

Subject: Limits on Executive Compensation.

Purpose: To remove the limits on executive compensation and administrative expenses.

Text or summary was published in the August 17, 2022 issue of the Register, I.D. No. CFS-33-22-00003-P.

Final rule as compared with last published rule: No changes.

Revised rule making(s) were previously published in the State Register on September 7, 2022.

Text of rule and any required statements and analyses may be obtained from: Lisa Vasnani, Office of Children and Family Services, 52 Washington Street, Rensselaer, NY 12144, (518) 474-8310, email: regcomments@ocfs.ny.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

Division of Criminal Justice Services

ERRATUM

A Notice of Proposed Rule Making, I.D. no. CJS-47-22-00002-P, published in the November 23, 2022 issue of the *State Register* inadvertently contained the incorrect Subject and Statutory Authority. The correct headings are as follows:

Statutory authority: Executive Law, section 243(1); Family Court Act, art. 7

Subject: Intake for Article 7 (PINS)

NOTICE OF ADOPTION

NYS Forensic Laboratory Accreditation Standards

I.D. No. CJS-32-22-00028-A

Filing No. 974

Filing Date: 2022-11-29

Effective Date: 2022-12-14

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

Action taken: Amendment of section 6190.1(a)(7) of Title 9 NYCRR.

Statutory authority: Executive Law, sections 837(13), 995-b(1) and 995-c(1)

Subject: NYS Forensic Laboratory Accreditation Standards.

Purpose: To add ISO/IEC 17020 as a standard.

Text or summary was published in the August 10, 2022 issue of the Register, I.D. No. CJS-32-22-00028-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Natasha Harvin-Locklear, NYS Division of Criminal Justice Services, Alfred E. Smith Building, 80 South Swan Street, (518) 457-8413, email: dcjslegalrulemaking@dcjs.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2027, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

Department of Environmental Conservation

NOTICE OF ADOPTION

Regulations Governing the Recreational and Commercial Shortfin Mako Fisheries

I.D. No. ENV-32-22-00026-A

Filing No. 970

Filing Date: 2022-11-28

Effective Date: 2022-12-14

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

Action taken: Amendment of Part 40 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 13-0105 and 13-0338

Subject: Regulations governing the recreational and commercial shortfin mako fisheries.

Purpose: To revise regulations to implement a prohibition on commercial and recreational take of shortfin mako in State waters.

Text or summary was published in the August 10, 2022 issue of the Register, I.D. No. ENV-32-22-00026-EP.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Christopher Scott, Department of Environmental Conservation, 123 Kings Park Blvd., Kings Park, NY 11754, (631) 444-0429, email: christopher.scott@dec.ny.gov

Additional matter required by statute: Pursuant to Article 8 of the ECL, the State Environmental Quality Review Act, a Coastal Assessment Form and a Short Environmental Assessment Form with a negative declaration have been prepared, and are on file with the Department.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

New York State Gaming Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Lottery Courier Service Advertising

I.D. No. SGC-50-22-00008-P

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

Proposed Action: Amendment of section 5014.17 of Title 9 NYCRR.

Statutory authority: Tax Law, sections 1601, 1604, 1605, 1607, 1609; Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Lottery courier service advertising.

Purpose: To regulate advertising by lottery courier services in order to protect consumers.

Text of proposed rule: New subdivisions (e), (f) and (g) would be added to section 5014.17 of 9 NYCRR, to read as follows:

§ 5014.17. Advertising and marketing.

* * *

(e) Advertising restrictions.

(1) Definitions. As used in this subdivision:

(i) advertisement means any notice or communication to the public or any information or statement concerning the lottery or courier-service-related business presented through telecasting, publication or any other means of dissemination, including electronic dissemination. Social media, promotional activities content on the courier-service platform, targeted communication such as newsletters and alerts, press releases, and statements made about the lottery or courier-service-related business are considered advertisements for purposes of this subdivision; and

(ii) direct advertisement means any advertisement as described in subparagraph (i) of this paragraph that is disseminated to a specific individual or individuals.

