

Gov. Davis Legalizes Gambling, Again

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California Gov. Gray Davis keeps professing he is against the expansion of legalized gambling. He may be. But you certainly would not know it by his actions.

Gov. Davis is responsible for making the following forms of gambling legal in the nation's largest state:

- Casino slot machines, from three reel to video poker.
- Casino banking card games, including blackjack and Caribbean Stud.
- Off-Track Betting ("OTB") by telephone by Californians on horse races, both thoroughbred and harness.
- Internet wagering by Californians on horse races.
- Telephone betting by residents of Connecticut, New York, Pennsylvania, Oregon, and any other state which allows interstate phone wagers, with OTBs in California.
- Internet betting by residents of Pennsylvania, Oregon, and any other state which allows interstate online wagers, with OTBs in California.
- Telephone and online wagering on horse races taking place in California by anyone in any state with any OTB in any state.

The most recent bill he signed into law will go into effect on January 1, 2002, or a little later, depending upon how long it takes the California Racing Board to make regulations. This new law legalizes at-home betting by phone and, more significantly, by computer on horse races.

Gov. Davis and California's state legislators are master politicians. They knew it would not have been politically wise to admit they were legalizing online wagers, especially when there were bills pending in the State Legislature and Congress to outlaw Internet gambling. So, they called it "advance deposit wagering."

For almost a hundred years, California has had a law making it a crime to make, accept or record a bet on any "contest of skill, speed or power of endurance of man or beast, or between men, beasts, or mechanical apparatus." When horse racing was legalized in 1933, an exception had to be made for bets made within the "enclosure" of a licensed race track.

To legalize Internet and phone gambling--excuse me, "advance deposit wagering"--the law had to be amended. The Governor and legislators had to use subterfuge to avoid stating that they were legalizing at-home wagering.

So, the new law declares that "wagering instructions concerning funds held in an advance deposit wagering account shall be deemed to be issued with the licensee's enclosure."

This is an extreme example of what is known as a "legal fiction." By law, if you make a bet with a racetrack using your home computer, you are not making a bet from your home, you are making a bet within the enclosure of the racetrack.

Last year, Gov. Davis vetoed an almost identical bill. Why the change of heart?

Campaign contributions may have played a role. Gov. Davis wants to run for President, and he is considered to be one of the most aggressive political fundraisers in the country.

He has been known to reward his friends, like the time he overruled county supervisors and had a new freeway exit built to the front door of a big contributor, a tribal casino.

It is also possible that Gov. Davis truly did not realize what "advance deposit wagering" really is. As his mishandling of the state's energy crisis shows, Gov. Davis does not have the most competent advisors. He was completely out-negotiated and approved incomprehensible tribal-state compacts, indicating he also did not have anyone around him who knew anything about legal gambling.

Gov. Davis also got bum advice from his legal advisors, including the state Attorney General, Bill Lockyer. Gov. Davis declared, incorrectly, in a news release that the law allowing advance deposit wagering would not be an expansion of gambling in California, because there had been a recent change in federal law.

The federal law in question is the Interstate Horseracing Act. And the only change was an amendment by Congress, which made it clear that an interstate wager was not prohibited by any other federal law, such as the Wire Act, but only if the bet was legal under states laws.

If California wanted to keep interstate betting illegal, it could do so. No other state found it necessary to change its laws.

Gov. Davis's attempt to use the change in federal law is a poor excuse, on its face. These federal laws only apply if interstate commerce is involved. The main beneficiary of the new California law will be California tracks, which can now take phone and computer bets from gamblers in the state.

There is no way you can say this is anything other than another major expansion of gambling.

But maybe Gov. Davis is only against some forms of gambling. Although he allowed the tribes to have casinos and the tracks to have phone and Internet gambling, he vetoed a bill which would have allowed betting on mule races. His reason? He said this would be an expansion of gambling.