



US Law Roundup - March 2006

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State Legislation

Illinois SB 0198

Bill Summary SB 0198 would allow the Illinois State Lottery to begin selling lottery tickets to Illinois residents over the Internet. Rather than a permanent, state-wide launch of lottery games via the Internet, the bill proposes a pilot offering so that the Illinois Lottery may test its online system over a small area for a limited time.

Bill Status Sen. John Cullerton introduced this bill on Feb. 2, 2005. It passed the Revenue Committee on Feb. 17 by a vote of 6-4. On April 14th a slightly amended version passed the Senate by a vote of 32-24-01 and then on April 27th it passed the House's Gaming Committee. After much debating through the month of May, the bill was amended and inevitably came to rest before the House Rules Committee, where it has resided since May 31st, 2005.

Outlook The bill's chief sponsor in the House, Rep. Lou Lang had been very publicly supportive of the initiative throughout early and mid-2005, but it has received virtually no attention in the last nine months. Lang stated last year that the bill has the support of the Speaker of the House and could potentially serve as leverage during a tumultuous budget process.

New Jersey A995

Bill Summary A995 would authorize licensed land-based casinos in New Jersey to offer their games via the Internet.

Bill Status Sponsored by Assemblymen Vincent Prieto and Neil Cohen, A995 is the latest version of a bill that has appeared in the state's last three legislative sessions. A995 was introduced on Jan. 10, 2006 and referred to the Assembly Tourism and Gaming Committee.

Outlook Unlike a similar I-gaming bill that passed Nevada's legislature in 2001, this bill in its three previous manifestations in New Jersey has failed to garner much support among legislators and casino operators.

New Jersey S1106

Bill Summary Senate Bill 1106, authored by Sen. Richard Codey, is identical to Senate Bill 1013 of the 2004-2005 legislative session and Senate Bill 2376 from the 2002-2003 session, both of which Codey also authored. The bill clarifies the definition of illegal gambling to include Internet gambling and voids credit card debt incurred through illegal gambling. The bill also includes a clause establishing that only the state may sue to recover gambling losses.

Bill Status The bill was introduced and referred to the Senate Wagering, Tourism & Historic Preservation Committee on Jan. 26, 2006.

Outlook Codey became president of the Senate last session so it would seem that any bill with his name on it ought to be taken somewhat seriously. The same bill he authored last year didn't even make it out of committee, however.

New Jersey S542

Bill Summary Senate Bill 542, introduced by Senators Barbara Buono and Joseph F. Vitale, proposes to establish an Internet gambling public awareness campaign to promote awareness of the general public issues of Internet gambling, including the legal status of Internet gambling in New Jersey; the risks of being defrauded of potentially large amounts of money when gambling on the Internet; the risks of identity theft; special risks for underage and problem; and access to services for problem gamblers,.

Bill Status The bill was introduced and referred to the Senate Wagering, Tourism & Historic Preservation Committee on Jan. 10, 2006, but it was withdrawn from consideration Feb. 6.

Outlook The bill has been introduced in past sessions without much success. Having already been withdrawn from consideration, this bill's outlook is beyond bleak.

New Jersey [Bill No. Unknown]

Bill Summary Assemblyman Jeff Van Drew has once again introduced a bill that would ask voters to approve a referendum to legalize sports betting through New Jersey's licensed casinos. But even if the bill were to pass and voters were to approve the referendum there would still be a major hurdle to clear. A U.S. federal law forbids sports betting in all but four states, and a potentially costly federal court decision would therefore be required in order to enact such a policy.

Bill Status Van Drew reportedly introduced his bill on February 23rd, and it was then sent to the Assembly Tourism and Gaming Committee, which he chairs, for consideration. Two New Jersey legislators, Sen. Bill Gormley and Assemblyman Frank Blee, have sent letters to Van Drew and the media criticizing the bill as an impossible effort and a waste of time.

Outlook Considering a lack of support among legislators, there isn't much hope for this bill. Van Drew himself estimated that a similar bill in session last year had only a 40 percent chance of success. "I've said this is a long shot, but it's a real shot," he said.

