



The New York State Senate [website](#) has announced that the Senate Racing, Gaming, and Wagering Committee will ‘discuss the future of online poker in New York State’ at a hearing scheduled for 1:00 p.m. on Wednesday September 9 2015. **ORAL TESTIMONY BY INVITATION ONLY**

Coalition Against Gambling in New York submits this written statement for the record:

No form of internet gambling is now legal in NY. Senator Bonacic’s bill S 5302 proposes to legalize internet poker. The hearing looks like a shout-out to gambling interests\*, including the Poker Players’ Alliance. The Senator seems indifferent to social and constitutional legal issues about internet gambling. According to [Tight Poker](#), his concern is whether it would profit NYS to legalize just i-poker ASAP.

Online poker is the thin end of the “legalization” wedge because some savants hold there can be enough skill in poker to make it not gambling. They note that a star player may win big over time, unlike a slot machine user. *The vast majority of players who aren’t stars, however, are certainly gambling.* Outside “World Series” tournaments that draw skilled peers, the consistent big winners are sustained by the predictable losses of the less apt, the more chance-tossed.

Ominously, were i-poker “legalized,” other on-line games would likely follow. First would come those that have less, but still some, element of decision-making skill relative to chance than does poker. Later, with these precedents, would come casino “games” of pure chance, which everyone agrees are gambling.

If stymied by a future ruling that i-poker is gambling, the Senator may try a different tactic. He knows that unless a bill to rebuild the longstanding federal ban on internet gambling passes soon, each state may make its own laws about internet gambling (except on sports). He may anticipate that the Legislature would concede him i-gambling on the trite argument that “Other states will be doing it; so, we should too and before them.” New York, however, has a constitutional prohibition against all types of gambling other than those that have been allowed in by amendment, most recently casinos. The Legislature has shown itself ever ready to re-define words like “lottery,” but it cannot amend the Constitution. That would require a vote of the people, who have shown no special desire for internet gambling.

*Article 1 § 9 . . .no lottery or the sale of lottery tickets, pool-selling, book-making, or any other kind of gambling, except lotteries operated by the state and the sale of lottery tickets in connection therewith as may be authorized and prescribed by the legislature, the net proceeds of which shall be applied exclusively to or in aid or support of education in this state as the legislature may prescribe, except pari-mutual betting on horse races as may be prescribed by the*

*legislature and from which the state shall derive a reasonable revenue for the support of government, and except casino gambling at no more than seven facilities as authorized and prescribed by the legislature shall hereafter be authorized or allowed within this state; and the legislature shall pass appropriate laws to prevent offenses against any of the provisions of this section. (Amendment approved by vote of the people November 5, 2013.)*

Sen. Bonacic will perhaps argue that i-gamblers can be required (the NJ model) to be registered with an in-state casino, which they need never visit again. He may assert that when “Prop 1” passed in 2013 it implied this easy fix. Plainly it did not.

Or, less likely, the Senator might try to graft internet gambling onto the New York State Lottery, requiring participants to register with a racino, not a licensed casino.

There are many arguments against i-gambling that we don’t take up here. Our focus today is on the wrongness of hearings that have nothing to do with whether internet poker should be made legal and everything with “When do we start?” Sen. Bonacic acts as if legalizing internet poker in New York State is a mere formality, like closing a business deal with allies. He should call real hearings that take account of all views.

[\*] In August, [Tight Poker](#) interviewed Sen. Bonacic about who had been invited to testify orally. “ ‘Lawmakers and various representatives of the gambling industry will be present at the hearing.’ Bonacic said: ‘I’m bringing in Caesars and MGM plus all of *my* [emphasis added] casinos, racinos, and OTBs. We are going to have a discussion on the pros and cons of moving the legislation.’ ”

Author: Stephen Q. Shafer MD MPH Chair, Coalition Against Gambling in New York State  
917 453 7371 8 Mynderse St. Saugerties NY12477