

205 CMR 234.00: SPORTS WAGERING VENDORS

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234.01: Vendors(1) Requirement for Licensure or Registration.

(a) Unless otherwise licensed as a gaming vendor pursuant to 205 CMR 134.00: *Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations*, no Person shall conduct business with a Sports Wagering Operator as a Sports Wagering Vendor unless such Person has been licensed as a Sports Wagering Vendor. A Person shall be considered to be conducting business upon commencement of performance of a contract or provision of a good or service.

(b) Except as provided in 205 CMR 234.01(2), a Non-sports Wagering Vendor shall not be required to obtain a Sports Wagering Vendor License or to register as a Sports Wagering Registrant under 205 CMR 234.00. As part of its license application process, a prospective Operator shall be required to identify all of its known or anticipated vendors providing goods or services to whom the prospective Operator reasonably expects to pay an amount of \$10,000 or more within a 12-month period, including Non-Sports Wagering Vendors, and if licensed the Operator shall have a continuing duty to update the Bureau relative to the identification of any new vendors. The Bureau may, at its discretion, require the submission of additional information and documents from an Operator, prospective Operator, or a Non-Sports Wagering Vendor.

(c) Except as provided in 205 CMR 234.01(2) and in 205 CMR 234.01(1)(e), a Sports Wagering Subcontractor shall not be required to obtain a Sports Wagering Vendor License or to register as a Sports Wagering Registrant under this 205 CMR 234.00. As part of its application process, a prospective Sports Wagering Vendor shall be required to identify all of its known or anticipated Sports Wagering Subcontractors providing goods or services to whom the vendor reasonably expects to pay an amount of \$10,000 or more within a 12-month period, and if licensed the vendor shall have a continuing duty to update the Bureau relative to the identification of any new Subcontractors. The Bureau may, at its discretion, require the submission of additional information and documents from a Sports Wagering Subcontractor or a Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License including, but not limited to, the Sports Wagering Subcontractor Information Form as provided in 205 CMR 234.02(3).

(d) Third-party Marketing and Advertising Entities.

1. For purposes of 205 CMR 234.00, a "third-party marketing or advertising entity" is a Person:

- a. who is not a Sports Wagering Subcontractor;
- b. who is not a revenue-sharing advertiser as defined in 205 CMR 234.01(1)(e)1.;
- c. who regularly promotes or directs patrons to sports wagering on mobile applications or other digital platforms, or who regularly hires or recruits persons to do the same, in exchange for a fee paid by the Operator;
- d. who does not otherwise provide goods, software, or services which directly relate to Sports Wagering operations; and
- e. who is not an entity described in 205 CMR 234.01(3)(a)2. as "television, radio, newspaper, internet or other similar media used for advertising purposes."

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2. Notwithstanding 205 CMR 234.01(1)(a) and 205 CMR 234.01(1)(c), no Person shall conduct business with a Sports Wagering Operator as a third-party marketing or advertising entity unless such Person has been registered as a Sports Wagering Registrant under 205 CMR 234.00. A Person shall be considered to be conducting business upon commencement of performance of a contract or provision of a good or service.
3. Notwithstanding any other provision of 205 CMR 234.00, the Division of Licensing may, after consultation with the Bureau, require a third-party marketing or advertising entity to be licensed as a Sports Wagering Vendor.
4. In making the determination whether to require a third-party marketing or advertising entity to be licensed as a Sports Wagering Vendor, the Bureau may consider, without limitation, any factor listed in 205 CMR 231.01(2)(b)1. through 10.
5. If the Division of Licensing, after consultation with the Bureau, determines that the third-party marketing or advertising entity should instead be licensed as a Sports Wagering Vendor, it shall notify the entity of that decision and of the vendor's obligation to register. Within 45 days of service of the notice, the entity shall submit the applicable completed Registration Form-Sports Wagering Vendor as set forth in 205 CMR 234.02(1) for licensure or file a written request to the Division of Licensing for reconsideration from the determination requiring filing of an application for licensure. The Bureau may order any Person that fails to comply with such notice to cease conducting business with a Sports Wagering Vendor or an Operator immediately.
6. Any other Person, by submission of a written petition, may request a determination from the Bureau that despite meeting the definition of a third-party marketing or advertising entity they need not be registered, on the grounds that they are not providing goods or services on a regular or continuing basis, that the goods or services they provide do not directly relate to Sports Wagering, or that they are otherwise licensed as a gaming vendor or non-gaming vendor.

