

TITLE 20-A
CHAPTER 1

SHIPBOARD GAMBLING

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§20-950 Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

- a. "Affiliate" shall mean (i) a business entity in which twenty-five percent or more is owned, or is subject to a power or right of control or a power to vote, or is managed by, a shipboard gambling business, or (ii) a business entity that owns twenty-five percent or more of a shipboard gambling business, or that exercises a power or right of control or a power to vote over twenty-five percent or more of a shipboard gambling business, or that manages a shipboard gambling business.
- b. "Applicant" shall mean, if a business entity submitting an application for a license pursuant to this chapter, the entity and each principal thereof; if an individual submitting an application for a license, certificate of approval or registration pursuant to this chapter, such individual.
- c. "Business entity" shall mean a corporation, partnership, limited liability company, individual or sole proprietorship.

d. "Certificate of approval" shall mean a certificate issued by the commission pursuant to the provisions of this chapter approving the employment in a shipboard gambling business of a gambling employee or agent.

e. "Commission" shall mean the New York city gambling control commission established pursuant to section 20-951 of this chapter.

f. "Gambling" shall mean any contest, game, gaming scheme or other activity in which a person stakes or risks something of value upon the outcome of a contest involving an element of chance or a future contingent event not under his or her control or influence, upon the understanding that he or she will receive something of value in the event of a certain outcome.

g. "Gambling device" shall mean a slot machine or any other machine or mechanical device which when operated may deliver or entitle a person to receive, as the result of the application of an element of chance, any money or property.

h. "Gambling employee or agent" shall mean a person employed in a shipboard gambling business who is not a key employee or agent and whose duties include (i) the conduct, operation or facilitation of gambling, whether or not involving the use of a gambling device; or (ii) the repair or maintenance of a gambling device. "Gambling employee or agent" shall include, but not be limited to, boxmen, dealers or croupiers, floormen, gambling machine mechanics, casino security personnel, count room personnel, cage personnel, slot machine and slot booth personnel, collection personnel, casino surveillance personnel and data processing personnel. "Gambling employee or agent" may also include any other category of persons identified by rule of the commission whose duties require regular presence in the area or areas of a vessel in which gambling takes place or for whom the commission determines a certificate of approval is appropriate and necessary to effectuate the purposes of this chapter. The job categories specified in such rule shall not include categories of employees, without limitation, such as kitchen personnel, food and beverage servers or vessel's crew, that are not involved in gambling operations.

i. "Key employee or agents" shall mean a person employed in a shipboard gambling business in a supervisory or managerial capacity or empowered to make discretionary decisions regarding such business, including, but not limited to, pit bosses, shift bosses, credit executives, casino cashier supervisors, casino facility managers and assistant managers and managers or supervisors of gambling employees or agents. Key employees shall also include any other category of persons identified by rule of the commission for which the commission determines licensure as a key employee is appropriate and necessary to effectuate the purposes of this chapter.

j. "License" shall mean a shipboard gambling license, a key employee license or a key vendor license issued by the commission pursuant to the provisions of this chapter.

k. "Parent business" or "parent business entity" shall mean a business entity that owns fifty percent or more of another business entity, or that has a power or right of control or power to vote over fifty percent or more of such business entity, or that manages such other business entity.

l. "Principal" shall mean, of a sole proprietorship, the proprietor; of a corporation, every officer and director and every stockholder holding ten percent or more of the outstanding shares of the corporation; of a partnership, all the partners; if another type of business entity, the chief operating officer or chief executive officer, irrespective of organizational title, and all persons or entities having an ownership interest of ten percent or more. Where a partner or stockholder holding ten percent or more of the outstanding shares of a corporation is itself a partnership or a corporation, the term "principal" shall also include the partners of such partnership or the officers, directors and stockholders holding the equivalent of ten percent or more ownership interest of the applicant business. For the purposes of this chapter: (1) an individual shall be considered to hold stock in a corporation where such individual participates in the operation of or has a beneficial interest in such corporation and such stock is owned directly or indirectly by or for (i) such individual, (ii) the spouse or domestic partner of such individual (other than a spouse who is legally separated from such individual pursuant to a judicial decree or an agreement cognizable under the laws of the state in which such individual is domiciled), (iii) the children, grandchildren and parents of such individual or (iv) a corporation in which any of such individual, the spouse, domestic partner, children, grandchildren or parents of such individual in the aggregate own fifty percent or more in value of the stock of such corporation; (2) a partnership shall be considered to hold stock in a corporation where such stock is owned, directly or indirectly, by or for a partner in such partnership; and (3) a corporation shall be considered to hold stock in a corporation that is an applicant as defined in this section where such corporation holds fifty percent or more in value of the stock of a third corporation that holds stock in the applicant corporation. Notwithstanding any other provision of this subdivision, where there is reasonable cause to believe that any owner, officer or director of a business entity with an interest in an applicant business not otherwise within the scope of this subdivision lacks good character, honesty and integrity, the commission may designate such person as a principal for the purposes of sections 20-954, 20-955, 20-956 and 20-959 of this chapter.

