to collect upon checks that have been
returned by banks without full and final payment, except that an
attorney-at-law representing a casino licensee may bring action
for such collection.

6. Notwithstanding the provisions of any law to the contrary,
checks cashed in conformity with the requirements of this
article shall be valid instruments, enforceable at law in the
courts of this state. Any check cashed, transferred, conveyed or
given in violation of this article shall be invalid and
unenforceable for the purposes of collection but shall be
included in the calculation of gross.

7. Notwithstanding the provisions of subsection two to the
contrary, a casino licensee may accept a check from a person to
enable the person to take part in gaming activity as a player,
may give cash or cash equivalents in exchange for such a check,
or may accept a check in redemption or partial redemption of a
check issued in accordance with subsection two, provided that:
a. (1) The check is issued by a casino licensee, is made payable
to the person presenting the check, and is issued for a purpose
other than employment compensation or as payment for goods or
services rendered;
(2) The check is issued by a banking institution which is
chartered in a country other than the United States on its
account at a federally chartered or state-chartered bank and is
made payable to "cash," "bearer," a casino licensee, or the
person presenting the check;
(3) The check is issued by a banking institution which is
chartered in the United States on its account at another
federally chartered or state-chartered bank and is made payable
to "cash," "bearer," a casino licensee, or the person presenting
the check;
(4) The check is issued by a slot system operator or pursuant to an annuity jackpot guarantee as payment for winnings from a multi-casino progressive slot machine system jackpot; or

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

b. The check is identifiable in a manner approved by the commission as a check authorized for acceptance pursuant to paragraph a of this subsection;

c. The check is dated, but not postdated;

d. The check is presented to the cashier or the cashier's representative by the original payee and its validity is verified by the drawer in the case of a check drawn pursuant to subparagraph one of paragraph a of this subsection, or the check is verified in accordance with regulations promulgated under this article in the case of a check issued pursuant to subparagraphs two, three, four or five of paragraph a of this subsection; and

e. The regulations concerning check-cashing procedures are observed by the casino licensee and its employees and agents.

No casino licensee shall issue a check for the purpose of making a loan or otherwise providing or allowing any advance or credit
to a person to enable the person to take part in gaming activity as a player.

8. Notwithstanding the provisions of subsection two and subsection three to the contrary, a casino licensee may, at a location outside the casino, accept a personal check or checks from a person for up to $5,000 in exchange for cash or cash equivalents, and may, at such locations within the casino as may be permitted by the commission, accept a personal check or checks for up to $5,000 in exchange for cash, cash equivalents, tokens, chips, or plaques to enable the person to take part in gaming activity as a player, provided that:

a. The check is drawn on the patron's bank or brokerage cash management account;

b. The check is for a specific amount;

c. The check is made payable to the casino licensee;

d. The check is dated but not post-dated;

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

f. The check is restrictively endorsed "For Deposit Only" to the casino licensee's bank account and deposited on the next banking day following the date of the transaction;
g. The total amount of personal checks accepted by any one licensee pursuant to this subsection that are outstanding at any time, including the current check being submitted, does not exceed $5,000;

h. The casino licensee has a system of internal controls in place that will enable it to determine the amount of outstanding personal checks received from any patron pursuant to this subsection at any given point in time; and

i. The casino licensee maintains a record of each such transaction in accordance with regulations established by the commission.

9. A person may request the commission to put that person's name on a list of persons to whom the extension of credit by a casino as provided in this section would be prohibited by submitting to the commission the person's name, address, and date of birth. The person does not need to provide a reason for this request. The commission shall provide this list to the credit department of each casino; neither the commission nor the credit department of a casino shall divulge the names on this list to any person or entity other than those provided for in this subsection. If such a person wishes to have that person's name removed from the list, the person shall submit this request to the commission, which shall so inform the credit departments.
of casinos no later than three days after the submission of the request.

1340. Alcoholic beverages

1. Notwithstanding any law to the contrary, the authority to grant any license or permit for, or to permit or prohibit the presence of, alcoholic beverages in, on, or about any premises licensed as part of a casino facility shall exclusively be vested in the commission.

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

3. Notwithstanding any provision of the alcoholic beverage control law to the contrary, the commission shall have the functions, powers and duties of the state liquor authority but only with respect to the issuance, renewal, transfer, suspension and revocation of licenses and permits for the sale of alcoholic beverages at retail by any holder of a casino gaming facility license issued by the commission including, without limitation, the power to fine or penalize a casino alcoholic beverage licensee or permittee; to enforce all statutes, laws, rulings,
or regulations relating to such license or permit; and to
collect license and permit fees and establish application
standards therefor.

4. Except as otherwise provided in this section, the
provisions of the alcoholic beverage control law and the rules,
regulations, bulletins, orders, and advisories by the state
liquor authority shall apply to any casino gaming facility
holding a license of permit to sell alcoholic beverages under
this section.

5. Notwithstanding any provision of law to the contrary, the
commission may promulgate any regulations and special rulings
and findings as may be necessary for the proper enforcement,
regulation, and control of alcoholic beverages in casino gaming
facilities when the commission finds that the uniqueness of
casino operations and the public interest require that such
regulations, rulings, and findings are appropriate.

6. Notwithstanding any provision of law to the contrary, any
manufacturer or wholesaler licensed under the alcoholic beverage
control law may sell alcoholic beverages to a casino gaming
facility holding a license or permit to sell alcoholic beverages
issued under this section, and any casino gaming facility
holding a license or permit to sell alcoholic beverages issued
under this section may purchase alcoholic beverages from a
manufacturer or wholesaler licensed under the alcoholic beverage control law.

7. It shall be unlawful for any person, including any casino gaming facility licensee or any of its lessees, agents or employees, to expose for sale, solicit or promote the sale of, possess with intent to sell, sell, give, dispense, or otherwise transfer or dispose of alcoholic beverages in, on or about any portion of the premises of a casino hotel, unless said person possesses a casino alcoholic beverage license.

8. It shall be unlawful for any person holding a license or permit to sell alcoholic beverages under this section to expose, possess, sell, give, dispense, transfer, or otherwise dispose of alcoholic beverages, other than within the terms and conditions of such license or permit, the provisions of the alcoholic beverage control law, the rules and regulations promulgated by the alcoholic beverage control division, and, when applicable, the regulations promulgated pursuant to this article.

Notwithstanding any other provision of law to the contrary, the holder of a license or permit issued under this section may be authorized to provide complimentary alcoholic beverages under regulations issued by the commission.

9. In issuing a casino alcoholic beverage license or permit the commission shall describe the scope of the particular license or permit and the restrictions and limitations thereon
as it deems necessary and reasonable. The commission may, in a
casino alcoholic beverage license, permit the holder of
such a license to perform any or all of the following
activities, subject to applicable laws, rules and regulations:
a. To sell any alcoholic beverage by the glass or other open
receptacle including, but not limited to, an original container,
for on-premise consumption within a casino facility; provided,
however, that no alcoholic beverage shall be sold or given for
consumption; delivered or otherwise brought to a patron; or
consumed at a gaming table unless so requested by the patron.
b. To sell any alcoholic beverage by the glass or other open
receptacle for on-premise consumption within a casino hotel, but
not in a casino facility, or from a fixed location outside a
building or structure containing a casino but on a casino hotel
premises.
c. To sell any alcoholic beverage by the glass or other open
receptacle or in original containers from a room service
location within an enclosed room not in a casino facility;
provided, however, that any sale of alcoholic beverages is
delivered only to a guest room or to any other room in the
casino hotel authorized by the commission, other than any room
authorized by the commission pursuant to paragraphs a, c, or e.
of this subsection.
d. To possess or to store alcoholic beverages in original containers intended but not actually exposed for sale at a fixed location on a casino hotel premises, not in a casino facility; and to transfer or deliver such alcoholic beverages only to a location approved pursuant to this section; provided, however, that no access to or from a storage location shall be permitted except during the normal course of business by employees or agents of the licensee, or by licensed employees or agents of wholesalers or distributors licensed pursuant to the alcoholic beverage control law and any applicable rules and regulations; and provided further, however, that no provision of this section shall be construed to prohibit a casino alcoholic beverage licensee from obtaining an off-site storage license from the alcoholic beverage control division.

10. The commission may revoke, suspend, refuse to renew or refuse to transfer any casino alcoholic beverage license or permit, and may fine or penalize the holder of any alcoholic beverage license or permit issued under this section for violations of any provision of the alcoholic beverage control law, the rules and regulations promulgated by the state liquor authority, and the regulations promulgated by the commission.

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

1341. **Licensee leases and contracts**

1. Unless otherwise provided in this subsection, no agreement
shall be lawful which provides for the payment, however defined,
of any direct or indirect interest, percentage or share of: any
money or property gambled at a casino facility; any money or
property derived from casino gaming activity; or any revenues,
profits or earnings of a casino facility. Notwithstanding the
foregoing:

a. Agreements which provide only for the payment of a fixed sum
which is in no way affected by the amount of any such money,
property, revenues, profits or earnings shall not be subject to
the provisions of this subsection; and receipts, rentals or
charges for real property, personal property or services shall
not lose their character as payments of a fixed sum because of
contract, lease, or license provisions for adjustments in
charges, rentals or fees on account of changes in taxes or
assessments, cost-of-living index escalations, expansion or
improvement of facilities, or changes in services supplied.

b. Agreements between a casino licensee and a junket enterprise
or junket representative licensed, qualified or registered in
accordance with the provisions this article and the regulations
of the commission which provide for the compensation of the
junket enterprise or junket representative by the casino
licensee based upon the actual casino gaming activities of a
patron procured or referred by the junket enterprise or junket
representative shall be lawful if filed with the commission
prior to the conduct of any junket that is governed by the
agreement.
c. Agreements between a casino licensee and its employees which
provide for casino employee or casino key employee profit
sharing shall be lawful if the agreement is in writing and filed
with the commission prior to its effective date. Such agreements
may be reviewed by the commission.
d. Agreements to lease an approved casino hotel or the land
thereunder and agreements for the complete management of all
casino gaming operations in a casino hotel shall not be subject
to the provisions of this subsection.
e. Agreements which provide for percentage charges between the
casino licensee and a holding company or intermediary company of
the casino licensee shall be in writing and filed with the
commission but shall not be subject to the provisions of this
subsection.
f. Written agreements relating to the operation of multi-casino
or multi-state progressive slot machine systems between one or
more casino licensees and a licensed casino vendor enterprise or
an eligible applicant for such license, which provide for an
interest, percentage or share of the casino licensee's revenues,
profits or earnings from the operation of such multi-casino or
multi-state progressive slot machines to be paid to the casino
vendor enterprise licensee or applicant shall not be subject to
the provisions of this subsection if the agreements are filed
with and approved by the commission.

