

Fresh hope for Pennsylvania as Bill passes Committee

A bill seeking to authorise and regulate online gambling in the US state of Pennsylvania has passed the Pennsylvania House Gaming Oversight Committee, prompting some commentators to speculate that Pennsylvania may be the next US state to realise legalised online gambling. Anthony R. Holtzman and Linda J. Shorey of K&L Gates take a look at this bill - HB 649 - and its various components.

Over the past two years, several internet gaming bills have been introduced, yet languished, in the Pennsylvania legislature. But recently, on 25 November 2015, a bill - HB 649 - that would authorise and regulate internet gaming activities was reported out of the Pennsylvania House Gaming Oversight Committee, approximately nine months after it was introduced. On the same day, it was given its first consideration before the full House.

HB 649 is a multi-faceted gaming bill that would not only facilitate an expansion of land-based gaming activities in Pennsylvania, but also add a chapter to the state's gaming statutes that would authorise licensed casino operators to operate gaming websites. The new chapter would comprehensively address internet gaming regulations, licensure, accounts, games, testing, taxes, and fees. This article addresses some of the key components of this proposed scheme, along with a section of HB 649 that calls for a fantasy sports study.

Role of the Gaming Control Board

Under HB 649, the Pennsylvania Gaming Control Board would be charged with regulating internet gaming activities in Pennsylvania. The Board, in particular, would be required to issue a wide variety of internet gaming regulations, including standards for testing and receiving approval for online games and gaming devices, setting wagering limits and payouts, calculating revenues, allowing wagerers to create and use online gaming accounts, conducting age, location, and identity verification activities, and collecting, reporting, and paying taxes and fees.

The Board would also issue licences to operate gaming websites and licences (or other

authorisations) for people to be employed by operators of gaming sites or supply them with certain internet gaming-related goods and services. And the Board would enforce the provisions in HB 649 and the regulations and licences that it issued by, for example, imposing administrative sanctions for violations of those authorities.

Internet gaming operations

Under HB 649, only Pennsylvania casinos that are licensed to conduct land-based gaming activities would be eligible for licences to operate gaming websites. As one of the conditions for licensure, a casino would need to agree that 'the number of slot machines and table games in operation at its licensed [land-based] facility [...] will not be reduced as a result of the authorization and commencement of Interactive gaming.' The term of the licence would be five years.

With the Board's approval, a casino that received an internet gaming licence could, by contract, authorise an online gaming company (including one of its affiliates) to operate its gaming site for it.

HB 649, in addition, would establish requirements for enabling wagerers to set up, fund, and make payments from online gaming accounts. Those requirements would include standards for collecting and confirming age, identity, residency, address, contact, and password information. People under the age of 21 would not be permitted to participate in internet gaming.

The bill would also establish that, in order to receive an internet gaming licence, a casino would need to obtain the Board's approval of its online gaming-related internal procedures and administrative and accounting controls, which would need to meet numerous consumer

protection and other criteria. The Board, moreover, would have 'absolute access' to the casino's 'interactive gaming skin, Internet website and platform, signal or transmission used in connection with interactive gaming.'

The Board would need to approve all of the online games that a casino was licensed to offer on its gaming site. The games that could be approved would include poker and casino games. The Board would 'establish, by regulation, technical standards for approval of interactive games and interactive gaming devices and associated equipment, including standards to govern mechanical, electrical or program reliability and security against tampering and threats.'

HB 649 would allow casinos with internet gaming licences to accept online wagers from people in Pennsylvania. They could also accept online wagers from 'a person who is not physically present in this Commonwealth' if the Board first determined that the arrangement did not violate federal law or the law of the jurisdiction where the wagerer was located and that the wagers were placed under a lawful 'gaming reciprocal agreement between the Commonwealth and another state or jurisdiction, including a foreign jurisdiction[.]'

HB 649 would outlaw 'Internet cafes,' which are described as establishments where computer terminals are advertised or made available primarily for use in accessing gaming websites.

Fees and taxes

Under HB 649, each casino that received an internet gaming licence would need to 'pay a one-time nonrefundable authorization fee in the amount of \$8,000,000.' The fee for renewing the licence (after its five year term) would be \$250,000.

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Separately, each online gaming company that received a licence to conduct internet gaming on a casino's behalf would need to pay 'a one-time nonrefundable authorization fee in the amount of \$2,000,000.' The licence-renewal fee, in that case, would be \$100,000.

As a licensed operator of a gaming website, a casino would need to pay a general 'tax of 14% of its daily gross interactive gaming revenue[.]' In addition, it would be required to pay a 'local share assessment,' in the amount of 2% of its daily gross interactive gaming revenue, 'to be used exclusively for grants to all counties in this Commonwealth, to economic development authorities or redevelopment authorities within each county, for grants for economic development projects, community improvement projects and other projects in the public interest.'

Fantasy sports study

HB 649 contains a section that would require the Board to create and submit to the legislature a report 'on the potential of fantasy sports as a gambling product in this Commonwealth.' The report would need to include, among other things, a definition of fantasy sports, a discussion of the structures of different fantasy sports offerings, an assessment of 'how regulating fantasy sport would fit into the Commonwealth's current gambling laws and policies,' and recommendations for legislative action.

Conclusion

As the first internet gaming-authorisation bill to be reported out of a Pennsylvania legislative committee, HB 649 is worthy of attention. An increasing number of Pennsylvania legislators believe

that authorising internet gaming activities will not only generate significant revenue to reduce the state's budget deficit (currently over \$1 billion), but also help to protect consumers from unscrupulous offshore suppliers of internet gaming opportunities. That said, the bill has just begun its journey through the legislative process. In order to become a law, it would need to be passed by a majority vote of both the House and Senate - each of which would have the opportunity to approve it with amendments, which, in turn, would need to be approved by the other - and then signed by the Governor. It is not possible, at this point, to predict whether HB 649 will proceed further in the process and, if so, how far it will go and whether and how it might be amended along the way.

Anthony R. Holtzman Partner
Linda J. Shorey Of Counsel
 K&L Gates, Harrisburg
 Anthony.Holtzman@klgates.com
 Linda.Shorey@klgates.com
