

ARTICLE 6C. INTERNET GAMING

5:12-95.17 Findings, declarations relative to Internet gaming at Atlantic City casinos

The Legislature finds and declares that:

a. The 1976 amendment to the New Jersey Constitution that amended Article IV, Section VII, paragraph 2 thereof, and the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), that authorized casino gaming in Atlantic City casinos clearly demonstrate, both through their text and their legislative history, that a fundamental goal of these enactments was to achieve the rehabilitation of Atlantic City as a tourist and resort destination; and

b. As recognized in the July 2010 Report of the Governor's Advisory Commission on New Jersey Gaming, Sports, and Entertainment, and as confirmed in subsequent legislative hearings held in Trenton and throughout the State culminating in the enactment of significant bipartisan reform legislation in February of 2011 (P.L.2011, c.18 and P.L.2011, c.19), legalized casino gaming in New Jersey presently stands at a crossroads, facing critical regional and global challenges that jeopardize its important role in the State's economy; and

c. The State and New Jersey's general public possess a vital interest in the success of tourism and casino gaming in Atlantic City, having established a limited exception to the general policy of the State concerning gaming for private gain under Article IV, Section VII, paragraph 2 of the New Jersey Constitution within Atlantic City, which by reason of its location, natural resources, and historical prominence and reputation as a noteworthy tourist destination, has been determined by the people of this State, the Legislature, and the Governor to be a unique and valuable asset that must be preserved, restored, and revitalized; and

d. The tourist, resort, and convention industry in Atlantic City constitutes a critical component of our State's economic infrastructure that, if

properly regulated, developed, and fostered, is capable of providing a substantial contribution to the general health, welfare, and prosperity of the State and its residents; and

e. As recognized in the State Constitution and the Casino Control Act, as well as in P.L.2011, c.18 and P.L.2011, c.19, an important component of the State's historical and ongoing commitment to Atlantic City involves creating and maintaining a robust casino gaming industry that is capable of competing regionally, nationally, and internationally at the highest levels of quality while, at the same time, fully retaining strict State regulatory oversight to ensure the integrity of all casino gaming operations conducted in this State; and

f. Since the development of the Internet, millions of people have chosen to gamble online through illegal off-shore operators, and such gambling is conducted without oversight, regulation, enforcement, or consumer protections, all of which raise significant concerns for the protection of individuals and consumers in this State; and

g. In October 2006, the United States Congress passed the Unlawful Internet Gambling Enforcement Act, [31 U.S.C. 5361](#) et seq., which generally prohibits the use of banking instruments, including credit cards, checks, and fund transfers, for interstate Internet gambling, essentially prohibiting online gambling by United States citizens, but which includes exceptions that permit individual states to create a regulatory framework to enable intrastate Internet gambling, provided that the bets or wagers are made exclusively within a single state under certain circumstances; and

h. An effective State regulatory and licensing system for participating in online gaming would increase public trust and confidence in legalized gambling, inhibit wagering by underage or otherwise vulnerable individuals, ensure that any games offered through the Internet are fair and safe, end the practice of sending much-needed jobs and tax revenue overseas to illegal operators while creating jobs and economic development in Atlantic City, and

ensure that only those of good character and fitness who meet strict criteria may participate in Internet gaming operations in New Jersey; and

i. Moreover, providing regulators and law enforcement with the tools to restrict and stop the illegal Internet gambling market that takes place via the Internet in foreign jurisdictions and authorizing strict controls over how Atlantic City casinos may accept wagers placed over the Internet for games conducted in Atlantic City casinos will assist and enhance the rehabilitation and redevelopment of existing tourist and convention facilities in Atlantic City consistent with the original intent of the Casino Control Act and will further assist in marketing Atlantic City to customers that now have the convenience of gambling in jurisdictions closer to their homes through the legalization of gambling in states throughout the United States over the past three decades; and

j. Internet gaming, as defined and strictly limited in P.L.2013, c.27 (C.5:12-95.17 et al.), is unlike pari-mutuel wagering and other forms of remote gambling and will take place entirely on the servers and computer equipment located in the casino based in Atlantic City. By contrast, in off-track pari-mutuel simulcast wagering, the customer places a wager at an off-track facility, the wager is accepted by the off-track facility, as evidenced by issuance of a ticket, and any amounts paid on a winning wager are paid out and received at the off-track facility. Any rights on the part of a customer in the event of a dishonored, misdirected or other frustrated pari-mutuel wager arise against the off-track facility where the wager is placed and received, not against the remote track at which the race is run; and

k. Internet gaming as authorized and limited under this act, on the other hand, requires that all hardware, software, and other equipment that is involved with Internet gaming will be located in casino facilities in Atlantic City. All that is needed by a customer is a computing or similar device of general application and a communications connection through a common carriage or similar medium. For example, in an online poker or other card game, the

