

SENATE, No. 1013

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED FEBRUARY 9, 2004

Sponsored by:
Senator RICHARD J. CODEY
District 27 (Essex)

SYNOPSIS

Clarifies definition of illegal gambling to address Internet gambling; voids credit card debt incurred through illegal gambling; authorizes State to recover illegal gambling losses.

CURRENT VERSION OF TEXT

As introduced.



S1013 CODEY

2

1 **AN ACT** concerning Internet gambling and other forms of illegal
2 gambling, amending Title 2A of the New Jersey Statutes and
3 repealing N.J.S.2A:40-2 and N.J.S.2A40-6.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. The Legislature finds and declares:

9 a. It is the public policy of this State to permit only those forms of
10 gambling which are authorized by the New Jersey Constitution and
11 duly enacted laws of this State. Concomitantly, forms of gambling
12 which are not so authorized are contrary to the public policy of the
13 State.

14 b. These constitutional and statutory limitations enable the State to
15 regulate gambling, in order to promote the fairness of gaming activities
16 and to ensure the integrity and financial accountability of industry
17 participants. These protections have been designed and implemented
18 to protect New Jersey consumers and to minimize or avoid adverse
19 societal consequences which are often associated with unregulated or
20 unlawful gambling

21 c. Developments in communications technology, particularly the
22 Internet, have enabled operators to conduct unauthorized gambling
23 activities, including gambling transacted with individuals located
24 within New Jersey by means of the Internet or other medium of
25 communication, in contravention of the laws and public policy of this
26 State. Unauthorized gambling operators make casino gambling and
27 sports betting potentially available to anyone in this State with access
28 to a personal computer.

29 d. Unauthorized Internet gambling activities implicate a wide range
30 of consumer and public safety concerns, such as the integrity and
31 financial resources of the operators, the fairness of the games and the
32 possibility of tampering by operators or hackers, the lack of effective
33 consumer dispute resolution procedures, the facilitation of underage
34 gambling, the expansion of problem gambling, and the potential for
35 enhanced criminal activity and increased vulnerability to money
36 laundering.

37 e. A primary means of funding unauthorized Internet gambling is
38 through the use of credit card transactions. The Legislature believes
39 that rendering these transactions void and unenforceable will have the
40 salutary effect of reducing the targeting of New Jersey consumers by
41 unauthorized gambling operators and curtailing the participation of
42 State residents in these unlawful, unregulated transactions.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

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1 2. N.J.S.2A:40-1 is amended to read as follows:

2 2A:40-1. [All] Except as authorized under the laws and the
3 Constitution of this State, all wagers, bets or stakes made to depend
4 upon any race or game, or upon any gaming by lot or chance, or upon
5 any lot, chance, casualty or unknown or contingent event, shall be
6 unlawful. This section shall apply to any wager, bet or stake made if
7 any party to the transaction is present in this State when the
8 transaction occurs, regardless of the location of any other party to the
9 transaction, and without regard to whether the transaction is
10 conducted in person or through a medium of communication, including
11 but not limited to mail, telephone, television, telegraph, facsimile,
12 cable, wire, satellite, the Internet, wireless network, or other medium
13 of communication.

14 (cf: N.J.S.2A:40-1)

15

16 3. N.J.S.2A:40-3 is amended to read as follows:

17 2A:40-3. a. All promises, agreements, notes, bills, bonds,
18 contracts, judgments, mortgages, leases or other securities or
19 conveyances which shall be made, given, entered into or executed by
20 any person, the whole or part of the consideration of which is for any
21 money, property or thing in action whatsoever laid, won or bet in
22 violation of [section] N.J.S.2A:40-1 [of this title], or for reimbursing
23 or repaying any money knowingly lent or advanced to help or facilitate
24 such violation, shall be [utterly] void and [of no effect]
25 unenforceable.

26 b. A credit card transaction shall be void and unenforceable against
27 the obligor if the creditor knew or should have known at the time the
28 transaction occurred that the credit card was an instrument used in the
29 commission of a transaction in violation of N.J.S.2A:40-1.

30 c. For the purpose of subsection b. of this section, there shall be a
31 rebuttable presumption that a creditor has actual or constructive
32 knowledge that the credit card was an instrument used in the
33 commission of a transaction in violation of N.J.S.2A:40-1 if one or
34 more parties to the credit card transaction are engaged directly or
35 indirectly in gambling using the Internet or any other medium of
36 communication set forth in N.J.S.2A:40-1.

37 (cf: N.J.S.2A:40-3)

38

39 4. N.J.S.2A:40-5 is amended to read as follows:

40 2A:40-5. If any person shall lose any money, goods, chattels or
41 other valuable thing, in violation of [section] N.J.S.2A:40-1 [of this
42 title], and shall pay or deliver the same or any part thereof to the
43 winner, or to any person to his use, [or to a stakeholder, such
44 person] the State may [sue] bring suit for and recover such money,
45 or the value of such goods, chattels, or other valuable thing, with
46 costs of suit, from such winner, or from such depository, [or from

1 such stakeholder, whether the same has been delivered or paid over
2 by such stakeholder or not,] in a civil action provided such action is
3 brought within [6] 12 calendar months after payment or delivery.
4 Nothing in this section shall preclude recovery of losses as may be
5 effected under subsection b. of N.J.S.2A:40-3.
6 (cf: N.J.S.2A:40-5)

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8 5. N.J.S.2A:40-2 and N.J.S.2A:40-6 are repealed.

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10 6. This act shall take effect immediately.

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13 STATEMENT

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15 This bill regulates Internet gambling and other forms of illegal
16 gambling in New Jersey by blocking the flow of money from in-State
17 bettors to illegal gambling operators. For the purposes of this bill,
18 gambling takes place in New Jersey if any party to the transaction is
19 within the State when the transaction occurs, regardless of the location
20 of any other parties to the transaction. Additionally, this bill makes
21 explicit that with regard to an Internet gambling transaction or other
22 gambling transaction that is illegal in this State, a judgment against a
23 New Jersey bettor obtained in a jurisdiction in which such gambling
24 transactions are legal will be unenforceable against the New Jersey
25 bettor. The bill establishes a rebuttable presumption that credit card
26 companies have actual or constructive knowledge that a party
27 accepting its card is engaged in Internet gambling or another type of
28 remote gambling that is illegal in New Jersey if one or more parties to
29 the credit card transaction are engaged directly or indirectly in that
30 type of gambling. The bill also establishes that only the State may sue
31 to recover illegal gambling losses. Under current law the person who
32 incurs the illegal gambling losses has a right to sue to recover the
33 losses for a period of six months, and any other person can sue to
34 recover the illegal gambling losses for a six month period after the
35 original six month period has expired.

36 Finally, the bill repeals N.J.S.2A:40-2 and N.J.S.2A:40-6.
37 N.J.S.2A:40-2 establishes the liability of a "stakeholder" to be sued for
38 the recovery of illegal gambling losses held by the stakeholder. This
39 is an antiquated concept that has not been applied in over a century.
40 N.J.S.2A:40-6 establishes the right of a person other than the person
41 who lost money through illegal gambling to recover illegal gambling
42 losses for a certain period of time. The right of anyone other than the
43 State to bring suit to recover losses is eliminated under the bill,
44 rendering this section irrelevant.