

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



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## Casino Gaming Rules 4.220 and 4.225 Amendment Summary

These proposed amendments allow sports wagering from any patron physically present within the State of Arkansas. Under the original Casino Gaming Rules, a patron had to be physically present on the casino premises. Also, under the proposed amendments, a patron does not have to personally appear before an employee of the casino to confirm his/her identity. These amendments change some definitions to provide for expanded sports wagering.

### Casino Gaming Rules 4.220 and 4.225 Mark Up

#### 4.220 Operation of a mobile gaming system.

1. Definitions. As used in this section:

(a) “Director” means the ~~Commission~~ Director of the Arkansas Racing Commission or the Commission’s designee.

~~(b) “Communications technology” means the methods used and the components employed to facilitate the transmission of information including, but not limited to, transmission and reception systems based on wire, cable, radio, microwave, light, optics, cellular data, or computer data networks and the Internet. “Communications technology” means any method used and the components employed by a licensed gaming establishment to facilitate the transmission of information, including, without limitation, transmission and reception by systems based on wireless network, wireless fidelity, wire, cable, radio, microwave, light, optics or computer data networks. The term does not include the Internet.~~

~~(e)(b)~~ “Equipment associated with mobile gaming” means associated equipment, which will be approved as associated equipment.

~~(d)(c)~~ “Licensed gaming establishment” means the establishment of a licensee, which includes all land, together with all buildings and improvements located thereon.

~~(e)(d)~~ “Licensee” means a person or entity licensed to conduct Casino gaming operations, who at all times exposes to the public for play, 100 or more slot machines and at least one table game, within its licensed gaming establishment. The term does not include a person or entity licensed as a holder of a security or other ownership interest in the licensee, or as an officer, director or key employee of the licensee, or due to any other relationship or involvement with the licensee or gaming operation.

~~(f)(e)~~ “Mobile communications device” means a device which displays information relating to the game to a participant in the game as part of a system.

~~(g)(f)~~ “Mobile gaming system” or “system” means a system that allows for the conduct of ~~games~~ sports wagering through mobile communications devices operated ~~solely within the licensed gaming establishment~~ by the use of communications technology that allows a patron to bet or wager, and corresponding information related to the display of the game, gaming outcomes or other similar information.

~~(h)(g)~~ “Operator of a mobile gaming system” or “operator” means a person or entity, who, under any agreement whereby consideration is paid or payable for the right to place a mobile gaming system, engages in the business of placing and operating a mobile gaming system ~~within a licensed gaming establishment~~ and who is authorized to share in the revenue from the

mobile gaming system without having been individually licensed to conduct gaming at the establishment.

~~(i)~~(h) All mobile gaming systems must be approved by the Commission.

2. Mobile gaming systems may be exposed for play as follows:

(a) A system may only be exposed for play to the public by an operator licensed by the Commission ~~at a licensed gaming establishment in an area~~ approved by the Commission.

(b) A licensee or an operator may submit a request to the Commission for approval to expose a system for play at a licensed gaming establishment.

(1) Such a request must specify at a minimum:

~~(A) In what areas the system will be exposed for play;~~

~~(B)~~A How the operator intends to:

(i) Adequately monitor play of the system and

(ii) Reasonably assure only players of lawful age will operate the mobile communications devices; and

~~(C)~~B Such additional information as the Commission may require.

(2) A licensee or an operator aggrieved by a decision of the Commission may request a hearing before the Commission and may appeal any decision by the Commission under the Arkansas Administrative Procedures Act.

3. In addition to any other requirements set forth in these Rules, the operator and licensee where a system is operated shall comply with the following requirements:

(a) Only a system that has been approved by the Commission may be exposed for play within a licensed gaming establishment.

(b) The licensee shall be responsible for all payouts from each system operated within its licensed gaming establishment.

(c) Systems that expose games with fixed payoff schedules that exceed \$250,000 or in the case of systems that expose games with progressive payoff schedules that are expected to exceed \$250,000, are limited to Casino gaming operations.

(d) At the request of the Commission, an operator shall deposit with the Commission and thereafter maintain a revolving fund in an amount of \$20,000 unless a lower amount is approved by the Commission, which shall be used to ensure compliance of the system with applicable laws and regulations. Upon surrendering its operator's license, the Commission may refund the balance remaining in the revolving fund.

(e) All revenue received from the system, regardless of whether any portion of the revenue is shared with the operator, must be attributed to the licensee of the licensed gaming establishment and counted as part of the gross revenue of the licensee. The operator, if receiving a share of the revenue from a system, is liable to the licensee for the operator's proportionate share of the license fees paid by the licensee.

