

LAW AND PUBLIC SAFETY

OFFICE OF THE ATTORNEY GENERAL

DIVISION OF GAMING ENFORCEMENT

**Junket Enterprises Not Employed by a Casino Licensee or Applicant**

**Proposed Repeal: N.J.A.C. 19:49**

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

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

Authority: N.J.S.A. 5:12-69, 70, 102 and 104.

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

Proposal Number: PRN 2011-211.

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). Such enumerated responsibilities include to "...[p]romptly and in reasonable order review and approve or deny all casino service industry enterprise license applications...", "...[a]ccept and maintain registrations for all casino employee and vendor registrants...", and "...[r]evoke any

registration or casino service industry enterprise license upon findings pursuant to disqualification criteria..." See N.J.S.A. 5:12-76d, e and f.

As part of the transfer of regulatory duties, the Division has assumed from the Commission exclusive regulatory jurisdiction over the conduct of so-called "out-house" or "splinter" junkets, or junket enterprises and junket representatives not employed by a casino licensee or an applicant for a casino license. These junket enterprises and junket representatives are licensed pursuant to N.J.S.A. 5:12-92a(1) and 102c. The Commission has retained jurisdiction over those junket enterprises that operate as part of a casino licensee's or applicant's organization and junket representatives who are employed by a casino licensee or an applicant. See N.J.S.A. 5:12-102b.

The Division proposes new rules at N.J.A.C. 13:69H governing junket enterprises the Division is authorized to license pursuant to N.J.S.A. 5:12-92a(1) and 102c. The new rules, in effect, recodify certain rules promulgated by the Commission, streamline and consolidate others, and supplement the rules to reflect a recently enacted change to the Act with respect to non-supervisory employees of a Section 102c junket enterprise or junket representative. New rule N.J.A.C. 13:69H-1.1 sets forth definitions used in the chapter and includes by cross reference definitions in the Act for "junket," "junket enterprise" and "junket representative."

New rule N.J.A.C. 13:69H-1.2 delineates the scope of activities included within the meaning of a "junket" at N.J.S.A. 5:12-29.

New rule N.J.A.C. 13:69H-1.3 provides for conditional complimentary offers by a casino licensee to a person as they relate

to a determination of whether an arrangement qualifies as a "junket" under N.J.S.A. 5:12-29.

New rule N.J.A.C. 13:69H-1.4 governs advertisements by an applicant for or a holder of a junket enterprise license or by any agent of such enterprise including a junket representative.

New rule N.J.A.C. 13:69H-1.5 (1) requires licensing of all Section 102c junket enterprises and junket representatives prior to a casino licensee or applicant permitting any junket involving either enterprise or representative to arrive at its casino, and (2) permits a casino licensee or applicant to conduct business with such enterprise or representative upon application for and issuance of a transactional waiver.

In accordance with the recent amendments to N.J.S.A. 5:12-102c, new rule N.J.A.C. 13:69H-1.6 requires the registration of non-supervisory employees of a Section 102c junket enterprise or junket representative.

New rule N.J.A.C. 13:69H-1.7 sets forth requirements for a report to be filed by each casino licensee or applicant, affiliate of a casino licensee, junket representative or junket enterprise with the Division for each list of junket patrons or potential junket patrons purchased from any source.

New rule N.J.A.C. 13:69H-1.8 sets forth requirements for a monthly report on junket activities to be maintained by each casino licensee or applicant and made available to the Division for inspection on demand. The new rule also requires each casino licensee or applicant to supply monthly to the Division the name and license number of each person employed by the casino licensee or an affiliate

who performed the services of a junket representative during the proceeding month.

In conjunction with the proposed new rules discussed above, the Commission's rules at N.J.A.C. 19:49 are proposed for repeal.

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 repeal and new rules should further a positive social impact on the citizens of this State. One of the underlying goals of the Act is the redevelopment of Atlantic City and its tourist, resort and convention industries. Junket activity promotes this goal by enabling the casino industry in New Jersey to compete effectively with other jurisdictions for gaming patrons. The proposed new rules facilitate the effective use of junkets as a marketing tool while preserving the integrity and law enforcement interests essential to the State's supervision of this area of importance to casino operations.

#### **Economic Impact**

As indicated above, the economic impact of Chapter 69H on the casino industry, Atlantic City and the citizens of this State is significant. The proposed new rules enable the Division to regulate the conduct of junket activity and thus to assure the integrity of this important marketing tool. In the absence of these rules, such activity might have to be restricted or eliminated, reducing the gross revenue generated by the casino industry and the gross revenue taxes received by the State. Costs to junket enterprises and junket

representatives are discussed in the Regulatory Flexibility Analysis below.

