

**LAW AND PUBLIC SAFETY**

**OFFICE OF THE ATTORNEY GENERAL**

**DIVISION OF GAMING ENFORCEMENT**

**General Provisions**

**Proposed Repeals: N.J.A.C. 19:40-1.2, 3, 4, 5 and 7**

**Proposed Amendments: N.J.A.C. 19:40-1.3 and 1.5**

**Proposed New Rules: N.J.A.C. 13:69**

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

Authority: N.J.S.A. 5:12-69, 70, 76, 99, 100, 74, 75 and 138.

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

Proposal Number: PRN 2011-196.

Submit written comments by November 18, 2011 to:

Lon E. Mamolen, Deputy Attorney General

Division of Gaming Enforcement

1300 Atlantic Avenue

Atlantic City, NJ 08401

The agency proposal follows:

**Summary**

Effective February 1, 2011, the Casino Control Act (Act) was amended. See P.L. 2011, c. 19 (N.J.S.A. 5:12-1 et seq.). Under the amendatory scheme, the Division of Gaming Enforcement (Division) is authorized to assume many regulatory responsibilities formerly held by the Casino Control Commission (Commission). New rule N.J.A.C. 13:69-1.2 sets forth definitions which are part of the Casino Control Act

and other definitions applicable to the Division's rules. New rules N.J.A.C. 13:69-1.3 and 1.4 set forth the manner of construction of the rules promulgated by the Division and indicate that gender, number and tense should be derived from context. New rule N.J.A.C. 13:69-1.5 recites that if one rule is found to be impermissible, it shall not invalidate other rules. New rule N.J.A.C. 13:69-1.6 states that any matter not addressed by these rules shall be subject to the discretion of the Division consistent with its statutory powers. New rule N.J.A.C. 13:69-2.5 sets forth the manner in which the Director of the Division may make delegations of authority to his or her staff. New rules N.J.A.C. 13:69-3.1 through 3.7 set forth the offices and locations of the Division, the manner in which to file petitions or requests for information with the Division and the manner in which the Division shall act upon such filings. New rules N.J.A.C. 13:69-4.1 through 4.9 set forth the manner in which the Division will handle information deemed confidential under the Casino Control Act. N.J.A.C. 13:69-4.2 states that if an issue arises as to whether information is confidential, the determination will be made by the Division when it possesses the information consistent with the Casino Control Act. New rules N.J.A.C. 13:69-4.5 and 4.6 set forth the requirements for retention of such information and requires the use of secure facilities. New rule N.J.A.C. 13:69-4.8 sets forth the manner in which confidential information can be released and requires notice to the affected party in some circumstances. New rule N.J.A.C. 13:69-4.9 sets forth the penalties for improper disclosure of confidential information which include disciplinary action against a disclosing employee. New rules N.J.A.C. 13:69-5.1 through 5.4 set forth the requirements for the practice of law and other professions before the Division. New rules N.J.A.C. 13:69-7.1 through 7.4 implement Section 138 of the Casino Control Act, which prohibits certain political contributions by participants in the casino industry.

In conjunction with the proposed new rules discussed above, the Commission's rules at N.J.A.C. 19:40-1.2, 3, 4, 5 and 7 are proposed for repeal, and the Commission's rules at N.J.A.C. 19:40-1.3 and 1.5 are proposed for amendment to delete subsections (g) and (b), respectively.

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 rules in N.J.A.C. 13:69 will serve an essential purpose in providing basic information as to the Division's organization, operations and procedures. The chapter also sets forth standards and definitions necessary for the construction and application of all rules in Title 13, Chapters 69 through 69M. Further, this chapter states the manner in which the public may obtain information and file applications, requests and submissions, which rules are mandated by N.J.S.A. 52:14B-4(b). Finally, the rules provide guidance to casino licensees and applicants and other entities and persons aligned therewith regarding the restrictions on political contributions imposed by N.J.S.A. 5:12-138. Chapter 69 provides licensees, applicants, petitioners and those seeking general information regarding Division business with an essential source of information regarding these standards and procedures.

### **Economic Impact**

N.J.A.C. 13:69 will serve an informational purpose and thus is not expected to have any substantial economic impact. The procedural standards set forth in the chapter necessarily involve some time and expense for petitioners in preparing the requisite submissions and in complying with the applicable filing requirements. See, for example, N.J.A.C. 13:69-3.6, Petitions for rulemaking, and 13:69-3.2, Copying fees.

The Division will also devote staff time and resources to implement these procedural standards. See, for example, N.J.A.C. 13:69-4, Confidential information. Accordingly, adoption of these procedural standards would result in continued costs of compliance for both the Division and the regulated public. However, failure to adopt these rules would leave the Division without the administrative standards and procedures necessary to the everyday functioning of any administrative agency.

### **Federal Standards Statement**

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

### **Jobs Impact**

The proposed repeals, amendments and new rules are not anticipated to create new jobs in the gaming industry or elsewhere except to the extent they may enable more efficient and cost-effective casino operations. If the industry is able to realize these efficiencies and savings, casino operators may be inclined to increase their workforces. However, any attempt to predict the impact of the proposed repeals, amendments and new rules upon the number of jobs in the gaming industry would be speculative at this time. No job loss is anticipated as a result of the proposed repeals, amendments and new rules.

### **Agriculture Industry Impact**

The proposed repeals, amendments and new rules will have no impact on agriculture in New Jersey.

### **Regulatory Flexibility Analysis**

N.J.A.C. 13:69 provides licensees, applicants and other interested persons with information relating to the organization and operations of the Division. As such, the chapter for the most part does not impose reporting, recordkeeping or other compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The chapter does include standards and procedures that would apply to any person or entity filing a petition or submission with, or seeking information from, the Division. It is possible that a small business, for example, a casino service industry licensee, would fall within this category of persons and thus incur some costs of compliance. However, the time and expense involved in conforming to these procedural requirements would be minimal. No professional services or initial capital costs would be involved. Moreover, the enforcement of uniform, consistently applied standards and procedures ensures the efficient operation of the agency and procedural fairness for all applicants and licensees. It would, thus, not be feasible to exempt small businesses from these rules or to adopt different procedural standards for small businesses.

### **Smart Growth Impact**

The proposed repeals, amendments and new rules will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

### **Housing Affordability Impact Analysis**

The proposed repeals, amendments and new rules will have no impact on the affordability of housing in the State of New Jersey because they affect the regulation of casinos in Atlantic City.

### **Smart Growth Development Impact Analysis**

The proposed repeals, amendments and new rules will have no impact on housing production in Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan, because they affect the regulation of casinos in Atlantic City.

