

## LAW AND PUBLIC SAFETY

### (a)

#### DIVISION ON CIVIL RIGHTS

##### Notice of Readoption

##### Regulations Pertaining to Discrimination on the Basis of Disability

##### Readoption: N.J.A.C. 13:13

Authority: N.J.S.A. 10:5-4.1, 10:5-8, and 10:5-12.

Authorized By: Rachel Wainer Apter, Director, Division on Civil Rights.

Effective Date: December 18, 2018.

New Expiration Date: December 18, 2025.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:13 were scheduled to expire on January 18, 2019. These rules address prohibitions against discrimination on the basis of disability in employment, housing and real estate transactions, and access to places of public accommodation and are designed to provide guidance to employers, providers of housing and real estate, owners and operators of businesses and other public accommodations, people with disabilities, and others who are impacted by the application of the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 through 49.

Subchapter 1 sets forth general provisions in connection with the chapter. N.J.A.C. 13:13-1.1 sets forth the purpose of the chapter. N.J.A.C. 13:13-1.2 sets forth the rules for construction of the chapter. N.J.A.C. 13:13-1.3 sets forth definitions used in the chapter.

Subchapter 2 sets forth rules concerning disability discrimination in employment. N.J.A.C. 13:13-2.1 sets forth the rules for employers, labor organizations, and employment agencies pertaining to discriminatory job advertising and solicitations. N.J.A.C. 13:13-2.2 sets forth the rules for employers, labor organizations, and employment agencies pertaining to discriminatory job referrals. N.J.A.C. 13:13-2.3 sets forth the rules for employers, labor organizations, and employment agencies pertaining to discriminatory job selection criteria, including employment tests that have the effect of unlawfully screening out people with disabilities. N.J.A.C. 13:13-2.4 sets forth the rules for employers, labor organizations, and employment agencies pertaining to discriminatory pre-employment inquiries as part of the application and job selection process. N.J.A.C. 13:13-2.5 sets forth the rules for employers to provide reasonable accommodation to people with disabilities, including the standards for determining when a particular accommodation imposes an undue hardship on the operation of an employer's business.

N.J.A.C. 13:13-2.6 sets forth the prohibitions against discrimination in wages and fringe benefits. N.J.A.C. 13:13-2.7 sets forth the prohibitions against disability discrimination by labor unions. N.J.A.C. 13:13-2.8 sets forth the standards governing the exception in the LAD permitting employers to refuse to hire a person where, as a result of the person's disability, he or she cannot perform the essential functions of the job, or where it would be hazardous to the safety or health of the individual, other employees, clients, or customers.

Subchapter 3 sets forth rules concerning disability discrimination with respect to real property. N.J.A.C. 13:13-3.1 sets forth the scope of the application of the subchapter. N.J.A.C. 13:13-3.2 sets forth the prohibitions on discriminatory advertising by housing providers. N.J.A.C. 13:13-3.3 sets forth the prohibition against discriminatory inquiries of prospective purchasers, tenants, or occupants. N.J.A.C. 13:13-3.4 sets forth the general prohibitions against discriminatory practices in the sale or rental of property. N.J.A.C. 13:13-3.5 sets forth the prohibitions against evicting any tenant because the tenant has a disability or is associated with a person with a disability. N.J.A.C. 13:13-3.6 sets forth the prohibitions against discrimination in financing because of disability. N.J.A.C. 13:13-3.7 sets forth the prohibition, outlined in the LAD, that it is a violation of the LAD to design and construct multifamily dwellings not in compliance with the Barrier-Free Subcode.