#### **Federal Standards Statement**

A Federal standards analysis is not required because the proposed repeal 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 repeal 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 as they pertain to junket enterprises that are not part of a casino licensee's or applicant's organization and junket representatives not employed by a casino licensee or applicant. 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 repeal 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 repeal and new rules.

#### **Agriculture Industry Impact**

The proposed repeal and new rules will have no impact on agriculture in New Jersey.

#### **Regulatory Flexibility Analysis**

The reporting, recordkeeping and compliance requirements of Chapter 69H for the most part apply to casino licensees, none of which qualify as a small business under the Regulatory Flexibility Act,

N.J.S.A. 52:14B-16 et seq., because each casino licensee employs substantially more than 100 full-time employees.

Some of the junket enterprises and junket representatives required to be licensed may qualify as small businesses, and would incur the time and expense involved in filing the requisite license application. Non-supervisory employees of these enterprises and representatives would similarly incur the time and expense in filing for registration. Junket representatives and junket enterprises would also incur some costs in preparing and maintaining the requisite report with respect to any purchase of a list of names of junket patrons or potential junket patrons. It is not anticipated that the new rules proposed will impose upon junket enterprises or junket representatives the need for outside professional service. However, the majority of Section 102c junket enterprises and individuals working as junket representatives are located outside of New Jersey and are thus beyond the scope of the statute. For junket enterprises or junket representatives located in New Jersey, no exemption or modification of compliance requirements for small businesses has been provided.

The need for thorough regulation of this sensitive area has been weighed against the economic impact of the proposed new rules. The Division has determined that the strict regulation mandated by the Act precludes modification of these regulatory requirements for small businesses.

**Smart Growth Impact**

The proposed repeal 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 repeal and new rules will have no impact on the affordability of housing in the State of New Jersey because they affect the regulation of non-casino junkets in Atlantic City.

**Smart Growth Development Impact Analysis**

The proposed repeal 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 non-casino junkets 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. 19:49.

**Full text** of the proposed new rules follows:

CHAPTER 69H

JUNKET ENTERPRISES NOT EMPLOYED BY A

CASINO LICENSEE OR APPLICANT

SUBCHAPTER 1. JUNKET ENTERPRISES NOT EMPLOYED BY A CASINO LICENSEE OR APPLICANT

13:69H-1.1 Definitions

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

"Agent" means any person, including junket enterprises and junket representatives not employed by a casino licensee or applicant, acting directly or indirectly on behalf of a casino licensee or applicant.

"Complimentary guest room accommodations" means a guest room provided to a person at no cost, or at a reduced price not generally available to the public under similar circumstances; provided, however, that the term shall include any guest room provided to a person at a reduced price due to the anticipated or actual gaming activities of that person.

(b) The following words and terms, when used in this chapter, shall have the meanings set forth in the relevant portions of the Casino Control Act, N.J.S.A. 5:12-1 et seq.:

"Complimentary service or item" (as defined in N.J.S.A. 5:12-14a and N.J.A.C. 13:69D-1.9).

"Junket" (as defined in N.J.S.A. 5:12-29).

"Junket enterprise" (as defined in N.J.S.A. 5:12-29.1).

"Junket representative" (as defined in N.J.S.A. 5:12-29.2).

#### 13:69H-1.2 Scope of activities included

(a) As used in N.J.S.A. 5:12-29, a selection or approval of a person "on the basis of his ability to satisfy a financial qualification obligation related to his ability or willingness to gamble" shall be deemed to occur whenever a person, as an element of the arrangement, is required to:

1. Establish gaming credit with a casino licensee or

applicant;

2. Establish a customer deposit with a casino licensee or applicant;

3. Demonstrate to a casino licensee or applicant or agent thereof the availability of a specified amount of cash, cash equivalent or gaming chips;

4. Gamble to a predetermined level at the establishment of a casino licensee or applicant; or

5. Comply with any similar obligation.

(b) As used in N.J.S.A. 5:12-29, a selection or approval of a person on a "basis related to his propensity to gamble" shall be deemed to occur whenever that person has been selected or approved on the basis of:

1. The previous satisfaction of a financial qualification obligation in accordance with the provisions of (a) above;

2. A rating for gambling performance; or

3. An evaluation that the person has a tendency to participate in gambling activities as the result of:

i. An inquiry concerning said person's tendency to gamble; or

ii. Some other means of determining that the person has a tendency to participate in gambling activities.

