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TOP ISSUES

MAKE WAY FOR ONLINE GAMING

The road is clear for a wave of iGaming, iLottery and online poker expansion.

The First Circuit Court of Appeals agreed with the New Hampshire Lottery that the 1961 Wire Act only applies to sports betting.

“In conclusion, we find that the plaintiffs’ claims are justiciable and that the Wire Act applies only to interstate wire communications related to sporting events or contests,” the court ruled.

“The focus of the First Circuit’s opinion was on the scope of the Wire Act beyond sports betting and the court made crystal clear that sports gambling is the sole focus of the Wire Act, which means this is a victory for not only lotteries but for all companies that participate in the online gaming ecosystem,” gaming and sports attorney Dan Wallach of Wallach Legal said.

The ruling should be the final word blocking an attempt by the Trump Administration’s Department of Justice to expand the Wire Act to prohibit all interstate online gaming transactions.

It is unlikely the Biden Administration will appeal the case to the US Supreme Court, its only remaining avenue.

There is nothing else to hold up iGaming expansion, according to gaming attorney Jeff Ifrah of iDEA Growth.

“Like nearly every other industry, the gaming industry must embrace the internet to engage today’s customers and to thrive in the economy of the future,” he said.

Pennsylvania estimates the 2018 opinion cost it about \$1 billion in lost iGaming revenues. Implementation of iGaming was delayed as operators moved servers in-state to be sure they would comply if the department’s new opinion stuck.

It also delayed Pennsylvania licensing and rolling out online poker due to uncertainty of the state’s ability to enter multistate player pooling agreements, which led to a lack of operator interest in online poker.

To date, the only live online poker site is Flutter’s PokerStars through Mount Airy Casino.

The only uncertainty remaining under the Wire Act is for intermediate routing of online sports betting transactions, which the ruling did not address, Wallach said. The Unlawful Internet Gambling Enforcement Act exempts intermediate routing from its definition of an illegal gambling transaction, but it does not amend the Wire Act to do the same.

“There have been zero prosecutions related to intermediate routing, the risk is very low, but theoretically it remains a potential vulnerability for sports betting operators under the Wire Act,” he said.

NEW YORK GAMING STUDY RELEASED

Full-scale downstate casinos, statewide mobile and additional retail sports betting and iGaming, iLottery and iPoker could generate \$8 billion in gaming revenue according to the New York Gaming Commission's long-awaited comprehensive gaming study.

Highlights from the 358-page study by Spectrum Gaming:

- Gaming revenue from full-scale downstate casinos and an Orange County VLT facility would range from \$2.2 billion to \$5.9 billion in 2025, depending on the scenario, of which many are detailed in the report.

- iGaming would generate \$750 million in revenue after five years and iLottery about \$299 million.

- Full mobile sports betting and additional retail sports betting could lead to \$816 million to \$1.143 billion in revenue within three to five years.

- Adding retail-only sports betting at all eight racetracks would generate \$142 million to \$198 million in gaming revenue within three to five years.

OTB's would add \$34 million to \$46.8 million.

Added to existing retail sports betting revenues from four commercial and three tribal casinos, Spectrum's statewide retail revenue projections are \$212 million to \$296 million, with tax revenue to the state of \$19 million to \$28 million assuming a 10 percent tax rate.

- The report also examines tax structures of New York racinos and makes recommendations based on various scenarios.

The full study:

<https://gaming.ny.gov/pdf/Spectrum%20New%20York%20Gaming%20Study%20Main%20Report,%20Final.pdf>.

WEEKLY ROUNDUP

LEGISLATIVE

MISSOURI SLOT ROUTE DEBATE BEGINS

Missouri legislators have begun the annual debate on what to do with so-called gray area slot machines that operate unregulated throughout the state.

Senators will hold a hearing at 8:30 a.m. Tuesday in the Senate Appropriations Committee to discuss potential legalization of video lottery terminals.

SB 98 would allow up to five machines at liquor-licensed establishments and up to 10 machines at fraternal and veterans clubs and truck stops.

A separate bill sponsored by Senate President Pro Tem Dave Schatz aims to reduce or eliminate the estimated 14,000 unregulated slot-like games that operate in places like bars, truck stops and convenience stores.

The state estimates 25 percent of lottery retailers possess the machines, which have been deemed illegal gambling devices by the Missouri Gaming Commission.

