

**GAMING MANUFACTURERS' AND SUPPLIERS'
DESK REFERENCE FOR
OBTAINING LICENSES IN THE NORTHEAST**



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INTRODUCTION

When taken as a whole, the northeast gaming market is as large as Nevada and is growing with facilities opening in Pennsylvania, proposed projects in New Jersey and the possibility of gaming in Maryland. As a gaming manufacturer or supplier, you may wish to expand into these markets; however, the numerous rules and regulations for licensing in each of the markets can be confusing and time consuming to decipher. The purpose of this booklet is to provide you with general information to consider when deciding whether to seek a license in the northeast.

DO THE MANUFACTURERS OF GAMING EQUIPMENT AND THEIR SUPPLIERS NEED TO HOLD A LICENSE?

The general rule is that the manufacturer of gaming equipment as well as the supplier must hold a license. Also, if an entity manufactures a component part that is considered gaming equipment, that entity may also need to file for a manufacturer's license. So, in addition to considering whether your supplier must hold a license, it is important to consider what component parts are not manufactured by the company and whether they are considered gaming equipment requiring the manufacturer of the part to hold a license. Some examples of component parts that require the part manufacturer to hold a license are hoppers, reel mechanisms and progressive controllers.

WHAT IF THERE IS A LICENSE AGREEMENT BETWEEN THE COMPANY PROVIDING THE SOFTWARE AND THE MANUFACTURER OF THE EQUIPMENT?

Many manufacturers are suggesting a license agreement between the creator of the game and developer of the software and the entity that actually manufactures the gaming equipment. The question often becomes does the creator also need to hold a manufacturer's license. The answer is maybe. Whether the creator must hold a license depends upon the type of agreement between the parties and the licensing jurisdiction in question. To generalize, for the creator of the game not to be required to hold a license, the creator must give up all control over the software, and the source code must be within the control of the manufacturer.

DO INVESTORS IN THE COMPANY HAVE TO FILE FOR LICENSURE?

In New Jersey and Pennsylvania, the rule is any holder of a five percent (5%) or greater beneficial interest must file for licensure, as well as that entity's owners, officers, directors and key employees. In Connecticut, the threshold is ten percent (10%). This means unless structured properly, an entity with an equity interest in your company for investment purposes may have to file for qualification. Certain exceptions exist for institutional investors as defined by the various gaming acts. A non-institutional investor may not have to file for licensure if the transaction is properly structured. Licensing requirements should be reviewed when entering the transaction, so that issues do not arise later when you are trying to obtain a license.

WHAT IS THE COST OF FILING?

The cost depends upon the jurisdiction and the extent of application. The New Jersey license application fee is \$5,000 due at the time of filing the application. If the hours that the New Jersey Casino Control Commission's (CCC) and Division of Gaming Enforcement's (DGE) professional staff spend on the application exceed 333 hours, an additional \$5,000 will be charged. A third \$5,000 will be charged if the CCC's and DGE's professional staff spend more than 667 hours. After 667 hours, the applicant will be charged an hourly rate. All out-of-pocket expenses are also charged to the applicant. The initial license term is two years, and it can then be renewed for a subsequent four-year term. There is no separate license fee beyond the application fees and investigation costs.

The Pennsylvania license application fees depend upon the number of individuals and key employees, but would be a minimum of \$5,000 due at the time of filing the application. Application fees are a deposit toward the investigation fees, and all additional investigation fees must be paid by the applicant. There is also a license fee upon issuance of the license of \$25,000 for suppliers for the first year and \$50,000 for manufacturers. There is a yearly renewal requirement and the license application fees are similar. The license issuance fee drops to \$10,000 for suppliers and \$25,000 for manufacturers for the renewal period.



In Connecticut, it depends upon the Tribe. Mohegan Sun does not charge a license fee. There is a \$5,000 fee for submission of the license application to Mashantucket Pequot Tribe (Foxwoods). The supplier or manufacturer is not charged the investigation fee but the Connecticut Division of Special Revenue (CTDSR) does charge the Tribe the investigation costs. This is subject to change as the CTDSR recently announced it will be directly licensing all manufacturers and suppliers of gaming equipment and will no longer rely on New Jersey licenses.

HOW LONG WILL OUR APPLICATION TAKE?

The length of time a jurisdiction takes to process the license application depends upon the jurisdiction, the extent of the application and the work load of the regulatory authority. A minimum amount of time would be six months, but applications can take as long as two years to process.

In New Jersey, once a license application is deemed complete, been on file for 30 days, and the gaming equipment is approved, a manufacturer and supplier can sell equipment to a casino licensee under what is known as a “transactional waiver petition.” This is a petition process whereby the CCC, with the consent of the DGE, approves a particular transaction between a casino licensee and the license applicant prior to the license being issued.

Connecticut also has an accelerated license process. The Connecticut Division of Special Revenue (CTDSR) will issue an accelerated license if the application is on file, complete and a preliminary investigation is concluded. The Tribal Gaming Authority must ask for the accelerated registration and show good cause to the CTDSR of why the accelerated license should be granted.

New York also has a temporary authorization after an initial review, which is similar to the process in Connecticut.



The Pennsylvania Gaming Control Board does not issue temporary licenses and, depending upon the extent of the application, it can take six months to over one year for the entity and individuals to be investigated and the license to be issued. During this one-year time frame, the Pennsylvania Gaming Control Board's gaming laboratory can review the equipment for compliance with its regulations.

IS THERE RECIPROCITY BETWEEN THE GAMING AUTHORITIES?

Generally, there is not reciprocity between gaming authorities. The Connecticut compacts with the Tribe does permit an exemption from licensure for manufacturers and/or suppliers of gaming equipment once a New Jersey Casino Control Commission license is issued. However, the Connecticut Division of Special Revenue has recently advised that it will no longer be issuing exemptions based on the New Jersey license and will be making all gaming equipment manufacturers and suppliers file for licensure.

The Puerto Rico Tourism Commission permits the issuance of a temporary license after the filing of a short application, a fee of \$500 and confirmation of the filing of an application in New Jersey.

IS MY APPLICATION CONFIDENTIAL?

Most gaming jurisdictions have statutory provisions that provide that the information filed with the gaming authority as well as information obtained by the investigators during the course of the investigation is confidential, except for very limited exceptions. The exceptions are normally: lawful orders of a court; that the matter is in controversy and goes to a public hearing; or release to a duly authorized law enforcement agency with the approval of the Attorney General. The gaming authorities are conscientious in ensuring that the information is kept confidential, and some jurisdictions have specific penalties for unauthorized release.

WHO REVIEWS AND APPROVES THE GAMING EQUIPMENT?

In New Jersey and Pennsylvania, gaming equipment must be submitted to the state gaming laboratory for review and approval. After a license application is on file and deemed complete, the manufacturer may submit the equipment for review. It is often helpful that while the license investigation is ongoing, the review of the equipment is also occurring so that the license application and equipment can receive simultaneous approval.

Connecticut, New York and Puerto Rico utilize the services of an outside laboratory and approvals from other jurisdictions can be transferred.



ABOUT THE AUTHOR:

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