(f) Each separate mobile communications device is subject to the same fees and taxes made applicable to all other Casino gaming receipts.

(g) Operators shall retain and provide Commission agents, upon request, all records pertaining to their mobile gaming systems including, without limitation, all revenue and cash records, end-of-day reports, computer room visitors logs, details of any patron disputes, device or game performance reports, weekly reports, and any other financial or non-financial records or reports required to be provided by the Commission.

4. Failure to comply with any of the requirements set forth in subsection 3 shall be an unsuitable method of operation.

5. Except for subsections 3(f) and 3(g), the Commission may, for good cause shown, waive any of the requirements set forth in this Rule.

6. Operators shall maintain the records required by this section for at least five years after the records are made unless the Commission approves otherwise in writing.

7. Before a wager may be made on a system, a wagering account must be established in accordance with these Rules.

**4.225 Wagering accounts.**

1. Definitions. As used in this section:

- (a) “Director” means the ~~Commission~~-Director of the Arkansas Racing Commission or the Commission’s designee.
- (b) “Licensee” means any person to whom a valid Casino license has been issued.
- (c) “Secure personal identification” means a method of uniquely identifying a patron through which the licensee may verify access to, or use of, a wagering account.
- (d) “Wagering account” means an electronic ledger operated and maintained by a licensee for a patron in connection with the patron’s use and play of any or all authorized games and gaming devices, including, but not limited to, race books, and sports pools, ~~mobile gaming systems, and interactive gaming~~, wherein information relative to such use and play is recorded on behalf of the patron including, but not limited to, the following types of transactions:
  - (1) Deposits;
  - (2) Withdrawals;
  - (3) Debits;
  - (4) Credits;
  - (5) Service or other transaction-related charges authorized by the patron; and
  - (6) Adjustments to the wagering account.

2. Except as otherwise specified in these Rules, as applicable, a licensee shall comply with the provisions of this section for the creation and use of wagering accounts for all forms of wagering.

3. Scope of use of wagering accounts.

- (a) Subject to paragraph (b) of this subsection, a licensee may establish and allow the use of wagering accounts for patrons’ ~~gaming sports wagering~~ activity with any licensed gaming establishment of the licensee ~~and with any affiliate of the licensee~~.
- (b) Before a licensee allows its wagering accounts to be used by patrons in connection with ~~their use and play of games and gaming devices with any other gaming establishment of the licensee or with any affiliate of the licensee~~ placing any wagers on sports events, the licensee must:
  - (1) Submit to the Commission a written proposal for implementation of such wagering accounts that addresses the following:

- (I) The proper reporting of revenue;
- (II) How minimum bankroll requirements will be satisfied;
- (III) How the reserve requirements of this section will be satisfied;
- (IV) Compliance with the Commission's minimum internal control procedures adopted pursuant to these Rules; and
- (V) Any additional items or information as the Commission may require.

(2) Obtain the written administrative approval from the Commission subject to such conditions or limitations that the Commission may impose.

4. Operation and maintenance of wagering accounts by third-parties.

(a) A licensee may use a licensed cash access and wagering instrument service provider or a licensed manufacturer to operate and maintain wagering accounts on behalf of the licensee provided ~~such wagering accounts are within the State of Arkansas.~~ such wagering accounts are used only for purposes of accepting wagers under these Rules from patrons physically present within the State of Arkansas when initiating the wager.

(b) A licensed cash access and wagering instrument service provider or a licensed manufacturer that acts on behalf of a licensee to operate and maintain wagering accounts shall be subject to the provisions of this section applicable to such services to the same extent as the licensee.

(c) A licensee continues to have an obligation to ensure, and remains responsible for compliance with, this Rule, the Amendment and all other Rules of the Commission regardless of its use of a licensed cash access and wagering instrument service provider or a licensed manufacturer to operate and maintain wagering accounts on its behalf.

(d) A licensed cash access and wagering instrument service provider or a licensed manufacturer acting on behalf of a licensee, and with the consent of the licensee and the patron, may use a patron's personal identification information to administer all other wagering accounts created for that patron on behalf of additional licensees.

5. A licensee may create a wagering account for a patron only after it has registered the patron, either remotely or in person, as follows:

(a) Obtained, recorded, and verified:

- (1) The identity of the patron;
- (2) The patron's date of birth;
- (3) The patron's physical address; and
- (4) The patron's social security number, ~~if a United States resident~~ ITIN or equivalent means of identification acceptable to the Commission.