2. Each casino applicant or licensee shall maintain, in
accordance with the rules of the commission, a record of each
written or unwritten agreement regarding the realty,
construction, maintenance, or business of a proposed or existing
casino hotel or related facility. The foregoing obligation shall
apply regardless of whether the casino applicant or licensee is
a party to the agreement. Any such agreement may be reviewed by
the commission on the basis of the reasonableness of its terms,
including the terms of compensation, and of the qualifications
of the owners, officers, employees, and directors of any
enterprise involved in the agreement, which qualifications shall
be reviewed according to the standards enumerated in section one
thousand three hundred twenty-four. If the commission
disapproves such an agreement or the owners, officers,
employees, or directors of any enterprise involved therein, the
commission may require its termination.
Every agreement required to be maintained, and every related agreement the performance of which is dependent upon the performance of any such agreement, shall be deemed to include a provision to the effect that, if the commission shall require termination of an agreement, such termination shall occur without liability on the part of the casino applicant or licensee or any qualified party to the agreement or any related agreement. Failure expressly to include such a provision in the agreement shall not constitute a defense in any action brought to terminate the agreement. If the agreement is not maintained or presented to the commission in accordance with commission regulations, or the disapproved agreement is not terminated, the commission may pursue any remedy or combination of remedies provided in this article.

For the purposes of this subsection, "casino applicant" includes any person required to hold a casino license who has applied to the commission for a casino license or any approval required.

3. Nothing in this article shall be deemed to permit the transfer of any license, or any interest in any license, or any certificate of compliance or any commitment or reservation.

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

a. Who are career or professional offenders as defined by regulations promulgated hereunder;

b. Who have been convicted of a criminal offense under the laws of any state or of the United States, which is punishable by more than twelve months in prison, or any crime or offense involving moral turpitude; or

The commission shall promulgate definitions establishing those categories of persons who shall be excluded pursuant to this section, including cheats and persons whose privileges for licensure or registration have been revoked.

2. Race, color, creed, national origin or ancestry, or sex shall not be a reason for placing the name of any person upon such list.

3. The commission may impose sanctions upon a licensed casino or individual licensee or registrant in accordance with the provisions of this article if such casino or individual licensee or registrant knowingly fails to exclude or eject from the premises of any licensed casino any person placed by the commission on the list of persons to be excluded or ejected.
4. Any list compiled by the commission of persons to be excluded or ejected shall not be deemed an all-inclusive list, and licensed casino facilities shall have a duty to keep from their premises persons known to them to be within the classifications declared in subsections one and two and the regulations promulgated thereunder, or known to them to be persons whose presence in a licensed casino hotel would be inimical to the interest of the state or of licensed gaming therein, or both, as defined in standards established by the commission.

5. Prior to placing the name of any person on a list pursuant to this section, the commission shall serve notice of such fact to such person by personal service, by certified mail at the last known address of such person, or by publication daily for one week in a newspaper of general circulation and upon the commission website.

6. Within thirty days after service of the petition in accordance with subsection five, the person named for exclusion or ejection may demand a hearing before the executive director or the executive director’s designee, at which hearing the executive director or the director’s designee shall have the affirmative obligation to demonstrate by a preponderance of the evidence that the person named for exclusion or ejection satisfies the criteria for exclusion established by this section.
and the applicable regulations. Failure to demand such a
hearing within thirty days after service shall be deemed an
admission of all matters and facts alleged in the executive
director's petition and shall preclude a person from having an
administrative hearing, but shall in no way affect his or her
right to judicial review as provided herein.

7. The commission may make a preliminary placement on the
list of a person named in a petition for exclusion or ejection
pending completion of a hearing on the petition. The hearing on
the application for preliminary placement shall be a limited
proceeding at which the commission shall have the affirmative
obligation to demonstrate that there is a reasonable possibility
that the person satisfies the criteria for exclusion established
by this section and the applicable regulations. If a person has
been placed on the list as a result of an application for
preliminary placement, unless otherwise agreed by the director
and the named person, a hearing on the petition for exclusion or
ejection shall be initiated within thirty days after the receipt
of a demand for such hearing or the date of preliminary
placement on the list, whichever is later.

8. If, upon completion of the hearing on the petition for
exclusion or ejection, the executive director determines that
the person named therein does not satisfy the criteria for
exclusion established by this section and the applicable
regulations, the executive director shall issue an order denying
the petition. If the person named in the petition for exclusion
or ejection had been placed on the list as a result of an
application for preliminary placement, the executive director
shall notify all casino licensees of the person's removal from
the list.

9. If, upon completion of a hearing on the petition for
exclusion or ejection, the executive director determines that
placement of the name of the person on the exclusion list is
appropriate, the executive director shall make and enter an
order to that effect, which order shall be served on all casino
licensees. Such order shall be subject to review by the
commission in accordance with regulations promulgated
thereunder, which final decision shall be subject to review by
the supreme court in accordance with the rules of court.

1343. Exclusion, ejection of certain persons

1. A casino licensee may exclude or eject from its casino
facility any person who is known to it to have been convicted of
a crime, disorderly persons offense, or petty disorderly persons
offense committed in or on the premises of any casino facility.

2. Nothing in this section or in any other law of this state
shall limit the right of a casino licensee to exercise its
common law right to exclude or eject permanently from its casino
facility any person who disrupts the operations of its premises, threatens the security of its premises or its occupants, or is disorderly or intoxicated.

1344. List of persons self-excluded from gaming activities

1. The commission shall provide by regulation for the establishment of a list of persons self-excluded from gaming activities at all licensed casinos. Any person may request placement on the list of self-excluded persons by acknowledging in a manner to be established by the commission that the person is a problem gambler and by agreeing that, during any period of voluntary exclusion, the person may not collect any winnings or recover any losses resulting from any gaming activity at such casino facilities.

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

3. A licensed casino facility or employee thereof shall not
be liable to any self-excluded person or to any other party in
any judicial proceeding for any harm, monetary or otherwise,
which may arise as a result of:

a. the failure of a licensed casino facility to withhold gaming
privileges from, or restore gaming privileges to, a self-
excluded person; or

b. otherwise permitting a self-excluded person to engage in
gaming activity in such licensed casino facility while on the
list of self-excluded persons.

4. Notwithstanding any other law to the contrary, the
commission’s list of self-excluded persons shall not be open to
public inspection. Nothing herein, however, shall be construed
to prohibit a casino licensee from disclosing the identity of
persons self-excluded pursuant to this section to affiliated
gaming entities in this state or other jurisdictions for the
limited purpose of assisting in the proper administration of
responsible gaming programs operated by such gaming affiliated
entities.

5. A licensed casino facility or employee thereof shall not
be liable to any self-excluded person or to any other party in
any judicial proceeding for any harm, monetary or otherwise,
which may arise as a result of disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of the identity of any self-excluded person.

1345. Excluded person; forfeiture of winnings; other sanctions

1. A person who is prohibited from gaming in a licensed casino facility by any order of the executive director, commission or court of competent jurisdiction, including any person on the self-exclusion list pursuant to subsection one of section one thousand three hundred forty-four, shall not collect, in any manner or proceeding, any winnings or recover any losses arising as a result of any prohibited gaming activity.

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

3. In addition to any other penalty provided by law, any money or thing of value which has been obtained by, or is owed to, any prohibited person by a licensed casino facility as a result of wagers made by a prohibited person shall be subject to

125
forfeiture following notice to the prohibited person and
opportunity to be heard. A licensed casino facility shall
inform a prohibited person of the availability of such notice on
the commission's website when ejecting the prohibited person and
seizing any chips, vouchers or other representative of money
owed by a casino to the prohibited person as authorized by this
subsection.

All forfeited amounts shall be deposited into the
commercial gaming revenue fund.

4. In any proceeding brought by the commission against a
licensee or registrant for a willful violation of the
commission's self-exclusion regulations, the commission may
order, in addition to any other sanction authorized, the
forfeiture of any money or thing of value obtained by the
licensee or registrant from any self-excluded person. Any
money or thing of value so forfeited shall be disposed of in the
same manner as any money or thing of value forfeited pursuant to
subsection three.

1346. Labor peace agreements for certain facilities

1. Definitions. As used in this section:
a. "Gaming facility" means any casino gaming facility, or a
video lottery gaming facility as may be authorized by
subdivision three of paragraph a of section one thousand sixteen
a of the tax law, as amended by section nineteen of this
chapter, licensed by the commission. A gaming facility or
operation shall not include any horse racing, bingo or
charitable games of chance, the state lottery for education, or
any gaming facility operating pursuant to the federal Indian
facility or operation shall include any hospitality operation at
or related to the gaming facility.

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

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

d. "Proprietary interest" means an economic and non-regulatory
interest at risk in the financial success of the gaming facility
that could be adversely affected by labor-management conflict,
including but not limited to property interests, financial
investments and revenue sharing.

2. Legislative findings. The state legislature finds that
the gaming industry constitutes a vital sector of New York’s
overall economy and that the state through its operation of
lotteries and video lottery facilities and through its ownership of the properties utilized for horse racing by The New York Racing Association Inc. has a significant and ongoing economic and non-regulatory interest in the financial viability and competitiveness of the gaming industry. The state legislature further finds that the award or grant of a license by the commission to operate a gaming facility is a significant state action and that the commission must make prudent and efficient decisions to maximize the benefits and minimize the risks of gaming. The state legislature further recognizes that casino gaming industry integration can provide a vital economic engine to assist, nurture, develop, and promote regional economic development, the state tourism industry and the growth of jobs in the state. Additionally, the state legislature also finds revenues derived directly by the state from such gaming activity will be shared from gross gaming receipts, after payout of prizes but prior to deductions for operational expenses. Therefore, the state legislature finds that the state has a substantial and compelling proprietary interest in any license awarded for the operation of a gaming facility within the state.