(2) Any advertisement for a courier service shall be submitted to the commission in draft form for review at least 15 days prior to publication or other dissemination. If the commission determines, in the commission's discretion, that such draft does not comply with this subdivision, the commission may so notify such courier service, within 10 days of submission of the draft, and such courier service then is not permitted to publish or otherwise disseminate such advertisement. The commission may authorize continual use of a particular advertising template (e.g., a form of jackpot announcement).

(3) Advertising shall be based upon fact and shall not be false, deceptive or misleading.

(4) Advertisements shall comply with the advertising guidelines issued by the North American Association of State and Provincial Lotteries (approved March 19, 1999), 7757 Auburn Rd. Unit #7, Concord, OH 44077, which is hereby incorporated by reference. Such advertising guidelines are available for public inspection at the New York State Gaming Commission located at One Broadway Center, Suite 500, Schenectady, NY 12305 and at the Department of State, 99 Washington Avenue, Albany, NY 12210.

(5) No advertising by or on behalf of a lottery courier service licensee shall:

(i) use any type, size, location, lighting, illustration, graphic depiction or color resulting in the obscuring of any material fact;

(ii) fail to clearly and conspicuously specify and state any material conditions or limiting factors;

(iii) depict any person under the age of 18 engaging in lottery and related activities;

(iv) contain content that contradicts contest guidelines or terms and conditions of the courier service site; or

(v) conflict with New York Lottery brand messaging, as determined in the commission's discretion.

(6) Each advertisement shall, clearly and conspicuously, contain a problem gambling assistance message comparable to one of the following:

(i) If you or someone you know has a gambling problem, help is available. Call the HOPEline at 1-877-8-HOPENY (1-877-846-7369) or text HOPENY (467369);

(ii) Gambling Problem? Call 1-877-8-HOPENY (1-877-846-7369) or text HOPENY (467369); or

(iii) any other message approved in writing by the commission.

(7) Each direct advertisement shall, clearly and conspicuously, describe a method or methods by which an individual may notify the courier service that the individual does not wish to receive any future direct advertisement.

(i) The described methods must include at least two of the following:

(a) telephone;

(b) regular U.S. mail; or

(c) electronic mail.

(ii) Upon receipt of an individual's request to discontinue receipt of future direct advertisements, a courier service shall block the individual in the courier service's database so as to prevent the individual from receiving future direct advertisements, with such block to take effect within 15 days of the courier service's receipt of the individual's request.

(8) Each courier service shall provide to the commission at its main office a complete and accurate copy of all advertisements within five business days of the advertisement's public dissemination. Courier services shall discontinue the public dissemination upon receipt of notice from the commission to discontinue an advertisement.

(9) A courier service shall maintain a complete record of all of its advertisements for a period of at least two years. Records shall be made available to the commission upon request.

(10) A courier service shall prevent self-excluded customers and self-excluded former customers from receiving direct advertisements.

(f) Marketing restrictions.

(1) A courier service shall not market nor advertise such courier ser-

vice's platform as providing an opportunity to "play" lottery games or "buy" lottery tickets directly from the courier service through such platform. A courier service may market or advertise services such as the procurement or delivery of a lottery ticket, for example, referring to itself as a "digital lottery courier." A courier service shall not market services as "digital lottery."

(2) A courier service shall not use misleading embedded keywords or similar methods in its platform to:

(i) attract minors, self-excluded persons or persons who are or may be problem gamblers; or

(ii) accomplish any other misleading or deceptive purpose.

(g) Directive to cease use. The commission may direct a courier service to cease using any advertisement that does not comply with either or both of subdivisions (e) or (f) of this section. Any such directive, and any violation issued for failure to comply with such directive, may be in addition to any other sanction the commission may impose pursuant to applicable law for a violation or violations.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, 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.

Additional matter required by statute: Advertising guidelines issued by the North American Association of State and Provincial Lotteries (approved March 19, 1999).

Regulatory Impact Statement

1. STATUTORY AUTHORITY: The New York State Gaming Commission ("Commission") is authorized to promulgate this rule by Tax Law Sections 1601, 1604, 1605, 1607 and 1609, and Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 103(2) and 104(1) and (19).

