

ARTICLE 5. DIVISION OF GAMING ENFORCEMENT – POWERS AND DUTIES

5:12-76 General duties and powers

a. The Division of Gaming Enforcement shall:

(1) promptly and in reasonable order investigate all applications, enforce the provisions of this act and any regulations promulgated hereunder, and prosecute before the commission all proceedings for violations of this act or any regulations promulgated hereunder;

(2) provide the commission with all information necessary for all action under Article 6 of this act and for all proceedings involving enforcement of the provisions of this act or any regulations promulgated hereunder; and

(3) ensure that there is no duplication of duties and responsibilities between it and the commission.

b. The division shall:

(1) Investigate the qualifications of each applicant before any license, certificate, or permit is issued pursuant to the provisions of this act;

(2) Investigate the circumstances surrounding any act or transaction for which commission approval is required;

(3) Investigate violations of this act and regulations promulgated hereunder;

(4) Initiate, prosecute and defend such proceedings before the commission, or appeals therefrom, as the division may deem appropriate;

(5) Provide assistance upon request by the commission in the consideration and promulgation of rules and regulations;

(6) Conduct continuing reviews of casino operations through on-site observation and other reasonable means to assure compliance with this act and regulations promulgated hereunder, subject to subsection h. of section 63 of this act;

(7) Receive and take appropriate action on any referral from the

commission relating to any evidence of a violation of P.L.1977, c.110 (C.5:12-1 et seq.) or the regulations promulgated thereunder;

(8) Exchange fingerprint data with, and receive criminal history information from, the Federal Bureau of Investigation for use in considering applicants for any license or registration issued pursuant to the provisions of P.L.1977, c.110 (C.5:12-1 et seq.);

(9) Conduct audits of casino operations at such times, under such circumstances, and to such extent as the director shall determine, including reviews of accounting, administrative and financial records, and management control systems, procedures and records utilized by a casino licensee;

(10) Be entitled to request and receive information, materials and any other data from any licensee or registrant, or applicant for a license or registration under this act; and

(11) Report to the Attorney General recommendations that promote more efficient operations of the division.

L.1977, c. 110, § 76, eff. June 2, 1977.

Amended by:

L.1979, c. 282, § 16, eff. Jan. 9, 1980.

L.1991, c. 182, § 19, eff. June 29, 1991.

L.1993, c. 292, § 11, eff. Dec. 21, 1993.

L.1995, c. 18, § 20, eff. Jan. 25, 1995.

5:12-77 Criminal violations; prosecution; law enforcement powers of division and its employees and agents

The division is a law enforcement agency, and its employees and agents shall have such law enforcement powers as may be delegated to them by the Attorney General to effectuate the purposes of P.L.1977, c.110 (C.5:12-1 et seq.).

The division shall prosecute all criminal violations of this act except those it may refer to the Division of Criminal Justice. To effectuate this power, the division shall have access to the State Grand Jury.

L.1977, c. 110, § 77, eff. June 2, 1977.

Amended by:

L.1993, c. 292, § 39, eff. Dec. 21, 1993.

5:12-78 Cooperation by licensees, registrants or applicants

Each licensee or registrant, or applicant for a license or registration under this act shall cooperate with the division in the performance of its duties.

L.1977, c. 110, § 78, eff. June 2, 1977.

5:12-79 Inspection, seizure, and warrants

a. The division and its employees and agents, upon approval of the director, shall have the authority, without notice and without warrant:

(1) To inspect and examine all premises wherein casino gaming or casino simulcasting, as defined in section 2 of the "Casino Simulcasting Act," P.L. 1992, c.19 (C. 5:12-192), is conducted; or gaming devices or equipment are manufactured, sold, distributed, or serviced; or wherein any records of such activities are prepared or maintained;

(2) To inspect all equipment and supplies in, about, upon or around such premises;

(3) To seize summarily and remove from such premises and impound any such equipment or supplies for the purposes of examination and inspection;

(4) To inspect, examine and audit all books, records, and documents pertaining to a casino licensee's operation;

(5) To seize, impound or assume physical control of any book, record, ledger, game, device, cash box and its contents, counting room or its equipment, or casino operations; and

(6) To inspect the person, and personal effects present in a casino facility licensed under this act, of any holder of a license or registration issued

pursuant to this act while that person is present in a licensed casino facility.

b. The provisions of subsection a. of this section shall in no way be deemed to limit warrantless inspections except in accordance with constitutional requirements.

c. To effectuate further the purposes of this act, the division and its employees and agents may obtain administrative warrants for the inspection and seizure of any property possessed, controlled, bailed or otherwise held by any applicant, licensee, registrant, intermediary company, or holding company.

d. Issuance and execution of warrants for administrative inspection shall be in accordance with the following:

(1) Any judge of a court having jurisdiction in the municipality where the inspection or seizure is to be conducted may, upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this act or regulations thereunder and seizures of property appropriate to such inspections. For the purposes of this section, "probable cause" means a valid public interest in the effective enforcement of the act or regulations sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of a person duly designated and having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected; the purpose of such inspection; and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the item or types of property to be seized, if any. The warrant shall be directed to a person authorized to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is

directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours of the licensee. It shall designate the judge to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within 10 days of its date. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person executing the warrant. The clerk of the court, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall cause them to be filed with the court which issued such warrant.

e. The division is authorized to make administrative inspections to check for compliance by any applicant, licensee, registrant, intermediary company or holding company with the provisions of this act or regulations promulgated thereunder, and to investigate any violations thereof.

f. This section shall not be construed to prevent entries and administrative inspections, including seizures of property, without a warrant:

(1) With the consent of the owner, operator or agent in charge of the controlled premises;

- (2) In situations presenting imminent danger to health or safety;
- (3) In situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impractical to obtain a warrant or in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking;
- (4) In accordance with the provisions of this act; or
- (5) In all other situations where a warrant is not constitutionally required.

L.1977, c. 110, § 79, eff. June 2, 1977.

Amended by:

L.1981, c. 503, § 8, eff. Feb. 15, 1982.

L.1992, c. 19, § 29, eff. June 12, 1992.