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And They're Off... Two New eGaming Bills Introduced In California

The California Legislature has attempted to authorize Internet poker every year since the 2007-2008 legislative session, with 12 bills on the subject over the past seven years. We have also seen drafts from coalitions of tribes; tribes and card rooms; and tribes, card rooms, and technology providers that never made it into actual legislation. The bills have included concept bills (or language) and detailed proposals that included definitions of eligible licensees, fees, taxes, suitability, financial requirements, tribal sovereignty, and frameworks for government oversight often exceeding more than 70 pages each. It's one of the most complicated issues most lawmakers will ever face, and for good reason. There are potentially billions of dollars in play in California, not only from Internet poker, but in future forms of eGaming.

An early proponent of Internet gaming was former Senator Rod Wright (D-Los Angeles.) Wright was an intellectual type who was known to dive deep into policies such as gaming, energy, and any complicated issues faced by the state legislature. Wright traveled around the world studying operators of Internet gaming and speaking to regulators. Wright often spoke of the need for people to understand a future of gaming on devices not even imaginable in today's world. This vision of the future is the foundation of racing's opposition to any legislation that does not allow racing the same opportunities for new gaming that would be allowed for card rooms and casinos. And that future is here thanks largely to millennials hungry for games they can play on electronic devices.

Currently, the only legal form of wagering on the Internet is for a racing association, fair, or satellite facility to accept advance deposit wagers on live racing. This exclusivity was granted to racing in AB 471 by Assemblyman Robert Hertzberg in 2001 following the decline in racing due to the passage of Indian Gaming.

The demand for new gaming on mobile devices is on a rapid rise. The increasing demand creates new challenges for horse racing but also new opportunities.

In the final days of the 2015 Legislative Session, Assembly Governmental Organization Committee Chair Adam Gray (D-Merced) amended two bills to address the fast-growing popularity of two new forms of eGaming. AB 1437 will establish the Internet Fantasy Sports Games Consumer Protection Act, and AB 1441 will authorize the California Interactive Sports Wagering Consumer Protection Act—both addressing two of the fast-growing segments in the new world of eGames.

The 2006 federal Unlawful Internet Gaming Enforcement Act (UIGEA), according to many, "legalized" fantasy sports in all but five states. Supporters of the games such as DraftKings and FanDuel argue Daily Fantasy Sports (DFS) is a game of skill and therefore is not gambling. But on Oct. 15, the Nevada gaming regulators ordered DFS operators to stop serving Nevada customers based on an opinion by the Nevada Attorney General that determined DFS is gambling and ordered operators to obtain a Nevada Sports Gaming License before offering further play. DFS sites have also recently been accused of insider trading when one employee of DraftKings won \$350,000 on a FanDuel contest.

Consumer demand for fantasy sports is on an explosive growth orbit, with some experts predicting \$23 billion in wagers by 2020. California accepts DFS wagers as legal. However, Gray believes consumers need protections and the state needs to participate in the revenue generated from California players.

Sports wagering has also been the subject of proposed legislation in California in the past, authored by Senator Wright, which failed due to tribal opposition. The new bill still requires a change in federal law, which only allows sports wagering in four

states, but passage in California is gaining popularity. Former NBA Commissioners David Stern and Adam Silver now support federal legislation. It's estimated that illegal sports betting in the U.S. could reach \$400 billion a year. Others place the number at \$100 billion, with \$4 billion alone on the Super Bowl. Stern and others opposed the effort in 1991, and their support for current changes to allow states to regulate sports wagering is seen as a sea change.

Lastly, there is one other very significant development on the Internet poker front. In October, the New Jersey Division of Gambling Enforcement finally gave the green light to Amaya to offer Internet poker. The fight over the "bad actor" provisions in the I-poker bills have been squarely aimed at PokerStars, the worldwide titan in Internet gaming. Amaya purchased PokerStars last year in an effort to bring their games to the U.S.

Not only did New Jersey approve of the Amaya license, but regulators will allow them to offer play under the PokerStars and Full Tilt brands. There is little doubt the powerful operator will now focus on passage in California and invest heavily in resources to drive consumer demand, which may finally result in the passage of an I-poker bill. Racing has been very active in passing Internet poker along with Amaya, the San Manuel and Morongo tribal governments, and Bicycle, Commerce and Hawaiian Gardens casinos. We still face opposition to the inclusion of horse racing from some of California's wealthiest and most powerful tribes, but the law is on our side based on a 2014 Legislative Council Opinion in California.

Racing needs to study and invest in the games of the future. Card rooms and casinos see the opportunities and recognize the potential to create new fans, establish player loyalty, and cross-promote with their brick and mortar facilities. This is a race we can't afford to lose. **CTB**