

GAMBLING AND THE LAW®:

Nevada Tips First Domino

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“Domino Effect: A cumulative effect produced when one event sets off a chain of similar events.”

Answers.com

The state of Nevada has legalized, again, Internet gambling. Only this time, people are paying attention.

The first few times the Nevada State Legislature passed laws permitting online gaming, nothing much happened. It has been 17 years since Governor Bob Miller signed SB 318 into law, making Nevada technically the first state to expressly prohibit — and permit — Internet betting.

That law is still on the books. An Internet operator, anywhere in the world, who accepts a wager from a person who is physically present in Nevada commits a misdemeanor and "may be prosecuted within this state." Anyone who makes a bet from Nevada via the Internet is committing a misdemeanor, regardless of where the person accepting the wager may be.

There are a few exceptions. This being Nevada, the Legislature at first exempted only the state's own licensed casino operators. This was the first time that any government in America expressly allowed its licensees to operate real money games on the Internet.

Over the years, the Legislature passed a few more Internet gambling statutes. It even told the state's gaming regulators to gear up for licensing intra-state poker, for the time when federal law made it clear that Internet gambling was legal.

It's unclear why Nevada lawmakers limited the first licenses to online poker. Perhaps they were afraid that if people could play blackjack and slot machines from their homes and hotel rooms, they might not spend much time at the resort-casinos. The politically powerful, biggest operators on the Las Vegas Strip now make a majority of their sales at their restaurants, showrooms and stores. Brick and mortar poker rooms bring in comparatively little revenue. So the Caesars

and MGMs don't mind if visitors play online poker from their hotel rooms at night with other players AFTER they bet against the house at banking games like craps in the casino.

Nevada's decision to limit Internet gaming to poker may have been a mistake. Before 2013 was over, both New Jersey and Delaware had their own online gambling operators. But the Eastern states went with full Internet casinos.

But no sports betting.

As early as 1999, courts held that the Wire Act, the major federal anti-gambling law used against online operators, applied only to sports events. So, when the Nevada Legislature began passing laws authorizing Internet gambling, the statutes were carefully written to exclude sports betting.

Nevada regulators did hold some hearings back then. But no regulations, let alone licenses, were issued, because the federal Department of Justice ("DOJ") declared that it was not bound by those court decisions. The DOJ sent the Nevada Gaming Control Board a letter stating that it would arrest any Nevada operator that took bets from other states, even if the bets were limited to poker or casino games.

Then, two days before Christmas 2011, the Obama Administration announced that it was giving the states a present. The DOJ officially reversed its position on the Wire Act. Henceforth, that statute would only be used against interstate sports and race books.

The announcement freed the states to authorize every other form of Internet gambling. State legislatures across the country started considering legalizing intra-state poker and other games. State lotteries, like Illinois, which were already selling subscriptions to their residents online, looked into expanding into selling individual tickets and operating other, more interesting games.

Although the immediate response from lawmakers and operators was to see what they could do intra-state, the possibilities of cross-border betting were not ignored. Legal analysts, like me, noted that the only barrier to a state accepting bets from other states and even nations was a provision of the U.S. Constitution restricting states in making compacts, which could be gotten around.

The Nevada Legislature rushed through AB 114, which was signed into law by

Gov. Brian Sandoval on February 21, 2013. It authorized the governor to enter into agreements with other governments for cross-border betting. A year later Gov. Sandoval and Delaware's Governor Jack Markell signed an agreement to let players from the two states join in common online poker pools.

On April 30, 2013, Ultimate Poker became the first operator in history to take real money bets on Internet poker games under a license issued by a state (Nevada). Yes, deposits are difficult, having to be in person; by electronic or paper check; or by wire, if the amount is more than \$500. Most important, players have to be physically present in Nevada.

So far, state-licensed Internet gambling has not been a big success. But this is probably because the states involved have fairly small populations. But if and when California legalizes online poker, states like Pennsylvania, Illinois and New York will quickly follow.

One American jurisdiction is about ready to join Nevada, Delaware and New Jersey. Lawmakers in the American Virgin Islands have already authorized Internet casinos. Its regulators also received a letter from the DOJ threatening to charge its licensees under the Wire Act. That threat is now gone. So, the U.S. Virgin Islands will probably be issuing Internet licenses soon. And operators will be taking bets from overseas.

Iowa has studied the issue for years. A bill to allow Internet casinos actually passed one of the houses of the Iowa Legislature. The sessions last only 100 days, so legalization will not come until 2015 at the earliest.

California may act faster. The state is still desperate for any source of extra cash. Voters narrowly defeated legalizing marijuana for tax revenue. If we're considering selling pot just for the money, who cares about Internet poker?

Of course many people, especially from the religious right, want to tell people what they can do in their own homes. But, the opposition to Internet poker in California, like the opposition to legalizing marijuana, is funded by companies who don't want the competition. The marijuana initiative was defeated, in large part, by T.V. ads paid for by the liquor industry.

The Golden State's gaming tribes and poker clubs have no problem with legalizing Internet poker - if they are the only ones who get to run the games.

That is not going to happen. Legislation will pass once the political compromise is reached that satisfies the politically powerful tribes and clubs, while bringing in big bucks from outside operators.

In states where the local operators are the big money, like the two gaming tribes in Connecticut who are also the state's largest employers, we know who will get the Internet gaming licenses.

And legalization is going to come quickly. The fights over whether or not to have legal gambling were won years ago.

Today, the disputes are about who will get the billions of dollars that are at stake.

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Prof. Rose is recognized as one of the world's leading experts on gambling law, and is a consultant and expert witness for governments, industry and players. His latest books, Internet Gaming Law (1st and 2nd editions), Blackjack and the Law, Gaming Law: Cases and Materials and Gaming Law in a Nutshell are available through his website, www.GamblingAndTheLaw.com.