



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Financial Officer
Office of Lottery and Gaming



INTERPRETIVE GUIDANCE

Number: 22-001

Subject: Application of Certain Sports Wagering Class B Operator Requirements Under 30 DCMR § 30 DCMR § 2102.12

Issue Date: January 18, 2022

Summary

The Office of Lottery and Gaming (“Office”) is issuing interpretive guidance to clarify licensing requirements applicable to Class B sports wagering operator applicants. This guidance does not establish any new regulatory expectations or requirements. Rather, it is intended to assist potential applicants in understanding the impact of certain emerging business models whereby they must offer something other than just sports wagering products and/or services.

Recent inquiries indicate there is some confusion or uncertainty as to whether 30 DCMR § 2102.12 applies to either the Class B applicant or the proposed sports wagering facility. As stated herein, the Office interprets the regulation to mean an applicant cannot solely be a sports wagering operator to qualify for a Class B Operator license.

The Rule

30 DCMR § 2102.12 states the following: “A Class B Operator License shall [not]¹ be issued to any person to engage in business solely as a Sports Wagering Operator.”

Issue

Whether § 2102.12 applies to the Class B sports wagering applicant or the Class B sports wagering facility?

Authority

The Sports Wagering Lottery Amendment Act of 2018, effective May 3, 2019, (D.C. Law 22-312; 66 DCR 1402)² (“Act”) which legalized sports wagering in in the District of Columbia (“District”)

¹ The published version of the § 2102.12 contained a clerical error that omitted the word “not.”

² The Act amended the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981, (D.C. Law 3-172; D.C. Official Code §§ 36-601.06-641.21).

designated the Office as the regulator of privately-operated sportsbooks. The Office was further granted broad rulemaking authority³ to issue rules and regulations to implement the Act and ensure compliance oversight of sports wagering in the District.

Exercising this authority, the Office is issuing the guidance contained herein to clarify § 2102.12.

Background

The Act legalized sports wagering in a very defined manner. Starting with Class A licenses that are confined to four sports arenas/stadiums (Capital One Arena, Nationals Park, Audi Field and St. Elizabeths East Entertainment and Sports Arena). In doing so, a licensed Class A sportsbook will be imbedded in an existing business that offers other entertainment as well as food and beverage services. Section 2102.12 does not apply to Class A licensees nor is there any equivalent section.

While there is no limit to the number of Class B licenses that can be issued, there are certain limitations, excluding § 2102.12, as follows:

- A Class B Operator cannot be located within a Class A Sports Wagering Facility or within the two (2) block exclusivity zone afforded to Class A Sports Wagering Facility; and
- A Class B Operator cannot be located within any area where sports wagering is prohibited by federal or District law.

Since the Office began accepting sports wagering license applications, Class B license applicants have proposed business models whereby the bar/restaurant partners with an experienced sports book operator. The bar/restaurant applies for the Class B Operator license and the experienced sportsbook operator applies for a Sports Wagering Management Services Provider (MSP) license. As the Class B Operator licensee, the bar/restaurant is offering both sports wagering as well as food, beverage and potentially other products/services. Conversely, the MSP is typically providing the sports wagering platform, equipment, training and related matters to support the Class B Operator licensee. In these types of arrangements, the bar/restaurant qualifies for a Class B Operator license as they meet, among other criteria, the requirement under § 2102.12. They are not solely in the Sports Wagering Operator business.

New Proposed Business Model

Recently, the Office has been approached as to whether certain proposed business models qualify for licensure given the language contained in § 2102.12. For illustrative purposes, the following type of business model was recently proposed though variations can be inferred:

- A Certified Business Enterprise (CBE) forms a joint venture with a sports wagering operator. The joint venture would sign a lease agreement with an established sports bar/restaurant. The lease agreement would require a flat fee payment by the joint venture.

³ D.C. Official Code §§ 36-601.06 and 621.02

The bar/restaurant would not receive any sports wagering revenue. In return for the lease payment, the joint venture would receive space at the bar/restaurant to offer any one or combination of the following:

- Self-service betting terminals (kiosks);
- Cash deposit kiosks;
- In-person betting windows; and/or
- Mobile APP.

The kiosks, betting windows and mobile APP would be managed/services by the joint venture. Under this model, the bar/restaurant would not be required to obtain a sports wagering license.

While the Office has not deemed the structure of this business model for operating a sportsbook as inappropriate, it does not meet the requirements of § 2102.12.

Analysis

The plain reading of § 2102.12 indicates, it is directed at the applicant not the facility. Specifically, it states that a license will not be issued to any person [applicant] to engage in business “solely as a Sports Wagering Operator.” Nowhere in § 2102.12 is there a reference to the sports wagering facility. Accordingly, applying § 2102.12 to the sports wagering facility would be unsupported of its direct, literal, wording.

Applying § 2102.12 to the applicant, the proposed joint venture illustrated above would not qualify for a Class B Sports Wagering Operator license as it would solely be in the business of sports wagering. This determination would not change should the bar/restaurant require licensing due to receiving a share in the sports wagering gross gaming revenue. Revenue sharing agreements may trigger MSP licensing requirements for the bar/restaurant, but it does not change the status of the joint venture. It would still be solely in the business of a sports wagering operator.

Conclusion

For the foregoing reasons, the Office shall apply § 2102.12 to the applicant and will not approve them for a Class B Operator license, if they are engaged solely in the business of a sports wagering operator. The Office understands that sports wagering is still a new market in the District and will consider other business models in light of the interpretation contained herein.