

CHAPTER 3

OFFICE OF AMUSEMENT GAMES CONTROL

Authority

N.J.S.A. 5:8-79, 79.1, 85 and 107, and Executive Reorganization Plan No. 004-1992.

Source and Effective Date

R.1993 d.233, effective April 26, 1993.
See: 25 N.J.R. 891(b), 25 N.J.R. 1987(a).

Executive Order No. 66(1978) Expiration Date

Chapter 3, Amusement Games Control, expires on April 26, 1998.

Chapter Historical Note

The provisions of Chapter 3, Office of Amusement Games Control, were filed and became effective on April 11, 1966. Subchapter 8, Forms, was repealed by R.1982 d.498, effective January 17, 1983. See: 14 N.J.R. 1194(a), 15 N.J.R. 93(a). Pursuant to Executive Order No. 66(1978), Chapter 3 (except for Subchapter 5, Disciplinary Proceedings, and Subchapter 6, Appeals) was readopted as R.1988 d.227, effective April 25, 1988. See: 20 N.J.R. 627(a), 20 N.J.R. 1085(a). Subchapters 5 and 6 were adopted as new rules by R.1988 d.500, effective November 7, 1988. See: 20 N.J.R. 2032(a), 20 N.J.R. 2787(a). Pursuant to Executive Order No. 66(1978), Chapter 3 was readopted as R.1993 d.233. See: Source and Effective Date. Administrative Correction to effective date. See: 25 N.J.R. 2689(b). See, also, section annotations for specific rulemaking activity.

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SUBCHAPTER 8. (RESERVED)

SUBCHAPTER 1. ISSUANCE OF LICENSES BY
MUNICIPAL GOVERNING BODIES**13:3-1.1 Definitions: Location of games**

(a) The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

“Arcade” means a place where a single player may play any one of a number of machines or devices, upon payment of a fee, to attempt to obtain a prize or tickets or tokens redeemable for a prize, or to attempt to attain a score or result upon the basis of which a prize, ticket or token is awarded.

“Recognized amusement park” means a commercially operated permanent business, open to the public at least 31 consecutive days annually, whose acreage is designed and themed for the primary purpose of providing participatory amusements incorporating rides or water slides licensed in accordance with N.J.S.A. 5:3-31, et seq., and food and merchandise concessions in permanent structures. Nothing in this definition shall prevent a license from being issued in any location which has had a license issued prior to (the effective date of this amendment).

“Resort” means a place providing recreation and entertainment especially to visitors.

“Seashore resort” means a “resort” as defined in this subsection that borders tidal waters.

(b) No amusement games license shall be issued in any municipality unless:

1. Such municipality has authorized the licensing of amusement games by referendum in the 1959 general election or subsequent referendum pursuant to P.L. 1959, c.109; and
2. The premises to be licensed are situated at:
 - i. A recognized amusement park; or
 - ii. A seashore or other resort but only in that part thereof customarily constituting an amusement or entertainment area according to the customary understanding of these terms in the community; or
 - iii. A place where an association organized for the purpose of holding agricultural fairs and exhibitions **which is approved** by the State Department of Agriculture **holds an agricultural fair and exhibition.**

Amended by R.1988 d.227, effective May 16, 1988.
See: 20 N.J.R. 627(a), 20 N.J.R. 1085(a).

Added (a) Definitions and moved old (a) to (b).

13:3-1.2 License restrictions

(a) No license shall be issued to authorize the operation and conduct of any amusement game unless the game is:

1. Played for amusement or entertainment;
2. One in which the person or player actively participates;
3. One in which the outcome is not in the control of the operator; and
4. One which is so conducted that when and where all of the players are present there occurs in continuous sequence:
 - i. The sale of a right to participate;
 - ii. The event which determines whether a player wins or loses; and
 - iii. The award of a merchandise prize or nontransferable tokens or tickets which may be accumulated and immediately redeemable for a merchandise prize.

As amended, R.1983 d.303, eff. August 1, 1983.

See: 15 N.J.R. 680(a), 15 N.J.R. 1254(b).

In (a)4iii, added “nontransferable tokens on tickets which may be accumulated and redeemable for a prize”.

13:3-1.3 Bingo or raffles

No license shall be issued under the Amusement Games Licensing Law (P.L. 1959, c.109) to authorize the holding, operation or conduct of any bingo game nor for any draw raffle.