The state lottery estimates Missouri loses \$5 million to \$20 million a year in lottery revenue because of these machines.

Schatz believes a recent Platte County court ruling that found Integrity Vending guilty of promoting illegal gambling will boost the chances of his legislation this year.

SB 10 would direct the commission to establish an illegal gambling hotline for reports of illegal gambling which the commission would have to forward to law enforcement.

It also would provide for revocation of lottery retail and liquor licenses of businesses that are convicted of operating illegal gambling devices.

The effort was opposed last year by Torch Electronics, which is represented by former House Speaker Steve Tilley, a long-time friend of Gov. Mike Parson.

SPORTS BETTING: MA, MD, MS, NY, ND, VA

- MASSACHUSETTS sports betting legislation is back on the table.

Sen. Brendan Crighton reintroduced his bill SD 177 to allow retail sports betting at casinos, racinos and off-track betting parlors, and mobile sports betting.

Revenue would be taxed 15 percent and license fees would cost \$10 million, with a renewal fee of \$1.25 million each year.

It would prohibit betting on Massachusetts' college teams.

- MARYLAND legislators might include bars as sports betting operators as an effort to include minority businesses.

Legislators are trying to craft an inclusive sports betting enabling bill, Del. Eric Ebersole told PlayMaryland.com.

The Legislative Black Caucus has protested efforts to give sports betting licenses only to casinos and racetracks due to lack of diversity.

- MISSISSIPPI. Bills were introduced to expand mobile sports betting statewide. It is currently restricted to within casino properties.

- HB 1042 would expand mobile sports betting to websites and mobile devices, repeal the ban on betting on college sports, and add amateur sports, eSports and any other event authorized by the state gaming commission to the list of acceptable wagering events.

- SB 2732 would allow online racebooks and sports pools to be operated on behalf of holders of a gaming license.

- SB 2396 would legalize online gaming and online sports betting.

• NEW YORK. Legislation to legalize competitive mobile sports betting for casinos advanced through the Senate and Assembly gaming committees.

But Gov. Andrew Cuomo has reiterated his preference for state-run mobile sports betting rather than allowing casinos to run it.

Cuomo's budget director Robert Mujica asserts that the state could get \$500 million in tax revenue by operating sports betting rather than \$50 million if casinos run sports betting.

• NORTH DAKOTA. HB 1448 was introduced to amend tribal gaming compacts to authorize online gaming and online sports betting exclusively for tribes.

Separately, HB 1444 would legalize historical horse racing machines at pari-mutuel and simulcast facilities.

• VIRGINIA. Legislation that would free up more sports betting licenses in the state passed the House General Laws Committee.

HB 1847 was amended in the committee and appears to remove the cap of 12 sports betting licenses altogether. An earlier version sought to remove casinos from counting against the cap.

STATE ROUNDUP: HI, IN, IA, MD, MS, NE, NM, OH, OK, RI

• HAWAII. Legislation has been pre-filed to create task forces to study gaming, lottery and sports betting.

HB 457 would require the task force to study all potential gaming options and submit recommendations for legislation ahead of next year's legislative session.

Separately, SB 595 would create a task force to study sports betting.

• INDIANA. Sen. Jon Ford filed his promised bill to allow casinos and racetracks to offer iGaming.

SB 417 would tax revenue 18 percent. It would allow customers to sign up for accounts in person or remotely.

Revenue by the fifth year is expected to be between \$286 million to \$572 million, according to the bill's fiscal note.

A House version has also been filed as HB 1406.

- IOWA may be joining the states that no longer tax promotional play.

Legislators are debating a proposal that would phase out the tax on promotional play revenue over three years, in effect an 8 percent tax cut, the Dubuque Telegraph Herald reported.

• MARYLAND. Legislation to extend tax breaks for Golden Entertainment's Rocky Gap Casino has been reintroduced and is set for a hearing at 1 p.m. next Tuesday in the Senate Budget and Taxation Committee.

SB 452 would make permanent a provision that allows Golden to retain 60 percent of revenue rather than 53 percent. That break expires in 2023.

Meanwhile, HB 553 was introduced to repeal the state's ban on selling lottery tickets over the internet.

- MISSISSIPPI. Several gaming related bills have been filed:

- HB 1299 is another bill that would allow slot routes in the state.

It would allow the Mississippi Lottery to license truck stops to operate up to 10 machines with revenue taxed at 23 percent.

