



Online gambling could face constitutional questions in Ohio

[Thomas Ott, The Plain Dealer](#) By [Thomas Ott, The Plain Dealer](#)

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CLEVELAND, Ohio -- Dan Gilbert is positioned to be a player in the emerging Internet gambling market, but a state constitutional amendment that he championed might make it hard for him to capitalize on the trend in Ohio.

The [unique 2009 amendment](#) physically restricts casino gambling to parcels occupied by Gilbert's Horseshoe casinos in Cleveland and Cincinnati and the Hollywood casinos that Penn National Gaming operates in Columbus and Toledo.

Matthew Schuler, executive director of the [Ohio Casino Control Commission](#), goes to conferences and hears regulators from other states openly wonder whether the amendment would prohibit online betting. Christy Prince, an attorney who practices gaming law for the Columbus firm of Kegler Brown Hill & Ritter, said those observers have grounds for speculation.

"It says casino gaming can take place in the following four locations," she said "If I want to go home tonight and play poker . . . there's an argument that I can't go and play it on my computer."

Ohio could employ a bit of "legal fiction" to comply with the constitution, said I. Nelson Rose, a professor at Whittier Law School in California and author of ["Gambling and the Law."](#) An example is in New Jersey, where the legislature's plan for online gambling will use placement of the computer servers in Atlantic City to meet the constitutional dictate that casinos be located there.

"It's not a guarantee it would work; it has worked in other states," said Rose, who included off-track betting parlors in his reference. "I don't even know if there's been a lot of court cases."

Prince and Rose said Ohio could put games under the supervision of the state lottery, just as it did with the video lottery terminals, devices that function like slot machines, [that are being installed at horse tracks](#). The lottery could, in turn, contract with the casinos for help, but spokeswoman Danielle Frizzi-Babb said the agency has no "active plans" for Internet gaming.

Online gambling is the next frontier for an industry whose nationwide expansion has caused interstate turf battles and raised questions about saturation.

An opinion that the Justice Department issued in 2011 allowed states to legalize Internet gambling within their borders. Station Casinos' Ultimate Gaming subsidiary launched an online poker site -- the first in the country taking real money -- in Nevada on April 30. Players have to create accounts, verify their ages and identities and have their locations confirmed electronically by the site's operators.

Caesars Entertainment, manager and part-owner of the Ohio Horseshoes, plans to start another Nevada poker site later this year.

Industry leaders have called for federal regulation to ensure uniform standards. U.S. Rep. Peter King, a New York Republican, [introduced a bill Thursday](#) that would cover states unless they opt out. States that have systems in place would be exempt.

New Jersey and Delaware have authorized Internet betting on a variety of games, and other states, including Pennsylvania, are considering getting in, too. For now, Ohio's interest appears latent, but Kim Arnold, chief operating officer of the Innovation Group, a gaming consulting firm, thinks that could change if neighboring states warm to the idea.

"You're right in the heart of a very competitive market," said Arnold, who also leads the company's "iGaming" practice. "I don't know how Ohio could not be considering it."

The potential is not lost on Gilbert, who holds a stake in Caesars' online unit.

Rock Gaming also is competing for the rights to use .casino as an Internet domain for online gaming and related purposes, which could net licensing fees from providers around the world that want the identifier. The Internet Corporation for Assigned Names and Numbers, a global governing body, could make a decision later this year, said Tom Embrescia of Second Genistry, a Cleveland company that is assisting Gilbert.

"It was really being opportunistic," Rock Gaming spokeswoman Jennifer Kulczycki said of the filing. "It's kind of like bidding for a piece of property you know will be valuable at some point in the future."

States may see online gambling as a way to beef up their bricks-and-mortar casinos' bottom lines while also bringing in more gaming taxes. Casinos hope to capture gamblers who shun their venues or travel out of state to wager. If nothing else, operators can get more names for marketing databases, just as they do now with legal free-play websites.

[A survey released this year](#) by the Innovation Group found that a majority of the tribal and commercial-casino operators who responded were exploring on-line gambling. The operators did not view Internet gambling as a significant source of revenue but worried about remaining competitive and wanted to expand their marketing reach.

David Schwartz, director of the [Center for Gaming Research](#) at the University of Nevada, Las Vegas, downplayed the possibility that online gaming cannibalizes revenue at bricks-and-mortar casinos. He said the Internet alternative could reach coveted younger players who would prefer to wager on their smartphones and other mobile devices.

"I don't think it's going to replicate the casino," said Schwartz. "People who like that experience, who like to go to the buffet, aren't going to suddenly decide, 'I'm only going to play online.' "

Prince, the gaming attorney from Columbus, said she doesn't expect swift action in Ohio, a state that resisted gaming for years and joined the movement only after operators forced the question.

She predicted that officials will first determine whether the state is overloaded from four casinos and seven so-called racinos, five of which are still under development. She said leaders also will have to muster the political appetite for more gambling.

"I don't think it's a foregone conclusion that we'll have iGaming in Ohio," Prince said. At the very least, she predicted the state is not "going to be a pioneer in the field."

The Ohio Roundtable [challenged the installation of video lottery terminals](#) at racetracks, saying the state's approval violated the constitutional amendment. Courts ruled that the anti-gambling group was not directly affected and, thus, lacked grounds to sue.

Vice President Rob Walgate said the Roundtable is ready for another fight if an online-wagering proposal surfaces. He believes that voters, disappointed by casino revenue results, will say no if the question goes to the ballot.

"I think Ohioans will be reluctant to jump in again and fall for another scam like they did the last time," he said.

Legislation introduced last month in the Pennsylvania House of Representatives would allow online gamblers to play any game available in the state's casinos. Providers would pay a \$5 million license fee. Gamblers would have open accounts in person at a casino to make sure they are of legal age and have not been banned from wagering in the state.

But Rep. Tina Pickett, who chairs a committee heading the legislation, does not expect the bill to move before a two-year session expires at the end of next year.

The northeast Pennsylvania Republican said legislators want to help the state's 11 casinos -- 12 when the Lady Luck Casino Nemacolin opens July 1 southeast of Pittsburgh -- but will wait to see how the properties are affected by Internet gambling in New Jersey. She is concerned about making gambling too accessible.

"Are we bringing gambling to everyone's kitchen table?" she said. "Is that what we want to do?"

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