

**RULES AND REGULATIONS**

**Title 58 - RECREATION**

**PENNSYLVANIA GAMING CONTROL BOARD**

**58 PA. CODE CH. 1401**

**General Sports Wagering Provisions**

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1202(b)(30) (relating to regulatory authority) and the specific authority in 4 Pa.C.S. § 13B02 (relating to temporary interactive gaming regulations) enacted by the act of October 30, 2017 (P.L. 419, No. 42), adds the relevant terms associated with sports wagering implementation in the Commonwealth as well as delineating the petition requirements for slot machine licensees seeking to offer sports wagering in this Commonwealth. This information is set forth in Annex A. The Board's temporary regulation will be added to Part VII (relating to Gaming Control Board) as part of Subpart Q (relating to sports wagering).

*Purpose of the Temporary Rulemaking*

This temporary rulemaking defines the relevant terms associated with sports wagering implementation in this Commonwealth as well as delineating the petition requirements for slot machine licensees seeking to offer sports wagering in this Commonwealth.

*Explanation of Chapter 1401, Sections 1401.1 - 1401.4*

Chapter 1401 provides definitions of the terms associated with sports wagering implementation in the Commonwealth as well as delineating the petition requirements for slot machine licensees seeking to offer sports wagering in this Commonwealth.

*Affected Parties*

This rulemaking provides interested parties information relative to who/what entities may participate in sports wagering in the Commonwealth and the petition process for slot machine licensees seeking to offer sports wagering in this Commonwealth.

*Fiscal Impact*

*Commonwealth*

The Board does not expect that this rulemaking will have any fiscal impact on the Board or any other Commonwealth agency. Petitions for sports wagering certificates will be reviewed by existing Board staff.

*Political Subdivisions*

This rulemaking will have no direct fiscal impact on political subdivisions of the Commonwealth. Most municipalities and counties benefit from the local share funding that is mandated by Act 1.

*Private Sector*

This rulemaking defines the relevant terms associated with sports wagering implementation in the Commonwealth as well as delineating the petition requirements for slot machine licensees seeking to offer sports wagering in this Commonwealth. It is anticipated that this rulemaking will have an impact only on those individuals seeking to acquire such certificates, said impact being for licensing costs which will be recouped through proceeds from the provision of sports wagering.

*General Public*

This rulemaking will have no direct fiscal impact on the general public.

*Paperwork requirements*

Individuals eligible for a sports gaming certificate will have to file a petition with the Board seeking approval to conduct such activity. The contents of such a petition are set forth in Annex A

*Effective Date*

This temporary rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

*Public Comments*

While this rulemaking will be effective upon publication, the Board is seeking comments from the public and affected parties as to how this temporary regulation might be improved.

Interested persons are invited to submit written comments, suggestions or objections regarding this temporary rulemaking within 30 days after the date of publication in the *Pennsylvania Bulletin* to Laura R. Burd, Senior Counsel, Pennsylvania Gaming Control Board, P.O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-216.

#### *Contact Person*

The contact person for questions about this rulemaking is Laura R. Burd, Senior Counsel, at (717) 346-8300.

#### *Regulatory Review*

The Board has the authority to promulgate temporary regulations in order to facilitate the prompt implementation of sports wagering in the Commonwealth. 4 Pa.C.S. § 13C02. The temporary regulations adopted by the Board are not subject to the provisions of: sections 201 - 205 of the act of July 31, 1968 (P.L. 769, No. 240), referred to as the Commonwealth Documents Law; the Regulatory Review Act (71 P.S. §§ 745.1 - 745.12); and section 204(b) of the Commonwealth Attorneys Act (71 P.S. §§ 732-204(b)). Pursuant to 4 Pa.C.S. § 13C02, these temporary regulations shall expire 2 years after publication in the *Pennsylvania Bulletin*.

#### *Findings*

The Board finds that:

(1) Under 4 Pa.C.S. § 13C02, the temporary regulations are exempt from the requirements of the Regulatory Review Act, sections 201 - 205 of the Commonwealth Documents Law and sections 204(b) of the Commonwealth Attorney Act.