3. Requirements. The commission shall require any applicant for a gaming facility license who has not yet entered into a labor peace agreement to produce an affidavit stating it shall enter into a labor peace agreement with labor organizations that
are actively engaged in representing or attempting to represent

gaming or hospitality industry workers in the state. In order

for the commission to issue a gaming facility license and for

operations to commence, the applicant for a gaming facility

license must produce documentation that it has entered into a

labor peace agreement with each labor organization that is

actively engaged in representing and attempting to represent

gaming and hospitality industry workers in the state. The

commission shall make the maintenance of such a labor peace

agreement an ongoing material condition of licensure.

A license holder shall, as a condition of its license, ensure

that operations at the gaming facility that are conducted by

contractors, subcontractors, licensees, assignees, tenants or

subtenants and that involve gaming or hospitality industry

employees shall be done under a labor peace agreement containing

the same provisions as specified above.

4. Construction for each capital project undertaken by a

gaming facility shall be deemed a "public work" to be performed

in accordance with the provisions of article eight of the labor

law, as well as subject to sections two hundred, two hundred

forty, two hundred forty-one and two hundred forty-two of the

labor law and enforcement of prevailing wage requirements by the

New York state department of labor.
5. If otherwise applicable, capital projects undertaken by a gaming facility shall be subject to section one hundred thirty-five of the state finance law and section two hundred twenty-two of the labor law.

6. Project labor agreements. 1. For the purposes of this section, "project labor agreement" shall mean a pre-hire collective bargaining agreement between a gaming facility or contractor thereof and the N.Y.S. Building and Construction Trades Council and/or a subdivision thereof, determined by the commission as representing the largest number of employees likely to work on the project, establishing the labor organization as the collective bargaining representative for all persons who will perform work on the project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform project work.

a. The commission shall require a gaming facility or contractor thereof awarded a contract, subcontract, lease, grant, bond, covenant or other agreement for a project to enter into a project labor agreement during and for the work involved with such project when such requirement is part of the gaming facility project, but only if the commission determines that the record supporting the decision to enter into such an agreement establishes that the interests of the State are best met by
requiring a project labor agreement including: obtaining the best work at the lowest possible price; preventing favoritism, fraud and corruption; the impact of delay; the possibility of cost savings; and any local history of labor unrest.
b. Any contract to which the gaming facility is a party, and any contract entered into by a third party acting in place of, on behalf of and for the benefit of the gaming facility pursuant to any lease, permit or other agreement between such third party and the gaming facility, for the construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement, of a project undertaken pursuant to this chapter, shall be subject to all of the provisions of article eight of the labor law, including the enforcement of prevailing wage requirements by the fiscal officer as defined in paragraph e of subdivision five of section two hundred twenty of the labor law to the same extent as a contract of the state, and shall be deemed public work for purposes of such article.
c. Every contract entered into by the gaming facility for a project shall contain a provision that the contractor shall furnish a labor and material bond guaranteeing prompt payment of moneys that are due to all persons furnishing labor and materials pursuant to the requirements of any contracts for a project undertaken pursuant to this section and a performance bond for the faithful performance of the project, which shall
conform to the provisions of section one hundred three-f of the
general municipal law, and that a copy of such performance and
payment bonds shall be kept by the commission and shall be open
to public inspection.

d. For the purposes of article fifteen-A of the executive law,
any person entering into a contract for a project authorized
pursuant to this section shall be deemed a state agency as that
term is defined in such article and such contracts shall be
deemed state contracts within the meaning of that term as set
forth in such article.

e. Whenever a gaming facility enters into a contract,
subcontract, lease, grant, bond, covenant or other agreement for
construction, reconstruction, demolition, excavation,
rehabilitation, repair, renovation, alteration, or improvement
with respect to each project undertaken pursuant to this
chapter, the commission shall consider the financial and
organizational capacity of contractors and subcontractors in
relation to the magnitude of work they may perform, the record
of performance of contractors and subcontractors on previous
work, the record of contractors and subcontractors in complying
with existing labor standards and maintaining harmonious labor
relations, and the commitment of contractors to work with
minority and women owned business enterprises pursuant to
article fifteen-A of the executive law through joint ventures or subcontractor relationships.

f. The commission shall further require, on any contract for construction in excess of three million dollars with respect to any contract for construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement that each contractor and subcontractor shall participate in apprentice training programs in the trades of work it employs that have been approved by the department of labor for not less than three years. The commission shall further require that each contractor and subcontractor shall have graduated at least one apprentice in the last three years and shall have at least one apprentice currently enrolled in such training program. Additionally it must be demonstrated that the program has made significant efforts to attract and retain minority apprentices, as determined by affirmative action goals established for such programs by the department of labor.

1347. Prohibition of political contributions from gaming licensees and applicants

1. Legislative findings and purpose. The state legislature has a compelling interest in protecting the integrity of both the electoral process and the legislative process by preventing corruption and the appearance of corruption which may arise
through permitting certain political campaign contributions by certain persons involved in the gaming industry and regulated by the state. Unlike most other regulated industries, gaming is especially susceptible to corruption and potential criminal influence. It is imperative to eliminate any potential corrupt influence in the gaming industry and the electoral process.

Banning political campaign contributions by certain persons subject to this section to state officeholders and candidates for such offices and to county and municipal officeholders and candidates for such offices in counties and municipalities that receive direct financial benefits from gaming activities is necessary to prevent corruption and the appearance of corruption that may arise when political campaign contributions and gaming that is regulated by the state and that confers benefits on counties and municipalities are intermingled.

2. Definitions. As used in this section:

a. "Affiliated entity" means (i) any corporate parent and operating subsidiary of the business entity applying for or holding a license, (ii) each operating subsidiary of the corporate parent of the business entity applying for or holding a license, (iii) any organization recognized by the United States Internal Revenue Service as a tax-exempt organization described in Section 501(c) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law) established by
one or more business entities seeking or holding a license, any affiliated entity of such business entity, or any affiliated person of such business entity, and (iv) any political committee for which the business entity applying for or holding a license, or any 501(c) organization described in item (iii) related to that business entity. For purposes of item (iv), the funding of all business entities applying for or holding a license shall be aggregated in determining whether such political committee is an affiliated entity.

b. "Affiliated person" means (i) any person with any ownership interest or distributive share in excess of seven and one-half percent of any business entity applying for or holding a license, (ii) executive employees of any such business entity, (iii) any person designated as a key person pursuant to article thirteen, and (iv) the spouse of the persons described in items (i) through (iii).

c. "Business entity" means any entity doing business for profit, whether organized as a corporation, partnership, sole proprietorship, limited liability company, or partnership or otherwise.

d. "Contribution" means a contribution as defined in New York state elections law section 14-100.9.

e. "Declared candidate" means a person who has filed a statement of candidacy and petition for nomination or election in the
principal office of the state board of elections, or in the
office of the appropriate election authority for any host
municipality or county in which as casino gaming facility is
located or proposed to be located.

f. "Executive employee" means (i) any person who is an officer
or director or who fulfills duties equivalent to those of an
officer or director of a business entity applying for or holding
a license and (ii) any employee of such business entity who is
required to register under the state lobbying act.

g. "License" means the casino gaming license issued pursuant to
this article.

h. "Officeholder" means the Governor, Lieutenant Governor,
Attorney General, Comptroller, member of the Assembly or Senate,
or any officeholder in any host municipality or county in which
as casino gaming facility is located or proposed to be located.

3. Prohibition.
a. Any person or business entity applying for or holding a
license, any affiliated entities or persons of such business
entity, and any entities or persons soliciting a contribution or
causing a contribution to be made on behalf of such person or
business entity, are prohibited from making any contribution to
any officeholder or declared candidate or any political
committee affiliated with any officeholder or declared
candidate.
b. This prohibition shall commence upon filing of an
application for a license and shall continue for a period of two
years after termination, suspension or revocation of the
license.

c. The commission shall have authority to suspend, revoke, or
restrict the license and to impose civil penalties of up to
$100,000 for each violation of this subsection.

d. A notice of each such violation and the penalty imposed
shall be published on the commission’s Internet website and in
the State Register. Payments received by the state pursuant to
this subsection shall be deposited into the commercial gaming
revenue fund.

e. Any officeholder or declared candidate or any political
committee affiliated with any officeholder or declared candidate
that has received a contribution in violation of this subsection
shall pay an amount equal to the value of the contribution to
the state no more than thirty days after notice of the violation
concerning the contribution appears in the State Register.

Payments received by the state pursuant to this subsection shall
be deposited into the General Revenue Fund.

4. The commission shall post on its Internet website a list
of all persons, business entities, and affiliated entities
prohibited from making contributions to any officeholder or
declared candidate political committee pursuant to subsection
three, which list shall be updated and published, at a minimum, every six months.

Any person, business entity, or affiliated entity prohibited from making contributions to any officeholder or declared candidate political committee pursuant to subsection three shall notify the commission within seven days after discovering any necessary change or addition to the information relating to that person, business entity, or affiliated entity contained in the list. An individual who acts in good faith and in reliance on any information contained in the list shall not be subject to any penalties or liability imposed for a violation of this section.

5. If any provision of this section is held invalid or its application to any person or circumstance is held invalid, the invalidity of that provision or application does not affect the other provisions or applications of this section that can be given effect without the invalid application or provision.

TAXATION AND FEES

1348. **Machine and table fees.** In addition to any other tax or fee imposed by this article, there shall be imposed an annual license fee of $500 for each slot machine and table approved by the commission for use by a gaming licensee at a gaming
facility; provided, however, that not sooner than five years
after award of an original gaming license, the commission may
annually adjust the fee for inflation. The fee shall be imposed
as of July 1 of each year for all approved slot machines and
tables on that date and shall be assessed on a pro rata basis
for any slot machine or table approved for use thereafter.

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

1349. Regulatory investigatory fees. The commission shall
establish fees for any investigation into a violation of this
article or regulation promulgated hereunder by a gaming licensee
to be paid by the gaming licensee including, but not limited to,
billable hours by commission staff involved in the investigation
and the costs of services, equipment or other expenses that are
incurred by the commission during the investigation.

