

NATIONAL COUNCIL OF LEGISLATORS FROM GAMING STATES
COMMITTEE ON PARI-MUTUELS
SCOTTSDALE, ARIZONA
FRIDAY, JANUARY 4, 2008
MINUTES

The Committee on Pari-Mutuels of the National Council of Legislators from Gaming States (NCLGS) met at the Hotel Valley Ho in Scottsdale, Arizona, on Friday, January 4, 2008, at 1:15 p.m.

Representative Vincent Lofink from Delaware, Chair of the Committee, presided.

Other members of the Committee present were:

- Rep. James Buskey, AL
- Sen. Tom Harman, CA
- Rep. Kevin Ryan, CT
- Rep. Bill Oberle, DE
- Rep. Pamela Thornburg, DE
- Sen. Steven Geller, FL
- Sen. Richard Lerblance, OK
- Rep. Christopher Sainato, PA

Other legislators present were:

- Rep. Sue Schmitz, AL
- Rep. H. Mac Gipson, AL
- Rep. Kevin Jeffries, CA
- Rep. Joe Gibbons, FL
- Sen. Pete Brungardt, KS
- Rep. Arlen Siegfried, KS
- Rep. Joni Jenkins, KY
- Rep. Darryl Owens, KY
- Rep. Ruth Ann Palumbo, KY
- Rep. Harry Kennedy, MO
- Rep. Harold James, PA

Others present were:

- Susan Nolan, Nolan Associates, NCLGS Executive Director
- Nicholas Brozean, Nolan Associates, NCLGS Assistant Legislative Coordinator

MINUTES

The Committee voted unanimously to accept, as submitted, the minutes of its June 8, 2007, meeting in Las Vegas, Nevada.

INTERNET GAMING: AN OVERVIEW OF INTERNATIONAL & FEDERAL REGULATORY ISSUES

Bruce Zagaris of Berliner, Corcoran & Rowe LLP said in May 2007 the U.S. withdrew its commitments to allow cross-border gaming within the General Agreement on Trade in Services (GATS). He said U.S. modification of its stance on cross-border gaming require a revision of a General Agreement on Tariffs and Trade (GATT) Article XXI and would also require the U.S. to compensate countries for market discrimination. He said the U.S. is negotiating with World Trade Organization (WTO) members on compensation efforts.

Mr. Zagaris said a number of bills exist in Congress that would modify existing Internet gambling legislation, including bills sponsored by Representatives Berkley, Wexler, and Frank. He said the Berkley Bill proposes to study Internet gaming for one year through the National Research Council of the National Academy of Sciences. He said the Wexler Bill proposes to withdraw games purported to be games of skill, such as poker, from the Unlawful Internet Gambling and Enforcement Act (UIGEA).

Mr. Zagaris said Representative Frank's bill would amend UIGEA and Title 31 of the U.S. Code to provide for licensing of Internet gambling facilities by the Financial Crimes Enforcement Network (FinCEN). He said states and tribes would have an option to participate in Internet gaming under the Frank Bill. He said the American Gaming Association (AGA) supports the Frank Bill and is developing model regulations for its enactment.

Mr. Zagaris said the U.S. and EU have recently come to a settlement on a compensation package that will commit the U.S. under the WTO to bind larger levels of market access in four service sectors, including postal and courier services, research and development services, storage and warehouse services, and testing and analysis services.

Mr Zagaris said the Remote Gambling Association (RGA) has complained to the European Commission (EC) regarding U.S. enforcement of its prohibition on online gambling and prosecution of foreign persons, claiming the U.S. is not prosecuting persons engaging in Internet gaming in the states. He said the EC must decide whether to investigate the complaint over discriminatory and protectionist U.S. practices.

Mr. Zagaris said that at a November hearing of the House Committee on the Judiciary, U.S. Attorney for the Eastern District of Missouri Catherine Hanaway proposed that all Internet gaming is illegal.

Mr. Zagaris said the WTO made a decision to award Antigua \$21 million for compensation and rights to cross-retaliate by suspending intellectual property rights of U.S. business interests.

Mr. Zagaris said the U.S. brought a case to the WTO against China for defective intellectual property enforcement. He said that increasingly, international trade law and international and comparative criminal law are intersecting and interacting, and that the use of defective enforcement by a country will counteract U.S. legislation.

Mr. Zagaris said the rise in globalization and technology will force the U.S. to address federal Internet gaming policy, as the EU and other countries continue to demand a fair solution. He said a solution will depend on upcoming political elections and a regressing economy.

ROLE OF THE NATIONAL RACING COMPACT

Ed Martin, president of the Association of Racing Commissioners International (RCI), said the National Racing Compact is an interstate compact of states whose purpose is to address a desire of the pari-mutuel industry to have a national racing license for participants racing in multiple states.

