



## Regulatory Oversight

### COMMERCIAL GAMING

**Governing Body:** The New York State Gaming Commission oversees VLT operations at racetracks and commercial gaming at casino gaming facilities, as well as sports betting. The lottery is only responsible for promotional activities related to VLTs.

### TRIBAL GAMING

**Governing Body:** New York currently has three compacted tribes: the Seneca Nation of Indians, the Oneida Indian Nation of New York and the St. Regis Mohawk Tribe.

The tribal gaming commissions have the primary responsibility for the on-site regulation, control and security of the gaming operation.

The New York Gaming Enforcement Division has the limited authority to monitor and inspect the gaming operations to ensure that the gaming operation is conducted in compliance with the compact and applicable regulations.

The Oneida Nation and the St. Regis Mohawk Tribe compacts contain no limit on gaming venues and allow the tribes to operate an unlimited number of gaming machines. The Seneca Nation compact allows for up to three gaming venues and an unlimited number of gaming machines.

The Oneida Nation compact and the St. Regis Mohawk compact remain in effect until terminated by written agreement of both parties. The Seneca Nation compact expired in November 2016 but was renewed automatically for an additional seven-year period.

This additional period was set to expire on December 9, 2023. However, the Seneca Nation and New York state government agreed on a short-term extension through March 31, 2024.

The extension is set to automatically renew each quarter unless affirmatively rejected by one of the parties or a new compact is agreed upon.



## Licensing

### COMMERCIAL GAMING

**Operator:** Racetracks - The Division of Gaming Enforcement oversees the licensing procedure for New York racetracks that offer video lottery gaming. Under the applicable regulations, for tracks to maintain their licenses to conduct video lottery gaming, they must comply with all state and local fire and safety codes; racetrack employees involved in the operation of video lottery gaming are licensed by the state's racing and wagering board; and must operate in accordance with similar infrastructure. The act prohibits any tracks from maintaining video lottery gaming equipment within a "temporary" enclosure for longer than 18 months.

**Casino License:** The New York State Gaming Commission (NYSGC) oversees the licensing procedure for New York commercial casino gaming facilities.

Applicants must pay a \$1m application fee to the NYSGC to defray the costs associated with the processing of the application as well as the investigation of the applicant. If the costs of the investigation exceed the initial application fee, the applicant is required to pay the additional amount to the NYSGC.

Applicants must meet all criteria outlined under Section 1316 of the N.Y. Racing, Pari-Mutuel Wagering and Breeding Law (PML), including investment of the required capital into the gaming facility, a licensee deposit, and demonstration to the NYSGC that the applicant is able to pay and commits to paying the gaming licensing fee. Capital investment requirements for a gaming facility are determined by the NYSGC by zone and region.

Upon being awarded a gaming license by the NYSGC, the applicant is required to deposit 10 percent of the total investment proposed in the application into an interest-bearing account. The New York State Gaming Facility Location Board will determine the licensing fee that is to be paid by a licensee within 30 days after the license is awarded, which will subsequently be deposited into the commercial gaming revenue fund. The NYSGC will set any renewal fee for such a license based on the cost of fees associated with the evaluation of a licensee.

Licensees must also pay an annual fee of \$500 for each gaming device and table game they offer. A casino-resort license is valid for an initial 10-year period and is renewable thereafter for a time to be determined by the NYSGC.

In April 2022, Governor Kathy Hochul signed a budget bill increasing gaming facility licenses from 4 to 7. Licenses will be awarded under an RFA process. A minimum capital investment and an upfront license fee of no less than \$500m will be required.

Unlike destination-resort casinos, racetrack casinos are not required to pay annual fees. Instead, licensing and regulatory costs are paid out of revenue generated from their electronic gaming devices.

**Supplier License:** VLT Operations - Any vendor who offers goods or services, which directly relate to a video lottery gaming activity at any video lottery gaming facility, including, without limitation, those who intend to manufacture, sell, distribute, maintain and repair video lottery gaming terminals and related equipment, or who intend to provide management services, or who intend to provide a central system for the operation of video lottery gaming within the state, together with such vendor's principal(s) and key employee(s), must be licensed. As with video lottery agents, gaming vendors are not required to pay any annual fees to continue operating VLTs. Instead, costs for applications, licensing and renewals of licenses are paid for under revenue generated from the VLT facilities.