13:3-1.4 Certification requirements

No license shall be issued to authorize the holding, operation or conduct of any game not certified as permissible by the State Commissioner of Amusement Games Control pursuant to Subchapter 7 (Certification) of this Chapter and any license issued with respect to any certified game shall authorize it to be held, operated and conducted only with the limitations and restrictions of its certification.

13:3-1.5 Requisites for municipal license

(a) No license shall be issued in any municipality unless and until an ordinance shall have been adopted by the municipal governing body:

1. Declaring that a recognized amusement park exists in the municipality or that the municipality is a seashore or other resort containing an amusement or entertainment area according to the customary understanding of such terms in the municipality or that the municipality contains a place where an agricultural fair and exhibition is held by an association organized for the purpose of holding agricultural fairs and exhibitions which is approved by the State Department of Agriculture;

13:13-2.8 Exception

(a) It shall be lawful to take any action otherwise prohibited under this section where it can reasonably be determined that an applicant or employee, as a result of a handicap, cannot presently perform the job even with reasonable accommodation.

1. Refusal to refer, admit to membership, hire, or transfer a handicapped person may be lawful where the nature or extent of the handicap presently reasonably precludes the performance of the particular employment. Such a decision, however, must be based upon an objective standard supported by factual evidence rather than on the basis of general assumptions that a particular handicap would interfere with the individual's ability to perform the duties of the job.

2. Refusal to select a handicapped individual may be lawful where it can be demonstrated that the employment of the handicapped person in a particular position would presently be hazardous to the safety or health of such individual, other employees, clients or customers. Such a decision must be based upon an objective standard supported by factual or scientifically validated evidence, rather than on the basis of general assumptions that a particular handicap would create a hazard to the safety or health of such individual, other employees, clients or customers. A "hazard" to the handicapped person is a materially enhanced risk of serious harm.

3. The burden of proof is upon the employer, employment agency or labor organization to demonstrate in each case that the exception relied upon is based upon an objective standard supported by factual evidence, but no exception shall be based on:

- i. A refusal to select a handicapped individual because of the preferences of co-workers, clients, customers or the employer.
- ii. A refusal to select a handicapped individual because of the increased cost of insurance whether actual or anticipated, under a group or employee insurance plan provided in accordance with the law or as a fringe benefit.
- iii. A refusal to select a handicapped individual because of an assumption not supported by factual documented proof that such individual will incur a high rate of absenteeism in the future.

Case Notes

Municipality was not required to provide second opportunity for rehabilitation to firefighter who tested positive for cocaine and whose reinstatement after first testing positive was conditioned upon abstaining from use of drugs. *Matter of Jackson*, 294 N.J.Super. 233, 683 A.2d 203 (A.D.1996).

Employer may not base his decision to discharge a handicapped employee for safety reasons on subjective evaluations or conclusory medical reports. *Greenwood v. State Police Training Center*, 127 N.J. 500, 606 A.2d 336 (1992).

Employer does not have good cause to terminate a public employee on basis of a physical limitation unless limitation either prevents employee from adequately performing job or creates substantial risk of serious injury. *Greenwood v. State Police Training Center*, 127 N.J. 500, 606 A.2d 336 (1992).

Possible consequences of an injury to police trainee who had limited vision in his right eye did not constitute good cause for trainee's dismissal. *Greenwood v. State Police Training Center*, 127 N.J. 500, 606 A.2d 336 (1992).

Police Training Commission did not have good cause to dismiss trainee who had limited vision in his right eye from police training program. *Greenwood v. State Police Training Center*, 127 N.J. 500, 606 A.2d 336 (1992).

Alleged different treatment of information regarding condition of surgeon who was patient at his own hospital and was diagnosed as having acquired immunodeficiency syndrome (AIDS) would not support cause of action under the New Jersey law against discrimination. *Estate of Behringer v. Medical Center at Princeton*, 249 N.J.Super. 597, 592 A.2d 1251 (L.1991).

In determining whether surgeon with AIDS may legitimately be restricted in his surgical privileges, test to be applied is whether continuation of surgical privileges causes reasonable probability of substantial harm to others, including co-workers and patients. *Estate of Behringer v. Medical Center at Princeton*, 249 N.J.Super. 597, 592 A.2d 1251 (L.1991).

Where physician is being treated at his own hospital, it is imperative that hospital take reasonable steps to insure confidentiality not only of human immunodeficiency virus (HIV) test result, but also of disease diagnosis which is conclusive of acquired immunodeficiency syndrome (AIDS). *Estate of Behringer v. Medical Center at Princeton*, 249 N.J.Super. 597, 592 A.2d 1251 (L.1991).

