

205 CMR 144.00: APPROVAL OF SLOT MACHINES AND ELECTRONIC GAMING EQUIPMENT AND TESTING LABORATORIES

Section

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144.01: Required Permits and Registration

- (1) No new or modified gaming device listed in 205 CMR 144.01(2) shall be:
 - (a) sold by a gaming vendor unless a prototype of the gaming device has received a permit from the commission in accordance with 205 CMR 144.02; or
 - (b) operated by a gaming licensee in a gaming establishment unless the gaming device is registered with the commission in accordance with 205 CMR 144.03.
- (2) The following gaming devices require permitting and registration by the commission:
 - (a) Slot machines;
 - (b) Electronic table games;
 - (c) Kiosks;
 - (d) Wireless wagering devices;
 - (e) Slot machine games;
 - (f) Multiplayer systems;
 - (g) Server supported slot systems;
 - (h) Slot machine bonus systems;
 - (i) Table game bonus systems;
 - (j) Progressive systems;
 - (k) Account based wagering systems;
 - (l) Slot monitoring systems and casino management systems;
 - (m) Gaming voucher systems;
 - (n) Devices used in conjunction with a slot monitoring system or casino management system, unless the devices provide read-only functionality;
 - (o) Devices used in conjunction with gaming devices such as bill acceptors, printers, and coin acceptors that are not integrated into and tested as part of another gaming device;

144.02: Permitting of Gaming Device Prototypes

- (1) In order to receive a permit for a gaming device, a gaming vendor, at its own expense, must submit the gaming device for scientific testing and technical evaluation in accordance with 205 CMR 144.04 by a commission certified independent testing laboratory certified pursuant to 205 CMR 144.06 to determine compliance with M.G.L. c. 23K and 205 CMR 143.00: *Gaming Devices and Electronic Gaming Equipment*. The gaming vendor must provide the certified independent testing laboratory with all documentation and other materials necessary to conduct testing and evaluate compliance.
- (2) Upon completion of testing by a certified independent testing laboratory, a gaming vendor may submit an application for permitting of the gaming device to the commission's gaming technology laboratory. The commission may reject any gaming device permit application that is deemed administratively incomplete. The application for a gaming device permit shall be in the form prescribed by the commission and contain:
 - (a) the gaming vendor's name;
 - (b) the gaming vendor's license number pursuant to 205 CMR 134.00: *Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations*;
 - (c) a unique name and version number for the gaming device for which the registration is sought;

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- (d) a copy of the commission certified independent testing laboratory report for the gaming device in accordance with 205 CMR 144.04;
- (e) a list of all jurisdictions, at the time of gaming device permit submission, in which the gaming device has been granted or denied licensure, registration, or similar approval; and
- (f) the application fee in accordance with 205 CMR 144.05.

(3) Upon receipt of the gaming device permit application, the commission's gaming technology lab may require that the gaming vendor provide to the commission's gaming technology lab, at the gaming vendor's expense, a functioning prototype of the gaming device as well as all documentation and other materials necessary to conduct testing and evaluate compliance.

(4) The gaming vendor shall promptly notify the commission of any negative action taken in another jurisdiction or if it becomes aware of an issue that may negatively impact the reporting of revenue, game outcome, or the integrity of a device that has been submitted to the commission for permitting or has been permitted.

(5) Prior to issuing a permit and after completing a review of a proposed gaming device that has not been available for public use in other jurisdictions for at least 45 days, the commission may require a trial period of up to 45 days to test the gaming device in a gaming establishment. During the trial period, minor changes in the operation or design of the gaming device may be made with prior approval of the commission.

(6) Upon reviewing a gaming device permit application and conducting any additional testing or trials that the commission requires, the commission shall issue a gaming device permit if the device meets the requirements of 205 CMR 144.02(7). If a gaming device does not meet the requirements of 205 CMR 144.02(7), the commission may deny the permit or issue the permit subject to conditions necessary for the gaming device to meet the requirements of 205 CMR 144.02(7). If the commission denies or conditions the gaming device permit, the commission shall provide a written notification containing the reason for the denial or condition. The gaming device permit shall not expire, but shall be subject to any future conditions imposed in accordance with 205 CMR 144.02(8).