Mr. Martin said the compact focuses on two licensing issues, which are (1) different criminal history criteria that states use to determine eligibility requirements for obtaining a license and (2) the sharing of criminal history information between jurisdictions. He said the process to obtain a racing license is time consuming, difficult, and duplicative across many jurisdictions. He said individual state licensing efforts are unnecessary and expensive.

Mr. Martin said with the formation of the National Racing Compact, states are able to simplify the licensing process for owners and trainers, as well as facilitate the ability of its member states to conduct licensing investigations by sharing FBI criminal history information across state lines. He said most major states have become full members of the Compact or accept the Compact's certification to issue a state racing license.

Mr. Martin said the Compact processes licensing applications, reviews federal criminal history information, and issues a national racing license. He said licensure allows owners and trainers to participate in racing within compact member states. He said that only compact member states can share information from the FBI and provide efficient regulatory surveillance between states.

Mr. Martin said some states do not require fingerprinting for a racing license, and RCI believes fingerprinting and reviewing criminal history of racing applicants are essential in state licensure. He said NCLGS should encourage states to require fingerprinting for racing licensure.

PROGRESS OF VIABLE RACETRACK AND RACINO OVERSIGHT

Mr. Martin said many offshore entities receiving domestic racing signals may not meet state regulatory licensing requirements. He said as the pari-mutuel industry grew and tracks made efforts to increase handle, signals were sent to many outlets outside the U.S. that do not properly regulate wagering.

Mr. Martin said over the years, entities accepting wagers on U.S. races became controversial, as horsemen and breeders began to question appropriate payments for racetrack signals. He said under the Horse Racing Act, horsemen must consent to the export of racetrack signals. He said many state racing commissions must also approve racetrack signal exports.

Mr. Martin said expanding racetrack handle may have put the integrity of horse racing at risk. He said states do not require offshore entities to obtain a license or go through a background check to receive racetrack signals, which limits the states' regulatory role.

Mr. Martin said the National Racing Compact is currently considering adopting a certification and licensing project to address the lack of review for overseas wagering sites. He said the review will include a technical assessment and examination, as well as a background check on the company and personnel.

Mr. Martin said trends in betting activity overseas suggest that some players are winning too consistently, which raises questions about the integrity of the wagers. He said the U.S. lacks an efficient national monitoring system to prevent fraudulent betting activity.

Mr. Martin said Gaming Laboratories International (GLI) and the National Racing Compact are working together on the international certification and licensing project. He said states should withhold signals from non-domestic entities that do not have certification. He said this may require state legislation.

In response to a question from Bill Fasy, chief of operations for Delaware Park, Mr. Martin said it is necessary for regulators to conduct an independent review of racetrack monitoring efforts. He said organizations should be independent of racetracks in order to effectively monitor racetrack wagers. He said regulators and legislators need to improve wagering security to prevent fraudulent betting activity.

THOROUGHBRED SALES INTEGRITY PROGRAM

Peggy Hendershot, senior vice-president of legislative affairs for the National Thoroughbred Racing Association (NTRA), said a Thoroughbred Owners and Breeders Association (TOBA) Sales Integrity Program Task Force began development of its sales integrity recommendations after the Kentucky General Assembly heard legislation regarding unfair horse sales.

Ms. Hendershot said Task Force recommendations address licensing bloodstock of agents and consignors, transparency in ownership in the sales arena, and transparency in medication in the sales arena. She said the recommendations work to improve thoroughbred auctions for buyers, horses, and other parties taking part in public sales. She said all parties need to understand the various aspects of an auction and have protections in place in order to maintain fair and safe transactions.

Ms. Hendershot said sales auctions require sellers to provide information on the background of a horse to prospective buyers and that all transactions must maintain a written agreement and guarantee privacy between buyers and sellers.

Ms. Hendershot said a committee will oversee the sales integrity process to ensure the recommendations are upheld and effective.

DEVELOPMENTS WITHIN GREYHOUND RACING

Doug Lawrence of the National Greyhound Association said greyhound racing is facing declines across the country and greyhound racetracks are closing due to a lack of revenue and growing operating expenses.

Mr. Lawrence said Kansas greyhound tracks have been able to enhance breedings and whelpings by offering slot machines in an increasingly competitive market. He said it is important to sustain pari-mutuel racing, as it helps provide economic development to rural communities that are not near other gaming facilities.

Mr. Lawrence said the greyhound industry is looking for other ways to develop and distribute its product, as well as to grow its consumer base.

Mr. Lawrence said it is necessary for Florida to implement racinos at greyhound tracks, as Florida represents the largest market for greyhound producers. He said several other greyhound racing states will likely consider racinos in the coming months.

ADJOURNMENT

There being no further business, the meeting adjourned at 2:45 p.m.

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