(e) Revenue-sharing Advertisers.

1. For purposes of 205 CMR 234.00, a "revenue-sharing advertiser" is any Person who promotes or directs patrons to sports wagering on mobile applications or other digital platforms, or who hires or recruits persons to do the same, in exchange for a percentage of net sports wagering revenue earned from users that the entity directs to the Operator.
2. Notwithstanding 205 CMR 234.01(1)(a) and 205 CMR 234.01(1)(c), no Person shall regularly conduct business with a Sports Wagering Operator as a revenue-sharing advertiser unless such Person has been licensed as a Sports Wagering Vendor under 205 CMR 234.00, or otherwise conduct business with a Sports Wagering Operator as a revenue-sharing advertiser unless such person has been registered as a Sports Wagering Registrant under 205 CMR 234.00. A Person shall be considered to be conducting business upon commencement of performance of a contract or provision of a good or service.

(2) Designation for Registration.

- (a) Notwithstanding any other provision of 205 CMR 234.00, the Division of Licensing may, after consultation with the Bureau, designate a Non-Sports Wagering Vendor or a Sports Wagering Subcontractor a Sports Wagering Registrant, regardless of the types of goods or services being provided by that vendor.
- (b) In making the determination whether to designate a vendor or a Subcontractor a Sports Wagering Registrant, the Bureau may consider the following factors, without limitation:
 1. whether the total dollar amount by which the vendor's or Subcontractor's business with an Operator exceeds \$250,000 in gross sales within a 12-month period, or \$100,000 in gross sales within a three-month period; or
 2. the relative value of the vendor or Subcontractor's business with the Operator compared to the Operator's overall disbursements to vendors;
 3. whether the goods or services are limited to the pre-operating phase of the Operator's business in the Commonwealth;

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4. the duration of the contract;
5. whether the vendor will be providing goods or services at an on site facility of the Operator;
6. the number of Sports Wagering Subcontractors involved in the performance of the vendor's contract with the Operator;
7. the number of employees employed by the vendor;
8. whether the vendor is licensed, registered or certified and regulated by another Governmental Authority;
9. the nature of the goods or services; and
10. public safety considerations.

(c) If the Division of Licensing, after consultation with the Bureau, determines that the Non-sports Wagering vendor or subcontractor should instead be registered as a Sports Wagering Registrant, it shall notify the vendor of that decision and of the vendor's obligation to register. Within 45 days of service of the notice, the vendor shall submit the applicable completed Registration Form-Sports Wagering Vendor as set forth in 205 CMR 234.02(2) for registration or file a written request to the Division of Licensing for reconsideration from the determination requiring filing of an application for registration. The Bureau may order any Person that fails to comply with such notice to cease conducting business with a Sports Wagering Vendor or an Operator immediately.

(d) Nothing in 205 CMR 234.00 shall be construed to limit the Commission's or the Bureau's ability to require a Person designated as a Non-sports Wagering Vendor or Subcontractor by an Operator to be licensed as a Sports Wagering Vendor.

(3) Exceptions.

(a) For purposes of 205 CMR 234.01, Persons engaged in the following fields of commerce who provide goods or services to an Operator or an Applicant for a Sports Wagering Operator license and who are not otherwise required to be licensed or registered by the Commission as a Sports Wagering Vendor or Sports Wagering Registrant, shall not be required to obtain licensure or registration as a vendor:

1. insurance companies and insurance agencies, other than Sports Wagering risk management vendors;
2. television, radio, newspaper, internet or other similar media used for advertising purposes, not including third-party marketing or advertising entities;
3. Governmental Authorities or other governmental entities;
4. legal, accounting, lobbying and financial services entities;
5. labor organizations, unions, or Affiliates registered in accordance with 205 CMR 134.00: *Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations*;
6. utility companies;
7. telecommunications companies;
8. providers of training seminars, publications, subscriptions, conference registration or membership dues for professional associations intended to directly contribute to the work performance or professional development of an employee;
9. nonprofit charitable corporations or organizations, provided that no consideration is received for the contribution;
10. court order or stipulation of settlement or for settlement of consumer losses or consumer refunds;
11. payments for freight charges to freight transporters selected by the vendor for delivering goods;
12. professional entertainers and/or celebrity appearances;
13. any Person that, by submission of a written petition, can demonstrate to the Division of Licensing after consultation with the Bureau that licensure as a Sports Wagering vendor is not necessary to protect the public interest;
14. upon submission of a written certification by an Operator, any Person providing goods or services not directly related to Sports Wagering to whom the Operator reasonably expects to pay an amount less than \$10,000 within a 12-month period.

