

DoJ's Wire Act Ruling Lights Fire For Federal Regulation

December's landmark interpretation of a 1961 anti-gambling law by the U.S. Department of Justice may pressure Congress to pass a bill authorizing federal poker regulation before the end of 2012.

While more hearings on an Internet poker bill already are planned in the House of Representatives, there is a new sense of urgency after the justice department [declared December 23](#) that only sports betting activities — but not online poker, casino games or lotteries — are prohibited by the 1961 Wire Act.

Despite the activity in the House, the Senate remains the primary focus of gambling industry lobbyists.

Senate Majority Leader Harry Reid of Nevada remains committed to Caesars Entertainment, MGM and other Las Vegas casinos which helped him win re-election in 2010 and [continue to lobby aggressively](#) for federal regulation of Internet poker.

The casino industry's hope is that Reid can broker a deal with traditional online wagering foe [Jon Kyl, the influential Republican senator from Arizona](#), perhaps as early as the end of February when Congress must vote again on an extension of the payroll tax cut.

Under this scenario, Reid could add a provision authorizing Internet poker to the payroll tax cut extension legislation.

But lobbyists warn the political backlash, especially [in a fraught presidential election year](#), could be severe.

"It all depends on Harry Reid's pain threshold," said one gambling industry lobbyist who requested anonymity.

On the same day the justice department reversed its longstanding view that the Wire Act applies to all forms of Internet gambling, the department rejected a July request from Reid and Kyl to [reiterate its stance](#) that the 1961 law would prevent online expansion on the part of state lotteries.

"The Unlawful Internet Gambling Enforcement Act of 2006 provides that 'unlawful Internet gambling' does not include intra-state law transactions, which are authorized under state law and meet certain other requirements even if communications are routed across state lines," Assistant Attorney General Ronald Weich wrote to Reid and Kyl.

Weich's response could make Kyl, who has invested great political capital in efforts to toughen U.S. laws on Internet gambling and who will retire at the end of 2012, more anxious to [reach an agreement](#) on a tight poker-only bill with Reid this year.

The department's new position also could escalate [an increasingly bitter competition](#) between Congress and state governments over whom should regulate Internet gambling.

Democrat Barney Frank of Massachusetts, the longest-standing proponent of Internet gambling regulation in Congress, is backing off his previous comments that a federal regulatory regime would be preferable to "a patchwork" of state-by-state oversight.

"A patchwork of regulation is better than no Internet gambling regulation at all," Frank told GamblingCompliance.

But the American Gaming Association, FairPlay USA, the Poker Players Alliance and other lobbying groups who want federal regulation of online poker are not so conciliatory.

"State-by-state licensing and regulation could result in a balkanized online poker world where players across the nation would be limited in their choices of where and against whom they could play," former New York Senator Alfonse D'Amato, who is PPA's chairman, said after the justice department's ruling.

Meanwhile, lobbyists for state lottery interests are mobilizing to fight any effort by Congress to pass a bill authorizing federal regulation of Internet gambling.

The December 23 reversal of opinion from the justice department, although widely anticipated throughout the gaming industry, was still seen as a surprising move.

"This seems strange coming after Black Friday," said Joe Kelly, a business law professor at SUNY College in Buffalo and an Internet gambling expert, in reference to 2011's escalation of law enforcement efforts against offshore poker sites.

Some are already calling December 23 White Friday in contrast to [Black Friday on April 15](#) when the justice department indicted founders of the three largest U.S.- facing poker operators including PokerStars and Full Tilt.

[Nevada and Washington, D.C.](#) already have legalized Internet gambling within their own borders.

Since the justice department's opinion responded to inquiries from Illinois and New York, both of those states are expected to allow their lotteries to start selling tickets online within the next few months.

"I would not be shocked to see Congress do away with the Unlawful Internet Gambling Enforcement Act, and replace it with a bill that legalizes and regulates online poker," said Brian Gallini, a law professor at the University of Arkansas who follows Internet gambling.

Ian Ramsey, a Louisville, Kentucky attorney who represents Internet gambling operators, said the December 23 ruling indicates President Obama's administration is paying more attention to the online wagering debate.

"Maybe we have entered a new era," Ramsey said. "The point is that this issue was considered important enough by the administration to reach the [justice department's] Office of Legal Counsel to be considered."

While Congressman [Joe Barton of Texas](#), John Campbell of California and other sponsors of Internet gambling bills remained tight-lipped about the significance of the December 23 ruling, Congressman Frank said the opinion will add momentum to efforts in Congress to pass an Internet poker bill by the end of the new year.

"I do feel vindicated," said Frank, who also plans to retire at the end of 2012.

"I think this is a great example of grassroots democracy," Frank said. "This always has been an issue of personal liberty to me, and it's gratifying to see it gaining traction."