THE MOMENTOUS LAW FOR US POKER

The nation’s Capital becomes the first jurisdiction to approve online gaming

April 7, 2011, saw a historic moment in gaming as the District of Columbia became the first American jurisdiction to enact a law that allows online poker wagering. The amendment, called the ‘Lottery Modernization Act of 2010’, was introduced, was quickly added into a larger budget bill passed by the DC Council in December 2010. As with all municipal laws for the nation’s capital, it was officially enacted only after passing through Congress.

This amendment changes prior DC gaming law by redrafting the term ‘lottery’ to include not only games of chance but also games of skill, such as poker. Since inception in the District are operated by the DC Lottery and Charitable Games Control Board, this law legalizes only online poker operated by the DC Lottery, and does not make it legal for other American poker operators to offer online gaming in the district. The law does not change the legal status of offshore operators which currently offer poker within the district—if it was legal for them in the past, it remains legal now. While additional steps must be taken by the DC government to actually implement online poker play, this is a promising first step that opens the door for other states, as well as the federal government, to follow suit in legalising online poker.

Revenue generation

The law was implemented to generate revenue in a city with a projected budget deficit of nearly $200 million. Some have questioned how much money this venture can realistically bring in, considering that players must be physically located in the District of Columbia in order to play and DC has only 640,000 residents. The city is counting on the over 40 million citizens it attracts annually to boost the playing pool, and projects that online poker will add $13 million to the city in the first four years it is offered. This projection by the city’s Office of the Chief Financial Officer is a conservative estimate, and real returns could be significantly higher.

In preparation for offering online poker, the DC Council has already signed a $38 million contract with US-based gaming giant Intralot to provide new, state-of-the-art lottery systems in order to bolster its traditional and online lottery offerings. Intralot gained the contract after years of political wrangling as the results of the DC Council’s insistence that Intralot enter with a local partner to administer the DC Lottery. The resulting joint venture with Westmore Services Corporation called DCPoker has faced criticism after it was revealed that VSC had failed its prior experiences and appears to have no relevant experience or capabilities to administer a lottery system. Indeed, the DC Lottery system was plagued with delays and malfunctions when DCPoker began administering the system in November 2010. At least part of this was attributed to DCPoker's use of 4G wireless to service terminals rather than the Internet-based communication system Intralot had originally promised.

Challenges and obstacles

While Intralot has formally presented a technical implementation plan for offering online poker, there will be a number of technical hurdles to overcome when it is done. Since the law requires players be physically located within the district, Intralot will need to develop and implement a system capable of determining a person’s physical location through an Internet Protocol (IP) address, the technology of which is not always available at the city and state level.

Regardless of when the DC Lottery begins offering online poker, it is momentous that a US jurisdiction now has a law on the books that authorises online poker.

In addition to the technical challenges, there are additional legal obstacles to overcome before Intralot launches the new DC Lottery poker website. The new law provides only the basic enabling legislation that authorizes the DC Lottery to offer online poker. The DC municipal government must in turn, establish regulations concerning the exact terms of play to ensure that all potential offerings comply with appropriate federal laws. Other DC regulations that refer to a lottery as a game of chance must be amended to conform to the new definition of lottery. Regulations regarding the administration of online gaming must be drafted and pass through a public comment period. Finally, the DC Lottery will have to decide which online games to introduce, and work with approved lottery contractors in order to implement the games.

Removal

It remains possible that the federal government will intervene in DC’s move to push through these policy decisions and begin offering online poker. While the Department of Justice has consistently objected to the legality of online poker in general, the federal government has historically chosen not to interfere in state-run lotteries, for instance in the DFS's Eryxion Gambling site’s conduct of Lottos.

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