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(b) Any other Person, by submission of a written petition, may request a determination from the Bureau that despite meeting the definition of a Sports Wagering Vendor they need not be licensed or registered, or despite meeting the definition of a Sports Wagering Vendor should be a Sports Wagering Registrant and do not require a Sports Wagering License, on the grounds that they are not providing goods or services on a regular or continuing basis, that the goods or services they provide do not directly relate to Sports Wagering, or that they are otherwise licensed as a gaming vendor or non-gaming vendor.

(4) Sports Wagering Vendor Qualifiers.

(a) Persons designated as Sports Wagering vendor qualifiers must establish their qualifications in accordance with 205 CMR 234.05.

(b) Sports Wagering Vendors. The following Persons shall be designated as Sports Wagering Vendor qualifiers:

1. If the prospective Sports Wagering Vendor is a sole proprietor: The owner.
2. If the prospective Sports Wagering Vendor is a corporation:
 - a. Each officer;
 - b. Each inside director;

(c) Any Person owning more than 10% of the common stock of a company applying for licensure as a Sports Wagering Vendor, or a holding, intermediary or subsidiary company of such company and who has the ability to control the activities of the prospective vendor; and

(d) In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the prospective vendor's operations in the Commonwealth.

3. If the prospective Sports Wagering Vendor is a limited liability corporation:

- a. Each Member;
- b. Each transferee of a Member's interest;
- c. Each Manager; and
- d. In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the prospective vendor's operations in the Commonwealth.

4. If the prospective Sports Wagering Vendor is a limited partnership:

- a. Each General Partner;
- b. Each Limited Partner; and
- c. In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the prospective vendor's operations in the Commonwealth.

5. If the Sports Wagering Vendor is a partnership:

- a. Each Partner; and
- b. In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the Sports Wagering Vendor's operations in the Commonwealth.

c. Other Qualifiers. The Division of Licensing, after consultation with the Bureau, may, at its discretion, require other Persons that have a business association of any kind with the Applicant for a Sports Wagering Vendor License to be subject to the qualification requirements as a qualifier. These Persons include, but are not limited to, an Affiliate or holding, intermediary or subsidiary company of the Applicant for a Sports Wagering Vendor License.

d. Internal Review of Determinations. An Applicant may ask for review of any determination made by the Bureau, in accordance with 205 CMR 234.01(4), to the Commission, by filing a petition on a form prescribed by the Commission. The Commission shall decide the question at a public meeting on the matter at which it may allow representatives of the petitioner and Bureau to testify.

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(5) Waiver. In addition to any other exception or exemption under 205 CMR 234.00, upon written petition, the Commission may waive the requirement to be qualified as a Sports Wagering Vendor qualifier for:

(a) Institutional investors holding up to 15% of the stock of the Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License, or holding, intermediary or subsidiary company thereof, upon a showing by the Person seeking the waiver that it purchased the securities for investment purposes only and does not have any intention to influence or affect the affairs or operations of the Sports Wagering Vendor or Applicant or a Sports Wagering Vendor License or a holding, intermediary or subsidiary company thereof; provided, however, any institutional investor granted a waiver which subsequently determines to influence or affect the affairs or operations of the Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License, or a holding, intermediary or subsidiary company thereof shall provide not less than 30 days' notice to the Commission of such intent and shall file an application and may be subject to the licensing requirements of 205 CMR 234.00 before taking any action that may influence or affect the affairs of the Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License or a holding, intermediary or subsidiary company. Any Person holding over 15% of a Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License, or a holding, intermediary or subsidiary company thereof, shall be required to apply for a license before doing business in the Commonwealth; or

(b) Any Person who, in the opinion of the Bureau or the Commission, cannot exercise control or provide direction to a Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License or a holding, intermediary or subsidiary company thereof.

(6) Qualification of New Qualifiers for Sports Wagering Vendors.