In context of informed consent, risk of surgical accident involving AIDS-positive surgeon would be legitimate concern to surgical patient, warranting disclosure of risk. *Estate of Behringer v. Medical Center at Princeton*, 249 N.J.Super. 597, 592 A.2d 1251 (L.1991).

In deciding whether nature and extent of employee's handicap reasonably precludes job performance, employer may consider whether handicapped person can do his or her work without posing serious threat of injury to health and safety of himself or herself or other employees. *Jansen v. Food Circus Supermarkets, Inc.*, 110 N.J. 363, 541 A.2d 682 (1988), on remand.

To invoke safety defense as justification for otherwise unlawful handicap discrimination employer must reasonably conclude that employee's handicap poses materially enhanced risk of serious injury. *Jansen v. Food Circus Supermarkets, Inc.*, 110 N.J. 363, 541 A.2d 682 (1988), on remand.

Employer's decision not to employ handicapped person must be justified by a "probability" rather than a "possibility" of injury to handicapped person or others. *Jansen v. Food Circus Supermarkets, Inc.*, 110 N.J. 363, 541 A.2d 682 (1988), on remand.

Opinion by employer's medical experts that epileptic employee employed as meatcutter would probably suffer another seizure at work did not support conclusion that such a seizure would probably result in harm to employee or others. *Jansen v. Food Circus Supermarkets, Inc.*, 110 N.J. 363, 541 A.2d 682 (1988), on remand.

Epileptic supermarket employee was reasonably precluded from performance of duties of meat cutter; decision of employer to terminate employee was reasonably arrived at and sufficiently supported by independent medical testimony that there was a reasonable probability of future seizures. *Jansen v. Food Circus Supermarkets, Inc.*, 214 N.J.Super. 51, 518 A.2d 486 (App.Div.1986), reversed 110 N.J. 363, 541 A.2d 682.

Fire department did not illegally discriminate in refusing to hire 53-year-old applicant for firefighter position. *McKeever v. Kirkwood Board of Fire Commissioners*, 96 N.J.A.R.2d (CRT) 79.

Alcoholism which initially led to excessive absenteeism did not warrant tenured teacher's removal once she successfully completed school district's rehabilitation program. Jersey City School District v. Howard, 95 N.J.A.R.2d (EDU) 301.

SUBCHAPTER 3. REAL PROPERTY

13:13-3.1 Application

This subchapter on discrimination in real property applies to vendors and lessors of property and their agents, real estate brokers, agents and salespersons, lending institutions and other persons. For the purpose of this subchapter lending institutions include banks, building and loan associations, insurance companies and any other enterprise whose business consists in whole or in part in the making of commercial loans or other forms of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations.

Amended by R.1995 d.243, effective May 15, 1995.
See: 26 N.J.R. 1942(a), 27 N.J.R. 2005(a).

13:13-3.2 Advertising and solicitation

(a) This section applies to real property, public housing and the rental of:

1. A single apartment or flat in a two-family dwelling, the other occupancy unit of which is occupied by the owner as a residence or the household of the owner's family at the time of such rental; and
2. A room or rooms to another person or persons by the owner or occupant of a one-family dwelling occupied by the owner or occupant as a residence or the household of the owner's or occupant's family at the time of such rental.

(b) It is unlawful for any person to make, print or publish or cause to be made, printed or published any notice, listing statement or advertisement with respect to the sale, rental or lease of real property which indicates any preference, limitation, specification or otherwise discriminates based upon a handicap.

(c) It is unlawful for any real estate broker, agent or salesperson to accept for listing any housing accommodation when the seller or lessor or his agent has expressed, directly or indirectly, an intention to discriminate against handicapped persons.

(d) It is not unlawful for any person to make, print or publish or cause to be made, printed or published any notice, listing, statement, or advertisement which indicates that barrier free accommodations are available for sale, rent, lease or occupancy.

Amended by R.1995 d.243, effective May 15, 1995.
See: 26 N.J.R. 1942(a), 27 N.J.R. 2005(a).

13:13-3.3 Inquiries

It is unlawful for any person to make or cause to be made any written or oral inquiry or record concerning the handicap of any prospective purchaser, tenant or prospective occupant of any real property, or the handicap of any other person associated with a prospective purchaser, tenant or prospective occupant, unless such information is required by an agency of local, state or Federal government and the person states clearly that the information requested is intended for use solely by the government agency.

