

Op-Ed/Editorials: Washington State Makes It a Felony To Play Poker Online

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As of June 7, it is now a felony in the state of Washington to play poker on the Internet. The bill, S.S.B. No. 6613, has stirred up great anxiety in poker forums. Many feel, correctly, that they have been blind-sided. I searched the databases of Washington newspapers and could find almost nothing written about the law as it was making its way through the Legislature. In fact, when the Seattle Times published an article about bills to make Internet gambling a crime, it only mentioned proposals pending in Congress.

Now, players are worried that they might get arrested. Some are trying to organize political committees to get the new law changed.

In the real world, the new law will make little difference. In fact, the Washington State Gambling Commission has taken the official position that the bill merely “clarifies” existing law:

Although Internet gambling has never been an authorized activity in Washington, this law was passed to make it very clear that Internet gambling is illegal in Washington. This includes gambling on the Internet, operating an Internet gambling site, or facilitating Internet gambling in any way.

Is the Commission right, that being a mere bettor has always been illegal in Washington? Yes - at least to some forms of gambling.

Prior to being amended by S.S.B. No. 6613, the law read:

Whoever knowingly transmits or receives gambling information by telephone,

telegraph, radio, semaphore or similar means, or knowingly installs or maintains equipment for the transmission or receipt of gambling information shall be guilty of a gross misdemeanor...

This made betting by phone with a bookie a crime. But it is questionable whether playing poker on the Internet fell under this law.

Other Washington statutes make it a crime to participate in any form of gambling that is not authorized by the state or a pure social game. But there is at least some doubt as to whether these apply to the Internet at all, let alone to a game where the operator and all of the other players are in foreign states.

S.S.B. No. 6613 added the words “the internet” and “a telecommunications transmission system” to the list. So, it clearly now is a crime to send or receive any gaming information online, which would include playing poker.

Washington is probably the only state to expressly make it a crime to merely bet online. It certainly is the only state to make it a felony. A “Class C felony” means a maximum penalty of five years in prison and a \$10,000 fine.

It is interesting to speculate who was behind this bill. The real impetus appears to be a desire to prevent the State Lottery from using the Internet. But other political players probably had a role in creating this draconian law.

Making Internet gambling a felony allows religious conservatives, opponents of Indian gaming, and anti-gambling activists to make a strong statement. Some of them may even have thought the law might be enforced, although even they must know that no one is ever going to be arrested for playing poker from his own home.

And the most important federal anti-gambling law, the Wire Act, only kicks in if an illegal gambling operation is committing state felonies, not misdemeanors.

Then there are Washington’s licensed card clubs. As the Commission stated, in its Focus on Gambling Newsletter, “Some card room operators asked that we help get the word out that gambling over the Internet is illegal.”

The Commission complied. It created a sign that can be posted in poker rooms to remind players that, at least in Washington, they must leave home to make a legal

wager.

What do you think? Comments on this article can be addressed to Prof. I. Nelson Rose.

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