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Catania Gaming Consultants

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State Officials Study New Ruling on Wire Act

After the US Department of Justice's surprising announcement last month, several states have begun to study the repercussions on the future of online gaming.

Since the days of the Bush administration, the Justice Department had asserted that the federal Wire Act prohibited gambling over the Internet across state lines. But in December, the Department made public a letter issued to Illinois and New York about whether they could sell lottery tickets to out-of-state residents over the Internet and stated that the Wire Act applied "solely to sport-related gambling activities in interstate and foreign commerce."

Most of the gaming industry has concluded that the new interpretation means that online poker is allowable. Now several more states could follow in Nevada's footsteps, developing their own rules and regulations to support online poker. Unless the federal government acts fast to pass legislation regulating things on a federal level, that could mean a country-wide patchwork of different systems that might be hard for both players and regulators to manage.

"A piece of federal legislation is going to be a necessity," said Mark Lipparelli, chairman of Nevada's Gaming Control Board. "What we're afraid of is that somebody's going to do it in a way that has an unattractive outcome. The question is how we create a common set of standards and rules."

The American Gaming Association also renewed its call for federal legislation. In an announcement, they said the decision "validates the urgent need for federal legislation to curb what will now be a proliferation of domestic and foreign, unlicensed and unregulated gaming websites without consistent regulatory standards and

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safeguards against fraud, underage gambling and money laundering."

Despite the new urgency regarding federal legislation, industry experts are pessimistic on the likelihood of Congress acting. Though online poker could bring in up to \$5 billion, it would require a united and determined Congress.

Another possible effect of the new interpretation may be a proliferation of wide-area progressive jackpots, which are fed by players at multiple sites through machines that are linked electronically. Thus far, these jackpots have been limited to intra-state connections, but the new law might allow inter-state linking, leading to significantly higher jackpots.

Until the federal government steps in, the online poker world may be a bit of a Wild West. But several casinos' rising stock prices directly after the announcement indicate that even without strong country-wide regulation, there's money to be made for those who play the game right.

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Absolute Poker Co-Founder Pleads Guilty

Brent Beckley, co-owner of Absolute Poker, has pleaded guilty to a criminal charge of deceiving United States banks about the processing of gambling proceeds. Appearing in Manhattan federal court, Beckley also pleaded guilty to a charge of conspiracy to commit bank fraud and wire fraud.

Twelve people have been charged in the case since last April's "Black Friday" crackdown, when the government seized the Internet domain names of the three largest Internet poker companies: Absolute Poker, Full Tilt Poker, and PokerStars. The owners of all three companies have been charged.

Bradley Franzen, who was also indicted at the same time for processing payments from US poker players, had pled guilty in May.

Beckley will be sentenced later. Under a plea bargain, he will most likely serve 12 to 18 months.

Nevada Moves Forward with Internet Poker Regulation

Nevada's main gambling regulatory body has approved regulations that could make Nevada the first state to allow Internet poker within its borders.

Frank Catania, Esq., President

Former Assistant Attorney General, Director, NJ Division of Gaming Enforcement.
frank@cataniaconsulting.com

Gary Ehrlich, Esq., VP

Former Assistant Attorney General, Deputy Director, NJ Division of Gaming Enforcement.
gary@cataniaconsulting.com

Keith Furlong, VP,

Former Public Information Officer & Legislative Liaison, NJ Division of Gaming Enforcement.
keith@cataniaconsulting.com

Joseph Kelly, Esq., Associate

Professor of Business Law, SUNY College, Buffalo.
jkelly@cataniaconsulting.com

Toni Cowan, Esq., Associate

Former Senior Attorney, NJ Casino Control Commission, Nevada Attorney General's Office, Division of Gaming, and NIGC Staff Attorney.
toni@cataniaconsulting.com

Margaret McGee

Former Vice-President, Prevention Programming and Public Affairs, and Vice-President, Business Innovation, Nova Scotia Gaming Corporation (NSGC)
magmcgee@gmail.com

Bob DeLuca

Former Lieutenant, New Jersey State Police. Supervisor of the Applicant Investigation Unit in the EEO/AA Bureau and supervisor of the Records & ID Section for the Division of Gaming Enforcement/ Casino Gaming Bureau.
bobd@cataniaconsulting.com

The Catania Consulting Group, Inc., doing business as Catania Gaming Consultants (CGC), offers a full service international gaming consultancy. CGC provides a variety of services to all sectors of the gaming industry, including governments, casino

As long as they adhere to the state's standards and prove that they can limit bets to those within state borders, casinos could have online poker websites up and running before the end of next year. The new rules, the first comprehensive regulatory standards drawn up for online gambling in the US, would make Nevada the de facto national leader if and when Congress overturns the current federal ban on Internet wagering.

