

# Online gambling fight now about when, who -- not if

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(AP) -- The fight to fully legalize online gambling in the U.S. is now less about whether Americans will be able to play and more about who will bring the action to them - and when.

A recent U.S. Justice Department opinion opened the door for cash-strapped states and their lotteries to bring online [gambling](#) to their residents, as long as it does not involve sports betting.

The DOJ memo also enflamed a battle within the industry over how to legalize online gambling that once generated an estimated \$6 billion yearly just from poker: Should each state have its own system, or should there be a nationwide law?

While the opinion sent gambling stocks rising, many players who've been shut out from top [online poker sites](#) since April just want games to restart and don't care who profits.

"I don't like this legal limbo. Is it legal, or is it illegal?" said writer Brian Boyko, who plays poker as a hobby.

Boyko of Austin, Texas, has been using a small offshore site since executives and others at PokerStars, Full Tilt Poker and Absolute Poker were accused of illegally getting banks to process gambling funds.

Most of the U.S. games disappeared after the indictments.

One [lawmaker](#) in New Jersey is pushing to make online gambling legal, citing the DOJ memo. State Sen. Raymond Lesniak said he'll try to get a bill to Gov. Chris Christie's desk by next week.

"We can be the [Silicon Valley](#) of [Internet gaming](#)," he said. "It's the wave of the future."

Online poker boomed in the U.S. over the last decade, but a 2006 law made it illegal to run most online gambling businesses by forbidding [financial institutions](#) from processing transactions related to illegal online gambling.

The law, however, didn't clearly specify what kinds of gambling were illegal.

Some forms of gambling, like fantasy sports and horse racing, got explicit carve-outs, while many poker games kept going online as some operators got differing legal opinions about whether the Wire Act of 1961 applied to them.

Since then, poker proponents have argued that the game is different from other casino games like blackjack or slots because it involves significantly more skill.

Even casino companies - which make far more money from luck-based games than poker - began pushing for poker-only legislation under the assumption that poker regulations would be easier for lawmakers to stomach than other games.

Meanwhile, New York and Illinois officials asked the DOJ in 2010 whether the Wire Act or the 2006 law prevented them from selling lottery tickets online to adults within their states.

Last week, the DOJ answered: The Wire Act only prevents players from wagering on sports outcomes - other bets are OK.

The commercial casino industry's top lobbying group in Washington, D.C., believes the DOJ's interpretation of the Wire Act was correct, but added more confusion than solutions.

"There's probably some staffers at work on (Capitol Hill) now taking a real hard look at this as they figure to bring some sanity," said Frank Fahrenkopf, chief executive of the American Gaming Association.

Fahrenkopf said his group will keep pushing Congress for online poker legislation that establishes baseline rules for Internet poker operators.

Within the gambling world - which includes lotteries, private and publicly-traded companies, American Indian tribes, software manufacturers, offshore sites and others - there are differing visions for ideal online gambling laws.

Mark Hichar, an outside lawyer for the company that runs the Texas lottery, said the memo removes uncertainty and will prompt lotteries to begin running as many different kinds of games as are allowable under state laws.

"This helps lotteries, which are ... determined to remain relevant and to attract a new generation of players," said Hichar, who represents Rhode Island-based GTECH Corp.

Lotteries have generally opposed federal legislation, pushing for states to retain control of gambling laws.

I. Nelson Rose, a gambling law expert, said the opinion's timing and deference to states could mean trouble for commercial casinos that want

an inside track on running licensed online gambling.

"They're going to have problems because when the states legalize, their natural inclination is to give it to the locals," said Rose, who regularly writes about online gambling developments at his blog, Gambling and The Law.

And that, he said, is the big question: Who's going to get the license?

"If you're a Nevada casino operator, you don't want to be competing in more than 50 separate jurisdictions against connected, politically powerful operators," Rose said.

Rose said new federal laws are a longshot in 2012, while states could choose to enter into compacts with other states to pool players, making games more lucrative.

U.S. lotteries could emulate counterparts in Canada that run limited online gambling sites in the provinces, he said.

Recreational player Mark Gorman of Austin, Texas, said he's skeptical, because different DOJ officials under a future president could change their opinion, forcing lawmakers to start over again.

"I wasn't terribly excited that this would change the landscape," Gorman said.

In Nevada, where gambling regulators adopted online poker regulations the day before the DOJ opinion, it's not clear whether casinos will try to let gamblers wager on more than just poker online.

Michael Gaughan, owner of the South Point casino in Las Vegas, said his lawyers are looking at how the opinion has changed legal situation as

he tries to become the first Nevada casino operator to run legal online poker in the state.

"I don't know what happens," Gaughan said. "This opens up a whole can of worms, now."

He said he'll wait for their analysis before deciding whether to ask Nevada regulators to expand his plans.

Poker may be a baby step, legalized before other games as states argue that gambling creates jobs, said Alexander Ripps, a legal analyst in Washington for independent gambling market analysis firm Gambling Compliance.

"I think you're going to see it coming down to what to they think can get through," Ripps said. "Once you're in with one thing, then, in theory, down the line you can always get something else in."

Meanwhile, Boyko said, he just wants to be able to trust his money online while the game.

"All I want is a safe place to play [poker](#)," he said.

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