(a) No Person requiring qualification pursuant to 205 CMR 234.01(4) may perform any duties or exercise any powers relating to the position that said qualifier is seeking to assume for a Sports Wagering Vendor unless the Person notifies the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by the applicable business entity or personal disclosure form specified by the Bureau. Following such notification and submission of the completed Form, the Person may continue to perform duties and exercise powers relating to the position pending qualification.

(b) A Person with reason to believe that his or her new position with a Sports Wagering Vendor may require qualification pursuant to 205 CMR 234.01(4) shall notify the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by a summary of the responsibilities and/or features of the position. The Bureau shall determine whether the Person shall be designated a qualifier pursuant to 205 CMR 234.01(4)(b) and shall notify the Person of such designation in writing. Within 30 days of designation as a qualifier, the Person shall submit a completed personal disclosure form pursuant to 205 CMR 234.02(2). Following submission of the completed Form, the Person may continue to perform duties and exercise powers relating to the position pending qualification.

(c) The Bureau shall review the forms submitted by the new qualifier, as well as such other information that the Bureau may request, and, upon completion of its investigation, shall make a determination and inform the Commission in accordance with 205 CMR 234.00 whether the new qualifier meets the standards for suitability.

(d) Upon notification by the Bureau of a determination that reasonable cause exists to believe the qualifier may not ultimately be found suitable, a Sports Wagering Vendor shall promptly remove the qualifier from his or her position until such time as the Commission makes its final determination on suitability.

(7) Internal Review of Determinations. An Applicant may ask for review of any determination made by the Bureau in accordance with 205 CMR 234.01(4) through (6) to the Commission, by filing a petition on a form prescribed by the Commission. The Commission shall decide the question at a public meeting on the matter at which it may allow representatives of the petitioner and Bureau to testify.

234.02: Forms; Fingerprinting

(1) Sports Wagering Vendor License Application Form. Every Person applying for a Sports Wagering Vendor License shall be obligated to complete and submit a Sports Wagering Vendor Business Entity Disclosure Form to the Division of Licensing. Said forms shall be created by the Bureau, subject to the approval of the Commission. The Division of Licensing may make non-material changes to the forms. The license application forms for Sports Wagering vendors shall require, at a minimum, the following information:

- (a) The name of the Applicant;
- (b) The post office address and, if a corporation, the name of the state under the laws of which it was incorporated, the location of its principal place of business and the names and addresses of its directors and stockholders;
- (c) The Applicant's criminal and arrest record;
- (d) Any civil judgments obtained against the Applicant pertaining to antitrust or security regulation;
- (e) The identity of every 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;
- (f) An independent audit report of all financial activities and interests including, but not limited to, the disclosure of all contributions, donations, loans, loan forgiveness, or any other financial transactions to or from a gaming entity or Operator in the past three years; and
- (g) 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 governmental agencies, and business and personal accounting check records and ledgers.

(2) Sports Wagering Registration Form. Every person seeking to register as a Sports Wagering Registrant shall be obligated to complete and submit a registration form to the Division of Licensing. The registration form shall be created by the Bureau and shall request the disclosure of any information deemed necessary by the Bureau, subject to the approval of the Commission. The Division of Licensing may make non-material changes to the form.

(3) Qualifiers. Every Person designated as a qualifier for a Sports Wagering Vendor under 205 CMR 234.01(4) shall be obligated to complete and submit a personal disclosure form to the Division of Licensing. Said forms for Sports Wagering vendor qualifiers shall be created by the Bureau, subject to the approval of the Commission. The Division of Licensing may make non-material changes to the forms.

(4) Non-Sports Wagering Vendor and Sports Wagering Subcontractor Information Forms. A Non-Sports Wagering Vendor form to be completed by the Operator, and a Sports Wagering Subcontractor information form to be completed by Sports Wagering Vendors shall be created by the Bureau requesting any information as deemed necessary by the Bureau and submitted to the Division of Licensing. The Division of Licensing may make non-material changes to the form.

(5) Fingerprinting. Each Sports Wagering Vendor License qualifier shall be fingerprinted under the supervision of the Commission in accordance with the procedures in 205 CMR 134.13: *Fingerprinting*.

234.03: Submission by Applicants; Fees

(1) An application, disclosure form or registration for the initial issuance of a Sports Wagering Vendor License shall include all of the following:

- (a) A completed Business Entity Disclosure Form-Sports Wagering Vendor, as applicable, as set forth in 205 CMR 234.02(1) and (2); and
- (b) Proof of the vendor's business relationship with one or more Operators in the manner prescribed by the Division of Licensing.

