



**MEETING AGENDA
JUNE 29, 2022**

1. CALL TO ORDER AND ESTABLISHMENT OF QUORUM
2. CONSIDERATION OF MINUTES FOR MEETING OF MARCH 28, 2022
3. RULEMAKING
 - A. ADOPTION: SGC-13-22-00001-P REMOVING THE REQUIREMENT TO COUPLE ENTRIES WITH JOCKEYS WITH RELATIONSHIPS AMONG THEM OR WITH OTHER PARTICIPANTS IN THE RACE
 - B. ADOPTION: SGC-13-22-00003-P REGULATION OF CHARITABLE GAMING GAMES OF CHANCE
 - C. ADOPTION: SGC-13-22-00004-P REGULATION OF CHARITABLE GAMING RAFFLES
 - D. ADOPTION: SGC-13-22-00005-P RACING LICENSE HEARING REQUESTS AND SERVICE METHODS
4. HEARING & ADJUDICATION DECISIONS
 - A. IN THE MATTER OF DALTON'S BAR AND GRILL, LLC.
 - B. IN THE MATTER OF THE VOIDING OF THE CLAIM OF BATTALION ON MAY 28, 2022
 - C. IN THE MATTER OF THE CLAIM OF THE HORSE WABAUNSEE ON JUNE 13, 2022
5. NEW & OLD BUSINESS
6. ADJOURNMENT

###

**New York State Gaming Commission Minutes
Meeting of March 28, 2022**

A meeting of the Commission was conducted in conformity with Chapter 1 of the Laws of 2022. The meeting was conducted by conference call, provided the public to listen and such meeting was recorded and will be transcribed.

1. Call to Order and Establishment of Quorum

Executive Director Robert Williams called the meeting to order at 11:42 a.m. Establishment of a quorum was noted by Acting Secretary Kristen Buckley. In attendance were Chairman Barry Sample, and Members John Crotty, Peter Moschetti, John Poklemba, Christopher Riaño and Jerry Skurnik.

2. Consideration of Minutes for Meeting of February 28, 2022

The Commission considered previously circulated draft minutes of the meeting conducted on February 28, 2022. The minutes were accepted as circulated.

3. Rulemaking

A. ADOPTION: SGC-02-22-00003-P, Regulation of Charitable Gaming Internet Raffles

The Commission considered adoption of regulations to govern charitable gaming internet raffles.

ON A MOTION BY: Commissioner Moschetti
APPROVED: 6-0

4. New/Old Business

Neither new nor old business was presented.

5. Adjournment

The meeting was adjourned at 11:54 a.m.



Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

To: Commissioners

From: Edmund C. Burns

Date: June 13, 2022

Re: Adoption of Proposed Rulemaking for Coupling of Entries in Thoroughbred Racing (9 NYCRR §§ 4025.10 and 4040.2)

For Commission consideration is the adoption of an amendment to the regulations governing mandatory coupling of entries in Thoroughbred racing. Coupling means a combination of related entries in a race as one betting interest for wagering purposes. The proposed rule would remove the requirement to couple entries with jockeys with relationships among them or with other participants in the race. The Commission steward would retain the discretion to require coupling in any circumstances in which such steward concludes coupling is necessary in the public interest. See 9 NYCRR § 4025.10(e).

The text of the proposed rule is set forth in the attached Notice of Proposed Rulemaking, as published in the March 30, 2022 State Register. The public comment period for the proposed rulemaking expired on May 31, 2022. Five public comments were received.

The New York Racing Association, Inc. and the New York Thoroughbred Breeders, Inc. each stated support for the proposal.

The New York Thoroughbred Horsemen's Association, Inc. ("NYTHA") stated support for the proposal and further urged the Commission to expand the proposal. NYTHA suggested that the rule should state that horses trained by those with relationships to other trainers are not required to be coupled. As an example, NYTHA objects to a coupling of entries when a trainer trains two horses in a race, one of which is owned by the trainer's spouse. NYTHA's suggestion for the text, with NYTHA's proposed amendments in shown in italics, is:

§ 4025.10. Limitations on entries.

* * *

(f) All horses trained or ridden by a spouse, parent, issue or member of a jockey's *or trainer's* household [shall] are not required to be coupled in the betting with any horse ridden by such jockey *or any horse trained by such trainer.*

Thoroughbred horse owner Tina Maria Bond, whose husband trains horses she owns, submitted a comment objecting to the coupling of horses of hers with horses of unrelated owners when the

coupled horses were both trained by her husband. Her comment did not address the elimination of mandatory coupling when persons related to jockeys are involved in the same race.

Thoroughbred trainer H. James Bond stated that “[t]his rule of coupling will be detrimental to my business as a public trainer,” but did not explain how or why. His comment did not address the elimination of mandatory coupling when persons related to jockeys are involved in the same race.

Staff response:

[REDACTED]

[REDACTED]

attachment

cc: Robert Williams, Executive Director
Ronald Ochrym, Director, Division of Horse Racing and Pari-Mutuel Wagering

Response: Outside of nine Adirondack counties, there should be no confusion: ice fishing is permitted unless specifically prohibited. Within those nine Adirondack counties, the existing ice fishing regulation prohibiting ice fishing in waters inhabited by trout unless otherwise specifically permitted will remain in effect. Ice fishing will continue to be prohibited in Brook Trout ponds. Special regulations prohibiting ice fishing for individual Brook Trout ponds outside of those nine counties are included in the proposed regulations.

New York State Gaming Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Removing the Requirement to Couple Entries with Jockeys with Relationships Among Them or With Other Participants in the Race

I.D. No. SGC-13-22-00001-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of sections 4025.10 and 4040.2 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Removing the requirement to couple entries with jockeys with relationships among them or with other participants in the race.

Purpose: To enhance the integrity and safety of thoroughbred horse racing.

Text of proposed rule: Subdivision (f) of section 4025.10 and section 4040.2 of 9 NYCRR would be amended to read as follows:

§ 4025.10. Limitations on entries.

(f) All horses trained or ridden by a spouse, parent, issue or member of a jockey's household [shall] *are not required* to be coupled in the betting with any horse ridden by such jockey.

§ 4040.2. Owning race horses forbidden.

No jockey, nor such jockey's spouse, parent, issue nor member of such jockey's household, shall be the owner of any race horse. [All horses trained or ridden by a spouse, parent, issue or member of a jockey's household shall be coupled in the betting with any horse ridden by such jockey.]

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, NY 12301, (518) 388-3332, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

1. **STATUTORY AUTHORITY:** The New York State Gaming Commission ("Commission") is authorized to promulgate these rules pursuant to Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 103(2) and 104 (1) and (19). Pursuant to Section 103(2), the Commission is responsible for supervising, regulating and administering all horse racing and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all gaming activities within the State and over the corporations, associations and persons engaged in such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities.

2. **LEGISLATIVE OBJECTIVES:** To enable the Commission to enhance the integrity and safety of Thoroughbred horse racing and generate reasonable revenue for the support of government.

3. **NEEDS AND BENEFITS:** This rule making proposes to amend the Commission's regulations to remove the requirement to couple entries with jockeys with relationships among them or with other participants in the race. The Commission steward would retain the discretion to require

coupling in any circumstances in which such steward concludes coupling is necessary in the public interest, which should continue to protect the interests of the wagering public in unusual or unforeseen circumstances in a particular race.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: These amendments will not add any new mandated costs to the existing rules.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: None anticipated. The amendments will not add any new costs. There will be no costs to local government because the Commission is the only governmental entity authorized to regulate Thoroughbred racing.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: Experience of agency staff.

5. **LOCAL GOVERNMENT MANDATES:** None. The Commission is the only governmental entity authorized to regulate Thoroughbred racing activities.

6. **PAPERWORK:** There will be no additional paperwork.

7. **DUPLICATION:** These rules do not duplicate, overlap or conflict with any existing State or federal requirements.

8. **ALTERNATIVES:** The Commission considered removing the requirement to couple entries with jockeys with relationships among them or with other participants in the race but requiring some form of notice or disclosure to bettors of relationships. Commission staff determined that such alternative would be impractical and inconsistent with wagering on out-of-state racing through simulcast betting and with sports wagering generally, where relationships among competitors may not be known or easily determined.

9. **FEDERAL STANDARDS:** There are no minimum standards of the Federal government for this or a similar subject area.

10. **COMPLIANCE SCHEDULE:** The Commission anticipates that the affected parties will be able to achieve compliance with these rules upon adoption.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and

The proposed changes do not require a Regulatory Flexibility Analysis, Rural Area Flexibility Analysis or Job Impact Statement. There will be no adverse impact on small businesses, local governments, rural areas or jobs.

The proposed rule making would remove the requirement to couple entries with jockeys with relationships among them or with other participants in the race.

The proposed rules will not impose any adverse economic impacts or reporting, recordkeeping or other compliance requirements on small businesses, local governments, rural areas or employment opportunities. No local government activities are involved.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Regulation of Charitable Gaming Games of Chance

I.D. No. SGC-13-22-00003-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This is a consensus rule making to amend Parts 4600, 4601, 4603, 4606, 4607, 4608, 4610, 4611, 4620, 4621, 4622, 4624; repeal sections 4608.13 and 4621.1 of Title 9 NYCRR.

Statutory authority: General Municipal Law, section 188-a(1), (9); Racing, Pari-Mutuel Wagering and Breeding Law, section 104(19)

Subject: Regulation of charitable gaming games of chance.

Purpose: To conform games of chance rules to current statutes and improve operations.

Substance of proposed rule (Full text is posted at the following State website: <https://www.gaming.ny.gov/proposedrules.php>): Amendments to section 4600.1 remove a prohibition against civic organizations being considered authorized organizations for games of chance, clarify that political action committees are not authorized organizations to conduct games of chance and eliminate verbatim repetition of statute.

An amendment to section 4601.1 makes a stylistic change.

Amendments to section 4603.8 eliminate verbatim repetition of statute, instead adding a cross-reference to statute.

An amendment to section 4606.12 adds a cross-reference to controlling statute.

Amendments to section 4607.10 eliminate verbatim repetition of statute, instead adding a cross-reference to controlling statute.



Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

To: Commissioners

From: Edmund C. Burns

Date: June 1, 2022

Re: Adoption of Consensus Rulemaking for Regulation of Charitable Gaming Games of Chance (various sections of 9 NYCRR Chapter II)

For Commission consideration is the adoption of a consensus rulemaking to implement various provisions of charitable gaming legislation and update various charitable gaming regulations concerning games of chance. The Notice of Proposed Rulemaking, as published in the March 30, 2022 State Register, is attached. The text of the proposed rule, which is posted on the Commission's website, is also attached. The public comment period for the consensus rulemaking expired on May 31, 2022. No comments were received.



attachments

cc: Robert Williams, Executive Director
Stacy Harvey, Director, Division of Charitable Gaming

NYS Gaming Commission Charitable gaming update (games of chance) (consensus proposed rule)

Text to be deleted appears in [brackets]

Text to be added is underlined

Sections 4600.1, 4603.8, 4606.12, 4607.10, 4607.21, 4608.2, 4608.3, 4608.4, 4608.5, 4608.6, 4608.7, 4608.12, 4608.13, 4610.1, 4610.2, 4611.1, 4611.2, 4620.10, 4620.19, 4620.23, 4622.12, 4622.20, 4622.21, 4622.22, 4622.23, 4622.26, 4624.9, 4624.17 and 4624.21 of 9 NYCRR would be amended to read as follows:

§ 4600.1. Definition of terms and general provisions.

Unless the context indicates otherwise, the following definitions and the definitions set forth in General Municipal Law sections 186 and 190-a(2) are applicable throughout Subchapters A and B of this Chapter:

[(a) *Municipality* means any city, town or village within this State.]

(a) *Authorized organization*, as defined in General Municipal Law section 186(4), includes a bona fide civic organization or a bona fide organization of volunteer ambulance workers that otherwise satisfies the definition set forth in such statute. No political entity, including a political action fundraising committee, shall be deemed an authorized organization.

(b) Commission means New York State Gaming Commission.

[(c) *Games of chance* means and includes only the games known as “merchandise wheels,” “raffles,” “bell jars,” “coin boards,” “merchandise boards,” “seal cards” and such other specific games as may be authorized by the commission, in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance, but not including games commonly known as “bingo” or “lotto” and also not including “slot machines,” “bookmaking,” “policy or numbers games” and “lottery,” as defined in section 225.00 of the Penal Law. Only games of chance designated by the commission may be conducted. No game of chance shall involve wagering of money by one player against another player.

(d) *Authorized organization* means and includes any bona fide religious or charitable organization or bona fide educational, fraternal or service organization or bona fide organization of veterans or volunteer firemen, that by its charter, certificate of incorporation, constitution, or act of the Legislature, shall have among its dominant purposes one or more of the lawful purposes as defined in this Chapter, provided that each shall operate without profit to its members, and provided that each such organization has engaged in serving one or more of the lawful purposes as defined in this Chapter for a period of three years immediately prior to applying for a license under this Chapter. No organization shall be deemed an authorized organization that is formed primarily for the purpose of conducting games of chance and that does not devote at least 75 percent of its activities to other than conducting games of chance. No political party nor civic organization shall be deemed an authorized organization.

(e) *Lawful purposes* means one or more of the following causes, deeds or activities:

(1) Those that benefit needy or deserving persons indefinite in number by enhancing their opportunity for religious or educational advancement, by relieving them from disease, suffering or distress, or by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded and enhancing their loyalty to their governments.

(2) Those that initiate, perform or foster worthy public works or enable or further the erection or maintenance of public structures.

(3) Those that initiate, perform or foster the provision of services to veterans by encouraging the gathering of such veterans and enable or further the erection or maintenance of facilities for use by such veterans that shall be used primarily for charitable or patriotic purposes or those purposes that are authorized by a bona fide organization of veterans, provided however that such proceeds are disbursed in accordance with the rules and regulations of the commission.

