



## A New Turn for Washington State's Online Poker Law

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After the unanimous rejection by the Washington State Supreme Court of a lawsuit that attempted to overturn the state's draconian ban on online poker, proponents of the game now say that they're going to go to the state legislature and try to get the law repealed, rather than pursue the challenge in the U.S. Supreme Court.

On Sept. 23, 2010, the state court rejected the case brought by Lee Rousso, an attorney who is also the state director of the Poker Players Alliance, against the 2006 law. The challenge was based on the so-called "dormant commerce clause," a constitutional rule that prohibits states, under some circumstances, from placing excessive burdens on interstate commerce.

As is true for many controversial issues, there are strong arguments here in favor of seeking a repeal of an undesirable law rather than relying on the courts to declare the law unconstitutional. As an elected body, a state legislature represents the democratic will of the people of the state. So a repeal of the poker law would indicate that there is a popular consensus in the state in favor of legal online poker. That's likely to be more persuasive nationwide than a decision by a few judges.

The path to repeal isn't likely to be easy, though. Supporters of repeal will argue that the law, which makes online poker a felony punishable by up to five years in prison, is far too harsh and could make criminals of casual gamers. They will also argue that the law has not been enforced – either precisely



because it is so harsh, or because state residents don't really want to punish card players.

Opponents of repeal could cite the words of the state Supreme Court in the Sept. 23 ruling. Although the court wasn't called upon to rule on the desirability of the poker ban, only on its constitutionality, it seemed to go out of its way to explain why this ban is a good thing.

"Internet gambling introduces new ways to exacerbate ... threats to health, welfare, safety, and morals," the court wrote. "Gambling addicts and underage gamblers have greater accessibility to on-line gambling — able to gamble from their homes immediately and on demand, at any time, on any day, unhindered by in-person regulatory measures. Concerns over ties to organized crime and money laundering are exacerbated where on-line gambling operations are not physically present in-state to be inspected for regulatory compliance."

Supporters of repeal in Washington state will need to address this type of argument head-on. In the real world, online poker operators have already figured out a way to solve these problems. For example, the two leading online poker sites in the world are in fact already licensed and regulated and subject to strict oversight in their respective countries where they are licensed. Gambling commissions work hard to ensure that crime, fraud and cheating do not occur and to keep the players' interests, as well as those of the operators, in mind.

*Crime in the Suites is authored by the [Ifrah Law Firm](#), a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.*

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