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

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The Legislature finds and declares:

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

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

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

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

   e. A primary means of funding unauthorized Internet gambling is through the use of credit card transactions. The Legislature believes that rendering these transactions void and unenforceable will have the salutary effect of reducing the targeting of New Jersey consumers by unauthorized gambling operators and curtailing the participation of 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.
2. N.J.S.2A:40-1 is amended to read as follows:

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

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

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

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

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

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

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

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

2A:40-5. If any person shall lose any money, goods, chattels or other valuable thing, in violation of [section] N.J.S.2A:40-1 [of this title], and shall pay or deliver the same or any part thereof to the winner, or to any person to his use, [or to a stakeholder, such person] the State may [sue] bring suit for and recover such money, or the value of such goods, chattels, or other valuable thing, with costs of suit, from such winner, or from such depositary, [or from
such stakeholder, whether the same has been delivered or paid over by such stakeholder or not, in a civil action provided such action is brought within [6] 12 calendar months after payment or delivery. Nothing in this section shall preclude recovery of losses as may be effected under subsection b. of N.J.S.2A:40-3. (cf: N.J.S.2A:40-5)

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

6. This act shall take effect immediately.

STATEMENT

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

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