Georgia HB 346

Bill Summary HB 346 would allow the Georgia State Lottery to begin selling tickets over the Internet. Georgia residents would be able to set up electronic accounts from which money could be used to participate in lottery games. The bill's main sponsor, Terry Barnard, attempted to pass a similar bill in the 2003-2004 legislative session. Although that bill was approved by Georgia's House, it never received a vote by the Senate. Lottery retailers opposed it because they feared it would take away some of their profits. To alleviate their fears, Barnard altered this session's bill to provide a clause that requires customers who wish to play online to apply for an account at a lottery retail agency. Besides verifying that players are of legal age to participate in the lottery, requiring customers to register for an account at a retail agency would also enable the lottery to track which players originated from which agencies so that a portion of the profits could still be distributed to the agencies. Jim Tudor, a lobbyist for the Georgia Association of Convenience Stores, says that the state's lottery agencies are now neutral on the bill since the new clause has been introduced.

Bill Status The bill was passed by Georgia's House on March 10, 2005 with a vote of 98-48 (with 29 no votes). On March 17, 2005, the state's Senate Committee issued a favorable report on the bill and sent it to the full Senate, where it had already received two full readings by March 21, 2005. The bill remained virtually untouched until being recommitted by the Senate on Jan. 9, 2006.

Outlook The bill appeared to have a fair chance of succeeding in early and mid-2005 but has garnered much attention since then. Its main opponents are the standard ilk that opposes any expansion of gambling because of its detrimental effects on society. There is also the legitimate possibility that the Department of Justice would weigh in on the bill if it begins to gain momentum. The DOJ has stated on several occasions that it believes all forms of online gambling violate the Wire Act, and no state has come as close as Georgia has to allowing the sale of lottery tickets over the Internet. In March of 2005, an effort in North Dakota to pass legislation that would make the state a licensing jurisdiction for online gambling was killed by a DOJ letter stating the department's opinion on the legality of such legislation. A similar letter would probably have the same affect on Georgia's HB346.

Indiana SB 92

Bill Summary SB 92 makes it a Class D felony for an operator of an Internet site to use the Internet to engage in gambling activities. The wording of the law gives interactive computer services (Internet service providers) a right of action against any person that transmits information for the purpose of online gambling. Internet service providers may block access to gambling sites and will not be held liable for action voluntarily taken in good faith to block the receipt or transmission of information if it reasonably believes is related to illegal gambling.

Bill Status An amended version of the bill passed the Senate on January 26th, 2005 by a vote of 46 to 0 before moving on to the House, where it eventually passed without amendments by a vote of 464-74. The bill was signed into law by Governor Mitch Daniels at the end of April and became effective on July 1st, 2005.

Outlook With the passage of SB92, Indiana became one of only a few states to pass legislation to prohibit online gambling. Police and other enforcers have not performed any know actions under this law after its first seven months in effect.

North Dakota HB 1509

Bill Summary House Bill 1509 would have revised the definition of gambling under North Dakota law to exclude Internet poker, which would have been reclassified as a game of skill. The plan would have also allowed the state to begin licensing Internet poker companies to operate in the state, and would have contributed millions of dollars in tax revenue for education, property tax relief and other public funding.

Bill Status This bill is dead. It was narrowly passed by a the state's House with a vote of 49-43 on February 16, 2005 but was defeated in the Senate with a vote of 44-3. The U.S. Department of Justice had issued a letter to North Dakota's legislature a few days before the Senate vote expressing the department's belief that Internet poker violates the federal Wire Act and that HB 1509 was therefore unconstitutional. Several representatives of the online gambling industry delivered testimony stating their belief that the Wire Act applies only to sports betting, but the DOJ letter still had a massive influence on the Senate's vote.

Outlook Efforts to revive the bill have failed, and there is no prospect for it or a similar bill to pass in North Dakota during this legislative session. The bill's sponsor, Rep. Jim Kasper, still hopes to campaign for an initiative to license Internet poker in his state, although he is running out of time. If Kasper were able to get enough citizens of North Dakota to sign a petition to make the state a licensing jurisdiction for Internet poker, the motion could bypass the state legislature and go directly to a popular vote in November. In 2005 Kasper presented a bill that won approval in the House but was handily defeated in the Senate after the Federal Department of Justice delivered its opinion that such a law would be illegal.

Nevada AB471

Bill Summary AB471 will allow licensed Nevada casinos to offer games of chance via remote handheld devices in public areas on their property, such as at restaurants or poolside. Remote gambling will not be permitted in hotel rooms or other private areas.

Bill Status The bill has already passed both chambers of the Nevada legislature and been signed into law by Governor Kenny Guinn. Nevada's State Gaming Control Board and Gaming Commission is in the process of drafting rules to regulate the implementation of remote gambling at casinos, which should take many months, possibly a year or more, to complete.

Minnesota [Bill No. Unknown]

Bill Summary State Rep. Andy Westerberg says he plans to introduce a bill that would legalize off-track betting in Minnesota and permit the state's racecourses to make wagering at Minnesota races available through some of the U.S. companies that offer horse race wagering over the Internet.

