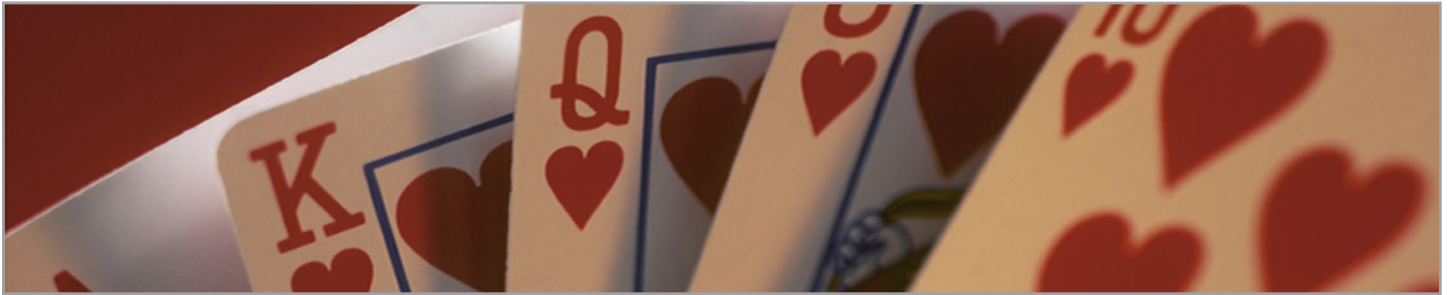


# GAMING LEGAL NEWS



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## GAMING LEGAL NEWS EDITORIAL BOARD

**Robert W. Stocker II**, Gaming Law  
517.487.4715 • rstocker@dickinsonwright.com

**Dennis J. Whittlesey**, Gaming Law/Indian Law  
202.659.6928 • dwhittlesey@dickinsonwright.com

**Michael D. Lipton, Q.C.**, Gaming Law  
416.866.2929 • mdliptonqc@dickinsonwright.com

**Peter H. Ellsworth**, Gaming Law/Indian Law  
517.487.4710 • pellsworth@dickinsonwright.com

**Peter J. Kulick**, Gaming Law/Taxation  
517.487.4729 • pkulick@dickinsonwright.com

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## WORLD GAMBLING BRIEFING UPDATE

The 7th annual World Gambling Briefing conference is under way in Malta. Over 100 first-day participants heard speakers focus on the European gaming industry. With panel topics such as “Operating in the Reality of a Fractured Market” and “Who Has Got What Right and Wrong?,” the speakers zeroed in on the major country players – Italy, France, Germany, Spain, England, and the Nordic countries, as well as Malta as a major internet server site.

Italian speakers noted that the Italian internet is expanding rapidly. All jurisdictions permitting internet gaming are experiencing significant growth, with Italy leading the pack with an estimated 200 internet licenses being issued by the end of 2011. Yet with all this growth it is clear that the panelists have their eye on the largest potential internet gaming market in the world – the United States.

The common theme in the conference is the “harmonization” of the various regulatory licensing and operations rules of the European gaming market. Of particular interest to operators are two issues: (1) One-stop licensure for all European jurisdictions, and (2) universal application forms.

The second day of the conference will focus on Eastern Europe, the Americas, and technological advances. Dickinson Wright Gaming Practice Group chair Bob Stocker will be speaking on United States internet gaming developments on the second day of the conference. With the District of Columbia announcing that it has enacted an internet gaming ordinance, the focus on the United States will be substantially heightened.

The organizer of the conference, Clarion Events, will follow up this conference with its annual GiGSE (Global iGaming Summit & Expo) in San Francisco on May 17-19, followed by the International Masters of Gaming Law two-track (Commercial and Indian Gaming) spring conference in Napa Valley, California, on May 22-24.

