

## **Barton iPoker Bill 2011- Key Points About the Proposed iPoker Legislation**

### **Create a licensing regime for Internet poker.**

Under the bill, the U.S. Department of Commerce would issue regulations governing state programs for qualified bodies (state and tribal gaming commissions) to issue licenses for U.S. companies to accept Internet poker bets. Any company licensed by any state could accept Internet poker play from every participating state. It creates an Office of Internet Poker Oversight within Commerce to oversee state and tribal licensing programs. Commerce would set minimum standards for state and tribal licensing bodies, such as size, staffing, expertise, conflict of interest, etc.

### **Create an express prohibition on accepting Internet bets -- poker or otherwise -- without a license, with fines or prison or both. (It exempts operation outside of the U.S.)**

### **Provides for Commerce to approve states and tribes to issue licenses.**

States or tribes that developed licensing programs that comply with Commerce's regulations would be recognized to issue licenses. Certain states with the most history regulating the most gaming -- regulated more than 5% of total U.S. gaming for 3 of the previous 5 years (i.e. Nevada and New Jersey) would be immediately recognized as eligible to issue licenses; other states would have to apply.

### **Create specific standards for licensees.**

Licensees must be able to provide fair games, screen out minors, block players from non-participating states, prevent money laundering, ensure collection of taxes, etc. It creates standards for the licensing application (based on what is done in most states): applicants must provide a comprehensive plan for complying with the requirements of the licensing program, a full financial and criminal history of the applicant, and all senior executives and directors, etc. It creates a process for review of applications, denial of applications, appeal, etc. It requires a suitability review to ensure that persons are honest, have integrity and good character; do not have associations or habits that pose a threat; are capable of complying with regulatory program; have adequate business competence; have sufficient financial resources, and have fully disclosed all relevant information. Licensees would be required to keep their equipment essential for regulation in the United States. The cost of the licensing program would be paid for by assessments on applicants. It contains administrative provisions limiting challenges of findings of qualified body to state law and state court. It provides for disciplinary measures, including license revocation, against licensees that do not comply with the licensing program.

### **Initial limitations on licensees.**

For the first three years of the program, only current holders of state or tribal issued gaming or racing licenses who have substantial land-based gaming operations could be primary licensees - only race tracks, card rooms and casinos with a certain amount of gross handle or a certain number of slot machines could be licensees. Others, such as foreign companies, non-gaming companies and

small gaming operators, could be significant vendors to licensees, but could not be primary licensees for the first three years. Significant vendors would still have a suitability review and would have to receive a certificate of suitability. Any company who took play prior to enactment -- in addition to having to submit to U.S. jurisdiction for criminal law purposes -- would have to be licensed by Nevada or New Jersey, as these are viewed as the toughest regulators.

### **Problem gambling protections.**

Requires qualified bodies to develop a Compulsive Gaming, Responsible Gaming and Self-Exclusion program. Qualified bodies must require licensees to provide information to players about responsible gaming; to allow players to set individualized deposit or loss limits, and to block self-excluded persons. Commerce would create and maintain a list of self-excluded persons -- individuals who realize they have gambling problems and who wish to be prevented from playing poker on-line -- whom licensees would have to block. It provides limitations on liability for licensees with respect to such persons. It would allow any state court or agency responsible for enforcing child support to place parents who become delinquent in child support payments on the list of excluded persons. It prohibits licensees from accepting deposits via credit card, thus prohibiting players from playing on borrowed money.

### **Allows states to choose whether or not to participate.**

States that do not wish to have licensees accepting bets from individuals located within their borders may "opt out" of the federal program by having their governor notify the Secretary of Commerce. Thereafter, licensees would be prohibited from accepting bets from those states.

### **Enforcement.**

The bill requires FINCEN to create within 60 days of enactment a list of prohibited businesses and their agents, modeled on the OFAC list, to which U.S. financial institutions shall not transfer funds. The list would comprise illegal offshore Internet gambling operators. It provides a mechanism to contest inclusion on the list, including a hearing and determination process. It allows any affected party (sports leagues, family groups, etc.) to make a written request that a person or company be added to the list, and gives the Director 30 days to evaluate the request and either add them to the list, or notify the affected party that they are not added. (This provision is designed to allow third-parties to go on-line, see who is operating illegally, and bring it to FINCEN's attention.) It requires Treasury to issue regulations pursuant to this section.

### **International Trade Agreements.**

It requires USTR to conclude the process of withdrawing the U.S. gambling obligation under the General Agreement on Trade in Services, either by negotiation, or by arbitration.

### **Miscellaneous Provisions.**

Makes clear that licensees cannot accept Internet bets on sporting events or games other than poker. Does not allow so-called "poker parlors" where large number of terminals are grouped together. It creates an affirmative defense against prosecution under other federal laws where

activity is expressly authorized by this Act or the Interstate Horseracing Act. It makes it a crime to cheat at Internet poker or to create or distribute cheating devices. It makes clear that these provisions do not apply to Internet horse bets conducted pursuant to the IHA, and that such bets do not violate the Wire Act (18 U.S.C. 1084). It makes clear that existing games of skill that are not illegal under federal or state law are not prohibited by this Act. It requires the Secretary to submit several reports to Congress.