(2) The adoption of the temporary regulations is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

#### *Order*

The Board, acting under 4 Pa.C.S. Part II, orders that:

(1) The temporary regulations of the Board, 58 Pa. Code Chapter 1401, are amended by adding §§ 1401.1 - 1401.4 to read as set forth in Annex A.

(2) The temporary regulation is effective upon publication in the Pennsylvania Bulletin.

(3) The temporary regulation will be posted on the Board's web site.

(4) The temporary regulation is subject to amendment as deemed necessary by the Board.

(5) The Chairman of the Board has certified this order and Annex A and shall deposit them with the Legislative Reference Bureau as required by law.

David M. Barasch  
Chairman

## Subpart Q. Sports Wagering

### CHAPTER 1401. GENERAL SPORTS WAGERING PROVISIONS - Temporary Regulations

#### Sec.

1401.1. Scope.

1401.2. Definitions.

1401.3. Initial and renewal certificate and license fees.

1401.4. Sports wagering certificate petitions and standards.

#### § 1401.1. Scope.

The purpose of this Subpart is to govern the operation of sports wagering in this Commonwealth and the purpose of this Chapter is to establish definitions for the subpart and create the process by which a slot machine licensee can seek approval to conduct sports wagering. The provisions of the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. §§ 1101 et seq., as amended by the Act of Oct. 30, 2017, P.L. 419, No. 42, and the Board's regulations promulgated thereunder shall otherwise apply when not in conflict with this subpart.

#### § 1401.2. Definitions.

The following words and terms, when used in this subpart, have the following meanings unless the context clearly indicates otherwise:

*Associated equipment* - Any equipment or mechanical, electromechanical or electronic contrivance, component or machine used in connection with sports wagering, including, equipment which affects the proper reporting and counting of gross sports wagering revenue and computerized systems for controlling and monitoring sports wagering.

*Cash equivalent* - An asset that is readily convertible to cash, including, but not limited to, any of the following:

- (i) Chips or tokens.
- (ii) Travelers checks.
- (iii) Foreign currency and coin.
- (iv) Certified checks, cashier's checks and money orders.
- (v) Personal checks or drafts.
- (vi) A negotiable instrument applied against credit extended by a certificate holder, an interactive gaming operator, sports wagering operator or a financial institution.
- (vii) A prepaid access instrument.
- (viii) Any other instrument or representation of value that the Board deems a cash equivalent.

*Certificate holder* - A slot machine licensee granted a certificate by the Board to conduct sports wagering in this Commonwealth.

*Gaming employee* - An employee of any of the following who the Board determines, after a review of the work to be performed, requires a gaming employee permit for the protection of the integrity of sports wagering within this Commonwealth, including employees of the following:

(i) A certificate holder, interactive gaming operator licensee or sports wagering operator licensee.

(ii) A sports wagering manufacturer.

(iii) A sports wagering supplier

(iv) A gaming service provider.

(v) Any other person as determined by the Board.

*Gaming-related restricted area* - Any room or area of a licensed facility which is specifically designated by the Board as restricted or by the certificate holder or sports wagering operator licensee as restricted in its Board-approved internal controls.

*Gaming school* - Any educational institution approved by the Department of Education as an accredited college or university, community college, Pennsylvania private licensed school or its equivalent and whose curriculum guidelines are approved by the Department of Labor and Industry to provide education and job training related to employment opportunities associated with sports wagering, including sports wagering devices and associated equipment maintenance and repair.

*Gross sports wagering revenue* - As follows:

(i) The total of cash or cash equivalents received from sports wagering minus the total of:

(A) Cash or cash equivalents paid to players as a result of sports wagering.

(B) Cash or cash equivalents paid to purchase annuities to fund prizes payable to players over a period of time as a result of sports wagering.

(C) The actual cost paid by the sports wagering certificate holder for any personal property distributed to a player as a result of sports wagering. This subparagraph does not include travel expenses, food, refreshments, lodging or services.

(ii) The term does not include any of the following:

(A) Counterfeit cash or chips.

