

PART 5318

Independent Testing Laboratories

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§ 5318.1. Use of independent testing laboratories.

(a) Testing, certification and approval of games and gaming equipment, including gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto, shall comply with Racing, Pari-Mutuel Wagering and Breeding Law section 1335(8).

(b) A licensed manufacturer, a distributor or operator of games or gaming devices or a gaming facility licensee shall be solely responsible for the payment of any fees imposed by the independent testing laboratory for the services of such laboratory.

(c) A licensed manufacturer, distributor or operator of games or gaming devices or gaming facility licensee shall pay any and all costs associated with any review or approval the commission performs of a game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any components thereof or modification thereto, including any costs associated with the commission's review of the licensed independent testing laboratory's testing and certification as described in subdivision (a) of this section.

§ 5318.2. Licensing of independent testing laboratories.

(a) An independent testing laboratory that intends to test and certify games, gaming devices, gaming-associated equipment, cashless-wagering systems, inter-casino linked systems, mobile-gaming systems or interactive-gaming systems or any components thereof or modifications thereto, for use in a licensed gaming facility shall be licensed by the commission as a casino vendor enterprise pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1326 and Parts 5303 and 5307 of this Subchapter.

(b) The commission may require each testing facility at which an independent testing laboratory conducts testing and certification procedures to be licensed as a casino vendor enterprise pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1326 and Parts 5303 and 5307 of this Subchapter.

(c) An independent testing laboratory shall be certified to perform testing for each of the following categories:

- (1) games and game variations;
- (2) gaming devices and gaming device modifications;
- (3) gaming-associated equipment and gaming-associated equipment modifications;
- (4) cashless-wagering systems and cashless-wagering system modifications;
- (5) inter-casino linked systems and inter-casino linked system modifications;
- (6) mobile-gaming systems and mobile-gaming system modifications;
- (7) interactive-gaming systems and interactive-gaming-system modifications; and
- (8) any other category of testing and certification that the commission may deem appropriate.

§ 5318.3. Additional standards for issuance of a casino vendor enterprise license to an independent testing laboratory.

(a) Each applicant for an independent testing laboratory license shall:

- (1) be independent from any licensed manufacturer, distributor or operator of any game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto;
- (2) be accredited in accordance with ISO/IEC 17025 by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement; and
- (3) demonstrate it is technically competent in testing the category of game, device or system for which a license is sought.

(b) An independent testing laboratory and its owners, managers, supervisory personnel and employees:

- (1) shall not have a financial or other interest, direct or otherwise, in a licensed manufacturer, distributor, or operator of any game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto;

(2) shall not participate, consult or otherwise be involved in the design, development, programming or manufacture of any game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto;

(3) shall not have any other interest in or involvement with a licensed manufacturer, distributor or operator of games or gaming devices that could cause the independent testing laboratory to act in a manner that is not impartial; and

The restrictions set forth in paragraphs (1) and (2) of this subdivision do not limit an independent testing laboratory or its owners, managers, supervisory personnel and employees from providing consulting services to a licensed manufacturer, distributor or operator of games or gaming devices, provided that such services do not directly or indirectly indicate, suggest or imply how to design, develop, program or manufacture a game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any components thereof or modification thereto.

(c) Each applicant for an independent testing laboratory license and its owners, managers, supervisory personnel and employees shall produce such information, documentation and assurances as the commission may request concerning the criteria set forth in this section.

(d) The commission shall maintain a list of licensed independent testing laboratories on the commission's website, along with the categories of testing each is certified to perform.

§ 5318.4. Notification and reporting requirements.

(a) A licensed independent testing laboratory shall notify the commission immediately if a licensed manufacturer, distributor or operator of games or gaming devices:

(1) attempts, directly or indirectly, to influence improperly a licensed independent testing laboratory or its owners, managers, supervisory personnel and employees, in regard to a game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto, that it, or another person or entity, has submitted for testing or certification for use in a licensed gaming facility; or

(2) engages in any transaction with a licensed independent testing laboratory that such manufacturer, distributor or operator is using, has used or intends to use to inspect or certify a game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto, for use by a

licensed gaming facility, in which the licensed independent testing laboratory is required to participate, consult or otherwise be involved in the design, development, programming or manufacture of such items. This restriction does not limit a licensed manufacturer, distributor or operator of games or gaming devices from engaging such licensed independent testing laboratory to provide consulting services, provided that such services do not directly or indirectly indicate, suggest or imply how to design, develop, program or manufacture such items.

(b) Licensed independent testing laboratories shall maintain copies of the results of any ISO/IEC 17025 audits or reviews and shall notify the commission in writing of the availability of such results within 15 days of when such results become available to the licensed independent testing laboratory. Such copies shall be provided to the commission upon request.

§ 5318.5. Conduct and operation.

(a) In the interest of preserving a competitive gaming industry, a licensed independent testing laboratory shall not implement or maintain any procedure or policy or take any action that would:

(1) inhibit or prevent a licensed manufacturer, distributor or operator of games or gaming devices from submitting a game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system, or any component thereof or modification thereto, for testing and certification for use in a licensed gaming facility; or

(2) call into question or tend to erode the independence of the licensed independent testing laboratory from any clients that use the services of such laboratory.

(b) A licensed independent testing laboratory shall maintain a version-controlled system of testing documentation and methodologies that such laboratory uses to provide certification and such materials shall be made available to the commission upon request. Original testing documentation, methodologies and any revisions to the testing documentation or methodologies must be approved in writing by the commission prior to being used.

(c) All testing shall be conducted in accordance with this Subchapter and all technical standards, control standards, control procedures, policies and industry notices that the commission may implement or issue.

