

THE 2010 UNITED STATES iGAMING REPORT

State by State Analysis of Legislative Progression

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Executive Summary

Roughly 15 years after the online gaming industry began, moves are afoot in state legislatures around the U.S. to legalize and tax Internet-based casino gaming, poker and sports betting.

This year has been the busiest, and arguably, the most promising, for in-state Internet gambling proponents since 2001, when Nevada and the U.S. Virgin Islands enacted online-gaming-enabling legislation.

In January, debate began in Iowa over whether to allow state-licensed casino operators to offer Internet poker. The same month, legislation was introduced in New Jersey that would authorize Atlantic City casinos and state race tracks to operate Internet casino gaming and sports betting.

In March, legislation was introduced in Florida that would authorize the state's licensed card room operators to offer Internet poker, and in June, legislation was introduced in California that would permit up to three licensed entities to operate Internet gambling – not just Internet poker.

It should be noted that state lawmakers have not suddenly warmed to Internet gambling on the merits alone. Rather, lobbyists representing stakeholders in all sectors of gambling have seized upon the fact that 48 of 50 states are struggling with budget gaps this year, and are pushing online gaming regulation as a revenue-generative way to help close those gaps.

Despite Internet gambling's broad economic appeal, efforts to pass regulatory legislation have progressed slowly in each of the four states just mentioned. In the author's opinion, it is a lack of consensus among gaming industry stakeholders in those states that is chiefly to blame for the logjam.

Iowa

State-licensed casino operators (11) are not in agreement that Internet poker should be legalized. During the 2010 legislative session, which ended in March, those stakeholders did not view the issue as a political priority.

Florida

State-licensed parimutuel facilities (27) and federally recognized Native American tribes with gaming compacts in Florida (1) are not in agreement that Internet poker should be legalized. During the 2010 legislative session, which ended in April, those stakeholders did not view the issue as a political priority.

New Jersey

State-licensed casino operators (5) and race tracks (4) are not in agreement that Internet gambling should be legalized, despite strong support from key lawmakers in the upper chamber of the Legislature. The 2010 session is ongoing.

California

State-licensed card rooms (89) and race tracks (6), and federally recognized Native American tribes that operate casinos in California (57), vehemently disagree over whether Internet gambling should be legalized. The 2010 session is ongoing.

It will take time – likely, several years – to build consensus among stakeholders in each state. Without it, online-gaming-enabling legislation is not soon to be enacted.

Other Hurdles To Regulation

There are other issues, meanwhile, affecting the progression of Internet gambling legislation at the state level.

Brief Legislative Sessions

Some states – Iowa and Florida, in particular – have very short legislative sessions, which makes getting lawmakers up to speed and brokering compromise between stakeholders challenging. In interviews for this report, gambling lobbyists active in Iowa and Florida were not shy about characterizing Internet gaming as a “multi-year political issue”.

Strong Resistance To Offshore Interest Groups

Some states – New Jersey and California, in particular – have reacted defensively to efforts of offshore Internet gambling companies to influence policy. Atlantic City casinos have opposed Internet gambling legislation, in part, because it is being driven by online gambling interests from jurisdictions like Costa Rica. In California, meantime, what few tribes support online gaming legislation have vowed to oppose it if provisions allowing offshore operators to apply for licensure are not removed.

Election Years

Some states – Iowa, Florida and California – are in election years, which means Internet gambling lobbyists, in 2011, will be starting from the ground floor with a number of newly appointed lawmakers, with reelected lawmakers in new leadership posts, or both. Iowa, Florida and California are also in the midst of gubernatorial election years. In Florida, notably, the candidate favored to win was a supporter of Internet gambling prohibition as a member of Congress in the late-1990s.

Concerns About Violating Federal Law

For many years, the federal Department of Justice has argued that all forms of Internet gambling – even if offered within the confines of a single state – are illegal. In the early-to-mid 2000s, both Nevada and the Virgin Islands dropped plans to become online gaming licensing jurisdictions after federal attorneys advised that to do so would risk violating federal laws dating to the 1960s.

