

VI. Regulation of Gambling

Where gambling is legal it is very extensively regulated. There is probably not another business that has so many aspects of its operations so heavily regulated. The primary purpose of the regulation is to keep out criminals. The extent of the regulation is justified because gambling has had a long history of criminal involvement. Gambling operations also have large amounts of cash that are uncounted and unrecorded as the gambling takes place, making it convenient for criminal activities such as money laundering and skimming. Gaming regulation also protects the public by making sure that games are honestly run.

Given that the primary aim of gambling regulation is to keep out criminal elements, what does a state look for in designing an effective regulatory regime? One researcher identified two aims for effective regulation:¹

- Divorce licensing from politics.
- Tighten controls by regulator and operator.

This chapter will look more closely at states that have a more involved regulatory structure than California. Because few states have cardrooms, especially of the size of California, there are not many similar models. Washington and Montana are states that will be examined. In addition, the more expanded regulatory presence of the casino gaming states will be analyzed. Although California doesn't have casino gaming, these do provide some models and lessons for California.

Washington in Gaming Regulation

The Washington Gaming Commission oversees all authorized gaming in the state. The commission is made up of nine members. Five are appointed by the Governor to six year terms. These appointees are subject to the advice and consent of the Senate. There are also four ex-officio members, two each from the Senate and the House. The commission is an autonomous agency.

Washington, like California, has cardrooms. The significant difference is that cardrooms can only be ancillary businesses designed to support a main business of a restaurant, bar or tavern. The profitability is also strictly limited by statutory limitation on the charges. Until recently the club could only charge \$3 per half hour per seat. A recent change in law allowed this to be raised.

The Gaming Commission also has responsibility for other gambling. These include sports pools, charitable gaming, amusement games and pull-tabs. There are a large number of tribal casinos within the state that are under the oversight of the commission.

The state does not tax the card clubs. However they can be taxed by localities.

The Washington Gaming Commission is large by California standards. They have about 135 staff people. They have an ongoing and open process of negotiating compacts with the Indian tribes.

Gaming Regulation in Montana

Montana has video poker, video keno, live card games, sport pools, and casino nights for nonprofits. Montana is unique in that the state has a long history of gaming including slot machines, roulette, and twenty-one. The fact that gaming was illegal was completely overlooked until the late 1940s when the practice was challenged and the State Supreme Court found that it was actually illegal. It took over 30 years for gaming to make a comeback.

In 1989, the Legislature established a Gambling Control Division within the Justice Department. This action placed the licensing, auditing, and enforcement functions under one roof.

Prior to the creation of the division, there was local control of the games. Each local government could lower the number of state-sanctioned machines in an establishment, and levy a local tax. The 1989 changes placed all revenue collection matters under one set of regulations at the state level. The taxes are split one-third to local governments, two-thirds to state government.

Local governments retain some control. They may extend the 2:00 a.m. closing hours set by the state. Local governments may also restrict gambling to certain geographical areas through zoning regulations.

The Gambling Control Division currently employs about 36 persons. The Division tests and approves machines. They also issue licenses to qualified applicants after conducting a thorough background investigation. All findings concerning the denial, granting, renewal, revocation, or suspension of a license or investigation are subject to judicial review. An auditing branch of the Division examines tax records, and investigates financial issues. Compliance with the law and record-keeping is the major focus of this group.

Besides Washington there are approximately 10 states that have gaming commissions without casino gaming. In some states the commission regulates only charitable gaming. Other states the commission regulate Indian gaming, cardclubs, or other small scale commercial gaming.

The following portions of the report look at casino gaming states and the entities that regulate such gaming. Emphasis is placed on Nevada and New Jersey because they have the longest history.

Gaming Regulation in Nevada

Nevada Has a Major Gambling Presence. The state issues about 500 casino licenses and regulates 1,800 slot licenses, 1,360,000 slot machines, and 5,300 table games. Gambling revenues to the state exceed \$300 million, about 45 percent of state revenues. No other state has such a large share of state revenues or economic activity provided by the gaming industry.

