

New York Legalizes Mobile Sports Wagering

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After months of suspenseful back-and-forth, the New York state legislature and Governor Andrew Cuomo have finally agreed upon legislation legalizing mobile sports betting throughout the state. The legislation is part of the broader 2022 budget bill, which lawmakers passed in early April and Governor Cuomo is expected to sign in the coming days. [Note: Following the original publication of this alert, on April 19, 2021, Governor Cuomo signed the 2022 budget legislation into law.]

Regulatory Framework

Under the new law, mobile sports betting will be governed by the New York State Gaming Commission (the Commission), which shall issue mobile sports betting licenses to just two "platform providers" selected through a competitive bidding process. The legislation gives the Commission the option to issue additional platform provider licenses in the future if doing so is "in the best interest[] of the state."

A platform provider's "score" in the competitive bidding process will depend largely upon the amount of revenue tax the provider is willing to pay to the state. The legislation sets a minimum revenue tax rate of 12% to be paid "at least monthly," but indicates that the ultimate tax rate providers will pay shall be determined "through the competitive bidding process." The platform providers selected by the Commission will be required to pay a \$25 million dollar license fee and must renew their license every ten years.

The legislation authorizes licensed platform providers to partner with mobile sports wagering skin operators (referred to in the bill as "mobile sports wagering operators"), and in fact expressly requires that "no less than four" mobile sports wagering skins be operational in the state. The law imposes a separate license requirement upon skin operators, but does not provide details concerning the cost/duration of said license.

The law also imposes a number of operating requirements upon platform providers and skin operators. Perhaps most notably, it requires licensed platform providers to house their sports betting servers and related equipment on the physical premises of a state-licensed gaming facility, and to pay an annual \$5 million housing fee to said facility. The law also requires platform providers and skin operators to enact safeguards to (i) ensure that individuals placing bets on the platform are physically located within New York state; (ii) limit each individual bettor to a single active account on the platform; and (iii) prevent "prohibited bettors" (including the employees of any licensee or their family members) from participating in sports wagering on the platform.

Additionally, the law requires platform providers and skin operators to submit detailed annual reports to the State Gaming Commission and grants the Commission the authority to conduct financial audits.

Timeline for Online Betting

Assuming the Commission follows the timeline set forth in the legislation, online sports betting in New York state will likely launch sometime during the fourth quarter of 2021. The law provides that the Commission shall issue a request for bids from platform providers by July 1, 2021, and that all submissions shall be due within thirty days of the Commission's request. The law also indicates that the Commission shall select the two winning platform providers "no later than one hundred fifty days, to the extent practicable, after the final application is received."

If you have questions or would like more information, please contact Zachery B. Roth (rothz@whiteandwilliams.com; 215.864.6274) or Joshua G. Galante (galantej@whiteandwilliams.com; 212.868.4836).

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