

violation of the Banking Law, Insurance Law, Financial Services Law, or any other law that authorizes the Superintendent of Financial Services to take action. The actual number of participants in adjudicatory proceedings in a given year may reach into the hundreds, based on prior history.

1. The rule making does not apply to any local government.
2. Compliance requirements: The rule making does not impose any recordkeeping, reporting or other affirmative acts upon any small business that may be impacted by this rule making, or any local government because the rule making does not apply to any local government.
3. Professional services: No small business impacted by the rule making will need to retain professional services to comply with the rule making, or any local government because the rule making does not apply to any local government.
4. Compliance costs: The rule making does not impose any compliance costs on any small business or local government.
5. Economic and technological feasibility: No small business impacted by the rule making should experience any economic or technological impact as a result of the rule making, or any local government because the rule making does not apply to any local government.
6. Minimizing adverse impact: The Department believes that no small business will be adversely affected by the rule making, or any local government because the rule making does not apply to any local government.
7. Small business and local government participation: The Department will comply with SAPA Section 202-b(6) by publishing the rule making in the State Register and posting the rule making on the Department's website.

**Rural Area Flexibility Analysis**

The Department of Financial Services finds that this rule making, which adds a new section 2.19 to 23 NYCRR Part 2, specifying that the Department may conduct administrative hearings by videoconference at the Department's discretion so that parties and hearing officers do not have to be physically present at the same location during hearings, subject to a determination by the hearing officer upon a timely objection filed by the respondent or applicant that a hearing held by videoconference would either impinge upon the respondent's or applicant's due process rights, or would be fundamentally unfair or impractical, as expressed in section 2.19(d) of the regulation, does not impose any additional burdens on persons located in rural areas, and will not have an adverse impact on rural areas because it applies uniformly to all persons that are resident or do business in both rural and non-rural areas of New York State.

**Job Impact Statement**

The Department of Financial Services ("Department") finds that this rulemaking should not adversely impact job or employment opportunities in New York. This rulemaking adds a new section 2.19 to 23 NYCRR Part 2, specifying that the Department may conduct administrative hearings by videoconference at the Department's discretion so that parties and hearing officers do not have to be physically present at the same location during hearings, subject to a determination by the hearing officer upon a timely objection filed by the respondent or applicant that a hearing held by videoconference would either impinge upon the respondent's or applicant's due process rights, or would be fundamentally unfair or impractical, as expressed in section 2.19(d) of the regulation.

The Department has no reason to believe that the rulemaking will result in any adverse impact on job or employment, including self-employment, opportunities in New York.

**Action taken:** Amendment of section 4621.1; repeal of section 4600.1(t) of Title 9 NYCRR.

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

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

**Specific reasons underlying the finding of necessity:** The Commission has determined that immediate adoption of this rule is necessary for the preservation of the public health and general welfare and that compliance with the requirements of subdivision 1 of Section 202 of the State Administrative Procedure Act would be contrary to the public interest.

The emergency rule would provide for contactless methods of payment, such as credit or debit cards, for chances in games of chance operated by authorized organizations pursuant to the charitable gaming laws. During the novel coronavirus pandemic ("COVID-19"), authorized organizations may wish to implement various contactless forms of payment to protect the health of the organization members assisting in the conduct of the games by limiting person-to-person contacts. The COVID-19 virus is very contagious and can be spread by asymptomatic persons. It may cause death or serious debilitation to those who contract the infection. The public health risk that would result from an organization's acceptance of only cash payments for chances would be minimized by accepting alternative forms of payment that can be accomplished in a more distanced manner, thus assisting the organizations in raising money for their worthy causes while protecting public health and minimizing potential exposures to the virus.

**Subject:** Contactless payment methods for chances in charitable games of chance.

**Purpose:** To promote public health and support of organizations authorized to operate games of chance.

**Text of emergency rule:** Subdivision (t) of section 4600.1 of 9 NYCRR would be repealed.

Section 4621.1 of 9 NYCRR would be amended to read as follows:

§ 4621.1. [Games of chance currency] *Permissible instruments for chance purchase.*

[Licensed authorized organizations may, in their discretion, use legal tender or a form of chip authorized by the commission in the conduct of games of chance.] *As set forth in General Municipal Law section 195-d(3), a player may purchase a chance with cash or, if the authorized organization wishes, with a personal check, credit card or debit card. As set forth in General Municipal Law section 186(20), games of chance currency in the form of scrip or chips authorized by the commission also may be used at the discretion of the games of chance licensee.*

**This notice is intended** to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. SGC-50-20-00007-P, Issue of December 16, 2020. The emergency rule will expire April 3, 2021.