(4) Those that otherwise lessen the burdens borne by government or that are voluntarily undertaken by an authorized organization to augment or supplement services that government would normally render to the people.

(f) *Net proceeds* means:

(1) in relation to the gross receipts from one or more license periods of games of chance, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for supplies and equipment, prizes, security personnel, stated rental if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the commission, janitorial services and utility supplies if any, license fees, and the cost of bus transportation, if authorized by the clerk or department; and

(2) in relation to the gross rent received by an authorized games of chance lessor for the use of its premises by a games of chance licensee, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for janitorial services and utility supplies directly attributable thereto, if any.

(g) *Net lease* means a written agreement between a lessor and lessee under the terms of which the lessee is entitled to the possession, use or occupancy of the whole or part of any premises from any authorized games of chance lessor for which the lessee pays rent to the lessor.

(h) *Authorized games of chance lessor* means an authorized organization that has been granted a lessor's license pursuant to the provisions of this Chapter or a municipality.

(i) *Single prize* means the sum of money or actual value of merchandise awarded to a participant by a games of chance licensee in any one operation of a single type of game of chance in excess of his wager.

(j) *Series of prizes* means the total amount of single prizes minus the total amount of wagers lost during the successive operations of a single type of game of chance, except that for merchandise wheels and raffles, series of prizes means the sum of the fair market value of merchandise awarded as single prizes during the successive operations of any single merchandise wheel or raffle. In the game of raffle, a series of prizes may include a percentage of the sum of cash received from the sale of raffle tickets.

(k) *Single type of game* means the game of chance known as “merchandise wheels” and each other specific game of chance authorized by the commission, regardless of the number of merchandise wheels and locations at which such other single type of game of chance may be conducted.

(l) *Operation* means the play of a single type of game of chance necessary to determine the outcome or winners each time wagers are made.

(m) *One occasion* means the successive operations of any one single type of game of chance that results in the awarding of a series of prizes amounting to \$500 or \$400 during any one license period, in accordance with the provisions of subdivision 8 of section 189 of the General Municipal Law, as the case may be. For purposes of the game of chance known as “merchandise wheels,” or “raffles,” one occasion shall mean the successive operations of any one such merchandise wheel or raffle for which the limit on a series of prizes provided by subdivision 6 of section 189 of the General Municipal Law shall apply. For purposes of the games of chance known as a bell jar, coin boards, merchandise boards and seal cards, one occasion shall mean the successive operation of any one such bell jar, coin board, merchandise board and seal card, deal that results in the awarding of a series of prizes not to exceed \$3,000. For the purposes of the game of chance known as “raffles”, one occasion shall mean a calendar year during which successive operations of such game are conducted.

(n) *License period* means a period of time, not to exceed 14 consecutive hours, during which authorized games of chance commence and terminate, except that the license period for bell jar and raffles shall commence January 1 and terminate December 31 of such year.

(o) *Authorized supplier of games of chance equipment* means any person, firm, partnership, corporation or organization licensed by the commission to sell or lease games of chance equipment or paraphernalia that meets the specifications and regulations established by the commission. Nothing in this Chapter shall prevent an authorized organization from purchasing common articles, such as cards and dice, from normal sources of supply of such articles or from constructing equipment and paraphernalia for games of chance for its own use. However, no such equipment or paraphernalia, constructed or owned by an authorized organization that has previously

obtained an identification number, shall be sold or leased to any licensed authorized organization without written permission from the commission.

(p) *Clerk* means the clerk of a municipality outside the City of New York.

(q) *Officer* means the chief law enforcement officer of a municipality outside the City of New York or, if such municipality exercises the option set forth in subdivision 2 of section 194 of the General Municipal Law, the chief law enforcement officer of the county.

(r) *Department* means the New York City Department of Consumer Affairs.

(s) *Premises* means a designated area within a building, hall, tent or grounds reasonably identified for the conduct of games of chance. Nothing in this Subchapter shall require such area to be enclosed.

(t) *Games of chance* currency means legal tender or chip authorized by the commission either of which may be used at the discretion of the games of chance licensee.

(u) *Bell jars*, which include coin boards, merchandise boards and seal cards mean and include those games in which a participant shall draw a card from a jar or other suitable container or from a commission-approved vending machine, that contains numbers, colors or symbols that are covered and that, when uncovered, may reveal that a prize shall be awarded on the basis of a designated winning number, color or symbol or combination of numbers, colors or symbols. *Coin board* and *merchandise board* mean a board used in conjunction with bell jar tickets bearing the same serial number that contains and displays various coins and/or merchandise prizes that are awarded to players whose bell jar ticket number matches the pre-designated number reflected on the board for a specific prize. *Seal card* means a board or placard used in conjunction with a deal of bell jar tickets bearing the same serial number, that contains one or more concealed areas that, once uncovered, reveal a pre-designated winning number, letter or symbol.

(v) *Raffles* mean and include those games in which a participant pays money in return for a ticket or other receipt and in which a prize is awarded on the basis of a winning number or numbers, color or colors, or symbol or symbols designated on the ticket or receipt, determined by chance as a result of a drawing from among those tickets or receipts previously sold.]

* * *

§ 4601.1. Application requirements.

* * *

(b) This application for registration and identification number must be signed as follows: if a religious organization, by the priest or pastor, or the president or chairman of the board of directors of the congregation if a synagogue or temple; if a charitable organization, by

NYS Gaming Commission Charitable gaming update (games of chance) (consensus proposed rule)

Text to be deleted appears in [brackets]

Text to be added is underlined

the president; if an organization of veterans, by the commander; if an organization of volunteer [firemen] firefighters, by the president. The legally responsible principal official of the applicant organization shall sign in his or her representative capacity.

* * *

§ 4603.8. Sunday[, conduct of games on].

[Except as provided in the Games of Chance Licensing Law, no games of chance shall be commenced under any license issued under this Chapter on Sunday, unless it shall be otherwise provided in the license issued for the conducting thereof, pursuant to the provisions of a local law or an ordinance duly adopted by the governing body of the municipality wherein the license is issued, authorizing the conduct of games of chance under this Chapter on that day between the hours of noon and midnight only, except if the following day is a legal holiday. Notwithstanding the foregoing provisions of this section, no games of chance shall be conducted on Easter Sunday or Christmas Day.] Conduct of games on Sunday is governed by General Municipal Law section 195.

* * *

§ 4606.12. Limitation on premises that may be made available for rent.

An authorized games of chance lessor must establish that the premises to be licensed for rental belong absolutely to the lessor and, where the lessor has conducted licensed games of chance, the premises to be leased are the same in which the lessor has conducted games of chance during the license year. No authorized games of chance lessor shall be licensed to lease any or all premises for more than 12 license periods during a calendar year, as set forth in General Municipal Law section 191(1)(b). Where an authorized organization leases premises on a full-time basis for purposes encompassing all of the customary and lawful activities of such organization, including but not limited to the conduct of games of chance, it shall be eligible for a games of chance lessor's license to lease said premises. Owners, net lessors, holding companies or parent groups which lease or make premises available to one or more authorized organizations on a full-time basis for purposes encompassing all of the customary and lawful activities of such organizations, including but not limited to the conduct of games of chance, are not required to be licensed as games of chance lessors.

* * *

§ 4607.10. Ineligibility for a license.

[The following] Persons and entities set forth in General Municipal Law 189-a(a) shall be ineligible for a games of chance supplier's license[:].

[(a) a person convicted of a crime who has not received a pardon, a certificate of good conduct or a certificate of relief from disabilities.

(b) a person who is or has been a professional gambler or gambling promoter or who for other reasons is not of good moral character;

(c) a public officer or employee;

(d) an authorized games of chance lessor licensed under the Games of Chance Licensing Law; and

(e) a firm, partnership, organization, association, joint venture or corporation in which a person defined in subdivision (a), (b), (c) or (d) of this section has greater than a 10-percent proprietary, equitable or credit interest, or in which such a person is active or employed.]

* * *

§ 4607.21. Recapitulation of fees.

At the end of the license period, a recapitulation shall be made as between the supplier licensee and the commission with respect to the gross sales recorded during the license period and the license fee previously paid, as required by General Municipal Law section 189-a(e). Any deficiency of fee thereby established to be due shall be paid by the licensee and, should said licensee apply for a license for a subsequent year, and in that event only, shall any excess of fee be credited to said applicant.

* * *

§ 4608.2. Manufacturers of bell jar tickets: reports and records.

* * *

(b) [For business conducted in New York State,] Penalties for any licensed manufacturer who sells bell jar tickets to other than a distributor licensed by the commission as a supplier [shall:] are set forth in General Municipal Law section 195-n(1).

[(1) upon such first offense, have their license suspended for a period of 30 days;

(2) upon such second offense, participate at a hearing to be conducted by the commission and surrender their license for such period as recommended by the commission; and

(3) upon such third or subsequent offense, have their license suspended for a period of one year and shall be guilty of a class E felony. Any unlicensed manufacturer who violates this section shall be guilty of a class E felony.]

(c) *Bar Codes:*

(1) The manufacturer of bell jar tickets shall affix to the flare of each bell jar game, and to each coin board, merchandise board and seal card a bar code in a format approved by the commission.

(2) The manufacturer shall also affix to the outside of the container or wrapping containing a deal of bell jar tickets, or beneath such wrapping if such wrapping is clear, a bar code providing the same information as the bar code affixed to the flare.

(3) [No] As required by General Municipal Law section 195-n(2), no person may alter the bar code that appears on the flare, on a coin board, on a merchandise board, on a seal card or on the outside of the container or wrapping or beneath clear wrapping containing a deal of bell jar tickets. Possession of a deal of bell jar tickets that has a bar code different from the serial number of the deal inside the container or wrapping as evidenced on the flare is *prima facie* evidence that the possessor has altered the bar code on the container or wrapping.

(d) *Bell jar flares.*

In addition to the requirements set forth in General Municipal Law section 195-n(3):

(1) [A manufacturer shall not ship nor cause to be shipped into this State any deal of bell jar tickets that does not have its own individual flare as required by this Part.

(2)] No person, other than a licensed manufacturer, shall manufacture, alter, modify[,] or otherwise change a flare for a deal of bell jar tickets except as authorized by section 4620.19 of this Subchapter.

[(3) The flare for each deal of bell jar tickets sold by a licensed manufacturer in this State shall be placed inside the wrapping of the deal that the flare describes.

(4) The bar code affixed to the flare of each bell jar game shall bear the serial number of such game as prescribed in section 4608.3 of this Part.] (2) Each number within the serial number shall be printed in digits and/or characters not less than one-half inch high.

[(5) The] (3) As required by General Municipal Law section 195-n(3)(d), the flare of each bell jar game shall have affixed a bar code that provides:

(i) Encrypted within the bar code:

(a) the serial number of the game;

(b) the name or identifier of the manufacturer; and

(c) the game code.

(ii) In human readable form located in the area of the bar code:

(a) the serial number of the game; and

(b) the number of tickets in the deal.

[(6)] (4) The game ticket payout card shall be imprinted on or affixed to the reverse side of the flare.

§ 4608.3. Standards for construction of bell jar tickets.

All bell jar tickets sold in the State of New York [must] shall comply with the following standards:

(a) All bell jar tickets offered for sale or resale in New York [must] shall have a [commission approved] commission-approved logo or manufacturer's name printed thereon.

(b) All bell jar tickets manufactured for sale or resale in New York after January 1, 1999 shall [utilize] include a winner verification code on tickets redeemable for prizes with a value of \$50 or more. Each manufacturer shall establish its own winner verification code for each bell jar ticket game or series of games. The winner verification code shall be a method of verifying winning bell jar tickets, after they have been purchased and opened, from non-winning, altered or forged bell jar tickets. Manufacturers may use special numbers, colors, designs, ink or any combination thereof to establish the winner verification code. Manufacturers shall submit to the commission a letter explaining the winner verification code and shall keep the commission informed, by written notice, of any changes. Winner verification codes shall not be required for banded single-sided single-tabbed, double-sided single-tabbed and folded bell jar tickets.

(c) Bell jar tickets shall be constructed so that it is impossible to determine the covered or concealed number, color, symbol, set of symbols[,] or game protection code on the bell jar ticket by any method or device, including, [but not limited to] without limitation, use of a marking, variance in size, variance in paper color and fiber[,] or [500 watt high intensity] examination by 500-watt high-intensity light, until the bell jar ticket has been dispensed to and opened by the player.

* * *

(f) No serial number used on a deal of bell jar tickets may be repeated on that same manufacturer's form number within a [three year] three-year period. Each tabbed bell jar ticket shall contain perforated and/or clean-cut openings over the numbers, colors or symbols on one side of each bell jar ticket in such a manner as to allow easy opening by the consumer after purchase of the bell jar ticket, while not permitting bell jar tickets to be opened prematurely in normal handling. Perforation should exist on both the horizontal lines of the opening with either perforate or clean-cut on the vertical or elliptical line where

the ticket must be grasped for opening after bending the edge of the ticket. The numbers, colors or symbols must be fully visible in the window and must be placed so that no part of the numbers, colors or symbols remain covered when a tab is removed. Placement of the numbers, colors or symbols to the left or right of center is allowed for increased game security. On banded bell jar tickets, the paper stock of the band shall be color coded when individual serial numbers are repeated.

§ 4608.4. Submission of bell jar tickets for commission approval.

