

CHAPTER 128

AN ACT concerning the regulation and taxation of the casino industry, amending P.L.1993, c.159, P.L.2003, c.116 and P.L.1977, c.110.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 101 of P.L.1977, c.110 (C.5:12-101) is amended to read as follows:

C.5:12-101 Credit.

101. a. Except as otherwise provided in this section, no casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall:

(1) Cash any check, make any loan, or otherwise provide or allow to any person any credit or advance of anything of value or which represents value to enable any person to take part in gaming or simulcast wagering activity as a player; or

(2) Release or discharge any debt, either in whole or in part, or make any loan which represents any losses incurred by any player in gaming or simulcast wagering activity, without maintaining a written record thereof in accordance with the rules of the commission.

b. No casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, may accept a check, other than a recognized traveler's check or other cash equivalent from any person to enable such person to take part in gaming or simulcast wagering activity as a player, or may give cash or cash equivalents in exchange for such check unless:

(1) The check is made payable to the casino licensee;

(2) The check is dated, but not postdated;

(3) The check is presented to the cashier or the cashier's representative at a location in the casino approved by the commission and is exchanged for cash or slot tokens which total an amount equal to the amount for which the check is drawn, or the check is presented to the cashier's representative at a gaming table in exchange for chips which total an amount equal to the amount for which the check is drawn; and

(4) The regulations concerning check cashing procedures are observed by the casino licensee and its employees and agents.

Nothing in this subsection shall be deemed to preclude the establishment of an account by any person with a casino licensee by a deposit of cash, recognized traveler's check or other cash equivalent, or a check which meets the requirements of subsection g. of this section, or to preclude the withdrawal, either in whole or in part, of any amount contained in such account.

c. When a casino licensee or other person licensed under this act, or any person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, cashes a check in conformity with the requirements of subsection b. of this section, the casino licensee shall cause the deposit of such check in a bank for collection or payment, or shall require an attorney or casino key employee with no incompatible functions to present such check to the drawer's bank for payment, within (1) seven calendar days of the date of the transaction for a check in an amount of \$1,000.00 or less; (2) 14 calendar days of the date of the transaction for a check in an amount greater than \$1,000.00 but less than or equal to \$5,000.00; or (3) 45 calendar days of the date of the transaction for a check in an amount greater than \$5,000.00. Notwithstanding the foregoing, the drawer of the check may redeem the check by exchanging cash, cash equivalents, chips, or a check which meets the requirements of subsection g. of this section in an amount equal to the amount for which the check is drawn; or he may redeem the check in part by exchanging cash, cash equivalents, chips, or a check which meets the requirements of subsection g. of this section and another check which meets the requirements of subsection b. of this section for the difference between the original check and the cash, cash equivalents, chips, or check tendered; or he may issue one check which meets the requirements of subsection b. of this section in an amount sufficient to redeem two or more checks drawn to the order of the casino licensee. If there has been a partial redemption or a consolidation in conformity with the provisions of this subsection, the newly issued check shall be delivered to a bank for collection or payment or presented to the drawer's bank for payment by an attorney or casino key employee with no incompatible functions within the period herein specified. No casino licensee or any person licensed under this act, and no person acting on behalf of or under

any arrangement with a casino licensee or other person licensed under this act, shall accept any check or series of checks in redemption or consolidation of another check or checks in accordance with this subsection for the purpose of avoiding or delaying the deposit of a check in a bank for collection or payment or the presentment of the check to the drawer's bank within the time period prescribed by this subsection.

In computing a time period prescribed by this subsection, the last day of the period shall be included unless it is a Saturday, Sunday, or a State or federal holiday, in which event the time period shall run until the next business day.

d. No casino licensee or any other person licensed under this act, or any other person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall transfer, convey, or give, with or without consideration, a check cashed in conformity with the requirements of this section to any person other than:

(1) The drawer of the check upon redemption or consolidation in accordance with subsection c. of this section;

(2) A bank for collection or payment of the check;

(3) A purchaser of the casino license as approved by the commission; or

(4) An attorney or casino key employee with no incompatible functions for presentment to the drawer's bank.