m. "Registrant" shall mean a service employee or agent or an auxiliary vendor who has registered with the commission pursuant to the provisions of this chapter.

n. "Service employee or agent" shall mean a person employed in a shipboard gambling business who is not a key employee or agent or a gambling employee or agent.

o. "Shipboard gambling business" shall mean a business in which passengers are transported for the purpose of participating in gambling outside the territorial waters of the United States from a location within New York city and returned to a location within such city; provided that a business shall not be deemed a shipboard gambling business for purposes of this chapter where the gambling cruises or the gambling activities aboard such cruises operated by or on behalf of such business are conducted or proposed to be conducted no more than two times a year or every cruise operated by such business during which gambling activities occur is of at least seventy-two hours duration or where the commission determines, in its discretion, that the gambling offered aboard a vessel owned or operated by such business does not constitute a primary activity conducted aboard such vessel. In reaching a determination that gambling does not constitute a primary activity, the

commission shall consider, without limitation, factors including: the passenger capacity of the vessel in relation to the number of gaming positions in the areas in which gambling will occur; the percentage of space devoted to public accommodation in which gambling will occur; the number of hours during which gambling will take place in relation to the total time of the cruise; and the nature of the advertising and other customer solicitation engaged in by the business.

p. "Subsidiary" shall mean any business that is managed by another business entity or any business in which fifty percent or more of the business is owned or in which fifty percent or more of the business is subject to a power or right of control or held with power to vote by another business entity.

q. "Vendor" shall mean any business, except for a business the primary function of which is to provide legal or accounting services or that is required to register as a lobbyist pursuant to section 3-213 of the code or pursuant to the New York state lobbying act (enacted by chapter 1040 of the laws of 1981, as amended) that provides a shipboard gambling business with goods or services used in the operation of such business. "Key vendor" shall mean a vendor, in a category identified by rule of the commission, that furnishes goods or services related to the security operations, gambling operations, gambling equipment, the hiring, supervision or training of gambling employees or agents, the provision of alcoholic beverages, and the provision of food or food services the cost of which exceeds an amount to be set forth by rule of the commission. "Auxiliary vendor" shall mean a vendor, other than a key vendor, that furnishes goods or services to a shipboard gambling business, the cost of which goods or services exceeds an amount to be established for each category of such vendor by rule of the commission, related to maintenance of a vessel or facilities or equipment aboard a vessel, food or non-alcoholic beverages, entertainment or such other activity for which the commission determines by rule that registration is necessary or appropriate to effectuate the provisions of this chapter, provided that the commission may by rule determine that registration of a specific category of auxiliary vendor is unnecessary to achieve the purposes of this chapter. The commission shall by rule list the categories of goods and services and/or the amount of sales of such goods and services that do not require obtaining a key vendor license or an auxiliary vendor registration and may also, in its discretion, waive a requirement for a key vendor license or auxiliary vendor registration upon a determination that such license or registration is unnecessary to achieve the purposes of this chapter. In addition, the commission shall establish, by rule, a procedure whereby a shipboard gambling business may obtain temporary permission, on an expedited basis, to purchase goods or services from an unlicensed or unregistered vendor in a situation where such purchase is necessary to the operation of such business. The commission shall make provision for the issuance of licenses pursuant to sections 20-954 and 20-956 of this chapter to key vendors who furnish goods or services to shipboard gambling licensees and for the registration pursuant to section 20-955 of auxiliary vendors who furnish goods or services to shipboard gambling licensees. The commission shall maintain a list of all licensed and registered vendors and those vendors to whom a waiver has been granted and shall make such list available upon request.

§20-951 New York city gambling control commission.

a. There is hereby created a New York city gambling control commission. Such commission shall consist of five members appointed by the mayor, two of whom shall be appointed after recommendation by the city council. The mayor shall appoint a chair from among the members of the commission. Each member of the commission shall be appointed for a two-year term.

b. In the event of a vacancy on the commission during the term of office of a member, a successor shall be chosen in the same manner as the original appointment. A member appointed to fill a vacancy shall serve for the balance of the unexpired term.

c. The members of the commission shall be compensated on a per diem basis, provided, however, that a member who holds other city office or employment shall receive only the compensation for such office or employment. The chair shall have charge of the organization of the commission and shall have authority to employ, assign and superintend the duties of such officers and employees as may be necessary to carry out the provisions of this chapter.

§20-952 Powers and duties of the commission.