**Casinos** - All companies seeking to supply gaming machines or table games equipment to New York casinos are required to obtain a casino vendor enterprise license. A casino vendor license is valid for five years. The New York State Gaming Commission does not currently charge a casino vendor license fee.

## TRIBAL GAMING

**Operator:** The tribes are required to reimburse the state for certain costs associated with the oversight of the compact.

**Gaming Service Enterprise:** Gaming service enterprises must be licensed by the tribal gaming commission. License fees are set by each tribe and are not listed in the tribal-state gaming compacts or gaming ordinances

A gaming service enterprise is defined by the compacts as “an entity or individual, other than a Class III gaming employee, that provides Class III gaming services, Class III gaming supplies or Class III gaming equipment to a gaming facility.”



## Taxation & Tribal Revenue Sharing

### COMMERCIAL GAMING

**Gaming Tax Rate:** Racetracks - In general, lottery gaming facilities keep roughly 31 percent to 41 percent of revenues after prizes are distributed. This number varies depending on multiple conditions laid out in the taxation statute, found [here](#).

Casinos:

- Region One: 39% of gross gaming revenue (GGR) from slot machines and 10% of GGR from all other sources.
- Region Two: 45% of GGR from slot machines and 10% of GGR from all other sources.
- Region Five: 37% of GGR from slot machines and 10% of GGR from all other sources. Provided, however, that in the Tioga county portion of Region Five, for the period during which both of the following criteria are met:
  - Any facility's tax rate is adjusted by the New York State Gaming Commission pursuant to Section 1351(b) of New York's Racing, Pari-Mutuel Wagering and Breeding Law (PML).
  - A vendor track that is located within Oneida county, within 15 miles of a Native American Class III gaming facility maintains at least 70% of full-time equivalent employees as they employed in the year 2016.
- The tax rate on facilities located in the Tioga county portion of Region Five are 30% of GGR from slot machines and 10% of GGR from all other sources.
  - Provided further, that any such facility must provide an initial report to New York's governor, the speaker of the state assembly, the temporary president of the state senate, and the New York State Gaming Commission detailing the projected use of funds resulting from such tax adjustment and, a plan prescribing the manner in which the licensed facility receiving the reduction in its slot machine tax rate will rebuild their economic infrastructure through the rehiring of laid-off employees or the creation of new jobs.

Any gaming facility licensee who also possesses a pari-mutuel wagering franchise or license, or who possessed a pari-mutuel wagering franchise or license in 2013, must maintain payments made from VLT operations to



the relevant horsemen and breeders' organizations at the same amount realized in 2013.

**Tax Allocation:**

Racetracks - Tax revenue is divided between state education funds, agent commissions, gaming administration, and marketing allowances.

Casinos - All taxes and fees are deposited in the Commercial Gaming Revenue Fund.

**Promotional Credits:** The annual deductible value of promotional gaming credits on slots authorized for use by the gaming facility licensee in any fiscal year must not exceed 15% of slot gross gaming revenue and the annual deductible value of promotional gaming credits on table games authorized for use by the gaming facility licensee in any fiscal year must not exceed 5% of table game gross gaming revenue. The NYSGC may, at the commission's discretion, authorize deviations from these limitations upon satisfactory illustration of benefit to the state.

Credits paid for by a gaming facility licensee and provided to a patron shall not be considered promotional gaming credits.

**Withholding Tax on Gambling Winnings:** Yes. Gambling winnings in New York are subject to a 24% federal tax rate, as well as state tax, which ranges from 4% to 8.82%. Generally, winnings above \$600 must be reported.

## TRIBAL GAMING

**Revenue Share:** Tribes in New York have agreed to pay 25 percent of any net win with respect to gaming devices operated by the tribe in exchange for exclusivity in a specific geographic area.

**State Use of Revenue:** Not publicly available.

**Tribal Use of Revenue:** As required under IGRA, tribes must use tribal gaming funds:

1. To fund tribal government operations or programs;
2. To provide for the general welfare of the tribe and its members;
3. To promote tribal economic development;
4. To donate to charitable organizations; or
5. To help fund operations of local government agencies.

