



July 5, 2023

Sent by email to wendy.knight@vermont.gov; martin.manahan@partner.vermont.gov;
charles.martin@vermont.gov

Wendy Knight, Commissioner, and Martin Manahan, Board Chair
CC: Charles Martin, Director of Communications and Legislative Affairs
Vermont Department of Liquor and Lottery
1311 US Route 302, Suite 100
Barre, VT 05641

RE: Sports Wagering Enhanced Procedures for Public Comment

Dear Commissioner Knight and Board Chair Manahan:

In response to the enhanced procedures proposed for adoption by the Vermont Board of Liquor and Lottery (“the Board”), DraftKings Inc. (“DraftKings”) submits the following comments for consideration. As a leading sports wagering operator in the United States, DraftKings has first-hand experience with sports wagering regulatory frameworks, and submits these comments based on its operational knowledge in multiple regulated markets. DraftKings would also welcome the opportunity to speak directly with the Board, the Commissioner, or staff about the comments addressed below if there are any questions.

Part II Section 2.2(e)(2) - Petition for a Category of Sports Event or Type of Wager

Reason for Change: DraftKings respectfully requests that this section reflect technology to offer sports event or types of wagers could be covered under an operator’s existing house rules. In such a case, an operator should only be required to point to existing house rules.

Proposed Rule Language:

(2) A draft of the proposed house rules including a description of any technology that would be utilized to offer the Sports Event or Type of Wager, **or existing house rules that would apply;**

Part II Section 4.0 - Data Sources for Sports Wagering

Reason for Change: DraftKings respectfully requests that “Data Source” be made plural to reflect that operators use multiple data sources to resolve sports wagers.

Proposed Rule Language:



A Sportsbook shall report to the Department the Data Sources that it uses to resolve Sports Wagers. The Department may disapprove of a Data Source for any reason.

Part II Section 8.1(i) - Cancelled or Voided Wagers

Reason for Change: DraftKings respectfully requests an amendment to this section such that it makes clear the player request for cancellation is what must come before the commencement of the Sports Event. As written, this section could be read to require that a wager must be canceled or voided before the commencement of the event, which would disadvantage players if their request was submitted on time but not investigated or actioned by the operator before the event begins. To be clear, this is not something an operator could do unilaterally once an event occurs.

Proposed Rule Language:

(i) When, **prior to the commencement of the Sports Event**, a player requests a Sports Wager be cancelled or voided ~~prior to the commencement of the Sports Event~~ due to an error in communicating the type, amount or parameters of the Sports Wager; or

Part III Section 4.1(c) - Change Management Processes

Reason for Change: DraftKings respectfully requests this provision be struck. There is no justification for annual auditing of change management processes when those processes are already developed in accordance with GLI standards and are approved by the Department. There is no jurisdiction in which DraftKings is required to have change management processes audited annually.

Proposed Rule Language:

4.1. These change management processes must be:

- (a) Developed in accordance with the Gaming Laboratories International's GLI-CMP: Change Management Program Guide, as amended or modified; **and**
- (b) Approved by the Department prior to its deployment; ~~and~~
- (c) ~~Audited at an annual interval by the independent testing laboratory.~~

Part IV Section 1.3(b) - Sports Wagering Account Requirements

Reason for Change: DraftKings respectfully requests that this section be modified to reflect that operators may require players to complete all fields during the registration process in order to complete account registration. Informing players which fields are required is unnecessary when all fields are required.



Proposed Rule Language:

(b) **If not all fields are “required,”** be informed on the account application which information fields are “required,” which are not, and what will be the consequences of not filling in the required fields;

Part IV Section 1.3(c)-(g) - Sports Wagering Account Requirements

Reason for Change: DraftKings respectfully requests that the requirements in this section be clarified such that each of these provisions may be satisfied by agreeing to the operator’s terms of use during account creation. Allowing a player to accept these kinds of terms by accepting an operator’s terms of use is common practice in other jurisdictions and will simplify the registration process.

Additionally, each of the requirements throughout this section uses different verbiage - “agree to,” “acknowledge,” “consent to,” “affirm that,” and “authorize.” DraftKings requests that this language be standardized so that the player’s obligations are clear.

Existing Rule Language:

- (c) Agree to the terms and conditions and privacy policies of the Sportsbook;
- (d) Acknowledge that they are prohibited from:
 - (1) Transferring or selling an account or account balance;
 - (2) Using any technology that may obscure or falsify the player's physical location for the purpose of placing Sports Wagers;
 - (3) Allowing any unauthorized person to access or use their account;
 - (4) Any form of collusion, cheating, or other unlawful activity;
- (e) Consent to the monitoring and recording of the use of their account by the Sportsbook and the Department; and
- (f) Affirm that:
 - (1) The player meets all eligibility requirements for registration; and
 - (2) The Personally Identifiable Information the player is providing to open the account is accurate.
- (g) Authorize the provision of notices and other required communications either through a designated mobile or other interface or to an electronic mail address designated by the player.