The commission shall be responsible for the licensing and regulation of shipboard gambling businesses. The powers and duties of the commission shall include, but not be limited to the following:

a. To issue and establish standards for the issuance, renewal, suspension and revocation of licenses, certificates of approval and registrations and waivers therefrom pursuant to this chapter; provided that the commission may by resolution delegate to the chair the authority to make individual determinations regarding the issuance, renewal, suspension and revocation of such licenses, certificates of approval and registrations and the appointment of independent auditors in accordance with the provisions of this chapter, except that a determination to refuse to issue a license, renewal, certificate of approval or registration or to refuse to grant a waiver therefrom pursuant to this chapter shall be made only by a majority vote of the commission.

b. To investigate any matter within the jurisdiction conferred by this chapter, including, but not limited to, any matter that relates to the good character, honesty and integrity of any owner, officer or director of an applicant business entity, or affiliate or subsidiary thereof, irrespective of whether such person is a principal of such business as defined in subdivision 1 of section 20-950 of this chapter, and to have full power to compel the attendance, examine and take testimony under oath of such persons as it may deem necessary in relation to such investigation, and to require the production of books, accounts, papers and other documents and materials relevant to such investigation.

c. To appoint, within the appropriations available therefor, such employees as may be required for the performance of the duties prescribed herein. In addition to such employees, the commission may request that the commissioner of any other appropriate city agency provide staff and other assistance to the commission in conducting background investigations for licenses, certificates of

approval and registrations pursuant to this chapter in order that such work may be performed efficiently, within existing city resources.

d. To conduct studies or investigations into matters related to gambling in the city and other jurisdictions in order to assist the city in formulating policies relating to the regulation of shipboard gambling.

e. To establish standards for the conduct of shipboard gambling businesses.

f. To set forth requirements necessary to protect the public health, safety and welfare, including but not limited to requirements for the provision of security for patrons on shipboard or on the pier or adjacent area in coordination with appropriate law enforcement authorities, and other measures to provide for the welfare of patrons on such piers and in such areas.

g. To establish standards to protect consumers from fraudulent and misleading advertising and other solicitation of customers for shipboard gambling businesses.

h. To establish fees and promulgate rules as the commission may deem necessary and appropriate to effectuate the purposes and provisions of this chapter.

§20-953 Licenses, certificates of approval, and registration required.

a. Unless otherwise provided, (i) It shall be unlawful to operate a shipboard gambling business unless such business has first obtained a shipboard gambling license from the commission.

(ii) It shall be unlawful for a shipboard gambling licensee to employ a key employee or agent unless such employee or agent has first obtained a key employee license from the commission pursuant to the provisions of this chapter.

(iii) It shall be unlawful for a shipboard gambling licensee to employ a gambling employee or agent unless such employee or agent has first obtained a certificate of approval from the commission pursuant to the provisions of this chapter.

(iv) It shall be unlawful for a shipboard gambling licensee to employ a service employee or agent unless such employee or agent has first registered with the commission pursuant to the provisions of this chapter.

(v) It shall be unlawful for a shipboard gambling licensee to purchase goods or services from a key vendor or an auxiliary vendor unless such vendor has first obtained a key vendor license or has registered with the commission, whichever is appropriate.

b. A license, certificate of approval or registration issued pursuant to this chapter or any rule promulgated hereunder shall not be transferred or assigned or used by any person or entity other than the licensee, holder of a certificate of approval or registrant to whom it was issued.

c. A license, certificate of approval or registration issued pursuant to this chapter shall be valid for a period of two years and shall, upon proper application for renewal pursuant to rule of the commission setting forth an expeditious procedure for the updating and review of the information

required to be submitted by the applicant, be renewable for two year periods thereafter, except that the renewal period for a shipboard gambling license shall be for one year for each of the first two renewal periods succeeding the initial issuance of such license, and thereafter for two years.

d. The commission shall promulgate rules establishing the fees and the manner of payment of fees for any investigation, license, certificate of approval or registration required by this chapter in an amount sufficient to compensate the city for the administrative expense of conducting investigations and issuing or renewing a license, certificate of approval or registration and the expense of inspections and other activities related thereto.

§20-954 License application; application for certificate of approval.

a. An applicant for a license or certificate of approval pursuant to this chapter shall submit an application in the form and containing the information prescribed by the commission. An application for a license shall be accompanied by: (i) in the case of any applicant business, a list of the names and addresses of all principles of such business, and, in the case of a shipboard gambling business, all key employees employed or proposed to be employed in the business; and (ii) in the case of a shipboard gambling business, a list of the names of all key and auxiliary vendors and prospective and anticipated key and auxiliary vendors and the names and job titles of all gambling and service employees and agents, prospective gambling and service employees and agents of the applicant business who are or who the applicant proposes to be engaged in the operation of the shipboard gambling business; (iii) such other information as the commission shall determine by rule will properly identify employees and agents and prospective employees and agents; (iv) in the case of a shipboard gambling business, a description, accompanied by diagrams where appropriate, detailing the provisions that will be made by the applicant for security and other measures prescribed for the welfare of patrons by rule of the commission; (v) in the case of a shipboard gambling business, a description of the financial capacity and cash management system of the shipboard gambling business demonstrating the ability of such business to maintain and operate the business responsibly and to provide payment to patrons; and (vi) a form signed by each applicant authorizing the release to the city of financial and other information required by the commission and waiving any claims against the city that might arise in connection with the investigation of the applicant or the release of any information resulting from such investigation to other appropriate government officials.

