



## Illinois Court Ruling Upholds State's New Video Gaming Act

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In a 7-0 decision, the Illinois Supreme Court recently upheld legislation that will allow video gaming in the state for the first time. Earlier this month, the court ruled in favor of the Illinois legislature's 2009 omnibus bill for funding capital projects that included the Video Gaming Act. The legislation had been challenged by Chicago Blackhawks owner and liquor distributor Rockwell Wirtz as violating the Illinois constitution's "single subject" clause — a constitutional provision intended to prevent logrolling, or the attachment of unpopular measures to popular legislation in order to get the unpopular measures passed.

Wirtz contended that the legislation's many facets — from raising taxes on candy and liquor, to establishing video gaming, to funding studies on public lotteries — were not sufficiently related to one another as required by the single subject rule. But taking note of the government's perspective that the omnibus bill's provisions were all tied to raising money for capital projects, Illinois' highest court held that there was a "natural and logical connection to the subject capital projects" and that "the subject may be as broad as the Legislature chooses."

The decision may have been the Illinois equivalent of *Wickard v. Filburn*, the 1942 Commerce Clause case in the U.S. Supreme Court — an interpretation of a constitutional provision so broad as to make the provision useless. But it will have the benefit of bringing video gaming into the state.

The Illinois Video Gaming Act will legalize video poker in Illinois at truck stops, bars and other venues permitting alcohol consumption. The new gaming market could become quite lucrative, as some project it may generate \$375 million to \$500 million a year in state taxes through its 30 percent tax rate on revenues.

Should the program bring in revenues at this level, the Illinois experience could be the catalyst for other cash-strapped states to legalize video poker. Nothing clears up legislative questions on the legality of gaming quite like budget deficits! But whatever inspires state legislators to move away from criminalizing gaming à la Prohibition, we'll take it.

There are issues with moving forward in Illinois, however. The Illinois Gaming Board, responsible for licensing the video poker terminals, has a long way to go before establishing the necessary regulatory system. It complains of being understaffed, overburdened, and unable to conduct the necessary checks in order to issue licenses. Many counties and municipalities have opted out of legalizing video gaming in their



districts, with Chicago and Cook County – comprising nearly half the state’s population – refusing to approve the machines.

These issues have not deflated the hopes of industry, though, with International Game Technology, Bally Technologies, WMS Industries and others gearing up to supply the new market.

Potential lessons learned for other states that may seek bring video poker within their borders: (1) ensure the agency charged with regulating the industry is ready, willing, and able to take on the task of overseeing implementation of video gaming and (2) be prepared to address local antipathy. For if red tape prevents the program from getting off the ground or if jurisdictions refuse to allow gaming terminals in their areas, this potential cash cow may not prove as big as it looks.

*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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