Part IV Section 5.1 - Responsible Gaming and Problem Gambling Information



Reason for Change: DraftKings respectfully requests a modification to clearly allow the Department to approve use of a national hotline in national sports wagering advertisements. DraftKings uses the National Council on Problem Gaming’s “1-800-GAMBLER” toll-free number in nationwide advertisements. 1-800-GAMBLER provides resources and referrals for every state, and the Department should have the authority to permit it or any other resource to appear in national ads in lieu of a Vermont-only telephone number. A uniform problem gambling helpline number limits confusion and inconsistency for the consumer when displaying problem gambling helpline disclaimers.

Proposed Rule Language:

5.1. Responsible gambling and problem gambling information including a telephone number that an individual may use to obtain information about problem gambling and resources addressing addiction and compulsive behavior and where to seek assistance with these issues ~~in Vermont and~~ nationally.

Part IV Section 10.1 - Self-Restriction Process

Reason for Change: DraftKings respectfully requests a modification to this section such that operators are not required to accept sports wagering self-restriction requests through online chat. Typically, in such a scenario, a person would be directed by the customer service associate to the location of the website or mobile application where they can request a self-restriction period. Allowing customer service associates to actually process a self-restriction could (1) lead to customer frustration (e.g. someone says they did not mean to request a cool off at a later date) and (2) create the potential for manual errors. Operators should instead be required to provide access to self-restriction resources that are always available to the customer. This amendment would not prevent an operator from offering self-restriction through online chat but would not require them to do so.

Proposed Rule Language:

10.1. A Sportsbook shall enable a player to restrict themselves from Sports Wagering for a period of time the player specifies, which must not be less than seventy-two (72) hours, by submitting a request to the Sportsbook through its Internet Website or Mobile Application ~~or by online chat with the Sportsbook's customer support team.~~

Part V Section 6.1(b) - Reserve Requirement

Reason for Change: DraftKings respectfully requests clarification on whether this section should read “twenty-five thousand dollars (\$25,000.00)” or “fifty thousand dollars (\$50,000.00).”



Existing Rule Language:

(b) The reserve must be not less than the greater of twenty-five thousand dollars (\$50,000.00) or the sum of the following amounts:

Part VII Section 1.1(f) - Advertising and Marketing Generally

Reason for Change: DraftKings respectfully requests a modification such that the means of a receiver to opt out of advertising or marketing distribution lists is specific to communications sent using those lists. For example, television advertising and marketing should not have to include a statement about how to unsubscribe from an email distribution list. Not only would that be confusing to those seeing those advertisements, it would take up significant disclaimer space in that medium, further complicating or making more difficult individuals accomplish their respective unenrollment.

Proposed Rule Language:

1.1. The Operator shall ensure that its advertisements and marketing:

...

(f) Include a means for the receiver to opt out of any advertising or marketing distribution lists, **where the advertising and marketing was sent directly to the receiver using such lists.**

Part VII - Section 5.0 - Advertising and Marketing Plan

Reason for Change: DraftKings respectfully requests this section be struck. DraftKings would be willing to discuss its strategies to limit unwanted advertising and preventative measures regarding advertising and Underage Persons, but the submission of “an advertising and marketing plan” is a novel requirement among regulated jurisdictions. Further, through the RFP process in conjunction with the Department, operators selected to offer their sportsbook product in Vermont will have submitted marketing plans and coordinate with the Lottery on marketing strategies, including, but not limited to, avoiding targeting minors.

Proposed Rule Language:

~~Each Operator shall submit an advertising and marketing plan to the Department which shall include strategies to limit unwanted advertising, and advertising and marketing aimed at Underage Persons.~~

Part VIII Section 2.1 - XXX



Reason for Change: DraftKings respectfully requests this section be struck. Adjusted Gross Sports Wagering Revenue already includes voided bets in its definition, which makes 2.1(a) redundant. Additionally, operators should not be required to receive written approval from the Department for successful debit card chargebacks, which in several other jurisdictions are automatically excluded from the definition of gross revenue.

Proposed Rule Language:

~~2.1. An Operator shall not receive a deduction from Adjusted Gross Sports Wagering Revenue unless written approval is granted by the Department for the following:~~

~~(a) Amounts returned to a player because of Mobile Sports Wagering Platform malfunction or because the Sports Wager must be voided because of concerns regarding integrity of the Sports Wager or Sports Event that were previously included in the computation of Adjusted Gross Sports Wagering Revenue; or~~

~~(b) Successfully disputed debit card charges that were previously included in the computation of Adjusted Gross Sports Wagering Revenue. Discretionary write-offs by the Operator do not constitute an uncollectible marker.~~

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Thank you for your consideration of DraftKings' comments regarding the Board's proposed enhanced procedures. Please feel free to reach out with any questions about our submission or our experience in other regulated jurisdictions.

Sincerely,

DraftKings Inc.