**Promotional Credits Effect on Revenue Sharing:** Promotional credits do not affect revenue sharing in the state.

**Withholding on Winnings:** New York does not withhold a percentage of gambling winnings from tribal gambling winnings. However, federal law may require tribal casinos to issue a W-2G form to persons and may withhold winnings if certain conditions are met. For more information click [here](#).



## Responsible Gaming

### COMMERCIAL GAMING

**Statutory Requirement:** The commercial gaming revenue fund provides funding for responsible gambling programs in the state.

**Self-exclusion:** State law requires the New York State Gaming Commission to provide for the establishment of a list of persons self-excluded from gaming activities at all licensed gaming facilities in the state. The commission must establish procedures for the transmittal of identifying information concerning self-excluded persons to licensed gaming facilities, and must require licensed gaming facilities to establish procedures designed, at a minimum, to remove self-excluded persons from targeted mailings or other forms of advertising or promotions and deny self-excluded persons access to credit, complementaries, check cashing privileges, club programs, and other similar benefits. Individuals wishing to self-exclude may choose from a period of one year, three years, five years, or a lifetime ban.

**Alcohol use:** New York allows VLT facilities to offer complimentary alcohol use to patrons.

**Advertising Restrictions:** Racetracks - Approved advertising criteria are published from time to time by the gaming commission. Gaming regulations prohibit the use of any information, representation, or description that contrasts or compares video lottery gaming agents or facilities with regard to total payout.

Casinos - Each advertisement must clearly and conspicuously state a problem gambling hotline number. In addition, no advertising on behalf of a gaming facility licensee may depict any person under the age of 21 engaging in gaming and related activities. Lastly, each direct advertisement must, clearly and conspicuously, describe a method or methods by which an individual may designate that the individual does not wish to receive any future direct advertisement.

In October 2023, the New York State Gaming Commission also adopted further comprehensive advertising restrictions pertaining to sports wagering activities, as follows:

Advertisements and promotions used by a casino sports wagering licensee or sports pool vendor must disclose the identity of the casino sports wagering licensee or sports pool vendor. Each casino sports wagering licensee or sports pool vendor is responsible for the content and conduct of any and all advertising, marketing, or branding done on its behalf or its benefit, whether conducted by such licensee, an employee or agent of such licensee, or an affiliated entity of agent of such licensee pursuant to contract or agreement. No person who, or entity that, is not a casino sports wagering licensee or sports pool vendor can advertise sports gambling within New York, unless the advertisement disclaims conspicuously that the wagering offerings are not available within the state.

No casino sports wagering licensee or sports pool vendor can enter into an agreement with an affiliate marketing partner when the manner of compensation for such services is prohibited by Section 1341(1) of New York's Pari-Mutuel Wagering and Breeding Law.

A casino sports wagering licensee or sports pool vendor cannot, directly or indirectly (such as through an affiliate marketing partner):

- Promote irresponsible or excessive participation in sports wagering.
- Suggest that social, financial, or personal success is guaranteed by engaging in sports wagering.
- Imply or promote sports wagering as free of risk in general or in connection with a particular promotion or sports wagering offer.
- Describe sports wagering as “free”, “cost free” or “free of risk” if the patron needs to incur any loss or risk the patron’s own money to use or withdraw winnings from the wager.
- Encourage patrons to “chase” losses or re-invest winnings.
- Suggest that betting is a means of solving or escaping from financial, personal, or professional problems.
- Portray, suggest, condone or encourage sports wagering behavior as a rite of passage or signifier of reaching adulthood or other milestones.
- Portray, suggest, condone or encourage sports wagering behavior that is socially irresponsible or could lead to financial, social, or emotional harm.
- State or imply that the chances of winning increase with increased time spent on sports wagering or increased money wagered.
- Be placed on any website or printed page or medium devoted primarily to responsible gaming.

A casino sports wagering licensee, sports pool vendor, or affiliate marketing partner, cannot use misleading embedded keywords or similar methods in its platform to:

- Attract persons under the wagering minimum age, self-excluded contestants or persons who are or may be problem gamblers.
- Accomplish any other misleading or deceptive purposes.