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(2) A Sports Wagering Vendor, Sports Wagering Registrant or qualifier (individual) shall file all the applicable Sports Wagering Business Entity Disclosure Forms or Sports Wagering employee disclosure forms, or a Sports Wagering Registration Form.

(3) A qualifier for a Sports Wagering Vendor License may, if authorized by the Bureau, instead file disclosure information including, but not limited to, for publicly traded companies, copies of securities filings and/or audited consolidated financial statements for a period as determined by the Bureau, in lieu of the form identified in 205 CMR 234.03(1)(a).

(4) Except as otherwise provided for in 205 CMR 234.07, each Applicant shall file a complete application pursuant to 205 CMR 234.03(1) with the Division of Licensing in the manner prescribed by the Division of Licensing. The Division of Licensing shall not accept an incomplete application.

(5) Fees.

(a) A non-refundable fee of \$15,000 for an initial application and \$5,000 for a renewal shall be paid at the time of application for licensure as a Sports Wagering Vendor.

(b) A non-refundable fee of \$5,000 for an initial application and \$5,000 for a renewal shall be paid at the time of application for registration as a Sports Wagering Registrant.

(c) Such fees shall be subject to the provisions of 205 CMR 134.15: *Fees* regarding increases in application fees and manner of submittal of such fees.

234.04: Investigation, Determination, and Appeals for Sports Wagering Vendors and Sports Wagering Registrants

(1) Upon receipt of an application for a Sports Wagering Vendor License or registration or a Sports Wagering vendor qualification, the Division of Licensing shall conduct a review of each for administrative completeness and then forward the application or submission to the Bureau which shall conduct an investigation of the Applicant. In the event an application or submission is deemed incomplete, the Division of Licensing may either request supplemental information from the Applicant or administratively close the application in accordance with 205 CMR 234.08. For individuals, the investigation shall include obtaining and reviewing criminal offender record information from the Department of Criminal Justice Information Services (DCJIS) and exchanging fingerprint data and criminal history with the Massachusetts Department of State Police and the United States Federal Bureau of Investigation. The investigation shall be conducted for purposes of determining whether the Applicant is suitable to be issued a license or registration in accordance with 205 CMR 234.05 and 205 CMR 234.06.

(2) In determining the weight to be afforded any information bearing on suitability in accordance with 205 CMR 234.05 or 205 CMR 234.06, the Division of Licensing, Bureau, or Commission, as applicable, shall consider: the relevance of the information to doing business with a Sports Wagering Operator in general, whether there is a pattern evident in the information, and whether the Applicant is likely to be involved in Sports Wagering related activity. Further, the information will be considered in the light most favorable to the Applicant, unless the information cannot be so viewed pursuant to M.G.L. c. 23K or M.G.L. c. 23N, or the information obtained does not otherwise support such view. For purposes of 205 CMR 234.00, an adjudication of delinquency shall not be considered a conviction. Such a finding may, however, be considered for purposes of determining the suitability of an Applicant. Sealed or expunged records of criminal or delinquency appearances, dispositions, and/or any information concerning such acts shall not be considered for purposes of making a suitability determination in accordance with 205 CMR 234.00, and M.G.L. c. 23N.

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(3) Sports Wagering Vendor License Decisions. Upon completion of the investigation, conducted in accordance with 205 CMR 234.04(1), the Bureau shall either approve or deny the application for a Sports Wagering Vendor License. If the Bureau approves the application for a Sports Wagering Vendor, the Bureau shall forward a written approval to the Division of Licensing which shall issue a license to the Applicant on behalf of the Commission. If the application is denied, the Bureau shall forward the determination of denial and reasons therefor to the Division of Licensing which shall issue a written decision to the Applicant explaining the reasons for the denial. The decision shall include an advisory to the Applicant that they may appeal the decision in accordance with 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*. If the denial is based upon information contained in a Person's criminal record, the decision shall also include an advisory that the Person will be provided with a copy of their criminal record upon request and that they may challenge the accuracy of any relevant entry therein. The decision may be served *via* first class mail or email to the addresses provided by the Applicant on the application.