Nevada is the oldest and largest legalized gaming center in the United States. Gaming was legalized in Nevada in 1931 in the middle of the Great Depression as a form of economic stimulant. The industry did not really begin to develop until after World War II. Since then, the Nevada gaming industry has survived the presence of organized crime, a U.S. Senate committee investigation, and the corresponding damage to its reputation.

Agency Roles Have Shifted Extensively Over Time. The authority to license and collect taxes from gaming operations has shifted among governing bodies four times in Nevada. In 1931, the legislation gave the local county sheriff offices the authority to license and tax casinos. Soon the state moved in and assumed a role because of the threat of federal prohibition of casinos. Extensive federal investigations had exposed extensive organized crime influence in the casinos. Local governments still exercise a concurrent right with the state over gaming regulation.

The first state agency to take responsibility was the State Tax Commission, which in 1945 was granted the authority to license and tax gaming operations. After that, the Nevada Gaming Control Act created the State Gaming Control Board in 1955 and authorized it to become the enforcement and investigating unit of gaming matters for the Nevada Tax Commission. The Board was comprised of three members appointed by Nevada's governor.

In 1959, the Nevada Tax Commission was relieved of its regulatory duties over the gaming industry by

the creation of the State Gaming Commission. The five-member Commission was formed with officials appointed by the Governor for a four year term. Licensing and policy decisions comprised the bounds of authority for the Commission. In 1971, legislation expanded the duties of the State Gaming Control Board to include gaming tax collection and administrative responsibilities for the Gaming Commission.

Local governments have concurrent authority to license and regulate gaming. Both jurisdictions must approve a casino license. However, local governments seem to perceive licensing as primarily a method of taxation, and rarely utilize their powers in a regulatory fashion. A local government can prohibit or restrict gaming within its city or county limits. In the Las Vegas area, casino gaming generally is limited to areas designated as "gaming enterprise districts." Each district is established by the local government having jurisdiction over the area.

Nevada Gaming Was Linked With Organized Crime. Although there are many examples of past criminal involvement in Nevada's gaming, one of the more egregious involves the famous mobster, Bugsy Siegel. Despite his reputation as a hoodlum and his history of gratuitous violence, he had no trouble getting a casino license.

Because the casinos were controlled by organized crime, enforcement was handled somewhat differently than now. If a dealer was found cheating, he or she was taken to a soundproof room to have their hands beat with a baseball bat.² Two robbers who pulled off the only successful armed robbery of a casino, until recently, were later found shot to death in Los Angeles.

The state's reputation improved with the creation of the Nevada Gaming Commission and the State Gaming Control Board. The state's image received another boost when Howard Hughes began purchasing casinos. Although he was eccentric, Howard Hughes was clearly not an organized crime figure. Nevada had reached the point where a billionaire who wore empty Kleenex boxes for slippers improved the image of the state's gaming industry. (That fact was not widely known at the time.) Big publicly-owned companies such as Hilton and Ramada followed Howard Hughes' investments.

The toughened regulatory system and the addition of respected companies and individuals eliminated the threat of federal intervention and contributed to the growth and respectability the industry enjoys today. Gaming in Nevada, and especially Las Vegas, has become a multibillion dollar industry that attracts millions of people each year.

Nevada Has Two Entities That Regulate Gaming.

- The State Gaming Control Board has evolved into the primary administrative arm for casino gaming regulation. The Board has responsibility for handling investigations for licensing, collecting taxes, and enforcing gaming regulations. The State Gaming Control Board is composed of three members, one of which must be a CPA, one of which must have experience in law enforcement, and one of which must have experience in business administration or management. Board members are appointed by the Governor for staggered four-year terms and are expected to serve full-time. The Gaming Control Board oversees the granting of licenses. The Board serves as the prosecutor in disputes.
- The State Gaming Commission remains Nevada's decision-making body on gaming policy and regulations. The Gaming Commission issues, denies, restricts, limits, suspends, or revokes gaming licenses. The Commission is composed of five members, also appointed by the Governor, who serve part-time. The Gaming Commission also handles disciplinary proceedings.

There are Two Different Types of Gaming Licenses Issued by the Nevada Gaming Commission.