(d) All testing shall be performed by a licensed or registered employee of the licensed independent testing laboratory. The commission may permit a licensed independent testing laboratory to use the services of a third party other than a licensed or registered employee of the independent testing laboratory to perform certain specific functions associated with the testing and certification procedures to be performed. Any such

request shall be made in writing subject to the review and approval of the commission in advance of using the services of a third party.

(e) A licensed independent testing laboratory shall not use, rely on or otherwise refer to any testing, results or work product performed by another licensed testing laboratory for any game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system, or any component thereof or modification thereto that has not previously been approved in writing by the commission.

(f) A licensed independent testing laboratory shall implement and maintain a system of peer review to monitor the quality of the testing and certification procedures performed by such laboratory.

(g) A licensed independent testing laboratory shall consult with the commission prior to testing, evaluating, analyzing, certifying, verifying or rendering opinions for or on behalf of the commission relating to any new technology or concept.

(h) A licensed independent testing laboratory shall consult the commission on any questions relating to the testing and certification of any game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked systems, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto.

(i) A licensed independent testing laboratory shall keep confidential all information and data prepared or obtained as part of the testing and certification process.

(j) A licensed independent testing laboratory shall implement and maintain security and access control systems designed to secure and protect the confidentiality of all equipment, software and other information entrusted to it as part of the testing and certification process.

(k) A licensed independent testing laboratory shall maintain all test equipment in accordance with the manufacturer's specifications and recommendations and shall provide the commission with evidence of such upon demand.

(l) A licensed independent testing laboratory shall retain all submission and testing-related documentation. Such records may be maintained in electronic form. The obligation to maintain such records continues even if the independent testing laboratory ceases to be licensed with the commission or otherwise ceases its business operation. The independent testing laboratory may turn all such records over to the commission in electronic form as an alternative to having to maintain such records after such laboratory is no longer licensed or after such laboratory ceases business operation.

(m) The commission may conduct periodically an onsite evaluation and review of each licensed independent testing laboratory to evaluate certification results and to verify continued compliance with all licensing requirements and protocols.

(n) The commission shall, at all times, have immediate and unfettered access to the licensed independent testing laboratory's place of business.

(o) The commission may establish a system to evaluate the continued quality of the testing and certification performed by a licensed independent testing laboratory.

(p) A licensed independent testing laboratory, its employees, management and owners shall remain independent of any licensed manufacturer, distributor or operator of games or gaming devices.

(q) no independent testing laboratory employee who was employed by, or performed any work for, a licensed manufacturer, distributor or operator of games or gaming devices within one year prior to such person's date of employment with such independent testing laboratory shall be permitted to inspect or certify any game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system, or any component thereof or modification thereto for use in a licensed gaming facility, with which such person had any involvement whatsoever while employed by such licensed manufacturer, distributor or operator of games or gaming devices.

(r) Violation of the provisions set forth in this section shall constitute an unsuitable method of operation.

§ 5318.6. Testing and certification results.

(a) Each licensed independent testing laboratory shall provide the commission with the results of the testing and certification process for the commission's approval. The results shall include, at a minimum, the following:

(1) a statement, signed under penalty of perjury, that the certification process was conducted in accordance with this Subchapter and that the product being certified to the best of the licensed independent testing laboratory's knowledge and belief, meets the requirements of this Subchapter and all technical standards, control standards, control procedures, policies and industry notices implemented or issued by the commission;

(2) the name of the licensed independent testing laboratory that performed the testing;

(3) the license number of the licensed independent testing laboratory that performed the testing;

(4) the location or locations of the facility or facilities the licensed independent testing laboratory used to perform the testing;

(5) the date the game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-

gaming system or any component thereof or modification thereto was submitted to the licensed independent testing laboratory for certification;

(6) the start and end dates of the testing performed;

(7) an attestation statement that the game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto source code was reproduced;

(8) the part and version number or numbers of the game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto submitted for certification;

(9) the unseeded HMAC-SHA1 signature of all applicable files, or other method as approved in writing by the commission;

(10) a description of the configuration of the game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto as tested;

(11) a description of the scope of testing performed;

(12) identification of the State of New York-approved testing document or documents by name and version number;

(13) a description of any issues found during the testing process and the resolution thereof, made available upon request by the commission;

(14) identification of any modification that was not identified by the manufacturer, made available upon request by the commission;

(15) a complete description of the testing conducted as part of the certification of the game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto that was not covered by the requirements of this Subchapter and all technical standards, control standards, control procedures, policies and industry notices that the commission implements or issues;

(16) a list of all jurisdictions in which the game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto has been granted or denied licensure, registration, or similar approval; and

(17) any additional information regarding the testing and certification that the licensed independent testing laboratory considers appropriate for the commission to consider as part of the approval process.

(b) The commission shall approve or reject the results as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1335(8)(b).

(c) The commission may add, modify or remove conditions following the initial gaming device approval as necessary to ensure the integrity of the game, gaming device, gaming-associated equipment, cashless-wagering system, inter-casino linked system, mobile-gaming system or interactive-gaming system or any component thereof or modification thereto and the effective administration of Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law.

§ 5100.2. Definitions.

(a) Unless the context indicates otherwise, the following definitions are applicable throughout this subchapter.

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(58) *Independent [gaming] testing laboratory* means a laboratory, [selected] licensed by the commission, that shall be used by vendors of the commission to ensure that the central system, site controllers, terminals and associated equipment used in the conduct of video lottery gaming operate in the manner set forth by these regulations.

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§ 5118.6. Testing and certification of video lottery gaming systems.

The central system, video lottery terminals and associated equipment used in the conduct of video lottery gaming, or a prototype thereof, shall be tested and approved [as the commission shall require] in a manner consistent with Part 5318 of this Chapter as if a video lottery gaming agent were a gaming facility licensee and as if a vendor were a licensed casino vendor enterprise.