(7) Prior to permitting, a gaming device must:

- (a) meet the applicable requirements of M.G.L. c. 23K and 205 CMR 143.00: *Gaming Devices and Electronic Gaming Equipment*; and
- (b) not endanger, compromise, or weaken the credibility or integrity of gaming in the Commonwealth.

(8) The commission, or its designee, may add, modify or remove conditions following the initial permitting of a gaming device as necessary to ensure the integrity of the gaming device or the effective administration of 205 CMR.

(9) A gaming vendor may appeal a permit denial, permit revocation, or imposition of any condition on a permit by filing a petition on a form prescribed by the commission. Upon receipt of a petition, the gaming technology lab shall schedule a hearing to be conducted in accordance with 205 CMR 144.02(10) and provide the gaming vendor with reasonable notice containing the date, time, and location of the hearing.

(10) Hearings convened pursuant to 205 CMR 144.02(9) shall be conducted in accordance with 801 CMR 1.02: *Informal/Fair Hearing Rules* and M.G.L. c. 30A. Given the sensitive nature of gaming device operations, the hearing will not be open to the public. Any party may be represented by legal counsel. All parties shall be permitted to present an opening statement, testify on their own behalf, cross-examine all witnesses, present any relevant witness testimony, present any relevant documentary evidence, and offer a closing argument. The gaming technology lab may question any witness and include any records kept by the commission as exhibits. The commission's executive director shall designate a hearing officer to preside over the hearing. The decision of the hearing officer will be final. Any person aggrieved by a decision of the hearings officer may appeal such decision in conformance with M.G.L. c. 30A, § 14.

144.03 Registration of Gaming Device Inventory

(1) In order to register a gaming device for use in a gaming establishment, a gaming licensee must submit a gaming device registration application with the commission's gaming technology laboratory. The commission may reject any gaming device registration application that is deemed administratively incomplete. The application for a gaming device registration shall be in the form prescribed by the commission and contain:

- (a) the gaming licensee's name;
- (b) the gaming device number issued by the commission for the permitted prototype on which the gaming device is based;
- (c) in the case of a physical gaming device, the unique serial number and the date of manufacture for each copy of the gaming device that the gaming licensee intends to use in the gaming establishment;
- (d) in the case of a software gaming device, the maximum number of instances of the software that the gaming licensee intends to use at any one time in the gaming establishment;

(2) Upon reviewing a gaming device registration application, the commission shall register the gaming device if the gaming device registration application is in compliance with the requirements and conditions of the gaming device permit on which the device is based. The gaming device registration shall not expire, but shall be subject to any future conditions imposed in accordance with 205 CMR 144.03(4).

(3) A registered gaming device must:

- (a) be identical in all mechanical, electrical, electronic or other material aspects to the prototype permitted in accordance with 205 CMR 144.02 on which the gaming device is based;
- (b) comply with any conditions of the permitted prototype on which the gaming device is based; and
- (c) not endanger, compromise, or weaken the credibility or integrity of gaming in the Commonwealth.

(4) The gaming licensee must ensure that the registered gaming device is and remains in compliance with 205 CMR 144.03(3) at all times. The commission may at any time inspect any registered gaming device and revoke or condition the registration if that device fails to comply with 205 CMR 144.03(3). Prior to revoking or conditioning the registration of a gaming device currently in use in a gaming establishment, the commission shall allow the gaming licensee a reasonable amount of time to bring the device into compliance.

(5) A gaming licensee may appeal a registration denial, registration revocation, or imposition of any condition on registration by filing a petition on a form prescribed by the commission. Upon receipt of a petition, the gaming technology lab shall schedule a hearing to be conducted in accordance with 205 CMR 144.03(6) and provide the gaming licensee with reasonable notice containing the date, time, and location of the hearing.