Amended by R.1995 d.243, effective May 15, 1995.
See: 26 N.J.R. 1942(a), 27 N.J.R. 2005(a).

13:13-3.4 Sale or rental

(a) It is unlawful for any person to discriminate on the basis of handicap in the actual showing, sale, rental or lease of available real property. For example, a representation to any person, because that person possesses a handicap, that real property is not available for inspection, sale or rental when such real property is in fact so available is a violation of the act.

(b) It is unlawful for any person to misrepresent the price of real property listed for sale, rent or lease or to fail to communicate to the seller or lessor any offer made by a prospective buyer or lessor because the applicant or prospective occupant possesses a handicap, or because of the handicap of any other person associated with the applicant or prospective occupant.

(c) It is unlawful for any person to fail or refuse to show, rent or lease any real property to a person because he or she has a sight or hearing disability and must be accompanied by a guide or service dog. Policies which restrict the availability of housing accommodations to persons without pets shall be void with respect to the above-mentioned segment of this protected class.

(d) It is unlawful for any person to discriminate against any individual because of handicap in the price, terms, conditions or privileges of the sale, rental or lease of real property or in the provision of services for facilities in connection therewith. Handicapped persons shall not be required to pay extra compensation or additional security deposits as a result of their maintaining or requiring special practices or accessories though such persons may be liable for any specific damage which may be done to the premises by virtue of their requirement.

1. This provision does not require a landlord to install or bear the expense of any such special accessories or practices. Apart from requiring payment for specific damage which may be done to the premises, however, a landlord may not charge a handicapped person an extra fee, for example, for keeping a guide or service dog or maintaining special equipment such as a shower bar.

(e) It is unlawful for any person to:

1. Refuse to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the handicapped person, if the modifications may be necessary to afford the handicapped person full enjoyment of the premises, except that, in the case of a rental, the landlord may:

i. Where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

ii. Where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations and, the interest in such account shall accrue to the benefit of the tenant; and

iii. Condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained; and

2. Refuse to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling.

(f) It is unlawful for any person to fail or refuse to rent to, or to impose different terms of tenancy upon, any handicapped individual because that individual is a recipient of Federal, state or local assistance, including medical assistance or housing subsidies.

Amended by R.1995 d.243, effective May 15, 1995.
See: 26 N.J.R. 1942(a), 27 N.J.R. 2005(a).

13:13-3.5 Eviction

It is an unlawful act of discrimination for any person to evict a tenant because the tenant possesses a handicap, or because that person is associated with another person who possesses a handicap.

Amended by R.1995 d.243, effective May 15, 1995.
See: 26 N.J.R. 1942(a), 27 N.J.R. 2005(a).

13:13-3.6 Financing

It is unlawful for any lending institution or person to discriminate against an individual seeking a loan or other form of financial assistance whether in the initial extension of credit or in the terms and conditions of the obligation because that individual or an intended occupant of real property possesses a handicap, or because that individual or

intended occupant is associated with another person who possesses a handicap. An application for loans or other forms of financial assistance means and extends to the purchase of an existing property, the construction of new buildings and the rehabilitation, repair or maintenance of existing property.

Amended by R.1995 d.243, effective May 15, 1995.
See: 26 N.J.R. 1942(a), 27 N.J.R. 2005(a).

13:13-3.7 Covered multifamily dwellings

In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, it shall be unlawful to fail to design and construct dwellings which comply with the standards set forth in the Barrier-Free subcode of the State Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., and N.J.A.C. 5:23-7.

New Rule, R.1995 d.243, effective May 15, 1995.
See: 26 N.J.R. 1942(a), 27 N.J.R. 2005(a).

SUBCHAPTER 4. ACCESS TO PUBLIC ACCOMMODATIONS

13:13-4.1 Application

The term "person" as used in this subchapter shall mean the owners, lessees, proprietors, managers, superintendents, agents or employees of any place of public accommodation.

13:13-4.2 General practices

(a) It shall be unlawful for any person to refuse, withhold from or deny an individual, either directly or indirectly, on account of a handicap, access to any of the accommodations, advantages, facilities or privileges of a place of public accommodation. It shall be unlawful for any person to discriminate against a handicapped person in the price, terms, or conditions upon which access to such accommodations, advantages, facilities or privileges may depend.