- Restricted licenses prohibit the operation of more than 15 slot machines and do not allow the licensee to operate any other type of game. Holders of these licenses are generally owners of small bars, restaurants, and grocery stores. Only a routine investigation is required for restricted licenses.
- Unrestricted licenses allow the operation of any number of slot machines, gaming devices, or table games. A thorough investigation is conducted by the Gaming Control Board, who refers its licensing recommendations to the Gaming Commission. The Gaming Commission makes the final decision on an application for a gaming license.

Licensing is More Thorough and Intrusive Than the Highest U.S. Security Clearance Investigation.³

An applicant must pay approximately \$500,000 to \$1 million to cover the state's costs. The state takes approximately one year to complete the process and issue a license. There are two public hearings where every personal and business transgression is subject to inquiry. The State Gaming Control Board provides a recommendation on licensing to the Commission.

The basic criterion for licensing is the applicant's character. An applicant is unsuitable if they are an organized crime figure, a case that can be hard to prove. A criminal record is neither necessary nor sufficient for denial of a license. There are a number of additional criteria:

- **Financing of the Operation.** The state wants to make sure that the money is not coming from criminal enterprise, but from a legitimate source. Another concern is that of viability of the casino. Moreover, there is the concern that a troubled operation may cheat customers and not pay taxes. This portion of the licensing law was passed when Las Vegas hotels were not doing well financially.
- **Business Competency.** To protect the state's revenues and consumers, the state wants the casino operator to be sophisticated enough to deal with very skilled cheaters. Cheaters not only steal from the casinos, but also cheat the state out of tax revenues, and possibly other patrons.
- **Suitability of Location.** The state does not want casinos near activities that are not suitable such as schools or brothels. (Nearby brothels present a negative image of gaming, especially to out-of-state visitors who are not used to such businesses being legal.)
- **Multiple Licenses Criteria.** This criterion was passed shortly after Howard Hughes acquired his extensive holdings. At the time, the U.S. Justice Department had threatened to intervene if Hughes bought more properties.

Besides the casino license, a number of employees are required to have licenses. Nevada's requirements are not as extensive as New Jersey's were. However, the type of positions that are required to have a license has spread as organized crime figures have been found in ancillary positions.

Nevada Law Permits a Wide Variety of Gaming. The currently permitted games include faro, monte, roulette, keno, bongo, fan-tan, blackjack, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck, Chinese chuck-a-luck (dai shu), wheel of fortune, chemin de fer, baccarat, pai gow, pai gow poker, red dog, beat the banker, pyramid dice, panguingui, and sports book (except on teams from Nevada). Raffle type lotteries are not permitted.

Gaming Tax Structure

Non-restricted gaming locations (those with more than 15 slot machines) pay monthly taxes on a sliding scale that goes from 3% to 6.25%. There is also a 10% tax on admissions, merchandise, refreshments,

and services provided by any gaming establishment in connection with any form of spectator or participatory entertainment. There are also quarterly and annual fees assessed according to the number of table games offered.

Gaming Regulation in New Jersey

New Jersey's regulatory situation is different from Nevada's. Casinos were legalized somewhat later and the state already allowed a variety of other types of gambling. In addition, New Jersey had a long history of problems with organized crime, so there was a special concern about keeping their gambling clean. The state wanted to avoid the perception that many people had of Nevada gaming regulation. Nevada's regulators were seen as being a captive of the industry.⁴ New Jersey wanted the industry and workers to meet standards of behavior that were exemplary.⁵

New Jersey was successful in following the strategy they laid out, but at a cost. Eventually, the state significantly eased gaming regulation, allowing casinos to advertise more aggressively, reduce labor costs by eliminating some mandated functions, and offer new games. The result was increased profits for the casinos.

New Jersey Also Has a Two-Agency Structure. The state role is divided into an investigating office under the Attorney General and a license, rulemaking, and quasi adjudicative function. The general structure is modeled after Nevada.