(c) Without limitation of (b) above, a rebuttable presumption that a person has been selected or approved for participation in an arrangement on a basis related to his or her propensity to gamble shall be created whenever said person is provided with:

1. Complimentary guest room accommodations as part of the arrangement; or

2. Complimentary food, entertainment or transportation which has a value of \$200.00 or more calculated in accordance with the provisions of N.J.A.C. 13:69D-1.9.

13:69H-1.3 Open-ended or conditional complimentary offers

An offer by a casino licensee or applicant to pay for the cost of transportation, food, lodging and entertainment for a person in an amount to be determined by the actual gaming activities of that person after his or her arrival at the casino hotel shall be deemed to be an offer of complimentary services or items for the purposes of determining whether an arrangement involving such an offer is a junket within the meaning of N.J.S.A. 5:12-29 and this chapter.

13:69H-1.4 Advertising

(a) Any advertisement by an applicant for or holder of a junket enterprise license or by any agent thereof, including a junket representative, shall be subject to the provisions of N.J.A.C. 13:69C-14 to the same extent as if such advertisement were by a casino licensee or applicant.

(b) Notwithstanding the provisions of (a) above, an applicant for or holder of a junket enterprise license and any agent thereof, including a junket representative, shall not be subject to the provisions of N.J.A.C. 13:69C-14.3(b).

19:69H-1.5 Junket enterprises and representatives; transactional  
waivers prior to business

(a) Pursuant to N.J.S.A. 5:12-102c, all junket enterprises shall be licensed in accordance with N.J.S.A. 5:12-92a(1) prior to any

casino licensee or applicant permitting any junket involving that junket enterprise to arrive at its casino.

(b) Pursuant to N.J.S.A. 5:12-102c, any junket representative not employed by a casino licensee or applicant or by a junket enterprise shall be licensed in accordance with N.J.S.A. 5:12-92a(1) prior to a casino licensee or applicant permitting any junket involving that junket representative to arrive at its casino.

(c) No casino licensee or applicant may do any business with any junket enterprise or junket representative prior to the licensure of that junket enterprise, junket representative, or any person employed by a junket enterprise or junket representative in a managerial or supervisory position, unless the enterprise has applied for and been issued a transactional waiver pursuant to N.J.S.A. 5:12-92a(1) and N.J.A.C. 13:69J-1.2B.

#### 13:69H-1.6 Non-supervisory employees

Any non-supervisory employee of a junket enterprise or junket representative shall be registered in accordance with N.J.S.A. 5:12-102c and N.J.A.C. 13:69A-5.12.

#### 13:69H-1.7 Purchases of patron lists

(a) Pursuant to N.J.S.A. 5:12-102j, each casino licensee or applicant, affiliate of a casino licensee, junket representative or junket enterprise shall file with the Division a report with respect to each list of names of junket patrons or potential junket patrons purchased from any source whatsoever.

(b) The report required by (a) above shall include:

1. The name and address of the person or enterprise selling

the list;

2. The purchase price paid for the list, or any other terms of compensation related to the transaction; and

3. The date of purchase of the list.

(c) The report required by (a) above shall be filed no later than seven days after the receipt of the list by the purchaser, at a location to be designated by the Division.

13:69H-1.8 Monthly reports; junket activities

(a) Each casino licensee or applicant shall, on or before the 15th day of each month:

1. Prepare, maintain on file at its casino hotel premises, and provide to the Division on demand a junket activity report in accordance with the provisions of N.J.S.A 5:12-102i(1); and

2. Supply to the Division pursuant to N.J.S.A. 5:12-102i(3) the name and license number of each person employed by that casino licensee or an affiliate of a casino licensee who performed the services of a junket representative during the preceding month.

(b) The junket activity report required pursuant to (a)1 above shall be made available to the Division for inspection upon demand and shall contain, at a minimum:

1. The origin of every junket arriving at the premises;

2. The number of participants in the junket, including a listing of the names and addresses of all junket participants;

3. The arrival time and date of the junket;

4. The departure time and date of the junket;

5. The name of all junket representatives and the name and license number of all junket enterprises involved in the junket; and

6. The actual amount of complimentary services and items provided to each junket participant calculated in accordance with the provisions of N.J.A.C. 13:69D-1.9.