1350. Additional regulatory costs

1. Any remaining costs of the commission necessary to
maintain regulatory control over gaming facilities that are not
covered by the fees set forth in sections one thousand three
hundred forty-nine; any other fees assessed under this article;
or any other designated sources of funding, shall be assessed annually on gaming licensees under this article in proportion to the number of gaming positions at each gaming facility. Each gaming licensee shall pay the amount assessed against it within thirty days after the date of the notice of assessment from the commission.

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

1351. Tax on gross gaming revenues; permissive supplemental fee. For a casino gaming facility in zone two, there is hereby imposed a tax on gross gaming revenues in the amount of twenty-five percent. Should a licensee have agreed within its application to supplement the tax with a binding supplemental fee payment exceeding the aforementioned tax rate, such tax and supplemental fee shall apply.

1352. Commercial gaming revenue fund

1. The commission shall pay into an account, to be known as the commercial gaming revenue fund as established pursuant to state finance law section ninety-nine nnnn, under the joint
custody of the comptroller and the commissioner of the department of taxation and finance, all taxes and fees imposed by this article; any interest and penalties imposed by the commission relating to those taxes; the appropriate percentage of the value of expired gaming related obligations; all penalties levied and collected by the commission; and the appropriate funds, cash or prizes forfeited from gambling activity.

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

1353. Determination of tax liability. The commission may perform audits of the books and records of a casino licensee, at such times and intervals as it deems appropriate, for the purpose of determining the sufficiency of tax or fee payments.
If a return or deposit required with regard to obligations imposed is not filed or paid, or if a return or deposit when filed or paid is determined by the department to be incorrect or insufficient with or without an audit, the amount of tax or fee or deposit due shall be determined by the department. Notice of such determination shall be given to the licensee liable for the payment of the tax or fee or deposit. Such determination shall finally and irrevocably fix the tax or fee unless the person against whom it is assessed, within thirty days after receiving notice of such determination, shall apply to the department for a hearing in accordance with the regulations of such department.

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

1355. Distributions to the racing industry

1. If an applicant possesses a pari-mutuel wagering franchise or license awarded pursuant to articles two or three of the racing, pari-mutuel wagering and breeding law is issued a
casino gaming facility license pursuant to this article, the licensee shall:

a. Maintain payments made from video lottery gaming operations to the relevant horsemen and breeders organizations at the same dollar level realized in 2012, to be adjusted by the consumer price index for all urban consumers, as published annually by the United States department of labor statistics;

b. For any video lottery gaming facility located in a city of one million residents or more required to make payments from video lottery gaming operation to a franchise holder, continue payments to the franchise holder from slot machines in the same manner and percentage as that required with video lottery gaming;

c. All racetracks locations awarded a casino gaming facility license shall maintain racing activity and race dates, as deemed appropriate by the commission.

2. If an applicant that does not possess either a pari-mutuel wagering license or franchise awarded pursuant to articles two or three of the racing, pari-mutuel wagering and breeding law is issued a casino gaming facility license pursuant to this article, the licensee shall:

a. Devote five percent of its net revenues from slot machines to support racing activity in the following manner:
(1) three percent shall be dedicated to the nearest licensed racetrack, to be equally divided between the horsemen, for the support of purses, and the racetrack;

(2) one and one-half percent shall be dedicated to the next closest racetrack to be equally divided between the horsemen, for the support of purses, and the racetrack; and

(3) one-half of one percent shall be dedicated to and equally divided between the standardbred and thoroughbred breeding funds.

However, where either the nearest racetrack or next closest racetrack itself holds a license issued pursuant to this article, all moneys shall be dedicated to the racetracks’ horsemen for the support of purses.

b. No funds from this subdivision shall be made available to a franchised corporation or to its horsemen.

MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES

1356. Declarations. The state declares that the opportunity for full minority and women’s business enterprise participation in the casino industry is essential if social and economic parity is to be obtained by minority and women business.

1357. Definitions
As used in this article:

1. "Casino licensee" means any entity which holds or is an applicant for a casino license pursuant.

2. "Minority business enterprise" means a business that is:
   a. A sole proprietorship, owned and controlled by a minority;
   b. A partnership or joint venture owned and controlled by minorities in which at least fifty-one percent of the ownership interest is held by minorities and the management and daily business operations of which are controlled by one or more of the minorities who own it; or
   c. A corporation or other entity whose management and daily business operations are controlled by one or more minorities who own it, and which is at least fifty-one percent owned by one or more minorities, or if stock is issued, at least fifty-one percent of the stock is owned by one or more minorities.

3. "Minority" means a person who is:
   a. Black, which is a person having origins in any of the black racial groups in Africa; or
   b. Hispanic, which is a person of Spanish or Portuguese culture, with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race; or
   c. Asian American, which is a person having origins in any of the original peoples of the Far East, Southeast Asia, Indian Subcontinent, Hawaii, or the Pacific Islands; or
d. American Indian or Alaskan native, which is a person having origins in any of the original peoples of North America.

4. "Women's business enterprise" means a business that is:
   a. A sole proprietorship owned and controlled by a woman; or
   b. A partnership or joint venture owned and controlled by women in which at least fifty-one percent of the ownership is held by women and the management and daily business operations of which are controlled by one or more women who own it; or
   c. A corporation or other entity whose management and daily business operations are controlled by one or more women who own it, and which is at least fifty-one percent owned by women, or if stock is issued, at least fifty-one percent of the stock is owned by one or more women.

1358. Minority, women's business contracts

1. Notwithstanding the provisions of any law, rule or regulation to the contrary, every casino licensee shall establish goals of expending at least five percent of the dollar value of its contracts for goods and services with minority and women's business enterprises by the end of third year following the receipt of a casino license, and ten percent of the dollar value of its contracts for goods and services with minority and women's business enterprises by the end of the sixth year following the receipt of a casino license; and each such
licensee shall have a goal of expending fifteen percent of the
dollar value of its contracts for goods and services with
minority and women's business enterprises by the end of the
tenth year following the receipt of a casino license. Each
casino licensee shall be required to demonstrate annually that
the requirements of this article have been met by submitting a
report which shall include the total dollar value of contracts
awarded for goods or services and the percentage thereof awarded
to minority and women's business enterprises.

2. As used in this section, "goods and services" shall not
include:

a. utilities and taxes;

b. financing costs, such as mortgages, loans or any other type
of debt;

c. medical insurance;

d. dues and fees to any casino trade association;

e. fees and payments to a parent or affiliated company of the
casino licensee other than those that represent fees and
payments for goods and services supplied by non-affiliated
persons through an affiliated company for the use or benefit of
the casino licensee; and

f. rents paid for real property and any payments constituting
the price of an interest in real property as a result of a real
estate transaction.
3. A casino licensee shall make a good faith effort to meet the requirements of this section and shall annually demonstrate to the commission that such an effort was made.

4. A casino licensee may fulfill no more than seventy percent of its obligation or part of it under this article by requiring a vendor to set aside a portion of his contract for minority or women's business enterprises. Upon request, the licensee shall provide the commission with proof of the amount of the set-aside.

1359. Penalties for violations. If the commission determines that the requirements relating to expenditures and assignments to minority and women's business enterprises have not been met by a licensee, the commission may suspend or revoke the casino license or fine or impose appropriate conditions on the licensee, to ensure that the goals for expenditures and assignments to minority and women's business enterprises are met; except that if a determination is made that a casino licensee has failed to demonstrate compliance, a casino licensee will have ninety days from the date of the determination of noncompliance within which to comply with the provisions of those sections.
1360. Determining qualifications. A business shall qualify as a minority and women's business enterprise if it holds a certification as such issued by the Empire State Development.


PROBLEM GAMBLING

1362. Prevention and outreach efforts

1. Each casino licensee, management company, and holding company involved in the application and ownership or management of a casino facility shall provide to the commission, as applicable, an applicant's problem gambling plan. An applicant's problem gambling plan shall be approved by the commission before the commission issues or renews a license. Each plan shall at minimum include the following:

a. The goals of the plan and procedures and timetables to implement the plan;

b. The identification of the individual who will be responsible for the implementation and maintenance of the plan;

c. Policies and procedures including the following:
(1) The commitment of the applicant and the casino licensee to train appropriate employees;

(2) The duties and responsibilities of the employees designated to implement or participate in the plan;

(3) The responsibility of patrons with respect to responsible gambling;

(4) Procedures for compliance with the voluntary exclusion program;

(5) Procedures to identify patrons and employees with suspected or known problem gambling behavior, including procedures specific to loyalty and other rewards and marketing programs;

(6) Procedures for providing information to individuals regarding the voluntary exclusion program and community, public and private treatment services, gamblers anonymous programs and similar treatment or addiction therapy programs designed to prevent, treat, or monitor problem gamblers and to counsel family members;

(7) Procedures for responding to patron and employee requests for information regarding the voluntary exclusion program and community, public and private treatment services, gamblers anonymous programs and similar treatment or addiction therapy programs designed to prevent, treat, or monitor compulsive and problem gamblers and to counsel family members;
The provision of printed material to educate patrons and employees about problem gambling and to inform them about the voluntary exclusion program and treatment services available to problem gamblers and their families. The applicant shall provide examples of the materials to be used as part of its plan, including, brochures and other printed material and a description of how the material will be disseminated;

Advertising and other marketing and outreach to educate the general public about the voluntary exclusion program and problem gambling;

An employee training program, including training materials to be utilized and a plan for periodic reinforcement training and a certification process established by the applicant to verify that each employee has completed the training required by the plan;

Procedures to prevent underage gambling;

Procedures to prevent patrons impaired by drugs or alcohol, or both, from gambling; and

The plan for posting signs within the casino facility, containing information on gambling treatment and on the voluntary exclusion program. The applicant shall provide examples of the language and graphics to be used on the signs as part of its plan;
d. A list of community, public and private treatment services, gamblers anonymous programs and similar treatment or addiction therapy programs designed to prevent, treat, or monitor problem gamblers and to counsel family members; and
e. Any other information, documents, and policies and procedures that the commission requires.

2. Each applicant or casino licensee shall submit any amendments to the problem gambling plan to the commission for review and approval before implementing the amendments.

3. Each casino licensee shall submit an annual summary of its problem gambling plan to the commission.

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

1363. Advertising restrictions

1. As used in this section:

a. “advertisement” shall mean any notice or communication to the public or any information concerning the gaming-related business of a casino licensee or applicant through broadcasting, publication or any other means of dissemination, including electronic dissemination. Promotional activities are considered advertisements for purposes of this section.
b. "direct advertisement" shall mean any advertisement as described in paragraph a. that is disseminated to a specific individual or individuals.