- The Casino Control Commission is responsible for licensing casinos, employees and the firms that do business with them. The commission consists of five members appointed by the Governor for a term of five years. No more than three members may be from the same political party. The Casino Control Commission (CCC) is a quasi judicial agency in the Department of Treasury. The commission has its own staff. The CCC is funded from license application fees, slot machine taxes and licenses, and permitting fees. The objective of this funding mechanism is to protect the agency from politics by not requiring a legislative appropriation to fund the agency. The criticism that results, however, is that the agency is dependent on the industry through its fees.
- The Division of Gaming Enforcement is a branch of the Attorney General's Office. The division is responsible for investigating all license applications and prosecuting violations before the Commission.

The two-agency arrangement that both Nevada and New Jersey have is valued in these states because they act as a check over the regulatory process. A disadvantage is that conflicts occur between the two agencies. In Nevada, the commission has questioned the staff of the board and the board staff has resented the commission for ignoring their judgment.⁶

Members and employees of both New Jersey agencies are subject to strict post-employment restrictions. The goal is to eliminate or at least reduce the possibility of a revolving door between the industry and the regulators.

New Jersey also has a lottery that is regulated through the Department of Treasury. Parimutuel gambling is regulated by the Racing Commission in the Department of Law and Public Safety.

New Jersey Wanted to Avoid Dependence on Gambling Revenues. While Nevada and New Jersey both have an agency system of casino regulation, there are many subtle differences. New Jersey was concerned that the gaming industry could capture the state's regulatory process if the state relied too heavily on gaming revenues. The state was also concerned about political participation by gambling

interests. As a result, the state banned political contributions by gaming interests.

Historically, casinos are regulated much more strictly and rigidly in New Jersey than in Nevada.⁷ The state viewed regulation of gaming as a difficult problem. As noted earlier, casinos have large amounts of cash that is uncounted and unrecorded as the gambling takes place, making skimming and money laundering quite easy. To limit such problems, New Jersey has specified control systems that are an important part of licensing and regulation. Nevada does not follow that model. Part of New Jersey's regulatory regime includes strict restrictions that prevent individuals from being hired very quickly. Licensing takes a long time which hinders the job market. Observers have characterized it as inflexible.⁸ Because of the delays, job applicants often seek employment elsewhere rather than wait for a license.

New Jersey Has Proportionately a Much Larger Regulatory Structure. New Jersey's regulating agencies have 1,100 employees and a \$60 million budget while Nevada has 392 employees and an \$18 million budget. New Jersey has a significantly smaller industry, about \$37 billion handle versus \$107 billion handle in Nevada. New Jersey's regulatory costs are paid by charging fees, while Nevada's are paid from the general fund. The result is a system that critics say has no efficiency incentives. Casinos are just billed for the costs of regulation.

New Jersey Has Recently Evaluated Gambling in the State. In the mid-1980s, a Governor's Advisory Committee on Gambling was established with 19 members whose job was to examine the interrelationship between the state's various forms of gambling and their regulation. The state was concerned that there was duplication and overlap of the different regulatory agencies that oversaw each of the legal forms of gaming in the state. The Commission was also to address:

- gambling as a public policy,
- compulsive gambling,
- economic impact, and
- criminal activity.

Some of the committee's findings will be discussed in the respective sections that deal with these issues.

Recent Regulatory Issues

New Jersey recently relaxed its regulatory stance. The licensing system for employees in particular was loosened.

New Jersey has had hearings on the issue of credit. Casinos can loan money to gamblers. These loans can become a way to skim or launder money. Skimming is diverting money away from the normal controls and books. Loans can be deliberately made to a debtor who knows that he or she does not have to repay the loan. The casino can write off the loan, the debtor gives the money back to the casino minus a reward for collusion, the loan is charged off as an uncollectable debt, and the amount of the loan has just been skimmed and is not subject to taxes. Loans in amounts as high as almost \$5 million were being made to organized crime figures.

Another related issue is that the casinos were fostering a debt problem by loaning far more than people could pay back. A supermarket clerk making \$18,000 annually and no other significant assets was granted a loan of \$300,000 from a casino. The result of the hearings was a tightening of regulations on loans to gamblers.

