

Review of State Control v. Licensure Models



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October 4, 2022

State Control

Key Features:

- The state plays an active role in offering and managing sports wagering.
- Sports wagering operators are selected through a competitive bidding process that is established in statute. The state manages the relationship with sports wagering operators through a contract, compliance monitoring, and procedures for enforcement of the contract terms.
- The state's agents (operators) have exclusive rights to offer sports wagering.
- In addition to applicable statutes and rules, the operator must comply with the terms of the contract with the state.
- The exclusive rights contract establishes a “revenue share” or a fixed tax rate proposed by the operators during the competitive bidding process.

New Hampshire

- State control
- Competitive bidding process
- Exclusive rights holder

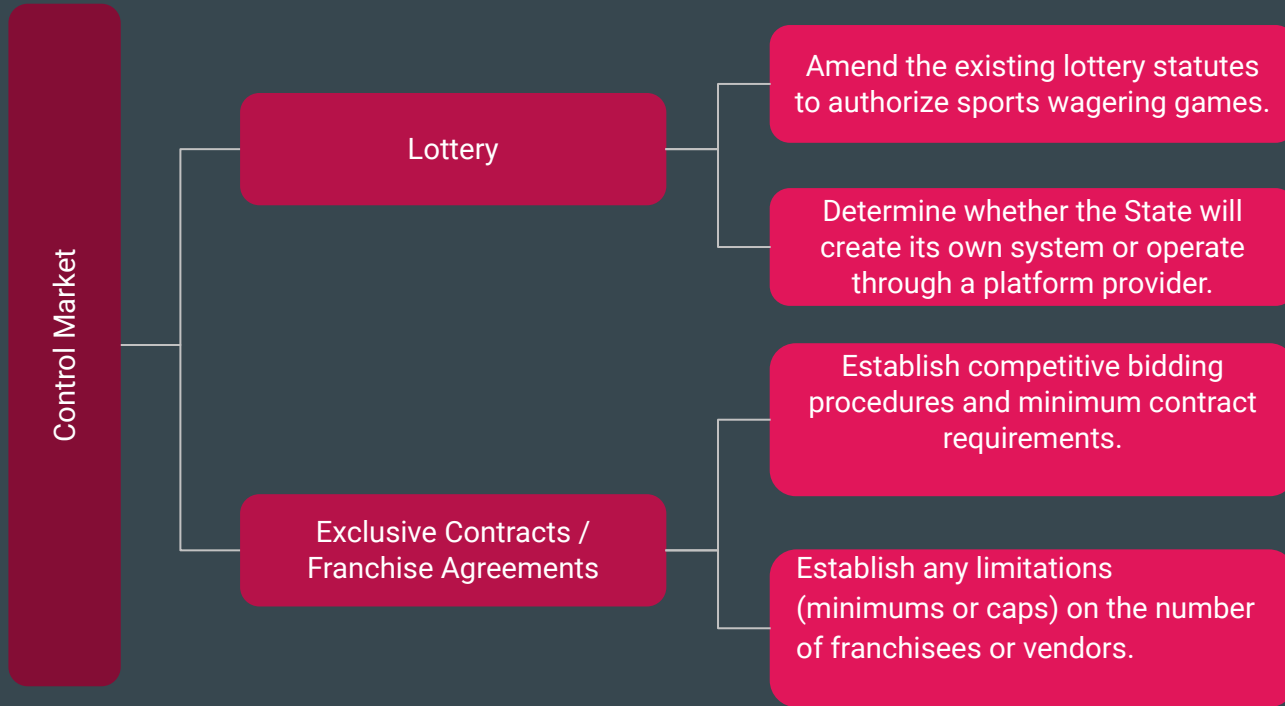
- New Hampshire legalized sports wagering in 2019 and authorized the Lottery Commission to operate a sports wagering platform through “Lottery agents.”
- NH statutes direct the Lottery Commission to conduct a two-phase competitive bidding process.
 - In the first phase, the Commission is directed to select a group of potential agents based on experience; ability to serve proposed retail operations; mobile wagering capabilities; contribution to economic development within the state; and commitment to responsible gaming and integrity in betting.
 - In the second phase, the Commission is directed to select from among the potential agents an operator or operators who will provide the highest revenue to the state.
- In December of 2019, the Lottery Commission [finished the competitive bidding process](#) and selected an exclusive rights holder, DraftKings, to operate sports wagering within the state.

New York

- Hybrid state control model
- Competitive bidding process
- Tax rate is proposed during the bidding process

- New York legalized sports wagering in 2021 and directed the Gaming Commission to (1) select platform providers through a competitive bidding process; and (2) issue operator licenses to “skins” that have partnered with a platform provider.
- During the bidding process, the Commission considers criteria concerning the potential revenue that the platform will generate and financial security of the prospective platform, the background and integrity of the particular platform provider, and the platform’s player acquisition and advertising model.
- The competitive bidding process requires the potential platform providers to include a proposed tax rate. The tax rate must be not less than 12 percent.
- After the review, the Commission must award a license to each of the two highest scoring platform providers. The licenses awarded to the platform providers must apply the same tax rate to each platform provider. When awarding the licenses to the platform providers, the Commission must ensure that no less than four mobile sports wagering operators will be operating in the state.

State Control



Licensed Market

Key Features:

- The state establishes a licensing structure within an administrative agency. The agency issues licenses based on qualifications set by statute and administrative rule.
- The state manages the relationship with operators through rulemaking, a regulatory compliance structure, and procedures for the suspension or revocation of a license.
- The state may limit the number of operators or establish an open market system.
- The state enacts a tax on sports wagering revenue.

New Jersey

- Licensed market
- Primary licenses issued to existing licensees
- Licensees may contract with mobile sports wagering operators

- Division of Gaming Enforcement may issue sports wagering operator permits to racetracks or casinos.
 - The permit holder may contract with a licensed “casino industry service enterprise” to operate online/mobile sports wagering, subject to the Division’s approval of the contract terms.
 - New Jersey limits the number of “skins” that may be operated by an individual licensee. Each sports wagering licensee is limited to not more than three individually branded websites.
 - New Jersey has enacted a 13% tax on mobile sports wagering revenue, with an additional 1.25% tax that supports 13 percent tax and an additional tax the Casino Reinvestment Development Authority or the municipalities where race tracks are located.
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Massachusetts

- Licensed market
- Hybrid: Some operator licenses may be issued to entities that are not partnered with a primary licensee

- Massachusetts legalized sports wagering in August of 2022 and has authorized the Massachusetts Gaming Commission to issue temporary licenses.
 - The Massachusetts Gaming Commission may issue a mobile sports wagering operator license to *any* qualified entity. However, the Commission shall issue no more than 7 mobile sports wagering licenses that are not connected to a category 1 (qualified gaming establishment) or category 2 license (racetrack).
 - Category 1 licensees may partner with a maximum of two branded websites; Category 2 licensees may partner with one branded website.
 - The state imposes an excise tax of 20% on adjusted gross sports wagering revenue.
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Licensed Market

