

Op-Ed/Editorials - Nevada Legalizes Internet Gambling - Maybe

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Many Nevada casinos have decided that Internet gaming is not just going to go away. As with Indian gaming, they have abandoned years of wishful thinking, arguing for prohibition, and have finally adopted the position that the industry should be regulated. So, in June 2001 they persuaded the Nevada Legislature and Gov. Kenny Guinn to enact a law legalizing online casinos.

The new law, Assembly Bill 466, is a typical piece of Nevada legislation.

In Clark County (Las Vegas), the only establishment which can operate Internet gambling games is "a resort hotel that holds a nonrestricted license," in other words, hotel-casinos.

In counties with populations "more than 40,000 but less than 400,000," meaning Washoe (Reno), Douglas (Tahoe), Elko and Carson City, licenses are limited to "resort hotels" plus establishments which have (1) casino licenses, (2) 120 hotel rooms, (3) "at least one bar with permanent seating capacity for more than 30 patrons," (4) at least one restaurant open 24/7 "with permanent seating capacity for more than 60 patrons," and (5) "at least 18,000 square feet" of gaming area with "at least 1,600 slot machines, 40 table games, and a sports book and race pool." In other words, hotel-casinos.

You can guess which are the only establishments able to get licenses for Internet gaming in Nevada's smallest counties. Here, to prevent someone from opening a small hotel-casino as a ruse, the new law requires the casino to have been licensed for at least five years.

Internet gambling licenses will cost \$500,000 for the first two years and \$250,000 per year, thereafter. In addition, operators have to pay a tax of 6.25 percent,

which is, not surprisingly, exactly the same tax now paid by land-based casinos.

The Legislature spelled out in detail how much tax it wanted to be paid by everyone associated with an Internet casino, even when it did not know exactly what those people actually do. For example, a "manufacturer of interactive gaming systems" will pay an initial fee of \$125,000 for a license, while a "manufacturer of equipment associated with interactive gaming" will pay only \$50,000.

What's the difference? The Legislature hasn't got a clue. AB 466 requires the Nevada Gaming Commission to define "manufacturer of interactive gaming systems" and all the rest.

It is not often that you find a Legislature so openly admitting that it does not know what is going on, but it is going to license and tax it anyway.

In fact, the most remarkable aspect of this new law is that it leaves the final, major policy decision of whether or not Nevada should license Internet casinos up to regulators, not elected representatives. Normally regulators only decide whether a license should be issued to a particular individual. With AB 466, the Gaming Commission will decide whether or not this entire industry will exist.

One way of looking at AB 466 is that the Legislature has, in fact, decided to allow its hotel-casinos to take bets online. But it does not know if this can be done safely. And, if anything goes wrong, the legislators can say it was the regulators' fault.

The Legislature did lay down minimum guidelines. The Gaming Commission may not issue regulations or licenses until it first determines that Nevada's Internet casinos can be made child-proof, safe from hackers, not available where it would be illegal and that it "can be operated in compliance with all applicable laws."

The Commission has already started looking into the last. It asked the State Attorney General's office to research the laws of the other states of the U.S. and is looking to hire a big law firm to help with federal laws. So far the Commission has not indicated it has any interest in looking at the laws of foreign countries.

My guess is the Commission will conclude that all of the requirements can be met, though they might be very expensive.

An important recent federal case from Louisiana held that Internet casinos do not violate any federal laws; only online sports betting operations are illegal. And approximately half the states have no prohibitions on making wagers; only a half-dozen have explicitly made it a crime to accept a bet by computer.

To prevent a Nevada online casino from taking a bet from a person in a state or country where it is illegal, the casino has to know where the player's computer is located. Geo Positioning Systems (GPS) are accurate to within 20 yards, but they require orbiting satellites and the cost of installing a GPS on every computer.

One company has come up with a less accurate, but cheaper, solution: It keeps track of every computer server in the world. Click on www.infosplit.com and see if this company's computer tells you where your computer is at that moment.

Can children be prevented from playing? The most exotic suggestion has been to use bio-scans: Install a device in the computer to check fingerprints or retina patterns. Impossibly expensive.

But, the Commission has a cheap alternative here as well. Government records are now on computers. So the Commission can merely require casinos to check players' drivers' licenses as well as their credit cards.

Some 16-year-olds will go into their parents' wallets. But, the Legislature only requires that there be "reasonable assurances that players will be of lawful age."