**Full text** of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 19:40-1.2, 3, 4, 5 and 7.

**Full text** of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

## **CHAPTER 69 GENERAL PROVISIONS**

### **SUBCHAPTER 1. CONSTRUCTION AND APPLICATION OF RULES**

#### **13:69-1.1 Authority**

**These rules are issued under and pursuant to the authority of the Casino Control Act, constituting chapter 110, Laws of New Jersey 1977, as amended.**

#### **13:69-1.2 Definitions**

(a) The following words and terms are defined in the New Jersey Casino Control Act (P.L. 1977, c. 110, as amended) and are used in the rules of the Division as defined in that Act:

**“Affiliate”**

**“Annuity jackpot”**

**“Annuity jackpot guarantee”**

**“Applicant”**

**“Application”**

**“Attorney”**

**“Authorized game” or “authorized gambling game”**

**“Cash equivalent value”**

**“Casino” or “casino room” or “licensed casino”**

**“Casino bankroll”**

**“Casino employee”**

**“Casino key employee”**

**“Casino license”**

**“Casino security employee”**

**“Casino service industry enterprise”**

**“Chairman” and “commissioner” or “member”**

**“Commission”**

**“Complimentary service or item”**

**“Conservator”**

**“Conservatorship action”**

**“Corporate officer”**

**“Creditor”**

**“Debt”**

**“Director”**

**“Division”**

**“Encumbrance”**

**“Equal employment opportunity”**

**“Equity security”**

**“Establishment” or “casino hotel” or “casino hotel facility”**

**“Family”**

**“Game” or “gambling game”**

**“Gaming” or “gambling”**

**“Gaming device” or “gaming equipment”**

**“Gross revenue”**

**“Hearing examiner”**

**“Holding company”**

**“Hotel” or “approved hotel”**

**“Institutional investor”**

**“Intermediary company”**

**“Junket”**

**“Junket enterprise”**

**“Junket representative”**

**“License”**

**“License or registration fee”**

**“Licensed casino operation”**

**“Licensee”**

**“Multi-casino employee”**

**“Multi-casino progressive slot machine system”**

**“Operation”**

**“Operation certificate”**

**“Party”**

**“Person”**

**“Promotional gaming credit”**

**“Property”**

**“Publicly traded corporation”**

**“Registrant”**

**“Registration”**

**“Regulated complimentary service account”**

**“Resident”**

**“Respondent”**

**“Restricted casino areas”**

**“Security”**

**“Simulcasting facility”**

**“Slot machine”**

**“Slot system agreement”**

**“Slot system operator”**

**“State of emergency”**

**“Statement of compliance”**

**“Subsidiary”**

**“Transfer”**

**(b) The following words and terms, when used in the Division’s rules, shall have the following meanings, unless the context clearly indicates otherwise:**

**“Access badge” is defined in N.J.A.C. 13:69A-1.4(b).**

**“Act” or “Casino Control Act” means the New Jersey Casino Control Act (P.L. 1977, c. 110, as amended).**

**“Affiliate” of, or a person “affiliated” with, a specific person means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.**

**“All-purpose slot machine hopper” or “all-purpose hopper” is defined in N.J.A.C. 13:69D-1.36(a)1i.**

**“Audit department executive” is defined in N.J.A.C. 13:69D-1.11(b)2.**

**“Authorized game” or “authorized gambling game” is defined at N.J.S.A. 5:12-5 and includes any game approved by the Division pursuant thereto, including all table games, all slot machine games and keno.**

**“Bill changer” means any mechanical, electrical, or other device, contrivance or machine designed to interface mechanically, electrically or electronically with a slot machine for the purpose of dispensing from an all-purpose hopper an amount of coins or slot tokens that is equal to the value of currency, the value of a gaming voucher, or the denomination of a coupon inserted into the bill changer.**

**“Bill validator” means a device on a gaming voucher redemption machine which accepts gaming vouchers, coupons and currency.**

**“Bill validator box” means a removable, secure, tamper-resistant container approved by the Division into which are deposited all gaming vouchers, coupons and currency accepted by a bill validator.**

**“Casino affiliate check” means a check issued by a person that is an affiliate of a New Jersey casino licensee and holds a gaming license in any other jurisdiction. A casino affiliate check shall be drawn on the bank account of the affiliate, be made payable only to the person presenting the check, and shall not contain any other endorsements.**

**“Casino check” means a check, which is drawn by a casino licensee upon the licensee's account at any New Jersey banking institution and made payable to a person for a purpose other than employment compensation or payment for goods or services rendered and which is identifiable in a manner approved by the Division. At a minimum, such identification method shall include an endorsement or imprinting on the check, which indicates that the check is issued for a purpose other than employment compensation or payment for goods or services rendered.**

**“Casino hotel alcoholic beverage (CHAB) employee” means any natural person employed by a CHAB licensee whose responsibilities include the handling, service, delivery, purchase, control or storage of alcoholic beverages.**

**“Casino hotel alcoholic beverage (CHAB) licensee” is defined at N.J.A.C. 13:69I-1.1(c).**

**“Casino licensee” or “licensed casino” means the holder of any license, issued pursuant to the Casino Control Act, that authorizes the ownership or operation of a casino and, if applicable, of a casino simulcasting facility.**

**“Casino manager” is defined in N.J.A.C. 13:69D-1.12(a)(2).**

**“Casino simulcasting” is defined in N.J.A.C. 13:69M-1.1.**

**“Casino simulcasting facility” is defined in N.J.A.C. 13:69M-3.1 through 3.4.**

**“CCTV” means closed circuit television.**

**“Chairman” or “Chair” and “Commissioner” or “member” means the Chair and any member of the Casino Control Commission, respectively.**

**“Change machine” means any mechanical, electrical, or other device which operates independently of a slot machine which, upon insertion of currency therein, shall dispense an equivalent amount of loose or rolled coin or slot tokens.**

**“Changeperson” means a person employed in the operation of a casino to possess an imprest inventory of coin, currency and slot tokens received and used for the even exchange with slot machine patrons of coupons, coin, currency, gaming chips, slot tokens and prize tokens.**

**“Chief executive officer” means:**

**1. As to casino licensees or applicants, the natural person who is ultimately responsible for the daily conduct of the hotel and gaming business of one or more affiliated casino licensees or applicants, regardless of the form of business association of the casino licensee or applicant or the particular title which that person or any other person holds. The chief executive officer may also function as the chief gaming executive of a single casino licensee or applicant if the chief executive officer is principally located at that casino hotel facility.**

**2. As to casino service industry enterprise licensees or applicants, the natural person who bears ultimate responsibility for the organization and business activities of the enterprise.**

**“Chipperson” means a person employed in the operation of a casino to possess an imprest inventory of gaming chips and currency received, placed in a chip cart, and used for the even exchange of coin, currency, coupons and slot tokens and other functions, only with patrons seated at a poker table at which a game is in progress.**

**“Coin acceptor” means the slot and accompanying device, approved by the Division, that is the part of a slot machine into which a patron, in the normal course of operating the machine, inserts a coin or slot token for the purpose of activating play and which is designed to identify those coins or slot tokens so**

inserted that are appropriate for use in that machine and to reject all slugs, prize tokens and other non-conforming objects so inserted.

“Coin hopper” means a secure, removable or non-removable, tamper-resistant container approved by the Division, which holds and dispenses a single denomination of coin from an automated jackpot payout machine or gaming voucher redemption machine.

“Coin hopper fill” means the initial placement of coin into an automated jackpot payout machine or gaming voucher redemption machine by inserting removable coin hoppers containing coin or depositing coin into non-removable coin hoppers or the subsequent replenishment of coin by replacing removable coin hoppers with coin hoppers containing coin or depositing coin into non-removable coin hoppers.

“Contested case” means a proceeding, including any licensing proceedings, in which the legal rights, duties, obligations, privileges, benefits or other legal relations of specific parties are required by constitutional right or by statute to be determined by an agency by decisions, determinations, or orders, addressed to them or disposing of their interests, after opportunity for an agency hearing.

“Controller” is defined in N.J.A.C. 13:69D-1.11(b)6.

“Count room” is defined in N.J.A.C. 13:69D-1.32(a).

“Count room supervisor” is defined in N.J.A.C. 13:69D-1.33(c) and 1.43(a).

“Coupon acceptance system” means a computerized system utilized by a casino licensee to establish the validity of and redeem coupons.

“Coupons considered in the calculation of gross revenue” shall include, without limitation, match play coupons, chip coupons, keno coupons and coupons accepted by bill validators.

“Cumulative progressive jackpot meter” is defined in N.J.A.C. 13:69D-1.39(b)2.

“Currency” means paper money issued by the United States of America as legal tender.

