



# THE LAW ACCORDING TO NJ

Jeff Ifrah and Sarah Coffey of Ifrah Law explain everything you need to know about the New Jersey iGaming regulations



Three months after the passage of New Jersey's internet gaming law in February, the New Jersey Division of Gaming Enforcement (DGE) finally released its proposed internet gaming regulations in May. The proposed regulations were released in advance of their official publication date in the New Jersey Register on 3 June, which will initiate the formal comment period running through to 2 August 2013.

The advance notice allows interested parties to familiarise themselves with the material prior to the comment period. During that time, anyone wishing to comment on the proposed regulations or suggest changes may direct their comments to Deputy Attorney General Lon Mamolen.

The proposed regulations modify existing gaming regulations to make them applicable to online and mobile gaming, and they also introduce a new chapter to the New Jersey Administrative Code, 13:690, which is devoted entirely to internet and mobile gaming.

Many of the proposed regulations come as no surprise because New Jersey gaming law explicitly required DGE to create regulations regarding many of these topics, including software, age verification and geolocation requirements. However, there are also some surprises, which DGE has authority to propose under its catch all authority to "[p]romulgate such regulations as may be necessary to fulfil the policies" of the internet gaming act.

These include a seven-year expiration on the internet gaming law rather than the 10-year period proposed by Governor Christie and incorporated into the law, and an automatic forfeiture of accounts on deposit in an account that has been dormant for over a year.

The proposed regulations are fairly extensive, coming in at 42 pages, and contain many detailed technical requirements regarding software, its operation and security. Operators and players are likely to focus on different portions of the proposed regulations.

## Operator concerns

The most important information to operators includes fees, taxes, licensing and system requirements.

### Permit applications and fees

Casino licensees or their affiliates must obtain an internet gaming permit in order to operate online gaming. The regulations do not provide much detail about the application other than to say that it "shall be in a format prescribed by the Division". The permit application costs \$400,000, including a non-refundable \$100,000 deposit. Applicants will also have to pay a responsible gaming fee of \$250,000, which must be paid annually thereafter. Internet gaming permits must be renewed on an annual basis at the cost of \$250,000 per year.

### Taxes

As established in the law, the regulations impose a 15 per cent tax on internet gaming revenue, which is due and payable on the 10th calendar day of the month. The 'internet gaming gross revenue' is the total of all sums received by a casino licensee from internet gaming operations, less the total of all sums actually paid out to winning patrons. The regulations state that for the purposes of internet gaming gross revenue tax, internet gaming affiliates will be considered a casino operator. This means that if a casino partners with an affiliate who manages the internet gaming operation, the affiliate may be responsible for paying the tax.

### Casino Service Industry Enterprises

The regulations provide that companies supplying services to casino licensees regarding internet gaming – Casino Service Industry Enterprises (CSIE) – will pay the division an hourly rate of \$113 (the same as for bricks and mortar suppliers) for their investigation and licensure process. CSIEs include any vendors offering goods or services which directly relate to internet gaming activity, including suppliers of internet gaming software or systems, and vendors who manage, control or administer the internet games or the bets or wagers associated with the games. The regulations specify that a casino licensee may pay CSIE a percentage of

the casino licensee's internet gaming gross revenue if the revenue sharing agreement is approved by and filed with the division.

### System requirements

The regulations specify required capabilities for internet gaming systems, including:

- Devices to log transactions;
- Mechanisms for the division to query and export all gaming system data;
- Patron history logs, including details regarding patron sessions, gaming sessions, wagers made, transfers of funds into and out of patron accounts, and completion of game after an interruption;
- Adjustments to gaming system data;
- Recordation of promotional offers;
- Log of authentication attempts
- Mechanism to generate daily reports to calculate taxable revenue.

The proposed regulations require that internet gaming systems employ a geolocation mechanism to detect the physical location of the player when logging into the system, and that they re-verify the location every hour thereafter. If the system detects that the player is no longer in an authorised area, the system will disable the account and not accept wagers until they return to an authorised area.

The regulations also require a casino licensee to employ a designated internet and mobile games manager, who is based in New Jersey and licensed as a casino key staff member.

## Player concerns

The sections most likely to attract attention from the public are those directly affecting players: responsible gaming, gambling addiction and player verification requirements.

### Responsible gaming

When NJ was debating whether to pass an online gaming law, a major point of discussion was the concern that the private nature of internet gambling could lead to irresponsible gambling habits that would go undetected online, whereas in a casino there are trained employees who can cut off a gambler if necessary.

In direct response to this concern, the regulations provide protections to promote respon-

sible gaming by providing limits on how a casino can encourage a player to place wagers. For example, the regulations prohibit internet and mobile gaming systems from "induc[ing] a patron to continue placing wagers", either when play is in session, when the player attempts to end a session, or when a player wins or loses a bet. Similarly, the regulations prohibit communications that intentionally encourage a player to play more, wager continuously, bet their winnings or attempt to recoup losses. The regulations also allow players to look out for their own interests by setting self-imposed limitations on their gambling. The regulations require casinos to allow their players the capability to set self-imposed daily deposit limits.

The proposed regulations also provide for the overall security of the game by requiring casinos to implement internet and mobile gaming systems that automatically detect and report suspicious behaviour such as cheating and collusion among players. This protects other players from being at an unfair disadvantage in a game by providing a level of oversight that trained casino employees might provide in bricks and mortar setting.

### Self-exclusion

The proposed regulations expand New Jersey's gambling self-exclusion list to allow players to voluntarily exclude themselves from online gambling as well. Individual casinos are required to maintain their own self-exclusion lists, which they must keep up to date with the DGE's lists. Players may add themselves to the self-exclusion lists by using a form on the DGE's website, and the regulations require a player's online gaming account to provide a link directly to that form. Once on the list, casinos may not allow self-excluded persons to gamble on their websites, nor may they send self-excluded persons promotional materials related to internet gaming.

### Player verification

Players may register for online accounts with casinos over the internet. Each player must obtain a separate account with each casino, and a person may not have more than one account at each casino. The account registration process confirms that the person is who he or she

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claims to be, and that they are not prohibited from participating in online gaming due to age or self-exclusion.

The regulations provide for a multi-source verification of applicants' identities to ensure that the applicants are who they claim to be. They will have to provide identifying information such as their name and address, and will have to correctly complete verification tests drawn from third party and governmental databases, such as correctly identifying a car registered in their name. Once their identity is verified, the information is cross checked against the self-exclusion list and checked for age before an account is established.

Players' accounts are nontransferable, and players are prohibited from allowing other persons to use them. To prevent unauthorised access, accounts are protected by PINs, challenge questions, passwords and other security features.

## Next steps

The NJ office of the Attorney General did not specify the time frame for finalising the regulations after the comment period. However, pursuant to state law, Division Director David Rebeck will announce the date upon which New Jersey casinos will be permitted to begin accepting wagers over the internet at least 45 days prior to commencement. This leaves open the possibility that online gaming could go live in New Jersey as early as this autumn.

For the most part, the draft regulations do not contain any major surprises for players or casinos. It is likely that casinos will now focus on developing systems to meet these regulations rather than devoting their attention to seeking changes to them.