Subchapter 4 sets forth rules concerning disability discrimination with respect to access to places of public accommodation. N.J.A.C. 13:13-4.1

sets forth the purpose of the subchapter. N.J.A.C. 13:13-4.2 sets forth definitions used in the subchapter. N.J.A.C. 13:13-4.3, Unlawful practices, clarifies N.J.S.A. 10:5-4.1 and 12, which prohibit discrimination against people with disabilities in places of public accommodation. The section specifies the types of conduct that may render owners or operators of public accommodations liable under the LAD for discriminating against people with disabilities. N.J.A.C. 13:13-4.4 explains that places of public accommodation must, where reasonable, offer goods, services, facilities, privileges, advantages, and accommodations to a person with a disability in the most integrated setting appropriate to the needs of that person. N.J.A.C. 13:13-4.5 sets forth the requirements for examinations, and provides that examinations or courses related to applications, licensing, certification, or credentialing for secondary or post-secondary education, professional, or trade purposes shall be selected and administered to best ensure that when administered to a person with a disability that impairs sensory, manual, or speaking skills, the examination results accurately reflect the individual's aptitude or achievement level rather than the individual's impaired skills, except where those skills are the factors that the examination purports to measure.

N.J.A.C. 13:13-4.6 provides that it is unlawful to impose a surcharge on people with disabilities to cover the costs of providing access. N.J.A.C. 13:13-4.7 provides that it is unlawful for any person to retaliate, coerce, or intimidate another person because that person has filed a complaint, testified, participated in an investigation, or exercised or assisted another to exercise any right granted or protected by the LAD. N.J.A.C. 13:13-4.8, Reasonable probability of serious harm, provides that an owner or operator of a place of public accommodation is not required to permit a person with a disability to participate in or benefit from a public accommodation if there is a reasonable probability of serious harm to the person with a disability, or to others. This section further provides that such determinations must be based on an individualized assessment utilizing reasonable judgment and relying on the current medical knowledge or the best available objective evidence. This section also clarifies that only safety requirements that are based on actual risks, rather than speculations or generalizations, are permitted.

N.J.A.C. 13:13-4.9 clarifies that the LAD, and the rules promulgated thereunder, shall not be construed as making it unlawful to prohibit or restrict smoking in public places. N.J.A.C. 13:13-4.10 provides that the LAD and this subchapter shall not be construed as interfering with the operation of a bona fide insurance plan or program. The section does, however, prohibit the refusal to serve a person with a disability because of insurance company requirements conditioning coverage or rates on the absence from the facility of people with disabilities.

N.J.A.C. 13:13-4.11 sets forth the rules concerning reasonable accommodation. This section explains the obligation under the law to make reasonable modifications to a place of public accommodation's policies, practices, or procedures in order to ensure that people with disabilities have access to the goods, services, and facilities offered to the general public. This section also clarifies that owners or operators of places of public accommodation will not be required to provide accommodations that impose an undue burden on the operation of its business. The section also sets forth factors to be considered in determining whether a requested accommodation creates an undue burden, which include whether the modification will fundamentally alter the nature of the goods, services, programs, or activities of the entity, and the nature and cost of the accommodation sought. N.J.A.C. 13:13-4.12 provides a non-exclusive list of examples that should help owners or operators of places of public accommodation recognize some means by which challenges faced by people with disabilities can be reasonably accommodated. N.J.A.C. 13:13-4.13 outlines the circumstances under which a place of public accommodation may lawfully refer a person with a disability to another place of public accommodation for special treatment or services.

The New Jersey Division on Civil Rights (Division), in the Department of Law and Public Safety, enforces the LAD. The Division is developing a rulemaking to revise and update existing N.J.A.C. 13:13 and anticipates filing this rulemaking with the Office of Administrative Law for processing in the ordinary course. However, this rulemaking could not be proposed prior to the expiration of existing N.J.A.C. 13:13. The Division has reviewed N.J.A.C. 13:13 and determined that, pending the finalization

of the anticipated rulemaking described above, the existing chapter remains necessary, proper, reasonable, efficient, understandable, and responsive for the purposes for which it was originally promulgated, as amended and supplemented over time, and should be readopted.

**(a)**

**DIVISION OF GAMING ENFORCEMENT**  
**Notice of Readoption**  
**Gaming Operation Controls and Standards**  
**Readoption: N.J.A.C. 13:69D**

Authority: N.J.S.A. 5:12-69.a, 70.a(8), 70.a(11), and 70.a(13).  
 Authorized By: David L. Rebuck, Director, Division of Gaming Enforcement.