(b) Have the patron affirm:

- (1) That the information provided by the patron to the licensee to open the wagering account is accurate;
- (2) That the patron has reviewed and acknowledged the rules and procedures established by the licensee for use of the wagering account;
- (3) That the patron has been informed of and acknowledged that they are prohibited from allowing any other person not assigned to the wagering account access to or use of their wagering account; and
- (4) That the patron consents to the monitoring and recording by the licensee and the Commission of the use of the wagering account.

(c) Determined that the patron is not on the list of excluded persons.

~~□ A licensee may assign more than one patron to a single wagering account provided that each additional patron is registered as provided herein.~~

6. Once a wagering account is created, a secure personal identification for ~~each~~ the patron authorized to use the wagering account shall be implemented by the licensee that is reasonably designed to prevent the unauthorized access to, or use of, the wagering account by any person other than the patron ~~or patrons~~ for whom the wagering account is established.

~~7. A licensee shall not allow a patron to make any wagers using the wagering account until the patron personally appears before an employee of the licensee at its licensed gaming establishment or at the licensed gaming establishment of its affiliate where the patron presents a government issued picture identification credential confirming the patron's identity.~~

~~7.~~ A licensee shall not allow a wagering account to be created anonymously or in a fictitious name. Patrons may, while using or playing a game or gaming device, represent themselves using a name other than their actual name or may remain anonymous.

~~9~~8. Funds may be deposited by a patron into the patron's wagering account as follows:

- (a) Cash deposits made directly with the licensee;
- (b) Personal checks, cashier's checks, wire transfer and money order deposits made directly or mailed to the licensee;
- (c) Transfers from a patron's safekeeping or front money accounts otherwise held by the licensee;
- (d) Debits from the patron's debit instrument, prepaid access instrument, or credit card;
- (e) Transfers from another account verified to be controlled by the patron through the automated clearing house or another mechanism designed to facilitate electronic commerce transactions;
- (f) Funds derived from the extension of credit to the patron by the licensee; or
- (g) Any other means approved by the Commission.

~~10~~9. Funds may be withdrawn by a patron from their wagering account as follows:

- (a) Issuance of cash directly to the patron by the licensee;
- (b) Issuance of a personal check, cashier's check, money order, or wire transfer by the licensee made payable to the patron and issued directly or mailed to the patron;
- (c) Transfers to the patron's safekeeping or front money accounts held by the licensee;
- (d) Credits to the patron's debit instrument, prepaid access instrument, or credit card;
- (e) Transfers to another account verified to be controlled by the patron through the automated clearing house or another mechanism designed to facilitate electronic commerce transactions;
- (f) As repayment of outstanding credit owed by the patron to the licensee; or
- (g) Any other means approved by the Commission.

~~11~~10. Credits to a wagering account may be made by the following means:

- (a) Deposits;
- (b) Amounts won by the patron;

- (c) Transfers from a game or gaming device;
- (d) Promotional credits, or bonus credits provided by the licensee and subject to the terms of use established by the licensee and as long as such credits are clearly identified as such;
- (e) Adjustments made by the licensee following the resolution of a dispute; or
- (f) Any other means approved by the Commission.

~~12~~11. Debits to a wagering account may be made by the following means:

- (a) Withdrawals;
- (b) Amounts wagered by the patron;
- (c) Transfers to a game or gaming device;
- (d) Adjustments made by the licensee following the resolution of a dispute;
- (e) Service or other transaction-related charges authorized by the patron; or
- (f) Any other means approved by the Commission.

~~13~~12. Unless there is a pending unresolved player dispute or investigation, a licensee shall comply with a request for a withdrawal of funds by a patron from the patron's wagering account in accordance with the terms of the wagering account agreement between the licensee and its patron.

~~14~~13. A licensee shall not allow a patron to electronically transfer funds from their wagering account to any other patron's wagering account.

~~15~~14. A licensee shall not allow a wagering account to be overdrawn unless caused by payment processing issues outside the control of the licensee.

~~16~~15. A licensee shall suspend a wagering account if the wagering account has not been used to make any wagers for a consecutive 16-month period. The licensee may re-activate a suspended wagering account only after re-verifying the information required by this Rule and upon the patron presenting a current government issued picture identification credential.

~~17~~16. A licensee shall record and maintain, for a period of at least 5 years after creation, the following in relation to a wagering account:

- (a) All information used by the licensee to register a patron and create the wagering account pursuant to this Rule;
- (b) The method used to verify the information provided by a patron to establish the wagering account, including a description of the identification credential provided by a patron to confirm their identity and its date of expiration;
- (c) The date and time the wagering account is opened and terminated;
- (d) The date and time the wagering account is accessed by any person, including the patron or the licensee;
- (e) All deposits, withdrawals, credits and debits; and
- (f) The patron's account number.