(4) Sports Wagering Registration Decisions. The Division of Licensing shall issue a registration to the Applicant for Sports Wagering Registration on behalf of the Commission in accordance with 205 CMR 234.06. In the event that the Bureau determines, upon completion of the investigation conducted in accordance with 205 CMR 234.04(1), that the Applicant should be disqualified from holding a registration or is otherwise unsuitable in accordance with 205 CMR 234.06, it shall forward the results of the investigation to the Division of Licensing which shall issue a written notice to the Applicant denying or revoking the registration. The notice shall include an advisory to the Applicant that they shall immediately cease doing business with the gaming establishment and may request an appeal hearing in accordance with 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*. If the denial is based upon the information contained in the person's criminal record, the decision shall also include an advisory that the person will be provided with a copy of their criminal record upon request and that they may challenge the accuracy of any relevant entry therein. The notice may be served *via* first class mail or *via* email to the addresses provided by the Applicant on the application.

234.05: Affirmative License Standards for Sports Wagering Vendors

(1) An Applicant for a Sports Wagering Vendor License and any Sports Wagering Vendor qualifier shall establish individual qualifications by clear and convincing evidence.

(2) In determining whether an Applicant for licensure is suitable for purposes of being issued a Sports Wagering Vendor License, being qualified as a Sports Wagering Vendor qualifier or for having a Sports Wagering Vendor License or qualification renewed, the Bureau shall evaluate and consider the overall reputation of the Applicant and qualifiers, if any, including, without limitation:

- (a) the integrity, honesty, good character and reputation of the Applicant and qualifiers;
- (b) the financial stability, integrity, and background of the Applicant and qualifiers;
- (c) whether the Applicant and its qualifiers have a history of compliance with gaming and Sports Wagering licensing requirements in other jurisdictions;
- (d) whether the Applicant or any qualifier, at the time of application, is a defendant in litigation;
- (e) whether the Applicant is disqualified from receiving a license under 205 CMR 234.05(3);
- (f) whether the Applicant or any qualifier has been convicted of a crime of moral turpitude;
- (g) whether, and to what extent, the Applicant or any qualifier has associated with members of organized crime and other Persons of disreputable character;
- (h) the extent to which the Applicant and qualifiers have cooperated with the Bureau in connection with the background investigation; and
- (i) the integrity, honesty, and good character of any subcontractor.

(3) The Bureau and Commission shall deny an application for a Sports Wagering Vendor License if the Applicant or a qualifier:

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- (a) has been convicted of a felony or other crime involving embezzlement, theft, fraud or perjury; except that for such disqualifying convictions which occurred before the ten-year period immediately preceding submission of the application for licensure, the Bureau may, in its discretion, approve the issuance of a Sports Wagering Vendor License to an Applicant who affirmatively demonstrates rehabilitation in accordance with 205 CMR 234.05(4);
- (b) submitted an application for a license under M.G.L. c. 23K, §§ 30, 31, 205 CMR 134.00: *Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations*, M.G.L. c. 23N or 205 CMR 234.00 that willfully, knowingly or intentionally contains materially false or misleading information;
- (c) committed prior acts which have not been prosecuted or in which the Applicant was not convicted, but which form a pattern of misconduct that makes the Applicant unsuitable for a license; or
- (d) 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 Commonwealth.

(4) Rehabilitation.

- (a) An Applicant may provide proof of rehabilitation from a criminal conviction as part of the application for licensure.
- (b) In considering the rehabilitation of an Applicant the following shall be considered:
 1. the nature and duties of the position of the Applicant;
 2. the nature and seriousness of the offense or conduct;
 3. the circumstances under which the offense or conduct occurred;
 4. the date of the offense or conduct;
 5. the age of the Applicant when the offense or conduct was committed;
 6. whether the offense or conduct was an isolated or repeated incident;
 7. any social conditions which may have contributed to the offense or conduct; and
 8. any evidence of rehabilitation, including recommendations and references of persons supervising the Applicant since the offense or conduct was committed.
- (c) A Sports Wagering Vendor License qualifier shall be 18 years of age or older at the time of application.