b. i. An applicant for a license or a certificate of approval shall be fingerprinted by a person designated for such purpose by the commission, the department of investigation or the police department and pay a fee to be submitted to the division of criminal justice services and/or the federal bureau of investigation for the purposes of obtaining criminal history records.

ii. An applicant for a license or a certificate of approval shall provide to the commission, upon a form prescribed by the commission and subject to such minimum dollar thresholds and other reporting requirements set forth on such form, information for the purpose of enabling the commission to determine the good character, honesty and integrity of the applicant, including but not limited to: (a) a listing of the names and addresses of any person having a beneficial interest in an applicant business, and the amount and nature of such interest; (b) a listing of the amounts in

which such applicant is indebted, including mortgages on real property, and the names and addresses of all persons to whom such debts are owed; (c) a listing of such applicant's real property holdings or mortgage or other interest in real property held by such applicant other than a primary residence and the names and addresses of all co-owners of such interest; (d) the name and address of any business in which such applicant holds an equity or debt interest, excluding any interest in publicly traded stocks or bonds; (e) the names and addresses of all persons or entities from whom an applicant has received gifts valued at more than one thousand dollars in any of the past three years, and the name of all persons or entities excluding any organization recognized by the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code to whom the applicant has given such gifts in any of the past three years; (f) a listing of all criminal convictions, in any jurisdiction, of the applicant; (g) a listing of all pending civil or criminal actions to which the applicant knows or should have known that he or she is a party; (h) a listing of any determination by a federal, state or city regulatory agency of a violation by the applicant of statutes, laws, rules or regulations relating to the applicant's conduct where such violation has resulted in the suspension or revocation of a permit, license or other permission required in connection with the operation of a business or in a civil fine, penalty, settlement or injunctive relief in excess of threshold amounts or of a type established by the commission; (i) a listing of any criminal or civil investigation by a federal, state, or local prosecutorial agency, investigative agency or regulatory agency, in the five year period preceding the application, wherein such applicant: (A) knew or should have known that the applicant was the subject of such investigation, or (B) has received a subpoena requiring the production of documents or information in connection with such investigation; (j) a certification that an applicant business has paid all federal, state, and local income taxes related to the applicant's business for which the applicant is responsible for the three tax years preceding the date of the application or documentation that the applicant is contesting such taxes in a pending judicial or administrative proceeding; (k) a listing of any license, permit or other permission held by the applicant to engage in any capacity in a gambling business or activity in any jurisdiction; (l) a listing of any denials to the applicant by any jurisdiction of a license, permit or other permission to engage in any capacity in a gambling business or activity; and (m) such additional information concerning the sources and nature of funding of an applicant business and the good character, honesty and integrity of applicants that the commission may deem appropriate and reasonable. An applicant may submit any additional information that the applicant believes demonstrates the applicant's good character, honesty and integrity, including a licensing determination from another jurisdiction. Notwithstanding any provision of this subdivision, an applicant for a certificate of approval shall not be required to submit information described in subparagraphs (a) and (m) of this paragraph or any other information the commission determines is not necessary or appropriate. An applicant may also submit to the commission any material or explanation which the applicant believes demonstrates that any information submitted pursuant to this paragraph does not reflect adversely upon the applicant's good character, honesty and integrity. The commission may require that applicants pay fees to cover the expenses of fingerprinting and background investigations provided for in this subdivision.

iii. In the case of a shipboard gambling business, the commission may also require that an applicant submit any or all of the information required by this paragraph with respect to any affiliate or subsidiary of the applicant that owns or operates a business in any jurisdiction.

iv. Notwithstanding any provision of this chapter, for purposes of this section in the case of an applicant shipboard gambling business that has a parent business entity: (A) fingerprinting and disclosure under this section shall be required of any person acting for or on behalf of the parent business who has direct management or supervisory responsibility for the operations or performance of the applicant; (B) the chief executive officer, chief operating officer and chief financial officer, or any other person exercising comparable responsibilities and functions, of any subsidiary or affiliate of such parent business entity over which any person subject to fingerprinting and disclosure under subparagraph (A) of this paragraph exercises similar responsibilities shall be fingerprinted and shall submit the information required pursuant to subparagraphs (f) and (g) of paragraph ii of this subdivision, as well as such additional information pursuant to this paragraph as the commission may find necessary; and (C) the listing specified under subparagraph (i) of paragraph ii of this subdivision shall also be provided for any subsidiary or affiliate of the parent business entity for which fingerprinting and disclosure by principals thereof is made pursuant to (B) of this paragraph.