"table" is the server hosted by the operator in the casino premises in Atlantic City. The "cards" are played on that table in Atlantic City, and the wager is placed on and accepted at that table. No activity other than the transmission of information to and from the players along common carriage lines takes place outside of the casino premises; and

1. Pursuant to the 1976 amendment to the New Jersey State Constitution and the express authorization to the Legislature to determine the type of gambling games that may be conducted in casinos under regulation and control by the State, the Legislature hereby declares that in furtherance of the goals of the Casino Control Act and in recognition that the technologies necessary to support Internet gaming can be prescribed and implemented in a manner that ensures all such gambling activity occurs within casinos located in Atlantic City, it is appropriate that the Casino Control Act be amended and supplemented to authorize licensed casino operators to conduct such games within the casino premises with all wagering to be conducted solely within the casinos.

L.2013, c. 27, § 1, eff. Feb. 26, 2013.

5:12-95.18 Reports regarding the impact of gaming through the Internet

The division shall annually cause a report to be prepared and distributed to the Governor on the impact of Internet gaming on problem gamblers and gambling addiction in New Jersey. The report shall be prepared by a private organization or entity with expertise in serving the needs of persons with gambling addictions, which organization or entity shall be selected by the division. The report shall be prepared and distributed under the supervision of, and in coordination with, the division. Any costs associated with the preparation and distribution of the report shall be borne by casino licensees who have been authorized by the division to conduct Internet gaming and the division shall be authorized to assess a fee against such licensees for these

purposes. The division may also report periodically to the Governor on the effectiveness of the statutory and regulatory controls in place to ensure the integrity of gaming operations through the Internet.

L.2013, c. 27, § 8, eff. Feb. 26, 2013.

5:12-95.19 Annual tax on Internet gaming gross revenues

There is hereby imposed an annual tax on Internet gaming gross revenues in the amount of 15% of such gross revenues which shall be paid into the Casino Revenue Fund. The 8% tax on casino gross revenues shall not apply to Internet gaming gross revenues. The investment alternative tax established by section 3 of P.L.1984, c.218 (C.5:12-144.1) shall apply to Internet gaming gross revenues, except that the investment alternative tax on these revenues shall be 5% and the investment alternative shall be 2.5%, with the proceeds thereof used as provided in that section.

L.2013, c. 27, § 17, eff. Feb. 26, 2013.

5:12-95.20 Federal law applicable

Internet gaming in this State shall be subject to the provisions of, and preempted and superseded by, any applicable federal law.

Internet gaming in this State shall be deemed to take place where a casino's server is located in Atlantic City regardless of the player's physical location within this State.

L.2013, c. 27, § 18, eff. Feb. 26, 2013.

5:12-95.21 Permit required to conduct Internet gaming

a. No Internet gaming shall be opened to the public, and no gaming, except for test purposes, may be conducted therein, until a casino licensee with a valid operation certificate, or an Internet gaming affiliate thereof that is

licensed pursuant to paragraph (5) of subsection b. of section 82 of P.L.1977, c.110 (C.5:12-82), receives from the division a permit to conduct Internet gaming. Such permit, valid for one year, shall be issued by the division upon a finding that the Internet gaming complies in all respects with the requirements of this act, P.L.2013, c.27 and regulations promulgated by the division.

L.2013, c. 27, § 19, eff. Feb. 26, 2013.

5:12-95.22 Location of primary Internet gaming operation

a. A casino's primary Internet gaming operation, including facilities, equipment and personnel who are directly engaged in the conduct of Internet gaming activity, shall be located within a restricted area on the premises of the casino hotel within the territorial limits of Atlantic City, New Jersey. Backup equipment used on a temporary basis pursuant to rules established by the division to conduct Internet gaming may, with the approval of the division, be located outside the territorial limits of Atlantic City, provided no internet gaming shall occur unless a wager is accepted by a casino within the territorial limits of Atlantic City, New Jersey.

b. Facilities used to conduct and support Internet gaming shall:

(1) be arranged in a manner promoting optimum security for Internet gaming;

(2) include a closed circuit visual monitoring system according to specifications approved by the division, with access on the licensed premises to the system or its signal provided to the division;

(3) not be designed in any way that might interfere with the ability of the division to supervise Internet gaming operations; and

(4) comply in all respects with regulations of the division pertaining thereto.

