

Proposed Amendment: N.J.A.C. 13:69G-2.1 and 2.3

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Exclusion of Persons; Self-Exclusion; Definitions; Self-Exclusion List; Internet Self-Exclusion List

Authorized By: David Rebeck, Director, Division of Gaming Enforcement.

Authority: N.J.S.A. 5:12-69.a and e, 70.a and b, 95.17, 19.25, and 100.b and h.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2016-059.

Submit written comments by July 1, 2016, to:

Robert A. Moncrief Jr., Deputy Attorney General
Division of Gaming Enforcement
1300 Atlantic Avenue
Atlantic City, NJ 08401

The agency proposal follows:

Summary

The proposed amendments are intended to provide clear guidance to casino licensees on how they may effectively market to potential patrons without compromising the confidentiality of the self-exclusion list and without targeting those individuals on the list. Existing N.J.A.C. 13:69G-2.1 contains the definitions for self-exclusion. Specifically, a self-excluded person is a person who has voluntarily agreed to be excluded from gambling at casinos and on the Internet. Self-exclusion lists are the lists in which the names of the self-excluded appear. N.J.A.C. 13:69G-2.3(d) outlines that no casino licensee or employee, or agent thereof, shall disclose the name of, or any information about, any person who has requested self-exclusion to anyone other than employees and agents of the casino licensee whose duties and functions require access to such information. Furthermore, a casino licensee may disclose the name and information about a self-excluded or Internet self-excluded person to appropriate employees of other casinos in Atlantic

City for the purpose of alerting other casinos that a self-excluded person has tried to gamble or obtain gaming related privileges or benefits in the casino, simulcasting facility, or Internet gaming site.

The proposed amendment to N.J.A.C. 13:69G-2.1 contains a new definition for "targeted mailing." Specifically, "targeted mailing" is defined as an advertisement or promotional offer from a casino licensee or Internet gaming operator directed to an individual on the basis of specific criteria, such as being a member or former member of a casino rewards club or a participant in social games. Targeted mailing does not include mass mailings or advertisements that arrive in a packet of five or more non-gaming advertisements, if such packet of advertisements is addressed to "resident," "occupant," or some similar wording and not to a specific person. It also does not include any Internet "pop-up" advertisement that appears on a person's computer on the basis of his or her IP Address.

Proposed new N.J.A.C. 13:69G-2.3(d)2 states that it shall now be permissible for a casino licensee, or an employee or agent thereof, to disclose the names of persons on the self-exclusion list or Internet self-exclusion list to a third party that is registered or licensed by the Division of Gaming Enforcement (Division), for the purpose of allowing the third party to remove the names of such persons from a targeted mailing or other advertising or promotion to be made on behalf of a casino licensee or any of its Internet gaming affiliates. These third-party companies shall be prohibited from distributing or disclosing the list to the public or to any other party, and shall be required to establish procedures approved by the Division to ensure the self-exclusion list or Internet self-exclusion list is not disclosed. Furthermore, proposed new N.J.A.C. 13:69G-2.3(d)3 states that a licensed or registered company that obtains the self-exclusion list or Internet self-exclusion list shall be permitted to use the list only to exclude names or addresses from a marketing campaign on behalf of a casino or Internet gaming operator. These companies may not use the [page=707] self-exclusion list or Internet self-exclusion list for any other type of marketing or for any other purpose whatsoever.

This notice of proposal is not required to be referenced in a rulemaking calendar since a public comment period of 60 days is being provided. See N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments may have a social impact in making marketing by casino licensees and their partners more consistent and in with the spirit of the self-exclusion list.

Economic Impact

The proposed amendments to N.J.A.C. 13:69G-2.1 and 2.3 should have minimal economic impact to the extent that should the casino licensee not comply with the requirements as outlined

in N.J.A.C. 13:69G-2.1 and 2.3, the casino licensee, online casinos, and third-party companies may be fined for regulatory non-compliance.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments are authorized by the provisions of the Casino Control Act, N.J.S.A. 5:12-1 et seq., and are not subject to Federal law.

Jobs Impact

The proposed amendments are not expected to have any impact on the number of jobs in the State of New Jersey.

Agriculture Industry Impact

The proposed amendments will have no impact on agriculture in New Jersey.

Regulatory Flexibility Statement

The proposed amendments will only affect the operations of New Jersey casino licensees, none of which qualifies as a "small business" as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., because they employ more than 100 persons full-time in the State of New Jersey. Accordingly, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The proposed amendments will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the proposed amendments would evoke a change in the average costs associated with housing because the rules concern the administration and potential disclosure of the self-exclusion list and the conduct of gambling at New Jersey casinos.

Smart Growth Development Impact Analysis

The proposed amendments will not have an impact on smart growth development and there is an extreme unlikelihood that the proposed amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment plan in New Jersey because the proposed amendments concern the administration and potential disclosure of the self-exclusion list and the conduct of gambling at New Jersey casinos.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 2. SELF-EXCLUSION

13:69G-2.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

...

"Targeted mailing" means an advertisement or promotional offer from a casino licensee or Internet gaming operator directed to an individual on the basis of specific criteria, such as being a member or former member of a casino rewards club or a participant in social games. "Targeted mailing" does not include mass mailings made to an entire area or zip code, nor does it include an advertisement that arrives in a packet of five or more non-gaming advertisements, if such packet of advertisements is addressed to "resident," "occupant," or some similar wording and not to a specific person. "Targeted mailing" further does not include any Internet "pop-up" advertisement that appears on a person's computer on the basis of his or her IP Address.

13:69G-2.3 Self-exclusion list; Internet self-exclusion list

(a) - (c) (No change.)

(d) [No] **Except as provided in (d)2 and 3 below, no** casino licensee or employee or agent thereof shall disclose the name of, or any information about, any person who has requested self-exclusion or Internet self-exclusion to anyone other than employees and agents of the casino licensee whose duties and functions require access to such information.

1. Notwithstanding the foregoing, a casino licensee may disclose the name of and information about a self-excluded or Internet self-excluded person to appropriate employees of other casino licensees in Atlantic City for the purpose of alerting other casino licensees that a self-excluded or Internet self-excluded person has tried to gamble or obtain gaming related privileges or benefits in the casino licensee's casino or simulcasting facility, or Internet gaming site.

2. It shall be permissible for a casino licensee, or an employee or agent thereof, to disclose the names of persons on the self-exclusion list or Internet self-exclusion list to a third party

that is registered or licensed by the Division pursuant to N.J.A.C. 13:69J for the purpose of allowing the third party to remove the names of such persons from a targeted mailing or other advertising or promotion to be made on behalf of a casino licensee or any of its Internet gaming affiliates. The company to whom such self-exclusion list is disclosed by a casino licensee shall be prohibited from distributing or disclosing the list to the public or to any other party and shall be required to establish procedures approved by the Division to ensure the self-exclusion list or Internet self-exclusion list is not disclosed.

3. A licensed or registered company that obtains the self-exclusion list or Internet self-exclusion list from a casino licensee shall be permitted to use the list solely to exclude names or addresses from a marketing campaign on behalf of a casino or Internet gaming operator. Such company may not use the self-exclusion list or Internet self-exclusion list for any other type of marketing or for any other purpose whatsoever.