(b) It shall be unlawful for any person to refuse, withhold or deny either directly or indirectly the right of visually handicapped or deaf persons to be accompanied by guide or service dogs, especially trained for the purpose, in any place of public accommodation. Such visually handicapped or deaf persons shall be liable for any damage done to the premises or facilities by such dogs.

(c) It shall be unlawful for any person to publish, circulate, issue, display, post or mail or cause to be printed, circulated, issued, displayed, posted or mailed any written, printed or broadcast notice indicating directly or indirectly that the right of a handicapped person to have equal access to a place of public accommodation will be denied or abridged.

13:3-4.3 Report of conduct of game by licensee

(a) Every licensee shall, not later than the 15th day of February, file with the Commissioner a report of the conduct of games for the previous license year or period, in a form prescribed by the Commissioner.

(b) Licensees holding, operating and conducting licensed games at agricultural fairs and exhibitions shall file such reports not later than the 15th day after the closing date of the fair or exhibition with respect to which the license is issued.

(c) Such reports shall be fully and truthfully completed, without fraud, misrepresentation, false or misleading statement, or evasion or suppression of fact.

As amended, R.1982 d.498, effective January 17, 1983.

See: 14 N.J.R. 1194(a), 15 N.J.R. 93(a).

Deleted reference to section 8.6.

As amended, R.1983 d.303, effective August 1, 1983.

See: 15 N.J.R. 680(a), 15 N.J.R. 1254(b).

Added "15th day of the month following the last day of operation of the game during the license year."

Amended by R.1988 d.227, effective May 16, 1988.

See: 20 N.J.R. 627(a), 20 N.J.R. 1085(a).

Substantially amended (a).

13:3-4.4 Reports confidential

Reports required to be submitted, and the information contained therein, shall not be disclosed by the Commissioner except so far as may be necessary for the purpose of carrying out the provisions of the Amusement Games Control Law (P.L. 1959 c.108) and the Amusement Games Licensing Law (P.L. 1959, c.109).

13:3-4.5 Failure to file report

Failure or refusal by any licensee to make timely filing of any report required by this regulation, or the filing of any report either incomplete or false in fact, shall constitute cause for suspension or revocation of license.

SUBCHAPTER 5. DISCIPLINARY PROCEEDINGS**13:3-5.1 Five-day notice prior to hearing; charges specified**

(a) No license shall be suspended or revoked until a five-day notice of the charges preferred against the licensee shall have been given to him personally or by mailing the same by certified mail addressed to him at the licensed premises and a reasonable opportunity to be heard thereon afforded to him.

(b) If brought by the State Commissioner of Amusement Games Control, such charges shall be signed in the name of the Commissioner or, if brought by a municipal governing body, such charges shall be signed in the name of such

governing body and shall specify the section of the law or the rule and regulation alleged to have been violated and the time and place fixed for the hearing.

13:3-5.2 Uncontested disciplinary proceedings

(a) At any time prior to two days before the date fixed for hearing, the licensee may enter a written plea of guilty or non vult to said charges and, thereafter, no hearing shall be held therein.

(b) Where a written plea of guilty or non vult is received, written argument as to penalty may be submitted to the Commissioner or to the municipal governing body, as the case may be, five days after entry of the plea.

13:3-5.3 Conduct of hearing

Hearings shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 and 52:14F-1, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

13:3-5.4 Commissioner's decision changing penalty

The Commissioner may adopt, modify or reject the initial decision; provided however, that the Commissioner shall not increase any recommended penalty or change a recommended finding of not guilty without first affording the licensee an opportunity to present oral argument before the Commissioner.

13:3-5.5 Transmittal of charges and result to Commissioner

When charges have been preferred against a licensee by the governing body of any municipality, such governing body shall transmit to the Commissioner forthwith a copy of such charges and, when the charges have been finally adjudicated, a copy of the Resolution and Order shall be promptly transmitted to the Commissioner.

13:3-5.6 Proceeding not barred by license expiration

Disciplinary proceedings shall not be barred or abated by the expiration or extension of the license.

13:3-5.7 Results of proceeding affects subsequent license

Any license may be suspended or revoked for proper cause, notwithstanding that such cause arose prior to the extension of the license or during the term of a prior license held by the licensee.

13:3-5.8 Conditions for penalty carryover

(a) Where disciplinary proceedings are instituted and the license is extended or expires during the pendency thereof, such proceedings shall be carried through to completion and any order of suspension or revocation therein shall apply without further proceedings to the extended license or to any new license issued to:

1. The licensee; or

2. Any partnership of which he is a partner; or
3. Any corporation of which such individual licensee is an officer, director or stockholder; or
4. Any individual who was an officer, director or stockholder of a corporation against which such a proceeding is pending.

