ASSEMBLY, No. 4172

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 28, 2020

Sponsored by:
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District 3 (Cumberland, Gloucester and Salem)
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SYNOPSIS

Requires DOH to establish sanitization standards and protocols for casinos operating in State.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 7/23/2020)

AN ACT concerning casino sanitization procedures and supplementing P.L.1977, c.110 (C.5:12-1 et seq.).

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

1. As used in this act, P.L. , c. (C.)(pending before the Legislature as this bill):

"Casino" means a facility licensed as a casino or gambling house pursuant to the provisions of P.L.1977, c.110 (C.5:12-1 et seq.) at which casino gaming, sports wagering, or simulcast is conducted.

"Casino floor" means any place that slot machines, table games, poker, sports betting, or simulcast is located or takes place.

"Casino hotel" shall have the same meaning as set forth in section 19 of P.L.1977, c.110 (C.5:12-19).

"Department" means the New Jersey Department of Health.

"Contactless tipping option" means any method of providing a gratuity without direct contact between customer and employee, and includes, without limitation, adding a tip line to the hotel bill, peer-to-peer mobile payment, Apple, Google Pay, and other similar means.

"Covered establishment" means a casino, casino hotel, hotel, or food and beverage venue located within or operated in conjunction with a casino, casino hotel, or hotel.

"COVID-19" means the Coronavirus Disease 2019 caused by SARS-CoV-2.

"Disinfectant" means a product registered with the federal Environmental Protection Agency (EPA) that has qualified for use against SARS-CoV-2.

"Employee dining room" means any space designated by the operator for employees to take legally or contractually mandated breaks.

"Employees" means full-time and part-time employees, casual or on-call employees who perform work at the covered establishment, whether employed directly by the operator of the establishment or by another entity.

"Food and beverage venue" means a restaurant, cafeteria, institutional dining facility, catering business, commercial kitchen, event concession or any other portion of a covered establishment that prepares and serves food to guests or the general public.

"Gaming equipment" means any equipment used in the operation of gambling, including, but limited to, slot machines, dice, card shoes, shufflers, tiles, roulette balls, simulcast wagering equipment, gaming device as defined in section 23 of P.L.1977, c.110 (C.5:12-23), and similar equipment and devices.

"Hotel" shall have the same meaning as set forth in section 27 of P.L.1977, c.110 (C.5:12-27).

"Operator" means any person or business entity that employs employees directly or indirectly at a covered establishment.

"SARS-CoV-2" means the novel coronavirus that causes COVID-19.

2. a. The department shall establish written cleaning standards designed to reduce the transmission of SARS-CoV-2. The standards shall be implemented and maintained by each operator. The standards shall provide for disinfection of porous and non-porous surfaces using appropriate EPA-registered disinfectant products that have qualified for use against SARS-CoV-2. If there exists no EPA-registered disinfectant that may be used on non-porous surfaces effectively or without causing damage to the material, the operator shall use such other cleaning agent as is appropriate for the material while using an EPA-registered disinfectant on all other surfaces. Each operator shall follow the manufacturer's instructions for all cleaning and disinfection products for concentration, application method, and contact time for safe and effective use.

b. Cleaning standards under this section shall at a minimum require the following procedures:

(1) High-contact areas. Cleaning standards shall identify high-contact areas, items, and fixtures with which guests and employees may be expected to have regular physical contact. High-contact areas shall include, at a minimum, door and door handles at all exterior entrances, door handles at interior entrances regularly accessed by guests and employees, regularly-used instruments such as computer keyboards, touch screens, credit card readers, printers, telephones, and light switches, surfaces such as countertops, furniture, and desks in high usage areas, and ice and vending machines. Employees shall regularly, and throughout the day, clean and disinfect high-contact areas. Each operator shall have dedicated personnel responsible for opening exterior doors at the entrance to the covered establishment for guests and employees, and for regularly disinfecting such doors.