v. The chief executive officer, chief operating officer and chief financial officer, or any other person exercising comparable responsibilities and functions, of any subsidiary or affiliate of a shipboard gambling business shall be fingerprinted and shall submit the information required pursuant to subparagraphs (f), (g) and (i) of paragraph ii of this subdivision, as well as such other information pursuant to this paragraph that the commission may find necessary.

c. A business required to be licensed pursuant to this chapter shall inform the commission, within a reasonable time, of any changes in the ownership composition of such business, the addition or deletion of any principal at any time subsequent to the issuance of the license, the arrest or criminal conviction of any principal of the business, or any other material change in the information submitted on the application for a license. A business required to be licensed shall provide the commission with notice of at least ten business days of the proposed addition of a new principal to such business. The commission may waive or shorten such period upon a showing that there exists a bona fide business requirement therefor. Except where the commission determines within such period, based upon information available to it, that the addition of such new principal may have a result inimical to the purposes of this chapter, the licensee may add such new principal pending the completion of review by the commission. The licensee shall be afforded an opportunity to demonstrate to the commission that the addition of such new principal pending completion of such review would not have a result inimical to the purposes of this chapter. If upon the completion of such review, the commission determines that such principal has not demonstrated that he or she possesses good character, honesty and integrity, the license shall cease to be valid unless such principal divests his or her interest, or discontinues his or her involvement in the business of such licensee, as the case may be, within a reasonable time period prescribed by the commission.

d. Each applicant business shall provide the commission with a business address in New York city where notices may be delivered and legal process served and shall designate a person of suitable age and discretion at such address who shall be an agent for service of process.

§20-955 Registration application; application for renewal.

a. An applicant for registration or renewal pursuant to this chapter shall submit an application on a form prescribed by the commission and containing such information as the commission determines will adequately identify and establish the background of such applicant. The commission may refuse to register or to renew the registration of an applicant who has knowingly failed to provide the information and/or documentation required by such form, or who has knowingly provided false information or documentation, required by this chapter or any rule promulgated pursuant hereto.

b. Notwithstanding any other provision of this chapter:

(i) the commission may, where there is reasonable cause to believe that an applicant has not demonstrated to the commission that he or she possesses good character, honesty and integrity, require that such applicant be fingerprinted and provide to the commission the information set forth in subdivisions a and b of section 20-954 of this chapter and may, after notice and the opportunity to be heard, refuse to register such applicant for the reasons set forth in subdivision a of section 20-956 of this chapter; and

(ii) if at any time subsequent to registration, the commission has reasonable cause to believe that the registrant lacks good character, honesty and integrity, the commission may require that such registrant be fingerprinted and provide the background information required by subdivision b of section 20-954 of this chapter and may, after notice and the opportunity to be heard, revoke the registration for the reasons set forth in subdivision a of section 20-956 of this chapter.

§20-956 Refusal to issue or renew a license or certificate of approval.

a. The commission shall refuse to issue or to renew a license to an applicant who has not demonstrated to the commission that he or she possesses good character, honesty and integrity. In determining that an applicant has not met his or her burden to demonstrate good character, honesty and integrity, the commission may consider, but is not limited to: (i) knowing failure by such applicant to provide truthful or complete information in connection with the application; (ii) a pending indictment or criminal action against such applicant for a crime which under this subdivision would provide a basis for the refusal to issue such license or certificate of approval, or a pending civil or administrative action to which such applicant is a party and which directly relates to the fitness to conduct the business or perform the work for which the license or certificate of approval is sought, in which case the commission may defer consideration of an application until a decision has been reached by the court or administrative tribunal before which such action is pending; (iii) conviction of such applicant for a crime which, considering the factors set forth in section seven hundred fifty-three of the correction law, would provide a basis under such law for the refusal of such license or certificate of approval; (iv) a finding of liability in a civil or administrative action that bears a direct relationship to the fitness of the applicant to conduct the business or to perform the employment for which the license or certificate of approval is sought; (v) commission of a racketeering activity or knowing association with a person who has been convicted for a racketeering activity when the applicant knew or should have known of such conviction, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. § 1961 et seq.) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes

may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction; (vi) conviction of a gambling offense under 18 U.S.C. § 1081 et seq., 18 U.S.C. §§ 1953 through 1955, article 225 of the penal law or the equivalent offense under the laws of any other jurisdiction; (vii) association with any member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the applicant knew or should have known of the organized crime associations of such person; (viii) in the case of an applicant business, failure to pay any tax, fine, penalty, fee related to the applicant's business for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction and such judgment has not been stayed; and (ix) denial of a license or other permission to operate a gambling business or activity in another jurisdiction. For purposes of determining the good character, honesty and integrity of applicants for registration or registrants pursuant to section 20-955 of this chapter, the term "applicant" as used herein shall be deemed to apply to such applicants for registration or registrants.

