



## The Great Race: Legal Online Poker Advances in Nevada, Hawaii Legislatures

March 24, 2011

### Hearing Clarifies Issues in Nevada

The Nevada Assembly Committee on Judiciary met on March 24, 2011, to discuss AB 258, which would provide for the licensing and operation of Internet poker in Nevada for the first time.

Committee members were, not surprisingly, interested in the possible benefit or harm to Nevada's existing bricks-and-mortar gaming industry from the legislation – such as the possible creation of new jobs, or the loss of existing dealer jobs.

Supporters of the bill noted that Nevada is a longstanding leader in the gaming industry, that it has licensing authorities in place to regulate online poker operators, and that since some state will eventually legalize online poker, it would be best for Nevada to get out in front of the pack. Should Nevada be the first state to legalize online poker, the associated jobs and tax revenues would benefit Nevadans.

The Committee heard from supporters of the bill that online poker does not violate the federal Wire Act because it is not a wager and it is a game of skill, not chance. Notably, the proposed bill would not prohibit offshore operators who have already offered online poker to Nevada residents from applying for a gaming license. The reason is that Nevada wants to attract the offshore companies, who are now the major and most experienced participants in the industry.

The Committee was very concerned with the security of online gaming and especially with the potential for underage players obtaining access by providing their parents' identification. To help counteract those concerns, the Committee



heard testimony from a third-party security vendor. This vendor explained the nature of its security procedures. For instance, they verify the submitted information in tandem with database checks and other sources of identification. Interestingly, an applicant may even be required to use Skype to show a government-issued identification card. The vendor representative said he was not aware of even one instance in which an underage applicant was approved. The committee, however, remained somewhat skeptical on this issue.

The Nevada Resort Association testified in opposition to the bill for a number of reasons. It explained that the economic benefits of legalizing online poker would come partially at the cost of customers' visits to bricks-and-mortar casinos and of the ancillary revenue from the taxation of shows, restaurants, and the like. Further, it noted that the Department of Justice has clearly stated the view that online poker violates the Wire Act and that, although no one has been prosecuted, it has not retracted this position. The association noted that it agrees that the legalization of online poker is inevitable and that it does support the legalization of online poker on the federal level. However, it noted that action on the federal level would mean that the Wire Act would no longer be a concern.

At the end of the hearing, the bill's eventual fate remained uncertain.

## **New Bill Clears Two Committees in Hawaii**

Hawaii, one of the only two states without any legalized gambling at all, has become the latest state in which online poker has become a real legislative possibility.

On March 23, 2011, a bill proposing that poker be removed from the reach of the state's gambling statutes and recognized as a game of skill was approved by two committees of that state's legislature. The Economic Revitalization & Business Committee endorsed it on a 7-1 vote, and the House Judiciary Committee approved it 9-3.



The bill, SB 755, will now move to the House Finance Committee. In addition to legalizing online poker with certain restrictions, it's also designed as a way to increase tourist revenue by permitting "peer-to-peer" poker tournaments, in which participants play against each other rather than against the house. Only the Texas Hold'em and Omaha versions of poker would be permitted in these face-to-face games.

The restrictions for online poker are fairly onerous. Only two online poker operators would be allowed, and the minimum bid for one of those two franchises would be \$100 million, with a 20 percent tax on wagers.

John Pappas, executive director of the Poker Players Alliance, has expressed doubts about these provisions. In written testimony, he said, "The popularity of poker has made hosting live tournaments an attractive opportunity for many locales. But we are dubious about the efforts to 'regulate' Internet poker in the state."

While we agree that these restrictions are burdensome, we applaud the efforts in Nevada, Hawaii, and other states to redefine poker as a game of skill rather than a game of chance. Poker is first and foremost a game of strategy and one in which, in the long run, a better player will always defeat an inferior player.

*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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