(a) Licensed manufacturers of bell jar tickets, which shall include coin boards, merchandise boards, and seal cards, shall submit to the commission for approval any new, revised or modified bell jar [ticket(s)] ticket or tickets that the licensed manufacturer intends to offer for sale or resale in New York State. The terms, “new,” “revised” or “modified” shall include the exclusive printing of the supplier-distributor name, logo or other [symbol(s)] symbol or symbols on the tickets. The licensed manufacturer requesting review and approval of bell jar [ticket(s)] ticket or tickets pursuant to this section shall provide the commission with the following:

(1) a sample, artist's rendering or color photocopy of the bell jar [ticket(s)] ticket or tickets accompanied by a statement indicating the new, revised or modified [feature(s)] feature or features of the bell jar ticket. A sample of the original bell jar ticket shall also be submitted for comparison with the submission of revised or modified bell jar tickets;

(2) a sample, artist's rendering or color photocopy of the payout card for the bell jar [ticket(s)] ticket or tickets; and

(3) a sample, artist's rendering or color photocopy of the flare for the bell jar [ticket(s)] ticket or tickets.

(b) [Within 30 days of receipt of such sample, artist's rendering or color photocopy, the commission shall approve or deny such submission. Following approval of a rendering of a bell jar ticket, seal card, merchandise board, or coin board by the commission, the manufacturer shall submit to the commission a sample of the printed bell jar ticket, seal card, merchandise board, coin board, payout card, and flare for such game. Such sample shall be submitted prior to the sale of the game to any licensed distributor for resale in this state. For coin boards and merchandise boards, nothing herein shall require the submittal of actual coins or merchandise as part of the approval process. Any licensed manufacturer who willfully violates the provision of this section shall:] General Municipal Law section 195-n(1) sets forth requirements for submission of printed materials after a submission is approved and penalties for noncompliance.

[(1) upon such first offense, have the manufacturer's license suspended for a period of 30 days;

(2) upon such second offense, participate at a hearing to be conducted by the commission and surrender the manufacturer's license for such period as recommended by the commission; and

(3) upon such third or subsequent offense, have the manufacturer's license suspended for a period of one year and shall be guilty of a class E felony.]

* * *

§ 4608.5. Licensed games of chance suppliers of bell jar tickets, supplies and equipment.

* * *

(c) [Licensed suppliers who willfully violate the provisions of this section shall:] Penalties for willful violations of bell jar distribution requirements set forth in General Municipal Law section 195-o are set forth in such section.

[(1) upon such first offense, have the supplier's license suspended for a period of 30 days;

(2) upon such second offense, participate at a hearing to be conducted by the commission and surrender the supplier's license for such period as recommended by the commission; and

(3) upon such third or subsequent offense, have the supplier's license suspended for a period of one year and shall be guilty of a class E felony. Any unlicensed supplier who violates this section shall be guilty of a class E felony.]

§ 4608.6. Business records; retention.

(a) [A licensed games of chance supplier of bell jar tickets, supplies and equipment shall keep at each place of business complete and accurate records for that place of business, including itemized invoices of bell jar tickets, supplies and equipment held and purchased. The records must] In addition to the recordkeeping requirements set forth in General Municipal Law section 195-o(2), such records shall contain the following information:

(1) [The name, address,] the commission identification number and license number of all purchasers;

(2) [The] the name and address of the federally recognized Indian tribe or nation; and

(3) [All] all other pertinent papers and documents relating to the purchase, sale[,] or disposition of bell jar tickets, supplies and equipment, including shipping records as may be required by the commission.

(b) [All] In addition to licensed games of chance suppliers of bell jar tickets, as set forth in General Municipal Law section 195-o(2), licensed manufacturers [and licensed games of chance suppliers] of bell jar tickets, supplies and equipment shall maintain their books, records, itemized invoices, and other papers and documents required by commission rules for a period of not less than four years, unless the commission authorizes in writing their destruction or disposal at an earlier date. [Violation of this section shall constitute a misdemeanor.]

§ 4608.7. Invoices; licensed manufacturers and/or licensed suppliers of bell jar tickets, supplies and equipment.

* * *

(c) The invoice filed by the licensed manufacturer or licensed supplier of bell jar tickets shall contain the following information:

(1) [Name,] name, address and commission license number of the manufacturer;

(2) [Name,] name, address and commission license number of the games of chance supplier or federally recognized Indian tribe or nation;

(3) [Total] total number of bell jar ticket deals;

(4) [For] for each game sold:

(i) deal serial number;

(ii) game form number;

(iii) price per ticket in deal;

(iv) number of tabs per ticket;

(v) total ticket count of each deal;

(vi) ideal gross profit;

(vii) ideal net profit; and

(viii) unit price and total sale price[.];

(5) [Date] date of sale;

(6) [Date] date of shipment;

(7) [Identity] identity of carrier; and

(8) [Licensed] licensed suppliers, except licensed manufacturers, also shall [also] provide the following information:

(i) [The] the account number identifying the sale from the licensed manufacturer to the licensed supplier and the account number identifying the sale from the licensed supplier to the authorized organization; and

(ii) [The] the name(s) of the bona fide member(s) who ordered the product.

* * *

§ 4608.12. Additional licensing fee.

[(a) All authorized organizations licensed to sell bell jar tickets shall, upon filing financial statements of bell jar ticket operations, tender to the commission a sum in the amount of five percent of the net proceeds from the sale of each deal of bell jar tickets for that portion of license period covered by such statement.

(b) For the purposes of this section, *net proceeds* shall mean the difference between the ideal handle from the sale of a deal of bell jar tickets, which] ideal handle, within the meaning of General Municipal Law section 195-q, shall mean the total face value of all tickets in a deal [less the amount of money actually paid out in total prizes for that deal and the purchase price to the licensee of each bell jar deal, coin board, merchandise board or seal card. Additionally, a credit shall be permitted against the net proceeds fee in the amount of unsold tickets of the bell jar deal so long as the unsold tickets have the same game serial number as the tickets for which the fee is rendered. Unsold tickets shall be kept on file by the selling licensed authorized organization for inspection by the commission for a period of one year following the date upon which the relevant financial statement was received by the commission.

(c) One-half of one percent of the net proceeds fee received from the licensed authorized volunteer fire companies shall be paid to the New York State emergency services revolving loan account as established pursuant to section 97-pp of the State Finance Law].

§ 4608.13. [Flare defined.] [Repealed]

[A *flare* shall mean a poster describing the bell jar ticket game which shall include a declaration of the number of winning tickets and amount of total payout in the bell jar ticket deal, the number of tickets per payout amount in the deal, the licensed manufacturer's game form number, and the game serial number of the deal, which shall be identical to the game serial number imprinted on each ticket contained in such deal.]

* * *

PART 4610

Bell Jar Ticket Vending Machines in the Possession of Licensed Authorized Organizations

Section

- 4610.1 Bell jar ticket vending machines in the possession of licensed authorized organizations
- 4610.2 Coin-operated mechanical nonelectrical dispensing devices in the possession of licensed authorized organizations as of the date this section shall take effect

§ 4610.1. Bell jar ticket vending machines in the possession of licensed authorized organizations.

Bell jar ticket vending machines in the possession of a licensed authorized organization as of November 4, 1998[,] (the effective date of [these rules] this Part)[,] but not prior to August 2, 1995[,] (the effective date of [L.1995, ch.386] chapter 386 of the laws of 1995), may be registered with the commission as a qualified bell jar ticket vending machine provided such machine was obtained from a [commission licensed] commission-licensed manufacturer or [commission licensed] commission-licensed supplier and provided that the manufacturer of the bell jar ticket vending machine has been licensed by the commission as a games of chance supplier. Bell jar ticket vending machines satisfying this paragraph may be registered subject to the following provisions:

* * *

(c) Bell jar ticket vending machines in the possession of a licensed authorized organization that fail to comport with the requirements of this section must be removed from the premises of each authorized organization.

§ 4610.2. Coin-operated mechanical nonelectrical dispensing devices in the possession of licensed authorized organizations as of the date this section shall take effect.

* * *

(b) A coin-operated mechanical nonelectrical dispensing device that was designed specifically as a postage stamp machine, obtained after August 2, 1995 by licensed games of chance suppliers or licensed authorized organizations may be registered with the commission, provided the device was obtained from a [commission licensed] commission-licensed manufacturer or supplier and that the provisions of section 4610.1 of this Part are satisfied.

* * *

§ 4611.1. Coin boards.

(a) *Coin board.* [*Coin board* means a board used with bell jar tickets that contain various coins of United States legal tender.] A player having a bell jar ticket with a number matching a pre-designated number reflected on a coin board for a prize, as set forth in General Municipal Law section 186(3-c), or, if the number matches the pre-designated winning number for a specific coin or consolation prize, the player wins that coin or consolation prize and any cash prize value reflected on the coin board under the coin. No coin board shall be taken out of play unless at least 75 percent of total prizes have been awarded. Only United States legal tender may be awarded as prizes. The maximum [amount] amounts of a single prize permitted (the fair market value of the coin and the amount of the cash prize awarded with it, if any) [is \$500,] and the total series of prizes [shall not exceed \$3,000] are set forth in General Municipal Law sections 189(5)(a) and (c) and 189(6)(2).

(b) *Merchandise board.* [*Merchandise board* means a board used with bell jar tickets that contain various merchandise prizes.] A player having a bell jar ticket with a number matching a pre-designated number reflected on a merchandise board for a prize, as set forth in General Municipal Law section 186(3-c), or, if the number matches the pre-designated winning number for a specific prize or consolation prize, the player wins that prize or consolation prize. No merchandise board shall be taken out of play unless at least 75 percent of total prizes have been awarded. The maximum [amount] amounts of a single prize permitted (the fair market value of the prize) [is \$500, and] the total series of prizes [shall not exceed \$3,000] are set forth in General Municipal Law section 189(5)(a) and (c) and 189(6)(2).

(c) *Seal card.* [*Seal card* means a board used with bell jar tickets that contain various cash or merchandise prizes.] A player having a bell jar ticket with a number matching a pre-designated number, color or symbol reflected on a seal card signs such player's name on a line on that seal card corresponding with the number color or symbol appearing on the bell jar ticket and, upon removing the corresponding seal wins the prize specified under that seal. No seal card shall be taken out of play unless at least 75 percent of total prizes have been awarded. The maximum [amount] amounts of a single prize permitted (the aggregate of the cash prize and the fair market value of any merchandise prize) [is \$500,] and the total series of prizes [shall not exceed \$3,000] are set forth in General Municipal Law section 189(5)(a) and (c) and 189(6)(a).

§ 4611.2. Operation of coin boards, merchandise boards and seal cards.

* * *

(c) All aggregate values of cash, coin and merchandise prizes for each series of coin boards, merchandise boards and seal cards shall not exceed [\$3,000] the amount set forth in General Municipal Law section 189(6)(a).

* * *

§ 4620.10. Merchandise Wheels.

(a) *Equipment.* A wheel or wheels of variable size that have numbers, symbols or colors used to designate the winning wager and, where applicable, the type of merchandise to be awarded. The wheel has a corresponding layout.

(b) *Play.* A player places a wager on one or more betting spaces on the layout and the dealer spins the wheel. When the wheel stops, the section in which the indicator arm rests is the winning number, symbol or color.

[(b)] (c) *Wager.* The maximum wager is \$2. Merchandise shall not be wagered by a participant.

[(c)] (d) *Winning wagers.* [No cash, only] Only merchandise, and not cash, shall be awarded. No single prize shall exceed [a value of \$250] the amount set forth in General Municipal Law section 189(5)(a) and (c).

[(d)] (e) *Control sheet.* Each merchandise wheel shall have an inventory control sheet that shall indicate the cost to the licensee of each item of merchandise awarded at the wheel or, if donated, its current retail price. When [a total of \$10,000] an aggregate value set forth in General Municipal Law section 189(6)(a)(1) in prizes has been awarded at a merchandise wheel, the merchandise wheel must be closed. ([see] See section 4622.12 of this Subchapter.)[.] It [will] is not [be] necessary to file the inventory control sheet with form GC-7B.

* * *

§ 4620.19. Bell Jar.

(a) *Equipment.*

(1) A container, jar or vending machine used for the containment of jar tickets.

(2) Bell Jar tickets shall also include “Pull-Tabs,” “Break-Opens,” and any other similar-type game [comprised of] comprising tickets or cards having a number or numbers, color or colors, symbol or symbols that are covered, and that, when uncovered, may reveal that a prize shall be awarded on the basis of a designated winning number, color or symbol, or a combination of numbers, colors or symbols.

(3) A deal shall consist of a [container(s)] container that holds (or containers that hold) all the bell jar tickets of a game bearing the same serial number as well as a flare.

(4) A flare that is contained in the deal, and that must be [prominently] displayed prominently, sets forth the number of tickets and prizes contained in the deal, as well as the winning number or numbers, color or colors, symbol or symbols.

(b) *The play.*

- (1) A player purchases a bell jar ticket and immediately upon opening the ticket learns whether or not the player is a winner of any prize.
- (2) The maximum wager is [\$2] set forth in General Municipal Law section 189(5)(c).
- (3) No single prize shall exceed [\$500] the amount set forth in General Municipal Law section 189(5)(a).
- (4) No aggregate prizes in any deal shall exceed [\$3,000] the amount set forth in General Municipal Law section 189(6)(a)(2).

(c) *Operation of the game.*

* * *

- (2) No licensed authorized organization shall provide any information to any person [respecting] in regard to the potential winnings of bell jar tickets that would create an advantage to [said] such person.
- (3) No licensee shall modify, alter, deface or otherwise change the flare, except that a licensed authorized organization may mark the winning prizes appearing on the flare as [they] such prizes are awarded.

* * *

- (7) No licensed authorized organization shall assist a player in opening a purchased bell jar [ticket(s)] ticket or tickets.
- (8) All prizes from the operation of [the] bell jar shall be awarded in cash, except in the case of banded tickets, merchandise boards, and seal cards, each of which [that] may award merchandise as defined in section 4622.13 of this Subchapter and such merchandise shall not exceed the maximum prize values of section 4622.12 of this Subchapter. No [ticket(s)] ticket or tickets reflecting a free play shall be sold.