## THE STATE OF THE STATES: A ROUND-UP OF THE STATUS OF INTRASTATE I-GAMING PROPOSALS

by Robert W. Stocker II and Peter J. Kulick

The push to formally authorize i-gaming in the United States has been a journey filled with several unexpected turns with lofty expectations of arriving at the shining City on the Hill, only to reach yet another dead end. Over the past several weeks, several developments symbolizing this epic journey have occurred. Recent reports have emerged from Washington, D.C. which raise the prospect that the District of Columbia will become the first territory in the United States to formally authorize i-gaming. While the news reports are optimistic from the District of Columbia, the news is a little gloomier in Florida and Hawaii.

### Could the District of Columbia Be a Trailbreaker in the United States?

The United States' capital city, Washington, D.C., is not a state. Rather, Washington, D.C. is a district that falls under the supervision of the United States federal government. While Washington, D.C. has a local representative government, the local unit of government cannot freely enact laws. Laws passed by the Washington, D.C. local government are subject to approval by Congress. If Congress fails to reject a local law adopted by Washington, D.C. Council within a 30-day period, the local act can become law.

Washington, D.C. had included a provision in its budget which would authorize Internet poker ("i-poker") within the territory of Washington, D.C. Congress's failure to reject the measure by April 7, 2011, cleared the path for Washington, D.C. to begin to implement i-poker in the District.

While the legislative path has been cleared to authorize i-poker in Washington, D.C., several obstacles remain. First and foremost, the United States Department of Justice ("DOJ") has long taken the position that all forms of i-gaming violate federal law. The Unlawful Internet Gambling Enforcement Act ("UIGEA"), which ostensibly operates to prohibit i-gaming in the United States, provides an exception from the prohibition for intrastate i-gaming that is authorized by state law. While Washington, D.C. is not a "state," the Washington, D.C. law would still fall within the UIGEA exception. UIGEA defines a "state" to include Washington, D.C. Despite the fact that Washington, D.C.'s authorization of i-poker within the district would fall within the UIGEA exception, there is still the possibility that the DOJ will take the position that the local law does not shield against a prosecution under other federal laws. Furthermore, it appears that it will be necessary for the Washington, D.C. local government to take further action before i-poker becomes operational in the district. For example, it appears that local regulations would need to be promulgated which address the operation of i-poker sites. Thus, while groundwork has been laid in Washington, D.C., the reality of i-poker in the District of Columbia may still not come to fruition.

### The On-Again, Off-Again Battle in Florida – I-Poker Is Off-Again

The Florida Legislature has flirted with authorizing intrastate i-poker on a number of occasions over the past few years. Legislation has been introduced and debated in the Florida Legislature. In the current legislative session, legislation was introduced by a Republican lawmaker, Senator Miguel Diaz de la Portilla, to authorize intrastate i-gaming. Many proponents of i-gaming in the United States have held out hope that Florida would become the first state – or one of the first – to authorize intrastate i-poker in the United States. However, Senator Diaz de la Portilla's legislation recently failed to clear a Florida Senate committee. Thus, it appears that intrastate i-poker legislation will not be considered this year in the Sunshine State.

### Hawaii I-Poker Legislation Fails to Move Forward

Hawaii is one of two states in the United States that does not allow any form of gambling (the other state being Utah). Legislation was recently introduced in the Hawaii Legislature which would have moved the state out of the "no gambling" column to a gaming state. The legislation would have authorized not only land-based poker, but also i-poker. Ultimately, however, the legislation failed to advance in the Legislature within the deadline for bills to be considered during the current legislative session. Thus, for the time being, there is no prospect for the Hawaii Legislature to authorize intrastate i-poker.

### Conclusion

Intrastate i-gaming continues to be the topic *du jour* in the United States. The discussion and attention the subject has received is a positive step. The policy debate is indicative that the states are seriously considering authorizing and regulating i-gaming. With many states still facing massive budget shortfalls, coupled with state constitutional requirements to enact balanced budgets, the present is an opportune time for states to authorize, regulate, and receive new sources of revenue from i-gaming. The increasing number of states considering intrastate i-gaming legislation increases the odds that legal intrastate i-gaming will arrive sooner rather than later in the United States.