Bill Status Westerberg has not yet introduced his bill. He says he is still in the planning stages, but that he will schedule a hearing on it this year in the Gaming Division of the House Regulated Industries Committee, of which is his chairman.

Outlook Already three months into the last year of the state's legislative session the bill not yet been introduced. Another problem is that Minnesota's Supreme Court ruled in 1992 that a previous attempt by the Legislature to authorize off-track betting parlors was unconstitutional. Perhaps giving credence to Westerberg's effort however is a study conducted by the Minnesota Racing Commission which studied the possibility of allowing Canterbury Park racetrack and horse owners who race there to accept a tiny share of bets that Minnesotans place through Internet betting services on races outside the state. At any rate, Westerberg doesn't seem optimistic for the bill's chances this year; he told *Pioneer Press* in February, "I honestly don't expect it to pass this year."

Federal Legislation**HR 4411** The Unlawful Internet Gambling Enforcement Act

Bill Summary HR 4411, proposed by Rep. James Leach, R-Iowa, is another version of past efforts to prevent the use of certain payment instruments, credit cards and fund transfers for Internet gambling. This legislation would break the link between the gambler and the operator by making it illegal for customers to use a credit card to gamble online. Like previous similar bills, H.R.4411 includes a carve-out for off-track horse betting services that use Internet technology to accept wagers but it defines activity covered by the racing exemption simply as "any lawful transaction with a business licensed or authorized by a State." It also offers a detailed definition of what constitutes such a transaction and specifies that exempted activity must not violate provisions of the Interstate Horseracing Act, the Professional and Amateur Sports Protection Act, the Gambling Devices Transportation Act or the Indian Gaming Regulatory Act. Further, only businesses offering "intrastate" services are exempt.

Bill Status The bill was introduced Nov. 18, 2005 and reportedly has the support of the NFL, NBA, NHL, NCAA and Major League Baseball. It was referred to House Subcommittee on Financial Institutions and Consumer Credit Jan. 5, 2006,

but has seen no action since.

Outlook Leach is working with Internet gambling prohibition's biggest supporter, Arizona Senator John Kyl, whose own prohibition bill died in 2004, to draft a flawless anti-gambling bill to cut off the money flow between gamblers and Internet gambling operators by making it unlawful to use credit cards, wire transfers and other electronic forms of payment. Though it is thought that Leach's bill could work closely with a similar that seems bound to be introduced by Kyl in the Senate, it is not yet clear how Leach's bill would affect or be affected by Rep. Goodlatte's bill. The bills could end up competing, or they could end up working together to deliver a knockout punch to online gambling in America.

HR 4777 The Internet Gambling Prohibition Act

Bill Summary Rep. Bob Goodlatte, R-Va. and Rep Rick Boucher, D-Va. introduced The Gambling Prohibition Act at a press conference Feb. 16, 2006. Like HR 4411, this bill seeks to prohibit Internet and remote gambling by updating the Wire Act, enacted in the 1960s, to specifically outlaw all forms of gambling via interactive technologies. It specifies that the transfer of betting information via cable, satellite, and microwave would be illegal, whereas at the moment the Wire Act only prohibits transmissions via cable and wires. Furthermore, it clarifies that connections that are either fixed or mobile would be outlawed in addition to expanding the definition of "bets or wagers" to include casino games. It would also extend the maximum prison term for a violation of the Wire Act from two years to five years.

Bill Status Upon introduction, the Gambling Prohibition Act was immediately referred to the House Judiciary Committee, on which Goodlatte and Boucher both serve.

Outlook Goodlatte attempted to pass very similar legislation in both the 106th (1999-2000) and 107th (2001-2002) Congress. His bill very nearly passed the House of Representatives in 2000, having achieved 61 percent approval but falling just shy of the 67 percent required under a suspension calendar rules. Goodlatte has been promoting his bill by claiming the only reason it failed to pass in 2000 is that convicted conspirator Jack Abramoff and indicted Rep. Tom Delay led a "campaign of misinformation" in order to defeat it. In the aftermath of allegations of much corruption in the Republican Party, party members appear eager to correct the mistakes of the past and to regain a reputation of integrity.

For the moment, Sen. Jon Kyl has not yet introduced a bill to prohibit online gambling, although statements from himself and his office indicate that he could introduce a bill at anytime. Kyl's office reportedly worked closely with Leach's office in drafting a bill that would target the financial transactions involved paying for gambling services offered by offshore companies.