* * *

- (10) No prize shall be awarded to any player who [is redeeming] attempts to redeem a winning bell jar ticket that was removed from the [games of chance] games-of-chance premises.
- (11) Each winning bell jar ticket shall be defaced upon redemption and retained for a period of [six months] one year.
- (12) Bell jar tickets may [only] be sold only on the premises of the licensed authorized organization and the premises in which the organization conducts licensed bingo

occasions and [games of chance] games-of-chance license periods and as otherwise may be authorized by General Municipal Law section 189(13).

(13) [Every licensed authorized organization shall retain all remaining unsold bell jar tickets for inspection by the commission for one year following the date of last sale.

(14)] More than one deal may be sold simultaneously during a license period.

[(15)] (14) No authorized organization shall sell, distribute or loan any bell jar tickets to any other authorized organization.

[(16)] (15) Complete deals may be commingled in one receptacle or bell jar ticket vending machine, provided the deals are identical as to the type of game, game form number, number of tickets per game, game ticket price and the amount and denomination of prizes. No unsold portion of a deal may be commingled with any other deal.

[(17)] (16) Bell jar ticket deals of different game form numbers may be inserted into and dispensed from the same bell jar ticket vending machines provided each game form numbered deal is assigned a separate stacking [column(s)] column (or columns) and [holder(s)] holder (or holders) and each stacking column or holder is clearly labeled to identify to the purchaser the type and game form number of each bell jar ticket to be dispensed from that stacking column or holder. Bell jar ticket deals with different game form numbers shall not be commingled in any stacking column or holder.

[(18)] (17) No deal shall be placed in play unless the serial number of such deal corresponds to the serial number printed on each ticket, the flare and invoice.

[(19)] (18) No deal shall be taken out of play once such deal has been offered for sale unless at least 75 percent of total prizes have been awarded.

[(20)] (19) No deal shall be placed in play unless it has been purchased from a licensed supplier.

[(21)] (20) Separate cash banks shall be maintained for each deal or combination of deals placed in play in order to determine each deal's profit or loss.

* * *

§ 4620.23. Search for the Queen of Hearts.

(a) *Equipment.* A series of two-part, sequentially numbered raffle tickets; [two] a raffle ticket [drums] drum or [receptacles] receptacle; a standard deck of 52 playing cards plus two jokers; and a game board onto which 54 playing cards can be placed facedown, side-by-side[,] and held securely by a locking, transparent cover.

(b) [*The play*] Play.

(1) The licensed authorized organization shall offer a series of two-part, sequentially numbered raffle tickets for sale at a price determined by the licensee. Each player shall write such player's name and telephone number on the licensee's part of the ticket, which shall be deposited into a raffle ticket drum or receptacle. The purchasing player shall retain the other part of the ticket as a receipt for verification purposes. All monies collected from the sale of raffle tickets, and only such monies, shall be designated the grand prize pool.

(2) The deck of facedown playing cards shall be [thoroughly] shuffled thoroughly by a licensed organization's member in charge or assistant to the member in charge and, without revealing any of the faces, placed facedown, side-by-side, onto the game board. The transparent game board cover shall be closed and locked to secure the cards in place.

(3) One raffle ticket shall be drawn each week from among all of the tickets sold for each drawing, except for the first week and the 26th week (if necessary), when three drawings [shall] may be held. If three drawings are held, each of the three winners of the drawings shall search in the order in which such winner's ticket was selected.

(4) The [participant(s)] participant (or participants) holding the winning ticket [stub(s)] stub (or stubs) shall be declared the [winner(s)] winner (or winners) of each drawing and shall be entitled to "Search for the Queen of Hearts."

* * *

(8) If the card selected is not the queen of hearts, that card shall be defaced by drawing a diagonal line across its face in ink[;]. [the] Such card shall be returned to the game board face-up[;]. [the] The transparent, locking cover securing the cards shall be locked by a licensed organization's member in charge or assistant to the member in charge[;]. [and] Then, that player shall be [immediately] awarded immediately a cash prize valued [according to the following schedule] in an amount that is at least equal to the following odds:

<i>Card [Drawn] <u>drawn</u></i>	<i>Payout [Odds] <u>odds</u></i>
Any 2, 3, 4, or 5	[At least 4 – 1] <u>4:1</u>
Any 6, 7, 8, or 9	[At least 6 – 1] <u>6:1</u>
Any 10, jack or king	[At least 8 – 1] <u>8:1</u>
Any ace	[At least 10 -1] <u>10:1</u>
Any joker	[At least 15 – 1] <u>15:1</u>
Any queen other than hearts	[At least 20 – 1] <u>20:1</u>

* * *

(11) The licensee shall retain the remaining 40 percent of the grand prize pool as raffle profit and shall secure those funds for deposit into the special games of chance or raffle checking account (if applicable)[,] or other bank account.

* * *

§ 4622.12. Maximum value of prizes offered.

[No single prize in any casino-type game of chance shall exceed the sum or value of \$300. In the game of chance known as merchandise wheels, no single prize consisting of merchandise shall exceed a value, defined in section 4622.13 of this Part, of \$250. In the game of chance known as bell jars, no single prize shall exceed the sum of \$500. In the game of chance known as raffle no single prize shall exceed the sum of \$100,000. Except for merchandise wheels, bell jars and raffles, no series of prizes on any one occasion shall aggregate more than \$400 for each single type of game of chance when the licensed authorized organization conducts five single types of games of chance during any one license period. Except for merchandise wheels, bell jars and raffles, no series of prizes on any one occasion shall aggregate more than \$500 for each single type of game of chance when the licensed authorized organization conducts less than five single types of games of chance during any one license period. Except for the limitations on the sum or value for single prizes and series of prizes for each type of game of chance, no limit shall be imposed on the total number, sum or value of prizes awarded to any one participant during any occasion or any license period. No single wager shall exceed the amount designated for each type of game, as set forth in Part 4620 of this Subchapter. In the case of merchandise wheels, no series of prizes consisting of merchandise shall exceed the actual value of \$10,000 during the successive operations of any one merchandise wheel. In the case of bell jars, no series of prizes shall exceed the sum of \$3,000 during the successive operations of any one bell jar deal. In the case of raffles, the series of prizes shall not exceed the sum of \$500,000.] The maximum sums or values for particular forms of games of chance are set forth in General Municipal Law sections 189(5), 189(6) and 189(8). One or more signs limiting the wager to the amount designated for each type of game[, as set forth in Part 4620 of this Subchapter,] shall be [prominently] displayed prominently in each playing area. In the case of bell jars, the applicable [flare(s)] flare or flares shall be displayed in each playing area.

* * *

§ 4622.20. Persons prohibited as players.

No licensee shall permit any person who has participated or assisted in the management or conduct of the games of chance license period to participate as a player [or purchase bell jar tickets] at any time during such license period.

§ 4622.21. Cashing of checks prohibited.

No licensee, its members or agents, shall cash any check out of games of chance funds or extend credit to a person to participate in the playing of any games of chance, other than accepting a personal check as authorized by General Municipal Law section 195-d(3).

§ 4622.22. Operation of bank.

(a) Except in the case of merchandise wheels, raffles, coin boards, merchandise boards, seal cards and bell jars, the licensed authorized organization shall, at the start of each type of game of chance, provide a bank consisting of cash or chips in an amount not exceeding [\$400 when the licensed authorized organization conducts five single types of games of chance, or \$500 when the licensed authorized organization conducts less than five single types of games of chance during any one license period] the amounts set forth in General Municipal Law section 189(8). To each bank shall be added all the players' losses, and from each bank shall be deducted all players' winnings. When the bank for any one type of game is exhausted, the conduct of [said] such type of game shall cease and terminate. Where more than one location (table or booth) is used for the conduct of a single type of game of chance, the starting bank shall be divided among the different locations. Within the operation of any single type of game of chance, the bank of any one location may be used to supplement the bank of any other location of the same type of single game of chance.

(b) In the case of merchandise wheels, the licensed authorized organization may for each wheel award merchandise the total value of which shall not exceed [\$10,000 for each merchandise wheel] the amount set forth in General Municipal Law section 189(6)(a)(1). In the case of bell jars, coin boards, merchandise boards and seal cards, the licensed authorized organization may, for each deal, award prizes the total value of which shall not exceed [\$3,000 for each deal] the amount set forth in General Municipal Law section 189(5)(a).

(c) The maximum amount of the series of prizes to be awarded for each single type of game of chance shall be specified in the application for a license (form GC-2) and the license (form GC-5), which shall be [conspicuously] displayed conspicuously.

§ 4622.23. Sale and consumption of alcoholic beverages.

[Beer] If otherwise permitted by the Alcoholic Beverage Control Law or other applicable law, beer may be offered for sale and consumed during the conduct of games of chance in games of chance premises. Nothing herein shall be construed to limit the offering for sale and consumption of any other alcoholic beverage in areas other than the games of chance premises, or the sale of any other alcoholic beverage in premises where only the game of chance known as bell jar, coin board, merchandise board, seal card and raffles are conducted, if otherwise permitted by the Alcoholic Beverage Control Law or other

applicable law. One or more signs setting forth the restrictions of this section shall be [prominently] displayed prominently in each playing area.

* * *

§ 4622.26. Advertising games of chance.

A licensee may advertise the conduct of games of chance [to the general public by means of newspaper, circular, handbill and poster, and by one sign not exceeding 60 square feet in area, which may be displayed on or adjacent to the premises owned or occupied by a licensed authorized organization; and when an organization is licensed to conduct games of chance on premises of an authorized games of chance lessor, one additional such sign may be displayed on or adjacent to the premises in which the games are to be conducted. Additional signs may be displayed upon any firefighting equipment belonging to any licensed authorized organization that is a volunteer fire company, or upon any equipment of a first-aid or rescue squad in and throughout the community served by such volunteer fire company or such first-aid or rescue squad, as the case may be. All advertisements shall be limited to the description of such event as “Games of Chance” or “Las Vegas Night,” the name of the authorized organization conducting such games, the license number of the authorized organization as assigned by the clerk or department, and the date, location and time of the event] as provided for in General Municipal Law section 195-e. No advertising shall include any misleading information or representations.

* * *

§ 4624.9. Method of withdrawal.

Except for the electronic transfer of funds to the Commission, other State, local and Federal governmental entities in compliance with the lawful expenditures set forth in section 4624.21 of this Part; operating expenses of the authorized organization such as utilities, including light, heat, power and water, telephone, mortgages and payments to licensed games of chance suppliers, [All] all monies withdrawn from the “special games of chance account,” “special raffle account” or “special bell jar account” shall be only by checks having preprinted consecutive numbers, signed by at least two duly authorized officers of the licensee and made payable to a specific person, firm, partnership or corporation with the purpose specified on the check stub; and at no time shall a check be made payable to cash. All checks must be accounted for in the appropriate part of the financial statement of games of chance operations (form GC-7), financial statement of raffle operations (form GC-7R) or financial statement of bell jar operations (form GC-7Q), including voided checks.

* * *

§ 4624.17. Expenditure of funds after cessation of games of chance.

An organization that has ceased to conduct games of chance for any reason, and has unexpended games of chance funds, shall:

(a) disburse [said] such funds for lawful purposes within a period of one year after the cessation of the conduct of games of chance; or

(b) disburse [said] such funds in accordance with a plan of expenditure approved in advance by the commission.

Upon final disbursement of such funds, in the case of bell jar, each organization shall submit to the commission a final quarterly statement of bell jar operations (GC-7Q) documenting the final disposition of such funds. In the case of raffles with net proceeds of at least \$30,000 from all raffles conducted during the calendar year, each organization shall submit to the commission and to the municipal clerk a final financial statement of raffle operations (GC-7R) documenting the final disposition of such funds. In the case of casino-type games of chance, each organization shall submit to the commission and to the municipal clerk a final financial statement of games of chance operations (GC-7) documenting the final disposition of such funds. This provision applies notwithstanding the requirements of section 4624.1 of this Part.

* * *

§ 4624.21. Lawful expenditures.

* * *

(c) *Guidelines for all other expenditures.* All expenditures must be reasonable, justifiable and directly related to carrying out one or more of the licensee organization's lawful purposes, as defined in [section 186, subsection 5 of the] General Municipal Law section 186(5).

(1) An organization [exclusively] engaged exclusively in any of the [above enumerated "worthy causes"] lawful purposes set forth in General Municipal Law section 186(5) does not need prior written approval from the commission [regarding] in regard to expenses directly related to carrying out one or more of [its] such organization's lawful purposes, with the exception of those expenses listed in paragraph [(4)] (3) of this subdivision.

(2) [Regarding certain types of licensee organizations, such as fraternal and service organizations, the commission requires that at least one third of the net profits derived from games of chance be expended for the above enumerated "worthy causes" before any games of chance funds may be disbursed for the licensee organization's operating expenses. This one third donation rate is calculated on a calendar-year basis and any deficiency will be cumulative. It is incumbent upon each licensee to periodically review

its contribution record. If the provisions of this Subtitle are not strictly adhered to, the licensed organization shall be prohibited from disbursing any of its games of chance funds for other than “worthy causes” without obtaining the prior written approval of the commission.

(3) Expenditures requiring no written approval. The [following regulations apply to the] operating expenses of [licensed fraternal and service] authorized organizations set forth in this paragraph do not require written commission approval, unless as otherwise set forth in the applicable subparagraph of this paragraph:

- (i) materials and labor for repairs that are necessary for normal maintenance, including electrical, roofing, heating, hardware, paint, lumber, etc. However, such expenditures are limited to \$10,000 in the aggregate in a calendar year. Such expenditures, when in excess of \$10,000, require prior written permission from the commission;
- (ii) janitorial and custodial salaries, including all payroll taxes;
- (iii) supplies, such as cleaning materials, brooms, shovels, floor wax, paper supplies, etc.;
- (iv) utilities, including light, heat, power and water;
- (v) rubbish removal;
- (vi) insurance, including fire, workers' compensation, public liability, burglary, robbery and property damage;
- (vii) real estate taxes;
- (viii) snow removal charges;
- (ix) telephone charges;
- (x) printing and mailing charges; and
- (xi) legal, accounting fees or other professional fees not exceeding \$5,000 per calendar year.