(6) Hearings convened pursuant to 205 CMR 144.03(5) shall be conducted in accordance with 801 CMR 1.02: *Informal/Fair Hearing Rules* and M.G.L. c. 30A. Given the sensitive nature of gaming device operations, the hearing will not be open to the public. Any party may be represented by legal counsel. All parties shall be permitted to present an opening statement, testify on their own behalf, cross-examine all witnesses, present any relevant witness testimony, present any relevant documentary evidence, and offer a closing argument. The gaming technology lab may question any witness and include any records kept by the commission as exhibits. The commission's executive director shall designate a hearing officer to preside over the hearing. The decision of the hearing officer will be final. Any person aggrieved by a decision of the hearings officer may appeal such decision in conformance with M.G.L. c. 30A, § 14.

(7) A gaming licensee shall inform the commission's gaming technology laboratory of any registered gaming device that the gaming licensee no longer possesses no later than the second Monday of the month following termination of possession.

144.04: Required Testing by Independent Testing Laboratories

- (1) Any testing by a commission certified independent testing laboratory for the purposes of permitting a gaming device shall be conducted in compliance with M.G.L. c. 23K and 205 CMR 143.00: *Gaming Devices and Electronic Gaming Equipment* and 144.00.
- (2) The independent testing laboratory shall issue a report of the testing results to the gaming vendor. Such report shall contain:
 - (a) the part and version numbers of the gaming device tested;
 - (b) attachments containing documents sufficient to describe the functionality and operation of all material components of the gaming device;
 - (c) a description of all tests conducted and the results of such tests;
 - (d) a statement as to whether each of the components within the gaming device, each interaction between components, and the device as a whole is compliant with the latest version of M.G.L. c. 23K and 205 CMR 143.00: *Gaming Devices and Electronic Gaming Equipment* as of the start date of testing;
 - (e) the date the gaming device was submitted for testing;
 - (f) the start and end dates of the gaming device testing;
 - (g) the location of the facility used to perform the testing; and
 - (h) a statement, signed under penalty of perjury, that all information provided in the report is accurate and complete.
- (3) The independent testing laboratory's report shall not contain any information in its body that if publically released may harm the integrity of the gaming device, but such information may be disclosed in an attachment.
- (4) The independent testing laboratory may communicate with the applicant to request additional documentation or to discuss potentially non-compliant components. The independent testing laboratory shall log any communication between itself and the applicant and be able to provide to the commission copies of all documents transmitted to or from the applicant for at least seven years following the issuance of the report.
- (5) The independent testing laboratory may rely on testing conducted and data collected from testing conducted for another jurisdiction, whether by the independent testing laboratory or by another entity, if the testing was performed by an independent party with no apparent interest in the result. An independent testing laboratory relying on such external testing or data must clearly identify in its report all such reliance and independently verify the validity of such data or testing by making a finding that the methods described in the earlier test are reliable and there is no indication that the data are incorrect.
- (6) An independent testing laboratory may rely on any data or results of testing conducted by a commission certified independent testing laboratory when such testing was conducted for purposes of permitting a gaming device in the Commonwealth. Any reliance pursuant to 205 CMR 144.04(5) or (6) must be clearly identified in the report.

144.05: Fees for Testing, Permitting, and Registration of Gaming Devices

- (1) A gaming vendor seeking a gaming device permit shall remit appropriate fees to the commission along with or prior to the gaming device permit application. The application fee for submitting a new gaming device for permitting or for modification of a currently permitted gaming device is \$500. If the Commission's costs for testing, in accordance with the fee schedule posted by the Commission to its website, exceed the initial application fee, the gaming vendor shall pay the additional amount within 30 days after notification of insufficient fees or the application shall be rejected.
- (2) A gaming vendor requesting that a commission certified independent testing laboratory conduct testing shall pay all costs of the testing directly to the independent testing laboratory.
- (3) There is no fee for registering a gaming device based on a permitted prototype of the same device.

144.06: Independent Testing Laboratory Certification and Auditing

(1) Certification Process. In order to provide testing services of gaming devices in Massachusetts, a person must be certified as an independent testing laboratory in accordance with 205 CMR 144.06. The certification process will take place as follows:

(a) The commission may issue yearly a request for applications from applicants interested in being certified as independent testing laboratories.