(B) Coins or currency of other countries received as a result of sports wagering, except to the extent that the coins or currency are readily convertible to cash.

(C) Cash taken in a fraudulent act perpetrated against a sports wagering certificate holder for which the sports wagering certificate holder is not reimbursed.

*Key employee* - Any individual who is employed in a director or department head capacity and who is empowered to make discretionary decisions that regulate sports wagering operations



or systems, including the director of sports wagering, director of sports wagering system programs or other similar job classifications associated with sports wagering and, any employee who is not otherwise designated as a gaming employee and who supervises the operations or systems of the sports wagering department or to whom the sports wagering department directors or sports wagering department heads report and such other positions not otherwise designated or defined under this part which the Board shall determine based on detailed analyses of job descriptions as provided in the internal controls of the licensee as approved by the Board. All other gaming employees unless otherwise designated by the Board shall be classified as non-key employees.

*Player* - An individual wagering cash, a cash equivalent or other thing of value in the play or operation of sports wagering, including during a contest or tournament, the act of which may deliver or entitle the individual to receive cash, a cash equivalent or other thing of value from another player or sports wagering certificate holder, interactive gaming operator or sports wagering operator.

*Registered player* - An individual who has entered into a sports wagering account agreement with a sports wagering certificate holder, interactive gaming operator or sports wagering operator.

*Sporting event* - A professional or collegiate sports or athletic event or a motor race event or other similar event as determined by the Board.

*Sports wagering* - The business of accepting wagers on sporting events or on the individual performance statistics of athletes in a sporting event or combination of sporting events by any system or method of wagering, including over the internet through websites and mobile applications when authorized by the Board. The term includes, but is not limited to, exchange wagering, parlays, over-under, moneyline, pools and straight bets. The term does not include:

(i) Pari-mutuel betting on the outcome of thoroughbred or harness horse racing as authorized under 3 Pa.C.S. Ch. 93 (relating to race horse industry reform).

(ii) Lottery games of the Pennsylvania State Lottery as authorized under the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law.

(iii) Bingo as authorized under the act of July 10, 1981 (P.L.214, No.67), known as the Bingo Law.

(iv) Small games of chance as authorized under the act of December 19, 1988 (P.L.1262, No.156), known as the Local Option Small Games of Chance Act.

(v) Slot machine gaming and progressive slot machine gaming as defined and authorized under this part.

(vii) Table games.

(vi) Keno.

(viii) Fantasy contests.

(viii) iLottery under Chapter 5 (relating to lottery).

*Sports wagering area* - The physical land-based location at which a certificate holder is authorized, under Chapter 13C of the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. §§ 1101, et, seq., as amended by the Act of Oct. 30, 2017, P.L. 419, No. 42, (relating to sports wagering), to conduct non-internet-based sports wagering. The area must be:

(i) A designated area within the certificate holder's slot machine licensed facility, as approved by the Board.

(ii) A Board-approved temporary facility that is physically connected to, attached to or adjacent to the certificate holder's slot machine licensed facility for a period not-to exceed 18 months.

(iii) A non-primary location of a Category 1 slot machine licensee under 3 Pa.C.S. Ch. 39 (relating to race horse industry reform) upon Board approval in consultation with the Racing Commission.

The term shall not include a redundancy facility or an interactive gaming or interactive sports wagering restricted area which is not located on the premises of a licensed facility as approved by the Board and which is maintained and operated by

a certificate holder, interactive gaming operator or sports wagering operator in connection with sports wagering.

*Sports wagering certificate* - A certificate awarded by the Board under this Subpart that authorizes a slot machine licensee to conduct sports wagering in accordance with this subpart.

*Sports wagering certificate holder* - A slot machine licensee to whom the Board has awarded a sports wagering certificate.

*Sports wagering device* - The term includes any mechanical, electrical or computerized contrivance, terminal, machine or other device, apparatus, equipment or supplies approved by the board and used to conduct sports wagering.

*Sports wagering interactive system* - All hardware, software and communications that comprise a type of server-based sports wagering system for the purpose of offering authorized sports wagering, mobile sports wagering or interactive sports wagering in this Commonwealth when authorized by the Board.

