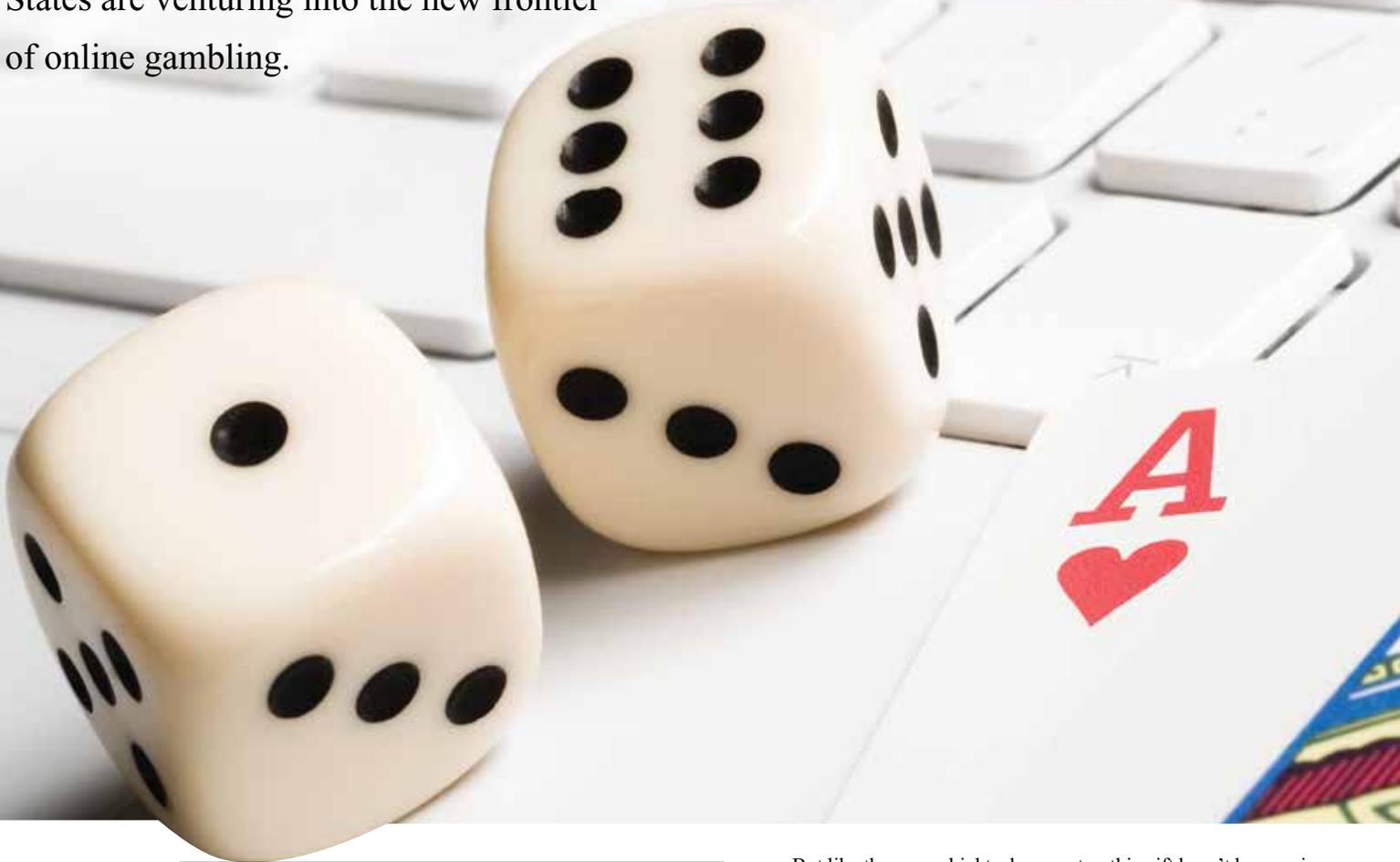


Ready to Roll

States are venturing into the new frontier of online gambling.



BY JONATHAN GRIFFIN

Online gambling proponents received an early Christmas present last year. It came wrapped in an opinion from the U.S. Department of Justice on Dec. 23, 2011, giving states the thumbs up to sell lottery tickets and allow gambling over the Internet.

The department clarified that the ban on interstate betting in the Wire Act of 1961 applies only to a “sporting event or contest” and that all other gambling operations are outside the purview of the act.

The decision opened the door to any form of gaming over the Internet, provided it isn’t on sports. A state may sell lottery tickets online and authorize online poker, roulette, blackjack and other casino games, as long as the actual betting takes place within their boundaries, even if out-of-state credit cards are used by the gamblers.

Jonathan Griffin tracks gaming and gambling issues for NCSL.

But like the proverbial tacky sweater, this gift hasn’t been universally welcomed. There are a variety of concerns surrounding online gambling—from moral objections to state/federal control issues.

