

tion of the rule will be negligible given that all such costs are the responsibility of the gaming facility. These rules will not impose any additional costs on local governments.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: The cost estimates are based on the Commission's experience regulating racing and gaming activities within the State.

5. LOCAL GOVERNMENT MANDATES: There are no local government mandates associated with these rules.

6. PAPERWORK: The rule is not expected to impose any significant paperwork or reporting requirements on the regulated entities.

7. DUPLICATION: The rule does not duplicate, overlap or conflict with any existing State or federal requirements.

8. ALTERNATIVES: The Commission consulted stakeholders and reviewed other gambling jurisdiction best practices and regulation. These included the rules for similar table games and the appropriate pay tables. The Commission is also required to promulgate these rules pursuant to Racing Law sections 1307(2)(g), and 1335(5), (6) and (11).

9. FEDERAL STANDARDS: There are no federal standards applicable to the licensing of gaming facilities in New York; it is purely a matter of New York State law.

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 rule will not have any adverse impact on small businesses, local governments, jobs or rural areas. This rule is intended to promote public confidence and trust in the credibility and integrity of casino gambling in New York State. The rule will ensure that licensed gaming facilities follow game rules that are authorized and trustworthy.

The proposed rule does not impact local governments or small businesses as it is not expected that any local government or small business will hold a gaming facility license.

The proposed rule imposes no adverse impact on rural areas. The rule applies uniformly throughout the state and solely applies to licensed gaming facilities.

The proposed rule will have no adverse impact on job opportunities.

This rule will not adversely impact small businesses, local governments, jobs, or rural areas. Accordingly, a full Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, and Job Impact Statement are not required and have not been prepared.

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

Casino Fees and Payments

I.D. No. SGC-38-18-00003-P

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

Proposed Action: Addition of Part 5302; and repeal of section 5315.3 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103, 104, 1307(1), (2)(f), (m), (n), (o), 1348, 1349, 1350, 1351, 1352, 1353 and 1354

Subject: Casino fees and payments.

Purpose: Implementation of rules governing procedures for submission of fees and payments by gaming facilities to the Gaming Commission.

Text of proposed rule: A new Part 5302 would be added to 9 NYCRR, to read as follows:

Part 5302

Fees and Payments

§ 5302.1. Definition.

Unless the context indicates otherwise, gaming position means each player position at a slot machine and table game.

§ 5302.2. Annual license fee for machines and tables.

(a) The annual license fee set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1348 shall be paid for each gaming position by July 1st of each year for all approved slot machines and tables on that date.

(b) The annual license fee for any slot machine or table approved by the commission after July 1st shall be paid upon such approval and prorated by the number of days left in the year, with such year measured from July 1st through the following June 30th.

(c) No adjustment or credit shall be issued to a gaming facility for any machines or tables removed from use after a fee has been imposed.

§ 5302.3. Submission of payments.

(a) Payments for taxes, fees, interest and penalties shall be made to the commission within 30 days of obligation incurred, unless a different period is set forth for a type of payment by article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law or this Part. Any payment for taxes, fees, interest and penalties shall be made by electronic wire transfer, money order, certified check or any other manner designated by the commission.

(b) Forfeiture of winnings as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1345 and gross gaming tax as prescribed in Racing, Pari-Mutuel Wagering and Breeding Law section 1351, including any applicable interest and penalties, shall be transmitted weekly by electronic funds transfer to the commission. Such transmissions are the responsibility of, and shall be made by, the gaming facility licensee.

(c) All weekly gross gaming revenue tax reports filed with the commission shall reflect all gross gaming revenue received by the gaming facility licensee for the period of the return.

(d) When the commission finds that the gaming facility licensee is required to pay additional taxes or finds that the gaming facility licensee is entitled to a refund of taxes, the commission shall report its findings to the licensee and set forth the basis upon which such findings are made.

§ 5302.4. Overdue payments.

