CHAPTER 805. INTERACTIVE GAMING MANUFACTURER—TEMPORARY REGULATIONS

Sec.
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Authority
The temporary provisions of this Chapter 805 issued under 4 Pa.C.S. §§ 1202(b)(30) and 13B03(b), unless otherwise noted.

Source
The temporary provisions of this Chapter 805 adopted March 16, 2018, effective March 17, 2018, expire March 17, 2020, 48 Pa.B. 1513, unless otherwise noted.

Cross References
This chapter cited in 58 Pa. Code § 830.6 (relating to licensure requirements).

§ 805.1. Interactive gaming manufacturer license requirements.
(a) An interactive gaming manufacturer seeking to manufacture interactive devices or associated equipment for use in this Commonwealth shall apply to the Board for an interactive gaming manufacturer license.
(b) In accordance with section 1317.1(e)(3) of the act (relating to manufacturer licenses), an applicant for or the holder of an interactive gaming manufacturer license or any of the applicant’s or holder’s affiliates, intermediaries, subsidiaries or holding companies may not apply for or hold a slot machine license or an interactive gaming supplier license.

§ 805.2. Interactive gaming manufacturer license application and standards.
(a) An applicant for an interactive gaming manufacturer license shall submit all of the following:
   (1) An original and one copy of the Enterprise Entity Application and Disclosure Information Form for the applicant and each of the applicant’s principal affiliates.
   (2) The nonrefundable application fee posted on the Board’s web site.
   (3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481a (relating to diversity).
   (4) An application from every key employee under §§ 435a.2 and 808.3 (relating to key employee license; and interactive key employees) and principal under Chapter 433a (relating to principal licenses) and § 808.2 (relating to

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interactive gaming principals) as specified by the Enterprise Entity Application and Disclosure Information Form and other persons as determined by the Board.

(5) An affirmation that neither the applicant nor any of its affiliates, intermediaries, subsidiaries or holding companies is an applicant for or holder of a slot machine license and that the applicant has neither applied for nor holds an interactive gaming supplier license.

(6) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence) and a copy of the safeguards and policies.

(b) In addition to the materials required under subsection (a), an applicant for an interactive gaming manufacturer license shall do all of the following:

(1) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications; statement of conditions; wagering restrictions).

(2) Demonstrate that the applicant has the ability to manufacture, build, rebuild, repair, fabricate, assemble, produce, program, design or otherwise make modifications to interactive gaming devices or associated equipment which meet one or more of the following criteria:

(i) Are specifically designed for use in the operation of interactive gaming or an interactive gaming device or associated equipment.

(ii) Are needed to conduct an authorized interactive game.

(iii) Have the capacity to affect the outcome of the play of an interactive game.

(iv) Have the capacity to affect the calculation, storage, collection or control of gross interactive gaming revenue.

(c) In determining whether an applicant is suitable to be licensed as an interactive gaming manufacturer under this section, the Board will consider all of the following:

(1) The financial fitness, good character, honesty, integrity and responsibility of the applicant.

(2) If all principals of the applicant are eligible and suitable under the standards of section 1311.1 of the act (relating to licensing of principals).

(3) The integrity of all financial backers.

(4) The suitability of the applicant and the principals of the applicant based on the satisfactory results of all of the following:

(i) The background investigation of the principals.

(ii) A current tax clearance review performed by the Department.

(iii) A current Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review performed by the Department of Labor and Industry.
§ 805.3. Interactive gaming manufacturer license term and renewal.

(a) An interactive gaming manufacturer license and the renewal thereof is valid for 5 years from the date of approval of the application by the Board.

(b) A renewal application for an interactive gaming manufacturer license shall be filed at least 6 months prior to the expiration of the current license.

(c) An interactive gaming manufacturer license for which a completed renewal application and fee has been received by the Board will continue in effect until acted upon by the Board.

§ 805.4. Interactive gaming manufacturer abbreviated license process.

(a) The Board may use an abbreviated licensing process if the applicant holds a license issued by the Board to manufacture slot machines, table games, table game devices or associated equipment and all of the following apply:

(1) The license was issued by the Board within a 36-month period immediately preceding the date the entity files an application to manufacture interactive gaming devices or associated equipment.

(2) The entity to whom the manufacturer license was issued affirms there has been no material change in circumstances relating to the license.

(3) The Board determines, in its sole discretion, that there has been no material change in circumstances relating to the licensee that necessitates that the abbreviated process not be used.

(b) This section may not be construed to waive any fees associated with obtaining an interactive gaming manufacturer license through the application process in this Commonwealth.

§ 805.5. Interactive gaming manufacturer conditional license process.

(a) The Board may issue conditional authorization to a person applying for an interactive gaming manufacturer license until September 17, 2019.

(1) Conditional authorization issued under this subpart will remain in effect until the earlier of the date occurring 12 months after the issuance of the authorization or the date upon which the Board makes a final determination on the person’s application.

(i) The effectiveness of a conditional authorization may be extended by the Board not more than once, upon a showing of good cause.

(ii) Conditional authorization shall allow an applicant for an interactive gaming manufacturer license to engage in all of the functions of a licensed interactive gaming manufacturer for the duration of the conditional authorization.

(2) A conditional authorization will not be issued unless:

(i) The applicant has submitted a complete application for an interactive gaming manufacturer license to the Board.
(ii) The applicant is a certified gaming service provider in this Commonwealth or licensed in good standing to manufacture or provide interactive gaming devices or associated equipment in another jurisdiction in the United States or Canada that the Board has determined has licensing standards that are as comprehensive and thorough and provide similar adequate safeguards as those required under the act.