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

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

b. Fail to clearly and conspicuously specify and state any material conditions or limiting factors;

c. Depict any person under the age of twenty-one engaging in casino gaming and related activities; or

d. Fail to designate and state the name and location of the casino facility conducting the advertisement. The location of the casino need not be included on billboards within thirty miles of the casino facility.

2. Each advertisement shall, clearly and conspicuously, state a problem gambling hotline number.

3. Each direct advertisement shall, clearly and conspicuously, describe a method or methods by which an individual may designate that the individual does not wish to receive any future direct advertisement.
a. The described method must be by at least two of the following:

(1) Telephone;

(2) Regular U.S. mail; or

(3) Electronic mail.

b. Upon receipt of an individual’s request to discontinue receipt of future advertisement, a casino licensee or applicant shall block the individual in the casino licensee’s database so as to prevent the individual from receiving future direct advertisements within fifteen days of receipt of the request.

4. Each casino licensee or applicant shall provide to the commission at its main office a complete and accurate copy of all advertisements within five business days of the advertisement’s public dissemination. Casino licensees or applicants shall discontinue the public dissemination upon receipt of notice from the commission to discontinue an advertisement.

5. A casino licensee or applicant shall maintain a complete record of all advertisements for a period of at least two years. Records shall be made available to the commission upon request.

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

1365. Conservatorship

1. Upon revocation or suspension of a casino gaming facility license or upon the failure or refusal to renew a casino gaming facility license, the commission may appoint a conservator to temporarily manage and operate the business of the gaming licensee relating to the gaming facility. Such conservator shall be a person of similar experience in the field of gaming management and, in the case of replacing a casino gaming facility licensee, shall have experience operating a gaming facility of similar caliber in another jurisdiction, and shall be in good standing in all jurisdictions in which the conservator operates a gaming facility. Upon appointment, a conservator shall agree to all licensing provisions of the former gaming licensee.

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

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

4. During the period of temporary management of the gaming facility, the commission shall initiate proceedings under this article to award a new casino gaming facility license to a qualified applicant whose gaming facility shall be located at the site of the preexisting gaming facility.

5. An applicant for a new casino gaming facility license shall be qualified for licensure under this article; provided, however, that the commission shall determine an appropriate level of investment by an applicant into the preexisting gaming facility.

6. Upon award of a new casino gaming facility license, the new casino gaming facility licensee shall pay the original licensing fee required under this article.

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

1367. Sports wagering

1. Definitions. As used in this section:

a. "Casino" means a licensed casino gaming facility at which
casino gambling is conducted pursuant to the provisions of
article thirteen of the racing, pari-mutuel wagering and
breeding law;

b. "Commission" means the commission established pursuant to
section one hundred two of the racing, pari-mutuel wagering and
breeding law;

c. "collegiate sport or athletic event" means a sport or
athletic event offered or sponsored by or played in connection
with a public or private institution that offers educational
services beyond the secondary level;

d. "operator" means a casino which has elected to operate a
sports pool;

e. "professional sport or athletic event" means an event at
which two or more persons participate in sports or athletic
events and receive compensation in excess of actual expenses for
their participation in such event;

f. "prohibited sports event" means any collegiate sport or
athletic event that takes place in New York or a sport or
athletic event in which any New York college team participates
regardless of where the event takes place;

g. "sports event" means any professional sport or athletic event
and any collegiate sport or athletic event, except a prohibited
sports event;

h. "sports pool" means the business of accepting wagers on any
sports event by any system or method of wagering; and

i. "sports wagering lounge" means an area wherein a sports pool
is operated.

2. General prohibition of sports wagering

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

3. Casino may operate sports pool

a. In addition to authorized gaming activities, a licensed
casino gaming facility may, when authorized by subdivision two
of this section, operate a sports pool upon the approval of the
commission and in accordance with the provisions of this section
and applicable regulations promulgated pursuant to this title.
The commission shall hear and decide promptly and in reasonable
order all applications for a license to operate a sports pool,
shall have the general responsibility for the implementation of
this section and shall have all other duties specified in that
section with regard to the operation of a sports pool. The
license to operate a sports pool shall be in addition to any
other license required to be issued to operate a casino gaming
facility. No license to operate a sports pool shall be issued by
the commission to any entity unless it has established its
financial stability, integrity and responsibility and its good
character, honesty and integrity.

No later than five years after the date of the issuance of a
license and every five years thereafter or within such lesser
periods as the division may direct, a licensee shall submit to
the commission such documentation or information as the
commission may by regulation require, to demonstrate to the
satisfaction of the director of the commission that the licensee
continues to meet the requirements of the law and regulations.
b. A sports pool shall be operated in a sports wagering lounge
located at a casino. The lounge shall conform to all
requirements concerning square footage, design, equipment, security measures and related matters which the commission shall by regulation prescribe.

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

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

e. An operator shall not admit into the sports wagering lounge, or accept wagers from, any person whose name appears on the exclusion list maintained by the commission pursuant to section 1344 of this article.

f. The holder of a license to operate a sports pool may contract with an entity to conduct that operation, in accordance with the regulations of the commission. That entity shall obtain a license as a casino vendor enterprise prior to the execution of any such contract, and such license shall be issued pursuant to the provisions of section one thousand three hundred twenty-seven and in accordance with the regulations promulgated by the commission.
g. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

4. Employees, licensed, registered.

a. All persons employed directly in wagering-related activities conducted within a sports wagering lounge shall be licensed as a casino key employee or registered as a casino employee, as determined by the commission. All other employees who are working in the sports wagering lounge may be required to be registered, if appropriate, in accordance with regulations of the commission.

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

5. Authority of commission to regulate

a. Except as otherwise provided by this act, the commission shall have the authority to regulate sports pools and the conduct of sports wagering under this act to the same extent that the commission regulates other casino games. No casino
shall be authorized to operate a sports pool unless it has produced information, documentation, and assurances concerning its financial background and resources, including cash reserves, that are sufficient to demonstrate that it has the financial stability, integrity, and responsibility to operate a sports pool. In developing rules and regulations applicable to sports wagering, the commission shall examine the regulations implemented in other states where sports wagering is conducted and shall, as far as practicable, adopt a similar regulatory framework. The commission shall promulgate regulations necessary to carry out the provisions of this section, including, but not limited to, regulations governing the:

(1) amount of cash reserves to be maintained by operators to cover winning wagers;

(2) acceptance of wagers on a series of sports events;

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

(4) type of wagering tickets which may be used;

(5) method of issuing tickets;

(6) method of accounting to be used by operators;

(7) types of records which shall be kept;
(8) use of credit and checks by patrons;

(9) type of system for wagering; and

(10) protections for a person placing a wager.

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

GAMING INSPECTOR GENERAL

1368. Establishment of the office of gaming inspector general. There is hereby created within the commission the office of gaming inspector general. The head of the office shall be the gaming inspector general who shall be appointed by the governor by and with the advice and consent of the senate. The inspector shall serve at the pleasure of the governor. The inspector shall
report directly to the governor. The person appointed as
inspector shall, upon his or her appointment, have not less than
ten years professional experience in law, investigation, or
auditing. The inspector shall be compensated within the limits
of funds available therefor, provided, however, such salary
shall be no less than the salaries of certain state officers
holding the positions indicated in paragraph a of subdivision
one of section one hundred sixty-nine of the executive law.

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

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

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

3. determine with respect to such allegations whether
disciplinary action, civil or criminal prosecution, or further
investigation by an appropriate federal, state or local agency
is warranted, and to assist in such investigations;
4. prepare and release to the public written reports of such
investigations, as appropriate and to the extent permitted by
law, subject to redaction to protect the confidentiality of
witnesses. The release of all or portions of such reports may be
defered to protect the confidentiality of ongoing
investigations;

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

6. recommend remedial action to prevent or eliminate
corruption, fraud, criminal activity, conflicts of interest or
abuse in the commission;

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

1370. Powers

The state gaming inspector general shall have the power to:

1. subpoena and enforce the attendance of witnesses;

2. administer oaths or affirmations and examine witnesses
under oath;
3. require the production of any books and papers deemed relevant or material to any investigation, examination or review;
4. notwithstanding any law to the contrary, examine and copy or remove documents or records of any kind prepared, maintained or held by the commission;
5. require any commission officer or employee to answer questions concerning any matter related to the performance of his or her official duties. No statement or other evidence derived therefrom may be used against such officer or employee in any subsequent criminal prosecution other than for perjury or contempt arising from such testimony. The refusal of any officer or employee to answer questions shall be cause for removal from office or employment or other appropriate penalty;
6. monitor the implementation by the commission of any recommendations made by state inspector general;
7. perform any other functions that are necessary or appropriate to fulfill the duties and responsibilities of office.

1371. Responsibilities of the commission and its officers and employees

1. Every commission officer or employee shall report promptly to the state gaming inspector general any information concerning
corruption, fraud, criminal activity, conflicts of interest or abuse by another state officer or employee relating to his or her office or employment, or by a person having business dealings with the commission relating to those dealings. The knowing failure of any officer or employee to so report shall be cause for removal from office or employment or other appropriate penalty. Any officer or employee who acts pursuant to this subdivision by reporting to the state gaming inspector general improper governmental action as defined in section seventy-five-b of the civil service law shall not be subject to dismissal, discipline or other adverse personnel action.

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

$3. Section 225.00 of the penal law is amended by adding nineteen new subdivisions to read as follows:

13. “Authorized gaming establishment” means any structure, structure and adjacent or attached structure, or grounds adjacent to a structure in which casino gaming, conducted pursuant to article thirteen of the racing, pari-mutuel wagering and breeding law, or Class III gaming, as authorized pursuant to
a compact reached between the State of New York and a federally
recognized Indian nation or tribe under the federal Indian
Gaming Regulatory Act of 1988, is conducted on nation or tribal
lands and shall include all public and non-public areas of any
such building, except for such areas of a building where either
Class I or II gaming are conducted or any building or grounds
known as a video gaming entertainment facility, including
facilities where food and drink are served, as well as those
areas not normally open to the public, such as where records
related to video lottery gaming operations are kept, except
shall not include the racetracks or such areas where such video
lottery gaming operations or facilities do not take place or
exist, such as racetrack areas or fairgrounds which are wholly
unrelated to video lottery gaming operations, pursuant to Part

14. “Authorized gaming operator” means an enterprise or
business entity authorized by state or federal law to operate
casino or video lottery gaming.