"I think this is an important big step," said Mark Lipparelli, chairman of the Nevada Gaming Control Board. "This establishes a U.S. foundation for online gaming regulation."

The approved regulations amend Nevada gambling laws to include online poker, and lay out several technical requirements concerning the processing of money for players and other areas. Under the regulations, operators must verify the age and location of every gambler who registers within 30 days of registration, and cannot extend credit to gamblers.

The regulations also require Nevada operators to hold a reserve of cash or a letter of credit to cover the money held for players in their accounts, verified by an independent accountant. Full Tilt Poker and PokerStars both had trouble finding funds to pay back players owed money after the Justice Department's crackdown last April.

Likewise, the regulations limit the profits available to celebrity poker players employed by the site, another issue for which Full Tilt Poker, which is owned by a number of celebrity poker players, was criticized. "We tried to address each of the issues that have been a part of the maturation of the business," Lipparelli said.

The main operator of the websites must be a Nevada company, but others can apply under a separate category to partner with casino companies in providing software or other services.

Last year, Washington, D.C. became the first US jurisdiction to pass a law allowing online poker within city limits, but its implementation has been delayed. If the law isn't repealed, sites could be up and running next year. Other states such as Washington have indicated plans to follow in Nevada's footsteps as well.

However, many of the largest casino companies, such as Caesars Entertainment Corp. and MGM Resorts International, are still putting their money on a federal law. They are concerned that a single state's population-2.6 million people, in the case of Nevada-may not be big enough to support a viable online poker sector.

"Without being able to go across state lines you don't really have enough population base to do anything on the Internet," said Jan Jones, Caesars's chief of government relations

U.S. Digital Gaming estimates that a network of online poker sites would need at least 70,000 active users to be viable. According to PokerScout.com, a website that tracks online poker play, Nevada had just 25,000 online poker players before the federal government's crackdown last April.

However, right now most casinos in Nevada seem to be in the same boat as Michael Gaughan, owner of the South Point Hotel Casino. Gaughan has already hired a team to build a poker website.

operators, game manufacturers, software providers, lotteries, payment processors and the horseracing industry.

Our goal is to provide clients with the information, experience, and contacts necessary to develop, regulate and operate both casinos and ancillary companies. The governments for which CGC has previously provided assistance in drafting gaming regulations and establishing gaming regulatory structures include the following: The Mohawk Territory of Kahnawake, located just outside Montreal; the United States Virgin Islands; Antigua and Barbuda; the Philippines; and the Canadian Provinces of Prince Edward Island and Nova Scotia.

Combined, the partners and associates of CGC listed below have over 75 years of gaming experience.

"I've always been somewhat against this but if it's going to come I don't want to be left at the station," he told the Wall Street Journal.

"Without being able to go across state lines you don't really have enough population base to do anything on the Internet." - Jan Jones, Caesars's chief of government relations

Luck May Be Turning for AC

December 2011 marked the first revenue increase for Atlantic City in 3 ½ years. The city's casinos took in \$246.5 million, a 4.2% increase over the month before. Slot machine revenue was up 8.3%, though table game revenue decreased by 4.3%.

The city was still down for the year at the end of December, bringing in \$3.3 billion in 2011, a 6.9% drop from 2010. This marked the fifth year in a row Atlantic City casino revenue declined, the result of a poor economy and increased competition from casinos in neighboring states.

Still, the end of the monthly losing streak was a symbol to many that times may be changing. "The positive win results are an encouraging sign of economic recovery for Atlantic City casinos," said David Rebuck, director of the state Division of Gaming Enforcement. "This is an exciting time for Atlantic City as we see more visitors enjoying the casinos and the wide array of attractions."