The New Jersey Legislature has considered taking action that would stave off competition from neighboring states. The state faces the threat of gaming in Philadelphia, New York City, and the Catskills.

A bill was considered, but not enacted that would authorize New Jersey riverboats only if neighboring states authorize riverboats. Under the legislation, riverboat ownership would be limited to the companies operating in Atlantic City. The vessels would be subject to local option and each company would be permitted to own and operate up to three vessels. Governor Whitman criticized the bill, saying that she did not want to expand gaming in the state, but would rather make Atlantic City a more attractive and accessible place.

Gaming Tax Structure

Atlantic City casinos pay taxes to two different funds. One, the Casino Revenue Fund, is a traditional special fund that supports regulation and other state purposes. The other is the Casino Reinvestment and Development Authority. This fund was established to assist urban redevelopment in the state. Gaming was originally approved to help redevelop Atlantic City. Each casino must contribute 8% of gross revenue to the Casino Revenue Fund and another 1.25% of gross revenues to the Casino Reinvestment and Development Authority.

Other States

Following is a brief discussion of gaming in other states that have casino and/or cardroom gaming.

Colorado

Authorized Gaming

In 1989, limited stakes gaming was authorized to take place in the historic towns of Central City, Black Hawk, and Cripple Creek. Only blackjack, poker, and slot machines with a maximum single bet of five dollars is allowed.

Regulatory Agency

The Department of Revenue is the oversight agency for the Division of Gaming and the Colorado Limited Gaming Control Commission. The Division issues licenses and implements, regulates, and supervises the conduct of limited gaming.

The Governor appoints the five members of the commission who are subject to confirmation by the Senate. No more than three members may belong to the same political party and no more than one may be from the same congressional district. The commission must include a law enforcement officer, an attorney, a CPA or public accountant, a business person in a management-level position, and a registered voter who is not employed in a job similar to any of the other Commission members. All members except for the registered voter must have at least five years' experience in their profession. The members' terms are staggered. No member may serve more than two consecutive terms.

The commission is responsible for promulgating all rules and regulations related to gaming, establishing the gaming tax rate, delegating budgetary authority over the Division of Gaming, and allocating money to other state departments.

The commission establishes and collects fees from licensees, and adopts rules and regulations for overseeing gaming. The commission also enforces the rules and regulations. The commission also has a research responsibility and is required to conduct an ongoing investigation of limited gaming in Colorado.

Tax Structure

The state levies a tax of up to 18 percent depending on the size of the operations. In addition to the tax on revenues, the state levies an annual tax on gaming devices and for licenses.

Illinois

Authorized Gaming

Illinois moved to legalize riverboat gambling shortly after seeing the success of Iowa's riverboat gambling. Passage of the measure was helped by the fact that many Illinois residents journey to Iowa to use its casinos. The Illinois Riverboat Gambling Act was passed in January 1990, authorizing gaming to begin by April 1991.

The direct competition between Iowa and Illinois riverboats affected the law in Illinois. As originally proposed, Illinois was going to adopt the same limits on gambling as those in Iowa. When the bill was finally enacted, no wagering or loss limits were imposed in Illinois.

Regulatory Agency

The Illinois Gaming Board regulates riverboat gaming in Illinois. The board consists of five Governor-appointed and Senate-confirmed members. The Governor designates one of the Board members as chairman. The board members must have a "reasonable knowledge of the practice, procedure, and principles of gambling operations." The board must include an attorney, a certified public accountant, and a person experienced in law enforcement. Each Board member must post a \$25,000 bond, while earning \$300 for each day of hearings or meetings. Board members serve staggered three-year terms.

The board hires its own staff. Agents of the board must be aboard the riverboats whenever gambling is taking place to certify revenue, conduct investigations, and listen to patron's complaints. Agents are supplied by the Department of Revenue and the Department of State Police.

The board issues licenses, conducts hearings on civil violations, collects fees and taxes, assesses fines and penalties, and sets rules and regulations. The board can suspend, revoke, or restrict licenses, and impose fines for violations of the act or the board rules.