The limitation on transferability of checks imposed herein shall apply to checks returned by any bank to the casino licensee without full and final payment.

e. No person other than one licensed as a casino key employee or as a casino employee may engage in efforts to collect upon checks that have been returned by banks without full and final payment, except that an attorney-at-law representing a casino licensee may bring action for such collection.

f. Notwithstanding the provisions of any law to the contrary, checks cashed in conformity with the requirements of this act shall be valid instruments, enforceable at law in the courts of this State. Any check cashed, transferred, conveyed or given in violation of this act shall be invalid and unenforceable for the purposes of collection but shall be included in the calculation of gross revenue pursuant to section 24 of P.L.1977, c.110 (C.5:12-24).

g. Notwithstanding the provisions of subsection b. of this section to the contrary, a casino licensee may accept a check from a person to enable the person to take part in gaming or simulcast wagering activity as a player, may give cash or cash equivalents in exchange for such a check, or may accept a check in redemption or partial redemption of a check issued in accordance with subsection b., provided that:

(1) (a) The check is drawn by a casino licensee pursuant to the provisions of subsection k. of section 100 of P.L.1977, c.110 (C.5:12-100) or upon a withdrawal of funds from an account established in accordance with the provisions of subsection b. of this section or is drawn by a casino licensee as payment for winnings from an authorized game or simulcast wagers;

(b) The check is issued by a banking institution which is chartered in a country other than the United States on its account at a federally chartered or state-chartered bank and is made payable to "cash," "bearer," a casino licensee, or the person presenting the check;

(c) The check is issued by a banking institution which is chartered in the United States on its account at another federally chartered or state-chartered bank and is made payable to "cash," "bearer," a casino licensee, or the person presenting the check;

(d) The check is issued by an annuity jackpot trust as payment for winnings from an annuity jackpot; or

(e) The check is issued by an affiliate of a casino licensee that holds a gaming license in any jurisdiction;

(2) The check is identifiable in a manner approved by the commission as a check issued for a purpose listed in paragraph (1) of this subsection;

(3) The check is dated, but not postdated;

(4) The check is presented to the cashier or the cashier's representative by the original payee and its validity is verified by the drawer in the case of a check drawn pursuant to subparagraph (a) of paragraph (1) of this subsection, or the check is verified in accordance with regulations promulgated by the commission in the case of a check issued pursuant to subparagraph (b), (c),

(d) or (e) of paragraph (1) of this subsection; and

(5) The regulations concerning check cashing procedures are observed by the casino licensee and its employees and agents.

No casino licensee shall issue a check for the purpose of making a loan or otherwise providing or allowing any advance or credit to a person to enable the person to take part in gaming or simulcast wagering activity as a player.

h. Notwithstanding the provisions of subsection b. and subsection c. of this section to the contrary, a casino licensee may, at a location outside the casino, accept a personal check or checks from a person for up to \$5,000 in exchange for cash or cash equivalents, and may, at such locations within the casino or casino simulcasting facility as may be permitted by the commission, accept a personal check or checks for up to \$5,000 in exchange for cash, cash equivalents, tokens, chips, or plaques to enable the person to take part in gaming or simulcast wagering activity as a player, provided that:

(a) The check is drawn on the patron's bank or brokerage cash management account;

(b) The check is for a specific amount;

(c) The check is made payable to the casino licensee;

(d) The check is dated but not post-dated;

(e) The patron's identity is established by examination of one of the following: valid credit card, driver's license, passport, or other form of identification credential which contains, at a minimum, the patron's signature;

(f) The check is restrictively endorsed "For Deposit Only" to the casino licensee's bank account and deposited on the next banking day following the date of the transaction;

(g) The total amount of personal checks accepted by any one licensee pursuant to this subsection that are outstanding at any time, including the current check being submitted, does not exceed \$5,000;

(h) The casino licensee has an approved system of internal controls in place that will enable it to determine the amount of outstanding personal checks received from any patron pursuant to this subsection at any given point in time; and

(i) The casino licensee maintains a record of each such transaction in accordance with regulations established by the commission.

i. (Deleted by amendment, P.L.2004, c.128).

j. A person may request the commission to put that person's name on a list of persons to whom the extension of credit by a casino as provided in this section would be prohibited by submitting to the commission the person's name, address, and date of birth. The person does not need to provide a reason for this request. The commission shall provide this list to the credit department of each casino; neither the commission nor the credit department of a casino shall divulge the names on this list to any person or entity other than those provided for in this subsection. If such a person wishes to have that person's name removed from the list, the person shall submit this request to the commission, which shall so inform the credit departments of casinos no later than three days after the submission of the request.

k. (Deleted by amendment, P.L.2004, c.128).