(2) Guest rooms. All surfaces in guest rooms at a covered establishment shall be cleaned and disinfected on a daily basis, including, without limitation, walls, windows, mirrors, desks, table tops, furniture, minibars, interior and exterior handles of doors, faucets, toilets, headboards and footboards of beds, light switches, remote controls, telephones, keyboards, touch screens, and other items. Porous surfaces such as carpeted floor, rugs, and drapes, shall be disinfected using an EPA-registered disinfectant where available for the item, or where not, appropriate cleaners indicated for use on these surfaces. Bed linens and towels shall be changed no less than daily and shall not be shaken out. Bed scarves and bedspreads shall be changed upon each guest departure. For the purposes of this subsection, no covered establishment shall permit a guest to decline guest room cleaning on a daily basis or offer any incentive to any guest for declining guest room cleaning on a daily basis.

(3) Public areas. All surfaces in lobbies, waiting areas, hallways, and other public areas shall be cleaned and disinfected regularly throughout the day including, without limitation, walls, windows and glass surfaces, desks, table tops and furniture, door handles, and light switches. Porous surfaces such as carpeted floor, rugs, and drapes shall be disinfected using an EPA-registered disinfectant where available for the item, or where not, using appropriate cleaners indicated for use on these surfaces.

(4) Front desk. All front desk counters, desks, and other surfaces with which members of the public and employees have physical contact shall be cleaned and disinfected regularly throughout the day. Computer screens, keyboards, writing utensils, credit card readers, and desktops shall be disinfected between each use. Room key cards shall be disinfected prior to being issued to and received from guests.

(5) Elevators. All guest and service elevators, including elevator buttons, shall be cleaned and disinfected regularly throughout the day.

(6) Restrooms. All surfaces in public and non-public restrooms shall be cleaned and disinfected regularly throughout the day, including sinks, faucets, walls, toilets, toilet paper dispensers, and door handles.

(7) Dining and bar facilities. All tables, bar tops, menus, check presentation holders, writing utensils, and computer screens shall be disinfected between each use. Other areas shall be cleaned and disinfected regularly throughout the day.

(8) Meeting rooms. All surfaces in meeting rooms, including table-tops and chairs, shall be cleaned and disinfected regularly, including during meeting breaks.

(9) Kitchens and food preparation areas. Areas and items involved with food preparation shall be cleaned and disinfected regularly throughout the day, including, without limitation, all work surfaces, tables, utensils, counters, and computers.

(10) Non-public areas. All surfaces in non-public areas such as hallways, offices, storerooms, locker rooms, and employee cafeterias shall be cleaned and disinfected regularly throughout the day, including without limitation, tables, walls, windows and glass surfaces, desks, table tops and furniture, benches, door handles, light switches, and other items. Porous surfaces such as carpeted floor, rugs, and drapes, shall be disinfected regularly throughout the day using an EPA-registered disinfectant where available for the item, or where not, appropriate cleaners indicated for use on these surfaces.

(11) Fitness centers. All surfaces in fitness centers shall be cleaned and disinfected regularly, including without limitation, all exercise equipment, weights, tables, countertops, chairs, lockers, and benches.

(12) Laundry. Laundry shall be washed according to the manufacturer's specifications at the warmest appropriate water setting for the item and then dried completely. All surfaces and

equipment, such as laundry carts and hampers, shall be regularly cleaned and disinfected throughout the day. Dirty laundry shall not be shaken out prior to cleaning.

(13) Casino floor. The casino floor shall be treated as a public area subject to paragraph (3) of this subsection for cleaning purposes, and all gaming equipment shall be cleaned between each use, but not less than once every four hours.

(14) Employee dining room. Employee dining rooms shall be cleaned and disinfected in accordance with the provisions of paragraph (7) of this subsection.

c. Copies of the cleaning standards shall be posted at areas where employees regularly receive daily instruction regarding work duties and on bulletin boards where the operator regularly posts official communications with employees. Copies of the cleaning standards shall be made available to employees or their bargaining representative at no cost.