~~18~~17. Responsible Gambling.

(a) Licensees shall ensure that its patrons have the ability to select responsible gambling options associated with their wagering account that include deposit limits establishing the amount of total deposits a patron can make to their wagering account within a specified period of time.

(b) Licensees shall conspicuously display and make available to patrons, upon access to their wagering account, the following responsible gambling message:

[Licensee's name] encourages you to gamble responsibly. If you or someone you know has a gambling problem, assistance is available by calling or texting 1-800-522-4700, chatting online via <http://www.ncpgambling.org/help-treatment/chat/> or visiting the National Council on Problem Gambling Services website at <http://www.ncpgambling.org>. ~~For problem gambling information and assistance, call~~

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The Licensee may modify the foregoing message by inserting any other problem gambling hotline number and/or website approved for such purpose by the Commission.

□ If either the helpline number or website address changes, the Commission may administratively approve the use of an alternative helpline number or website address.

~~19~~18. Each licensee that offers wagering accounts shall adopt, conspicuously display, make available, and adhere to written, comprehensive rules governing wagering account transactions. Such rules must include, at a minimum, the following:

(a) That the licensee's house rules apply to wagering accounts, as applicable.

(b) That the licensee shall provide each patron, upon reasonable request and consistent with its internal control policies, with a statement of account showing each wagering account deposit, withdrawal, credit, and debit made during the time period reported by the account statement. The patron may dispute any transaction in accordance with these Rules.

(c) That for all wagers, the licensee is required to make a voice, print, electronic or other approved record of the entire transaction and shall not accept any such wager if the recording system is inoperable. The licensee's record of a patron's confirmation of all wagers shall be deemed to be the transaction of record. Such records are made available to the Commission upon request.

(d) That the licensee has the right to;

(1) Refuse to establish a wagering account for what it deems good and sufficient reason;

(2) Refuse deposits to wagering accounts for what it deems good and sufficient reason;

(3) Refuse to accept all or part of any wager for what it deems good and sufficient reason;

(4) Declare that any or all wagers will no longer be received; and

(5) Unless there is a pending Commission investigation or patron dispute, suspend or close any wagering account at any time pursuant to the terms of the agreement between the licensee and the patron, provided, however, when a wagering account is closed, the licensee shall immediately return the balance of the wagering account at the time of said action, subject to compliance with these Rules, the licensee's house rules, and federal and state laws and regulations, by sending a check to the patron's address of record or as otherwise provided pursuant to the terms of the wagering account agreement; and

(e) That the licensee shall keep confidential, except from the Commission, except from financial institutions participating in a program established in accordance with Section 314(b) of



the USA Patriot Act, except as required by state or federal law, except from the licensee's service providers, or except as otherwise authorized by the patron, the following:

- (1) The amount of money credited to, debited from, or present in any particular patron's wagering account;
- (2) The amount of money wagered by a particular patron on any game or gaming device;
- (3) The account number and secure personal identification method that identifies the patron;
- (4) The identities of particular entries on which a patron is wagering or has wagered; and
- (5) The name, address, and other information in the possession of the licensee that would identify the patron to anyone other than the Commission or the licensee.

(f) That the licensee shall disclose its policy regarding the acceptance of personal checks, cashier's checks, wire transfers, money orders, debit instruments, credit cards and electronic transfers of money to the patron.

Prior to adopting or amending such wagering account rules, a licensee shall submit them to the Commission for approval.

#### 2019. Reserve requirements for licensees.

(a) A licensee shall maintain a reserve in the form of cash, cash equivalents, an irrevocable letter of credit, a bond, or a combination thereof for the benefit and protection of patrons' funds held in wagering accounts. The reserve may be maintained by a licensee's holding company and may be combined as a single amount for all patrons' funds held in wagering accounts maintained by the licensee and its affiliate licensees.

(b) The amount of the reserve shall be not less than the greater of \$25,000 or the sum of all patrons' funds held in the wagering accounts. Amounts available to patrons for play that is not redeemable for cash may be excluded from the reserve requirement. In calculating the sum of all patrons' funds held in wagering accounts when such wagering accounts are used for multiple types of wagering, these Rules, as applicable, shall not be construed to require the tallying of such patrons' funds more than once.