13:3-5.9 Hearings; Conclusions or Resolutions and Order

(a) After the hearing or upon receipt of a guilty or non vult plea upon charges by the governing body of the municipality, the governing body shall make a written determination of the licensee's guilt or innocence which shall be in the form of a Resolution and Order. The Resolution and Order shall set forth the final determination of guilt or innocence, designate the effective date of any suspension or revocation and, in the case of suspension, the term of the suspension and any conditions deemed appropriate. A copy of the Resolution and Order shall be served upon the licensee personally or by mailing by certified mail addressed to the licensee at the licensed premises.

(b) In contested cases, the Commissioner's decision shall be issued pursuant to the Administrative Procedure Act. A copy of the decision shall be served upon the licensee personally or by mailing by certified mail addressed to the licensee at the licensed premises.

SUBCHAPTER 6. APPEALS

13:3-6.1 Method of appeal to Commissioner

(a) All appeals to the State Commissioner of Amusement Games Control from any refusal to issue a license or any suspension or revocation of a license by a municipal governing body shall be taken by filing with said municipal governing body a written notice of appeal, accompanied by a petition of appeal, within 30 days after the determination or action appealed from.

(b) The notice of appeal and the petition of appeal shall be entitled in the name of the licensee as appellant and the name of the municipal governing body as respondent.

(c) The petition of appeal shall set forth the subject matter of the appeal, the action of the municipal governing body, the relief sought and the grounds therefor.

(d) The appellant shall file with the Commissioner forthwith a true copy of the notice of appeal and a true copy of the petition of appeal, together with an acknowledgment or affidavit of service of the originals thereof upon respondent.

13:3-6.2 Respondent's reply to appeal

(a) Within five days after service of the notice and petition of appeal, the respondent shall file an answer with the Commissioner and mail a copy of said answer to appellant or his attorney.

(b) The answer shall include a statement of the grounds for respondent's action.

13:3-6.3 Stay of penalty

An appeal from a suspension or revocation shall automatically act as a stay of said suspension or revocation pending final determination of the appeal, unless the Commissioner shall otherwise order in writing.

13:3-6.4 Appeals

(a) Hearings held on appeals shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 and 52:14F-1 and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) All appeals shall be heard de novo but the burden of establishing that the action of the respondent was erroneous and should be reversed shall rest with the appellant.

13:3-6.5 Commissioner's decision

(a) The decision of the Commissioner shall be issued pursuant to the Administrative Procedure Act.

(b) A copy of the opinion shall be mailed forthwith to the parties or their attorneys.

13:3-6.6 Stay or extension subject to outcome of appeal

When appeal is taken in any matter, any extension, pursuant to N.J.A.C. 13:3-1.17 (Devolution of license) of any license involved therein shall be subject to the ultimate outcome of such appeal, unless otherwise ordered by the Commissioner for proper cause.

SUBCHAPTER 7. CERTIFICATION OF PERMISSIBLE GAMES BY STATE COMMISSIONER

13:3-7.1 Certification of kinds of games

(a) The State Commissioner of Amusement Games Control shall grant certifications of permissibility of any amusement games which may be played for amusement or entertainment, in which the person or player actively participates and the outcome of which is not in the control of the operator, and which is so conducted that the sale of a right to participate, the event which determines whether a player wins or loses and the award of the prize, tickets or token, all occur as a continuous sequence at the time and place where the player or players are all present.

(b) Such certifications shall be effective generally as to all licenses issued and to be issued with respect to the specific kind of game which is the subject of the certification unless otherwise restricted.

As amended, R.1983 d.303, effective August 1, 1983.
See: 15 N.J.R. 680(a), 15 N.J.R. 1254(b).
Added "tickets or token."

13:3-7.2 Application for certification; contents; fees

(a) Applications for certification with respect to any game not already the subject of certification may be made to the Commissioner and shall set forth the following information:

1. The name of the game;
2. Its type or kind;
3. Description of equipment used in its play, including photographs, sketches and diagrams thereof, if necessary or if required by the Commissioner;
4. Method and rules of play;
5. Method of determination of winner or winners;
6. Number of players who may participate;
7. Length of play of each game;
8. Extent of player participation;
9. Whether the game is controllable by the operator; and
10. Such other information as will facilitate determination of the application.