States’ rights advocates and NCSL believe the control should stay in the states. They oppose a bill currently being debated in Congress that would severely limit state control of Internet gambling.

Those on both sides of the issue feel obligated to protect minors from gambling illegally and adults from gambling irresponsibly. Others are concerned that equipment manufacturers and local gaming operators, like the neighborhood 7-Eleven, may not be able to compete against big online gambling businesses, potentially resulting in job losses.

There is also concern about the costs involved in making sure online bets take place within state boundaries, which typically requires buying geo-locating software and staff time and expertise to track each online gambler’s unique IP (Internet Protocol) number.



All Bets Are On

Nevertheless, some states—seeing the potential for millions of dollars in additional revenue from taxes and licensing fees—are jumping on the cyber-gambling bandwagon. There’s a reason for their optimism. In 2011, according to the American Gaming Association, casinos across the country together brought in \$35.64 billion and returned \$7.93 billion in gambling taxes to states and localities, a 4.5 percent increase over 2010. The association also reports that the industry employs almost 340,000 people, who earned \$12.9 billion in wages, benefits and tips in 2011.

Nevada was ready to roll when the justice department ruling arrived. Anticipating the federal opinion, lawmakers passed a law on June 10, 2011, making the state the first to authorize any form of Internet gambling—in this case, poker.

The legislation assigned the state Gaming Commission the job of regulating the licensing of online or interactive poker when and if either a federal law was passed or a rule was issued by the Department of Justice allowing interactive poker. The December ruling gave the state’s gambling officials the green light to get

Internet gambling websites up and running. They issued the first permit in August, and poker sites are expected to open soon.

Nevada regulators studied Internet gambling markets, timing and feasibility for nearly three years before adopting regulations. Their experience and attention to detail, according to Senate Judiciary Chair Valerie Wiener (D), will allow Nevada to maintain its position as the world’s “platinum standard” for regulating the gambling industry. Further, Wiener believes the state’s gambling laws and regulations successfully balance Nevada’s support of the emerging online gambling industry with protections for local manufacturers, operators and consumers.

In March, Illinois became the first state to allow the sale of lottery tickets online, followed in June by Delaware, which became the first state to authorize full casino gambling over the Internet. In addition to poker, Delaware offers blackjack, roulette and other games, and, like Illinois, now also sells lottery tickets online.

Illinois Senate President John Cullerton (D) is encouraged by the revenue potential of an online lottery, which earned the state \$15,000 on the first day of sales in March. He hopes Internet gambling can help relieve the state’s general budgetary pressures.

Advocates believe Delaware’s broad new law gives the state—which plans to offer an app for gambling on smart phones and tablets—an advantage in what may very well become a crowded online market.

Reasons for supporting the legislation varied. Even though Delaware Representative Michael Ramone (R) isn’t a big fan of gambling, he voted for the bill because it was part of a package that eliminated fees charged to casinos in his and other districts.

Still, he continues to be concerned about the increasing availability around his small state’s borders, “making it very difficult for us to compete. I don’t necessarily believe we need computer-based gambling,” he says. “I was a reluctant supporter because I had an ulterior motive to take care of jobs in my community.”

States Show Their Cards

In addition to Nevada, Illinois and Delaware, lawmakers in seven states have introduced legislation to support some kind of online gambling since the Department of Justice released its opinion. Lawmakers in California, Hawaii, Iowa, Mississippi and New Jersey have introduced bills authorizing specific games.

California’s bill would allow the Gambling Control Commission to offer eligible businesses five-year licenses for Internet poker and, after two years, other authorized games, for an initial fee of \$30 million. Qualified businesses include Indian and other casinos, certain horse-racing associations and operators of advanced pari-mutuel wagering sites.

After New Jersey Governor Chris Christie (R) vetoed the



*Senator
Valerie Wiener
(D)
Nevada*



*Senate President
John Cullerton
(D)
Illinois*



*Representative
Michael Ramone
(R) Delaware*

NCSL Defends States' Autonomy

"Congress should respect the sovereign right of states to determine whether to permit or prohibit online gambling," NCSL officials said in a letter sent to congressional leaders in March.

"Regardless of how one feels about the issue of online gambling, the decision should be made by the states," said Alabama Representative Greg Wren (R), co-chair of the NCSL Communications, Financial Services and Interstate Commerce Committee.

Pending federal legislation seeks to reverse the U.S. Department of Justice's December 2011 ruling that allows states to offer most forms of online gambling, if they choose to. The bill would allow only online poker and ticketed games, such as lotteries, and prohibit other forms, such as slots and table games.

Under the legislation, federal officials would regulate online poker, while states would retain control over their ticketed games.

