



ICLG

The International Comparative Legal Guide to:

Gambling 2016

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A practical cross-border insight into gambling law

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USA – Illinois

William Bogot



Donna More



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1 Relevant Authorities and Legislation

1.1 Which entities regulate what type of gambling activity in your jurisdiction?

The Illinois Gaming Board (“IGB” or “Board”) is an independent State agency that regulates both Riverboat Gambling (riverboat casinos) and Video Gaming (video gaming terminals at bars, restaurants, veterans’ establishments, fraternal establishments, truck stops, etc.). The IGB consists of five members appointed by the Governor and approved by the Illinois State Senate. The Governor shall designate one member to be the chairman. Each member should have reasonable knowledge of the gaming industry. In addition, one member shall be experienced in law enforcement, one member shall be a certified public accountant and one member shall be a lawyer. Members have staggered terms. The IGB is required to meet at least quarterly, but has held monthly meetings almost since inception. Board members are part-time. A Board-appointed Administrator and staff oversee the full time, day-to-day duties of the Board. The IGB is responsible for the oversight of all licensing, compliance and disciplinary decisions in regard to Riverboat Gambling and Video Gaming.

Pari-mutuel Horseracing is regulated by the Illinois Racing Board. The Illinois Lottery is regulated by the Lottery Control Board, and pull tabs and charitable gaming are overseen by the Illinois Department of Revenue. There is an Illinois Raffles and Poker Run Act, but local ordinance controls the issuance of raffle licences and local municipalities oversee compliance with the State and local law.

1.2 Specify all legislation which impacts upon any gambling activity (including skill and social games), and specify in broad terms whether it permits or prohibits gambling.

The Illinois Criminal Code states, *inter alia*, that a person commits a gambling offence when he or she knowingly plays a game of chance or skill for money or other thing of value, knowingly makes a wager upon the result of any game or contest, or knowingly operates or distributes any gambling device, unless exempted in accord with the statute (720 ILCS 5/28-1). Participants shall not be convicted of gambling if they are involved in certain activities that are exempt from the above definition. Such exemptions include: pari-mutuel betting as authorised by the law of Illinois; bingo when conducted in accord with the Bingo License Act; lotteries when conducted in accord with the Lottery Law; purchasing lottery tickets through

the Internet as permitted under the Lottery Law; raffles and poker runs when conducted in accord with the Raffles and Poker Run Act; charitable games conducted in accord with the Charitable Games Act; pull tabs when conducted in accord with the Illinois Pull Tabs and Jar Games Act; gambling games on riverboats as authorised by the Illinois Riverboat Gambling Act; video gaming terminal games as conducted pursuant to the Video Gaming Act; and offers of prizes, award or compensation to the actual contestants in any *bona fide* contest of skill.

2 Application for a Licence and Licence Restrictions

2.1 Who can apply for a licence to supply gambling facilities?

Under the Riverboat Gambling Act, the IGB may issue up to 10 casino “owner’s licenses” for riverboat casinos. A riverboat casino licence is valid for four (4) years and allows an entity to own and operate a casino gaming facility. A casino gaming facility may have up to 1,200 gaming positions for play by the public.

Under the Video Gaming Act, the IGB permits a licensed terminal operator (sometimes referred to as a route operator) to place up to five (5) Video Gaming Terminals (“VGTs”) in licensed establishments. The terminal operator is permitted to own, service and maintain VGTs at licensed establishments. A licensed establishment includes any retail establishment where alcoholic liquor is drawn, poured, mixed or served for consumption. A qualifying establishment also includes a fraternal organisation, a veterans’ organisation or a truck stop.

2.2 Who or what entity must apply for a licence and which entities or persons, apart from an operator, need to hold a licence? Are personal and premises licences needed? Do key suppliers need authorisation?

Under the Riverboat Gambling Act, for a casino owner’s licence, the following must be designated as “key persons”: all persons with an ownership interest or voting rights of more than 5%; all directors; the CEO; the President; the COO; the gaming operations manager; and persons with influence or control over the conduct of gaming at a riverboat casino. The following must obtain a supplier licence: providers of gaming devices, gaming repair services, security services; junketeers; or lessors of a riverboat casino or dock facility. For a supplier’s licence, all persons with an ownership interest of 25% or more, the CEO and the COO must also be designated as

key persons. Key persons of both owner and supplier licences must submit business entity or personal disclosure forms to and be found suitable by the IGB. “Institutional Investors” (as defined by Securities and Exchange Commission Rule 144A under the federal Securities Act of 1933) generally can qualify to register as an institutional investor, and be subject to reporting requirements, without the need for a suitability finding. Lastly, everyone who works at a riverboat casino must hold an occupational licence.

Under the Video Gaming Act, in addition to licensing the terminal operators who own and maintain the VGTs and licensed establishments where the VGTs are available for play, as noted above, the IGB licenses those who manufacture, distribute and supply VGTs and their major components or parts, as well as gaming technicians and handlers. The IGB also requires the application and suitability of Persons with Significant Influence or Control (PSIC) over a video gaming applicant or licensee. Such persons are identified by the IGB Administrator, and include each person on a licensed establishment’s liquor licence, each person who shares a percentage of revenue in a licensee, or other persons having the power to exercise significant influence or control over decisions concerning any part of a licensee’s video gaming operation. The IGB also requires registration and approval for “finders,” an industry term to describe those who basically act as sales agents to sign up establishments into “use agreements” with terminal operators for the placement of VGTs at the establishments.