Each affiliate marketing partner shall disclose in its media, in a reasonably prominent manner (e.g. after a writer’s byline, after editorial content, in an “about” link on a webpage that is accessible from the page on which editorial content appears), whether such affiliate marketing partner has agreed to promote, refer potential customers to, or conduct advertising, marketing or branding on behalf of, or to the benefit of, one or more casino sports wagering licensees or sports pool vendors. Each casino sports wagering licensee or sports pool vendor must cause its affiliate marketing partners to comply with this provision.

In connection with the marketing, promoting, advertising or offering of any promotion or displaying or offering of such on casino sports wagering licensee’s or sports pool vendor’s platform or platforms, or on any platform or platforms over which a casino sports wagering licensee or sports pool vendor exercises actual or constructive control, such licensee must:

- Clearly and conspicuously disclose material facts, terms and conditions of the promotion to potential contestants and adhere to such terms.
- Clearly and conspicuously disclose to consumers material limitations to the promotion.
- Obtain express informed consent from any consumer who must deposit money to take advantage of the promotion.

- If an offer requires a patron to wager a specific dollar amount to receive the complimentary item or promotional credit, the amount that the patron is required to wager of the patron's own funds must be disclosed in the same size and style of font as the amount of the complimentary item or promotional credit, and the complementary item or promotional credit must not be described as free.

No casino sports wagering licensee or sports pool vendor, or any employee, agent, or vendor thereof, shall advise or encourage individual patrons to place a specific wager of any specific type, kind, subject, or amount. This prohibition does not apply to general advertising or promotional activities.

A casino sports wagering licensee or sports pool vendor must not allow, conduct, or participate in any advertising, marketing, or branding for sports wagering that is aimed at persons under the wagering minimum age.

Websites or profiles owned by a casino sports wagering licensee or sports pool vendor that include sports betting content, including social media pages and sites, must include a reminder of the legal age for sports wagering in New York.

**On-Premise Display Requirement:** Racetracks - Responsible gaming information must be prominently displayed at the video lottery gaming facility, and problem gambling information must be posted on each video lottery gaming agent's website and on each video lottery terminal.

Casinos - A gaming facility licensee must post signs that include a statement that is similar to the following: "It is unlawful for any individual under 21 years of age to enter or remain in any area where gaming is conducted. It is unlawful for any individual under 21 years of age to wager, play or attempt to play a slot machine or table game. Individuals violating this prohibition will be removed and may be subject to arrest and criminal prosecution." Such signs shall be posted prominently at each entrance and exit of the gaming floor.

**Restrictions on Minors on the Gambling Premises:** Racetracks - Gaming regulations prohibit persons under the age of 18 from loitering or remaining on the gaming floor.

Casinos - A gaming facility licensee may not allow or permit any person who is under the age of 21 to make any wager or be present on the gaming floor.

## TRIBAL GAMING

**Statutory Funding Requirement:** There are no statutory funding requirements outlined in the tribal-state gaming compacts or tribal gaming ordinances.

**Self-exclusion:** The tribal-state gaming compacts and tribal gaming ordinances do not outline requirements for self-exclusion programs. However, voluntary self-exclusion is available at Seneca casinos and at the Turning Stone Resort and Casino (both owned by the Oneida Nation Casino). Patrons who wish to enroll in the voluntary self-exclusion program must self-exclude for a minimum of one year.

**Complimentary Alcoholic Drinks:** Complimentary alcoholic drinks are offered at tribal casinos in New York.

**Advertising Restrictions:** There are no advertising restrictions outlined in the tribal-state gaming compacts or tribal gaming ordinances.





**On-Premise Display Requirement:** There are no on-premise display requirements in the tribal-state gaming compacts or tribal gaming ordinances.

**Prevention of Underage Gambling:** Individuals must be 18 years of age to participate in Class III gaming.

**Operation on Holidays:** Tribal casinos in the state may operate 24 hours a day, seven days a week, including on holidays.



## Other Regulations

### COMMERCIAL GAMING

**Testing Requirements:** Racetracks - Testing of the central system, VLTs and associated equipment must be tested and approved at the commission's discretion.

Casinos - The commission must utilize the services of an independent testing laboratory that has been qualified and approved by the commission to perform the testing of slot machines and other gaming equipment.