**“Currency cassette”** means a secure, removable, tamper-resistant container, approved by the Division, which holds and dispenses a single denomination of currency from an automated coupon redemption machine, automated jackpot payout machine or gaming voucher redemption machine.

**“Currency cassette fill”** means the initial placement of currency into an automated jackpot payout machine or gaming voucher redemption machine by inserting currency cassettes containing currency and an empty currency cassette reject bin, or the subsequent replenishment of currency into such a machine by replacing currency cassettes and the currency cassette reject bin with currency cassettes containing currency and an empty currency cassette reject bin.

**“Currency cassette reject bin”** means a secure, tamper-resistant container in an automated jackpot payout machine or gaming voucher redemption machine into which currency is deposited from a currency cassette as a test or because the currency cassette dispensed the incorrect amount of currency.

**“Director of security”** is defined in N.J.A.C. 13:69D-1.11(b)5.

**“Director of surveillance”** is defined in N.J.A.C. 13:69D-1.11(b)1.

**“Electronic credit”** means an electronic signal or transmission which is generated by a device contained in or connected to a slot machine and which is initiated by a player as a means to activate the play of the slot machine.

**“Foreign slot token”** means a slot token issued by an establishment other than the casino licensee at which it is wagered.

**“Free play award”** means an outcome on a slot machine play that has no cash value to the patron but entitles the patron to activate one or more additional plays without making an additional slot machine wager.

**“Game cycle”** means the estimated number of game activations required to achieve each of the game outcomes that are possible in a primary slot machine game.

**“Game-within-a-game”** means a distinct set of plays that are described to the public on a slot machine as an authorized game but are only available for wagering if a patron first makes a wager on, and achieves a specific outcome

from, a play offered as part of a primary slot machine game. A single primary slot machine game may include more than one game-within-a-game.

“Gaming voucher” means a hard copy receipt that evidences a payout from a slot machine, is printed by and dispensed from a device contained in and operatively connected to a slot machine in a manner approved by the Division.

“Gaming Voucher Error Receipt” is a receipt issued by a gaming voucher redemption machine to evidence the failure of the machine to issue the full amount of cash in redemption of a gaming voucher. It contains the time and date, identifies the machine and specifies the amount of money that the machine failed to dispense.

“Hard count room” is defined in N.J.A.C. 13:69D-1.32(d).

“Hopper” is defined in N.J.A.C. 13:69D-1.36(a)1.

“Hub facility” is defined in N.J.A.C. 13:69M-1.1.

“Interested person” means any person whose specific legal rights, duties, obligations, privileges, benefits or other specific legal relations are affected by the adoption, amendment or repeal of a specific regulation or by any decision, order or ruling of the Commission or Division.

“Jackpot” means any money, merchandise or thing of value to be paid to a patron as determined by the approved program that controls a slot machine.

“Jackpot display” means a specific combination of characters or other display on a slot machine generated by the slot machine’s approved program to clearly indicate it has awarded a specific jackpot.

“Jackpot scripting” means a programmed sequence of events included in a slot machine game that is used to disclose a randomly pre-selected variable outcome to a patron in a particular manner but does not otherwise affect the outcome.

“Last game recall” means the capability of a slot machine game to display the outcome of the previous play.

“Layout” means the cloth covering a gaming table, containing designated areas for patrons to place the various wagers of the game, and such rules of the

game, payoff odds and other information or graphics as the Division shall require.

“Limited time payout” means a jackpot offered by a slot machine game that is only available to be won for a limited period of time during the game cycle.

“Linked slot machine” is defined in N.J.A.C. 13:69D-1.39(c).

“Location number” means the unique number assigned to each site on a casino floor or in a casino simulcasting facility that contains the following: a pit and each table game located therein, a slot machine and any bill changer attached thereto or incorporated therein, an automated coupon redemption machine, a credit voucher machine or a self-service pari-mutuel machine.

“Logic board serial number” means a number assigned to a logic board by a casino licensee or its agent for identification and control purposes, which number shall correspond to the manufacturer's serial number of the slot machine in which the logic board is installed and shall be permanently imprinted, impressed, affixed or engraved on the logic board.

“Manufacturer's serial number” means a unique number permanently assigned to a slot machine by a slot machine manufacturer for identification and control purposes, which number shall be affixed to the outside of the slot machine cabinet in a location as approved by the Division.

“MIS department manager” is defined in N.J.A.C. 13:69D-1.11(b)3.

“MIS security officer” is defined in N.J.A.C. 13:69D-1.11(b)3.

“Multi-denominational,” when used in conjunction with or in reference to a slot machine, means a slot machine that contains one or more slot machine games on which a patron has the option to make wagers in different denominations.

“On a daily basis” means something which occurs or is performed each gaming day.

“Operation certificate” means a certificate issued by the Division which certifies that operation of a casino and, if applicable, of a casino simulcasting facility conforms to the requirements of the Act and applicable rules.

**“Optimal strategy” means the choice from among more than one option presented to a patron by a slot machine game which, if selected by the patron, offers the greatest theoretical rate of return to the patron.**

**“Pari-mutuel ticket” is defined in N.J.A.C. 13:69M-1.1.**

**“Patron access control” means a system or device used by a casino licensee to identify and grant a patron exclusive authority to initiate the transmission of electronic credits to the electronic transfer credit meter of a slot machine and may include, without limitation, the use of a patron access card with a magnetically coded strip, a coded key pad system or any other means of patron access control approved by the Division.**

**“Payout-only slot machine hopper” or “payout-only hopper” is defined in N.J.A.C. 13:69D-1.36(a)1ii.**

**“Physical connection” means an enclosed permanent pedestrian passageway. In no event shall the main entrance or only access to an approved hotel be through a casino.**

**“Pit” means the area enclosed or encircled by the arrangement of gaming tables in which casino personnel administer and supervise the games played at the tables by the patrons located on the outside perimeter of the area.**

**“Play,” as in “a play,” means, for purposes of a slot machine game, all gaming transactions that may be initiated by the making of a specific slot machine wager. A play includes the making of a slot machine wager or the use of a free play award in lieu of the wager, the activation of the slot machine game by the patron and an indication to the patron of the outcome of the wager including, if a jackpot is won, the payment of the jackpot. All available plays must be displayed on the slot machine. For example, a slot machine game may include a \$1.00 play (requiring a \$1.00 wager), a \$2.00 play (requiring a \$2.00 wager) and a \$3.00 play (requiring a \$3.00 wager). The \$1.00 play includes all potential outcomes that may result when a \$1.00 wager is made on the slot machine game.**

**“Primary slot machine game” means a distinct set of plays that are described to the public on a slot machine as an authorized game and are available to a patron for wagering without regard to whether the patron has made**

a prior slot machine wager on that slot machine game. A single slot machine may contain one or more primary slot machine games.

“Progressive jackpot” is defined in N.J.A.C. 13:69D-1.39(a).

“Public area” means the areas in each casino and casino simulcasting facility that are open to the public in accordance with a casino licensee's internal controls.

“Regulation” or “rule” means the regulation adopted by the Commission or Division pursuant to the Act.

“Representation of gaming debt” means a document issued by a casino licensee in a form approved by the Division to evidence a specific amount of money owed to a patron by the casino licensee as a result of a gaming transaction, and includes a gaming voucher and winning keno ticket, but does not include a gaming chip, gaming plaque, slot token, jackpot payout receipt, receipt for table game, tournament or bad beat payout, winning pari-mutuel ticket or simulcasting credit voucher.

