S T A T E O F N E W Y O R K

2630

2009-2010 Regular Sessions

I N S E N A T E

February 25, 2009

Introduced by Sens. PADAVAN, VOLKER -- read twice and ordered printed, and when printed to be committed 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivisions 4, 5 and 7 of section 225.00 of the penal law are amended to read as follows:

4. "Advance gambling activity." A person "advances gambling activity" when, acting other than as a player, he engages in conduct which materially aids any form of gambling activity. Such conduct includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, TOWARD THE PUBLIC ENDORSEMENT THEREOF, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation, AND INCLUDING GAMBLING OVER THE INTERNET. "INTERNET" MEANS THE MYRIAD OF COMPUTER AND TELECOMMUNICATIONS FACILITIES, INCLUDING EQUIPMENT AND OPERATING SOFTWARE, WHICH COMPRISE THE INTERCONNECTED WORLDWIDE NETWORK OF NETWORKS THAT EMPLOY THE TRANSMISSION CONTROL PROTOCOL/INTERNET PROTOCOL, OR ANY PREDECESSOR OR SUCCESSOR PROTOCOLS TO SUCH PROTOCOL, TO COMMUNICATE INFORMATION OF ALL KINDS BY WIRE OR RADIO. One advances gambling activity when, having substantial proprietary or other authoritative control over premises being used with his knowledge for purposes of gambling activity, he permits such to occur or continue or makes no effort to prevent its occurrence or continuation.

5. "Profit from gambling activity." A person "profits from gambling activity" when, other than as a player, he accepts or receives money or

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

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other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity, INCLUDING BUT NOT LIMITED TO AN AGREEMENT OR UNDERSTANDING TO ACT AS AN INTERNET SERVICE PROVIDER. "INTERNET SERVICE PROVIDER" MEANS ANY INFORMATION SERVICE, SYSTEM, OR ACCESS SOFTWARE PROVIDER THAT PROVIDES OR ENABLES COMPUTER ACCESS BY MULTIPLE USERS TO A COMPUTER SERVER, INCLUDING SPECIFICALLY A SERVICE OR SYSTEM THAT PROVIDES ACCESS TO THE INTERNET.

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

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.