Tax Law Section 1601 describes the purpose of the New York State Lottery for Education Law (Tax Law Article 34) as being to establish a lottery operated by the State, the net proceeds of which are applied exclusively to aid to education. Tax Law Section 1604 authorizes the promulgation of rules governing the establishment and operation of such lottery. Tax Law Section 1605 authorizes the licensing of lottery sales agents and lottery vendors and sets forth criteria for licensing, while Tax Law Section 1607 establishes that a lottery license may be suspended or revoked. Tax Law Section 1609 provides that no ticket shall be sold by any person other than a licensed lottery sales agent.

Racing Law Section 103(2) provides that the Commission is responsible to operate and administer the state lottery for education, as prescribed by Article 34 of the Tax Law. Racing Law Section 104(1) provides the Commission with general jurisdiction over all gaming activities within the State and over any person, corporation or association engaged in such activities. Racing Law Section 104(19) authorizes the Commission to promulgate any rules it deems necessary to carry out its responsibilities.

2. LEGISLATIVE OBJECTIVES: To regulate advertising by lottery courier services in order to protect customers.

3. NEEDS AND BENEFITS: The proposed rulemaking will amend regulations governing advertising by lottery courier services to prevent false, deceptive or misleading advertising, such as stating or implying that a customer may "play" the lottery through the courier service's platform or purchase a lottery ticket directly from the courier service. There have been instances of a lottery courier service using marketing such as "play the lottery on your phone," "easy to play," "play from your phone," "digital lottery" and "win the lottery from your couch" in connection with its courier service application. With this rulemaking, a courier service, instead, may market its actual services: fulfilling orders for the purchase of a lottery ticket from a licensed lottery sales agent and delivering tickets to the customer. In addition, the proposed rule would require problem gambling assistance messaging, similar to advertising requirements for casinos. A courier service would be required to submit draft advertisements to the Commission at least 15 days prior to publication or other dissemination, and Commission staff would have 10 days to determine whether the draft complies with the regulations and, if the draft does not, prohibit publication or dissemination of the proposed advertisement.

4. COSTS:

a. Costs to regulated parties for the implementation and continuing compliance with the rule: There are no costs to the regulated parties or stakeholders.

b. Costs to the regulated agency, the State, and local governments for the implementation and continuation of the rule: No additional operating costs are anticipated. The Commission can administer this using existing resources.

5. LOCAL GOVERNMENT MANDATES: The proposed rulemaking does not impose any new programs, services, duties or responsibilities upon any country, city, town, village school district, fire district or other special district.

6. PAPERWORK: Licensed lottery courier services would need to submit their advertisements for approval, keep a record of advertisements and keep records of those customers who might request to not receive courier service advertisements.

7. DUPLICATION: There are no relevant State programs or regulations that duplicate, overlap or conflict with the proposed rulemaking.

8. ALTERNATIVES: The alternative of not proposing amendments to regulations governing advertising by lottery couriers was considered and rejected. This proposed rulemaking would prevent false, deceptive or misleading advertising.

9. FEDERAL STANDARDS: The proposed rule does not exceed any minimum standards imposed by the federal government.

10. COMPLIANCE SCHEDULE: The Commission believes that regulated persons will be able to achieve compliance with the rule upon adoption of this rulemaking.

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

The proposed rulemaking will not have any adverse impact on small businesses, local governments, jobs or rural areas. The proposed rulemaking would govern advertising by lottery courier services to prevent false, deceptive or misleading advertising, such as stating or implying that a customer may “play” the lottery through the courier service’s platform or purchase a lottery ticket directly from the courier service.

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.

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

Purchase Location Requirements for Lottery Courier Services

I.D. No. SGC-50-22-00009-P

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

Proposed Action: Amendment of section 5014.7 of Title 9 NYCRR.

Statutory authority: Tax Law, sections 1601, 1604, 1605, 1607, 1609; Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Purchase location requirements for lottery courier services.

Purpose: To facilitate the proper sale of lottery tickets to generate revenue for education.

Text of proposed rule: Subdivision (a) of section 5014.7 of 9 NYCRR would be amended to read as follows:

§ 5014.7. Requirements for network.