L.2013, c. 27, § 20, eff. Feb. 26, 2013.

5:12-95.23 Conditions for acceptance of Internet wagers

A casino licensee may accept Internet gaming account wagers only as follows:

a. The account wager shall be placed directly with the casino licensee by the holder of the wagering account and the casino licensee has verified the account holder's physical presence in this State.

b. The account holder placing the account wager shall provide the casino licensee with the correct authentication information for access to the wagering account.

c. A casino licensee may not accept an account wager in an amount in excess of funds on deposit in the wagering account of the holder placing the wager. Funds on deposit include amounts credited under this act, P.L.2013, c.27 (C.5:12-95.17 et al.), and in the account at the time the wager is placed.

L.2013, c. 27, § 21, eff. Feb. 26, 2013.

5:12-95.24 Disposition of inactive, dormant accounts

All amounts remaining in Internet gaming accounts inactive or dormant for such period and under such conditions as established by regulation by the division shall be paid 50% to the casino licensee and 50% to the casino control fund. Before closing a wagering account pursuant to this section, the casino licensee shall attempt to contact the account holder by mail, phone and computer.

L.2013, c. 27, § 22, eff. Feb. 26, 2013.

5:12-95.25 Assistance to people with gambling problem

In order to assist those persons who may have a gambling problem, a casino licensee shall:

a. cause the words "If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER," or some comparable language approved by the division, which language shall include the words "gambling problem"

and "call 1-800 GAMBLER," to be displayed prominently at log on and log off times to any person visiting or logged onto Internet gaming; and

b. provide a mechanism by which a holder of a wagering account may establish the following controls on wagering activity through the wagering account:

(1) a limit on the amount of money deposited within a specified period of time and the length of time the holder will be unable to participate in gaming if the holder reaches the established deposit limit; and

(2) a temporary suspension of gaming through the account for any number of hours or days.

The casino licensee shall not send gaming-related electronic mail to an account holder while gaming through his or her wagering account is suspended, if the suspension is for at least 72 hours. The casino licensee shall provide a mechanism by which an account holder may change these controls, except that while gaming through the wagering account is suspended, the account holder may not change gaming controls until the suspension expires, but the holder shall continue to have access to the account and shall be permitted to withdraw funds from the account upon proper application therefor.

L.2013, c. 27, § 23, eff. Feb. 26, 2013.

5:12-95.26 Offering of Internet gaming without approval, fourth degree crime; fines

Any person who offers games into play or displays such games through Internet gaming without approval of the division to do so is guilty of a crime of the fourth degree and notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to a fine of not more than \$ 25,000 and in the case of a person other than a natural person, to a fine of not more than \$ 100,000 and any other appropriate disposition authorized by subsection b. of N.J.S.2C:43-2.

L.2013, c. 27, § 24, eff. Feb. 26, 2013.

5:12-95.27 Tampering with equipment, third degree crime; fines

a. Notwithstanding section 46 of P.L.1991, c.182 (C.5:12-113.1), any person who knowingly tampers with software, computers or other equipment used to conduct Internet gaming to alter the odds or the payout of a game or disables the game from operating according to the rules of the game as promulgated by the division is guilty of a crime of the third degree and notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to a fine of not more than \$ 50,000 and in the case of a person other than a natural person, to a fine of not more than \$ 200,000 and any other appropriate disposition authorized by subsection b. of N.J.S.2C:43-2.

b. In addition to the penalties provided in subsection a., an employee of the casino licensee who violates this section shall have his or her license revoked and shall be subject to such further penalty as the division deems appropriate.

c. In addition to the penalties provided in subsection a., a casino licensee that violates this section shall have its permit to conduct Internet gaming revoked and shall be subject to such further penalty as the division deems appropriate.

L.2013, c. 27, § 25, eff. Feb. 26, 2013.