234.06: Affirmative Registration Standards for Sports Wagering Registrants

- (1) Upon submission of an administratively complete registration form as a Sports Wagering Registrant, the Division of Licensing shall issue the registration on behalf of the Commission. A registration may be denied or subsequently revoked if it is determined that the Applicant is disqualified in accordance with 205 CMR 234.06(2) or unsuitable for any criteria identified in 205 CMR 234.06(3).
- (2) The Bureau and Commission shall deny or revoke a registration if the person:
 - (a) has been convicted of a felony or other crime involving embezzlement, theft, fraud or perjury; except that for such disqualifying convictions which occurred before the ten-year period immediately preceding submission of the application for licensure, the Bureau may, in its discretion, approve the issuance of a registration to an Applicant who affirmatively demonstrates rehabilitation in accordance with 205 CMR 234.05(4);
 - (b) submitted a registration form under M.G.L. c. 23K, §§ 30, 31, 205 CMR 134.00, M.G.L. c. 23N or 205 CMR 234.00 that willfully, knowingly or intentionally contains materially false or misleading information;
 - (c) committed prior acts which have not been prosecuted or in which the Applicant was not convicted, but which form a pattern of misconduct that makes the Applicant unsuitable for registration; or
 - (d) 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 Commonwealth in approving a registration.
- (3) In determining whether an Applicant is suitable for purposes of being issued a registration or having a registration renewed, the Bureau may evaluate and consider the overall reputation of the Applicant including, without limitation:

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- (a) the integrity, honesty, good character and reputation of the Applicant;
 - (b) the financial stability, integrity, and background of the Applicant;
 - (c) whether the Applicant has a history of compliance with gaming licensing requirements in other jurisdictions;
 - (d) whether the Applicant, at the time of submission of the registration form, is a defendant in litigation;
 - (e) whether the Applicant is disqualified from receiving a registration under 205 CMR 234.06(2);
 - (f) whether the Applicant has been convicted of a crime of moral turpitude;
 - (g) whether, and to what extent, the Applicant has associated with members of organized crime and other persons of disreputable character;
 - (h) the extent to which the individual has cooperated with the Bureau in connection with the background investigation; and
 - (i) the integrity, honesty, and good character of any Subcontractor.
- (4) An Applicant for a registration shall be 18 years of age or older at the time of application.
- (5) The Bureau may deny an application for registration if it determines that the Applicant formed the Applicant entity for the sole purpose of circumventing the requirement to be licensed as a Sports Wagering Vendor.

234.07: Temporary Licenses for Sports Wagering Vendors

- (1) Notwithstanding any other provision of 205 CMR 234.00, upon petition to the Commission by an Operator, the Commission may issue a temporary Sports Wagering Vendor License to an Applicant for a Sports Wagering Vendor License if:
- (a) the Applicant for a Sports Wagering Vendor License has filed a completed application with the Commission and has submitted all of the disclosure forms as required by the Division of Licensing. The Bureau may waive the requirement to submit application information for some or all of the Applicant's individual and entity qualifiers prior to issuance of a Temporary License;
 - (b) the Operator certifies, and the Commission finds, that the issuance of a temporary Sports Wagering Vendor License is necessary for the operation of Sports Wagering and is not designed to circumvent the normal licensing procedures; and
 - (c) the Operator certifies that, to the best of its reasonable knowledge and belief, the proposed temporary Sports Wagering Vendor meets the qualifications for licensure pursuant to 205 CMR 234.05 and that the Operator understands that it may be denied an Operator License if it has willfully, knowingly or intentionally provided false or misleading information regarding the proposed vendor.
- (2) An Applicant applying for a Sports Wagering Vendor License on or before August 31, 2023 shall demonstrate its suitability for temporary licensure upon certification by the Applicant under the pains and penalties of perjury that the Applicant entity:
- (a) is not disqualified under one or more of the criteria listed in 205 CMR 234.05(3);
 - (b) is properly licensed or registered, and in good standing, to conduct the same operations in every other jurisdiction where it operates as a Sports Wagering Vendor or the equivalent; and
 - (c) has disclosed any other information not previously disclosed of which it is aware or reasonably should be aware which would negatively impact a determination on the Applicant's suitability for a sports wagering vendor license.
- (3) On or after September 1, 2023, a temporary Sports Wagering Vendor License shall issue, unless:
- (a) A preliminary review of the Applicant shows that the Applicant is disqualified under one or more of the criteria listed in 205 CMR 234.05(3); or
 - (b) A preliminary review of the Applicant shows that the Applicant will be unable to establish his or her qualifications for licensure under the standards set forth in 205 CMR 234.05(1).