- HB 1248 revives the effort to allow Tunica riverboat casinos to relocate on land.

It has been referred to the House Gaming and Ways and Means committees.

- HB 753 would establish a horse racing pari-mutuel industry.

It would create the Mississippi State Racing Commission to license racetracks while wagering on races would be overseen by the state gaming commission.

- HB 245 would ban indoor smoking, including in casinos.

• NEBRASKA. Enabling legislation for casinos at racetracks has been introduced, along with a few other gaming-related bills.

- LB 561 lays out a regulatory timeline and converts the state's racing commission into a racing and gaming commission.

- LB 560 clarifies that sports betting must be in-person and prohibits the use of credit cards for betting. It prohibits betting on sports events involving Nebraska college teams.

- LB 545 would clarify that sports betting and poker are games of skill, not chance. It would also allow electronic skill games.

- LR 26CA would authorize a November 2022 referendum to legalize and tax sports betting.

There has been some controversy over whether sports betting is included as a casino game or whether it needs a referendum.

- NEW MEXICO. Legislation was introduced to allow racetracks to expand to full casinos.

Rep. Ray Lara's bill would allow live table games and sportsbooks and be managed by the state lottery.

Currently, the racetracks have slots and e-tables. The changes would likely be opposed by tribal casinos.

- OHIO. Senate President Matt Huffman has appointed a committee to look at all aspects of gambling in Ohio.

The committee, which is to be functioning by May, will be chaired by Senate Majority Leader Kirk Shuring, Hometownstations.com reported.

Huffman did not indicate that he has any particular legislation in mind, saying "The purpose of that is to try to address all of these things on an equal basis...They are not the same issue, they have very different issues. But often these issues intersect with people who are already conducting gambling efforts, local charity bingo, casinos, the state lottery... and how that all intersects with each other. I just think it's a better idea to get these things addressed."

- OKLAHOMA. Rep. Steve Bashore, former GM of the Peoria Tribe's Buffalo Run casino, has introduced a shell bill to reform the state's gaming laws.

HB 2935 is set for its first hearing next Tuesday.

- RHODE ISLAND. Controversial legislation to approve a 20-year lottery contract extension with IGT and Twin River was reintroduced as S 40.

House Republicans have said the deal requires the state to overpay on the contract by \$156 million. IGT and Twin River have said the Republican proposal underestimates total expenses by \$200 million.

Scientific Games has asked the state to open the contract to bidding.

The bill was referred to the Senate Finance Committee.

LEGAL

KENTUCKY COURT REJECTS HHR APPEAL

The Kentucky Supreme Court has rejected an appeal of its decision that certain historical horse racing machines are not pari-mutuel wagering.

The case now moves back to Franklin Circuit Court for judgment on any required changes that must be made by the Kentucky Horse Racing Commission until clarifying legislation can be enacted by the state legislature.

Kentucky horsemen started a social media campaign urging citizens to call on their legislators to enact such legislation.

CAESAR HIT WITH LONG-SHOT SUIT

A man jailed in Illinois is suing Caesars in Will County Circuit Court for \$10 million and a public apology on claims he was falsely arrested in 2018 after a confrontation with two customers outside of Harrah's Joliet casino.

Darryl Allen has been held in a county jail since the incident on charges of allegedly trying to rob a woman at knifepoint in the casino's valet area. Allen claims he was the victim and the woman's husband attacked him.

The woman has also sued Caesars for lack of security that she says could have prevented the attempted robbery.

RATCLIFF SUES IGC

Former Spectacle Entertainment CEO Rod Ratcliff is suing the Indiana Gaming Commission for suspending his license amid its investigation of the company related to a case of campaign fraud.

Ratcliff was not indicted in the case involving his former company, Centaur Gaming. He asserts the commission has interfered with his efforts to sell his 22 percent stake in Spectacle, which is in the process of converting the Majestic Star riverboat casinos into a land-based \$300 million Hard Rock Casino in Gary.

Former Spectacle General Counsel John Keeler was indicted for alleged illegal campaign contributions made during his time in a similar position at Centaur. His gaming license was revoked last month.

Ratcliff's suspension is for 90 days, after which the commission could decide to revoke his license.

Full story: <https://www.thetelegraph.com/news/article/Indiana-casino-executive-fighting-state-over-15884935.php>.

