



## DC Attorney General Testifies That DC Online Gaming Law Does Not Violate Federal Law

June 30, 2011

The D.C. Council held a hearing on June 29, 2011, to discuss the implementation of a new law that is scheduled to go into full effect on Sept. 8, allowing legal online gaming within the D.C. city limits. This would make the District of Columbia the first jurisdiction in the United States to legalize online gaming for money. The hearing also marked the first time that a state Attorney General has publicly stated that a law legalizing purely intrastate gaming would be legal under federal law.

The law has a very quick implementation schedule with blackjack and Victory at Sea games going live in a free version on July 26. On August 23, the number of free games available on the site would be expanded to include Texas hold 'em, bingo, e-scratch games, and other random number games. Finally, on Sept. 8, the games will go live online for real money.

The games would be open to anyone over the age of 19 who registers on the site and is physically located in the District while playing. The physical location of the player would be verified by the government, which would only allow verified internet protocol (IP) addresses to log into the system. It is unclear at this point exactly what places would be on this verified list, D.C. Lottery Executive Director Buddy Roogow suggested in his hearing testimony that initial sites would include hotels, restaurants, and bars. Private residences would likely not be included. Individual players would be limited to depositing \$250 a week to play, through debit and not credit cards, and an individual can place himself on a self-exclude list.

D.C. Attorney General Irvin Nathan testified that in his opinion the law as passed would be legal under federal law if D.C. sticks to the plan of implementation. Nathan stated that there were three federal laws of potential concern here; the Unlawful Internet Gaming Enforcement Act, the Wire Act, and the Johnson Act, and that the law as currently written and if properly implemented would be legal. Nathan stressed that in order for the law to maintain its legality it would need to be restricted to people physically located in the city's 68 square miles.



Nathan noted that the U.S. Department of Justice has not issued any opinion yet on the law. Nathan emphasized that gambling is generally a matter of state law and that when federal legislation is passed it typically looks to the states to see if their laws ban gambling. Thus, if the District considers online gaming to be legal, federal law would not present an obstacle. It should also be noted that many of the difficult questions about what locations would not be allowed on the trusted sites list, such as libraries and recreation centers, are not answered by the law and will be addressed by the regulations.

D.C. Chief Financial Officer Natwar Gandhi testified that he believes the law would raise \$2 million in its first year, and \$13 million in revenue for the city in the first four fiscal years of operation, an estimate that Gandhi saw as conservative. Gandhi acknowledged that the estimates were generated by a single private company, H2 Gambling Capital Consultants, using data from European nations where online gaming was implemented nationwide. Gandhi's office acknowledged that it was unaware exactly where the private company got its data and how it calculated the estimate for D.C. The office estimated that there are roughly 600,000 online gamers in the D.C. region who could play in the District's games.

The platform for the gaming would be run by a Greek-based company, Intralot, that has experience running lotteries overseas. Councilmembers raised concerns that the company may lack the experience in running online gaming platforms limited to one jurisdiction. Under the contract, Intralot would pay all expenses related to developing the platform for the gaming and operating it, while the profits would be split evenly with the city.

Although this law represents a step forward toward bringing online gaming to consumers who want to play and represents the first time that a state attorney general has stated that intrastate online gaming is legal under federal law, the law in its current form may have too many restrictions to permit it to be truly successful for the city and enjoyable for the public. Individual players will be limited to \$13,000 in losses per year and only half of that would go to the city, with the other half going to the lottery operators. The cash limits were intended by the city council to attract casual gamers, but this may severely limit the ability of the law to generate revenue. It is unlikely that professional players would move to the District to play because of this law until higher limits are enacted. It remains to be seen if the games will have the popularity needed to be successful and generate revenue for the District.

*Crime in the Suites is authored by the [Ifrah Law Firm](http://www.ifrahlaw.com), 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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*The commentary and cases included in this blog are contributed by Jeff Ifrah and firm associates Rachel Hirsch, Jeff Hamlin, Steven Eichorn and Sarah Coffey. These posts are edited by Jeff Ifrah and Jonathan Groner, the former managing editor of the Legal Times. We look forward to hearing your thoughts and comments!*

