

ALERTS AND UPDATES

New Jersey's Bill S-490 Permits Casinos to Offer Internet Wagering

February 11, 2011

In a boost to New Jersey's casino and tourism industries, the state has enacted three new laws, as well as Bill S-490, which is pending the governor's signature. Links to additional Alerts summarizing the other pieces of legislation follow this piece.

On January 10, 2011, both houses of the New Jersey Legislature passed and sent to Gov. Chris Christie a bill known as S-490, which would permit New Jersey casino licensees to offer Internet wagering to New Jersey residents. Initially, as passed by the state Senate, the bill provided that New Jersey casino licensees could accept Internet wagers from residents of New Jersey and from patrons outside of the United States. The General Assembly, however, amended this bill to remove the provision allowing wagers from outside the United States. The Senate concurred with this amendment, thus limiting the customer pool to New Jersey residents. Governor Christie has not yet acted on this bill.

Under S-490, the Casino Control Commission ("Commission")¹ will establish a division of Internet wagering that will be responsible for promulgating regulations to govern the conduct of Internet wagering, including the technical standards to be applied to all equipment and software to be used in Internet wagering. Casino licensees who wish to offer Internet wagering to patrons will need to apply to the Commission for an Internet wagering permit, which is subject to annual renewal. At a minimum, this application will need to establish the presence of appropriate internal controls over Internet wagering and the qualifications of all persons involved in the proposed Internet wagering operation. The licensee will also be required to establish that the operation itself will be housed in a secure area within the licensee's casino-hotel or in another secure location in Atlantic City.

The equipment and software to be used by the licensee in the conduct of Internet wagering must be submitted to and approved by the Division of Gaming Enforcement ("Division") and Commission. An analysis will be conducted to determine whether the equipment and software comply with the regulations to be established by the Commission. The Division is permitted to retain the services of a private laboratory to conduct testing (as long as that laboratory has a gaming-related casino service industry enterprise license).

Once the licensee is issued a permit and the equipment and software have been approved, a licensee may offer an Internet version of any game currently authorized by section 5 of the Casino Control Act, which includes poker, roulette, baccarat, blackjack, craps, big six wheel, slot machines, red dog, minibaccarat, pai gow, sic bo and any approved composite or variation of these games.

In order to participate in Internet wagering, a customer must establish an account with a casino licensee. In order to use the system, the patron must be a resident of, and physically located within, New Jersey. To establish an account, the account holder must establish his or her identity and residence in accordance with regulations to be adopted. Once established, a patron may fund an account by cash, check, money order, electronic transfer, debit card or credit card (subject to authentication procedures). Funds in the account are to be used to purchase "Internet chips" when an account holder begins a wagering session. Internet chips are used for wagering and are credited with wins and debited with losses. At the end of a playing session, any remaining Internet chips are converted back to the player's account balance.

For security purposes, casino licensees are required to provide secure login identifications and passwords to patrons to prevent unauthorized access of a patron's account. The licensee is also required to maintain a log that may be accessed electronically by the patron of all activity on the patron's account. A patron may withdraw funds from his or her account upon providing authorization to the casino licensee and proof of identification. The licensee must issue a check payable to the patron within three days of the perfection of the withdrawal request.

As part of problem gambling remediation, patrons may request to be excluded from the online wagering system, or may request an imposition of a time limit or maximum wagering limit on their accounts. In addition, any person on the already-existing self-exclusion list is prohibited from accessing the Internet wagering system (as is any person who would otherwise be prohibited from gaming in a physical casino, including minors). A licensee who violates the prohibition on minors accessing the system more than once is subject to Internet wagering permit revocation. A defense to such a violation may be established by the licensee if the licensee establishes that the underage person falsely

represented that they were over age 21 and that the establishment of an account by the licensee was done in good faith and in reasonable reliance upon the false representation.

The currently proposed tax structure is that 8 percent of Internet gaming gross revenue will be payable to the Casino Revenue Fund. In addition, the investment alternative payable to the Casino Reinvestment Development Authority (the "CRDA") is 15 percent, initially. This 15-percent investment alternative will be reduced to 5 percent of gross revenue, either one state fiscal year after sports wagering is effective in New Jersey, or five state fiscal years, whichever comes first. Internet gaming gross revenue will not be subject to the 8-percent general gross revenue tax already assessed on casino gaming gross revenue; *i.e.*, it is only subject to the 8-percent tax once. The legislation itself does nothing by way of actually attempting to implement sports betting.

Related Duane Morris Alerts

Besides Bill S-490, New Jersey has signed into law three bills concerning gaming and tourism. Duane Morris Alerts summarizing the other pieces of legislation are:

- [New Jersey's Bill S-11 Establishes the Atlantic City Tourism District](#)
- [New Jersey's Bill S-12 Redesigns the Regulatory System for the Gaming Industry](#)
- [New Jersey's Bill S-1866 Permits the Construction of "Boutique" Casinos](#)

For Further Information

If you have any questions about the information addressed in this *Alert*, please contact [Gilbert L. Brooks](#), who is a partner in Duane Morris' [Gaming Practice Group](#), or the attorney in the firm with whom you are regularly in contact.

Note

1. This bill does not take into consideration the enactment of the regulatory revisions bill, S-12, which was signed into law on February 1, 2011. It is reasonable to anticipate that, if signed, the Internet wagering legislation may see some changes to conform it to the new regulatory provisions of S-12.

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