“Restricted areas” or “restricted casino areas” means the cashiers' cage, the soft count room, the hard count room, the slot booths and runway areas, the interior of table game pits, the surveillance room and catwalk areas, the slot machine repair room, the simulcast counter, the specific areas designated and approved pursuant to N.J.S.A. 5:12-100b for the possession and maintenance of gaming equipment (such as computers) that supports the conduct of gaming in the casino or casino simulcasting facility, the areas used for storing or destroying dice or cards, any additional area that a casino licensee designates as restricted in its internal controls, and any other area specifically designated by the Division as restricted elsewhere in the rules of the Division or in a particular casino licensee's operation certificate.

“Restricted brewery authorization” is defined in N.J.A.C. 13:69I-1.4A.

“Riffle shuffle” means a type of shuffle performed by the dealer pursuant to which a single deck of cards is divided into two approximately equal stacks that are placed face down on the gaming table next to one another, the shorter edges of the cards in both stacks are bent upwards and released in such a manner so

that the cards in both stacks become interlaced and combined to reform a single complete deck of cards. If multiple decks of cards are being riffle shuffled, the dealer shall place the decks in a single stack, remove a stack of cards from the top that is approximately equal to a single deck of cards, perform a riffle shuffle on the removed stack, and repeat the process as many times as necessary until the entire original stack of cards has been shuffled in this manner.

“Scripting” means information that is programmed to be displayed in a particular manner by a slot machine game that is unrelated or unnecessary to the illustration of the actual gaming transaction to the patron.

“Simulcast horse race” is defined in N.J.A.C. 13:69M-1.1.

“Simulcast payout” means the money paid to a patron in exchange for a credit voucher or a winning, cancelled or refunded pari-mutuel ticket.

“Skill feature” means a play on a slot machine game that requires the patron to make a choice as to how to proceed in the game, where the available choices affect the theoretical payout percentage of the play and the game, and the game uses electronic representations of a standard set of playing cards, a standard set of dice, or some other set of symbols or numbers where the probability of choosing any particular symbol or number in the set is one divided by the total number of elements in the set.

“Slot department manager” is defined in N.J.A.C. 13:69D-1.12(c).

“Slot machine game” means a primary slot machine game or a game-within-a-game.

“Slot machine main program” means the software that controls those aspects of a slot machine prototype that are necessary to the operation of a slot machine game, including, without limitation, its meters, random number generator and security. More than one slot machine main program may be approved for a slot machine prototype, but only one slot machine main program shall at any given time control the operation of a slot machine. “Slot machine main program” does not include software that controls only, without limitation, the pay tables, sound or graphics of a slot machine game or the operation of a bill changer or gaming voucher printer connected to the slot machine.

**“Slot machine wager”** means the total value of coins, currency, coupons, slot tokens or electronic credits generated that are required to activate a particular slot machine play.

**“Slot zone”** means a specified area on a casino floor that contains one or more slot machines.

**“Slug”** means any object, excluding coin appropriately used to activate play and foreign slot tokens, that is found in a slot machine hopper, slot drop bucket or slot drop box.

**“Soft count room”** is defined in N.J.A.C. 13:69D-1.32(d).

**“Strategy feature”** means a play on a slot machine game that requires a patron to make a choice whether to accept a variable outcome or risk it for another variable outcome.

**“Strip shuffle”** means a type of shuffle performed by the dealer pursuant to which a single deck of cards is placed face down on the gaming table and stacks of cards comprised of no more than 15 cards each are successively removed from the top of the deck and placed adjacently on the gaming table to reform a stacked single deck. If multiple decks of cards are being strip shuffled, the dealer shall place the decks of cards in a single stack, remove a stack of cards from the top that is approximately equal to a single deck of cards, perform a strip shuffle on the removed stack, and repeat the process as many times as necessary until the entire original stack of cards has been shuffled in this manner.

**“Table game”** means one of the following authorized games approved by the Division pursuant to N.J.S.A. 5:12-5: asia poker, baccarat, big six, blackjack, boston 5 stud poker, caribbean stud poker, casino war, colorado hold 'em poker, craps, double attack blackjack, double cross poker, double down stud, fast action hold 'em, flop poker, four card poker, let it ride poker, minibaccarat, mini-craps, mini-dice, mississippi stud, pai gow, pai gow poker, poker, pokette, red dog, roulette, sic bo, spanish 21, supreme pai gow, texas hold 'em bonus poker, three card poker, two card joker poker, ultimate texas hold 'em and winner's pot poker.

**“Theoretical payout percentage”** of a play or slot machine game means the total value of the jackpots expected to be paid by a play or slot machine game

divided by the total value of slot machine wagers expected to be made on that play or slot machine game during the same portion of the game cycle, calculated in accordance with the provisions of N.J.A.C. 13:69E-1.28A.

“Variable outcome” means an outcome that is randomly selected from a disclosed range of outcomes that become available when a specified jackpot is achieved in a slot machine game. The probability of selecting any particular outcome in the range shall in no way be based upon the number or value of prior slot machine wagers made on the slot machine game.

“Washing or chemmy shuffle” means a mixing of the cards, during which the cards are placed face down on the table and randomly intermixed by the dealer using the heels of the palms of the hands, by rotating one hand in a circular clockwise motion and the other hand in a circular counterclockwise motion, with each hand completing at least eight full circles.

“Zone letter” or “zone number” means the unique alpha or numeric designation assigned to each slot zone.

### **13:69-1.3 Construction and amendments**

(a) The Division’s rules shall be construed in accordance with generally accepted principles of statutory construction, including those set forth in N.J.S.A. 1:1-1, et seq.

(b) The Division’s rules shall be liberally construed to permit the Commission and the Division to effectively carry out their respective statutory functions and to secure a just and expeditious determination of issues properly presented to the Commission or the Division.

(c) Nothing contained in the Division’s rules shall be so construed as to conflict with any provision of the New Jersey Casino Control Act or any other applicable statute.

(d) In special cases and for good cause shown, the Commission or Division may relax or permit deviations from the Division’s rules.

(e) The Division’s rules may be amended by the Division from time to time in accordance with the provisions of the Administrative Procedure Act, N.J.S.A.

**52:14B-1 et seq.**

**(f) Whenever any provision of the Division's rules requires that an act or event occur on a specified day or date, and such day or date falls upon a Saturday, Sunday or legal holiday, such provision shall be construed to refer to the next business day immediately following such day or date.**

**(g) Pursuant to N.J.S.A. 5:12-69(e), the Division may authorize the temporary adoption, amendment or repeal of any rule concerning the conduct of gaming or simulcast wagering, the use or design of gaming or simulcast wagering equipment or the internal procedures and administrative and accounting controls required by N.J.S.A. 5:12-99 for a period not to exceed 270 days, for the purpose of determining whether such rules should be adopted on a permanent basis. Any interested person may file a petition for temporary rulemaking with the Division in accordance with N.J.A.C. 13:69-3.6.**

**1. The Division shall file notice of any temporary rulemaking with the Office of Administrative Law for publication in the New Jersey Register at least seven days prior to initiation of the experiment, and shall prominently post such notice in each casino participating in the experiment.**

**2. The Division shall post the text of any temporary rule in each casino participating in the experiment and shall make copies of such text available upon request to the Division.**

**13:69-1.4 Words and terms; tense, number and gender**

**(a) In construing the provisions of the Division's rules, except when otherwise plainly declared or clearly apparent from the context:**

- 1. Words in the present tense shall include the future tense;**
- 2. Words in the masculine shall include the feminine and neuter genders; and**
- 3. Words in the singular shall include the plural and the plural shall include the singular.**

**13:69-1.5 Severability and preemption**

(a) If any clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion of the Division's rules or the application thereof to any person or circumstance shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of the Division's rules or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion thereof directly involved in such holding or to the person or circumstance therein involved.