b. The commission may refuse to issue or to renew a certificate of approval to an applicant who has not demonstrated that he or she possesses good character, honesty and integrity. In reaching such a determination, the commission may consider, but is not limited to, the factors set forth in paragraphs (i) through (ix) of subdivision a of this section.

c. The commission may refuse to issue or to renew a license or certificate of approval to an applicant who has knowingly failed to provide the information and/or documentation required in the form prescribed by the commission pursuant to section 20-954 of this chapter, or who has knowingly provided false information or documentation required by the commission pursuant to this chapter or any rules promulgated pursuant hereto.

d. The commission may refuse to issue or to renew a license or certificate of approval to an applicant when such applicant: (i) was previously issued a license or certificate of approval pursuant to this chapter and such license or certificate of approval was revoked pursuant to the provisions of this chapter; or (ii) has been determined to have committed any of the acts which would be a basis for the suspension or revocation of a license or certificate of approval pursuant to this chapter or any rules promulgated hereto.

e. The commission may refuse to issue or to renew a license pursuant to this chapter to an applicant business where such applicant business or any of the principals of such applicant business have been principals of a licensee whose license has been revoked pursuant to subdivision a of section 20-959 of this chapter.

§20-957 Independent auditing required.

a. The commission may, in the event the background investigation conducted pursuant to section 20-954 of this chapter produces adverse information, require as a condition of a shipboard gambling license that the licensee enter into a contract with an independent auditor, approved or selected by the commission. Such contract, the cost of which shall be paid by the licensee, shall

provide that the auditor investigate the activities of the licensee with respect to the licensee's compliance with the provisions of this chapter, other applicable federal, state and local laws and such other matters as the commission shall determine by rule. The contract shall provide further that the auditor report the findings of such monitoring and investigation to the commission on a periodic basis.

b. The commission shall be authorized to prescribe, in any contract required by the commission pursuant to this section, such reasonable terms and conditions as the commission deems necessary to effectuate the purposes of this chapter.

§20-958 Investigations by the department of investigation or police department.

In addition to any other investigation authorized pursuant to law, the commissioner of the department of investigation or the police commissioner shall, at the request of the commission, conduct a study or investigation of any matter arising under the provisions of this chapter, including but not limited to investigation of the information required to be submitted by applicants for licenses, certificates of approval and registration and the ongoing conduct of licensees, holders of certificates of approval and registrants.

§20-959 Revocation or suspension of license, certificate of approval or registration.

a. In addition to the penalties provided in section 20-960 of this chapter, the commission may, after notice and opportunity to be heard, revoke or suspend a license, certificate of approval or registration issued pursuant to the provisions of this chapter when the licensee or a principal, employee or agent of a licensee, a holder of a certificate of approval or a registrant: (i) has been found to be in violation of this chapter or any rules promulgated hereunder; (ii) has repeatedly failed to obey the lawful orders of any person authorized to enforce the provisions of this chapter; (iii) has failed to pay, within the time specified by a court, the commission or an administrative tribunal of competent jurisdiction, any fines or civil penalties imposed pursuant to this chapter or the rules promulgated pursuant hereto; (iv) whenever, in relation to an investigation conducted pursuant to this chapter, the commission determines, after consideration of the factors set forth in subdivision a of section 20-956 of this chapter, that the licensee, holder of a certificate of approval or registrant lacks good character, honesty and integrity or lacks the financial capacity to maintain and operate the business responsibly in a manner that will ensure the immediate payment to patrons; (v) whenever there has knowingly been any false statement or any misrepresentation as to a material fact in the application or accompanying papers upon which the issuance of such license, certificate of approval or registration was based; or (vi) whenever a licensee has failed to notify the commission as required by subdivision c of section 20-954 of this chapter of any change in the ownership interest of the business or any other material change in the information required on the application for such license, or of the arrest or criminal conviction of a principal of such licensee or any of its employees or agents of which the licensee had knowledge or should have known.

b. Notwithstanding any other provision of this chapter or rules promulgated thereto, the commission may, upon a determination that the operation of a shipboard gambling business or the

conduct of an employee of such business creates an imminent danger to life or property, immediately suspend the license of such business or the certificate of approval or registration of such employee without a prior hearing, provided that provision shall be made for an immediate appeal of such suspension to the chair of the commission who shall determine such appeal forthwith. In the event that the chair upholds the suspension, an opportunity for a hearing shall be provided on an expedited basis, within a period not to exceed four business days and the commission shall issue a final determination no later than four days following the conclusion of such hearing.

§20-960 Penalties.