(a) Location of courier customers within the State. A network shall employ a method of restricting requests for courier services to only those made by courier customers physically located in the State of New York at the time of purchase of courier services. *A purchase of courier services within the meaning of this subdivision occurs when the customer requests delivery of a particular lottery ticket or tickets from the courier service and when the customer initiates the transfer of funds to the courier service in connection with such ticket or tickets, both of which must occur while the courier customer is physically located in the State of New York. A courier service may not accept a delivery request from a customer physically located outside of the State at the time of the request. A courier service may not accept the transfer of funds from, by or on behalf of a courier customer who is physically located outside of the State at the time such customer initiates the transfer.*

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, 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 this rule by Tax Law Sections 1601, 1604, 1605, 1607 and 1609, and Racing, Pari-Mutuel Wagering and Breeding Law (“Racing Law”) Sections 103(2) and 104(1) and (19).

Tax Law Section 1601 describes the purpose of the New York State Lottery for Education Law (Tax Law Article 34) as being to establish a lottery operated by the State, the net proceeds of which are applied exclusively to aid to education. Tax Law Section 1604 authorizes the promulgation of rules governing the establishment and operation of such lottery. Tax Law Section 1605 authorizes the licensing of lottery sales agents and lottery vendors and sets forth criteria for licensing, while Tax Law Section 1607 establishes that a lottery license may be suspended or revoked. Tax Law Section 1609 provides that no ticket shall be sold by any person other than a licensed lottery sales agent.

Racing Law Section 103(2) provides that the Commission is responsible to operate and administer the state lottery for education, as prescribed by Article 34 of the Tax Law. Racing Law Section 104(1) provides the Commission with general jurisdiction over all gaming activities within the State and over any person, corporation or association engaged in such activities. Racing Law Section 104(19) authorizes the Commission to promulgate any rules it deems necessary to carry out its responsibilities.

2. LEGISLATIVE OBJECTIVES: To clarify the lottery courier-service-purchase-location requirements.

3. NEEDS AND BENEFITS: The proposed rulemaking will clarify the requirements for customer presence in New York State. A licensed lottery courier service is permitted to accept orders to purchase New York lottery tickets on behalf of a courier customer. The courier service then fulfills a request by purchasing the ticket at a licensed lottery sales agent retail location on behalf of the courier customer. Federal law prevents the sale of lottery tickets across state borders. Existing regulations require a courier service to geolocate its customer as being physically in New York at the time of the purchase of courier services. The proposed amendment would clarify the courier-service-purchase-location requirement by providing that the purchase of courier services occurs when the customer requests the delivery of a ticket or tickets and when the customer initiates the transfer of funds to the courier service in connection with the purchase. Thus, a customer would not be permitted to place an order for multiple tickets while in the State without funding the purchase, then fund all or a portion of the purchase remotely while out of the State.

4. COSTS:

a. Costs to regulated parties for the implementation and continuing compliance with the rule: There are no costs to the regulated parties or stakeholders.

b. Costs to the regulated agency, the State, and local governments for the implementation and continuation of the rule: No additional operating costs are anticipated. The Commission can administer this using existing resources.

5. LOCAL GOVERNMENT MANDATES: The proposed rulemaking does not impose any new programs, services, duties or responsibilities upon any country, city, town, village school district, fire district or other special district.

6. PAPERWORK: There are no changes in paperwork requirements. Licensed lottery courier services will continue to use the existing system and procedures.

7. DUPLICATION: There are no relevant State programs or regulations that duplicate, overlap or conflict with the proposed rulemaking.

8. ALTERNATIVES: The alternative of not proposing amendments to the regulations governing lottery courier-service-purchase-location requirements was considered and rejected. This proposed rulemaking would help clarify the requirements for a customer to be present in New York State when the customer requests the delivery of a ticket or tickets and when the customer initiates the transfer of funds to the courier service in connection with the purchase.

9. FEDERAL STANDARDS: The proposed rule does not exceed any minimum standards imposed by the federal government.

10. COMPLIANCE SCHEDULE: The Commission believes that regulated persons will be able to achieve compliance with the rule upon adoption of this rulemaking.

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

The proposed rulemaking will not have any adverse impact on small businesses, local governments, jobs or rural areas. The proposed rulemaking would amend regulations governing the purchase of lottery courier services. The amendment would clarify the requirements for customer presence in New York State.