(b) Notwithstanding the provisions of any other law to the contrary, no local government unit of this State may enact or enforce any ordinance or resolution conflicting with any provision of the Act or of the Division's rules or with any policy of this State expressed or implied in the Division's rules, whether by exclusion or inclusion. The Commission and Division may exercise any proper power or authority necessary to perform the duties assigned to each entity by law, and no specific enumeration of powers in the Act shall be read to limit the authority of the Division to administer the Act and the Division's rules.

#### **13:69-1.6 Practice where rules do not govern**

In any matter not governed by the Division's rules, the Commission or the Division shall exercise its discretion so as to carry out the purposes of the Act.

### **SUBCHAPTER 2. DELEGATION OF DIVISION AUTHORITY**

**13:69-2.1 through 2.4 (Reserved)**

#### **13:69-2.5 Delegation of Division authority**

(a) The Director may, in his or her discretion and where permitted by law, delegate the authority of the Division to perform any of its functions under the Act or the Division's rules to a member or members of the Division's staff.

Except as provided in (c) below, such action shall for all purposes be deemed the final action of the Division, without approval, ratification or other further action by the Division.

(b) All delegations of authority made pursuant to this section shall remain in effect indefinitely.

(c) Any determination by the Division staff pursuant to delegated authority shall be presented for review by the Director, upon timely request by any party adversely affected by such determination. Such request shall be in writing, and must be received by the Division within three days after the date of such determination. No determination by the Division staff pursuant to delegated authority shall be deemed final until all parties have been afforded an opportunity for review in accordance with this subsection.

(d) Notwithstanding any other provision of this section, any matter which has otherwise been delegated to the Division staff may alternatively be presented to and determined by the Director at the discretion of the Director, or upon the request of the Division staff.

(e) Whenever any provision of the Division's rules requires that a party provide notice to or file any application, petition or other submission with the Division, the Division shall provide written notice to such party, designating any member or members of its staff authorized to accept such notice or filings on behalf of the Division.

### **SUBCHAPTER 3. INFORMATION AND FILINGS**

#### **13:69-3.1 Offices; hours**

(a) The offices of the Division of Gaming Enforcement are located at:

1. Citicenter Building  
1300 Atlantic Avenue  
Atlantic City, NJ 08401
  
2. 140 East Front Street

**P.O. Box 047**

**Trenton, NJ 08625-0047; and**

**(b) The main offices of the Commission are located at:**

**Arcade Building**

**Tennessee Avenue and the Boardwalk**

**Atlantic City, N.J. 08401**

**(c) The offices of the Division are open for the filing of papers and for other business (except public inspection of documents) from 9:00 A.M. to 5:00 P.M., Monday through Friday, unless otherwise authorized by the Division. The offices of the Division are open for public inspection of documents from 10:00 A.M. to 4:00 P.M., Monday through Friday, unless otherwise authorized by the Division. The offices of the Division are closed on legal holidays.**

#### **13:69-3.2 Official records; fees for copies**

**(a) No original official record of the Division shall be released from the custody of the Division except upon express direction Director or his or her designee, as applicable, or upon the order of a court of competent jurisdiction.**

**(b) Copies of the official records of the Division which are required by law to be made available for public inspection will be made available during the hours provided for in N.J.A.C. 13:69-3.1 upon the payment of appropriate fees.**

**(c) No person shall, directly or indirectly, procure or attempt to procure from the records of the Division or from other sources, information of any kind which is not made available by proper authority.**

**(d) No application, petition, notice, report, document or other paper will be accepted for filing and no request for copies of any forms, pamphlets, records, documents, or other papers will be granted, unless such papers or requests are accompanied by the required fees, charges, or deposits.**

**(e) Any person may subscribe to meeting notices, minutes, or notices of rulemaking by written request accompanied by a check or money order in accordance with the subscription rates established in this section. All subscriptions shall be on a calendar year basis only, and rates for subscriptions**

commencing during a calendar year will be prorated accordingly. At the discretion of the Division, no payment may be required when the request is made by the governor of the State of New Jersey or by a member of the Legislature or by any newspaper, television station or radio station regularly serving New Jersey.

(f) Except as provided in (g) below, copies of official records which are required by law to be made available for public inspection shall be made available according to the following fee schedule:

1. Letter-size paper copies: \$.05 per page; and
2. Legal-size paper copies: \$.07 per page;

(g) Copies of the following documents may be obtained upon payment of the appropriate fee, as follows:

1. Casino Control Act, N.J.S.A. 5:12-1 et seq.: \$26.75;
2. Annual Report Pursuant to Section 72 of the Act: No charge;
3. Monthly, quarterly and annual reports for all casino licensees: \$440.00 per year;
4. Monthly reports for all casino licensees: \$55.00 per year;
5. Quarterly reports:
  - i. For all casino licensees : \$270.00 per year; and
  - ii. For one casino licensee: \$7.50 per report; and
6. Annual reports:
  - i. For all casino licensees: \$120.00 per year; and
  - ii. For one casino licensee: \$10.00 per report.

(h) All checks for payment of fees, deposits and charges shall be made payable to the order of the "Casino Control Fund" and delivered or mailed to the main office of the Division.

#### 13:69-3.3 Communications; notices

(a) Except as otherwise provided by the Division's rules, all papers, process or correspondence relating to the Division shall be addressed to or

served upon the Division of Gaming Enforcement at the Division's main office.

(b) All such papers, process or correspondence shall be deemed to have been received or served when delivered to the main office of the Division but the Director or such individual staff members of the Division's staff as the Director may designate, may, in his or her discretion, receive papers or correspondence or accept service of process.

(c) Except as otherwise specifically provided by law or rules of the Division, notices and other communications from the Division will be sent to an applicant, licensee or registrant by either ordinary mail or certified mail to the address shown in the most recent application or change of address notice received from such person.

(d) Notices shall be deemed to have been served upon their deposit, postage prepaid, in the United States mails, and the time specified in any such notice shall commence to run from that date.

(e) Any applicant, licensee or registrant who desires to have notices or other communications mailed to an address other than that specified in the application shall file with the Division a specific request for that purpose, and notices and other communications will, in such case, be sent to the applicant, licensee or registrant at such address.

(f) An applicant, licensee or registrant will be addressed under the name and style designated in the application, and separate notices or communications will not be sent to individuals named in such application unless a specific request for that purpose is filed with the Division. In the absence of such a specific request, a notice addressed under the name or style designated in the application shall be deemed to be notice to all individuals named in such application.

(g) Applicants, licensees and registrants shall immediately notify the Division of any change of address, and shall specifically request that all notices or other communications be sent to the new address.

#### **13:69-3.4 Public information office**

(a) Requests for information regarding the Division of Gaming

**Enforcement may be directed to:**

**Division of Gaming Enforcement  
Attention: Lisa Spengler, Administration  
1300 Atlantic Avenue  
Atlantic City, NJ 08041**

**(b) Access to information and data furnished to or obtained by the Division from any source is subject to the provisions of N.J.S.A. 5:12-74.1 and N.J.A.C. 13:69-4.2.**

**13:69-3.5 Filing of petitions and applications**

**(a) Petitions for formal action by the Division shall be mailed to:**

**Division of Gaming Enforcement  
Intake Unit  
2nd Floor  
1300 Atlantic Avenue  
Atlantic City, NJ 08401**

**Regarding petitions filed with the Division concerning initial casino licenses, the Division will provide the Commission with a stamped, filed copy, by either regular mail or electronic means, at the following address:**

**Casino Control Commission  
Office of the General Counsel  
Arcade Building, 2nd Floor  
Tennessee Avenue and the Boardwalk  
Atlantic City, NJ 08401  
e-mail: [generalcounselmailbox@ccc.state.nj.us](mailto:generalcounselmailbox@ccc.state.nj.us)**