*Sports wagering interactive website* - The interactive gaming skin or skins through which a sports wagering certificate holder, or interactive gaming operator or sports wagering operator on behalf of a sports wagering certificate holder, makes authorized sports wagering, mobile sports wagering or interactive sports wagering available for play when authorized by the Board.

*Sports wagering manufacturer* - A person who manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs, sells, leases, offers or otherwise makes modifications to any authorized sports wagering device or associated equipment for use or operation in this Commonwealth for sports wagering purposes.

*Sports wagering manufacturer license* - A license issued by the Board authorizing a sports wagering manufacturer to manufacture, build, rebuild, fabricate, assemble, produce, program, design, sell, lease, offer or otherwise make modifications to any authorized sports wagering device or associated equipment for use or operation in this Commonwealth for sports wagering purposes.

*Sports wagering operator* - A person licensed by the Board to operate sports wagering, a mobile sports wagering system or an interactive sports wagering system, through the provision of an interactive gaming or sports wagering platform, on behalf of sports wagering certificate holder. The term shall include an interactive gaming operator applicant or licensee that seeks to operate sports wagering, mobile sports wagering or an interactive sports wagering system on behalf of sports wagering certificate holder.

*Sports wagering platform* - The combination of hardware and software or other technology designed and used to manage,

conduct and record mobile sports wagering or interactive sports wagering activity, as approved by the Board. The term shall include any emerging or new technology deployed to advance the conduct and operation of sports wagering, mobile sports wagering or interactive sports wagering activity, as approved through regulation by the Board.

*Sports wagering supplier* - A person who provides, distributes or services any authorized sports wagering device or associated equipment for use or operation in this Commonwealth for sports wagering purposes that is not otherwise required to be licensed as a sports wagering manufacturer.

*Sports wagering supplier license* - A license issued by the Board authorizing a sports wagering supplier to provide products or services related to any authorized sports wagering device or associated equipment for use or operation in this Commonwealth for sports wagering purposes.

*Sports wagering restricted area* - Any room or area, as approved by the Board, used by a sports wagering certificate holder, interactive gaming operator or sports wagering operator to manage, control and operate sports wagering, including, where approved by the Board, redundancy facilities and remote gaming server locations.

*Sports wagering gaming service provider* - A person that is not required to be licensed as a sports wagering operator,

interactive gaming operator, sports wagering manufacturer, sports wagering supplier, interactive gaming manufacturer, interactive gaming supplier, management company or gaming junket enterprise and:

(i) Provides goods or services to a sports wagering certificate holder, interactive gaming operator or sports wagering operator for the operation of sports wagering.

(ii) Is determined to be a sports wagering gaming service provider by the Board.

**§ 1401.3. Initial and renewal authorization and license fees.**

(a) Prior to the Board issuing a sports wagering certificate, an interactive gaming operator license, sports wagering operator license or renewal thereof, the sports wagering certificate holder, interactive gaming operator licensee or sports wagering operator licensee must pay the authorization or license fee.

(b) If an interactive gaming operator licensee has already remitted the required licensing fee, the Board will not assess an additional fee for the interactive gaming operator licensee to acquire a sports wagering operator license.

**§ 1401.4. Sports wagering certificate petition and standards.**

(a) A slot machine licensee seeking to offer sports wagering in this Commonwealth may petition the Board for a sports wagering certificate.

(b) A petitioner for a sports wagering certificate shall submit to the Board:

(1) The name, business address and contact information of the slot machine licensee petitioning for a sports wagering certificate.

(2) The name, business address and contact information of any affiliate, sports wagering operator or other person that will be a party to an agreement with the sports wagering certificate petitioner related to the operation of sports wagering on behalf of the sports wagering certificate petitioner and a description of the services to be provided.

(3) The name and business address, job title and a photograph of each principal and key employee of the sports wagering petitioner who will be involved in the conduct of sports wagering and, whether or not the principal or key employee is currently licensed by the Board.

(4) A statement identifying what types of sports wagering the sports wagering certificate petitioner intends to offer.