(b) Every application for certification shall be accompanied by a nonrefundable fee of \$100.00 payable to the New Jersey Amusement Games Control Commissioner.

As amended, R.1983 d.303, effective August 1, 1983.
See: 15 N.J.R. 680(a), 15 N.J.R. 1254(b).
Added new (b).

Amended by R.1988 d.227, effective May 16, 1988.
See: 20 N.J.R. 627(a), 20 N.J.R. 1085(a).
Non-refundable fee raised from "\$50.00" to "\$100.00".

13:3-7.3 Right to restrict specific terms of certification

Any certification of permissibility that may be granted may be restricted with respect to the limit or limits on the number of places or the number of specific kinds of games which may be held, operated or conducted by any one licensee, directly or indirectly, and by the imposition of such other controls as the Commissioner shall deem suitable and proper.

13:3-7.4 Amendments of certifications

Certifications of permissibility may be granted by the Commissioner in terms applicable to more than one of certain named or described games, all of which are similar in specific kind, and such certifications may be amended from time to time to include additional games differently named or described, but similar in specific kind to those previously certified.

13:3-7.5 Numbering of certifications

Each certification of permissibility granted by the Commissioner shall bear a serial number, which number shall be included in the description of the game to be licensed in the application for license and the license certificate to be issued in connection therewith.

13:3-7.6 Cancellation of certification

(a) Any certification of permissibility may be cancelled and vacated or modified by the Commissioner in his sound discretion at any time, either specifically as to a particular license or licenses, or generally as to all licenses issued on the basis of the particular certification, whereupon such licenses as may be affected, shall, 30 days after the cancellation and vacation, no longer authorize the holding, operation or conduct of the game which was the subject of the certification, or shall authorize the holding, operating and conduct of the game only in such manner as accords with the modified certification in the event of its modification.

(b) Before any cancellation and vacation of a certification shall occur, any licensee operating a game, machine or device under such certification shall be given notice and afforded a reasonable opportunity to be heard by the Commissioner.

Amended by R.1988 d.227, effective May 16, 1988.
See: 20 N.J.R. 627(a), 20 N.J.R. 1085(a).
Added (b).

13:3-7.7 Furnishing certifications to governing bodies

The Commissioner shall furnish to each municipal governing body authorized to issue amusement games licenses a copy of every certification of permissibility granted by the Commissioner, together with a copy of all amendments, modifications and supplements thereto and any cancellations or vacations thereof.

13:3-7.8 Games authorized only in respect to particular certification

Any license issued to authorize the holding, operation and conduct of any kind of amusement game shall be deemed to authorize such holding, operation and conduct only in the manner and to the extent certified as permissible by the certification of permissibility granted with respect to such kind of game.

13:3-7.9 Permissible amusement games certifications

(a) Pursuant to P.L. 1959, c.108 and this subchapter there is hereby granted certification of permissibility for licensing of the following amusement games:

1. Certification No. 1. Throw games wherein a single player upon payment of fee is furnished a number of balls, hoops, darts or other objects, or uses his own coins to be handthrown or propelled at, into, or upon targets, with prizes awarded according to results achieved, generally known as Balloon Game, Barrel Game, Basketball Game, Bear Pitch Game, Break-the-Dish Game, Bullpen Ball Game, Cigarette Cork Rifle Game, Cigarette Dart Game, Cigarette Toss Game, Dart Game, Dodgem Game, Glass Pitch Game, Hoopla Game, Mammy Doll Game, Milk Bottle Game, Milk Can Game, Number Dart Game, Over and Under Game, Penny Pitch Game, Pig Slide Game, Ping-Pong Game, Ring Toss Game, Shooting Gallery Game and Stuffed Cat Game and such similar games as may from time to time be certified pursuant to this subchapter.

i. Only one of the above games may be licensed under one license.

ii. There is no restriction on the number of units that may comprise the game.

2. Certification No. 2. Arcade games wherein a single player upon payment of fee is permitted to play a machine or device to obtain a prize or attain to score upon the basis of which a prize is awarded, generally known as Baseball Machine, Basketball Machine, Bouncing Ball Machine, Bowling Machine, Crane Machine, Dexterity Tester Machine, Digger Machine, Football Machine, Golf Machine, Gun Machine, Hockey Machine, Intelligence Tester Machine, Pinball Machine, Pokerino Machine, Pool Table Machine, Pusher Machine, Roll Down Machine, Rotary Arm Machine, Shooting Machine, Shuffle Alley Machine, Skee Ball Machine, Skill Tester Machine and Strength Tester Machine, and such similar games, including electronic games, as may from time to time be certified pursuant to this subchapter.

i. There is no restriction on the number of machines or devices that may be installed or available under one arcade license.

ii. If any machine or device has more than one player position, each player position shall be considered a separate machine or device in calculating the State license fee.

