



## Jurisdiction Profile: New Jersey

By Jeff Ifrah and Sarah Coffey

**A**lthough New Jersey's Internet gaming industry only opened for business in November 2013, its early impact has been significant. Casinos had online wins of nearly \$10 million as of the end of January 2014. Nearly one hundred online gaming-related companies and associated vendors have been granted licenses to operate in the state. The industry has shown such promise that lawmakers and operators are exploring the possibility of expanding to an international market.

It was not always clear that online gaming would be such a success in the state. In March 2011, New Jersey Governor Chris Christie vetoed the original Internet gaming bill approved by the state legislature. At the time, he expressed concern that online gaming throughout the state would further threaten the already-struggling Atlantic City casinos. He worried that even if those casinos were to



be the sole operators of the online industry, it would still harm the surrounding Atlantic City businesses which rely on in-person gamblers to generate commerce. What's more, he stated that the clear language of the state constitution limited gambling to Atlantic City and that allowing people to place bets statewide would be such a significant change in the law so as to require a referendum of the voters.

By the time a slightly modified bill reached his desk again in early 2013, Governor Christie had a change of heart. A number of significant events in the intervening years may have influenced this decision, including a U.S. Department of

Justice opinion released in December 2011 approving intrastate online gaming, and Nevada's subsequent entry into the market. Or perhaps it was simply the fact that, after so many years of declining gaming revenues, employees losing jobs and casinos filing for bankruptcy, it was time to try an out-of-the box solution to help a flagging industry. Governor Christie estimated that the online gaming industry could bring in \$150-\$160 million in revenue for the state in its first year—certainly a big incentive for any state trying to balance its budget without raising taxes. Whatever the reason, the governor issued conditional approval of the bill on February 5, 2013, subject to a few minor adjustments including higher licensing fees and an increase in the online gaming tax rate from 10% to 15%. The legislature quickly adopted the revisions, and the bill became law.

The New Jersey Division of Gaming Enforcement (DGE) spent the next three months crafting regulations within the framework laid out by the law. The regulations specifically addressed areas of con-

cern regarding the potential for abuse in Internet-based gaming, including identification, security, and problem gaming issues. The regulations provided for multi-source verification of identities to ensure that players registering for accounts are who they claim to be. These verification procedures require applicants to submit identifying information such as their name and address and complete verification tests drawn from third party sources (for instance, correctly identifying a car registered in their name). The applicant's identity is then cross-checked for age and gambling-exclusion listings before he is permitted to create an account. During game play, operators are required to prominently display clocks to let the player know the time and how long he has been playing. The operators must also display information about how players can seek help for problem gaming or place themselves on the self-exclusion list. To protect players from cheating, the regulations require operators to have the capability to automatically detect and report suspicious behavior such as collusion among players, and operators are required to keep gaming records for ten years.

Once the regulations were issued and the DGE began accepting applications, it was inundated with submissions seeking approval to operate in the state. The biggest names in online gaming sought out exclusive partnerships with the casinos. A variety of related vendors including payment processors, geo-location providers, and identity verification services applied for licenses to operate in the state. This influx of companies seeking to do business in New Jersey was a positive sign for the industry's prospects.

The initial test of New Jersey online gaming came during the "soft launch" week in late November 2013, during which the systems were open for limited periods to limited numbers of people. This period allowed the casinos and the regulators to test the systems from top to bottom in a real time, real player environment. Geolo-

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cation capabilities were tested as out-of-state players tried (without success) to log on to the games. The casinos tested their gaming systems for glitches and problems in play. One casino, the Golden Nugget, found during this period that it was not prepared to launch a poker product that met its standards. Six other casinos, however, were approved at the end of the soft launch period and went live in earnest on November 26, 2013.