234.07: continued

(4) If an Applicant for a temporary Sports Wagering Vendor License is licensed or registered in another jurisdiction within the United States with comparable license and registration requirements, as determined by the Bureau, and is in good standing in all jurisdictions in which it holds such a license or registration, the Commission may issue the vendor a temporary Sports Wagering Vendor License; provided, however, that the Commission shall reserve its rights to investigate the qualifications of an Applicant at any time.

(5) Unless otherwise stated by the Commission, a temporary Sports Wagering Vendor License issued under this 205 CMR 234.07 shall expire upon issuance of a full Sports Wagering Vendor License or upon suspension or revocation of the temporary Sports Wagering Vendor License, and in any event no later than the term of the license as set forth in 205 CMR 234.09(1).

234.08: Administrative Closure of Applications for Sports Wagering Vendor Licensure or Registration

(1) All Applicants for a Sports Wagering Vendor License or registration shall promptly respond to any request for information from the Division of Licensing and/or the Bureau. This obligation is in addition to the continuing duty set forth in 205 CMR 234.10.

(2) Failure of an Applicant for a Sports Wagering Vendor License or registration to respond to a request for information from the Division of Licensing and/or the Bureau within 21 days of the request may result in the administrative closure of the application for licensure or registration and the corresponding administrative revocation of a Sports Wagering Vendor license or registration, if applicable.

(3) In the event that an application for licensure or a registration is administratively closed for failure to provide requested information or to comply with the obligations set forth in either 205 CMR 234.08(1) or 205 CMR 234.10, the Division of Licensing or the Bureau will notify the Applicant of the determination in writing and will identify the specific deficiencies in the application that served as the basis for the closure. Once an application for licensure or registration has been administratively closed, the Applicant is required to submit a new application in order to be considered for licensure or registration. In that event, the Applicant shall submit a complete application including all outstanding information as previously detailed by the Division of Licensing or the Bureau. The submission of outstanding information is not a guarantee of licensure or registration, but is a prerequisite for the application to be deemed administratively complete.

234.09: Term of Sports Wagering Vendor License or Registration; Renewal

(1) Term. Sports Wagering Vendor licenses and registrations and Sports Wagering vendor qualifications shall be for an initial term of three years. The initial term of a Sports Wagering Vendor License or registration shall expire and be renewable on the last day of the month on the third anniversary of the issuance date.

(2) Renewal.

(a) At a minimum of 150 days prior to expiration, each Sports Wagering Vendor shall submit a new and updated application or registration in accordance with 205 CMR 234.00.

(b) If a vendor or qualifier has made timely and sufficient application for a renewal, the Applicant's existing license or registration shall not expire and the Applicant shall remain in good standing until the Bureau has issued a decision on the application or registration. If a renewal application or registration is received after the renewal date and the license or registration expires before the Commission issues a new license or registration, the Person shall not conduct business with an Operator until a new license or registration is issued.

(c) It shall be the responsibility of the vendor to ensure that their license or registration is current.

234.10: Duties of Applicants, Licensees, and Sports Wagering Registrants

All Sports Wagering Vendor Applicants, Sports Wagering Vendors, Sports Wagering Registrants and qualifiers, shall have the same duties and obligations required of gaming vendor Applicants, licensees, and registrants pursuant to 205 CMR 134.18: *Duties of Applicants and Licensees*.

234.11: Disciplinary Action

Sports Wagering Vendor Licensees and Sports Wagering Registrants may be disciplined in accordance with 205 CMR 232.00 or any other applicable provision of 205 CMR or M.G.L. c. 23N.

234.12: Application Following Denial or Revocation

No individual who has been denied a license or registration or has had their license or registration revoked pursuant to 205 CMR 234.11, 205 CMR 232.00, or any other provision of 205 CMR or M.G.L. c. 23N may reapply for the same license or registration prior to two years from the date of denial or revocation. If an individual has appealed the denial or revocation of their license or registration, the two-year period shall begin to run from the date that the denial or revocation is affirmed pursuant to 205 CMR 101.00: *M.G.L. C. 23K Adjudicatory Proceedings* or otherwise pursuant to M.G.L. c. 30A.

REGULATORY AUTHORITY

205 CMR 234.00: M.G.L. c. 23K, § 4(42); c. 23N, §§ 4(a), (b) and 5.

NON-TEXT PAGE