

ALERTS AND UPDATES

New Jersey's Bill S-1866 Permits the Construction of "Boutique" Casinos

February 11, 2011

In a boost to New Jersey's casino and tourism industries, the state has enacted three new laws, and a fourth bill is pending before New Jersey Gov. Chris Christie. Links to additional Alerts summarizing the other pieces of legislation follow this piece.

On January 5, 2011, N.J. Gov. Chris Christie signed into law S-1866, officially establishing alternative methods of casino licensure in Atlantic City. This bill is known as the "boutique" casino bill because it permits the construction of casino-hotels smaller than the current statutorily mandated 500-room minimum.

Under the bill, the Casino Control Commission (the "Commission") will establish a pilot program to, upon application, issue two additional types of casino licenses: a small-scale casino facility license and a staged casino facility license, although at least one of the new licenses has to be a staged casino facility license. Each of the licenses must go to a newly constructed facility originating in the beach block in the Boardwalk casino zone. Also, each licensee has to annually deposit 5 percent of gross revenues into a nonlapsing fund administered by the state treasurer. These funds can be used by the licensee to expand the number of hotel rooms in its facility, but must be used for this purpose within five years of licensure. Otherwise, the funds are used for infrastructure improvements in Atlantic City or can be loaned to fund capital expenditures by existing casinos in the Boardwalk casino zone or the licensees.

The small-scale casino facility must have at least 200 hotel rooms and can have up to 24,000 square feet of casino space, except that it can have an additional 10,000 square feet of casino space if it also develops 40,000 square feet of "special amenities" as part of the facility (*i.e.*, meeting and convention space, a museum, exhibit space, sport and entertainment venues, spas, treatment facilities, retail space, themed retail, dining and entertainment venues). Either facility has to have at least one "first class" restaurant and at least one entertainment venue.

The staged casino facility must have at least 200 rooms and can have up to 34,000 square feet of casino space, which can be increased by 10,000 square feet if the facility includes 40,000 square feet of special amenities. Within two years of licensure, the licensee has to begin expansion to 500 rooms and complete the expansion within five years of licensure. Once the expansion is 75-percent complete, the licensee can enlarge the casino space by 10,000 square feet for every 100 rooms, up to a maximum of 54,000 square feet. Once the expansion is complete, the staged casino facility license is converted to a standard casino license (and the casino space can be increased to 60,000 square feet). If the licensee fails to expand as required, the casino space is reduced by 10,000 square feet and the amount the licensee has to deposit into the special nonlapsing fund is increased to 10 percent for five years.

To apply for either license, the applicant has to submit a notice of intent to proceed to the Commission on forms provided by the Commission. The forms include a statement of intention to apply for either a small-scale casino facility license or a staged casino facility license and require a description of the project, financing and source of funds. If the Commission receives more than two applications for the licenses, the Commission will rank the applications based upon job preservation, job creation, immediacy of project development and neighborhood benefit, and give a preference to applicants seeking to operate a staged casino facility.

The licensee has to provide a \$1 million completion bond that would be forfeited upon the failure to timely commence or complete the project, but is refunded upon timely completion of the project. The licensee also has to provide a \$1 million cash deposit once a permit under New Jersey's Coastal Area Facility Review Act is issued and site work commences, which is nonrefundable and to be used for infrastructure improvements in Atlantic City that relate to the project.

Related Duane Morris Alerts

Besides Bill S-1866, New Jersey has enacted two more laws concerning gaming and tourism, and an additional bill is pending before New Jersey Gov. Chris Christie. Duane Morris Alerts summarizing the other pieces of legislation are:

- [New Jersey's Bill S-11 Establishes the Atlantic City Tourism District](#)

- [New Jersey's Bill S-12 Redesigns the Regulatory System for the Gaming Industry](#)
- [New Jersey's Bill S-490 Permits Casinos to Offer Internet Wagering](#)

For Further Information

If you have any questions about the information addressed in this *Alert*, please contact [Gilbert L. Brooks](#), who is a partner in Duane Morris' [Gaming Practice Group](#), or the attorney in the firm with whom you are regularly in contact.

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