REGULATORY

NEVADA CHIP REGULATION AMENDED

An amendment directing licensees not to accept chips or tokens from patrons that did not obtain them directly from the casino was adopted by the Nevada Gaming Commission.

However, casinos can still redeem chips or tokens from another licensee, or someone authorized to collect or redeem chips and tokens from other casinos.

NEW YORK ALLOWING CASHLESS

Contactless payment methods such as credit and debit cards are now allowed for charitable games of chance in New York.

An emergency ruling was introduced by the New York State Gaming Commission earlier this month to promote public health during the pandemic and support organizations that operate games of chance. The ruling is permanent.

The regulations had previously allowed a “legal tender or form of chip authorized by the commission.”

COLORADO APPROVES MORE LICENSES

The Colorado Limited Gaming Control Commission approved temporary sports betting vendor licenses for Pala Interactive and IMG Arena and 17 minor sports betting vendor licenses including companies Everi and The Athletic.

Licensees are listed at <https://www.colorado.gov/pacific/enforcement/sports-betting-licenses>.

WHAT'S ON THE AGENDA?

The following includes important items for upcoming regulatory meetings. Meeting details are below in the Upcoming Meetings section.

- **TENNESSEE.** A special meeting will be held by the sports wagering committee of the state's Education Lottery. No agenda was posted.

In the last meeting, the committee said it was waiting on additional information from operator license applicants. Churchill Downs' BetAmerica received a license earlier this month.

RECENT ACTION: IA, MS, NV, ND

- IOWA Racing and Gaming Commission approved:
 - Casino Queen Marquette, Vigtory. Sports betting operator agreement.
 - HGI Lakeside, William Hill. Sports betting operator agreement.
 - Catfish Bend, VHL Iowa. Sports betting operator agreement.
 - Boyd Gaming, Diamond Jo Worth. NRT Technologies, check cashing services.

- MISSISSIPPI Gaming Commission approved:
 - Galaxy Gaming. Harry Hagerty, CFO.
 - Stadium Technology. Sankara Narayanan, chief technology officer.

- NEVADA Gaming Commission employee approvals:
 - Dreamscape. Executives Thomas Ellis and Eric Birnbaum, finding of suitability.
 - MGM Resorts. William Hornbuckle, manager at MGM Grand and New York – New York.
 - MGM Resorts and Entain's BetMGM. Gary Deutsch, CFO.
 - William Hill. Martin Logan, chief technology officer and chief product officer.

- NORTH DAKOTA Racing Commission approved:
 - Turtle Mountain Band of Chippewa, site operator license renewal.

UPCOMING MEETINGS: IL, MD, MA, MO, NJ, NY, OR, TN, WV

The following are upcoming state meetings with the website for corresponding agendas where available and are shown in local time.

- ILLINOIS Gaming Board, Wednesday, January 27:
<http://www.igb.illinois.gov/MeetingsMinutes.aspx>.

- MARYLAND Lottery and Gaming Commission, 10:00 a.m. Thursday, January 28:
<https://www.mdgaming.com/commission-meeting-1-28-2021/>.

- MASSACHUSETTS Gaming Commission, Thursday, January 28:
<https://massgaming.com/news-events/article-type/meeting-notifications-agendas/>.

- MISSOURI Gaming Commission, 9:30 a.m. Wednesday, January 27:
http://www.mgc.dps.mo.gov/Meetings/ama_AgendaMinAct.html.
 - NEW JERSEY Racing Commission, 1:00 p.m. Wednesday, January 27:
https://www.nj.gov/oag/racing/downloads/njrc_meet_pub_2021_0127_agenda.pdf.
 - NEW YORK Gaming Commission, 1:00 p.m. Tuesday, January 26:
<https://www.gaming.ny.gov/pdf/1..26.21%20GCMetingNotice.pdf>.
 - OREGON Lottery Commission, 2:00 p.m. Wednesday, January 27:
<https://www.oregonlottery.org/about/how-we-operate/commission-meeting-january-27-2021/>.
 - TENNESSEE Education Lottery Corporation, 11:00 a.m. Friday, January 29:
<https://tnlottery.com/about-us/corporate-reports/>.
 - WEST VIRGINIA Lottery Commission, 10:00 a.m. Wednesday, January 27:
<https://wvlottery.com/wp-content/uploads/2021/01/Action-items.pdf?4a23b51bdd>.
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