3. The department shall establish the following control measures and protocols to be implemented and maintained by each operator:

a. Each covered establishment and each operator shall ensure to the extent reasonably possible that employees remain at least six feet apart from other employees and guests while performing their assigned work and during breaks. Workstations and public areas shall be set up, as appropriate, to allow for proper social distancing. Break periods shall be structured, and additional break areas shall be made available to ensure that employees may take legally mandated breaks while maintaining proper social distancing. In no event shall any employee be required to work in a guest room while a guest is present in the room.

b. Each covered establishment and each operator shall, to the extent reasonably possible, ensure that guests remain at least six feet apart from other unassociated guests and from employees, including without limitation the placement of markings on floors six feet apart, limitations on the number of guests in public areas, and placement of furniture, tables, and seating. Guests shall be advised to maintain a distance of six feet from other unassociated guests while waiting in line at the front desk of a hotel or casino or at the entrance to any food and beverage venue. Operators shall assign dedicated personnel to maintain social distancing at the front desk and at any food and beverage venue. Exterior doors shall be left open or be operated automatically where possible. Each operator shall have dedicated personnel responsible for opening exterior doors for guests and employees, and for regularly disinfecting such doors. Guests shall be seated at food and beverage venues at least six feet from any other table. Social gatherings of more than 10 persons shall be prohibited. Elevator use shall be limited to associated guests, in groups of no more than five, and the covered establishment shall station at least

one dedicated attendant for each five elevators to ensure that this protocol is followed. Elevators shall be disinfected after each use.

c. Each casino shall configure the casino floor in a manner that encourages social distancing, including by:

(1) closing or removing every other table game to ensure a minimum of six feet between tables;

(2) removing every other chair from table games, leaving the table with three positions;

(3) turning off or removing slot machines in order to create a minimum of six feet between slot machines;

(4) preventing gatherings at slot machines, table games, or other gaming positions;

(5) encouraging social distancing at sports book and simulcast;

(6) encouraging social distancing at ATMs, cage cashiers, bars, and restaurants on the casino floor; and

(7) limiting the number of poker tables and seats at poker tables to ensure appropriate social distancing.

d. Each casino shall enable employees with direct customer service responsibilities, including, but not limited to, door persons, bell persons, cashiers, cocktail servers, bartenders, food servers, food runners, and bussers to have appropriate protective gear and to maintain social distancing.

e. Each covered entity and each operator shall place signage near the entrance of the covered establishment and on each floor in front of the elevator banks. The signs shall be in English and Spanish and shall contain the following language in no less than 24-point font:

BY ORDER OF THE NEW JERSEY DEPARTMENT OF HEALTH

Guests are required to practice social distancing and safe sanitary practices while on the premises of this establishment. Guests shall maintain a distance of six feet from guests not in their party and from employees at all times, except when service needs require a closer proximity. Social gatherings of more than 10 persons are prohibited. Guests are instructed to wash their hands frequently. Any guest who has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 shall report such information to management upon check-in or upon the advent of such symptoms. Common symptoms of COVID-19 include fever, dry cough, and shortness of breath. Other symptoms include muscle pain, headache, and sore throat.

f. Alcohol-based hand sanitizer, containing at least 60 percent alcohol, shall be made readily available to guests and employees in areas where there is likely to be direct or indirect physical contact among guests, among employees, or between guests and employees, including, but not limited to, the following areas: employee locker rooms, rooms where employee meetings are held, employee breakrooms and cafeterias, front desks, bell desks, lobbies, kitchens, public restrooms, entrances to food and beverage venues, principal

entrances to the establishment, each floor in front of elevator banks and next to ATM machines, and at least one per 5,000 square feet of other public spaces.