NCSL members passed a policy resolution at the 2012 Legislative Summit in Chicago opposing acts of federal preemption, such as this proposed bill. In the resolution, NCSL leaders urged Congress to "consider the perspective of the states as it examines this issue." The letter goes on to ask Congress to "involve state legislators in any federal efforts that seek to reform the regulation of online gambling."

"State legislatures have long been able to determine whether to allow other forms of gambling, and this should be no different," said Hawaii Senator Carol Fukunaga (D), the other co-chair of the NCSL committee.

—Alex Fitzsimmons, NCSL



Representative
Greg Wren (R)
Alabama



Senator
Carol
Fukunaga (D)
Hawaii

online gambling bill lawmakers had passed with bipartisan support in 2011, legislators reworked it to address his constitutional and structural concerns. Like Illinois, New Jersey's bill establishes an Office of Internet Gaming within the Division of Gaming Enforcement to recommend regulations.

Some lawmakers are hoping to make New Jersey an attraction for young adults, many of whom already have experience using Internet gambling services. Lawmakers wrote the legislation with an eye toward making the state the premier destination for Internet gambling in the country.

Online gambling advocate William Pascrell III, a lobbyist with Princeton Public Affairs Group, estimates that 600,000 New Jersey residents already play Internet poker off shore, and by bringing that business into casino websites, the state general fund could earn an additional \$300 million to \$400 million in revenue. Like their counterparts in Delaware, proponents in New Jersey believe Internet gambling will give the state an advantage over its neighbors. As more casinos open in neighboring states like New York, however, business could be siphoned away from New Jersey fairly quickly.

A larger bill that included online gambling passed the Iowa Senate but was not considered by the House. Senator Mark Chelgren (R) voted against it not so much over moral objections, but because he believes gambling just "recycles" money and does not contribute to the gross domestic product. "Gambling—whether on

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ALABAMA REPRESENTATIVE GREG WREN (R)



the Internet, in casinos or through lotteries—doesn't actually generate new wealth," he says.

Hold 'em or Fold 'em

Plenty of lawmakers are not ready to bet on Internet gambling. Legislators in three states have introduced legislation prohibiting some form of online gambling. In Utah, the Legislature passed a bill in March that expanded the state's existing prohibition on gambling to include online forms in advance of any future federal law to authorize Internet gambling.

In Colorado and Michigan, lawmakers debated bills to prohibit the sale of lottery tickets over the Internet. Colorado's legislation ultimately failed, but Michigan Senator Mike Green (R) hopes the bill in his state survives. He believes the downside to Internet gambling is that it would hurt brick and mortar businesses in the state. Selling lottery tickets online would cut into their profits, he says, and may keep new businesses from moving into the state. These businesses are "critical to Michigan's economic comeback," he says.

"Michigan retailers and small businesses benefit from lottery sales within their establishments, both by bringing customers in and through lottery sales commissions," he says. If the state offered lottery tickets online, it would defeat its purpose to "serve as an asset and not an obstacle to economic growth," Green says.

In other actions, lawmakers in Maine amended the state lottery statute to clarify that only "expressly authorized" activities—like selling lottery tickets in stores but not online—are legal. Vermont lawmakers decided to conduct a study on the impact of online lottery ticket sales before authorizing any online lottery sales. And in Pennsylvania, legislation to increase awareness of the risks of Internet gambling has been introduced.

Les Bernal, the national director of the Stop Predatory Gambling Foundation, believes that when states legalize Internet gambling, it's just as if they were "opening a casino in every home in America, 24/7, 365 days a year."

He believes the primary target for Internet gambling organi-



Senator Mark
Chelgren (R)
Iowa



Senator
Mike Green (R)
Michigan



zations are teenagers and recent college graduates. “It’s not enough that these young people are saddled with massive college loan debt. Now the government is actively trying to lure them to gamble away whatever money they have left,” he says. The foundation also cites a 2010 study by Fairleigh Dickinson University showing 67 percent of Americans oppose Internet gambling.

Double or Nothing

Frank J. Fahrenkopf, Jr., president and CEO of the American Gambling Association, envisions a hybrid system regarding state and federal law. He believes the federal government should take an active role—but only in certain areas—in expanding online gambling.

He believes a federal law may be necessary to create a framework for regulating, licensing and taxing Native American Internet gambling and could set minimum standards for protecting consumers and irresponsible gamblers.

But, he says, states should maintain the right to regulate, license and tax non-Indian Internet gambling however they see fit and reserve the right to choose the level of participation, if any, the states want with Internet gambling.

With Illinois residents buying lottery tickets online and Internet poker rooms soon to be up and running in Nevada, it is clear that Internet gambling will be debated in state legislative chambers for some time.

The Department of Justice played its hand. State lawmakers are following with their own moves, as is Congress. But we’ll have to wait to see who will win the jackpot. 

SL ONLINE

To follow state actions on Internet gambling, go to www.ncsl.org/magazine.