(c) If a reserve is maintained in the form of cash, cash equivalent, or an irrevocable letter of credit, it must be held or issued, as applicable, by a federally-insured financial institution. If the reserve is maintained in the form of a bond, it must be written by a bona fide insurance carrier. The reserve must be established pursuant to a written agreement between the licensee and the financial institution or insurance carrier, but the licensee may engage an intermediary company or agent acceptable to the Commission to deal with the financial institution or insurance carrier, in which event the reserve may be established pursuant to written agreements between the licensee and the intermediary and between the intermediary and the financial institution or insurance carrier.

(d) The agreements described in paragraph (c) of this subsection must reasonably protect the reserve against claims of the licensee's creditors other than the patrons for whose benefit and protection the reserve is established, and must provide that:

- (1) The reserve is established and held in trust for the benefit and protection of patrons to the extent the licensee holds money in wagering accounts for such patrons;
- (2) The reserve must not be released, in whole or in part, except to the Commission on the written demand of the Commission or to the licensee on the written instruction of the Commission. The reserve must be available within 60 days of the written demand or written notice. The licensee

may receive income accruing on the reserve unless the Commission instructs otherwise pursuant to paragraph (k) of this subsection;

(3) The licensee has no interest in or title to the reserve or income accruing on the reserve except to the extent expressly allowed in this subsection;

(4) Arkansas law and this subsection govern the agreements and the licensee's interest in the reserve and income accruing on the reserve;

(5) The agreements are not effective until the Commission's approval has been obtained pursuant to paragraph (e) of this subsection; and

(6) The agreements may be amended only with the prior, written approval of the Commission.

(e) Each licensee shall submit to the Commission all information and copies of all documents relating to its proposed reserve arrangement, including copies of the agreements described in paragraphs (c) and (d) of this subsection, and must obtain the Commission's approval of the agreements and of the reserve arrangements generally. The Commission shall determine whether the agreements and arrangements satisfy the purposes and requirements of this subsection, may require appropriate changes or withhold approval if they do not, and shall notify the licensee of the determination. Amendments to reserve agreements or arrangements must be approved in the same manner.

(f) A licensee must calculate its reserve requirements each day. In the event a licensee determines that its reserve is not sufficient to cover the calculated requirement, the licensee must, within 24 hours, notify the Commission of this fact in writing and must also indicate the steps the licensee has taken to remedy the deficiency.

(g) Each licensee must engage an independent certified public accountant to examine the pertinent records relating to the reserve each month and determine the reserve amounts required by this subsection for each day of the previous month and the reserve amounts actually maintained by the licensee on the corresponding days. The licensee shall make available to the accountant whatever records are necessary to make this determination. The accountant shall report the findings with respect to each day of the month under review in writing to the Commission and the licensee no later than the ~~tenth~~-fifteenth day of the next month. The report shall include the licensee's statement addressing each day of noncompliance and the corrective measures taken.

(h) The report described in paragraph (g) of this subsection may be prepared by an employee of the licensee that is independent of the gaming operations if written approval has been received from the Commission.

The report must contain the signature of an employee attesting to the accuracy of the submitted information.

(i) If the Commission is notified pursuant to paragraph (f) of this subsection, or the report described in paragraph (g) of this subsection indicates that at any time during the month under review the amount of the

reserve did not meet the requirements of this section, the Commission may instruct the book to either increase the reserve accordingly or cease accepting wagers and money for the account of patrons until such time as the reserve meets the requirements of this subsection and is confirmed to the Commission's satisfaction. The Commission may demand that this reserve be increased to correct any deficiency or for good cause to protect patrons.

(j) If the reserve exceeds the requirements of this subsection, the Commission shall, upon the licensee's written request, authorize the release of the excess.

(k) When a licensee ceases operating and its license lapses, is surrendered, or is revoked, the Commission may demand payment of the reserve, any income accruing on the reserve after operations cease, and, if

instructions from the Commission that income accruing on the reserve not be paid to the licensee are in effect when operations cease, any income accruing since the instructions took effect. The Commission may interplead the funds in state district court for distribution to the patrons for whose protection and benefit the reserve was established and to such other persons as the court determines are entitled thereto, or shall take such other steps as are necessary to effect the proper distribution of the funds, or may do both.

(l) As used in this subsection, “month” means a calendar month unless the Commission requires or approves a different monthly period to be used for purposes of this subsection, in which case “month” means the monthly period so required or approved.

2120. Upon written request and good cause shown, the Commission may waive one or more of the requirements of this Rule. If a waiver is granted, the Commission may impose alternative requirements.