15. “Casino gaming” means games authorized to be played
pursuant to a license granted under article thirteen of the
racing, pari-mutuel wagering and breeding law or by federally
recognized Indian nations or tribes pursuant to a valid gaming
compact reached in accordance with the federal Indian Gaming

16. "Cheating" means to alter the elements of chance, method of selection or criteria which determine the result or outcome of a game or the amount or frequency of payment in a game.

17. "Cash Equivalent" means a Treasury check, a travelers check, wire transfer of funds, transfer check, money order, certified check, cashier's check, payroll check, a check drawn on the account of the authorized gaming operator payable to the patron or to the authorized gaming establishment, a promotional coupon, promotional chip, promotional cheque, promotional token, or a voucher recording cash drawn against a credit card or charge card;

18. "Cheques" or "Chips" or "Tokens" means nonmetal, metal, or partly metal representatives of value, redeemable for cash or cash equivalent, and issued and sold by an authorized casino operator for use at an authorized gaming establishment. The value of such cheques or chips or tokens shall be considered equivalent in value to the cash or cash equivalent exchanged for such cheques or chips or tokens upon purchase or redemption.

19. "Class I gaming" and "Class II gaming" means those forms of gaming that are not Class III gaming, as defined in subsections eight of section four of the federal Indian Gaming
Regulatory Act, 25 U.S.C. § 2703 and subsection 8 of this section.

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


22. "Gaming activity" means any gambling activity, whether lawful or otherwise.

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

24. "Gaming regulatory authority" means, with respect to any authorized gaming establishment on Indian lands, territory or reservation, the Indian nation or tribal gaming commission, its authorized officers, agents and representatives acting in their official capacities or such other agency of a nation or tribe as the nation or tribe may designate as the agency responsible for
the regulation of Class III gaming, jointly with the State
gaming agency, conducted pursuant to a gaming compact between
the nation or tribe and the State of New York, or with respect
to any casino gaming authorized pursuant to article thirteen of
the racing, pari-mutuel wagering and breeding law or video
lottery gaming conducted pursuant to Part C, Chapter 383, Laws
of 2001, as amended and implemented.

25. "Premises" includes any structure, parking lot, building,
vehicle, watercraft, and any real property.

26. "Sell" means to sell, exchange, give or dispose of to
another, or to offer or agree to do the same.

27. "State gaming agency" shall mean the New York state
gaming commission, its authorized officials, agents, and
representatives acting in their official capacities as the
regulatory agency of the State which has responsibility for
regulation with respect to video lottery gaming or casino
gaming.

28. "Unfair gaming equipment" means loaded dice, marked
cards, substituted cards or dice, fixed roulette wheels, visual
devices, or any other device or equipment not in use at the
outset of the contest of chance or not permitted by the rules of
the gaming activity.

29. "Unlawful gaming property" means:
(a) any device, not prescribed for use in the gaming activity by
its rules, which is capable of assisting a player
(i) to calculate any probabilities material to the outcome of a
contest of chance or
(ii) to receive or transmit information material to the outcome
a contest of chance;
(b) any object or article which, by virtue of its size, shape or
any other quality, is capable of being used in a gaming activity
as an improper substitute for a genuine chip, cheque, token,
betting coupon, debit instrument, voucher or other instrument or
indicia of value; or
(c) any unfair gaming equipment.

30. "Video lottery gaming" means any lottery game played on a
video lottery terminal, which consists of multiple players
competing for a chance to win a random drawn prize pursuant to
31. "Voucher" means an instrument of value generated by a
video lottery terminal representing a monetary amount and/or
play value owed to a customer at a specific video lottery
terminal based on video lottery gaming winnings and/or amounts
not wagered.

$4. Article 225 of the penal law is amended by adding twelve
new sections, to read as follows:
225.55  **Gaming fraud in the second degree**

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

1. commits a gaming fraud with intent to defraud and in violation of the rules of the gaming activity, misrepresents, changes or attempts to change the amount bet or wagered on, or the outcome or possible outcome of the contest or event which is the subject of the bet or wager, or the amount or frequency of payment in the gaming activity; or

2. with intent to defraud, obtains or attempts to obtain anything of value from a gaming activity without having won such amount by a bet or wager contingent thereon.

225.60  **Gaming fraud in the first degree**

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

1. The value of the gaming fraud exceeds one thousand dollars; or

2. He or she concurrently uses or possesses unfair gaming property; or

3. He or she has been previously convicted within the preceding five years of any offense of which an essential element is the commission of a gaming fraud.
Gaming fraud in the first degree is a class E felony.

225.65 Use of counterfeit, unapproved or unlawful wagering instruments

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

Possession of more than one counterfeit, unapproved or unlawful wagering instrument described in this section is presumptive evidence of possession thereof with knowledge of its character or contents.

Use of counterfeit, unapproved or unlawful wagering instruments is a class D felony.

225.70 Possession of unlawful gaming property in the third degree
A person is guilty of possession of unlawful gaming property in the third degree when he or she knowingly possesses unlawful gaming property at a premises being used for gaming activity.

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

225.75 Possession of unlawful gaming property in the second degree

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

1. He or she possesses, with intent to use, unlawful gaming property at a premises being used for gaming activity; or

2. He or she makes, sells, or possesses with intent to sell, any unlawful gaming property, with intent that it be made available to a person for unlawful use; or

3. He or she knowingly possesses unlawful gaming property and the face value of the improper substitute property exceeds one hundred dollars; or

4. He or she commits the offense of possession of unlawful gaming property in the third degree and has been previously convicted within the preceding five years of any offense of which an essential element is possession of unlawful gaming property.
Possession of unlawful gaming property in the second degree is a class E felony.

225.80 Possession of unlawful gaming property in the first degree

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

1. He or she knowingly possesses unlawful gaming property and the face value of the improper substitute property exceeds five hundred dollars; or

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

Possession of unlawful gaming property in the second degree is a class D felony.

225.85 Use of unlawful gaming property

A person is guilty of use of unlawful gaming property when he or she knowingly uses unlawful gaming property at a premises being used for gaming activity.

Use of unlawful gaming property is a class D felony.
225.90 Manipulation of gaming outcomes at an authorized gaming establishment

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

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

2. Knowingly uses, conducts, operates, deals, or exposes for play, or knowingly allows to be used, conducted, operated, dealt or exposed for play any cards, dice or gaming equipment or device, or any combination of gaming equipment or devices, which have in any manner been altered, marked or tampered with, or placed in a condition, or operated in a manner, the result of which tends to deceive or tends to alter the elements of chance or normal random selection which determine the result of the game or outcome, or the amount or frequency of the payment in a game; or
3. Knowingly uses, or possesses with the intent to use, any cards, dice or other gaming equipment or devices other than that provided by an authorized gaming operator for current use in a permitted gaming activity.

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

Possession of altered, marked or tampered with dice, cards, or gaming equipment or devices at an authorized gambling establishment is presumptive evidence of possession thereof with knowledge of its character or contents and intention to use such altered, marked or tampered with dice, cards, or gaming equipment or devices in violation of this section.

Manipulation of gaming outcomes at an authorized gaming establishment is a class E felony.

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

A person is guilty of unlawful manufacture, sale, distribution, marking, altering or modification of equipment and devices associated with gaming when he or she:

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

2. Marks, alters or otherwise modifies any associated
equipment or gaming device in a manner that either affects the
result of the wager by determining win or loss or alters the
normal criteria of random selection in a manner that affects the
operation of a game or determines the outcome of a game, and he
or she knew or reasonably should have known that it was intended
to be used to violate any provision of this article.

Unlawful manufacture, sale, distribution, marking, altering
or modification of equipment and devices associated with gaming
is a class E felony.

225.100 Unlawful instruction

A person is guilty of unlawful instruction when he or she
instructs another in cheating or in the use of any device for
the purpose of cheating, with the knowledge or intent that the
information or use so conveyed may be employed to violate any
provision of this article.

Unlawful instruction is a class A misdemeanor.

225.105 Employment or participation without a license,

registration or certification
A person is guilty of employment or participation without a license, registration or certification when, knowing his or her employment or business with the authorized gaming establishment requires obtaining a requisite license, registration or certification, he or she commences employment or business with the authorized gaming establishment without having first obtained the requisite license, registration or certification. Employment or participation without a license, registration or certification is a class A misdemeanor.

225.120 Making false written statements regarding gaming licenses, registrations or certification

A person is guilty of making a false written statement on a gaming license, registration or certification form when, during the course of attempting to secure a license, registration or certification required for employment at, or to do business with, an authorized gaming establishment, or renewal thereof, he or she knowingly makes a false statement in a written instrument bearing a legally authorized form notice to the effect that false statements made therein are punishable. Making false written statements regarding gaming licenses, registrations or certification is a class E felony.
§5. Section 109-a of the racing, pari-mutuel wagering and breeding law is repealed and replaced with a new section to read as follows:

§109-a Separate Board for Facility Siting

Should the commission elect to establish a separate board to perform designated functions under article thirteen of this chapter, the following provisions shall apply to the board:

1. The commission shall select the individual members of the board and name the chairman of the board. Each member of the board shall be a resident of the state of New York. No member of the legislature or person holding any elective or appointive office in federal, state or local government shall be eligible to serve as a member of the board.

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

a. significant service as an accountant economist, or financial analyst experienced in finance or economics;

b. significant service in an academic field relating to finance or economics;

c. significant service and knowledge of the commercial real estate industry; or
d. significant service as an executive with fiduciary responsi-
abilities in charge of a large organization or foundation.

3. No member of the board:

a. may have an official relationship to a person that holds a license under this chapter;

b. may have any direct or indirect financial interest, ownership, or management, including holding any stocks, bonds, or other similar financial interests in any gaming activities, including horse racing, lottery or casino gambling;

c. may receive or share in, directly or indirectly, the receipts or proceeds of any gaming activities, including horse racing, lottery or casino gambling;

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

4. Board members are entitled to actual and necessary expenses incurred in the discharge of their duties but may not receive compensation for their service on the board.