2. Section 145 of P.L.1977, c.110 (C.5:12-145) is amended to read as follows:

C.5:12-145 Casino Revenue Fund.

145. a. There is hereby created and established in the Department of the Treasury a separate special account to be known as the "Casino Revenue Fund," into which shall be deposited all revenues from the tax imposed by section 144 of this act; the investment alternative tax imposed by section 3 of P.L.1984, c.218 (C.5:12-144.1); the taxes and fees imposed by sections 3, 4 and 6 of P.L.2003, c.116 (C.5:12-148.1, C.5:12-148.2 and C.5:12-145.8) and any interest and penalties imposed by the commission relating to those taxes; and all penalties levied and collected by the commission pursuant to P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations promulgated thereunder, except that the first \$600,000 in penalties collected each fiscal year shall be paid into the General Fund for appropriation by the Legislature to the Department of Health and Senior Services, \$500,000 of which is to provide funds to the Council on Compulsive

Gambling of New Jersey and \$100,000 of which is to provide funds for compulsive gambling treatment programs in the State. In the event that less than \$600,000 in penalties are collected, the Department of Health and Senior Services shall determine the allocation of funds between the Council and the treatment programs eligible under the criteria developed pursuant to section 2 of P.L.1993, c.229 (C.26:2-169).

b. The commission shall require at least monthly deposits by the licensee of the tax established pursuant to subsection a. of section 144 of P.L.1977, c.110 (C.5:12-144), at such times, under such conditions, and in such depositories as shall be prescribed by the State Treasurer. The deposits shall be deposited to the credit of the Casino Revenue Fund. The commission may require a monthly report and reconciliation statement to be filed with it on or before the 10th day of each month, with respect to gross revenues and deposits received and made, respectively, during the preceding month.

c. Moneys in the Casino Revenue Fund shall be appropriated exclusively for reductions in property taxes, rentals, telephone, gas, electric, and municipal utilities charges of eligible senior citizens and disabled residents of the State, and for additional or expanded health services or benefits or transportation services or benefits to eligible senior citizens and disabled residents, as shall be provided by law. On or about March 15 and September 15 of each year, the State Treasurer shall publish in at least 10 newspapers circulating generally in the State a report accounting for the total revenues received in the Casino Revenue Fund and the specific amounts of money appropriated therefrom for specific expenditures during the preceding six months ending December 31 and June 30.

3. Section 6 of P.L.2003, c.116 (C.5:12-145.8) is amended to read as follows:

C.5:12-145.8 Fee of \$3.00 imposed daily on occupied hotel rooms in casino hotel facility.

6. Notwithstanding the provisions of any other law to the contrary and in addition to any other tax or fee imposed by law, there is imposed a fee of \$3.00 per day on each hotel room in a casino hotel facility that is occupied by a guest, for consideration or as a complimentary item. This section shall be administered by the commission and the amounts generated by this section shall be paid to the State Treasurer for deposit in the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145) in State fiscal years 2004 through 2006. Beginning in State fiscal year 2007 and thereafter, \$2.00 of the fee shall be deposited by the State Treasurer into the Casino Revenue Fund and \$1.00 shall be transferred by the State Treasurer to the Casino Reinvestment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153) for its purposes pursuant to law, as approved by the membership of the authority.

4. Section 3 of P.L.2003, c.116 (C.5:12-148.1) is amended to read as follows:

C.5:12-148.1 Tax on certain comps provided by casinos at no cost, reduced price.