g. Handwashing breaks shall be scheduled for employees at least every hour at a washing facility supplied with soap. At other times, employees shall have access to hand sanitizer in proximity to their work area such that they do not have to interrupt their normal duties to access it.

h. All fitness centers at covered establishments shall remain closed until cleared to be reopened by the department or the Governor. Upon reopening, signs shall be posted at all fitness centers limiting the number of guests to ensure social distancing and instructing guests in handwashing and the use of masks and gloves. Exercise equipment shall be configured to ensure spacing of six feet. Alcohol-based hand sanitizer containing at least 60 percent alcohol and nitrile, non-allergenic disposable gloves and masks shall be placed in the vicinity of exercise equipment and weights and in any changing room. Germicidal wipes or spray and paper towels shall be placed in the vicinity of exercise equipment and weights, and signage shall instruct guests to wipe down equipment and weights after each use.

i. N-95 masks, if available, or surgical masks, and nitrile, non-allergenic gloves shall be provided to employees at no cost to the employee, subject to availability, and, where not available, reasonable substitutes shall be procured. N-95 masks and latex gloves, or reasonable substitutes, shall be made available to guests upon request, subject to availability.

j. Plexiglass shields or other appropriate barriers of appropriate height and width to ensure maximum possible protection for guests and employees shall be installed at the front desk, at food and beverage venue registers, at any ordering station in a food and beverage venue operated as a cafeteria, and at other registers in a covered establishment in order to physically separate guests and employees.

k. Employee time-keeping mechanisms at a covered establishment shall not require direct contact between an employee and the mechanism, such as finger swipe identification systems. Substitute time-keeping mechanisms shall be implemented.

l. To the maximum extent feasible, operators shall schedule employees in teams that shall operate separately from each other, without any shift overlap. Once assigned to a team, the operator shall not switch employees to a different team or shift.

m. In order to minimize contact with and the direct transmission of material from guest to employee, for those employees who regularly receive cash gratuities, including, but not limited to, door persons, bell persons, valet attendants, guest room attendants, cocktail servers, and bartenders, the operator shall make available a contactless tipping option. The operator shall place signage near the

entrance of the covered establishment, on each floor in front of the elevator banks, and at entrances to the casino floor if applicable. The signs shall be in English and Spanish in 24-point font and shall describe the methods in which a guest can leave a contactless tip.

4. a. The department shall establish a written COVID-19 response plan designed to monitor and respond to instances and potential instances of COVID-19 among employees or guests. The plan shall be implemented and maintained by each operator and shall:

(1) Designate key persons responsible for overseeing on-site enforcement of the plan during all periods of operation of the covered establishment and post the name and contact numbers of such persons on employee bulletin boards, by elevators, in fitness centers, and in guest rooms.

(2) Require that any employee who believes that they cannot safely return to work be permitted to remain on layoff with pay until such time as the department declares that COVID-19 no longer poses a significant public health threat.

(3) Require that all new employees and all employees returning to work for the first time since the declaration of the public health emergency and state of emergency by the Governor on March 9, 2020 be offered an antibody test with adequate time before starting work. The testing shall be performed by a licensed third-party laboratory, and the results shall be provided to the employee and a physician of the employee's choice. Any employee determined by their provider to pose a threat of transmission of COVID-19 shall be entitled to take up to 24 days off with pay. The operator shall pay for the testing and physician consultation in full.

(4) Designate an area at the covered establishment where employees shall check-in each day to complete non-contact temperature checks and a COVID-19 questionnaire. Employees who are experiencing symptoms of COVID-19 shall not be permitted to work but shall be instructed to undergo testing, to be paid for in full by the operator.

(5) Require that any employee who has a reasonable belief that he or she has been exposed to SARS-CoV-2 be permitted to take time off work with pay to be tested and await results. The operator may require proof that the employee has undergone testing with reasonable promptness given the availability of testing.