[(4)] (3) Expenditures requiring prior written approval [(submit an “Application for Permission to Disburse Net Proceeds of Games of Chance” GC-317, to commission’s office)]. An authorized organization shall submit an Application for Permission to Disburse Net Proceeds of Games of Chance (GC-317) to the commission when requesting approval of certain expenses as set forth in this paragraph. Organizations of veterans shall file with the commission a copy of the minutes of the meeting of the membership authorizing any of the expenditures [below] set forth in this paragraph, in lieu of filing a GC-317 form:

- (i) mortgages;
- (ii) rent paid by licensee organization for use of property for its activities;
- (iii) new buildings, additions, renovations or repairs in excess of \$10,000 per calendar year;
- (iv) purchase of air conditioning units, furniture, furnishings, office and kitchen equipment and motor vehicles;
- (v) repair, maintenance and acquisition of parking lots;
- (vi) salaries, other than those authorized in paragraphs (3) of subdivision (a) and (5) of subdivision (b) of this section and subparagraph (ii) of paragraph [(3)] (2) of this subdivision; and
- (vii) legal, accounting or other professional fees exceeding \$5,000 per calendar year.

(d) *Disapproved expenditures.* All types of [licensee] authorized organizations may not use games of chance funds for the [following] expenditures set forth in this subdivision, except that [organizations] an organization of veterans, in strict compliance with such organization's charter and bylaws, shall file with the commission a copy of the minutes of the meeting of membership authorizing any of the expenditures [below] set forth in this subdivision:

- (1) entertainment or social activities for the benefit of members of licensee organization, its auxiliary or affiliate. At all times it should be borne in mind that the use of games of chance funds for the exclusive benefit of members of the licensee organization, its auxiliary or affiliate is unlawful and prohibited;
- (2) welfare, sick or death benefit funds for members and families;
- (3) dues and assessments;
- (4) gifts or loans to members of licensee organization, its auxiliary or affiliate;
- (5) convention expenses for delegates of licensee organization, its auxiliary or affiliate;
- (6) any and all expenses connected with bars and the dispensing of alcoholic beverages;
- (7) [TV] television or other amusement devices for use of the licensee organization, its auxiliary or affiliate;
- (8) expenses and salaries connected with other fundraising activities, such as the operation of food service facilities and concessions; or

NYS Gaming Commission Charitable gaming update (games of chance) (consensus proposed rule)

Text to be deleted appears in [brackets]

Text to be added is underlined

(9) tickets purchased from profit or not-for-profit organizations, such as raffle or theatre tickets, for use by members.

Response: Outside of nine Adirondack counties, there should be no confusion: ice fishing is permitted unless specifically prohibited. Within those nine Adirondack counties, the existing ice fishing regulation prohibiting ice fishing in waters inhabited by trout unless otherwise specifically permitted will remain in effect. Ice fishing will continue to be prohibited in Brook Trout ponds. Special regulations prohibiting ice fishing for individual Brook Trout ponds outside of those nine counties are included in the proposed regulations.

New York State Gaming Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Removing the Requirement to Couple Entries with Jockeys with Relationships Among Them or With Other Participants in the Race

I.D. No. SGC-13-22-00001-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of sections 4025.10 and 4040.2 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Removing the requirement to couple entries with jockeys with relationships among them or with other participants in the race.

Purpose: To enhance the integrity and safety of thoroughbred horse racing.

Text of proposed rule: Subdivision (f) of section 4025.10 and section 4040.2 of 9 NYCRR would be amended to read as follows:

§ 4025.10. Limitations on entries.

(f) All horses trained or ridden by a spouse, parent, issue or member of a jockey's household [shall] *are not required* to be coupled in the betting with any horse ridden by such jockey.

§ 4040.2. Owning race horses forbidden.

No jockey, nor such jockey's spouse, parent, issue nor member of such jockey's household, shall be the owner of any race horse. [All horses trained or ridden by a spouse, parent, issue or member of a jockey's household shall be coupled in the betting with any horse ridden by such jockey.]

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, NY 12301, (518) 388-3332, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

1. **STATUTORY AUTHORITY:** The New York State Gaming Commission ("Commission") is authorized to promulgate these rules pursuant to Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 103(2) and 104 (1) and (19). Pursuant to Section 103(2), the Commission is responsible for supervising, regulating and administering all horse racing and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all gaming activities within the State and over the corporations, associations and persons engaged in such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities.

2. **LEGISLATIVE OBJECTIVES:** To enable the Commission to enhance the integrity and safety of Thoroughbred horse racing and generate reasonable revenue for the support of government.

3. **NEEDS AND BENEFITS:** This rule making proposes to amend the Commission's regulations to remove the requirement to couple entries with jockeys with relationships among them or with other participants in the race. The Commission steward would retain the discretion to require

coupling in any circumstances in which such steward concludes coupling is necessary in the public interest, which should continue to protect the interests of the wagering public in unusual or unforeseen circumstances in a particular race.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: These amendments will not add any new mandated costs to the existing rules.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: None anticipated. The amendments will not add any new costs. There will be no costs to local government because the Commission is the only governmental entity authorized to regulate Thoroughbred racing.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: Experience of agency staff.

5. **LOCAL GOVERNMENT MANDATES:** None. The Commission is the only governmental entity authorized to regulate Thoroughbred racing activities.

6. **PAPERWORK:** There will be no additional paperwork.

7. **DUPLICATION:** These rules do not duplicate, overlap or conflict with any existing State or federal requirements.

8. **ALTERNATIVES:** The Commission considered removing the requirement to couple entries with jockeys with relationships among them or with other participants in the race but requiring some form of notice or disclosure to bettors of relationships. Commission staff determined that such alternative would be impractical and inconsistent with wagering on out-of-state racing through simulcast betting and with sports wagering generally, where relationships among competitors may not be known or easily determined.

9. **FEDERAL STANDARDS:** There are no minimum standards of the Federal government for this or a similar subject area.

10. **COMPLIANCE SCHEDULE:** The Commission anticipates that the affected parties will be able to achieve compliance with these rules upon adoption.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and

The proposed changes do not require a Regulatory Flexibility Analysis, Rural Area Flexibility Analysis or Job Impact Statement. There will be no adverse impact on small businesses, local governments, rural areas or jobs.

The proposed rule making would remove the requirement to couple entries with jockeys with relationships among them or with other participants in the race.

The proposed rules will not impose any adverse economic impacts or reporting, recordkeeping or other compliance requirements on small businesses, local governments, rural areas or employment opportunities. No local government activities are involved.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Regulation of Charitable Gaming Games of Chance

I.D. No. SGC-13-22-00003-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This is a consensus rule making to amend Parts 4600, 4601, 4603, 4606, 4607, 4608, 4610, 4611, 4620, 4621, 4622, 4624; repeal sections 4608.13 and 4621.1 of Title 9 NYCRR.

Statutory authority: General Municipal Law, section 188-a(1), (9); Racing, Pari-Mutuel Wagering and Breeding Law, section 104(19)

Subject: Regulation of charitable gaming games of chance.

Purpose: To conform games of chance rules to current statutes and improve operations.

Substance of proposed rule (Full text is posted at the following State website: <https://www.gaming.ny.gov/proposedrules.php>): Amendments to section 4600.1 remove a prohibition against civic organizations being considered authorized organizations for games of chance, clarify that political action committees are not authorized organizations to conduct games of chance and eliminate verbatim repetition of statute.

An amendment to section 4601.1 makes a stylistic change.

Amendments to section 4603.8 eliminate verbatim repetition of statute, instead adding a cross-reference to statute.

An amendment to section 4606.12 adds a cross-reference to controlling statute.

Amendments to section 4607.10 eliminate verbatim repetition of statute, instead adding a cross-reference to controlling statute.

An amendment to section 4607.21 adds a cross-reference to controlling statute.

Amendments to section 4608.2 eliminate verbatim repetition of statute and add cross-references to controlling statutes.

Amendments to section 4608.3 make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4608.4 eliminate verbatim repetition of statute, add a cross-reference to controlling statute and make stylistic changes consistent with other Commission rules.

Amendments to section 4608.5 eliminate verbatim repetition of statute and add a cross-reference to controlling statute.

Amendments to section 4608.6 eliminate verbatim repetition of statute and add a cross-reference to controlling statute.

Amendments to section 4608.7 make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4608.12 eliminate verbatim repetition of statute.

Section 4608.13 is repealed to eliminate verbatim repetition of statute.

Amendments to section 4610.1 make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4610.2 make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4611.1 eliminate specific prize limits and instead cross-reference statutory requirements, eliminate verbatim repetition of statute and make stylistic and technical changes consistent with other Commission rules.

An amendment to section 4611.2 eliminates a specific prize limit and instead cross-references statutory requirements.

Amendments to section 4620.10 eliminate specific prize-limits and instead cross-reference statutory requirements and adds a rule to describe play in merchandise wheel games.

Amendments to section 4620.19 eliminate specific prize limits and instead cross-reference statutory requirements, increase the retention period for winning bell jar tickets to one year and make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4620.23 reduce the number of required raffle drums or receptacles for the game of search for the queen of hearts, provide that only monies collected from the sale of raffle tickets may be used to form the prize pool in the search for the queen of hearts game, make optional the number of drawings in certain weeks of the game of search for the queen of hearts, clarify that if a certain number of drawings are held, the winners search in the order in which their winning tickets were selected and make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4622.12 eliminate specific prize limits and instead cross-references statutory requirements and make stylistic and technical changes consistent with other Commission rules.

An amendment to section 4622.20 makes restrictions on an individual's ability to play limited to the category of game in which a person has assisted in the management.

An amendment to section 4622.21 adds a cross-reference to controlling statute.

Amendments to section 4622.22 eliminate specific prize limits and instead cross-reference statutory requirements and make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4622.23 clarify that alcohol sale and consumption is subject to applicable Alcoholic Beverage Control Law provisions and make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4622.26 provide that games of chance advertising may not include misleading information or representations, consistent with the bingo advertising rule, and eliminate verbatim repetition of statute.

Amendments to section 4624.9 allow for electronic transfers of funds for payments to governmental entities, operating expenses and game suppliers.

Amendments to section 4624.17 clarify reporting requirements when an authorized organization ceases conducting games of chance or bingo and make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4624.21 eliminate certain requirements in regard to donations by service and fraternal organizations, add cross-references to controlling statutes and make stylistic and technical changes consistent with other Commission rules.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, NY 12301, (518) 388-3332, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Consensus Rule Making Determination

The adoption of this proposed revision to the charitable gaming rules of the New York State Gaming Commission would replace references to specific prize limits throughout the charitable gaming rules, eliminating the need to make multiple regulation amendments when the legislature amends prize limits; clarifies which organizations may conduct charitable gaming games of chance; describes game play for merchandise wheels; increases the retention period for winning bell jar tickets; amends certain aspects of the search for the queen of hearts game; modifies the play restrictions applicable to those assisting in the conduct of games; clarifies that alcoholic beverage laws apply to the conduct of games of chance; makes advertising regulation consistent with bingo advertising regulations; allows for electronic payment for certain expenses; clarifies final reporting requirements when an organization ceases to conduct charitable gaming; makes consistent the requirements for donations by service and fraternal organizations; eliminates verbatim repetition of statute; and adds cross-references to controlling statutes.

Due to the non-controversial nature of this amendment, no person is likely to object to the revisions proposed by this amendment.

Job Impact Statement

A job impact statement is not required for this consensus rulemaking proposal because the proposed amendment will not adversely affect jobs or employment opportunities.

The proposal will make only non-controversial amendments to various aspects of charitable gaming games of chance, which must be conducted by bona fide members of authorized organizations, who are not permitted to receive any remuneration for participating in the management or operation of such games.

The proposed amendments will not have an impact on jobs or employment opportunities and will not impose any adverse impact on jobs or employment opportunities.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Regulation of Charitable Gaming Raffles

I.D. No. SGC-13-22-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This is a consensus rule making to amend Parts 4601, 4602, 4620 and 4624 of Title 9 NYCRR.

Statutory authority: General Municipal Law, section 188-a(1); Racing, Pari-Mutuel Wagering and Breeding Law, section 104(19)

Subject: Regulation of charitable gaming raffles.

Purpose: To conform raffles rules to current statutes and improve operations.

Substance of proposed rule (Full text is posted at the following State website: <https://www.gaming.ny.gov/proposedrules.php>): The updates to Parts 4601 and 4602 of Subchapter A and Parts 4620 and 4624 of Subchapter B of Title 9 of the NYCRR will allow the New York State Gaming Commission ("Commission") to implement various provisions of recent charitable gaming legislation and update various charitable gaming regulations.

Amendment to section 4601.1 eliminates verbatim repetition of statute, instead cross-referencing statutory requirements.

Amendments to section 4602.1 eliminate specific prize-limits, instead cross-reference statutory requirements, eliminate verbatim repetition of statute, delete language that is moved to a new section 4602.10 and make stylistic changes.

A new section 4602.10 contains regulation provisions in regard to penalties for underage participation in raffles. These provisions were formerly contained in section 4602.1(b)(3). This change better organizes the Part.

Amendments to section 4620.22 set forth procedures to apply when an authorized organization seeks to sell raffle tickets or conduct a raffle outside its premises, eliminate specific prize limits and instead cross-reference statutory requirements, eliminate verbatim repetition of statute, add cross-references to controlling statutes and make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4624.1 eliminate specific prize-limits and instead cross-reference statutory requirements and make stylistic and technical changes consistent with other Commission rules.