3. a. There is imposed on each casino licensee, through June 30, 2009, a tax on the value of rooms, food, beverages, or entertainment provided at no cost or at a reduced price, as required to be reported to the Casino Control Commission pursuant to section 102 of P.L.1977, c.110 (C.5:12-102), which tax shall be computed as follows:

(1) if rooms, food, beverages or entertainment are provided at no cost, the tax shall be at a rate of 4.25% on the value of rooms, food, beverages and entertainment;

(2) if rooms, food, beverages or entertainment are provided at reduced cost, the tax shall be at a rate of 4.25% on the value, which taxable value shall be reduced by any consideration paid by the person to whom the rooms, food, beverages or entertainment are provided; provided however, that the imposition of the excise tax as provided in this section is in addition to any tax due under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), on the receipts from the sale of food and beverages, or from amounts paid as a charge for entertainment, or the rents for occupancy of hotel rooms, at reduced cost;

(3) no excise tax shall be imposed on the value of any service or property upon which a sales or use tax has been paid by a casino licensee;

(4) for the purpose of computing the tax, the value of a room complimentary shall be \$67, provided that the commission shall review the room value within 90 days of the effective date of this act, and shall adjust the statutory room value to a rate that, along with the tax imposed pursuant to this section on food, beverages and entertainment, is sufficient to generate \$26 million in State fiscal year 2004, and the commission's review and adjustment shall take into account tax paid under this section by a casino licensee commencing operations in calendar year 2003 in determining whether the adjusted statutory room value would generate \$26 million in State fiscal year 2004;

(5) for the purpose of computing the tax, the value of food, beverages and entertainment complimentaries shall be determined pursuant to section 2 of P.L.1983, c.41 (C.5:12-14a), provided that the value of a beverage complimentary served in a casino room shall be the cost to the casino licensee of providing the beverage; and

(6) for each casino licensee, the amount of tax imposed by this section for State fiscal years 2004 through 2006 shall not be less than the tax that the licensee would have paid if the tax had been in effect for calendar year 2002.

(7) Notwithstanding any other provision of this section to the contrary, the rate and the amount to be raised annually by the tax imposed pursuant to this section shall be as follows: in State fiscal years 2004 through 2006, 4.25% and \$26,000,000; in State fiscal year 2007, 3.1875% and \$19,500,000; in State fiscal year 2008, 2.125% and \$13,000,000; and in State fiscal year 2009, 1.0625% and \$6,500,000.

b. Each casino licensee shall file a return, on a form as prescribed by the commission, and pay the amount of tax due pursuant to this section in the manner and at a frequency as the commission prescribes, but no more frequently than monthly. In prescribing the periods to be covered by the return or intervals or classifications for payment of tax liability, the commission may take into account the dollar volume of tax involved, as well as the need for ensuring the prompt and orderly collection of the tax imposed.

c. The commission shall administer the tax imposed pursuant to this section. The commission shall determine and certify to the State Treasurer on at least a quarterly basis the amount of tax to be collected by the State Treasurer pursuant to this section. The commission may promulgate such rules and regulations as the commission determines are necessary to effectuate the provisions of this act.

d. (Deleted by amendment, P.L.2004, c.128).

e. The tax imposed by this section, and any interest or penalties imposed by the commission relating to that tax, shall be deposited by the State Treasurer into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

f. In a State fiscal year in which the amount of the tax collected is more or less than is required to be collected pursuant to paragraph (7) of subsection a. of this section, the amount of the shortfall or excess shall be credited or assessed, as appropriate, to each casino licensee in the same proportion as that casino licensee's tax payments pursuant to this section for that particular State fiscal year bear to the total tax payments received from all casino licensees pursuant to this section for that same State fiscal year.

5. Section 4 of P.L.2003, c.116 (C.5:12-148.2) is amended to read as follows:

C.5:12-148.2 Tax of 8% imposed on multi-casino progressive slot machine revenue.

4. a. A tax at the rate of 8% is imposed on casino service industry multi-casino progressive slot machine revenue. The tax shall not be considered a tax collectable under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

b. As used in this section, "casino service industry multi-casino progressive slot machine revenue" means sums received by a casino service industry, licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, net of any money accrued for return to patrons in the form of jackpots, that are directly or indirectly related to: (1) the conduct of multi-casino progressive slot machine system operations in a casino; or (2) the sale, lease, servicing or management of a multi-casino progressive slot machine system. Notwithstanding the foregoing, "casino service industry

multi-casino progressive slot machine revenue" shall not be construed to apply to revenue derived from transactions between a casino licensee and its holding company or intermediary companies or their affiliates.