In addition to any other penalty provided by law:

a. Except as otherwise provided in subdivision b of this section, any person who violates any provision of this chapter or any of the rules promulgated thereto shall be liable for a civil penalty which shall not exceed ten thousand dollars for each such violation. Such civil penalty may be recovered in a civil action or may be returnable to the department of consumer affairs or other administrative tribunal of competent jurisdiction;

b. Any person who violates subdivision a of section 20-953 of this chapter shall, upon conviction thereof, be punished for each violation by a criminal fine of not more than ten thousand dollars for each day of such violation or by imprisonment not exceeding six months, or both; and any such person shall also be subject to a civil penalty of not more than five thousand dollars for each day of such violation to be recovered in a civil action or returnable to the department of consumer affairs or other administrative tribunal of competent jurisdiction; and

c. (i) In the event that a shipboard gambling business has violated subdivision f of section 20-963 of this chapter, the commission, in addition to any other penalty prescribed in this section, shall, after providing notice and the opportunity to be heard, be authorized to order that any gambling device or other gambling equipment used in the violation of such subdivision shall be removed, sealed or otherwise made inoperable. An order pursuant to this paragraph shall be posted on the vessel on which such violation occurs. The commission shall take reasonable measures to provide notice to a person(s) holding a security interest(s) in a gambling device or gambling equipment with respect to which action is taken pursuant to this section.

(ii) Ten days after the posting of an order issued pursuant to paragraph (i) of this subdivision, this order may be enforced by any person so authorized by section 20-962 of this chapter.

(iii) Any gambling device or gambling equipment removed pursuant to the provisions of this subdivision shall be stored at a dock or in a garage, pound or other place of safety and the owner or other person lawfully entitled to the possession of such item may be charged with reasonable costs for removal and storage payable prior to the release of such item.

(iv) A gambling device or gambling equipment sealed or otherwise made inoperable or removed pursuant to this subdivision shall be unsealed, restored to operability or released upon payment of all outstanding fines and all reasonable costs for removal and storage and upon

demonstration satisfactory to the commission that the provisions of subdivision f of section 20-963 will be complied with in all respects.

(v) It shall be a misdemeanor for any person to remove the seal from or make operable any gambling device or gambling equipment sealed or otherwise made inoperable in accordance with an order of the commission.

(vi) A gambling device or gambling equipment removed pursuant to this subdivision that is not reclaimed within ninety days of such removal by the owner or other person lawfully entitled to reclaim such item shall be subject to forfeiture upon notice and judicial determination in accordance with provisions of law. Upon forfeiture, the commission shall, upon a public notice of at least ten business days, sell such item at public sale. The net proceeds of such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund of the city.

d. The corporation counsel is authorized to commence a civil action on behalf of the city for injunctive relief to restrain or enjoin any activity in violation of this chapter and for civil penalties.

§20-961 Liability for violations.

A shipboard gambling business required by this chapter to be licensed shall be liable for violations of any of the provisions of this chapter or any rules promulgated pursuant hereto committed by any of its principals acting within the scope of such business and any of its employees and/or agents within the scope of their employment.

§20-962 Enforcement.

Notices of violation for violations of any provision of this chapter or any rule promulgated hereunder may be issued by authorized employees or agents of the commission or the police department. In addition, such notices of violation may, at the request of the commission and with the consent of the appropriate commissioner, be issued by authorized employees and agents of the department of consumer affairs or the department of investigation.

§20-963 Conduct of shipboard gambling licensees.

a. A shipboard gambling licensee shall be in compliance with all applicable federal, state and local statutes, laws, rules and regulations governing operation of a shipboard gambling business, including but not limited to:

(i) specifications for design and construction, equipment required to be present on board such vessel, maintenance, inspection, documentation, operation and licensing of such vessels; requirements for the medical fitness, training and other qualifications, drug testing and licensing of the crew of such vessels; environmental requirements; requirements regarding safety and conditions of employment on such vessel; and requirements for accessibility under the Americans with Disabilities Act and any regulations promulgated pursuant thereto, as such regulations may from time to time be amended and analogous provisions of title eight of this code;

(ii) prohibitions of gambling activity or the use of gambling devices within the territorial waters of the United States or the state of New York;

- (iii) applicable zoning and building code requirements;
 - (iv) requirements governing the service and provision of food and alcoholic beverages within the territorial waters of the state of New York; and
 - (v) health and sanitary regulations.
- b. A shipboard gambling licensee shall maintain audited financial statements, records, ledgers, receipts, bills and such other records as the commission determines are necessary or useful for carrying out the purposes of this chapter. Such records shall be maintained for a period of time not to exceed five years to be determined by rule of the commission, provided, however, that such rule may provide that the commission may, in its discretion, require that records be retained for a period of time exceeding five years. Such records shall be made available for inspection and audit by the commission at its request and, at the option of the commission, at either the licensee's place of business or at the offices of the commission.
- c. A shipboard gambling licensee shall maintain liability and other insurance as prescribed by rule of the commission.
- d. A shipboard gambling licensee shall, in accordance with rules of the commission, institute and maintain security and safety measures and shall provide and maintain such other public services for the welfare of patrons required by such rules.
- e. A shipboard gambling licensee shall, upon request by a passenger who does not wish to leave the vessel carrying cash on his or her person, provide payment of winnings by check.
- f. A shipboard gambling licensee shall ensure, by means acceptable to the commission and the department of investigation, that all gambling devices and gambling equipment on board the vessel are secured or made inoperable during any period the vessel is in the territorial waters of New York and shall comply with all rules promulgated by the commission regarding the maintenance, safeguarding and storage of gambling devices.
- g. A shipboard gambling licensee shall adopt measures to ensure that persons under eighteen years of age do not engage in gambling aboard a vessel operated by or on behalf of such licensee.
- h. All advertising by a shipboard gambling licensee shall prominently state the age restrictions for engaging in gambling aboard the vessel, and shall comply with all rules governing advertising promulgated by the commission.
- i. A shipboard gambling licensee shall provide access to the vessel(s) operated by or on behalf of the shipboard gambling business to any person authorized by section 20-962 of this chapter to enforce the provisions of this chapter including, but not limited to, regular and permanent access by any person assigned to such vessel by an agency authorized to enforce the provisions of this chapter.

