

3079

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. MCENENY, DINOWITZ, EDDINGTON, ESPAILLAT --
Multi-Sponsored by -- M. of A. BENJAMIN, BRENNAN, CHRISTENSEN, COLTON,
COOK, GALEF, MARKEY, MILLMAN, WEISENBERG -- read once and referred to
the Committee on Codes

AN ACT to amend the penal law, in relation to including gambling over
the internet within provisions of law relating to gambling offenses

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions 4, 5 and 7 of section 225.00 of the penal law
2 are amended to read as follows:
3 4. "Advance gambling activity." A person "advances gambling activity"
4 when, acting other than as a player, he engages in conduct which mate-
5 rially aids any form of gambling activity. Such conduct includes but is
6 not limited to conduct directed toward the creation or establishment of
7 the particular game, contest, scheme, device or activity involved,
8 toward the acquisition or maintenance of premises, paraphernalia, equip-
9 ment or apparatus therefor, toward the solicitation or inducement of
10 persons to participate therein, toward the actual conduct of the playing
11 phases thereof, TOWARD THE PUBLIC ENDORSEMENT THEREOF, toward the
12 arrangement of any of its financial or recording phases, or toward any
13 other phase of its operation, AND INCLUDING GAMBLING OVER THE INTERNET.
14 "INTERNET" MEANS THE MYRIAD OF COMPUTER AND TELECOMMUNICATIONS FACILI-
15 TIES, INCLUDING EQUIPMENT AND OPERATING SOFTWARE, WHICH COMPRISE THE
16 INTERCONNECTED WORLDWIDE NETWORK OF NETWORKS THAT EMPLOY THE TRANS-
17 MISSION CONTROL PROTOCOL/INTERNET PROTOCOL, OR ANY PREDECESSOR OR
18 SUCCESSOR PROTOCOLS TO SUCH PROTOCOL, TO COMMUNICATE INFORMATION OF ALL
19 KINDS BY WIRE OR RADIO. One advances gambling activity when, having
20 substantial proprietary or other authoritative control over premises
21 being used with his knowledge for purposes of gambling activity, he
22 permits such to occur or continue or makes no effort to prevent its
23 occurrence or continuation.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 5. "Profit from gambling activity." A person "profits from gambling
2 activity" when, other than as a player, he accepts or receives money or
3 other property pursuant to an agreement or understanding with any person
4 whereby he participates or is to participate in the proceeds of gambling
5 activity, INCLUDING BUT NOT LIMITED TO AN AGREEMENT OR UNDERSTANDING TO
6 ACT AS AN INTERNET SERVICE PROVIDER. "INTERNET SERVICE PROVIDER" MEANS
7 ANY INFORMATION SERVICE, SYSTEM, OR ACCESS SOFTWARE PROVIDER THAT
8 PROVIDES OR ENABLES COMPUTER ACCESS BY MULTIPLE USERS TO A COMPUTER
9 SERVER, INCLUDING SPECIFICALLY A SERVICE OR SYSTEM THAT PROVIDES ACCESS
10 TO THE INTERNET.

11 7. "Gambling device" means any device, machine, paraphernalia or
12 equipment which is used or usable in the playing phases of any gambling
13 activity, whether such activity consists of gambling between persons or
14 gambling by a person involving the playing of a machine, INCLUDING BUT
15 NOT LIMITED TO A COMPUTER. Notwithstanding the foregoing, lottery tick-
16 ets, policy slips and other items used in the playing phases of lottery
17 and policy schemes are not gambling devices.

18 S 2. This act shall take effect on the first of November next succeed-
19 ing the date on which it shall have become a law.