



July 2015

New York State Gaming Commission Proposes Rules on Casino Vendor Licensing and Registration

In anticipation of the award of three casino licenses in the Empire State this fall, on July 6, 2015, the New York State Gaming Commission proposed rules for the licensing and registration of gaming facility employees and vendors.

Under the proposed rules, vendors are divided into the following categories:

1. Casino Vendor

A vendor providing goods or services to a gaming facility applicant or licensee that directly relate to gaming activity, including but not limited to:

- > Gaming equipment manufacturers, suppliers, and repairers
- > Independent testing laboratories

2. Ancillary Casino Vendor

A vendor providing goods or services which are ancillary to gaming activity, including, but not limited to:

- > Licensors of games
- > Non-casino alcoholic beverage operators
- > Lessors of casino property not required to hold a casino license (shopkeepers located within the facility)

- > Trash haulers
- > Limousine operators
- > Food suppliers
- > Site contractors or subcontractors
- > Gaming schools that possess slot machines for the purpose of instruction

3. Vendor Registrant

A vendor offering goods or services that is not a casino vendor or an ancillary casino vendor.

4. Temporary Service Provider

A vendor, a vendor's agents, servants, or employees may be engaged by a gaming facility licensee to perform temporary services for no more than 30 days in any 12-month period.

For the performance of services for up to one business day, the gaming facility may simply issue a temporary service badge and assign a properly licensed employee escort to the badge holder. For isolated services which cannot be completed in one business day, the gaming facility is required to file a temporary service provider form no later than 24 hours prior to the arrival of the temporary service provider at the facility. Such temporary service badge will be valid for 30 days over a 12-month period. Any failure by the gaming facility to file such form will result in a violation of the gaming facility license.

Qualifiers

Under the proposed rules, the following persons associated with a casino vendor or ancillary casino vendor will be required to submit a casino key employee application form:

- > Owners
- > Managers
- > Supervisory personnel
- > Employees of casino vendor or ancillary casino vendor licensees who provide services to the gaming area of the facility

Although not specifically defined in the proposed rules for vendors, guidance received from Commission staff suggests that the standard to determine "owners" may be consistent with the proposed rules for qualification of gaming facility owners which is "each shareholder holding five percent or more of the common stock of such company." Additionally, the Commission in its discretion may grant waivers for qualified institutional investors holding up to 15 percent and passive investors owning, holding, or controlling up to 25 percent of the publicly-traded securities of a vendor. In determining vendor qualifiers, the Commission is focused on individuals with roles which impact operations or have a stake in the operational process. There is currently no requirement that members of the board of directors of a vendor applicant or licensee must be found qualifier.

Other noteworthy vendor licensing requirements contained in the New York Racing, Pari-Mutuel Wagering and Breeding Law:

- > *Pre-License Transactional Permission:* The Executive Director of the Commission may permit a casino vendor license applicant to conduct business transactions with the gaming facility licensee or applicant prior to licensure, effective only for the transaction for which the permission is requested. *Section 1326(1) and (2).*
- > *Independent software contractors:* The Executive Director of the Commission has discretion to order that an independent software contractor not otherwise required to be registered be either registered as a vendor or licensed as either a casino vendor or casino ancillary vendor. *Section 1326(5).*
- > *Duration:* Vendor licenses and registrations are valid for five years. A vendor license or registration shall lapse if the registrant or licensee has not conducted business with a gaming facility for a period of three years. *Section 1327(1).*

- > *Business Registration:* Proof of valid business registration with the New York Secretary of State is a prerequisite for licensure as a casino vendor or ancillary casino vendor license. *Section 1326(7).*

Comment period open:

The public comment period on the proposed rules concludes on Sept. 8, 2015. If the Commission approves final regulations, publication in the state register could be as soon as Sept. 30, 2015.

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