(iii) Submit a written statement from an interactive certificate holder or interactive gaming operator that the entity intends to do business with the applicant and a description of the services or products to be provided by the applicant.

(iv) Pass a preliminary review of the applicant’s and its principal’s criminal history.

(v) The applicant agrees to pay or has paid the nonrefundable application fee posted on the Board’s web site prior to the issuance of conditional authorization.

(vi) The Bureau does not have an objection to the issuance of a conditional authorization to the applicant.

(b) An applicant for an interactive gaming manufacturer license that has received a conditional license shall provide to the Board in a manner and in the form as the Board will prescribe, on the 20th day following the end of each calendar quarter thereafter, a summary of the quarterly sales made to all interactive gaming certificate holders and interactive gaming operators in this Commonwealth, as well as all contracts or invoices concerning these sales upon request by the Board.

(c) If the Office of Enforcement Counsel issues a Notice of Recommendation for Denial to an applicant for an interactive gaming manufacturer license that has received a conditional license, the Bureau of Licensing will rescind the conditional license. If the conditional license is rescinded, the conditional licensee shall cease conducting business by the date specified in the notice of the rescission sent to the conditional licensee by the Bureau of Licensing under subsection (d).

(d) When the Bureau of Licensing rescinds a conditional license, the Bureau of Licensing will notify the holder of the conditional license and all interactive gaming certificate holders and interactive gaming operators by registered mail and e-mail that:

(1) Permission for the conditional licensee to conduct business under this subpart has been rescinded.

(2) Interactive gaming certificate holders and interactive gaming operators and any other licensee shall cease conducting business with the conditional licensee by the date specified in the notice.

(e) Pending a hearing on the Notice of Recommendation for Denial, the conditional licensee may not seek or conduct any new business in this Commonwealth and may only complete transactions that were commenced prior to the date specified in the notice of rescission.

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Nothing in this section may be construed to waive fees associated with obtaining a license through the application process in this Commonwealth.

§ 805.6. Interactive gaming manufacturer licensee responsibilities.

(a) A holder of an interactive gaming manufacturer license shall have a continuing duty to do all of the following:

(1) Comply with the general requirements in Chapters 421a and 423a (relating to general provisions; and applications; statement of conditions; wagering restrictions).

(2) For publicly traded interactive gaming manufacturer licensees, provide notification of all SEC filings or if the manufacturer is publicly traded on a foreign exchange, a copy of all filings submitted to the securities regulator that has jurisdiction over the foreign publicly traded corporation. The notification or copies of the filings shall be submitted to the Bureau of Licensing within 30 days after the date of filing with the SEC or securities regulator that has jurisdiction over the foreign publicly traded corporation.

(b) An employee of a licensed manufacturer who is a gaming or nongaming employee as defined in §§ 401a.3 and 801.2 (relating to definitions) shall obtain a permit under §§ 435a.3 and 808.4 (relating to occupation permit; and interactive gaming employees) or registration under §§ 435a.5 and 808.5 (relating to nongaming employee registration; and interactive nongaming employees).

§ 805.7. Interactive gaming manufacturer licensee change of control.

(a) For purposes of this section, a change of control of an interactive gaming manufacturer licensee will be deemed to have occurred when a person or group of persons acquires:

(1) More than 20% of an interactive gaming manufacturer licensee’s securities, assets or other ownership interests.

(2) More than 20% of the securities or other ownership interests of a corporation or other form of business entity that owns directly or indirectly at least 20% of the voting or other securities or other ownership interests of the interactive gaming manufacturer licensee.

(3) Any other interest in an interactive gaming manufacturer licensee which allows the acquirer to control the interactive gaming manufacturer licensee.

(b) An interactive gaming manufacturer licensee shall notify the Bureau and the Bureau of Licensing by filing a Notification of Proposed Transfer of Interest Form immediately upon becoming aware of any proposed or contemplated change of control of the interactive gaming manufacturer licensee.

(c) Prior to acquiring a controlling interest in an interactive gaming manufacturer licensee, the acquirer shall file a petition in accordance with § 493a.4 (relating to petitions generally) requesting Board approval of the acquisition. The petition must include all of the following:

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(1) A copy of all documents governing the acquisition.

(2) Completed applications for the acquiring company, as required under this chapter, principals as required under Chapters 433a (relating to principal licenses) and § 808.2 (relating to interactive gaming principals) and key employees as required under §§ 435a.2 and 808.3 (relating to key employee license; and interactive key employees).

(3) An affirmation that neither the acquirer nor any of its affiliates, intermediaries, subsidiaries or holding companies is a slot machine licensee or interactive gaming certificate holder and that the acquirer has neither applied for nor holds an interactive gaming supplier license.

(d) A person or group of persons seeking to acquire a controlling interest in an interactive gaming manufacturer licensee shall promptly provide any additional information requested by the Board and Board staff and cooperate with the Bureau in any investigations related to the petition filed under subsection (c).

(e) A person or group of persons may not acquire a controlling interest in an interactive gaming manufacturer licensee until the petition required under subsection (c) has been approved. A person or group of persons seeking to acquire a controlling interest in an interactive gaming manufacturer licensee and the interactive gaming manufacturer licensee may enter into an agreement of sale that is contingent on Board approval of the petition.

(f) The requirements in this section do not apply to the acquisition of a controlling interest in an interactive gaming manufacturer licensee when all of the following conditions are met:

(1) The acquirer is an existing licensed slot machine, table game or interactive gaming manufacturer.

(2) The existing licensed interactive gaming manufacturer has provided the Bureau and the Bureau of Licensing notification and a copy of all documents governing the acquisition at least 60 days prior to the acquisition.

(3) After reviewing the documentation, the Bureau and the Bureau of Licensing determine that the filing of a petition is not required.