Amendment to section 4624.3 add cross-references to a controlling statute, eliminate verbatim repetition of statute and make language consistent with such statute and make stylistic and technical changes consistent with other Commission rules.



Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

To: Commissioners

From: Edmund C. Burns

Date: June 1, 2022

Re: Adoption of Consensus Rulemaking for Regulation of Charitable Gaming Raffles (various sections of 9 NYCRR Chapter II)

For Commission consideration is the adoption of a consensus rulemaking to implement various provisions of charitable gaming legislation and update various charitable gaming regulations concerning raffles. The Notice of Proposed Rulemaking, as published in the March 30, 2022 State Register, is attached. The text of the proposed rule, which is posted on the Commission's website, is also attached. The public comment period for the consensus rulemaking expired on May 31, 2022. No comments were received.



attachments

cc: Robert Williams, Executive Director
Stacy Harvey, Director, Division of Charitable Gaming

Sections 4601.1, 4602.1, 4602.10, 4620.22, 4624.1, 4624.3 and 4624.8 of 9 NYCRR would be amended to read as follows:

§ 4601.1. Application requirements.

* * *

(c) Notwithstanding the registration requirements set forth in this Part, an authorized organization may conduct a raffle without complying with such registration requirements[, provided, that such organization shall derive net proceeds from raffles in an amount less than \$5,000 during the conduct of one raffle and shall derive net proceeds from raffles in an amount less than \$20,000 during one calendar year. Such organization must first determine that such organization is in fact an “authorized organization” in order to qualify for such an exemption. For the purposes of this subdivision, *authorized organization* means and includes any bona fide religious or charitable organization or bona fide educational, fraternal or service organization or bona fide organization of veterans or volunteer firefighters that by its charter, certificate of incorporation, constitution, or act of the Legislature, shall have among its dominant purposes one or more of the lawful purposes as defined in this chapter for a period of three years immediately prior to being granted the registration requirement exemption. No organization shall be deemed an authorized organization that is formed primarily for the purpose of conducting games of chance and that does not devote at least 75 percent of its activities to other than conducting games of chance. No political party shall be deemed an authorized organization] so long as such authorized organization satisfies the conditions set forth in General Municipal Law section 190-a.

* * *

§ 4602.1. Form for application.

(a) An application for a license to conduct games of chance shall be made on forms GC-2, GC-2A and GC-2B, as prescribed by the commission. Notwithstanding, and in lieu of the licensing requirements set forth in this Part, an authorized organization defined in [subdivision 4 of section 186 of the] General Municipal Law section 186(4) that has received an identification number from the commission[,] shall file a verified statement, for which no fee shall be required, with the clerk or department and the commission, attesting that such organization shall derive net proceeds or net profits from raffles in an amount [less than \$30,000 during one occasion or part thereof at which raffles are to be conducted] within the limits set forth in General Municipal Law section 190-a(1). Such statement shall be on form GCVS-1 Verified Statement for Raffle Ticket Operations as prescribed by the commission, which shall be deemed a license to conduct raffles. An organization that has filed a verified statement with the clerk or department and the commission attesting that such organization shall derive net proceeds or net profits from raffles in an amount [less than \$30,000 during one occasion or part thereof] within the limits set forth in General Municipal Law section 190-a(1) that in fact derives net proceeds or net profits exceeding [\$30,000 during any one occasion or part thereof] any of such

limits shall be required to obtain a license as required by this Part and shall be subject to the reporting requirements of section 4624.3 of this Subchapter.

(b) Notwithstanding the licensing requirements set forth in this Part, an authorized organization [that has met the self-determination requirements of subdivision (c) of section 4601.1 of this Subchapter] may conduct a raffle without complying with such licensing requirements, provided that such organization shall derive net proceeds from raffles in an amount [less than \$5,000 during the conduct of one raffle and shall derive net proceeds from raffles in an amount less than \$20,000 during one calendar year] within the limits set forth in General Municipal Law section 190-a(1).

[(1) No person under the age of 18 shall be permitted to play, operate or assist in any raffle conducted pursuant to this subdivision.

(2) Raffles conducted pursuant to this subdivision shall be conducted only within a municipality in which the authorized organization is domiciled that has passed a local law, ordinance or resolution in accordance with Sections 187 and 188 of the General Municipal Law approving the conduct of games of chance that are located within the county or contiguous to the county in which the organization is domiciled.

(3) The commission shall penalize a licensee found to have violated paragraph (1) of this subdivision as follows:

(i) for a first violation, a written warning of such violation;

(ii) for a second violation within one year of a violation, a fine of \$500;

(iii) for a third violation within one year of a violation, a fine of \$1,000; and

(iv) for a fourth or subsequent violation within one year of a violation, such further actions as the commission may deem appropriate, which may include without limitation the suspension or revocation of any license or privilege to conduct raffles in this State.]

* * *

§ 4602.10. Penalties for underage participation.

The commission shall penalize an authorized organization found to have violated General Municipal Law sections 190-a(3) and 195-a, which govern the minimum age for play, operation or the assisting in any raffle conducted pursuant to General Municipal Law section 190-a, as follows:

(i) for a first violation, a written warning of such violation;

(ii) for a second violation within one year of a violation, a fine of \$500;

(iii) for a third violation within one year of a violation, a fine of \$1,000; and

(iv) for a fourth or subsequent violation within one year of a violation, such further actions as the commission may deem appropriate, which may include without limitation the suspension or revocation of any license or privilege to conduct raffles in this State.

* * *

§ 4620.22. Raffles.

(a) *Equipment.* The equipment used in the conduct of raffles and the method of play shall ensure that each and every ticket to participate shall have an equal opportunity to be drawn as a winner.

(1) Raffle tickets, with the exception of the two-part “admission-style” tickets [utilized] used in the game commonly known as a “50/50 raffle,” shall reflect the following:

* * *

(b) [*The play*] *Play.*

(1) No single prize shall exceed the [sum of \$100,000] amount set forth in general Municipal Law section 189(5)(b).

(2) The aggregate fair market value of all prizes to be offered or awarded by a licensee in raffles in any one calendar year (license period) shall not exceed [\$2,000,000] the amount set forth in General Municipal Law section 189(8).

(3) The method of drawing and determining the winning [ticket(s)] ticket (or tickets) shall be [clearly] announced clearly and described prior to drawing a ticket.

* * *

(6) Raffle tickets may [also] be sold to the public [outside the premises of an authorized organization or an authorized games of chance lessor or in municipalities that have passed a local law, ordinance or resolution in accordance with sections 187 and 188 of the General Municipal Law that are located in the county in which the municipality issuing the license or the municipality in which the organization is authorized to conduct raffles pursuant to subdivision (c) of section 4601.1 of this Chapter is located, and in the counties that are contiguous to the county in which the municipality issuing the raffle license or in which the organization authorized to conduct raffles pursuant to subdivision (c) of section 4601.1 of this Chapter is located, provided the licensee or organization authorized to conduct raffles pursuant to subdivision (c) of section 4601.1 of this Chapter has received written approval, on a form prescribed by the commission, from each municipality to sell raffle tickets therein and provided that no sale of raffle tickets shall be made more than 180 days prior to the date scheduled for the final drawing of the winning raffle ticket(s)] in locations as authorized by General Municipal Law section 189(13)(b). An authorized organization that wishes to sell raffle tickets outside the premises of such organization or conduct

a raffle drawing outside the premises of such organization shall notify the commission of such intent to make such sales or conduct such drawing (or both). Such notice shall be made no later than 45 days before sales of such raffle are proposed to commence, in order to enable the commission to notify the affected municipalities and give such municipalities the opportunity to object to such sales or such drawing. After the commission gives notice (which may be given by electronic means) to the affected municipalities, a municipality shall provide the commission notice of an objection, if any, no later than 20 days before the date such sales are proposed to commerce or such drawing is proposed to be conducted.

[(10) Purchasers of raffle tickets need not be present at the raffle drawing to win.]

[(11)] (10) Alcoholic beverages may be sold and consumed in locations where raffle tickets are sold and raffle drawings are conducted.

[(12) Alcoholic beverages shall not be awarded as a raffle prize.]

[(13)] (11) No commission, salary, compensation, reward or recompense shall be paid or given to any person for the sale or assisting with the sale of raffle tickets.

[(14)] (12) Raffle tickets shall be sold by a member of an authorized organization licensed to conduct raffles or authorized to conduct raffles pursuant to [section 4601.1(c)] subdivision (c) of section 4601.1 of this [Title] Chapter and may also be sold by any person with a blood relationship or affinity with a member of an authorized organization licensed to conduct a raffle.

* * *

§ 4624.1. Financial statement form.

(a) The financial statement of games of chance operations required by ordinances or local laws, State laws and this Chapter shall be on form GC-7, as prescribed by the commission. The licensee shall execute and file the original of the report with the clerk or department, a copy with the commission, and when applicable, a copy with the chief fiscal officer of the county, within seven days after the conclusion of each license period. The licensee shall retain a copy of the report for such licensee's permanent records. When [the] an authorized organization has been licensed to sell bell jar tickets, coin boards, merchandise boards and seal cards, the authorized organization shall, within 15 days after the end of each calendar quarter during which such tickets have been purchased and sold by the licensee, prepare and file a statement of such information on form GC-7Q, as prescribed by the commission. The licensee shall execute and file the original of the quarterly report with the commission. The licensee shall retain a copy of each report for such licensee's permanent records. Within 30 days after the conclusion of an occasion during which [a raffle was conducted] an authorized organization derived at least \$30,000 in net raffle proceeds from all raffles conducted during the calendar year, the authorized organization conducting such raffle or raffles and the members in charge of such raffle or raffles, and, when applicable, the authorized games of chance lessor that rented premises

therefor, shall each furnish to the clerk or department and the commission a statement of such information on form GC-7R, as prescribed by the commission, subscribed by the member in charge and affirmed by such member as true, under the penalties of perjury, showing the number of tickets printed, the number of tickets sold, the prize, and the number of tickets returned to or retained by the authorized organization as unsold, a description and statement of the fair market value for each prize actually awarded, the amount of the gross receipts derived therefrom, each item of expenditure made or to be made other than prizes, the name and address of each person to whom each such item of expense has been paid, or is to be paid, a detailed description of the merchandise purchased or the services rendered therefor, the net proceeds derived from the raffle at such occasion, the use to which the proceeds have been or are to be applied and shall be the duty of each licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such statement, provided however, where the cumulative net proceeds or net profits derived from the conduct of a raffle or raffles are less than \$30,000 during any one occasion, in such case, the reporting requirement shall be satisfied by the filing within 30 days of the conclusion of such occasion a verified statement on a form prescribed by the commission attesting to the amount of such net proceeds or net profits and the distribution thereof for lawful purposes with the clerk or department and a copy with the commission. The licensee shall retain a copy of such statement for its records. Any authorized organization required to file an annual report with the Secretary of State pursuant to article 7-A of the Executive Law or the Attorney General pursuant to article 8 of the Estates, Powers and Trusts Law shall include with such annual report a copy of the statement required to be filed with the clerk or department.

(b) Notwithstanding the filing requirements set forth in this Part, an authorized organization [that has met the self-determination requirements of subdivision (c) of section 4601.1 of this Chapter] may conduct a raffle without complying with such filing requirements, provided, that such organization shall derive net proceeds from raffles in an amount less than \$5,000 during the conduct of one raffle and shall derive net proceeds from raffles in an amount less than [~~\$20,000 during one calendar year~~] the amount set forth in General Municipal Law section 190-a(1). Such authorized organizations are not relieved of any other financial reporting and recordkeeping requirements of local, State or Federal laws or rules [regarding] in regard to the receipt and expenditure of monies, including [but not limited to] without limitation the Not-For-Profit Corporations Law.

* * *

§ 4624.3. Additional license fee.

(a) Upon the filing of the financial statement of games of chance operations (form GC-7) and attachment, the licensee shall pay to the clerk or department or, where applicable, the chief fiscal officer of the county, as [an] the additional license fee authorized by General Municipal Law section 195-f(4), a sum in the amount of five percent of the reported net proceeds, if any, for the license period covered by such statement. In the case of raffles, the licensee, upon filing the financial statement of raffles operations, shall pay to the clerk or department or, where applicable, the chief fiscal officer of the county,

as an additional license fee authorized by General Municipal Law section 195-f(4), a sum in the amount of two percent of the reported net proceeds that exceed \$30,000 from all raffles conducted during the calendar year, if any, for that portion of the license period covered by such statement.

(b) Reporting requirements for raffles are as set forth in General Municipal Law section 195-f(2). [Where the cumulative net proceeds or net profits derived from the conduct of a raffle or raffles are less than \$30,000 during any one occasion, in such case, the reporting requirement shall be satisfied by the filing within 30 days of the conclusion of such occasion a verified statement on a form prescribed by the commission attesting to the amount of such net proceeds or net profits and the distribution thereof for lawful purposes with the clerk or department and a copy with the commission.]

(c) As set forth in General Municipal Law section 195-f(4), [No] no fee shall be required where the net proceeds or net profits derived from the conduct of a raffle or raffles are less than \$30,000 during any one occasion.

(d) An organization that has filed a verified statement with the clerk or department and the commission attesting that such organization shall derive net proceeds or net profits from raffles in an amount less than \$30,000 during one occasion or part thereof that in fact derives net proceeds or net profits [exceeding] of at least \$30,000 during any one occasion or part thereof shall be required to obtain a license as required by General Municipal Law sections 190 and 190-a and this Subchapter and shall be subject to the reporting requirements and additional license fees required by General Municipal Law 195-f and this Part.