(b) Upon receipt of an application in the form prescribed in 205 CMR 144.06(5) the gaming technology laboratory and the bureau shall conduct any investigation they deem reasonable, including any visit, review or inspection of each independent testing laboratory seeking certification to evaluate the laboratory's qualifications and capabilities pursuant to 205 CMR 144.06(3).

(c) The applicant is required to submit a \$5,000 application fee with its application for certification. If the Commission's costs associated with the investigation, including site visits, inspections, and background investigations, of the applicant during the certification evaluation period, in accordance with the fee schedule posted by the Commission to its website, exceed the application fee, the applicant shall pay the additional amount within 30 days after notification of insufficient fees or the application shall be rejected.

(d) Upon the conclusion of evaluation and upon full payment of any costs associated with the certification process, the gaming technology laboratory, with the input of the bureau, shall issue a written report to the commission and to the applicant. The commission shall determine whether to initiate a process for a public hearing or adjudicatory proceeding. However, the commission may only utilize the public hearing process with the applicant's consent.

(e) If the commission determines that an adjudicatory proceeding will be held, the commission shall conduct an adjudicatory proceeding in accordance with 801 CMR 1.02: *Informal/Fair Hearing Rules* and M.G.L. c. 30A on the gaming technology laboratory's report under 205 CMR 144.06(1)(d) concerning the applicant. Any party may be represented by legal counsel. All parties shall be permitted to present an opening statement, testify on their own behalf, cross-examine all witnesses, present any relevant witness testimony, present any relevant documentary evidence, and offer a closing argument. The commission will issue a public notice in advance of the adjudicatory proceeding stating the date, time and place of the hearing. The commission shall issue a final decision granting or denying the certification within 30 days of the hearing.

(f) If the commission determines that a public hearing should be held, the commission shall review the gaming technology laboratory's report and make a final decision granting or denying the certification at a public hearing. The commission will issue a notice in advance of the public hearing stating the date, time and place of the hearing.

(g) Certification as an independent testing lab shall be valid for one year and shall automatically renew annually thereafter upon payment of a renewal and audit fee of \$2,000. The commission may audit the compliance of the certified independent testing laboratory with commission requirements annually or more often if needed. The commission may revoke the registration of a certified independent testing laboratory if the testing laboratory no longer meets the requirements of M.G.L. c. 23K and 205 CMR.

(h) The commission shall maintain a list of certified independent testing laboratories along with the categories of gaming device that each independent testing laboratory may test.

(2) Categories of Certification. Each independent testing laboratory must be certified for each category of testing for which the laboratory seeks to provide results. The categories of testing include:

- (a) Games and game variations;
- (b) Gaming devices and gaming device modifications;
- (c) Gaming associated equipment and gaming associated equipment modifications;
- (d) Cashless wagering systems and cashless wagering system modifications;
- (e) Inter-casino linked systems and inter-casino linked system modifications;
- (f) Mobile gaming systems and mobile gaming system modifications;
- (g) Interactive gaming systems and interactive gaming system modifications; and
- (h) Any other category of testing that the commission may deem appropriate.

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(3) Standards for Certification. To qualify for certification, the independent testing laboratory, must:

- (a) Be independent pursuant to 205 CMR 144.06(4)
- (b) Be accredited in accordance with ISO/IEC 17025 by an accreditation body that is a signatory to the *International Laboratory Accreditation Cooperation Mutual Recognition Agreement*;
- (c) Demonstrate suitability in accordance with M.G.L. c. 23K, §§ 12 and 16 by clear and convincing evidence after considering reciprocity from other jurisdictions;
- (d) Demonstrate that it is technically competent in testing the category of game, device, or system in which it is seeking certification; and
- (e) Demonstrate that it is technically competent to test compliance with the applicable Massachusetts statutes, regulations, standards and policies.

(4) Independence. An independent testing laboratory must be independent at all times while certified by the commission.