(6) Require that any employee who has tested positive for SARS-CoV-2 or has been diagnosed with COVID-19 shall be entitled to take up to 24 days off with pay. All employees who have had close contact with the employee, defined as working within six feet for at least 10 minutes, within the prior five calendar days shall be notified within 24 hours of the employer learning of the diagnosis and instructed to undergo testing with reasonable promptness given the availability of testing.

(7) Require that any guest who reports a diagnosis or symptoms of COVID-19 shall be requested to self-quarantine in his or her guest room during the pendency of his or her stay. Upon departure, the room shall be cleaned and disinfected by a specially trained and certified environmental services team. All employees who had contact with the guest shall be notified and instructed to undergo testing as soon as testing is available.

(8) Require that the names of employees and guests diagnosed with COVID-19 or who report symptoms of COVID-19 as addressed under this section shall be kept confidential.

(9) Require that the operator report to the department any instance in which an employee or guest has been diagnosed or exhibited symptoms of COVID-19.

b. Copies of the COVID-19 response plan shall be posted at areas where employees regularly receive daily instruction regarding work duties and at bulletin boards where the operator regularly communicates with employees. Copies of the plan shall be made available to employees or their bargaining representative at no cost.

5. a. All managerial and non-managerial employees employed at a covered establishment shall receive training in the following subjects:

(1) COVID-19 symptoms;

(2) how the COVID-19 virus is spread;

(3) prevention of the spread of COVID-19;

(4) the requirements of this act, P.L. , c. (C.)(pending before the Legislature as this bill);

(5) the cleaning standards required under section 2 of this act; and

(6) the COVID-19 response plan developed under section 4 of this act.

No operator shall employ an employee for a total of more than 30 days who has not received a certificate demonstrating completion of the training program required under this subsection.

b. Training in the requirements of this act shall be conducted via a remote training program, with a duration of at least 30 minutes, approved and conducted by the department. Training required under this subsection shall be made available in English, Spanish, and other languages regularly spoken by employees at the workplace.

c. Each employee shall receive the training required under subsection b. of this section within 30 days of the effective date of this act, and annually thereafter unless the department requires remedial training sooner based on changing public health circumstances. Newly hired employees shall receive the training required under subsection b. within 10 days of hire. Training under subsection b. shall be considered paid work time.

d. On a monthly basis, the independent training organization selected and each operator at a covered establishment shall submit to the department:

(1) a list of all employees who have attended the training required under subsection b. of this section; and

(2) a verification form signed by each employee that the employee attended the training.

The department shall audit these lists to verify compliance on a monthly basis.

e. In addition to the training required under subsection b. of this section, each operator shall conduct site-specific training on the covered establishment's cleaning standards and COVID-19 response plan for all employees who are working at the covered establishment. Such training shall be conducted by knowledgeable staff at the covered establishment, on at least a monthly basis. The operator shall maintain accurate records of attendance at such training sessions.

6. No operator, manager, or other person shall discharge, reduce in compensation, increase workload, impose fees or charges, change duties, or otherwise take adverse action against any employee for opposing any practice proscribed by this act, P.L. , c. (C.)(pending before the Legislature as this bill), for participating in proceedings related to this act, for seeking to enforce his or her rights under this act by any lawful means, or for otherwise asserting rights under this act, including without limitation, remaining on layoff as described in section 4 of this act, or for refusing to perform work that they believe poses a risk to themselves or others, or for reporting work conditions they believe may be unsafe.