**Text of rule and any required statements and analyses may be obtained from:** Kristen Buckley, New York State Gaming Commission, One Broadway Center, Suite 500, Schenectady, NY 12305, (518) 388-3332, email: gamingrules@gaming.ny.gov

**Regulatory Impact Statement**

1. **STATUTORY AUTHORITY:** The New York State Gaming Commission ("Commission") is authorized to promulgate these rules pursuant to General Municipal Law section 188-a(1) and Racing, Pari-Mutuel Wagering and Breeding Law section 104(19).

2. **LEGISLATIVE OBJECTIVES:** To conform regulations to statutes in regard to permissible methods of payments for chances in games of chance to enhance revenue opportunities for charitable and civic organizations and support organizations' wishes to implement contactless payment methods to protect public health.

3. **NEEDS AND BENEFITS:** The proposal cross-references statutory requirements and provides for methods of payments other than cash, such as personal checks, credit cards and debit cards. The use of contactless methods of payment would protect the public health by minimizing contact among authorized organization members conducting games of chance and persons wishing to support such organizations by playing games of chance. Because the authorized methods of payment would be set forth fully in the amended section 4621.1, the duplicative subdivision (t) of section 4600.1 would be repealed.

4. **COSTS:**

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: No additional costs for regulated parties are anticipated for these rule amendments.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: None anticipated.

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## New York State Gaming Commission

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### EMERGENCY RULE MAKING

**Contactless Payment Methods for Chances in Charitable Games of Chance**

**I.D. No.** SGC-50-20-00007-E

**Filing No.** 1

**Filing Date:** 2021-01-04

**Effective Date:** 2021-01-04

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

(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: No impact is anticipated for local government.

6. PAPERWORK: These amendments do not impose any new paperwork requirements.

7. DUPLICATION: These rules do not duplicate, overlap or conflict with any existing federal requirements. They would make regulations consistent with New York statutes.

8. ALTERNATIVES: No alternatives were considered.

9. FEDERAL STANDARDS: There are no federal standards applicable to charitable games of chance. 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 amendments will not have any adverse impact on small businesses, local governments, jobs or rural areas. These rule amendments relate to the available methods of purchasing chances in charitable gaming games of chance and conform regulations to statute.

The proposed rulemaking does not impact local governments and will not have an adverse impact on small businesses.

The proposed rulemaking imposes no adverse impact on rural areas. The rule applies uniformly throughout the state.

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

The proposed rulemaking 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.

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## Department of Health

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### EMERGENCY RULE MAKING

#### **Prohibition of Fireworks**

**I.D. No.** HLT-03-21-00001-E

**Filing No.** 934

**Filing Date:** 2020-12-30

**Effective Date:** 2020-12-30

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

**Action taken:** Addition of Subpart 9-4 to Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 225; Executive Order No. 202.47

**Finding of necessity for emergency rule:** Preservation of public health and public safety.

**Specific reasons underlying the finding of necessity:** On July 3, 2020, Governor Andrew M. Cuomo issued Executive Order No. 202.47, which directed and authorized the Department of Health to issue emergency regulations prohibiting the use of fireworks, consistent with Section 270.00 of the Penal Law. In 2019, there were reports of 12 non-occupational, fireworks-related deaths in the United States, as well as an estimated 10,000 injuries treated in U.S. hospital emergency departments. Children younger than 15 years of age accounted for 36 percent of the estimated fireworks-related injuries. Similar to 2018, nearly half of the estimated emergency department-treated, fireworks-related injuries were to individuals younger than 20 years of age. Children 0 to 4 years of age had the highest estimated rate of emergency department-treated, fireworks-related injuries.

Hospitals are on the front lines of the efforts to treat and care for people suffering from COVID-19, and it is important that New York State not lose the gains it has made in reducing daily case counts through diligent social distancing. As we continue our efforts to minimize COVID-19 case counts and "flatten the curve," it is imperative that people stay safe and refrain from illegal firework use, both to protect themselves and others from fireworks-related injuries, and to minimize the impact on hospital emergency departments.