5. a. The commission shall provide staff to the board.
b. The board shall contract with an outside consultant to provide analysis of the gaming industry and to support the board’s comprehensive review and evaluation of the applications submitted to the board for gaming facility licenses.

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

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

6. Utilizing the powers and duties prescribed for it by article thirteen of this title, the board shall select, through a competitive process consistent with provisions of article thirteen of this title, not more than three gaming casino licenses applicants. Such selectees shall be authorized to receive a casino gaming facility license, if found suitable by the commission. The board may select another applicant for authorization to be licensed as a gaming facility if a previous selectee fails to meet licensing thresholds, is revoked or surrenders a license opportunity.
§6. Subdivision two of section ninety-nine-h of the state finance law, as amended by section one of part V of chapter 59 of the laws of 2006, is amended to read as follows:

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

§7. Subdivision three of section ninety-nine h of the state finance law, as amended by section one of chapter seven hundred forty-seven of the laws of 2006, is amended to read as follows:

3. Moneys of the account, following appropriation by the legislature, shall be available for purposes including but not limited to: (a) reimbursements or payments to municipal governments that host tribal casinos pursuant to a tribal-state compact for costs incurred in connection with services provided to such casinos or arising as a result thereof, for economic development opportunities and job expansion programs authorized by the executive law; provided, however, that for any gaming facility located in the city of Buffalo, the city of Buffalo shall receive a minimum of twenty-five percent of the negotiated
percentage of the net drop from electronic gaming devices the state receives pursuant to the compact, and provided further that for any gaming facility located in the city of Niagara Falls, county of Niagara a minimum of twenty-five percent of the negotiated percentage of the net drop from electronic gaming devices the state receives pursuant to the compact shall be distributed in accordance with subdivision four of this section, and provided further that for any gaming facility located in the county or counties of Cattaraugus, Chautauqua or Allegany, the municipal governments of the state hosting the facility shall collectively receive a minimum of twenty-five percent of the negotiated percentage of the net drop from electronic gaming devices the state receives pursuant to the compact; and provided further that pursuant to chapter five hundred ninety of the laws of two thousand four, a minimum of twenty-five percent of the revenues received by the state pursuant to the state's compact with the St. Regis Mohawk tribe shall be made available to the counties of Franklin and St. Lawrence, and affected towns in such counties. Each such county and its affected towns shall receive fifty percent of the moneys made available by the state; and provided further that the State shall annually make twenty-five percent of the negotiated percentage of the net drop from all gaming devices the state receives pursuant to the Oneida Settlement Agreement confirmed by section eleven of the
executive law available to the county of Oneida, and a sum of
three and one-half million dollars to the county of Madison.
Additionally, the state shall distribute, for a period of
nineteen and one-quarter years, an additional annual sum of two
and one-half million dollars to the county of Oneida.
Additionally, the state shall distribute the one-time eleven
million dollar payment received by the state pursuant to the
Oneida Settlement Agreement to the county of Madison by wire
transfer upon receipt of such payment by the state; and (b)
support and services of treatment programs for persons suffering
from gambling addictions. Moneys not appropriated for such
purposes shall be transferred to the general fund for the
support of government during the fiscal year in which they are
received.
§8. Subdivision three of section ninety-nine h of the state
finance law, as amended by section one of part QQ of chapter
fifty-nine of the laws of 2009, is amended to read as follows:
3. Moneys of the account, following appropriation by the
legislature, shall be available for purposes including but not
limited to: (a) reimbursements or payments to municipal
governments that host tribal casinos pursuant to a tribal-state
compact for costs incurred in connection with services provided
to such casinos or arising as a result thereof, for economic
development opportunities and job expansion programs authorized
by the executive law; provided, however, that for any gaming
facility located in the county of Erie or Niagara, the municipal
governments hosting the facility shall collectively receive a
minimum of twenty-five percent of the negotiated percentage of
the net drop from electronic gaming devices the state receives
pursuant to the compact and provided further that for any gaming
facility located in the county or counties of Cattaraugus,
Chautauqua or Allegany, the municipal governments of the state
hosting the facility shall collectively receive a minimum of
twenty-five percent of the negotiated percentage of the net drop
from electronic gaming devices the state receives pursuant to
the compact; and provided further that pursuant to chapter five
hundred ninety of the laws of two thousand four, a minimum of
twenty-five percent of the revenues received by the state
pursuant to the state's compact with the St. Regis Mohawk tribe
shall be made available to the counties of Franklin and St.
Lawrence, and affected towns in such counties. Each such county
and its affected towns shall receive fifty percent of the moneys
made available by the state; and provided further that the State
shall annually make twenty-five percent of the negotiated
percentage of the net drop from all gaming devices the state
receives pursuant to the Oneida Settlement Agreement confirmed
by section eleven of the executive law available to the county
of Oneida, and a sum of three and one-half million dollars to
the county of Madison. Additionally, the state shall
distribute, for a period of nineteen and one-quarter years, an
additional annual sum of two and one-half million dollars to the
county of Oneida. Additionally, the state shall distribute the
one-time eleven million dollar payment received by the state
pursuant to the Oneida Settlement Agreement to the county of
Madison by wire transfer upon receipt of such payment by the
state; and (b) support and services of treatment programs for
persons suffering from gambling addictions. Moneys not
appropriated for such purposes shall be transferred to the
general fund for the support of government during the fiscal
year in which they are received.

§9. Section ninety-nine h of the state finance law is amended
by adding a new paragraph three-a to read as follows:

3-a. Ten percent of any of the funds received by the state
pursuant to the tribal-state compacts and agreements described
in paragraph 2 of this section that are retained in the fund
after the distributions required by paragraph three of this
section, but prior to the transfer of unsegregated moneys to the
general fund required by that paragraph, shall be distributed to
counties in each respective exclusivity zone provided they do
not otherwise receive a share of said revenues pursuant to this
section. Such distribution shall be made among such counties on
a per capita basis.

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

97-nnnn. Commercial gaming revenue fund

1. There is hereby established in the joint custody of the
comptroller and the commissioner of taxation and finance an
account in the miscellaneous special revenue fund to be known as
the "commercial gaming revenue fund".

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

3. Moneys of the account shall be available as follows,
unless otherwise specified by the destination resort casino act
of 2013, following appropriation by the legislature:
a. eighty percent of the moneys in such fund shall be appropriated or transferred only for elementary and secondary education.

Notwithstanding any provision of law to the contrary, amounts appropriated or transferred from the commercial gaming revenue fund shall not be included in: (i) the allowable growth amount computed pursuant to paragraph (dd) of subdivision one of section thirty-six hundred two of the education law, (ii) the preliminary growth amount computed pursuant to paragraph (ff) of subdivision one of section thirty-six hundred two of the education law, and (iii) the allocable growth amount computed pursuant to paragraph (gg) of subdivision one of section thirty-six hundred two of the education law.

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

c. ten percent of the moneys in such fund, as attributable to a specific licensed casino gaming facility, shall be appropriated or transferred from the commercial gaming revenue fund among counties within the region, as defined by section one thousand three hundred ten of the racing, pari-mutuel wagering and breeding law, hosting said facility for the purpose of real property tax relief and for education assistance. Such distribution shall be made among the counties on a per capita
basis, subtracting the population of host municipality and

4. Notwithstanding the foregoing, monies received pursuant
to:
a. section one thousand three hundred forty-five and one
thousand three hundred forty-eight of this article shall be
exclusively appropriated to the office of alcohol and substance
abuse services for problem gaming education and treatment
purposes.
b. section one thousand three hundred forty-nine of this article
shall be exclusively appropriated to the commission for
regulatory investigations.
c. section one thousand three hundred fifty of this article
shall be exclusively appropriated to the commission for costs of
regulation.

5. Moneys not appropriated for such purposes shall be
transferred to the general fund for the support of government
during the fiscal year in which they are received.

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

156.40. Operating an unlawful electronic sweepstakes

1. As used in this section the following words and terms
shall have the following meanings:
a. "Electronic machine or device" means a mechanically, electrically or electronically operated machine or device that is owned, leased or otherwise possessed by a sweepstakes sponsor or promoter, or any sponsors, promoters, partners, affiliates, subsidiaries or contractors thereof; that is intended to be used by a sweepstakes entrant; that uses energy; and that is capable of displaying information on a screen or other mechanism; provided, that an electronic machine or device may, without limitation:
i. be server-based;
ii. use a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries;
iii. utilize software such that the simulated game influences or determines the winning or value of the prize;
iv. select prizes from a predetermined finite pool of entries;
v. utilize a mechanism that reveals the content of a predetermined sweepstakes entry;
vi. predetermine the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed;
vii. utilize software to create a game result;
viii. require deposit of any money, coin or token, or the use of any credit card, debit card, prepaid card or any other method of payment to activate the electronic machine or device;
ix. require direct payment into the electronic machine or device, or remote activation of the electronic machine or device;

x. require purchase of a related product having legitimate value;

xi. reveal the prize incrementally, even though it may not influence if a prize is awarded or the value of any prize awarded;

xii. determine and associate the prize with an entry or entries at the time the sweepstakes is entered; or

xiii. be a slot machine or other form of electrical, mechanical, or computer game;

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

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

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

e. "Sweepstakes" means any game, advertising scheme or plan, or other promotion, which, with or without payment of any
consideration, a person may enter to win or become eligible to receive any prize, the determination of which is based upon chance.

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

a. conduct a sweepstakes through the use of an entertaining display, including the entry process or the reveal of a prize;

or

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

3. Nothing in this section shall be construed to make illegal any activity which is lawfully conducted as the New York state lottery for education as authorized by article thirty-four of the tax law; pari-mutuel wagering on horse races as authorized by articles two, three, four, five-a, and ten of the racing, pari-mutuel wagering and breeding law; the game of bingo as authorized pursuant to article fourteen-h of the general municipal law; games of chance as authorized pursuant to article nine-a of the general municipal law; gaming as authorized by article thirteen of the racing, pari-mutuel wagering and
breeding law; or pursuant to the federal Indian Gaming Regulatory Act.

Operating an unlawful sweepstakes is a class D felony.