(e) In the case of bell jars, the licensee, upon filing financial statements of bell jar operations (form GC-7Q) with the commission shall also tender to the commission a sum in the amount [of five percent of the net proceeds as defined in this Part, from the sale of bell jar tickets, if any, for that portion of license period covered by such statement. For the purposes of this section, net proceeds shall mean the difference between the ideal handle from the sale of bell jar tickets, coin boards, merchandise boards and seal cards, less the purchase price to the licensee of the bell jar tickets, coin boards, merchandise boards and seal cards and the amount of money paid out in prizes. Additionally, a credit shall be permitted against the net proceeds fee tendered to the commission for unsold tickets of the bell jar deal as long as the unsold tickets have the same serial number as the tickets for which the fee is rendered. Such unsold tickets must be kept on file by the selling organization for inspection by the commission for a period of one year following the date upon which the relevant financial statement was received by the commission] set forth in General Municipal Law section 195-q.

* * *

§ 4624.8. Special games of chance, raffle and bell jar account.

(a) For games of chance, bell jar, and for raffle ticket proceeds that exceed \$30,000 per calendar year, each licensee must maintain a regular checking account as its games of

chance account, which shall be designated the “special games of chance account.” Into this account shall be deposited all and only monies received from admission charges, total profits from games other than merchandise wheels, total cash receipts from merchandise wheels, receipts from the sale of raffle tickets and bell jar tickets, coin boards, merchandise boards and seal cards, and cash bank if such cash bank monies were initially withdrawn from this account. Receipts from the sale of food and refreshments or alcoholic beverages shall not be deposited into this account. Deposits shall be made intact and no later than the next business day following the date of a games of chance license period, excluding raffles bell jars (which shall include coin boards, merchandise boards and seal cards), deposits for which shall be made no later than Wednesday of each week, except when such day is a holiday, in which case said deposit shall be made on the next business day. In the case of bell jars and raffles, each licensee is encouraged to maintain a separate regular checking account which shall be designated the “special raffle account” or “special bell jar account.” Into this account shall be deposited all and only monies derived from the sale of raffle tickets or bell jar tickets, respectively. Deposits shall be made no later than Wednesday of each week, except when such day is a holiday, and in that case [said] such deposit shall be made on the next business day.

(b) In cases where licensed authorized organizations have submitted a verified statement form GCVS-1 in lieu of a raffle license application, [and the licensee in fact does not derive raffle proceeds in excess of \$30,000 in a single occasion, the member in charge shall declare, under the penalties of perjury, on the verified statement of raffle operations GCVS-2 required under section 4624.1 of this Part, that] the proceeds [have been] shall be deposited into a bank account maintained solely by the authorized organization to be dispersed only for lawful expenditures permitted under section 4624.21 of this Part.

* * *

An amendment to section 4607.21 adds a cross-reference to controlling statute.

Amendments to section 4608.2 eliminate verbatim repetition of statute and add cross-references to controlling statutes.

Amendments to section 4608.3 make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4608.4 eliminate verbatim repetition of statute, add a cross-reference to controlling statute and make stylistic changes consistent with other Commission rules.

Amendments to section 4608.5 eliminate verbatim repetition of statute and add a cross-reference to controlling statute.

Amendments to section 4608.6 eliminate verbatim repetition of statute and add a cross-reference to controlling statute.

Amendments to section 4608.7 make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4608.12 eliminate verbatim repetition of statute.

Section 4608.13 is repealed to eliminate verbatim repetition of statute.

Amendments to section 4610.1 make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4610.2 make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4611.1 eliminate specific prize limits and instead cross-reference statutory requirements, eliminate verbatim repetition of statute and make stylistic and technical changes consistent with other Commission rules.

An amendment to section 4611.2 eliminates a specific prize limit and instead cross-references statutory requirements.

Amendments to section 4620.10 eliminate specific prize-limits and instead cross-reference statutory requirements and adds a rule to describe play in merchandise wheel games.

Amendments to section 4620.19 eliminate specific prize limits and instead cross-reference statutory requirements, increase the retention period for winning bell jar tickets to one year and make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4620.23 reduce the number of required raffle drums or receptacles for the game of search for the queen of hearts, provide that only monies collected from the sale of raffle tickets may be used to form the prize pool in the search for the queen of hearts game, make optional the number of drawings in certain weeks of the game of search for the queen of hearts, clarify that if a certain number of drawings are held, the winners search in the order in which their winning tickets were selected and make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4622.12 eliminate specific prize limits and instead cross-references statutory requirements and make stylistic and technical changes consistent with other Commission rules.

An amendment to section 4622.20 makes restrictions on an individual's ability to play limited to the category of game in which a person has assisted in the management.

An amendment to section 4622.21 adds a cross-reference to controlling statute.

Amendments to section 4622.22 eliminate specific prize limits and instead cross-reference statutory requirements and make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4622.23 clarify that alcohol sale and consumption is subject to applicable Alcoholic Beverage Control Law provisions and make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4622.26 provide that games of chance advertising may not include misleading information or representations, consistent with the bingo advertising rule, and eliminate verbatim repetition of statute.

Amendments to section 4624.9 allow for electronic transfers of funds for payments to governmental entities, operating expenses and game suppliers.

Amendments to section 4624.17 clarify reporting requirements when an authorized organization ceases conducting games of chance or bingo and make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4624.21 eliminate certain requirements in regard to donations by service and fraternal organizations, add cross-references to controlling statutes and make stylistic and technical changes consistent with other Commission rules.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, NY 12301, (518) 388-3332, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Consensus Rule Making Determination

The adoption of this proposed revision to the charitable gaming rules of the New York State Gaming Commission would replace references to specific prize limits throughout the charitable gaming rules, eliminating the need to make multiple regulation amendments when the legislature amends prize limits; clarifies which organizations may conduct charitable gaming games of chance; describes game play for merchandise wheels; increases the retention period for winning bell jar tickets; amends certain aspects of the search for the queen of hearts game; modifies the play restrictions applicable to those assisting in the conduct of games; clarifies that alcoholic beverage laws apply to the conduct of games of chance; makes advertising regulation consistent with bingo advertising regulations; allows for electronic payment for certain expenses; clarifies final reporting requirements when an organization ceases to conduct charitable gaming; makes consistent the requirements for donations by service and fraternal organizations; eliminates verbatim repetition of statute; and adds cross-references to controlling statutes.

Due to the non-controversial nature of this amendment, no person is likely to object to the revisions proposed by this amendment.

Job Impact Statement

A job impact statement is not required for this consensus rulemaking proposal because the proposed amendment will not adversely affect jobs or employment opportunities.

The proposal will make only non-controversial amendments to various aspects of charitable gaming games of chance, which must be conducted by bona fide members of authorized organizations, who are not permitted to receive any remuneration for participating in the management or operation of such games.

The proposed amendments will not have an impact on jobs or employment opportunities and will not impose any adverse impact on jobs or employment opportunities.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Regulation of Charitable Gaming Raffles

I.D. No. SGC-13-22-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This is a consensus rule making to amend Parts 4601, 4602, 4620 and 4624 of Title 9 NYCRR.

Statutory authority: General Municipal Law, section 188-a(1); Racing, Pari-Mutuel Wagering and Breeding Law, section 104(19)

Subject: Regulation of charitable gaming raffles.

Purpose: To conform raffles rules to current statutes and improve operations.

Substance of proposed rule (Full text is posted at the following State website: <https://www.gaming.ny.gov/proposedrules.php>): The updates to Parts 4601 and 4602 of Subchapter A and Parts 4620 and 4624 of Subchapter B of Title 9 of the NYCRR will allow the New York State Gaming Commission ("Commission") to implement various provisions of recent charitable gaming legislation and update various charitable gaming regulations.

Amendment to section 4601.1 eliminates verbatim repetition of statute, instead cross-referencing statutory requirements.

Amendments to section 4602.1 eliminate specific prize-limits, instead cross-reference statutory requirements, eliminate verbatim repetition of statute, delete language that is moved to a new section 4602.10 and make stylistic changes.

A new section 4602.10 contains regulation provisions in regard to penalties for underage participation in raffles. These provisions were formerly contained in section 4602.1(b)(3). This change better organizes the Part.

Amendments to section 4620.22 set forth procedures to apply when an authorized organization seeks to sell raffle tickets or conduct a raffle outside its premises, eliminate specific prize limits and instead cross-reference statutory requirements, eliminate verbatim repetition of statute, add cross-references to controlling statutes and make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4624.1 eliminate specific prize-limits and instead cross-reference statutory requirements and make stylistic and technical changes consistent with other Commission rules.

Amendment to section 4624.3 add cross-references to a controlling statute, eliminate verbatim repetition of statute and make language consistent with such statute and make stylistic and technical changes consistent with other Commission rules.

Amendments to section 4624.8 eliminate certain paperwork requirements for raffles and make stylistic and technical changes consistent with other Commission rules.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, NY 12301, (518) 388-3332, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Consensus Rule Making Determination

The adoption of this proposed revision to the charitable gaming rules of the New York State Gaming Commission would eliminate verbatim repetition of statute; eliminate specific prize-limits, instead cross-referencing statutory requirements; reorganize one rule; set forth procedures to apply when an authorized organization seeks to sell raffle tickets or conduct a raffle outside its premises; eliminate certain paperwork requirements; and make stylistic and technical changes consistent with other Commission rules.

Due to the non-controversial nature of this amendment, no person is likely to object to the revisions proposed by this amendment.

Job Impact Statement

A job impact statement is not required for this consensus rulemaking proposal because the proposed amendment will not adversely affect jobs or employment opportunities.

The proposal will make only non-controversial amendments to various aspects of raffles, which must be conducted by bona fide members of authorized organizations, who are not permitted to receive any remuneration for participating in the management or operation of such games.

The proposed amendments will not have an impact on jobs or employment opportunities and will not impose any adverse impact on jobs or employment opportunities.

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Racing License Hearing Requests and Service Methods

I.D. No. SGC-13-22-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of sections 4002.9, 4101.24, 4205.1, 4300.6, 4500.2, 4500.3, 4550.3; addition of Part 5410 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Racing license hearing requests and service methods.

Purpose: To enhance the fairness and efficiency of adjudicatory proceedings.

Text of proposed rule: Sections 4002.9, 4101.24, 4205.1, 4300.6, 4500.2, 4500.3 and 4550.3 of Part 4550 of 9 NYCRR would be amended and a new subchapter C and Part 5410 of Chapter V of 9 NYCRR would be added to read as follows:

§ 4002.9. Grounds for refusal, suspension, revocation.

(d) A denial of or refusal to issue a license shall be subject to adjudication in accordance with Racing, Pari-Mutuel Wagering and Breeding Law section 220 and the provisions of Part 4550 of this Chapter.

§ 4101.24. Occupational licenses.

(m) A denial of or refusal to issue a license shall be subject to adjudication in accordance with Racing, Pari-Mutuel Wagering and Breeding Law section 321 and the provisions of Part 4550 of this Chapter.

§ 4205.1. License required.

(q) A denial of or refusal to issue a license shall be subject to adjudication in accordance with Racing, Pari-Mutuel Wagering and Breeding Law section 420 and the provisions of Part 4550 of this Chapter.

§ 4300.6. License to provide totalisator services.

(e) In considering an application for a license, the application shall be reviewed and licenses shall be issued in accordance with the standards set

forth in Racing, Pari-Mutuel Wagering and Breeding Law Section 307(5)(a) and (b), which standards shall be applicable to the applicant entity as well as to the enumerated categories of individuals and entities set forth. Pending final determination of any question, the commission may issue a temporary license upon such terms and conditions as it may deem necessary, desirable or proper to effectuate the provisions of the Racing, Pari-Mutuel Wagering and Breeding Law and these rules. [The] A denial of or refusal to issue a license shall be subject to [appeal] adjudication, in accordance with the provisions of Section 321 of the Racing, Pari-Mutuel Wagering and Breeding Law and the provisions of Part 4550 of this Chapter.

§ 4500.2. Licensing account wagering.

(i) A denial of or refusal to issue a license shall be subject to adjudication in accordance with the provisions of Part 4550 of this Chapter.

§ 4500.3. Multi-jurisdictional account wagering providers; additional provisions.

(f) A denial of or refusal to issue a license shall be subject to adjudication in accordance with the provisions of Part 4550 of this Chapter.

§ 4550.3. Notice of adjudicatory proceedings.

(a) Commencement of an adjudicatory proceeding. An adjudicatory proceeding shall be commenced by the commission's service of a notice of hearing [or order to show cause]. A hearing in any matter as to which the commission is required to hold an adjudicatory [hearing] proceeding or otherwise determines to [do so] conduct a hearing shall be held upon reasonable notice to each party[,] and shall be conducted at such place as the commission shall determine. [Notice of such hearing, may be served on the party or provided by certified mail addressed to the party involved at the party's last known address.]

(b) Contents of notice.

(1) [Such] A notice of hearing [or order to show cause] shall contain:

(i) a statement of the time, place and nature of the hearing;

(ii) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(iii) a reference to the particular section of the statutes and rules involved;

(iv) a short and plain statement of matters asserted;

(v) a statement that interpreter services shall be made available to deaf persons at no charge;

(vi) information concerning circumstances under which an adjournment may be granted;

(vii) the consequence of a failure to appear for a scheduled hearing or proceeding; and

(viii) a statement informing the parties of the right of each party to be represented by counsel, to testify, to produce witnesses, to present documentary evidence, and to examine opposing witnesses and evidence.

(2) Such notice of hearing [or order to show cause] may be amended or superseded:

(i) prior to the commencement of the hearing; or

(ii) after commencement of the hearing, as authorized by the hearing officer.

(3) A notice of appearance by any attorney representing the party shall be filed with the counsel to the commission. A written answer to the charges, if demanded in the notice, or at the option of the party notified, shall be filed at least five days before the hearing commences.