(a) To be considered independent from a manufacturer, distributor, or operator pursuant to 205 CMR 144.06(3)(a), the independent testing laboratory, including its employees, management, directors, owners, compliance committee members and gaming regulatory advisors, with the exception of the independent testing laboratory's external accountants and attorneys:

1. Must not have a financial or other interest, direct or otherwise, in a manufacturer, distributor, or operator of any game, gaming device, associated equipment, cashless wagering system, inter-casino linked system, mobile gaming system or interactive gaming system, or any component thereof or modification thereto, regardless of whether or not the person or entity is licensed, registered, or otherwise does business in Massachusetts;
2. Must not participate, consult, or otherwise be involved in the design, development, programming, or manufacture of any game, gaming device, associated equipment, cashless wagering system, inter-casino linked system, mobile gaming system or interactive gaming system, or any component thereof or modification thereto;
3. Must not have any other interest in or involvement with a manufacturer, distributor, or operator that could cause the independent testing laboratory to act in a manner that is not impartial; and
4. Such individuals shall not serve in any capacity with a manufacturer, distributor, or operator beyond the scope of the independent testing laboratory's engagement pursuant to these regulations.

(b) The restrictions in 205 CMR 144.06(4)(a) shall not be interpreted to limit an independent testing laboratory, or the above listed individuals, from providing consulting services to a manufacturer, distributor, or operator, provided that such services do not directly or indirectly indicate, suggest, or imply how to design, develop, program or manufacture a game, gaming device, associated equipment, cashless wagering system, inter-casino linked system, mobile gaming system or interactive gaming system, or any components thereof or modification thereto.

(c) The restrictions in 205 CMR 144.06(4)(a) shall not be interpreted to limit its ability to accept fees from a gaming device vendor in accordance with 205 CMR 144.05.

(5) Form of Application. An application for certification as an independent testing laboratory shall be in the form prescribed by the commission and contain:

- (a) The required application fee pursuant to 205 CMR 144.06(1)(c);
- (b) A completed business entity disclosure form as set forth in 205 CMR 134.07(6): *Business Entity Disclosure Form - Gaming Vendor - Primary* for the applicant entity;
- (c) Completed multi-jurisdictional personal history disclosure forms as set forth in 205 CMR 134.07(1): *Multi-jurisdictional Personal History Disclosure Form for Key Gaming Employees- Executive and Gaming Vendor Qualifiers* for each person who would be a gaming vendor qualifier pursuant to 205 CMR 134.04(4): *Gaming Vendor Qualifier* if the applicant were a gaming vendor;
- (d) Copies of all ISO/IEC 17025 certification and accreditation materials except if the independent testing laboratory is only seeking registration for the testing of games and game variations;