The commission may recover from a gaming facility:

(a) any unpaid amount including overdue payments from the gaming facility's employee or vendor applicants, registrants or licensees;

(b) revenues lost to the State of New York as a result of nonpayment or underpayment;

(c) attorney fees associated with recovery of funds; and

(d) any other payments, including any interest and penalties imposed, as prescribed by article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law and this Subchapter.

§ 5302.5. Regulatory investigative fees and costs.

(a) Pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1349, a gaming facility licensee shall pay for the costs of any investigation into a violation of article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law or regulation promulgated caused by such licensee. The costs of an investigation conducted pursuant to this section shall be assessed directly to such licensee upon completion of an investigation.

(b) Billable hours by commission staff shall be determined by using payroll costs for commission employees as obtained from the office of the State comptroller, including salaries and non-wage compensation and payroll taxes, as well as fringe benefit and indirect costs at rates established by the division of the budget.

(c) The commission shall charge the gaming facility licensee for actual costs of any consultant including, without limitation, attorneys, accountants, investigators and other designees of the commission related to such consultation.

§ 5302.6. Regulatory cost assessment.

(a) Gaming facility licensees annually shall be assessed commercial gaming regulatory costs as authorized pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1350. The commission shall determine the total assessment of regulatory costs for a forthcoming State fiscal year. Such total assessment shall include all commercial gaming costs reasonably anticipated by the commission in regard to all gaming facilities, including, without limitation, direct and indirect payroll, fringe benefits, non-personal service expenses and administrative overhead costs.

(b) The total assessment shall be allocated to each gaming facility licensee in proportion to the number of gaming positions at each gaming facility compared to the total number of gaming positions at all gaming facilities, all as determined by the commission; provided, however, that the commission may use intermediate allocation bases between opened gaming facilities and gaming facilities that have not opened, as the commission may determine.

(c) At the conclusion of a State fiscal year, the commission shall determine the actual costs of commercial gaming regulation for such concluded fiscal year, excluding investigatory fees assessed pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1349. The commission shall apportion such actual costs according to the proportion of the number of gaming positions at each facility compared to the total number of gaming positions at all facilities and shall credit or debit the next annual assessment of each gaming facility according to the variance between the cost that had been assessed to such facility at the start of the year pursuant to subdivisions (a) and (b) of this section and the actual cost, as determined at the end of such year pursuant to this subdivision. If the number of gaming positions varies throughout the year, the commission may choose one date on which to measure gaming positions or may, in its sole discretion, determine an average number of gaming positions throughout the year.

(d) Regulatory costs of the commercial gaming program incurred prior

to the opening of the first gaming facility shall be assessed to each gaming facility licensee in proportion to the number of gaming positions projected at each gaming facility.

§ 5302.7. Distribution of tax to counties.

Distributions to counties within a region, excluding the host county and host municipality, shall be made in proportion to the population of each such county as shown by the latest preceding decennial Federal census completed and published as a final population count by the United States census that precedes the commencement of the calendar year in which such distribution is made.

* * *

Section 5315.3 of 9 NYCRR would be repealed.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, One Broadway Center, 6th Floor, Schenectady, NY 12305, (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: Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 103 authorizes the Gaming Commission ("Commission") to carry out responsibilities relating to the regulation and enforcement of gaming and 104(19) grants authority to the Commission to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1307(2) grants rule making authority to the Commission to implement, administer and enforce the provisions of Racing Law Article 13.

Racing Law section 1348 prescribes annual slot machine and table game license fees.

Racing Law section 1349 prescribes regulatory investigative fees.

Racing Law section 1350 prescribes additional regulatory costs.

Racing Law section 1351 prescribes gaming revenue tax and permissive supplement fee.

Racing Law section 1352 establishes the commercial gaming revenue fund.

Racing Law section 1353 sets forth the determination of tax liability and procedures for appealing such determination.

Racing Law section 1354 prescribes accounting treatment for unclaimed funds.