In addition, there has been evidence of incidents of increased use of

fireworks and dangerous fireworks, including in dense areas, which are especially unsafe conditions in which to use them. Use of fireworks and dangerous fireworks presents a danger to public health especially when used in close proximity to people and structures, and the increased prevalence of these reports justifies the need for this emergency regulation to deter such use and protect the public health.

**Subject:** Prohibition of Fireworks.

**Purpose:** To prohibit the use of fireworks.

**Text of emergency rule:** A new Subpart 9-4, titled Prohibition of Fireworks, is added to read as follows:

#### *9-4.1. Fireworks use prohibited*

*The use of fireworks or dangerous fireworks, as defined by subdivision (1) of section 270.00 of the Penal Law, during the state disaster emergency declared by Executive Order No. 202, and any extension thereof, is prohibited, except as may otherwise be permitted pursuant to section 405.00 of the Penal Law.*

#### *9-4.2. Penalties*

*A violation of this Subpart is subject to all civil and criminal penalties as provided for by law, including but not limited to Public Health Law § 12-b. For purposes of civil penalties, each use of fireworks shall constitute a separate violation under this Subpart. Individuals who violate this Subpart are subject to a maximum fine of \$500 for the first violation of this subpart; \$1,000 for the second violation of this subpart; and \$2,000 for each additional violation of this subpart.*

**This notice is intended** to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires March 29, 2021.

**Text of rule and any required statements and analyses may be obtained from:** Katherine Ceroalo, DOH, Bureau of Program Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqa@health.ny.gov

#### **Regulatory Impact Statement**

##### Statutory Authority:

The statutory authority for the regulatory amendment to Subpart 9-4 of Title 10 of the Official Compilation of Codes, Rules, and Regulations of the State of New York is section 225 of the Public Health Law (PHL), which authorizes the Public Health and Health Planning Council (PHHPC), subject to the approval of the Commissioner of Health (Commissioner), to establish and amend the State Sanitary Code (SSC) provisions related to any matters affecting the security of life or health or the preservation and improvement of public health in the State of New York.

##### Legislative Objectives:

The legislative objective of PHL section 225 is to regulate all matters affecting the security of life or health or the preservation and improvement of public health in the State of New York. Prohibiting unpermitted use of fireworks in consistent with that authority.

##### Needs and Benefits:

On July 3, 2020, Governor Andrew M. Cuomo issued Executive Order No. 202.47, which directed and authorized the Department of Health to issue emergency regulations prohibiting the use of fireworks, consistent with Section 270.00 of the Penal Law. In 2019, there were reports of 12 non-occupational, fireworks-related deaths in the United States, as well as an estimated 10,000 injuries treated in U.S. hospital emergency departments. Children younger than 15 years of age accounted for 36 percent of the estimated fireworks-related injuries. Similar to 2018, nearly half of the estimated emergency department-treated, fireworks-related injuries were to individuals younger than 20 years of age. Children 0 to 4 years of age had the highest estimated rate of emergency department-treated, fireworks-related injuries.

Hospitals are on the front lines of the efforts to treat and care for people suffering from COVID-19, and it is important that New York State not lose the gains it has made in reducing daily case counts through diligent social distancing. As we continue our efforts to minimize COVID-19 case counts and "flatten the curve," it is imperative that people stay safe and refrain from illegal firework use, both to protect themselves and others from fireworks-related injuries, and to minimize the impact on hospital emergency departments.

In addition, there has been evidence of incidents of increased use of fireworks and dangerous fireworks, including in dense areas, which are especially unsafe conditions in which to use them. Use of fireworks and dangerous fireworks presents a danger to public health especially when used in close proximity to people and structures, and the increased prevalence of these reports justifies the need for this emergency regulation to deter such use and protect the public health.

##### Costs:

##### Costs to Regulated Parties:

Per Executive Order No. 202.47, Governor Andrew M. Cuomo directed and authorized the Department of Health to issue emergency regulations prohibiting the use of fireworks, consistent with section 270.00 of the Penal Law. Although there has been a long-standing prohibition against