3. Certification No. 3. Non-draw raffle games wherein a single player upon payment of fee is permitted to make a blind selection of one object from a number of objects, the object selected being the prize won or indicating the prize won, generally known as Duck Pond Game, Fish Pond Game, Grab-bag Game and Pick-the-Stick Game, and such similar games as may from time to time be certified pursuant to this subchapter.

4. Certification No. 4. Competitive games wherein several players upon payment of fee are permitted to compete against each other for a prize to be awarded to the player who first achieves the required result, generally known as Bowlo Game, Fascination Game, Greyhound Game, Skilo Game, Throw Fascination Game, and Water Gun Game, and such similar games as may from time to time be certified pursuant to this subchapter. A Stop and Go Game type of installation, as set forth in (a)5 below (Certification No. 5), and subject to the same requirements, limitations and restrictions contained in (a)5 below, may be utilized in the conduct of such games.

i. Only one of the above games may be licensed under one license.

ii. There is no restriction on the number of units that may comprise the game.

5. Certification No. 5. A game of chance incorporating:

i. A laydown board marked in segments bearing numbers, names or symbols whereon the player or players place the entry fee as an indication of choice of expected winner;

ii. Electrical push-button switches or similar devices approved by the Commissioner at each segment on the board which enable any player to start or deactivate the game;

iii. A moving indicator powered and driven by an electric motor which may be activated and deactivated by any player by means of the switches provided; and

iv. An arrangement of numbers, names or symbols, corresponding to those on the laydown board to one of which the moving indicator points when it stops after exhausting its momentum following deactivation of the motor, generally known as Stop and Go Game; provided however, the mechanism may not incorporate any clutch, brake or timing device except a timing device which renders all of the stop switches inoperative for a short period of time after any starting switch is activated, nor may the electric motor be activated or deactivated by anyone other than a player or players.

6. Certification No. 6. Guessing games wherein in a single player upon payment of fee is entitled to win a prize in the event that the operator is unable to guess, within announced limits, the weight or age of the player, generally known as Guess Your Weight Game and Guess Your Age Game.

7. Certification No. 7. A game wherein a single player upon payment of fee is entitled to win a prize in the event that within a permitted number of tries he rings a bell or gong a required number of times by striking with a maul one end of a horizontal level arm the other end of which propels a weight upward along a vertical wire at the top of which the bell or gong is located, generally known as Ring The Bell Game or High Striker Game; provided however, only one unit may be licensed under one license.

8. Certification No. 8. Miscellaneous skill games wherein a single player upon payment of a fee is entitled to use a physical skill to attain a predetermined goal for which a prize is awarded, generally known as Log Roll and Rope Climb, and such similar games as may from time to time be certified pursuant to this subchapter.

9. Certification No. 9. A game of chance incorporating a laydown board marked in segments bearing numbers, names or symbols whereon the player or players place the entry fee as an indication of the choice of expected winner, which is determined by a nonelectrical and nonmechanical device, set in motion by a player or players, coming to rest, generally known as Pan Game, Crazy Ball and Crazy Block.

i. Only one of the above games may be licensed under one license.

As amended, R.1983 d.303, eff. August 1, 1983.

See: 15 N.J.R. 680(a), 15 N.J.R. 1254(b).

In (a)1, 2, 3, and 4, added "such similar games as may be certified." In (a)2i, and ii, deleted old text and added new text. Also added new 8.

Amended by R.1985 d.334, effective July 1, 1985.

See: 17 N.J.R. 1058(a), 17 N.J.R. 1664(a).

(a)2iii added.

Amended by R.1986 d.218, effective June 16, 1986.

See: 18 N.J.R. 613(a), 18 N.J.R. 1306(a).

(a)9 added.

SUBCHAPTER 8. (RESERVED)

Historical Note

This subchapter formerly contained samples of forms used for the applications of various types of licenses, R.1982 d.498, eff. January 17, 1983. See: 14 N.J.R. 1194(a), 15 N.J.R. 93(a).