**AML Requirements:** Under federal U.S. law, commercial casino operators, tribal gaming operators and card clubs are required to comply with various statutes in order to prevent money laundering activities and other financial crimes, including terrorism financing.

**Shipping Requirements:** Before any VLT is transported from one authorized location to another authorized location, the person causing such VLT to be transported must notify the gaming commission in writing.

**Credit Offered to Patrons:** Casinos in the state may not extend credit to patrons.

**Political Contributions:** There are no restrictions on political contributions from parties with gaming interests.

**Smoking Bans:** The New York Clean Indoor Air Act prohibits smoking within gaming facilities.

**Cashless Gaming & Alternative Payments:** Cashless gaming is permitted. However, cryptocurrencies are not currently permitted as a form of payment for gambling transactions.

### TRIBAL GAMING

**Testing Requirements:** Under the compacts, gaming devices must be approved and certified by an independent gaming test laboratory. Under the compacts, the selection of the independent gaming test laboratory is subject to the consent of the state, but the state may not withhold its consent if the independent gaming test laboratory holds a license in good standing in New Jersey, Nevada or Mississippi.

**AML requirements:** Under federal U.S. law, commercial casino operators, tribal gaming operators and card clubs are required to comply with various statutes in order to prevent money laundering activities and other financial crimes, including terrorism.





**Shipping Requirements:** Under federal U.S. law, all gambling devices and all packages containing gambling devices, when shipped or transported, must be plainly and clearly labeled and marked so that the name and address of the shipper and the consignee and the contents of the package may be readily ascertained on an inspection of the package.

**Restrictions on Political Contributions:** There are no compact restrictions on political contributions from parties with gaming interests. Under federal law, tribes are considered “persons” and are subject to regulation by the Federal Election Commission when making federal contributions.

**Credit:** Tribal casinos in New York may offer credit to patrons. Credit procedures are not outlined in the tribal-state gaming compacts or gaming ordinances.

**Smoking Bans:** The compacts do not address smoking. As such, tribal facilities may offer smoking within their premises.

**Cashless Gaming & Alternative Payments:** Cashless gaming is permitted. However, cryptocurrencies are not currently accepted as a form of payment for gambling transactions.



## Sports Betting

**Authorized Operators:** Licensed casinos in good standing are eligible to obtain a sports pool license. A casino that wishes to operate sports pools must obtain a sports pool license from the New York State Gaming Commission, which is in addition to the casino's gaming facility license.

In addition, sports betting is permitted at tribal casinos. Under New York's tribal-state gaming compacts, the state's three federally-recognized Indian tribes can offer any form of so-called “Class III” casino gaming activity — a category that includes sports betting — that is authorized by the state of New York, provided the tribes conduct the games in accordance with state-approved “specifications.”

Mobile sports betting is limited to at least two “platform providers”, although the New York State Gaming Commission can elect to select more if it determines that additional licenses “are in the best interests of the state.” The two platform providers must combine if they wish to offer at least four mobile sports-betting skins.

**Mobile/Online:** State-wide mobile sports betting was signed into law in April 2021 and final regulations regarding the same were adopted by the state gaming commission in November 2021. Mobile sports betting officially launched in January 2022.

**Taxes & Fees:** Casinos are not required to pay any initial licensing fee or renewal fees for the right to hold a sports pool license. Once issued, licenses are valid for the period of the casino's gaming facility license.

Mobile sports betting platform providers are required to pay a \$25m license fee. In addition, providers are also required to make \$2.5m annual payments to a licensed land-based commercial casino to house servers and other required equipment for mobile wagering.

Land-based sports betting is subject to a 10 percent tax on gross gaming revenue. Mobile sports betting is subject to a 51 percent tax on gross gaming revenue. Additionally, wagers are subject to a 0.25 percent



federal excise tax on handle.

**Amateur Restrictions:** Operators may not offer wagers on any amateur or youth sports event, except collegiate sports events approved by the commission.

**Tax on Promotional Credits:** Yes. Promotional spend is prohibited from being deducted from revenue or added to loss when calculating GGR for tax liability purposes. No promotion related to sports wagering may be offered without the prior approval of the commission.

**Age Restrictions:** Individuals must be at least 21 years of age to participate in sports wagering.