Initially, the board has received about 35 percent of its funding from the general fund. This is in response to the significant start-up costs. In the future, the board will be completely funded by the State Gaming Fund with plans to transfer any surplus to the Educational Assistance Fund.

Tax Structure

The state imposes a tax of \$2.00 per passenger and a 20% tax on adjusted gross receipts.

Indiana

Authorized Gaming

Indiana is one of the more recent entrants to riverboat gaming. Up to 11 licenses may be issued in counties contiguous to the Ohio River, Patoka Lake, and Lake Michigan.

Regulatory Agency

The Indiana Gaming Commission is in the executive branch and reports to the Governor. There are seven commissioners appointed by the Governor to serve staggered three-year terms. At least one member must

have a background in law enforcement and criminal investigation, one must be a CPA with auditing experience, and one must be a lawyer in Indiana. Three of the members must be from a county contiguous to Lake Michigan, three from counties contiguous to the Ohio River, and the other must be from another county. No more than four can be from the same political party. The Indiana State Police are also involved because they conduct the background investigations for license applicants.

Tax Structure

The commission will collect a \$3 per head admissions tax from each of the boats, payable on a daily basis. There is also a 20% state tax on the adjusted gross revenues.

Iowa

Authorized Gaming

In 1989, the Iowa Legislature legalized casino gambling aboard historical river excursion boats that could ply the Mississippi River, the Missouri River, and other waterways located within Iowa. The Legislature also created the Iowa Racing and Gaming Commission. Previously, the Commission was known as the Iowa Racing Commission, and was responsible for the regulation of the parimutuel industry that included three greyhound tracks and one horse track.

Regulatory Agency

The Iowa Racing and Gaming Commission oversees parimutuel wagering and riverboat gaming. It is composed of five members appointed by the Governor and confirmed by the Senate. The term of office is three years. Iowa's Governor appoints the members based on requirements for representation by region, political party, and gender. Iowa requires county-wide referenda to approve the docking of riverboats.

The commission is part of another state agency called the Department of Inspection and Appeals. The Department reports directly to the Governor.

Iowa borrowed concepts from both New Jersey and Nevada. The Nevada model was regarded as more lenient while the New Jersey model was seen by some as guaranteeing full employment of regulators.² Since the statute requires that the cost of regulation be assessed in addition to the taxes, the New Jersey model in total was not feasible for Iowa. The cost of regulation combined with the high taxes and gaming restrictions would have been too costly for the type of casino operations allowed within the state. The state turned its focus on strict regulation in key areas such as cash control, security, and surveillance. An on-line slot machine data system was also required.

Although the state thought a balance was struck between regulation and cost effectiveness, the cost of regulation was still considered oppressive by the riverboat casino operators. The cost of regulation was increased significantly because of the decision to place relatively high-priced state police agents aboard each cruise.

Tax Structure

There is an annual license fee equivalent to \$5 per person based on the capacity of the vessel, including the crew. There is a state head tax of \$0.50 per passenger, not to exceed \$250,000 per vessel and an optional matching local tax of \$0.50 per passenger. Gaming revenue is taxed on a graduated scale of 5% on the first \$1 million of revenue, 10% on the next \$2 million and 20% on any revenue above three million.

Louisiana

Authorized Gaming

Louisiana law now allows horse racing, a statewide lottery, video poker machines, and riverboat gambling. In 1992, a law was enacted that authorized a single, land-based casino in New Orleans. Before that, the Indian Gaming Commission had been created. At least one tribe plans to open a casino/resort complex in Louisiana. Others are expected to follow.

A casino may offer most types of games played for money or property except lottery, bingo, charitable games, raffles, electronic video bingo, pull tabs, cable television bingo, wagering on dog races, or wagering on any type of sports event.

Regulatory Agencies

Louisiana started with a multitude of gambling regulatory agencies. The Gaming Enforcement Division of the Office of State Police regulated video poker and riverboat gaming. It is part of a larger department which also includes the Riverboat Gaming Commission. The Louisiana Economic Development and Gaming Commission regulated Louisiana's land-based casinos. All of these agencies report to the Governor.