**(b) Applications for the issuance or retention of a casino license shall be mailed to:**

**Division of Gaming Enforcement  
Intake Unit  
2nd Floor  
1300 Atlantic Avenue**

**Atlantic City, NJ 08401**

**(c) Applications for the issuance or retention of employee and casino service industry credentials may be hand delivered to:**

**Division of Gaming Enforcement**

**Applications Unit**

**Arcade Building, 1st Floor**

**Tennessee Avenue and the Boardwalk**

**Atlantic City, NJ 08401**

### **13:69-3.6 Petitions for rulemaking**

**(a) Any interested person may file a petition with the Division for the adoption, amendment or repeal of any rule, pursuant to Section 69(c) of the Act and N.J.S.A. 52:14B-4(f). Such petition shall be in writing, be signed by the petitioner, and include the following information:**

- 1. The name and address of the petitioner;**
- 2. The substance or nature of the requested rulemaking;**
- 3. The reasons for the request;**
- 4. The specific legal rights, duties, obligations, privileges, benefits or other specific legal relations of the interested person which are affected by the requested rulemaking; and**
- 5. Reference to the statutory authority under which the Division may take the requested action.**

**(b) Any document submitted to the Division which is not in substantial compliance with this section shall not be deemed to be a petition for rulemaking requiring further action. Such document shall be returned to the petitioner with instructions as to the steps necessary to correct any defects or omissions in accordance with this section.**

**(c) Within 15 days of receipt of a petition in compliance with this section, the Division shall file a notice of petition with the Office of Administrative Law for publication in the New Jersey Register in compliance with N.J.A.C. 1:30-4.1(c).**

**(d) Within 60 days of receipt of a petition which is in compliance with this**

section, the Division shall mail to the petitioner and file with the Office of Administrative Law a notice of action on the petition in compliance with N.J.A.C. 1:30-4.2(d), which shall include the nature or substance of the Division's action upon the petition and a brief statement of reasons for the Division's actions.

(e) In accordance with N.J.A.C. 1:30-4.2(a), Division action on a petition for rulemaking may include:

1. Denial of the petition;
2. Filing a notice of proposed rule or a notice of a pre-proposal for a rule with the Office of Administrative Law; or
3. Referral of the matter for further deliberations, the nature of which will be specified and which will conclude upon a specified date. The results of these further deliberations shall be mailed to the petitioner and shall be submitted to the Office of Administrative Law for publication in the New Jersey Register.

### **13:69-3.7 Declaratory rulings**

(a) Pursuant to N.J.S.A. 52:14B-8, any interested person may request that the Division render a declaratory ruling with respect to the applicability to any person, property or state of facts of any provision of the Act or of any Division rule.

(b) A request for a declaratory ruling shall be initiated by a petition. The petition shall include the following items with specificity:

1. The nature of the request and the reasons therefore;
2. The facts and circumstances underlying the request;
3. Legal authority and argument in support of the request; and
4. The remedy or result desired.

(c) If the Division, in its discretion, decides to render a declaratory ruling, a hearing shall be afforded prior to the rendering of such a ruling.

1. Where there exists disputed issues of fact which must be resolved in order to determine the rights, duties, obligations, privileges, benefits

or other legal relations of specific parties, such hearings shall be conducted in accordance with N.J.A.C. 13:69B-2.

2. Where there exists no such disputed issues of fact as identified in (c)1 above, the matter shall proceed on the petition, any other papers requested of the parties, and oral argument, if permitted by the Division.

(d) In appropriate cases, the Division may notify persons who may be interested in or affected by the subject of the declaratory ruling. In such cases, the Division may afford these persons an opportunity to intervene as parties or to otherwise present their views in an appropriate manner which is consistent with the rights of the parties.

#### **SUBCHAPTER 4. CONFIDENTIAL INFORMATION**

##### **13:69-4.1 Definitions**

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

"Authorized personnel" means any member or employee of the Commission or any employee or agent of the Division.

"Confidential information" means any information or data, furnished to or obtained by the Commission or Division from any source, which is considered confidential pursuant to the provisions of N.J.S.A. 5:12-74.1, or which is otherwise confidential pursuant to applicable statutory provision, judicial decision or rule of court.

"Secure storage facility" means any area, room, furniture, equipment, machinery or other device used by the Commission or Division for the storage of confidential information, access to which is limited to authorized personnel at all times by locks, alarms, codes or other appropriate security precautions.

##### **13:69-4.2 Determination of confidential status**

(a) Except as provided by N.J.S.A. 5:12-74.1d, all information and data furnished to or obtained by the Division which relates to the internal controls

specified in N.J.S.A. 5:12-99a, or to the earnings or revenue of any applicant, registrant or licensee, or which pertains to an applicant's criminal record, family or background, shall be presumed to be confidential and shall not be released or disclosed to any person except in accordance with the provisions of this subchapter.

(b) Any question concerning whether or not a specific item of information or data within the possession of the Division is deemed to be confidential information under N.J.S.A. 5:12-74.1a and b, or any other applicable statutory provision, judicial decision or rule of court, shall be submitted to the Division for determination or referral to appropriate authorities.

#### **13:69-4.3 Access**

Except as otherwise provided in N.J.A.C. 13:69-4.4(b) and 4.8, access to confidential information within the possession of the Division shall be restricted to authorized personnel who require such information in the performance of their official duties.

#### **13:69-4.4 State Records Storage Center: retention schedule; storage; destruction**

(a) With the approval of the State Records Committee, the Division shall establish and maintain a records retention schedule for all confidential information within their possession.

(b) Confidential information considered to be inactive by the Division but required to be retained pursuant to the provisions of (a) above, may be transferred to the possession of the State Records Storage Center in accordance with N.J.S.A. 47:2-7, as implemented by N.J.A.C. 15:3, provided that:

1. The Division is satisfied that access to any confidential information stored with the State Records Storage Center shall be limited to employees of the Center and authorized personnel of the Commission and Division;

2. A log is maintained of all authorized personnel who are granted access to or who remove confidential information stored with the State Records Storage Center, which log shall include the information required by N.J.A.C. 13:69-4.6(b);

3. Any confidential information transferred to the State Records Storage Center is contained in transfer cartons, sealed and marked in such a manner so as to preclude the undetected examination of the confidential information contained therein by any person other than authorized personnel; and

4. The Division periodically inspects and reviews any such stored confidential information to assure that it has not been disclosed or removed in violation of N.J.S.A. 52:13D-25, N.J.S.A. 47:3-29 and the provisions of this subchapter.

(c) Any confidential information in the possession of the Division or State Records Storage Center shall be promptly destroyed in accordance with the provisions of the applicable records retention schedule required by (a) above.

#### **13:69-4.5 Retention in secure storage facilities; access**

(a) Confidential information which is not presently being utilized by authorized personnel shall be stored in secure storage facilities designated for such purposes by the Division. No one except authorized personnel may gain access to designated secure storage facilities except in accordance with the provisions of this subchapter.

(b) All Division offices in which secure storage facilities are located shall be protected from unauthorized intrusion at all times. Proper security precautions during business hours shall include a requirement that all visitors to such offices be required to identify themselves and wear a visitor pass in a conspicuous location. Proper security precautions during nonbusiness hours shall include the use of alarm or security guard systems.

(c) Every secure storage facility shall be placed under the direct supervision and control of an appropriate section or unit supervisor who shall

periodically review for their effectiveness all security procedures and precautions pertaining to the confidential information stored therein. Security procedures and precautions that are determined to be ineffective shall be immediately corrected.

(d) Confidential information may be stored in secure storage facilities on micrographics, hard copy (paper), magnetic media or any other suitable medium, provided adequate security measures are maintained to prevent unauthorized access to or use of such information.

