

Potential Rulemaking for Underage Play Prevention (9 NYCRR § 5402.4)

To whom it may concern:

Governor Kathy Hochul's 2026 State of the State included policies aimed at limiting access to online betting for young people. Governor Hochul observed, "As online sports betting becomes immensely popular, and new, more accessible online gambling platforms become more sophisticated, it is essential to ensure that young people are protected from the harmful effects of gamified sports betting," which can "include significant financial loss and addictive behavior." Governor Hochul has directed the Commission "to explore effective ways to ensure young people are not illegally downloading betting apps, creating accounts, or using the accounts of others, including the use of biometric approaches."

The Commission announced at its March 16, 2026 meeting that it will consider regulations to address the issue of underage play prevention. While no regulation could eliminate completely a minor's access to an online betting platform, some measures could be effective to prevent and reduce the incidences. The Commission seeks pre-proposal comment on the attached draft rulemaking proposal to address this issue.

This potential proposal would require any gaming operator (including mobile sports wagering platforms and operators and horse racing account wagering providers) or lottery courier service:

- to employ age-assurance controls to prevent minors from downloading its application, and subject such controls to Commission review and approval;
- require that to establish an account, an individual provide biometric data in order to ensure that the later user of the account is the same individual who established the account, and close any account for which the user fails to provide biometric data within 60 days of the effective date of the rule;
- require biometric identification before a wager is placed in an application session and before any wager is accepted, and subject such controls to Commission review and approval;
- employ sufficient geolocation controls to identify and reject attempts to gain access to an application from a mobile device other than the mobile device customarily used by the customer or from locations from which the customer does not customarily gain access to the application, unless the customer provides biometric confirmation, and subject such controls to Commission review and approval;

- identify and prevent account access in any circumstance under which account activity is occurring in two or more locations proximate in time, such that the account holder is unlikely to be in both locations;
- enable an individual over the age of 18 to prevent, for a fixed period of time, such individual's social security number from being used to establish an account;
- report to the commission the identity of any user known or reasonably suspected to have provided access to its application to a person who is ineligible to wager on its platform by virtue of age; and
- exclude from all forms of legalized gambling in New York any person the Commission determines has facilitated access by a minor to gambling activity.

The Commission is interested in pre-proposal comments from a broad spectrum of interested parties. Please direct any comments you have by email to: gamingrules@gaming.ny.gov.

New subdivisions (i), (j) and (k) would be added to section 5402.4 of 9 NYCRR, to read as follows:

§ 5402.4. Duties of gaming operators.

* * *

(i) *Mitigation of risk of underage play.* A gaming operator shall take the following measures, in addition to any other requirements in this Title, to mitigate the risk that a minor has access to its betting platform:

(1) employ age-assurance controls to prevent any person who is ineligible to wager on its platform by virtue of age from downloading or installing such operator's application, and in the case of mobile devices, verify through the operating system that such device is not indicated as being owned or possessed by an underage individual, and further, if such device indicates such ownership or possession, that an application download is prohibited regardless of any age assurance provided;

(2) require that to establish an account, an individual shall provide biometric data to be used to ensure the later user of the account is the individual who established the account, and close any established account whose owner fails to provide biometric data within 60 days following the effective date of this rule;

(3) require a user of its application to provide biometric identification before placing a wager in an application session and before any wager is accepted, and provide such written controls to the commission for its review and approval;

(4) employ sufficient geolocation controls, subject to commission review and approval, to identify and deny access to its application when access is attempted from a mobile device other than the mobile device customarily used by the customer or from locations from which the customer does not customarily gain access to the application, unless the customer provides biometric confirmation to restore access;

(5) identify and prevent account access in any circumstance under which account activity is occurring in two or more locations proximate in time, such that the account holder is unlikely to be in both locations;

(6) enable an individual over the age of 18 to prevent, for a fixed period of time, such individual's social security number from being used to establish an account; and

(7) report to the commission the identity of any user known or reasonably suspected to have provided access to its application to a person who is ineligible to request the purchase of a wager on its platform by virtue of age.

(j) *Definition.* For purposes of subdivision (i) of this section, *application* means a self-contained, user-facing software program designed to receive and transmit wagers from a device for acceptance as lawful wagers.

(k) *Exclusion for facilitation of underage gambling.*

(1) The commission shall maintain a list of each person the commission determines to have facilitated access to gambling activity to an individual ineligible to wager by virtue of age.

(2) Each person on such list shall be excluded or ejected from any gaming facility, as defined in section 5402.1(a) of this Part.

(3) A person on such excluded list shall not, directly or indirectly, collect in any manner any winnings or recover any losses arising as a result of any gaming activity, including lottery, conducted during the period of time that such person is on such exclusion list.

(4) Winnings of an excluded person shall be subject to forfeiture to the commission if such forfeiture is authorized by the Racing, Pari-Mutuel Wagering and Breeding Law or article 34 of the Tax Law.

(5) For the purposes of this section, winnings issued to, found on or about, or redeemed by, an excluded person shall be presumed to constitute winnings subject to forfeiture to the commission if such forfeiture is authorized by the Racing, Pari-Mutuel Wagering and Breeding Law or article 34 of the Tax Law.

(6) An excluded person shall be removed from any lottery subscription program described in Part 5005 of this Title. The commission shall not accept any new lottery subscription deposits from such excluded person, but such excluded person shall be allowed to withdraw any amounts from such person's account as of the date of the exclusion.

Section 5327.2 of 9 NYCRR would be amended, as follows (Text to be deleted appears in [brackets] and text to be added is underlined):

§ 5327.2. Criteria for exclusion.

A person shall be placed on the excluded persons list if the commission determines that the person meets one or more of the following criteria:

* * *

(e) poses, by presence in a gaming facility, the potential of injurious threat to the interests of New York State if the person is permitted in a gaming facility. In determining whether a

person poses a potential of injurious threat, the commission may consider whether the person:

* * *

(10) has pending charges or indictments for a gaming crime or a crime related to the integrity of gaming operations in New York State or any other jurisdiction[.]; or

(f) is on the excluded list described in section 5402.4(k) of this Title.

Section 5014.8 of 9 NYCRR would be amended, as follows (Text to be deleted appears in [brackets] and text to be added is underlined):

§ 5014.8. Prevention of use by prohibited persons.

* * *

(f) *Mitigation of risk of underage play.* A courier service shall take the measures set forth in section 5402.4(i) of this Title, in addition to any other requirements in this Title, as if it were a gaming operator, within the meaning of Part 5402 of this Title, to mitigate the risk that a minor has access to its betting platform.