j. A shipboard gambling licensee shall not purchase goods or services from a key vendor or an auxiliary vendor unless such vendor has first obtained a license from or registered with the commission, whichever is applicable, unless the shipboard gambling licensee has obtained permission from the commission as provided by rule of the commission pursuant to subdivision q of section 20-950 of this chapter or the key vendor or auxiliary vendor has been granted a waiver pursuant to such subdivision.

k. (i) A shipboard gambling licensee shall not employ any person required to obtain a license, certificate of approval or to register pursuant to the provisions of this chapter unless such person has obtained such license, certificate of approval or registration; provided, however, that the commission shall, by rule, make provision for temporary permission for employment pending completion by the commission of review of an applicant for a certificate of approval or registration and may, in its discretion, permit the employment of a key employee who has not obtained the required license where the employment of such person is necessary for the operation of the shipboard gambling business.

(ii) The commission may, upon the request of a shipboard gambling business, make available the names of applicants for employment who have been approved for licenses, certificates of approval or registrations.

l. A shipboard gambling licensee shall demonstrate and ensure for each vessel operated by or on behalf of such licensee, irrespective of the size of the vessel, that (i) every crew member required by the certificate of inspection issued for each such vessel by the United States coast guard or the analogous document issued pursuant to the international convention for the safety of lives at sea meets all marine personnel requirements set forth in such certificate or document and holds the applicable documentation, (ii) at least sixty-five percent of the required number of crew actually manning the vessel, as set forth in the certificate of inspection issued for each such vessel by the United States coast guard or the analogous document issued pursuant to the international convention for the safety of lives at sea, exclusive of those required to be licensed by the United States coast guard or the international maritime organization, have merchant mariners' documents endorsed for a rating of at least able seaman or the international maritime equivalent, and (iii) every person employed on each such vessel has received familiarization training consistent with the standards regarding emergency occupational safety, medical care and survival functions set forth in the seafarer's training, certification and watchkeeping code.

m. A shipboard gambling licensee shall comply with all additional rules governing conduct of a shipboard gambling business promulgated by the commission in order to effectuate the purposes of this chapter.

§20-964 Rules.

The commission may promulgate such rules as it may deem necessary or useful to effectuate the purposes of this chapter.

§20-965 Hearings.

a. A hearing pursuant to this chapter may be conducted by the commission, or, in the discretion of the commission, by an administrative law judge employed by the office of administrative trials and hearings or other administrative tribunal of competent jurisdiction. Where a hearing pursuant to a provision of this chapter is conducted by an administrative law judge, such judge shall submit recommended findings of fact and a recommended decision to the commission, which shall make the final determination.

b. Notwithstanding the provisions of subdivision a of this section, the commission may provide by rule that hearings or specified categories of hearings pursuant to this subchapter may be conducted by the department of consumer affairs. Where the department of consumer affairs conducts such hearings, the commissioner of consumer affairs shall make the final determination.

§20-966 Reporting requirements.

a. No later than one week following the submission of the mayor's management report, the commission shall submit to the council a report detailing its activities pursuant to this chapter for the period covered by the mayor's management report. The report required by this section shall at a minimum include:

- i. the number of applicants for a license, certificate of approval or registration that were denied by the commission and a statement of the reasons for such denials;
- ii. the number of licenses, certificates of approval and registrations issued by the commission;
- iii. the number of applications for licenses, certificates of approval or registrations, respectively, presently pending;
- iv. the number of licenses, certificates of approval and registrations that have been suspended or revoked by the commission pursuant to section 20-959 of this chapter, a statement of the reasons for such suspensions and revocations, and the average duration of such suspensions;
- v. the amounts, by category, of all fees relating to implementation of this chapter to which the city is entitled, the amounts actually collected, and the reasons for any difference between the two amounts; and
- vi. the amounts, by category, of all expenditures relating to enforcement of the provisions of this chapter.

b. The information required by paragraphs i, ii and iv of subdivision a of this section shall identify the shipboard gambling business to which the information relates.