1. A coded filing system shall be utilized whenever practicable to prevent unauthorized access to stored confidential information.

2. Access to confidential information stored on computer or magnetic media shall be restricted to authorized personnel who have obtained the required operating key, code manual or access code from the appropriate section or unit supervisor. Operating keys, code manuals and access codes shall be limited in number and shall be controlled by the appropriate section or unit supervisor.

#### **13:69-4.6 Temporary custody by authorized personnel**

(a) Authorized personnel shall not remove confidential information from designated secure storage facilities unless such removal is necessary to the fulfillment of their official duties. Confidential information which is not presently being utilized by authorized personnel shall be promptly returned to its secure storage facility.

(b) A record shall be maintained of all confidential information which is removed from secure storage facilities other than those which utilize computer or magnetic media. This record shall include:

1. The name of the person removing the information;
2. The name of the person for whom the information is being obtained;
3. The date of removal;
4. A description of the information removed or the number of the

file which has been removed; and

5. The date the information is returned.

(c) Confidential information shall not be removed from the offices of the Division without the prior approval of an appropriate section or unit supervisor. Such approval shall only be granted where removal of the confidential information is necessary to the performance of the official duties of authorized personnel.

(d) The integrity of confidential information in the possession of authorized personnel shall be preserved at all times. It shall be the personal responsibility of any individual granted temporary custody of confidential information to insure that the information is not shown, released or disclosed to any unauthorized person or to any otherwise authorized person who does not require such information in the performance of their official duties. Confidential information temporarily stored outside designated secure storage facilities shall be maintained in a locked desk or filing cabinet, or protected by other appropriate security precautions.

#### **13:69-4.7 Copies**

A hard copy of confidential information stored on computer or magnetic media, or any other copy of confidential information within the possession of the Division, shall only be made where absolutely necessary to the administration of the Act, or where an authorized release of the confidential information is made pursuant to the provisions of N.J.A.C. 13:69-4.8.

#### **13:69-4.8 Release; notice**

(a) Confidential information within the possession of the Division shall not be released or disclosed in whole or in part to any person, except:

1. In the course of the necessary administration of the act;
2. Upon lawful order of a court of competent jurisdiction;
3. With the approval of the Attorney General, to a duly authorized

law enforcement agency;

4. Upon presentation of proper identification, to the applicant, registrant or licensee who furnished the confidential information to the Division;  
or

5. Upon presentation of a duly executed and notarized release authorization by the applicant, registrant, or licensee who furnished the confidential information, to any person making a written request for specifically identified confidential information.

(b) If confidential information is released or otherwise disclosed to any person under any circumstances other than those identified in (a)3 through 5 above, written notice of such release or disclosure shall be given to any applicant, registrant or licensee affected, unless notice would otherwise imperil the integrity of casino operations in this State. To the extent known, the notice shall include:

1. The name and address of the person to whom the information was released or disclosed;
2. A description of the information released or disclosed; and
3. The date of the release or disclosure.

(c) Whenever possible, any such notice of confidential information to be released or disclosed shall be given prior to the release or disclosure.

#### **13:69-4.9 Penalties**

(a) Any direct or indirect willful disclosure of confidential information by authorized personnel of the Division under circumstances other than those identified in N.J.A.C. 13:69-4.8 shall be a violation of the Division's Code of Ethics and shall subject such person to the penalties provided by N.J.S.A. 52:13D-23(d). Such violations shall be heard by the State Ethics Commission in accordance with N.J.S.A. 52:13D-21(h).

(b) The unauthorized release or disclosure of confidential information may also be a violation of N.J.S.A. 52:13D-25 or 47:3-29.

(c) Any violation of the provisions of this subchapter by authorized personnel may result in appropriate disciplinary action by the Division.

## **SUBCHAPTER 5. PROFESSIONAL PRACTICE**

### **13:69-5.1 General provisions**

**No person shall practice law, accountancy, architecture, professional engineering, land surveying or any other profession or occupation regulated by the laws of this State before the Division in any manner other than in accordance with law, the ethical standards applicable to the particular profession and the regulations of the Division. "Practice" shall be deemed to comprehend any matter connected with the presentation of the interest of a client including the making of any appearance and the preparing or filing of any necessary written document, correspondence or other paper relative to such interests.**

### **13:69-5.2 The practice of law**

**(a) No person, other than a natural person practicing law on his or her own behalf, shall practice law or represent another person before the Division unless he or she is an attorney authorized to practice law in this State, or a non-attorney authorized by the Division to appear pursuant to New Jersey Court Rule R. 1:21-1(f) and N.J.A.C. 1:1-5.4.**

**(b) Notwithstanding (a) above, an attorney admitted in this State who is in good standing but who does not maintain in this State a bona fide office for the practice of law, or an attorney of any other jurisdiction who is in good standing there, may in the discretion of the Director be admitted to practice in connection with a particular matter by complying with the requirements of N.J.A.C. 1:1-5.2 and provided that an attorney authorized to practice law in this State who is in good standing shall also appear of record in and thereby be responsible for the conduct of the admitted attorney in the particular matter and that both such attorneys shall sign all papers submitted or filed in accordance with the regulations of the Division.**

### **13:69-5.3 Notice of appearance by attorney**

Each attorney practicing before the Division shall promptly file with the Division a notice of appearance in each matter and on behalf of each client represented and may be required to file evidence of his authority to act in such capacity.

#### **13:69-5.4 Other professions and occupations**

No person shall practice accountancy, architecture, professional engineering or land surveying before the Division unless he is a certified public accountant, licensed architect, licensed professional engineer or licensed land surveyor of this State. No person shall practice any other profession or occupation regulated by the laws of this State which authorizes the licensure, certification or any other governmental approval of persons practicing same unless such person is so licensed, certified or approved.

#### **SUBCHAPTER 6. (RESERVED)**

#### **SUBCHAPTER 7. PROHIBITED POLITICAL CONTRIBUTIONS**

##### **13:69-7.1 Statement of governing principles**

(a) Pursuant to N.J.S.A. 5:12-138, casino licensees and other entities and persons closely aligned therewith are prohibited from making contributions of money or things of value to candidates for public office and political organizations in New Jersey. This prohibition is designed to protect the public interest in both the fact and the appearance of the independence of the political process, and the insulation of the government institutions that are responsible for the supervision of the casino industry, from the uniquely powerful economic force that is presented by that industry. The protection of these interests is critical to the maintenance of public confidence and trust in the regulation of casino gaming in New Jersey.

(b) The statutory prohibition was narrowly drawn in order to preserve the

fundamental rights of all persons to express themselves as they see fit with regard to questions of political and public interest, including specifically the advocacy of the election or defeat of candidates for public office. No prohibition on the right of any person to join any political organization or movement, or to advocate the election or defeat of any candidate, was intended or effected by the statutory provision or the rules contained in this subchapter.

(c) Between the right of free expression and the necessary prohibition of certain contributions lies a range of conduct that should be identified as acceptable, or prohibited, in accordance with the public interest, the policies of the Act, and the fundamental rights of all citizens. In addition to the standards established in this subchapter, the declaratory ruling procedure set forth at N.J.A.C. 13:69-3.7 is available to assist all affected persons in understanding and complying with these provisions.

#### **13:69-7.2 Definitions**

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

“Candidate” means a person seeking nomination or election to any local, county or State public office in New Jersey, but shall not include a person seeking nomination or election to any Federal public office.

“Contribution” means a payment, transfer or pledge of money or a thing of value to or for the benefit of a candidate or political organization.