(c) Service of notice. Service of notice of hearing shall be sufficient if accomplished pursuant to section 5410.2 of Part 5410 of Subchapter C of Chapter V of this Subtitle.

(d) Time to request hearing. If the commission denies or refuses to grant a license applied for pursuant to this Chapter, such action shall be reviewable at a hearing before the commission:

(1) upon the applicant filing a written request for a hearing within 10 days of the commission's service of notice of the denial or refusal had been made pursuant subdivisions (a) through (d) or (f) of section 5410.2 of Part 5410 of Subchapter C of Chapter V of this Subtitle; or

(2) upon the applicant filing a written request for a hearing within 15 days of the commission's service of notice of the denial or refusal, if the commission's service of notice of the denial or refusal had been made pursuant to subdivision (e) of section 5410.2 of Part 5410 of Subchapter C of Chapter V of this Subtitle.

A license applicant who fails to file such a request within the time set forth in this subdivision shall have waived the applicant's right to have



Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

To: Commissioners

From: Edmund C. Burns

Date: June 1, 2022

Re: Adoption of Proposed Rulemaking for Racing License Hearing Requests and Service Methods (9 NYCRR §§ 4002.9, 4101.24, 4205.1, 4300.6, 4500.2, 4500.3, 4550.3 and Part 5410)

For Commission consideration is the adoption of a proposed rulemaking to establish a standard time period for requesting a hearing on horse racing license determinations, set forth acceptable service methods for the Commission and set forth the duty of licensees to keep addresses updated for the Commission.

The text of the proposed rule is set forth in the attached Notice of Proposed Rulemaking, as published in the March 30, 2022 State Register. The public comment period for the proposed rulemaking expired on May 31, 2022. Two comments were received. Each of the New York Thoroughbred Horsemen's Association, Inc. and the New York Thoroughbred Breeders Inc. expressed support for establishing a standard time period for requesting a hearing on horse racing license determinations.



attachment

cc: Robert Williams, Executive Director
Ronald Ochrym, Director, Division of Horse Racing and Pari-Mutuel Wagering

Amendments to section 4624.8 eliminate certain paperwork requirements for raffles and make stylistic and technical changes consistent with other Commission rules.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, NY 12301, (518) 388-3332, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Consensus Rule Making Determination

The adoption of this proposed revision to the charitable gaming rules of the New York State Gaming Commission would eliminate verbatim repetition of statute; eliminate specific prize-limits, instead cross-referencing statutory requirements; reorganize one rule; set forth procedures to apply when an authorized organization seeks to sell raffle tickets or conduct a raffle outside its premises; eliminate certain paperwork requirements; and make stylistic and technical changes consistent with other Commission rules.

Due to the non-controversial nature of this amendment, no person is likely to object to the revisions proposed by this amendment.

Job Impact Statement

A job impact statement is not required for this consensus rulemaking proposal because the proposed amendment will not adversely affect jobs or employment opportunities.

The proposal will make only non-controversial amendments to various aspects of raffles, which must be conducted by bona fide members of authorized organizations, who are not permitted to receive any remuneration for participating in the management or operation of such games.

The proposed amendments will not have an impact on jobs or employment opportunities and will not impose any adverse impact on jobs or employment opportunities.

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Racing License Hearing Requests and Service Methods

I.D. No. SGC-13-22-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of sections 4002.9, 4101.24, 4205.1, 4300.6, 4500.2, 4500.3, 4550.3; addition of Part 5410 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Racing license hearing requests and service methods.

Purpose: To enhance the fairness and efficiency of adjudicatory proceedings.

Text of proposed rule: Sections 4002.9, 4101.24, 4205.1, 4300.6, 4500.2, 4500.3 and 4550.3 of Part 4550 of 9 NYCRR would be amended and a new subchapter C and Part 5410 of Chapter V of 9 NYCRR would be added to read as follows:

§ 4002.9. Grounds for refusal, suspension, revocation.

(d) *A denial of or refusal to issue a license shall be subject to adjudication in accordance with Racing, Pari-Mutuel Wagering and Breeding Law section 220 and the provisions of Part 4550 of this Chapter.*

§ 4101.24. Occupational licenses.

(m) *A denial of or refusal to issue a license shall be subject to adjudication in accordance with Racing, Pari-Mutuel Wagering and Breeding Law section 321 and the provisions of Part 4550 of this Chapter.*

§ 4205.1. License required.

(q) *A denial of or refusal to issue a license shall be subject to adjudication in accordance with Racing, Pari-Mutuel Wagering and Breeding Law section 420 and the provisions of Part 4550 of this Chapter.*

§ 4300.6. License to provide totalisator services.

(e) In considering an application for a license, the application shall be reviewed and licenses shall be issued in accordance with the standards set

forth in Racing, Pari-Mutuel Wagering and Breeding Law Section 307(5)(a) and (b), which standards shall be applicable to the applicant entity as well as to the enumerated categories of individuals and entities set forth. Pending final determination of any question, the commission may issue a temporary license upon such terms and conditions as it may deem necessary, desirable or proper to effectuate the provisions of the Racing, Pari-Mutuel Wagering and Breeding Law and these rules. [The] *A denial of or refusal to issue a license shall be subject to [appeal] adjudication, in accordance with the provisions of Section 321 of the Racing, Pari-Mutuel Wagering and Breeding Law and the provisions of Part 4550 of this Chapter.*

§ 4500.2. Licensing account wagering.

(i) *A denial of or refusal to issue a license shall be subject to adjudication in accordance with the provisions of Part 4550 of this Chapter.*

§ 4500.3. Multi-jurisdictional account wagering providers; additional provisions.

(f) *A denial of or refusal to issue a license shall be subject to adjudication in accordance with the provisions of Part 4550 of this Chapter.*

§ 4550.3. Notice of adjudicatory proceedings.

(a) *Commencement of an adjudicatory proceeding.* An adjudicatory proceeding shall be commenced by *the commission's service* of a notice of hearing [or order to show cause]. A hearing in any matter as to which the commission is required to hold an adjudicatory [hearing] *proceeding* or otherwise determines to [do so] *conduct a hearing* shall be held upon reasonable notice to each party[,] and shall be conducted at such place as the commission shall determine. [Notice of such hearing, may be served on the party or provided by certified mail addressed to the party involved at the party's last known address.]

(b) *Contents of notice.*

(1) [Such] *A notice of hearing* [or order to show cause] shall contain:

(i) a statement of the time, place and nature of the hearing;

(ii) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(iii) a reference to the particular section of the statutes and rules involved;

(iv) a short and plain statement of matters asserted;

(v) a statement that interpreter services shall be made available to deaf persons at no charge;

(vi) information concerning circumstances under which an adjournment may be granted;

(vii) the consequence of a failure to appear for a scheduled hearing or proceeding; and

(viii) a statement informing the parties of the right of each party to be represented by counsel, to testify, to produce witnesses, to present documentary evidence, and to examine opposing witnesses and evidence.

(2) Such *notice of hearing* [or order to show cause] may be amended or superseded:

(i) prior to the commencement of the hearing; or

(ii) after commencement of the hearing, as authorized by the hearing officer.

(3) A notice of appearance by any attorney representing the party shall be filed with the counsel to the commission. A written answer to the charges, if demanded in the notice, or at the option of the party notified, shall be filed at least five days before the hearing commences.

(c) *Service of notice.* *Service of notice of hearing shall be sufficient if accomplished pursuant to section 5410.2 of Part 5410 of Subchapter C of Chapter V of this Subtitle.*

(d) *Time to request hearing.* *If the commission denies or refuses to grant a license applied for pursuant to this Chapter, such action shall be reviewable at a hearing before the commission:*

(1) *upon the applicant filing a written request for a hearing within 10 days of the commission's service of notice of the denial or refusal had been made pursuant subdivisions (a) through (d) or (f) of section 5410.2 of Part 5410 of Subchapter C of Chapter V of this Subtitle; or*

(2) *upon the applicant filing a written request for a hearing within 15 days of the commission's service of notice of the denial or refusal, if the commission's service of notice of the denial or refusal had been made pursuant to subdivision (e) of section 5410.2 of Part 5410 of Subchapter C of Chapter V of this Subtitle.*

A license applicant who fails to file such a request within the time set forth in this subdivision shall have waived the applicant's right to have

any administrative review, including a hearing before the commission, of the license action.

* * *

Subchapter C

[Office of Racing Promotion and Development] General

PART 5410

General

Section

5410.1 Duty to update address

5410.2 Service methods

§ 5410.1. Duty to update address.

A commission licensee or applicant for a license has a continuing duty to inform the commission of any change of address, including a change in an electronic mail address (if such person or entity provides an electronic mail address to the commission), in connection with an application or otherwise.

§ 5410.2. Service methods.

Service of any notice of hearing or any action of the commission, including without limitation a determination of the commission in an adjudicatory proceeding, directed to a person or entity shall be sufficient if:

(a) delivered to the person or entity to be served;

(b) delivered to a person of suitable age and discretion at the last residential or business address the person or entity to be served provided to the commission;

(c) sent by private delivery services provider to the last residential or business address the person or entity to be served provided to the commission, so long as such provider obtains a signature upon delivery and the delivery is not returned by such provider to the commission;

(d) served on an attorney who represents the person or entity in the matter by first class mail, electronic mail to the last electronic mail address the attorney provided to the commission, or by any other means of communication authorized by such attorney;

(e) mailed by first class mail to the last residential or business address the person or entity to be served provided to the commission and sent by electronic mail to the last electronic mail address the person or entity to be served provided to the commission; or

(f) in such manner as the commission determines, if:

(1) the commission receives actual notice that the methods set forth in subdivision (e) of this section have both resulted in undeliverable service; or

(2) the commission otherwise determines that service pursuant to subdivisions (a) through (e) of this section is impracticable.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, NY 12301, (518) 388-3332, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

1. **STATUTORY AUTHORITY:** The New York State Gaming Commission (“Commission”) is authorized to promulgate these rules pursuant to Racing, Pari-Mutuel Wagering and Breeding Law (“Racing Law”) Sections 103(2) and 104 (1) and (19). Pursuant to Section 103(2), the Commission is responsible for supervising, regulating and administering all horse racing and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all gaming activities within the State and over the corporations, associations and persons engaged in such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities.

2. **LEGISLATIVE OBJECTIVES:** To enable the Commission to conduct adjudicatory proceedings in racing matters fairly and efficiently and establish standards for service of notices of hearing and actions by the Commission.

3. **NEEDS AND BENEFITS:** This rule making proposes to amend the Commission’s regulations to establish a standard time period for requesting a hearing on horse racing license determinations, set forth acceptable service methods for the Commission, and set forth the duty of licensees to keep addresses updated for the Commission. Establishing a standard time period in regulation for requesting a hearing is necessary because the Racing, Pari-Mutuel Wagering and Breeding law does not provide for such a time period for challenging the denial of certain types of licenses and the Commission believes it is desirable to standardize hearing request time periods and assurances of finality of Commission decisions that are not challenged. Regulations on acceptable service methods are needed to put

regulated parties on notice of how the Commission will communicate certain notices and actions to them and avoid unnecessary disputes about whether a notice has been delivered. In support of that goal, it is beneficial to establish a requirement that regulated parties keep the Commission updated about their current addresses, so unnecessary disputes about whether an address is current can be avoided.

4. **COSTS:**

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: These amendments will not add any new mandated costs to the existing rules.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: None anticipated. The amendments will not add any new costs. There will be no costs to local government because the Commission is the only governmental entity authorized to regulate horse racing.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: Experience of agency staff.

5. **LOCAL GOVERNMENT MANDATES:** None. The Commission is the only governmental entity authorized to regulate racing activities.

6. **PAPERWORK:** There will be no additional paperwork.

7. **DUPLICATION:** These rules do not duplicate, overlap or conflict with any existing State or federal requirements.

8. **ALTERNATIVES:** The alternative of not revising the rules pertaining to hearing requests and service methods was considered and rejected. Establishing a standard time period in regulation for requesting a hearing is necessary because the Racing, Pari-Mutuel Wagering and Breeding law does not provide for such a time period for challenging the denial of certain types of licenses and the Commission believes it is desirable to standardize hearing request time periods and assurances of finality of Commission decisions that are not challenged. Regulations on acceptable service methods are needed to put regulated parties on notice of how the Commission will communicate certain notices and actions to them and avoid unnecessary disputes about whether a notice has been delivered.

9. **FEDERAL STANDARDS:** There are no minimum standards of the Federal government for this or a similar subject area.

10. **COMPLIANCE SCHEDULE:** The Commission anticipates that the affected parties will be able to achieve compliance with these rules upon adoption.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

The proposed changes do not require a Regulatory Flexibility Analysis, Rural Area Flexibility Analysis or Job Impact Statement. There will be no adverse impact on small businesses, local governments, rural areas or jobs.

The proposed rule making would establish a standard time period for requesting a hearing on horse racing license determinations, set forth acceptable service methods for the Commission, and set forth the duty of licensees to keep addresses updated for the Commission.

The proposed rules will not impose any adverse economic impacts or reporting, recordkeeping or other compliance requirements on small businesses, local governments, rural areas or employment opportunities. No local government activities are involved.

Industrial Board of Appeals

NOTICE OF ADOPTION

Rules of Procedure and Practice for Administrative Hearings; Freedom of Information Law

I.D. No. IBA-45-21-00003-A

Filing No. 163

Filing Date: 2022-03-14

Effective Date: 2022-03-30

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Repeal of Parts 65, 66; addition of new Part 65; amendment of Parts 68, 70, 71, 72 and 73 of Title 12 NYCRR.

Statutory authority: Labor Law, section 100(5)(a)

Subject: Rules of Procedure and Practice for administrative hearings; Freedom of Information Law.

Purpose: To update the Rules of Procedure and Practice for administrative review and to correct address for Freedom of Information Law.