



Online Gaming on Path to Legalization in New Jersey

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It appears that New Jersey will very soon become the first state to legalize and regulate Internet gambling.

On January 10, 2011, the New Jersey State Assembly overwhelmingly passed an online gaming bill. This bill was passed by the state Senate, also overwhelmingly, late last year, and all that remains for the bill to become law is the expected signature of Governor Chris Christie. The bill would permit casinos in Atlantic City to offer online versions of their games to New Jersey residents.

Clearly, any move in the direction of legalization and regulation of online gaming is a good development. This reflects the ongoing change for the better in the public's attitude toward gaming and the great interest that exists in creating a safe, legal space for people to gamble online.

However, the purely intrastate nature of the bill gives us pause when it comes to online poker. Players will be limited in that they will be allowed to compete only against other players who are located in New Jersey. This is far from the ideal player experience, as it limits the level of competition and excitement that is available.

In addition, because of this restriction, the newly legal online poker sites might receive relatively little online traffic and might take a long time to build up a critical mass of players.

It appears that the state, in imposing this limitation, is trying to avoid a conflict with the federal government. The Justice Department continues to take the view that interstate gaming over the Internet is illegal. Gaming within the confines of a single state would be a state, not a federal, issue.



This may also be why the bill does not expressly prohibit foreign operators from offering online gaming to New Jersey residents. Rather, the bill was drafted in the permissive form:

It provides a mechanism by which the Atlantic City casinos may offer internet gaming, but it does not state that no one else may provide internet gaming to New Jersey residents. For example, the stated purpose of the act is that it “permits Internet wagering at Atlantic City casinos under certain circumstances,” but it does not mention any prohibition of foreign operators to offer online gaming in New Jersey. The procedures under the act provide a legal means to offer online gaming for the Atlantic City casinos, but the act does not state that any other form of online gaming is prohibited. Therefore, the status of online gaming for offshore operators in New Jersey is arguably no different than it was before the passage of this bill.

We will watch developments in New Jersey with great interest.

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