Those attractions include more big-name concerts and festivals, including last summer's three-day Dave Matthews Band Caravan, which brought 70,000 people to Atlantic City. New Jersey Governor Chris Christie's plans to overhaul Atlantic City tourism include bringing several more concerts and festivals to the city, including the 2012 A.C. Seafood Fest, set to take place this summer at Bader Field.

Christie's administration scheduled several public meetings to gauge Atlantic City residents' reactions to the state's plans and to solicit input. Some of the committee's plans include: revitalizing the South Inlet area; improving public transportation between the Boardwalk area, Bader Field, and the Marina District; and bringing the African American Heritage Museum of Southern New Jersey to Atlantic City.

"The Atlantic City community desires to create a total and diversified city for all seasons, all ages and all social statuses," says the current Atlantic City Master Plan.

The city has one more thing to look forward to: the upcoming opening of the Revel casino, the first new casino to open in the city since the Borgata Hotel Casino & Spa opened in 2003. The \$2.4 billion project, set to open this May, is expected to attract a considerable number of tourists and to help revitalize the Boardwalk area.

Despite slot and table game revenue declines for 2011, the city's mood seems to be shifting from despair to optimism.

Sports Betting for New Jersey?

New Jersey Governor Chris Christie signed legislation in January permitting betting in Atlantic City and at current and former horse racing tracks on professional sports and certain college games.

The legislation is contingent on overturning the 20-year-old federal ban on sports betting that applies to all but four states (Nevada, Delaware, Oregon, and Montana).

Hedging their bets, so to speak, New Jersey Congressmen plan on confronting the federal ban in a few different ways, in case one is unsuccessful. While Rep. Frank Pallone will propose legislation that will exclude New Jersey from the federal ban, Rep. Frank LoBiondo will propose a measure that gives states until 2016 to approve and establish sports betting within their borders.

LoBiondo said it would be difficult to get a majority consensus supporting a bill covering only New Jersey since it would be "perceived as New Jersey versus the 45 other states," but Pallone said a measure that did not expand the exemption to other states might have a greater chance of passage.

To overturn the ban in federal court, the state attorney general would have to argue the case, according to State Senator Raymond Lesniak. If the state moved quickly, though, he said it could be done within six months. New Jersey Attorney General Jeffrey Chiesa did not comment on whether he planned to take the matter to court.

A new poll done by The Fairleigh Dickinson University's PublicMind indicates that more Americans than ever before support legalizing sports betting. Voters are now split 42 to 42%, whereas in 2010, 53% of voters opposed sports betting.

In New Jersey, voters in a recent non-binding referendum indicated by a 2-to-1 margin that they want sports betting legalized in the state. Nationwide, the vote is more split, with men favoring the idea more than women, as well as voters under 45 years of age.

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Governor Christie Ready To Legalize Online Gaming

After the Department of Justice's new interpretation of the Wire Act, New Jersey Governor Chris Christie offered his support for a bill currently pending in the state legislature that would legalize online gaming.

The bill, which was reintroduced by Senator Raymond Lesniak in August, was tweaked after the first version was vetoed by Christie earlier in 2011 due to concerns over its legality. The new bill satisfies Christie's demand for a bill that would restrict all business operations for a web gaming site to Atlantic City, although all New Jersey residents could play.

Senator Lesniak has promised to reintroduce Internet gaming in the current legislative session, and said he expects to be able to get it through the Legislature and signed by the Governor quickly. However, the state constitution may require the question of

expanded gambling to be put to voters, which would slow the process down.

Luckily, New Jersey residents approved sports betting in the state after a referendum in late 2011, and there is no indication that they would not also approve introducing Internet gaming in the state, if it comes down to a vote.

We just returned back from ICE Conference in London. The talk of the conference was the U.S. Department of Justice flip-flop with regard to the Wire Act. There was an excitement about regulated online gaming in the U.S. that hasn't been seen in the last few years.

Please feel free to contact us with any licensing and gaming compliance needs. Our law firm, Catania & Ehrlich, is also available for any of your gaming law needs.

Sincerely,

Frank Catania, Gary Ehrlich and Keith Furlong
Catania Consulting Group, Inc.

Catania Gaming Consultants

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