2. LEGISLATIVE OBJECTIVES: This rule making carries out the legislative objectives of the above-referenced statutes. The Commission, through this rule making, sets the calculation method for casino fees and costs and prescribes methods of submission for such payments from gaming facilities to the Commission.

3. NEEDS AND BENEFITS: This rule making is necessary to establish submission of fees and payments procedures from the gaming facility licensees to the Commission, thereby enabling the Commission to implement Article 13 of the Racing Law and help New York State to capitalize on the economic development potential of legalized gambling and increase revenue to the State.

The proposed Part addresses procedures for the annual license fees for machines and tables, procedures in regard to transmitting payments to the Commission, rules for overdue payments, rules for regulatory investigative fees and costs, rules for regulatory cost assessment and procedures for distribution of taxes to counties. A section of the current accounting controls rules would be repealed, with the substance of such section incorporated as section 5302.3 of Part 5302.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: All payments and fees will be borne by the gaming facility licensees. The rules prescribe methods for the submission of fees and payments required under Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law and do not impose any new costs.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: The rules will impose some costs on the Commission for reviewing the submission of fees and payments, however it is anticipated that these costs are minimal. The rules will not impose any additional costs on local governments.

(c) The information, including the source or sources of such information, and methodology upon which the cost estimate is based: The costs associated with the review of submission of fees and payments will be based on the Commission's administrative cost to process each submission.

5. LOCAL GOVERNMENT MANDATES: These rules do not impose any mandatory program, service, duty, or responsibility upon local government because the licensing and registration of gaming facility employees and vendors is strictly a matter of State law and completed by the Commission.

6. PAPERWORK: These rules are not expected to impose any significant paperwork requirements for gaming facility employee and vendor applicants.

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

8. ALTERNATIVES: The Commission is required to create these rules under Racing Law section 1307(2) and sections 1348, 1349, 1350, 1351, 1352, 1353 and 1354. Therefore, no alternatives were considered.

9. FEDERAL STANDARDS: There are no federal standards applicable to the submission of casino fees and payments. It is purely a matter of New York State law.

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

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

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis, and a job impact statement are not required for this rule making proposal because it will not adversely affect small businesses, local governments, rural areas or jobs.

The proposal formalizes the Commission's calculation of casino fees and payments and prescribes the method of submission of those fees and payments.

This rule will not impose an adverse economic impact or reporting, record keeping or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. No local government activities are involved.

Office for People with Developmental Disabilities

EMERGENCY RULE MAKING

Eligibility of Services

I.D. No. PDD-26-18-00003-E

Filing No. 845

Filing Date: 2018-08-31

Effective Date: 2018-08-31

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

Action taken: Addition of Part 629 to Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 13.07, 13.09(b) and 16.00

Finding of necessity for emergency rule: Preservation of public health, public safety and general welfare.

Specific reasons underlying the finding of necessity: The emergency adoption of the regulation that identifies the process by which individuals is determined eligible and provisionally eligible for OPWDD authorized services is necessary to protect the health, safety, and welfare of individuals receiving services in the OPWDD system. The proposed emergency regulation establishes a regulatory framework for OPWDD authorized services and details the review process used by OPWDD to determine eligibility.

The regulations must be filed on an emergency basis to ensure individuals applying for services are aware of the process by which eligibility and provisional eligibility is determined for OPWDD authorized services. Additionally, the emergency filing is necessary to ensure that the eligibility determination process for services, as provided for in statute, is articulated as part of the regulations to assist in requesting these services.

Subject: Eligibility of Services.

Purpose: The eligibility for individuals applying for OPWDD authorized services.

Text of emergency rule: A new Part 629 is added to 14 NYCRR as follows:

Part 629 Eligibility for Services.

Section 629.1 Eligibility Determination Process.

(a) *Applicability.* OPWDD will determine whether individuals are eligible for OPWDD operated, certified, funded and/or authorized services (hereinafter "services")

(b) *General Eligibility Provisions*