

Online Gaming Note

The growth in popularity of interactive and online gaming has led several states to pursue new legislative measures to capture the potential revenue streams and opportunities that IT technology could provide. New Jersey and Nevada passed authorizing legislation for these activities, in addition to new interstate compact language, that could be of interest to other states.

New Jersey

The Casino Control Act ([Assembly Bill 2578](#)), which became law in February 2013, allows Atlantic City's casinos to run websites that take bets on games such as blackjack, slots and poker. Under the law, however, bettors must be physically present in the state. An analysis by the New Jersey Assembly Appropriations Committee summarized the provisions of the Act as follows:

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2578

This bill authorizes Internet gaming at Atlantic City casinos to enable certain individuals who have established a wagering account with a casino licensee to place wagers on casino games via the Internet.

The bill provides that all authorized games, including poker, that may be played at a casino in Atlantic City, as well as variations or composites thereof, may be offered through Internet gaming.

The bill provides that equipment used by a licensee to conduct Internet gaming, including but not limited to computers, servers, monitoring rooms, and hubs, must be located in a restricted area on the premises of the casino hotel within the territorial limits of Atlantic City, and all Internet wagers will be deemed to be placed when received in Atlantic City by the licensee regardless of the player's physical location within this State.

The bill provides that to participate in Internet gaming, a player must be physically present in New Jersey whenever a wager is placed by that player, except that wagers may be accepted from persons located outside of the State if the Division of Gaming Enforcement in the Department of Law and Public Safety determines that activity is not inconsistent with federal law or the law of the jurisdiction in which any such person making a wager is located, or determines that activity is conducted pursuant to an interstate compact that is not inconsistent with federal law.

The bill provides that each licensee that conducts Internet gaming must be able to verify that a player is physically present in New Jersey when placing a wager. The bill specifies that the Division of Gaming Enforcement must confirm on a continuing basis that a licensee's equipment is able to verify that the player is physically present in this State each time a wager is placed.

The bill provides that Internet gaming in this State will be subject to the provisions of, and preempted and superseded by, any applicable federal law.

The bill imposes an annual tax on Internet gaming gross revenues in the amount of 20 percent of such gross revenues and requires the revenues collected from the tax to be paid into the casino revenue fund. The bill defines Internet gaming gross revenues as the total of all sums actually received by a casino licensee from Internet gaming operations, less only the total of all sums actually paid out as winnings to patrons, provided that the cash equivalent value of any merchandise or thing

of value included in a jackpot or payout is not included in the total of all sums paid out as winnings to players for purposes of determining Internet gaming gross revenue.

The bill provides that the eight percent tax on casino gross revenues will not apply to Internet gaming gross revenues, and provides that the investment alternative tax will apply to Internet gaming gross revenues, except that the investment alternative tax on these revenues will be 10 percent and the investment alternative will be five percent, with the proceeds thereof used as provided by law.

The bill provides that the Division of Gaming Enforcement may establish an Office of Internet Gaming to which it may delegate authority for the administration of Internet gaming. The bill specifies that the division will be responsible for recommending regulations concerning Internet gaming for consideration and possible adoption by the New Jersey Casino Control Commission.

The bill provides an application process for a licensed casino to obtain a permit to establish Internet gaming, with the permit valid for one year and subject to renewal. The bill specifies that as part of the application process, a casino licensee must submit a description of its system of internal procedures and administrative and accounting controls for Internet gaming, including provisions that provide for real time monitoring of all games. The bill specifies that a casino licensee also must submit its gaming hardware, software, and other Internet gaming equipment to the Division of Gaming Enforcement for testing to ensure compliance with technical standards for such equipment set by the New Jersey Casino Control Commission.

The bill provides that companies seeking to provide goods or services to a casino in connection with Internet gaming must be licensed as casino service industry enterprises. The bill specifies casino service industry enterprises will be permitted to enter into participation agreements with casino licensees in connection with the operation of Internet gaming.

The bill establishes certain procedures that must be followed for the crediting and debiting of a wagering account.

The bill provides that it is lawful for a casino licensee to provide marketing information by means of the Internet to players engaged in Internet gaming and to offer those players incentives to visit the licensee's casino in Atlantic City.

The bill provides that required features of Internet gaming must be in place to assist the wagering account holder.

The bill provides that required features to assist problem gamblers and potential problem gamblers must be in place, including the provision of assistance with problem gambling at log on and log off times.

The bill imposes certain penalties for violations of the provisions of the bill.

The bill provides that an annual fee for Internet gaming permit holders for the initial permit and permit renewal will be assessed to cover the costs of regulation by the New Jersey Casino Control Commission and the Division of Gaming Enforcement, with the initial fee to be at least \$200,000 and the renewal fee to be at least \$100,000.

The bill provides that an annual fee for Internet gaming permit holders of \$100,000 will be assessed and allocated to programs to prevent compulsive gambling and to assist compulsive gamblers.

Except as otherwise provided by the bill, a licensed casino's Internet gaming operation will be subject to the existing provisions of the Casino Control Act and the regulations promulgated thereunder, including, but not limited to: the licensure of all employees with gaming-related duties or responsibilities; penalties for a violation of the act; and supplemental sanctions deemed appropriate by the New Jersey Casino Control Commission for violations.

The bill provides that the Division of Gaming Enforcement will adopt regulations for the implementation and conduct of Internet gaming that are consistent with regulations governing casino gambling.

The bill provides that no organization or commercial enterprise, other than a casino located in Atlantic City that has been issued a permit to conduct Internet gaming and has located all of its equipment used to conduct Internet gaming, including computers, servers, monitoring rooms, and hubs, in Atlantic City, will be able to make its premises available for placing wagers at casinos using the Internet or advertise that its premises may be used for such purpose. The bill specifies that violations are punishable by a penalty of \$1,000 per player per day for making premises available for placing wagers at casinos using the Internet and of \$10,000 per violation for advertising that premises may be used for such purpose.

Nevada

[Assembly Bill 258](#), which became law in 2011, requires the Nevada Gaming Commission to establish by regulation certain provisions authorizing the intrastate licensing and operation of Internet poker. This bill further provides that a license to operate interstate interactive gaming does not become effective until: (1) the passage of federal legislation authorizing interactive gaming; or (2) the United States Department of Justice notifies the Commission or the State Gaming Control Board that interactive gaming is permissible under federal law.

Another Act, [Assembly Bill 114](#) became law in 2013 and would repeal the previous state law requiring federal approval before allowing online gaming and it also allowed the state to enter into an interstate compact exclusively for online poker. The bill extends the existing operating licensing fee of \$500,000 to online poker operations, but it allows the state's Gaming Commission to increase the licensing fees to up to \$1 million or lower them to \$150,000. Under the Act, operating licenses for gaming establishments would only be available to a "resort hotel that holds a non-restricted license to operate games and gaming devices." It also includes a 5 year operating license ban for companies that illegally participated in online gaming markets from 2006-2011. The Gaming Commission can waive those prohibitions if it determines that a gaming operation complied with federal or state laws after December 31, 2006 involving US patrons.