

**Introduction.** The Nevada Gaming Commission (the “Commission”) and the State Gaming Control Board (the “Board”) on December 22, 2011, established the gaming control structure for the licensing and regulation of internet poker, completing a process that started in 2001.

In 2001, the Nevada Legislature amended the Nevada Gaming Control Act to provide for the licensing of “interactive gaming,”<sup>1</sup> which was defined to be the conduct of gaming through communication technology,<sup>2</sup> including the internet (the “2001 Interactive Gaming Legislation”).

However, before the Commission could adopt enabling regulations for the 2001 Interactive Gaming Legislation, the Commission had to find that, among other things, “interactive gaming can be operated in compliance with all applicable laws.”<sup>3</sup> The Board and the Commission engaged the U.S. Department of Justice on the question of the legality of interactive gaming under U.S. federal law. In August 2002, the U.S. Department of Justice, Criminal Division, issued a letter to the Board Chairman stating that the Department “believes that federal law prohibits gambling over the internet, including, casino-style gambling.” Given this position, the Commission was unable to make the necessary findings under the 2001 Interactive Gaming Legislation and the efforts in this regard ceased.

**Assembly Bill 258.** Ten years later, proponents of internet poker entered into the legislative process in Nevada, and the result was Assembly Bill 258 (2011). The 2001 Interactive Gaming Legislation, as amended by Assembly Bill 258 (collectively, the “Interactive Gaming Law”), establish a comprehensive framework for the regulation of interactive gaming by the Board and Commission. The Interactive Gaming Law specifically mandated that the Commission adopt

regulations to govern the licensing and operation of interactive gaming.

However, similar to the 2001 Interactive Gaming Legislation, the

Interactive Gaming Law provides that licenses to operate interstate interactive gaming do not become effective until U.S.

federal law authorizes such gaming or the U.S. Department of

Justice notifies the Board or Commission that such gaming is permissible under federal law. Absent either of such actions, interactive gaming could be operated only in Nevada on an in-state basis.

**Licensing Classifications.** The Interactive Gaming Law creates three licensing classifications: (a) operator of an interactive gaming system; (b) interactive gaming service provider; and (c) manufacturer of an interactive gaming system or equipment associated with an interactive gaming system. Only an entity licensed as an operator of an interactive gaming system may offer interactive gaming to the public. Those businesses that provide technology and other support to an operator must be licensed as an interactive gaming service provider and an entity that designs and develops an interactive gaming system or associated equipment must be licensed as a manufacturer.

**Operator.** There are certain requirements that must be satisfied before the Commission may grant an operator's license. For Clark County, Nevada (which includes Las Vegas), only licensed hotel casinos that meet the definition of a “resort hotel”<sup>4</sup> may be licensed as an operator of interactive gaming. For Washoe County, Nevada (which includes Reno), only licensed hotel casinos that have at least 120 rooms, 1 bar, 1 restaurant and gaming area of at least 18,000 square feet, with at least 1,600 slot machines, 40 table games and a race and sports book may be licensed as an operator of interactive gaming. Finally, for all other counties, only casinos that have held a nonrestricted



gaming license for at least 5 years (and meet other minimum requirements) may be licensed as an operator of an interactive gaming system.<sup>5</sup>

However, the Interactive Gaming Law provides that, notwithstanding these ‘bricks and mortar’ requirements, the “Commission may issue a license to operate interactive gaming to an applicant that meets any qualifications established by [U.S.] federal law regulating the licensure of interactive gaming.”<sup>6</sup>

**Service Provider.** An entity must be licensed as an interactive gaming system provider if it acts on behalf of a licensed operator and provides any of the following: “(1) manages, administers or controls wagers that are initiated, received or made on an interactive gaming system; (2) manages, administers or controls the games with which wagers that are initiated, received or made on an interactive gaming system are associated; (3) maintains or operates the software or hardware of an interactive gaming system; (4) provides the trademarks, trade names, service marks or similar intellectual property under which an establishment licensed to operate interactive gaming identifies its interactive gaming system to patrons; (5) provides information regarding persons to an establishment licensed to operate interactive gaming via a database or customer list; or (6) provides products, services, information or assets to an establishment licensed to operate interactive gaming and receives therefor a percentage of gaming revenue from the establishment’s interactive gaming system.”<sup>7</sup>

**Manufacturer.** Lastly, any manufacturer of an interactive gaming system must also be licensed by the Commission. A manufacturer is defined to include an

entity that: (a) manufactures, produces, designs, or maintains a copyright over the interactive gaming system; (b) directs, controls or assumes responsibility for, any method or process in item (a); or (c) assembles the interactive gaming system.<sup>8</sup> Also, any manufacturer of “associated equipment” that is used in the interactive gaming system must also be licensed by the Commission.