7. a. The department shall have the authority to enforce this act, P.L. , c. (C.)(pending before the Legislature as this bill), on its own initiative or upon complaint by any member of the public. The department, upon investigation and adjudication that affords a covered establishment or operator due process, shall have the authority to immediately order a covered establishment closed to the public if the department determines that the operator has violated any provision of this act and such violation poses an imminent threat to the public health. Such order of closure shall remain in effect until the department determines, after a public hearing, that the covered establishment may safely reopen to the public.

b. The department shall have the authority to impose a civil fine, in an amount of up to $500 for an initial violation, and $1,000 for each subsequent violation, for a violation of any provision of this act.

c. An employee may bring a civil action in the Superior Court of the State of New Jersey for violations of section 6 of this act and may be awarded:

(1) all actual damages, including, but not limited to, lost pay and benefits suffered by the employee and statutory damages in the sum of $1,000, whichever is greater;

(2) punitive damages, pursuant to State law; and

(3) the court shall award reasonable attorneys' fees and costs to an employee who prevails in any such enforcement action.

d. Nothing in this act shall preclude any person from bringing a civil action based on any requirements set forth in this act, where such civil action is otherwise recognized under the law.

8. The Commissioner of Health, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations necessary to effectuate the purposes of this act.

9. If any provision or application of this act, P.L. , c. (C.)(pending before the Legislature as this bill), is declared illegal, invalid, or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof shall remain in full force or effect. The courts are hereby authorized to reform the provisions of this act in order to preserve its maximum permissible effect.

10. Within six months after the effective date of this act, P.L. , c. (pending before the Legislature as this bill), the department shall issue a report to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the initial implementation and effectiveness of this act in promoting public health and shall advise the Legislature on the need for further action. The department shall issue a second report to the Legislature within 12 months of the effective date of this act, and annually thereafter, on the effectiveness of this law in promoting public health and the necessity of its continued implementation.

11. This act shall take effect 14 days following the date of enactment, except that the commissioner may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

STATEMENT

The COVID-19 pandemic has led to the closure of casinos and hotels across the State to protect the public and employees during the public health emergency. This bill sets sanitization standards and protocols for casino operators in the State to promote public health and keep employees and guests safe when operations at casinos and hotels resume.

Under the bill, the Department of Health will establish written cleaning standards designed to reduce the transmission of the virus. The standards will be implemented and maintained by the operators. The standards will provide for the timely and consistent disinfection of porous and non-porous surfaces using EPA-registered disinfectant

products. The cleaning standards will, at a minimum, include high-contact areas, guest rooms, public areas, front desks, elevators, restrooms, dining and bar facilities, meeting rooms, kitchen and food preparation areas, non-public areas, fitness centers, laundry, casino floors, and employee dining rooms. Copies of the cleaning standards will be posted conspicuously on bulletin boards where employees commonly receive information from operators.

The department will also establish control measures to reduce potential transmission of the virus and promote public health through social distancing and other safety measures. Such measures will include implementing social distancing protocols for employees and guests, ensuring easy access to alcohol-based hand sanitizer and N-95 masks, and scheduling employees in teams. Signage will be placed throughout the establishments to encourage guests to practice social distancing and safe sanitary practices. Signage will also be placed regarding contactless tipping to further minimize contact between guests and employees.

To monitor and respond to instances and potential instances of COVID-19 among employees or guests, the department will establish a written response plan. Among other things, the plan will designate key persons responsible for overseeing on-site enforcement of the plan, require antibody tests for all employees, and require daily contactless temperature checks of all employees. Employees who believe they cannot safely return to work will remain on layoff with pay. The measures also provide steps for employees and guests who report a diagnosis or symptoms of COVID-19. The response plan will also be posted conspicuously on bulletin boards where employees commonly receive information from operators.

Training will be required for all managerial and non-managerial employees. The training will cover COVID-19, the prevention of COVID-19, and the cleaning standards and response plan in this bill. The training will be conducted remotely.

No operator, manager, or other person will take adverse action against any employee for opposing any provision of the bill. The department will have the authority to enforce the bill. The department will enforce fines against operators for any violations of this bill.

The department will issue a report to the Legislature within six months of the effective date of the bill on the initial implementation and effectiveness of the provisions of the bill. A second report will be issued within six months of the first report. Each subsequent report will be issued annually thereafter.