Partly in response to the troubles in the industry, Louisiana overhauled their regulatory agencies. In the spring of 1996, a new Gaming Control Board was created to oversee riverboat, video poker, casino and Indian gaming. The governor appoints the nine-member board. He is required to obtain recommendations from different universities in the state. Some of the appointments have certain geographic, educational, or professional criteria.

The Board is nominally under the Department of Public Safety. Louisiana has a ceiling on the number of State Departments. Since the ceiling had been reached, the Gaming Control Board had to be placed within an existing department, but it functions as an independent agency. The State Police also have a role in enforcement and licensing.

The riverboat gaming legislation provides for 15 riverboat casino licenses. Licenses are granted for an initial five-year term, followed by annual renewals. There are also limitations on the amount of space dedicated to gambling, no more than 30,000 square feet on any vessel may be used for gaming activities. Riverboat gaming may only take place on certain waterways.

The land-based casino legislation permits a single facility at the Rivergate Convention Center site in downtown New Orleans. A temporary facility, to be operational while the permanent facility is under construction, is also permitted. The license was awarded to a group spearheaded by Harrah's. All games using cards, dice or mechanical or electronic devices are permitted, as is wagering on race horses. Lotteries, bingo, pull tabs, dog race wagering, and sports betting are not permitted.

A number of regulatory and legislative changes have occurred recently. The Riverboat Gaming Commission voted to permit free access to gaming vessels while they are at dockside, thus eliminating the phenomenon of phantom cruises. (These are cruises which do not go anywhere, but just allow the boat to leave the dock and meet the legal requirement of being on a cruise.)

Tax Structure

The land-based casino will pay 18.5% of gaming revenues or \$100 million to the state per year, whichever is greater.

Gaming vessels are assessed a 3.5% license fee of net gaming proceeds and a 15% franchise fee each year, plus a flat fee of \$50,000 per vessel in the first year of a vessel's operation and \$100,000 per vessel every year of the life of the vessel after that. Localities also have the option of imposing a \$2.50 per head boarding fee.

Mississippi

Authorized Gaming

Following the examples of Iowa and Illinois, the Mississippi Legislature authorized gaming on boats on the Mississippi River and its navigable tributaries. Gaming was also authorized in Oxbow Lakes bordering the river, in the waters of the Mississippi Sound, and off of the three Mississippi Gulf Coast counties. The effective date of the law was April 1, 1990. If a city or county does not want the gaming boat to dock in its ports, a petition signed by 20% or 1,500 of the registered voters may force a vote on the issue.

All forms of gaming are authorized. New games can be approved by the Mississippi Gaming Commission. Charitable bingo is also authorized under Mississippi law, and regulated by the Commission.

Gaming is not automatically legal in each of these counties. An applicant must file a notice of intent with the Commission. If no petition is filed with the County Board of Supervisors within 30 days of the last date of publication, the Board of Supervisors must adopt a resolution saying that legal gaming may be conducted in that county. If 20% or 1,500, whichever is less, of the registered voters in the county file a petition with the County Board of Supervisors within the 30-day period, an election on the issue must be held generally within 30 to 60 days after certification of the number of registered voters signing the petitions. The gaming authorities may deny a license for any location deemed unsuitable because of its proximity to a residential area, church, school, hospital, or playground, or because the location is difficult to police.

Regulatory Agency

The Mississippi Gaming Commission, which took over the task of regulating the gaming industry from the State Tax Commission in October 1993, is composed of three members, each serving staggered four-year terms. Members may serve no more than two terms and at least one member must have been a resident of a state that permits gaming activity for five years. Commissioners serve without pay. The Governor appoints the commissioners subject to the advice and consent of the Mississippi Senate.

The Commission is responsible for licensing, administering discipline to licensees, and adopting regulations. A full-time executive director administers the gaming laws and regulations, and makes recommendations on licensing and other matters to the Commission. The Attorney General must approve the appointment of all legal staff.