**Licensing Fees.** The initial licensing fee imposed upon an operator is US\$500,000 for the first two years and then US\$250,000 per year. A licensed internet gaming service provider is charged US\$1,000 for an initial fee and US\$1,000 for each annual renewal. A licensed manufacturer of an interactive gaming system is charged an initial fee of US\$125,000 for the first year and then US\$25,000 each year thereafter.

**Taxation.** All gross revenue earned by the operator of interactive gaming shall be taxed at the same rate as exists for a traditional casino, unless any federal law provides for a similar tax.

**Regulations.** The Commission adopted the enabling regulations (the “Regulations”) for the Interactive Gaming Law on December 22, 2011. The Regulations are a comprehensive set of requirements governing the operation of interactive gaming systems.

Even though there is no specific limitation in the Interactive Gaming Law, the Regulations provide interactive gaming will be limited to poker.<sup>9</sup>

The Regulations establish requirements for the internal controls, the detection and prevention of criminal activities, production of records, and house rules. In regards to patron accounts and funds, the Regulations address the requirements necessary to allow a person to open wagering accounts and play on the interactive gaming system and require an operator to establish reserves in the amount of all patron funds held by the operator. In regards to patron disputes, the operators may first use informal arbitration and then the Board's existing mechanism for addressing player patron disputes can be utilized.

Operators must establish self exclusion programs and programs for the detection and reporting of suspicious transactions and criminal activities.



Until there are U.S. federal laws authorizing interstate internet gaming, the operations must be limited to Nevada. The Regulations provide that an operator cannot accept wagers from patrons in jurisdictions other than Nevada unless U.S. federal law authorizes such or the U.S. Department of Justice notifies the Board or Commission that such is permissible. Assuming that either so occurs, then the operator must request administrative approval from the Board Chairman before offering interstate internet gaming.



**Accounting Standards.** The Board's Audit Division has finalized the new Minimum Internal Control Standards for interactive gaming. The Minimum Internal Control Standards establish accounting controls in such areas as physical access and maintenance controls, network security, remote access, systems parameters, structure of information technology department, user accounts, backup and recovery, recordkeeping, account transfers, registering players, protection of player accounts, contests/tournaments, required system reports and reporting, and accounting

and auditing standards. The Minimum Internal Control Standards can be found on the Board's website.<sup>10</sup>

**Technical Standards.** The Board's Technology Division has finalized the new Technical Standards for interactive gaming. The Technical Standards address requirements regarding, gaming accounts, game sessions, gaming systems, software, network security, record creation, game operation, documentation and required reports, equipment associated with interactive gaming systems. The Technical Standards can be found on the Board's website.<sup>11</sup>

**Conclusion.** As Commission Chairman Bernhard noted immediately prior to the Commission's adoption of the Regulations:

*I think that the industry itself is moving to recognize that this is a new day in the sense that this type of gaming has been something that there have been strong objections to from a philosophical standpoint, from a technology standpoint, but I think we're at the point now where we can implement that and be comfortable with it. We're addressing all of the issues that might come up in the best way possible based on our current knowledge base.*

And then, with the Commission's unanimous approval of the Regulations, Nevada is now poised to be the first State to offer legal and regulated Internet poker.

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<sup>1</sup> NRS 463.750 to NRS 463.780, inclusive.

<sup>2</sup> NRS 463.016425.

<sup>3</sup> NRS 463.750(2)(a).

<sup>4</sup> NRS 463.01865.

<sup>5</sup> NRS 463.750(3).

<sup>6</sup> NRS 463.750(5).

<sup>7</sup> Sec. 3(5) of Senate Bill 218 (2011).

<sup>8</sup> NRS 463.01715.

<sup>9</sup> NGC Reg. 5A.140. Poker is defined to be the traditional forms of non-banked player-to-player poker, plus any variations thereof approved by Board Chairman. NGC Reg. 5A.020(8)

<sup>10</sup> [http://www.gaming.nv.gov/internal\\_control\\_info.htm](http://www.gaming.nv.gov/internal_control_info.htm).

<sup>11</sup> [http://www.gaming.nv.gov/stats\\_regs\\_history.htm#tech\\_standards](http://www.gaming.nv.gov/stats_regs_history.htm#tech_standards).