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- (e) All ISO required internal controls, policies and procedures, except if the independent laboratory is only seeking registration for the testing of games and game variations;
 - (f) Detailed description of the testing facilities;
 - (g) Detailed description of available testing staff and staff qualifications, including education, training, experience and skill levels;
 - (h) Detailed description of available testing equipment;
 - (i) Copies of documented policies, systems, programs, procedures and instructions to assure the quality of test results;
 - (j) Copies of all test scripts to be used for testing against the applicable Massachusetts statutes, regulations, standards, and policies.
 - (k) A statement subscribed by the applicant that:
 1. The information being provided to the commission is accurate and complete;
 2. The applicant agrees to cooperate with all requests, inquiries, or investigations of the commission;
 3. The applicant acknowledges that the commission shall retain jurisdiction over the independent testing laboratory in any matter involving a gaming device;
 4. The applicant acknowledges that it will comply with M.G.L. c. 23K, § 13(b) and (c) and update the commission in accordance with 205 CMR 144.06(6);
 5. The applicant agrees to indemnify and hold harmless the Commonwealth of Massachusetts and the commission, and each of their members, agents, and employees in their individual and representative capacities against any and all claims, suits and actions, brought against the persons named in 205 CMR 144.06(5)(k)5. by reason of any inspections or certifications performed by the applicant as a certified independent testing laboratory, and all other matters relating thereto, and against any and all expenses, damages, charges and costs, including court costs and attorney fees, which may be sustained by the persons and entities named in this subsection as a result of said claims, suits and actions; and
 - (l) any additional information that the commission may require.
- (6) Notification Requirements. Certified independent testing laboratories shall:
- (a) notify the commission of any change in ownership of the certified independent testing laboratory if it is privately held or any change in ownership resulting in shareholding of 5% or more of the independent testing laboratory or any of its holding or intermediary companies; any change in directors, executives, or key management or employees of the independent testing laboratory, and any other material changes to the information included in its application for registration or the information submitted in conjunction with or subsequent to its application within 30 days of such change;
 - (b) no later than by the 15th day of each January, inform the commission in writing of any changes to the information that was contained on the registered independent testing laboratory's application for registration or submitted in conjunction with or subsequent to its application, or that no changes have occurred since the last reporting date;
 - (c) maintain copies of the results of any ISO/IEC 17025 audits or reviews and notify the commission in writing of the availability of the results within 15 days of when they become available to the registered independent testing laboratory and provide copies to the commission upon request.
 - (d) notify the commission immediately of any material issues concerning any gaming device that it tested for use in Massachusetts;
 - (e) notify the commission immediately of any attempts by a manufacturer, distributor, or operator to improperly influence the certified independent testing laboratory, or any of its employees, managers, or owners, in or in connection with any testing of gaming devices for use in Massachusetts; and
 - (f) timely provide the commission with such other information as the commission may request or require.
- (7) Continued Obligations. Certified independent testing laboratories shall abide by the following requirements while certified:

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(a) In the interest of preserving a competitive gaming industry, a certified independent testing laboratory shall not implement or maintain any procedure or policy or take any action that would inhibit or prevent a manufacturer, distributor or operator that has otherwise been deemed suitable for doing business in Massachusetts by the commission from submitting a game, gaming device, associated equipment, cashless wagering system, inter-casino linked system, mobile gaming system or interactive gaming system, or any component thereof or modification thereto, for testing for use in Massachusetts, or that would call into question or tend to erode the independence of the certified independent laboratory from any clients that utilize its services.

(b) All testing shall be performed by a person directly employed by the certified independent testing laboratory. The certified independent testing laboratory shall not assign, delegate, subcontract, or otherwise engage any person not directly employed by the certified independent testing laboratory for any testing for which the laboratory has been certified. The certified independent testing laboratory shall provide the commission every six months, or upon request as the commission requires, with a list and description of all amounts paid by or invoiced to licensed gaming vendors for costs of gaming device testing or otherwise.

(c) A certified independent testing laboratory shall implement and maintain a hiring and background check process, which shall be submitted to the commission and subject to the commission's approval, that ensures, at a minimum, that no person is hired in a position involving testing relating to Massachusetts, or in a position overseeing or managing an employee in such a position, who has:

1. been convicted of a felony or other crime involving embezzlement, theft, fraud or perjury;
2. Had any gaming license, registration or other like credential revoked or committed any act which is a ground for the revocation of a gaming license, registration or other professional credential held by the person or would have been a ground for the revocation of a gaming license, registration or other professional credential had the person held such license, registration, or credential.

(d) A certified independent testing laboratory shall handle all information and data prepared or obtained as part of the testing process as confidential.

(e) A certified independent testing laboratory shall implement and maintain security and access control systems designed to secure and protect the confidentiality of all equipment, software, and other information entrusted to it as part of the testing process.

(f) The commission may, as appropriate, periodically provide further guidance as to what is required of a certified independent testing laboratory through industry notices or other written communications.

(g) If a certified independent testing laboratory hires an individual who was previously employed by, or performed any work for, a manufacturer, distributor or operator within one year prior to the individual's date of employment with the independent testing laboratory, the certified independent testing laboratory shall not permit that person to test any gaming device for use in Massachusetts, for which the person had any involvement with, whatsoever, while he or she was employed by the manufacturer, distributor or operator for a period of one year from the individual's date of employment with the independent testing laboratory.

REGULATORY AUTHORITY

205 CMR 144.00: M.G.L. c. 23K, §§ 4(28), 5 and 66.