(5) A statement identifying whether the sports wagering petitioner intends to offer land-based sports wagering, mobile sports wagering, interactive sports wagering or a combination thereof.



(6) A statement identifying whether the sports wagering petitioner intends to utilize a temporary facility for its land-based sports wagering operations or system.

(7) If the petitioner is a Category 1 slot machine licensee, a statement identifying whether the sports wagering petitioner intends to offer land-based sports wagering in a non-primary location.

(8) The estimated number of full-time and part-time employment positions that will be created as a result of sports wagering if a sports wagering certificate is issued.

(9) An updated hiring plan under section 1510(a) of the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. §§ 1101, *et, seq.*, as amended (relating to labor hiring preferences), which outlines the sports wagering certificate petitioners plan to promote the representation of diverse groups and Commonwealth residents in the employment positions.

(10) A brief description of the economic benefits expected to be realized by the Commonwealth if a sports wagering certificate is issued.

(11) The details of any financing obtained or that will be obtained to fund an expansion or modification of the sports wagering certificate petitioner's licensed facility to accommodate sports wagering and to otherwise fund the cost of commencing sports wagering.

(12) Information and documentation concerning financial background and resources to establish the financial stability, integrity and responsibility of the sports wagering certificate petitioner.

(13) Information and documentation concerning the terms of any agreement with a sports wagering operator.

(14) Information and documentation to establish that the sports wagering certificate petitioner has sufficient business ability and experience to conduct a successful sports wagering operation, including but not limited to, the sports wagering certificate petitioner's history in slot machine and table game operations, employment data and capital investment in casino operations.

(15) Information and documentation that the sports wagering certificate petitioner has or will have the financial ability to pay the sports wagering authorization fee.

(16) Detailed site plans identifying the proposed sports wagering area and sports wagering restricted area, including security and surveillance plans and plans relative to compliance with the provisions of the act of June 13, 2008 (P.L.182, No.27) (the Clean Indoor Air Act).

(17) An overview of all the following:

(i) The sports wagering certificate petitioner's initial system of internal and accounting controls applicable to

sports wagering including the areas described in 58 Pa. Code § 1401.4(b) (16).

(ii) The sports wagering certificate petitioner's proposed standards to protect, with a reasonable degree of certainty, the privacy and security of its registered players.

(iii) The sports wagering devices and associated equipment and mobile sports wagering and/or interactive sports wagering system or systems, that the sports wagering certificate petitioner plans to or will utilize to manage, administer or control its sports wagering operations or systems as well as the identity of any third parties providing such devices and associated equipment.

(18) A description of accounting systems, including, but not limited to, accounting systems for all the following:

(i) Sports wagering accounts.

(ii) Per wager charges, if applicable.

(iii) Transparency and reporting to the Board and the Department.

(iv) Ongoing auditing and internal control compliance reviews.

(19) A description outlining the impact of sports wagering petitioner's plans will have on the number of slot machines and table games in operation at its licensed facility.

(20) An overview of any necessary additions to the petitioner's Compulsive and Problem Gambling Plan necessitated by sports wagering.

(c) The Board shall approve a sports wagering petition if the petitioner establishes the following by clear and convincing evidence:

(1) The petitioner's slot machine license and table game operation certificate are in good standing with the Board.

(2) The conduct of sports wagering at the petitioner's licensed facility will increase revenues and employment opportunities.

(3) The petitioner possesses adequate funds or has secured adequate financing to:

(i) Fund any necessary expansion or modification of the petitioner's licensed facility to accommodate the conduct of sports wagering.

(ii) Pay the authorization fee in accordance with section 13C61 (relating to sports wagering authorization fee).

(iii) Commence sports wagering operations or system at its licensed facility.

(4) The petitioner has the financial stability, integrity and responsibility to conduct sports wagering.

(5) The petitioner has sufficient business ability and experience to create and maintain a successful sports wagering operation.

(6) The petitioner's proposed internal and external security and proposed surveillance measures within the area of the licensed facility where the petitioner seeks to conduct sports wagering are adequate.

(7) The petitioner has satisfied the petition requirements.