Since the launch, online business has grown steadily—a promising start in a state in which land-based casino revenues have been dropping for seven straight years. Fifty-one thousand online gaming accounts were opened in the first two weeks of registration. While this number does not strictly mean that 51,000 individuals opened accounts (since players must open a different account with each operator), the figure certainly reflects the fact that many people had been eagerly awaiting the start of legalized Internet gambling and took the first opportunity to get involved. By the end of January this year, 197,782 accounts had been opened in New Jersey. Online gaming winnings have also risen as additional accounts are opened. In the first full month of online gaming, December 2013, there were \$7.4 million in initial Internet gaming revenues. In January 2014, the monthly revenue rose to \$9.5 million, with \$1.4 million in tax revenue for the state.

This revenue is not evenly distributed among the casinos. Rather, the popularity of the casinos' Internet gaming websites roughly corresponds to the popularity of their brick and mortar offerings. For instance, the Borgata led the pack in both casino and online wins for an individual casino in January, bringing in \$48 million and nearly \$4 million, respectively. The Caesars brands (Harrah's, Caesar's, Bally's, and Showboat) had a combined total of approximately \$69 million in casino wins in January, plus \$3 million in online revenues. The four remaining online brands each brought in less than \$1 million in online wins in January. The Golden Nugget brought in the least revenue, with only \$286,922 in wins. Perhaps not coincidentally, the Golden Nugget is one of only two online casinos which have not yet launched a real-money poker product after experiencing numerous glitches during the soft launch.

To date, the new revenue source of online gaming has not been sufficient to stem the downturn in overall gaming in New Jersey. Total gaming wins (casino and online) in January 2014 were \$195.7 million, as compared to \$205.2 million in casino wins alone in January 2013. Still, there is reason to believe that the potential of online gaming in the state has not yet been fully realized. Polls have shown that New Jersey residents had little to no awareness of online gaming when it first went live in November. However, now that it has gotten off the ground, casinos are increasing their publicity campaigns, and awareness is growing. A major hurdle in the success of Internet gaming in New Jersey has been the difficulty some customers have had in depositing money into their online accounts. Credit card companies have been somewhat reluctant to process online gaming transactions since the legality of the transactions is state-dependent. Visa especially has refused to process most requested online gaming transactions in New Jersey, citing

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the uncertain legal landscape of online gaming transactions generally. MasterCard, on the other hand, has been processing transactions with regularity.

New Jersey lawmakers are already planning ways to increase credit card authorizations and expand the online player pool to maximize the potential of New Jersey's online gaming business. State Senators Raymond Lesniak and Jim Whelan—driving forces behind online gaming legalization in New Jersey—have proposed a follow-up bill which would require payment processors to be licensed and allow New Jersey gaming operators to enter into reciprocal agreements with other countries in which online gaming is legal. The payment processor piece of the legislation would require entities processing gaming payments to undergo corporate and personal background checks in order to receive a license to operate in New Jersey. This is meant to persuade credit card companies that these transactions are legitimate and encourage them

to process the payments. The part of the bill addressing international agreements is designed to give New Jersey operators access to a much larger market and give players the benefit of an increased player pool. The size of the player pool is especially important in poker, in which players play against each other rather than the house. International participation would mean that more players would be online at all hours of the day, resulting in less wait time and a wider variety of levels of play.

The bill, proposed in January, has taken on extra urgency since Nevada and Delaware—the first two states to legalize online gaming—entered into such a multistate Internet gaming agreement on February 25, 2014. That currently leaves New Jersey as the only state with legal online gaming which is not party to an agreement with another jurisdiction. If New Jersey does not start forming agreements of its own soon, it will be left either to operate solely intrastate, or to belatedly enter into pre-existing agreements in

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which it cannot control the terms.

Online gaming is currently lagging behind the state's initial projections of a \$1 billion per year industry. The state recently revised its forecasted online gaming tax revenue from \$160 million down to \$35 million for the first year. However, the steady increase in business and prospects of future expansion indicate a bright future for online gaming in the state. The critical next step will be for New Jersey to enter into multi-jurisdictional agreements to maximize its player base. Through cross marketing, the online casinos may even be able to increase patronage to their land-based locations by offering tournament qualifications and other incentives online. Rather than being a threat to Atlantic City casinos, as Governor Christie originally feared, online gaming could be their saving grace. ♣

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