Effective Date: December 14, 2018.  
 New Expiration Date: December 14, 2025.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:69D were scheduled to expire on March 19, 2019. N.J.A.C. 13:69D establishes the procedures and methodologies for casino accounting, certification of revenue, surveillance, security, moving money across a casino floor, and granting casino credit, as well as the standards for a casino's organization.

The Director of the Division of Gaming Enforcement has reviewed N.J.A.C. 13:69D and has determined that the chapter remains necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which it was originally promulgated, as amended and supplemented over time, and should be readopted without amendment. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 13:69D is readopted without amendment and shall continue in effect for a seven-year period.

**(b)**

**DIVISION OF GAMING ENFORCEMENT**  
**Notice of Readoption**  
**Gaming Equipment**  
**Readoption: N.J.A.C. 13:69E**

Authority: N.J.S.A. 5:12-69.a, 70.a(7), and 70.a(10).  
 Authorized By: David L. Rebuck, Director, Division of Gaming Enforcement.

Effective Date: December 14, 2018.  
 New Expiration Date: December 14, 2025.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:69E were scheduled to expire on March 19, 2019. N.J.A.C. 13:69E establishes the process for obtaining approval of, deploying, and using gaming equipment, including the equipment needed for table games and the processes for the testing, inspection, and deployment of slot machines.

The Director of the Division of Gaming Enforcement has reviewed N.J.A.C. 13:69E and has determined that the chapter remains necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which it was originally promulgated, as amended and supplemented over time, and should be readopted without amendment. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 13:69E is readopted without amendment and shall continue in effect for a seven-year period.

**(c)**

**DIVISION OF GAMING ENFORCEMENT**  
**Notice of Readoption**  
**Rules of the Games**  
**Readoption: N.J.A.C. 13:69F**

Authority: N.J.S.A. 5:12-69.a, 70.a(7), and 100.e.  
 Authorized By: David L. Rebuck, Director, Division of Gaming Enforcement.

Effective Date: December 14, 2018.  
 New Expiration Date: December 14, 2025.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:69F were scheduled to expire on March 19, 2019. N.J.A.C. 13:69F establishes the rules for table games and electronic table games, including the types of wagers permitted on all games and the variations of games that are permitted.

The Director of the Division of Gaming Enforcement has reviewed N.J.A.C. 13:69F and has determined that the chapter remains necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which it was originally promulgated, as amended and supplemented over time, and should be readopted without amendment. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 13:69F is readopted without amendment and shall continue in effect for a seven-year period.

**(d)**

**DIVISION OF GAMING ENFORCEMENT**  
**Applications**  
**Temporary Adopted New Rule: N.J.A.C. 13:69A-9.11**

Authority: N.J.S.A. 5:12-69.a, 69.e, and 70.a(6).

**Take notice** that the Division of Gaming Enforcement (Division) shall, pursuant to N.J.S.A. 5:12-69.e, adopt a temporary new rule regarding fees for initial applications and resubmissions for casino key employee licenses. The new rules provide for a maximum fee that can be charged in connection with the Division's investigation of an application.

The experiment for the fees will be conducted in accordance with the temporary new rule, which shall be available in each participating casino and shall also be available from the Division upon request.

This experiment could begin on or after January 14, 2019, and continue for a maximum of 270 days from that date, unless otherwise terminated by the Division pursuant to the terms and conditions of the experiment.

Should the temporary new rule prove successful in the judgment of the Division, the Division will propose it for final adoption in accordance with the public notice and comment requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and N.J.A.C. 1:30.

**PUBLIC UTILITIES****(e)**

**BOARD OF PUBLIC UTILITIES**  
**Renewable Energy and Energy Efficiency**  
**Adopted Amendment: N.J.A.C. 14:8-2.4**

Proposed: August 6, 2018, at 50 N.J.R. 1708(a).  
 Adopted: December 19, 2018, by the New Jersey Board of Public Utilities, Joseph L. Fiordaliso, President, Mary-Anna Holden, Dianne Solomon, Upendra J. Chivukula, and Robert M. Gordon, Commissioners.

Filed: December 19, 2018, as R.2019 d.010, **without change**.

Authority: N.J.S.A. 48:2-1 et seq., in particular 48:2-13, 48:3-51, and 48:3-87; and P.L. 2018, c. 17.