5:12-95.28 Tampering affecting odds, payout, third degree crime; fines

a. Any person who knowingly offers or allows to be offered any Internet game that has been tampered with in a way that affects the odds or the payout of a game or disables the game from operating according to the rules of the game as promulgated by the division is guilty of a crime of the third degree and notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to a fine of not more than \$ 50,000 and in the case of a person other than a natural person, to a fine of not more than \$ 200,000 and any other appropriate disposition authorized by subsection b. of N.J.S.2C:43-2.

b. In addition to the penalties provided in subsection a., an employee of the casino licensee who knowingly violates this section shall have his or her license suspended for a period of not less than 30 days.

c. In addition to the penalties provided in subsection a., a casino licensee that violates this section shall have its permit to conduct Internet gaming suspended for a period of not less than 30 days.

L.2013, c. 27, § 26, eff. Feb. 26, 2013.

5:12-95.29 Annual fees for issuance, renewal of Internet gaming permits

a. The division shall, by regulation, establish annual fees for the issuance or renewal of Internet gaming permits. The issuance fee shall be based upon the cost of investigation and consideration of the license application and shall be not less than \$ 400,000. The renewal fee shall be based upon the cost of maintaining enforcement, control and regulation of Internet wagering operations and shall be not less than \$ 250,000.

b. The Attorney General shall certify to the division actual and prospective costs of the investigative and enforcement functions of the division, which costs shall be the basis, together with the operating expenses of the division, for the establishment of annual permit issuance and renewal fees.

c. A nonrefundable deposit of at least \$ 100,000 shall be required to be posted with each application for an Internet gaming permit and shall be applied to the initial permit fee if the application is approved.

d. In addition to the permit issuance and renewal fees, a casino licensee with an Internet gaming permit shall pay annually to the division \$ 250,000 to be deposited into the State General Fund for appropriation by the Legislature to the Department of Human Services, \$ 140,000 of which shall be allocated to the Council on Compulsive Gambling of New Jersey and \$ 110,000 of which shall be used for compulsive gambling treatment programs in the State.

L.2013, c. 27, § 27, eff. Feb. 26, 2013.

5:12-95.30 Facilities permitted to conduct Internet gaming; violations, penalties

No organization or commercial enterprise, other than a casino located in Atlantic City or its Internet gaming affiliate that has been issued a permit to conduct Internet gaming and has located all of its equipment used to conduct Internet gaming, including computers, servers, monitoring rooms, and hubs, in Atlantic City, shall make its premises available for placing wagers at casinos using the Internet or advertise that its premises may be used for such purpose. An organization or commercial enterprise that is determined by the division to have violated the provisions of this section shall be subject to a penalty of \$ 1,000 per player per day for making its premises available for placing wagers at casinos using the Internet and of \$ 10,000 per violation for advertising that its premises may be used for such purpose.

L.2013, c. 27, § 28, eff. Feb. 26, 2013.

5:12-95.31 Acceptance of certain out-of-State wagers

Notwithstanding any other provision of P.L.2013, c.27 (C.5:12-95.17 et al.), wagers may be accepted thereunder from persons who are not physically present in this State if the Division of Gaming Enforcement in the Department of Law and Public Safety determines that such wagering is not inconsistent with federal law or the law of the jurisdiction, including any foreign nation, in which any such person is located, or such wagering is conducted pursuant to a reciprocal agreement to which this State is a party that is not inconsistent with federal law.

L.2013, c. 27, § 29, eff. Feb. 26, 2013.

5:12-95.32 Internet gaming affiliate

As used in P.L.1977, c.110 (C.5:12-1 et seq.), as amended and supplemented, "Internet gaming affiliate" means a business entity licensed

under that act that owns or operates an Internet gaming system on the behalf of a licensed casino.

L.2013, c. 27, § 33, eff. Feb. 26, 2013.

5:12-95.33 Determination of date law becomes operative, expires

a. The Division of Gaming Enforcement shall select the date upon which the provisions of P.L.2013, c.27 (C.5:12-95.17 et al.) shall become operative which shall not be less than three months, nor more than nine months, after the date of enactment, except that upon application by the division, the Casino Control Commission may allow the division, for good cause, to extend the operative date beyond nine months. The division shall provide all casino licensees and applicants with 45 days' notice of the operative date.

Notwithstanding this delayed operative date, the division and the commission may take such anticipatory administrative action in advance as may be necessary for the implementation of P.L.2013, c.27 (C.5:12-95.17 et al.).

b. The authorization to conduct games through the Internet as provided for in P.L.2013, c.27 shall expire 10 years following the operative date established pursuant to subsection a. of this section, unless reauthorized by law.

L.2013, c. 27, § 36, eff. Feb. 26, 2013.