§12. The legislature hereby finds that long-standing disputes between the Oneida Nation of New York and the State of New York, Madison County and Oneida County, have generated litigation in state and federal courts regarding property and other taxation, the status of Oneida Nation lands and transfer of such lands to the United States to be held in trust for the Oneida Nation, and that such litigation and disputes have caused decades of unrest and uncertainty for the citizens and residents of the Central New York region of this state. The legislature further finds that it is in the best interests of all citizens, residents and political subdivisions of this state to remove any uncertainty that such litigation or disputes have created regarding the title to and jurisdictional status of land within the state. The legislature recognizes that negotiated settlement of these disputes will facilitate a cooperative relationship between the state, the counties and the Oneida Nation. Therefore, the legislature declares that the following provisions are enacted to implement the settlement agreement that has been negotiated and executed by the governor on behalf of the people of this state.
§ 13. Section eleven of the executive law is REPEALED and a new section eleven is added to read as follows:

§11. Indian settlement agreements. 1. Oneida settlement agreement. Notwithstanding any other provision of law, upon filing with the secretary of state, the settlement agreement executed between the governor, the counties of Oneida and Madison, and the Oneida Nation of New York and dated the sixteenth day of May, two thousand thirteen, to be known as the Oneida Settlement Agreement, including, without limitation, the provisions contained therein relating to arbitration and judicial review in state or federal courts and, for the sole purpose thereof, a limited waiver of the state's Eleventh Amendment sovereign immunity from suit, shall upon its effective date be deemed approved, ratified, validated and confirmed by the legislature. It is the intention of the legislature in enacting this section to ensure that the settlement agreement shall be fully enforceable in all respects as to the rights, benefits, responsibilities and privileges of all parties thereto.

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

§15. Sections two and three of the Indian law are designated as sections three and four, respectively, and a new section two is added to read as follows:

§ 2. New York State Indian nations and tribes. The term "Indian nation or tribe" means one of the following New York state Indian nations or tribes: Cayuga Nation, Oneida Nation of New York, Onondaga Nation, Poospatuck or Unkechaug Nation, Saint Regis Mohawk Tribe, Seneca Nation of Indians, Shinnecock Indian Nation, Tonawanda Band of Seneca and Tuscarora Nation.

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

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

§17. Subdivision eighteen of section two hundred eighty-two of the Tax law is amended to read as follows:

18. "Indian nation or tribe" means one of the following New York state Indian nations or tribes: Cayuga [Indian] Nation of New York, Oneida [Indian] Nation of New York, Onondaga Nation [of Indians], Poospatuck or Unkechaug Nation, [St.]-Saint Regis
Mohawk Tribe, Seneca Nation of Indians, Shinnecock Indian Nation [Tribe], Tonawanda Band of Seneca[es] and Tuscarora Nation [of Indians].

§18. Subdivision fourteen of section four hundred seventy of the Tax law is amended to read as follows:

14. "Indian nation or tribe" means one of the following New York state Indian nations or tribes: Cayuga [Indian] Nation [of New York], Oneida [Indian] Nation of New York, Onondaga Nation [of Indians], Poospatuck or Unkechaug Nation, Saint Regis Mohawk Tribe, Seneca Nation of Indians, Shinnecock Indian Nation [Tribe], Tonawanda Band of Seneca[es] and Tuscarora Nation[es] of Indians.

§19. Subdivision a of section 1617-a of the tax law, is amended to read as follows:

§ 1617-a. Video lottery gaming. a. The division of the lottery is hereby authorized to license, pursuant to rules and regulations to be promulgated by the division of the lottery, the operation of video lottery gaming:

(1) at Aqueduct, Monticello, Yonkers, Finger Lakes, and Vernon Downs racetracks,
(2) at any other racetrack licensed pursuant to article three of the racing, pari-mutuel wagering and breeding law that are located in a county or counties in which video lottery gaming has been authorized pursuant to local law, excluding the licensed racetrack commonly referred to in article three of the racing, pari-mutuel wagering and breeding law as the "New York state exposition" held in Onondaga county and the racetracks of the non-profit racing association known as Belmont Park racetrack and the Saratoga thoroughbred racetrack,

(3) at a maximum of two facilities established, pursuant to a competitive process to be determined by the state gaming commission within region six of zone two as established by section one thousand three hundred ten of the racing, pari-mutuel wagering and breeding law. The facilities authorized pursuant to this paragraph shall be deemed vendors for all purposes under this article, and need not be operated by licensed thoroughbred or harness racing associations or corporations.

Such rules and regulations shall provide, as a condition of licensure, that racetracks to be licensed are certified to be in compliance with all state and local fire and safety codes, that the division is afforded adequate space, infrastructure, and amenities consistent with industry standards for such video
gaming operations as found at racetracks in other states, that racetrack employees involved in the operation of video lottery gaming pursuant to this section are licensed by the racing and wagering board, and such other terms and conditions of licensure as the division may establish. Notwithstanding any inconsistent provisions of law, video lottery gaming as authorized pursuant to this section shall be deemed an approved activity for such facility under the relevant city, county, town, or village land use or zoning ordinances, rules, or regulations. No entity licensed by the division operating video lottery gaming pursuant to this section may house such gaming activity in a structure deemed or approved by the division as "temporary" for a duration of longer than eighteen-months. Nothing in this section shall prohibit the division from licensing an entity to operate video lottery gaming at an existing racetrack as authorized in this subdivision whether or not a different entity is licensed to conduct horse racing and pari-mutuel wagering at such racetrack pursuant to article two or three of the racing, pari-mutuel wagering and breeding law.

The division, in consultation with the racing and wagering board, shall establish standards for approval of the temporary and permanent physical layout and construction of any facility or building devoted to a video lottery gaming operation. In
reviewing such application for the construction or
reconstruction of facilities related or devoted to the operation
or housing of video lottery gaming operations, the division, in
consultation with the racing and wagering board, shall ensure
that such facility:

(1) possesses superior consumer amenities and conveniences to
encourage and attract the patronage of tourists and other
visitors from across the region, state, and nation.

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

(3) for racetrack facilities, has a physical layout and location
that facilitates access to and from the horse racing track
portion of such facility to encourage patronage of live horse
racing events that are conducted at such track.

$20. A new clause H-1 is added to subparagraph (ii) of
paragraph 1 of subdivision b of section 1612 of the tax law, to
read as follows:

H-1. Notwithstanding clauses (A), (B), (C), (D), (E), (F) and
(G) and (H) of this subparagraph where the vendor is authorized
pursuant to paragraph three of subdivision a. of section sixteen
hundred seventeen-a of this article, at a rate of forty per cent
of the total revenue wagered at the facility after payout for
prizes. All facilities authorized pursuant to paragraph three of
subdivision a. of section sixteen hundred seventeen-a of this
article shall not be eligible for any vendor's capital award but
are entitled to the vendor's marketing allowance of ten percent
authorized by subparagraph iii of this paragraph. Facilities
authorized by paragraph three of subdivision a. of section
sixteen hundred seventeen-a of this article shall pay (i) nine
percent of the total wagered after payout for prizes to be split
equally to the two nearest licensed racing corporations and
associations within region six of zone two as established by
section one thousand three hundred ten of the racing, pari-
mutuel wagering and breeding law. Half of the funds received by
licensed racing associations and corporations shall be utilized
for the support of purses at such facilities and (ii) one
percent of the total wagered after payout of prizes split
equally between the New York state thoroughbred breeding and
development fund established pursuant to section two hundred
fifty-two of the racing, pari-mutuel wagering and breeding law
and the agriculture and New York state horse breeding
development fund established pursuant to section three hundred
thirty of the racing, pari-mutuel wagering and breeding law.
§21. Section 54-1 of the state finance law is amended to read as follows:

State assistance to eligible cities and eligible municipalities in which a video lottery gaming facility is located.

1. Definitions. When used in this section, unless otherwise expressly stated:

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

b. "Eligible municipality" shall mean a county, city, town or village in which a video lottery gaming facility is located pursuant to section sixteen hundred seventeen-a of the tax law that is not located in a city with a population equal to or greater than one hundred twenty-five thousand.

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

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

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

b. Within the amounts appropriated therefor, eligible municipalities shall receive an amount equal to fifty-five percent of the state aid payment received in the state fiscal year commencing April first, two thousand eight from an appropriation for aid to municipalities with video lottery gaming facilities.
c. A newly eligible city shall receive a state aid payment equal to two percent of the "estimated net machine income" generated by a video lottery gaming facility located in such eligible city. Such state aid payment shall not exceed twenty million dollars per eligible city.

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

3. a. State aid payments made to an eligible city or to a newly eligible city pursuant to paragraphs a and c of subdivision two of this section shall be used to increase support for public schools in such city.
b. State aid payments made to eligible municipalities and newly eligible municipalities pursuant to paragraphs b and d of subdivision two of this section shall be used by such municipalities to: (i) defray local costs associated with a video lottery gaming facility, or (ii) minimize or reduce real property taxes.

4. Payments of state aid pursuant to this section shall be made on or before June thirtieth of each state fiscal year to the chief fiscal officer of each eligible city and each eligible municipality on audit and warrant of the state comptroller out of moneys appropriated by the legislature for such purpose to the credit of the local assistance fund in the general fund of the state treasury.

§22. Effective date. This act shall take effect on the first of January next succeeding the date upon which casino gambling facilities are authorized by amendment to subdivision one of section nine of article one of the state constitution; excepting sections six, seven, fourteen and sixteen of this act shall take effect upon the effective date of the Agreement between the Oneida Nation of New York and the State of New York entered into on the sixteenth of May, two thousand thirteen; and further excepting that sections one, three, four, eleven,
twelve, thirteen, fifteen, seventeen and eighteen shall be

effective immediately.

Notwithstanding the foregoing, sections nineteen, twenty,
and twenty-one of this act, shall only be effective in the event
that an amendment to the constitution to authorize casino
gambling is defeated and the commission determines that a
tribal-state compact between the Seneca Nation of Indians and
the State is not in good standing.

Notwithstanding the foregoing, section one thousand three
hundred sixty-eight as added by section two of this act shall be
effective upon change in federal law authorizing such activity
or upon ruling of a court of competent jurisdiction that such
activity is lawful, and section eight of this act shall take
effect upon the effective date of the Agreement between the
Oneida Nation of New York and the State of New York entered into
on the sixteenth of May, two thousand thirteen or on the thirty-
first of December, two thousand sixteen, whichever is later.