The Commission adopts rules and regulations consistent with the gaming laws. Among other subjects, the rules may provide for the;

- forms and procedures used to apply for licenses,
- procedures for all hearings,
- payment of investigative costs of applicants,
- permitted games (the statute prohibits non-banking games and wagers on athletic events, but authorizes sports pools and horse race wagering),
- the size of the gaming area on a ship or vessel, and

- procedures for issuing credit and collecting debt.

The law permits gaming only by players who are present in the casino. Players must be at least 21 years old.

Local governments cannot issue licenses, and have limited ability to regulate gaming. The Mississippi Attorney General has issued an opinion stating that a local government can adopt zoning ordinances restricting gaming to certain areas within its city or county limits. However, a local government may not prohibit gaming completely.

Tax Structure

Persons boarding the boats must pay a \$3.50 fee. The fee is divided between the state government (60%), the county (20%), and the city (20%).

Mississippi gaming establishments are required to pay a monthly sliding tax of 4% on the first \$50,000 of gaming revenue, of 6% on the next \$84,000 and 8% on revenue over \$134,000. Local jurisdictions may opt to impose a local gaming tax of one-tenth of the state fee and a per-passenger boarding tax, or a single tax of up to 3.2% of gross revenues.

Missouri

Authorized Gaming

Although Missouri has recently approved legal gaming, legal disputes are slowing the growth of the industry. Riverboat gaming was approved by legislation and enacted in 1995.

Regulatory Agency

The legislation established the Missouri Gaming Commission. The commission assumed the responsibilities of the Missouri Horse Racing Commission. Although horse racing is legal in Missouri, there are not any horse tracks. The commission is composed of five members serving no more than two staggered three-year terms. The commissioners are appointed by the Governor and confirmed by the Senate.

Tax Structure

The state collects a \$2 per head admissions tax and a 20% tax on adjusted gross revenues.

South Dakota

Authorized Gaming

The South Dakota Limited Gaming Law authorized slot machines, poker, and blackjack in the City of Deadwood. It was subject to a 60% voter approval later received from the residents of Deadwood. Deadwood is an historic town with a long history of illegal gambling and prostitution that continued without significant government interference into the middle of this century.

Eventually, the historical town deteriorated. Town leaders pushed for legal gaming to save the town. They sponsored a statewide petition to place a proposition on the ballot that was approved. Gaming began in November 1989.

Regulatory Agency

The state regulates gaming through the South Dakota Commission on Gaming. The Commission consists of five members appointed by the Governor. Members have staggered three-year terms. The Commission members cannot all be members of the same political party.

The Commission appoints an Executive Secretary to conduct administrative matters. The Executive Secretary, who serves at the pleasure of the Commission, employs a staff to administer the gaming laws.

No Commission member may be a license holder or a resident of Lawrence County (where Deadwood is located). The Commission members may not receive anything of value from a licensee or their officers and employees. Commission members cannot gamble in Deadwood.

The Commission can (a) adopt regulations, (b) issue licenses, (c) oversee and define gaming contracts of licensees, (d) inspect and examine gaming premises and places where gaming devices are located, sold, distributed, or stored, (e) seize and examine gaming equipment or supplies, (f) require verification of licensee's or applicant's income, (g) contract for legal counsel, (h) suspend or revoke for cause any gaming license, (i) require applicants to disclose pecuniary interest in the applicant by any person, (j) carry out duties as may be imposed by the state because of a contract entered under authority of the Federal Indian Gaming Regulatory Act, (k) establish application fees, (l) fix the gaming tax after June 30, 1990, within the parameters set by law, and (m) pay expenditures.

The Commission and Executive Secretary also can investigate conduct of licensees or employees to help enforce the law and to ensure unqualified or unsuitable persons are not involved in gaming. The Commission may review any action taken by the Executive Secretary.

The Executive Secretary prescribes gaming tax return forms, and may grant limited extensions in which to report and remit taxes. The Executive Secretary can grant or deny support licenses. The South Dakota Attorney General may exercise any authority of inspection or examination allowed by the Gaming Control Act. The Attorney General also may apply to the court to enforce the Gaming Control Act or any gaming rule.

Tax Structure

There is an annual fee of \$2,000 for every card game or slot machine. In addition, 8% percent of the gross revenues must be paid to the state.

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