

New York Gaming Facility Location Board

ERRATUM

A Notice of Proposed Rule Making, I.D. no. GFB-04-23-00001-P, pertaining to **Minimum Capital Investment for Additional Gaming Facility**, published in the January 25, 2023 issue of the *State Register*, contained the full rule text proposed to be deleted and the full rule text proposed to be added to section 602.1 of Title 9 NYCRR. While the language proposed for deletion was correctly enclosed in brackets, language proposed for addition was inadvertently published without italics. The full text of the rule is printed below, as originally intended, with text proposed for deletion appearing in brackets and text proposed for addition appearing in italics.

Text of proposed rule: § 602.1. Gaming facility minimum capital investment.

(a) *Title 2 licensees. For a gaming facility licensed pursuant to Racing, Pari-Mutuel Wagering and Breeding Law Article 13, Title 2, the [The] minimum capital investment for a gaming facility by zone and region, as such zone and regions are defined in Racing, Pari-Mutuel Wagering and Breeding Law section 1310, shall be:*

[(a)] (1) In Zone Two, Region One (Counties of Columbia, Delaware, Dutchess, Greene, Orange, Sullivan and Ulster)[, as such zone and region are defined in section 1310 of the Racing, Pari-Mutuel Wagering and Breeding Law];

[(1)] (i) \$350,000,000 for a gaming facility in Dutchess or Orange Counties;

[(2)] (ii) \$130,000,000 for a gaming facility in Columbia, Delaware, Greene, Sullivan or Ulster Counties, if no license is awarded for a gaming facility located in Dutchess or Orange Counties; and

[(3)] (iii) \$100,000,000 for a gaming facility in Columbia, Delaware, Greene, Sullivan or Ulster Counties, if a license is awarded for a gaming facility located in Dutchess or Orange Counties.

[(b)] (2) \$135,000,000 in Zone Two, Region Two (Counties of Albany, Fulton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie and Washington)[, as such zone and region are defined in section 1310 of the Racing, Pari-Mutuel Wagering and Breeding Law].

[(c)] (3) In Zone Two, Region Five (Counties of Broome, Chemung (east of State Route 14), Schuyler (east of State Route 14), Seneca, Tioga, Tompkins, and Wayne (east of State Route 14))[, as such zone and region are defined in section 1310 of the Racing, Pari-Mutuel Wagering and Breeding Law, the following fees will apply to counties as designated below]:

[(1)] (i) \$85,000,000 for a gaming facility in Broome, Chemung, Schuyler, Tioga or Tompkins Counties;

[(2)] (ii) \$135,000,000 for a gaming facility in Wayne or Seneca Counties; and

[(3)] (iii) \$70,000,000 for a gaming facility in Broome, Chemung, Schuyler, Tioga or Tompkins Counties, if a license is awarded for a gaming facility located in Wayne or Seneca Counties.

(b) *Title 2-A licensees. For a gaming facility licensed pursuant to Racing, Pari-Mutuel Wagering and Breeding Law Article 13, Title 2-A, the minimum capital investment for a gaming facility shall be \$500,000,000.*

Department of Health

EMERGENCY RULE MAKING

Investigation of Communicable Disease

I.D. No. HLT-06-23-00010-E

Filing No. 85

Filing Date: 2023-01-24

Effective Date: 2023-01-24

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Part 2, section 405.3; addition of section 58-1.14 to Title 10 NYCRR.

Statutory authority: Public Health Law, sections 225, 576 and 2803

Finding of necessity for emergency rule: Preservation of public health.

Specific reasons underlying the finding of necessity: Where compliance with routine administrative procedures would be contrary to public interest, the State Administrative Procedure Act (SAPA) § 202(6) empowers state agencies to adopt emergency regulations necessary for the preservation of public health, safety, or general welfare. In this case, compliance with SAPA for filing of this regulation on a non-emergency basis, including the requirement for a period of time for public comment, cannot be met because to do so would be detrimental to the health and safety of the general public.

New York continues to experience significant community levels of COVID-19 disease with very densely populated areas at “high” and many highly populated counties at “medium.” New York still has a 7-day average of over 3,400 cases per day, and over 2,700 people in the hospital affected by COVID each day. Regrettably, New York still averages 31 deaths per day associated with COVID-19.

Severe Acute Respiratory Syndrome Coronavirus -2 (SARS-CoV2) still mutates, although the current dominant strain is BQ1, a subvariant of Omicron, new more contagious variants continue to emerge, with CH1 the latest to emerge in New York and the country. The threat from emerging variants includes their unknown virulence affecting morbidity and mortality. It is also unknown how well existing vaccines or pharmacotherapeutics will protect against emerging variants.

New York is currently experiencing widespread Influenza cases and hospitalizations. Review of the Weekly Surveillance Report, week ending November 19, 2022 demonstrate this increase. Influenza, (Flu), has multiple strains, currently, in New York, Flu A, H3 strain is more common and has arrived much earlier than preceding years. Cases of Flu are increasing all over the state with largest increases currently in the Western Region. The increase of Flu, along with COVID and other respiratory viruses has presented undue stress on the health care system in the state.

New York is also addressing the impact of Ebola Virus Disease, Sudan strain and the impact on the country. New York is at higher risk, since although there are only 5 airports where individuals from the affected area arrive in the United States, two of these airports (JFK and Newark) are in the greater metropolitan New York area. At present, over 350 people have been screened and over 50 people are being monitored; however, there are currently no active cases.

Furthermore, as stated in the declaration of the State disaster emergency Executive Order 21, a polio outbreak has affected multiple counties in the State of New York, with one paralytic case and detections of genetically related virus in six counties, indicating circulation and transmission of the virus likely in hundreds of people.

The emergency regulations are needed to continue requiring clinical laboratories to report all test results, including negative and indeterminate results, for communicable diseases such as COVID-19, polio and Ebola; mandate hospitals to report syndromic surveillance data; and permit the Commissioner to direct hospitals to take patients during a disease outbreak such as COVID-19 or Ebola.

Based on the ongoing burden of multiple outbreaks seen across the state, the Department has determined that these regulations are necessary to promulgate on an emergency basis to control the spread of highly contagious communicable diseases in New York State. Accordingly, current circumstances necessitate immediate action, and pursuant to the State Administrative Procedure Act Section 206(6), a delay in the issuance of these emergency regulations would be contrary to public interest.

Subject: Investigation of Communicable Disease.

Purpose: Control of communicable disease.

Text of emergency rule: Subdivision (a) of section 2.1 is amended to read as follows:

(a) When used in the Public Health Law and in this Chapter, the term infectious, contagious or communicable disease, shall be held to include the following diseases and any other disease which the commissioner, in the reasonable exercise of his or her medical judgment, determines to be communicable, rapidly emergent or a significant threat to public health, provided that the disease which is added to this list solely by the commissioner's authority shall remain on the list only if confirmed by the Public Health and Health Planning Council at its next scheduled meeting:

* * *

[Monkeypox] Mpox

* * *

Section 2.5 is amended to read as follows:

A physician in attendance on a person affected with or suspected of being affected with any of the diseases mentioned in this section shall submit to an approved laboratory, or to the laboratory of the State Department of