c. The commission shall administer the tax imposed pursuant to this section. The tax imposed by this section, and any interest or penalties imposed by the commission relating to that tax, shall be deposited by the State Treasurer into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

d. A casino service industry licensee or applicant required to pay the tax imposed pursuant to this section shall, on or before the 28th day of the month, forward to the State Treasurer the tax owed on casino service industry multi-casino progressive slot machine revenue received by the casino service industry licensee or applicant in the preceding month and make and file a return for the preceding month with the commission on any form and containing any information as the commission shall prescribe by rule or regulation as necessary to determine liability for the tax in the preceding month during which the person was required to pay the tax.

e. The commission may permit or require returns to be made covering other periods and upon any dates as the commission may specify. In addition, the commission may require payments of tax liability to the State Treasurer at any intervals and based upon any classifications as the commission may designate. In prescribing any other periods to be covered by the return or intervals or classifications for payment of tax liability, the commission may take into account the dollar volume of tax involved as well as the need for ensuring the prompt and orderly collection of the tax imposed.

f. The commission may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

g. (Deleted by amendment, P.L.2004, c.128).

6. Section 5 of P.L.2003, c.116 (C.5:12-148.3) is amended to read as follows:

C.5:12-148.3 Tax of 7.5% imposed on certain adjusted net income of casino licensees.

5. a. In State fiscal years 2004 through 2006, a tax at the rate of 7.5% is imposed on the adjusted net income of a casino licensee in calendar year 2002, determined pursuant to information provided by casino licensees to the commission pursuant to regulations promulgated in accordance with subsection n. of section 70 of P.L.1977, c.110 (C.5:12-70) and published on April 2, 2003 in the commission's statement of casino licensee income for the twelve-month period ending on December 31, 2002, without regard to subsequent adjustment to such filing. For a casino licensee that was not in operation in calendar year 2002, the amount of the tax shall be 7.5% of its adjusted net income in State fiscal year 2004, as filed by the licensee with the commission pursuant to regulations promulgated in accordance with subsection n. of section 70 of P.L.1977, c.110 (C.5:12-70). As used in this section, "adjusted net income" means annual net income plus management fees.

The aggregate amount of tax imposed by this section shall not exceed \$10 million annually for a holder of more than one casino license, and for each casino licensee the tax imposed by this section shall not be less than \$350,000 annually.

b. The commission shall administer the tax imposed pursuant to this section. For a casino licensee that was in operation in calendar year 2002, the tax shall be due and payable to the State Treasurer in four equal payments on September 15, December 15, March 15, and June 15 of each State fiscal year. For a casino licensee that was not in operation in calendar year 2002, the tax in State fiscal year 2004 shall be due and payable to the State Treasurer in four quarterly estimated payments on the basis of adjusted net income in the current quarter, and the licensee shall file an annual return for State fiscal year 2004 no later than October 15, 2004. In State fiscal years 2005 and 2006 for such casino licensee, the tax shall be due and payable to the State Treasurer in four equal payments on September 15, December 15, March 15 and June 15.

c. The tax imposed by this section, and any interest or penalties imposed by the commission relating to that tax, shall be deposited by the State Treasurer into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

d. The commission shall certify on September 30, 2003 and annually thereafter the amount of tax required to be paid pursuant to this section. The commission may promulgate such rules

and regulations as the commission determines are necessary to effectuate the provisions of this section.

e. (Deleted by amendment, P.L.2004, c.128).

7. Section 5 of P.L.1993, c.159 (C.5:12-173.5) is amended to read as follows:

C.5:12-173.5 Responsibility for collection of fees.

5. Each person subject to the provisions of section 3 of P.L.1993, c.159 (C.5:12-173.3) shall be responsible for the collection of the fees imposed pursuant thereto, which shall be collected as part of the charge made for the use of a parking space. Amounts so collected shall be forwarded to the State Treasurer. The commission shall determine and certify to the State Treasurer on a monthly basis the amount of revenues which are payable as directed by section 4 of P.L.1993, c.159 (C.5:12-173.4). The State Treasurer, upon certification of the commission and upon warrant of the State Comptroller, and subject to the pertinent requirements of section 4 of P.L.1993, c.159 (C.5:12-173.4) shall pay and distribute on a monthly basis pursuant to section 4 of P.L.1993, c.159 (C.5:12-173.4) the amount so certified.

8. This act shall take effect immediately.

Approved August 25, 2004.