Competing Legislative Proposals

Historically, lawmakers have never regarded Internet gambling as a political priority – mostly because it’s a thorny, morally contentious issue. In the years to come, supporters will be battling to elevate online gaming bills above other, politically safer measures.

Lobbying Efforts Still In Their Early Stages

Although efforts to regulate Internet gambling at the state level have been running – off and on – since 2001, the process remains in its infancy.

Iowa

In 2010, Internet poker was only debated – no legislation was introduced. If reelected this fall, lobbyists expect Representative Brian Quirk, a Democrat, to introduce a bill in 2011. That bill, however, will likely compete with a casino industry-backed measure to overturn existing rules requiring state residents to vote every eight years on whether to keep casinos in their communities.

Florida

In 2010, Internet poker played second fiddle to a big gaming-expansion deal between the Seminole Tribe of Florida, the state's parimutuel operators, the Legislature and the governor's office. If reelected this fall, lobbyists expect Representative Joseph Abruzzo, a Democrat, to reintroduce his online poker bill in 2011. Expectations are not high that the Florida Legislature – fresh off the biggest gaming-expansion deal in its history – will support it.

New Jersey

In 2010, Internet gambling bills have been well supported by key lawmakers in the state's upper house. There is palpable tension, though, between those lawmakers (who are excited about new revenue derivable from Internet gaming) and the state's casino industry (which is vigorously opposed to in-state regulation of Internet gambling). Whether the New Jersey Legislature will defy the will of an economically depressed Atlantic City remains to be seen.

California

In 2010, an Internet gambling bill has been hotly debated, but its sponsor, Senator Roderick Wright, a Democrat, is reluctant to push forward without first brokering a compromise between stakeholders. There are over 100 entities with an interest in the bill, and the gulf between those interests – particularly on the tribal side – continues to widen. Most lobbyists expect the Internet gambling debate to run into 2011 and, perhaps, well beyond.

Lotteries Likely To Be First Online

The road for Internet-based casino gaming, poker and sports betting is long, and while lobbyists for those interests plug away, a handful of U.S. state lotteries have quietly begun to test the Internet waters.

Subscriptions

Four of 44 lotteries – New Hampshire, New York, North Dakota and Virginia – offer subscriptions, available for purchase on the Internet, that range between three months and one year. A fifth, Minnesota, will soon launch an online subscription program of its own.

Interactive Games

One lottery, New Hampshire, intended to begin selling interactive games through terrestrial retailers – playable on one’s home computer – beginning July 1, 2010. That program, however, has fallen afoul of the state Legislature and remains on hold.

Discussions with the Federal Department of Justice

Two lotteries – Illinois and New York – have initiated discussions with the Justice Department regarding the applicability of federal law to Internet ticket-sales programs they intend to launch.

States with Enabling Legislation

Only one state – New Jersey – is currently considering legislation to allow Internet ticket sales.

At present, no state lotteries sell tickets online, but according to lottery executives and representatives interviewed for this report, there is long-term interest in offering video lottery terminal-style games to customers over the Internet.

Opportunities Limited for Offshore Companies

With the exception of California, licenses to operate Internet gambling would be limited to state-licensed gambling entities like casinos and race tracks. Therefore, opportunities for offshore companies will likely be limited to the provision of technology and software to power gaming sites.

Outlook

As explored further in this report, Internet gambling in New Jersey has fared best this year. In spite of opposition from Atlantic City, lobbyists working on behalf of the offshore industry have had some success with winning allies in the Legislature. In the author’s opinion, it is the state most likely to enact regulatory legislation in the next five years.

California and Florida are more distant prospects. Both states are home to gambling industries whose internal politics are, to put it mildly, complex, but California – with over 150 gaming facilities – will undoubtedly be the heavier lift.

Iowa is newest to Internet gambling regulation. Debate just commenced this year, and although there is some expectation that an online poker bill will be introduced in 2011, there is little reason to believe it will be given serious consideration by the Legislature or gaming industry stakeholders.

Near-term, state lotteries in Illinois and New York will likely be the first to break into the online marketplace. If both states launch Internet sales programs without interference from the Justice Department, other lotteries – particularly those in Iowa, Minnesota, New Hampshire, North Dakota and Virginia – may well follow suit.