“Dependent person” means a person who is:

1. An employee or co-employee of a prohibited person;
2. An employee or co-employee of a person affiliated with a prohibited person; or
3. An enterprise or firm, or an officer, director, partner, owner or principal employee of an enterprise or firm, that is a party to any contract with, or is bidding for or seeking to enter any contract with, or regularly represents or provides services to, a prohibited person.

“Money” means cash or instruments that are convertible to cash in any

negotiable currency.

**“Political organization” means any committee of any political party in this State, as structured and defined in accordance with the provisions of N.J.S.A. 19:1-1 et seq., or any group, committee, or association organized in support of such political party or any candidate.**

**“Prohibited person” means an applicant for or holder of a casino license, or any holding, intermediary or subsidiary company thereof; or any officer, director, casino key employee or qualifier of any of these companies; or any person or agent acting on behalf of any of these companies or persons.**

**“Solicitation” means a request, suggestion or recommendation made to a particular person, by any means of communication, that the person make a contribution; provided, however, that a statement to a person expressing support for or opposition to the election of any candidate, or support for or opposition to any political organization, which is made without reference to a contribution, or a statement intended for and given public dissemination encouraging all persons to make contributions to any candidate or political organization, is not a solicitation.**

**“Thing of value” means:**

- 1. An item of real, personal or intellectual property that may be converted into money by selling it or pledging it as security for a loan or other advance of funds;**
- 2. A loan of assets, property, personnel or facilities for use by a candidate or political organization, such as, without limitation, office space, automobiles, telephones or telephone services, or the time and effort of employees or consultants who are paid by the person making the contribution;**
- 3. A personal or professional service that is not incidental to the expression of a person's ideological beliefs or membership in a political organization, and that has a value to the candidate or political organization;**
- 4. A non-reimbursed expense that is not incidental to the expression of a person's ideological beliefs or membership in a political organization, and is of the type normally incurred by the candidate or political organization; or**

5. Any thing, service, expense or other item of value similar to that identified in paragraphs 1 through 4 above which may be identified by the Division in a declaratory ruling or other appropriate proceeding.

**13:69-7.3 Prohibited contributions and solicitations**

(a) No prohibited person shall, directly or indirectly, make any contribution or solicit any person to make a contribution on behalf of a prohibited person.

(b) A contribution shall be considered to have been made on behalf of a prohibited person if, without limitation, it is made:

1. With money or a thing of value that is owned or controlled by a prohibited person; or
2. By any person in response to a solicitation by a prohibited person and under such circumstances as establish that the contribution was involuntary or would not have been made but for the influence of the prohibited person over the person making the contribution.

(c) In determining whether a contribution was made by a person on behalf of a prohibited person pursuant to (b)2 above, the Division shall consider all relevant facts and circumstances, including, but not limited to, the following:

1. Whether the person making the contribution is a dependent person with regard to the prohibited person;
2. The nature and importance of any economic, business, personal, familial or other relationship between the person making the contribution and the prohibited person that currently exists, that existed at the time the contribution was solicited and made, or that is reasonably anticipated to exist in the foreseeable future;
3. The timing and nature of any communications that may have occurred between the person making the contribution and the prohibited person regarding the prohibited person's desire to raise funds for the candidate or political organization that received the contribution;
4. The ability or inability of the prohibited person to control or affect the actions of the person making the contribution, and any evidence that any

such ability played a role in the decision to make the contribution;

5. Any prior contributions to or expressions of support for the candidate or political organization that was the recipient of the contribution by the person making the contribution, and the timing of any such prior contributions or expressions in relation to the establishment of the relationship between the prohibited person and the person making the contribution;

6. Whether the person making the contribution is a resident of New Jersey or has significant property or business interests in this State;

7. The timing and nature of any communications that may have occurred between the person making the contribution and the recipient of the contribution regarding the prohibited person's solicitations on behalf of or expressions of support for the candidate or political organization;

8. Whether there is a pattern or regular course of conduct involving contributions to one or more candidates or political organizations by the person making the contribution;

9. Whether there is a pattern or regular course of conduct involving contributions to one or more candidates or political organizations on the part of employees, contractors or other dependent persons of a prohibited person or any affiliated person or entity thereof; and

10. Whether the prohibited person has, directly or indirectly, reimbursed or offered to reimburse the person making the contribution for all or any portion of the contribution.

#### **13:69-7.4 Solicitations by prohibited persons; records; reports**

(a) Each prohibited person that solicits a contribution from any person shall prepare a written or computerized record of the solicitation that contains, at a minimum, the following information:

1. The name, address and employer of the prohibited person making the solicitation;

2. The name, address and employer of the person from whom the contribution was solicited;

**3. The means of communication by which the contribution was solicited, including a summary of any oral communication or a copy of any written or electronic communication;**

**4. The name of the candidate or political organization for whose benefit the contribution was solicited; and**

**5. The date of the solicitation.**

**(b) Each prohibited person that prepares a record required by (a) above shall transmit a copy of the record to the casino licensee or applicant for a casino license with which that prohibited person is associated within seven calendar days of the solicitation.**

**(c) Each casino licensee shall maintain on the premises of its casino hotel facility, and each applicant for a casino license shall maintain in a location in New Jersey approved by the Division, a copy of each record prepared pursuant to (a) above by any prohibited person associated with that casino licensee or applicant. Such records shall be made available for inspection by agents of the Division upon request.**

**(d) Each casino licensee and applicant for a casino license shall file a report with the Division on May 1 and October 15 of each year containing, in a format approved by the Division, a copy of each of the records prepared pursuant to (a) above since the filing of the last report.**

**(e) If a prohibited person fails to prepare or submit the record required by (a) and (b) above and a contribution is made to the candidate or political organization by the person as a result of the solicitation, the contribution shall be presumed, for purposes of N.J.A.C. 13:69-7.3(b)2, to have been made involuntarily or solely as a result of the influence of the prohibited person over the person making the contribution. This presumption shall apply to the conduct of the prohibited person making the solicitation, but not the person making the contribution, and may be overcome by an evaluation of all of the relevant circumstances.**

**(f) Each casino licensee or applicant for a casino license shall be responsible for assuring that each prohibited person associated with that casino**

**licensee or applicant is aware of the prohibitions and obligations established by N.J.S.A. 5:12-138 and this subchapter.**

19:40-1.3 Construction and amendments

(a) – (f) (No change.)

[(g) Pursuant to N.J.S.A. 5:12-69(e), the Commission may authorize the temporary adoption, amendment or repeal of any rule concerning the conduct of gaming or simulcast wagering, the use or design of gaming or simulcast wagering equipment or the internal procedures and administrative and accounting controls required by N.J.S.A. 5:12-99 for a period not to exceed 270 days, for the purpose of determining whether such rules should be adopted on a permanent basis. Any interested person may file a petition for temporary rulemaking with the Commission in accordance with N.J.A.C.

19:40-3.6.

1. The Commission shall file notice of any temporary rulemaking with the Office of Administrative Law for publication in the New Jersey Register at least seven days prior to initiation of the experiment, and shall prominently post such notice in each casino participating in the experiment.

2. The Commission shall post the text of any temporary rule in each casino participating in the experiment and shall make copies of such text available upon request to the Commission.]

19:40-1.5 Severability and preemption

[(a)] If any clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion of these rules or the application thereof to any person or circumstance shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of these rules or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion thereof directly involved in such holding or to the person or circumstance therein involved.

[(b) Notwithstanding the provisions of any other law to the contrary, no local government unit of this State may enact or enforce any ordinance or resolution conflicting with any provision of the Act or of these rules or with any policy of this State expressed or implied herein, whether by exclusion or inclusion. The Commission shall have exclusive jurisdiction over all matters delegated to it or within the scope of its powers under the provisions of the Act and these rules.]