2.3 What restrictions are placed upon any licensee?

All licensees under the Riverboat Gambling Act and the Video Gaming Act must comply with the applicable law and IGB rules and regulations.

Under the Video Gaming Act, manufacturers and distributors are prohibited from being licensed as operators and prohibited from owning, managing or controlling any licensed establishment. Similarly, terminal operators are prohibited from being licensed as manufacturers or distributors, and from owning, managing or controlling any licensed establishment. There are also restrictions on the proximity of a video gaming licensed establishment to places of worship and riverboat casinos. The Video Gaming Act also contains “of value” provisions, providing that “[n]o terminal operator may give anything of value, including but not limited to a loan or financing arrangement, to a licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans’ establishment as any incentive or inducement to locate video terminals in that establishment.” Lastly, Illinois municipalities and unincorporated counties can opt-out of video gaming for their communities.

2.4 What is the process of applying for a gambling licence?

Pursuant to the Riverboat Gambling Act and IGB Rules, an entity applying for an owner’s or supplier’s licence for casinos, along with certain key persons stated above, must complete comprehensive application forms, be investigated and be found suitable by the IGB. For both owners and suppliers and their respective key persons, there are application and disclosure forms that must be completed. These forms are used as the foundation of the IGB’s eligibility and suitability investigation. Information that needs to be provided for casino owner’s licences and supplier licensees includes: criminal history; financial ability of the applicant and financial history of each key person; scope of the proposed riverboat project or information on the product to

be supplied; management of the company and internal compliance procedures; tax payment history; and fingerprints and a complete personal history of each individual (family information, educational information, address history, employment history). Applicants must execute release authorisations that allow the IGB to obtain information from anyone, including banks and taxation authorities. Occupational licence applications for casino employees are less comprehensive and generally focus on criminal, employment and personal history. The IGB staff does its investigation and then makes a recommendation to the IGB regarding licensing. The IGB then must make its licensing determination in a public meeting of the IGB.

The licensing process and criteria for Video Gaming are similar to the riverboat process. However, there are some distinctions. Unless they qualify as institutional investors, all owners – not just those who are “key persons” for having a certain ownership percentage – must be investigated and found suitable by the IGB. Establishment licences for the locations where the VGTs are placed and played generally focus on ownership, criminal history, employment and personal history.

2.5 Please give a summary of applicable time limits and revocation.

Under the Riverboat Gambling Act and IGB rules, casino owners’ and suppliers’ licences are initially issued for one (1) year. After the initial licensure term, the IGB may grant a licence renewal for up to four (4) years. Under the Video Gaming Act all licences must be renewed annually.

Under both statutes, a licensee may be disciplined for a variety of reasons. Failure to comply with the enabling statute or the IGB regulations, or engaging in an activity or association that would discredit the Illinois gaming industry, can form the basis of a disciplinary complaint. An applicant or licensee subjected to adverse Board action has certain administrative hearing rights and then can also go to court on administrative review.

2.6 By product, what are the key limits on providing services to customers?

Under both the Riverboat Gambling Act and the Video Gaming Act, gaming equipment must meet certain minimum standards and be on approved product lists. Gaming devices (e.g., slot machines), voucher kiosks, and computer casino or route monitoring systems must meet technical standards established by the IGB, and must be tested by the IGB’s designated or approved independent test lab.

Under the Video Gaming Act, there is a maximum wager of \$2 per hand. No cash award for the maximum wager on any individual hand shall exceed \$500.

2.7 What are the tax and other compulsory levies?

Under the Riverboat Gambling Act, in addition to application and annual fees for casino owner licences and supplier licences, the State imposes on riverboat casinos a graduated “privilege” tax ranging from 15% of annual adjusted gross receipts up to and including \$25,000,000, up to a maximum tax of 50% of annual adjusted gross receipts in excess of \$200,000,000. “Adjusted gross receipts” is defined as gross receipts (total amount of money exchanged for the purchase of chips, tokens or electronic cards) minus winnings paid to wagerers. In addition, depending upon the number of admissions and the year of operations, an admission tax of \$2 or \$3 is imposed per person admitted upon each riverboat casino.

Under the Video Gaming Act, in addition to application and annual fees for licences, there is a 30% tax rate on net terminal income from VGTs. Net terminal income means money put into a VGT minus credits paid out to players. The IGB also imposes a fee of .7275% on net terminal income for payment to the vendor of a central communications system that is connected to and monitors all VGTs throughout the State. The remaining 69.2725% of net terminal income from VGTs is split between the terminal operator and the licensed establishment. The Video Gaming Act also imposes an annual \$100 licence fee per VGT. In addition, many municipalities where video gaming is permitted have imposed a per VGT tax ranging from \$100 to \$1,000. A provision in the Video Gaming Act provides that “[a] non-home rule unit of government may not impose any fee for the operation of a video gaming terminal in excess of \$25 per year”. Thus, there is a question as to whether fees in excess of \$25 per VGT are legal and there are pending court challenges to such.

2.8 What are the broad social responsibility requirements?

Only persons over the age of 21 may gamble. Persons may voluntarily subject themselves to exclusion from a riverboat casino. Certain gaming advertisements must contain information regarding access to problem gambling programmes.

2.9 How do any AML financial services regulations or payment restrictions restrict or impact on entities supplying gambling?

Anti-money laundering (“AML”) laws governing casino operations are promulgated and administered by the federal government under the Bank Secrecy Act. Enforcement of AML laws is primarily the responsibility of the U.S. Department of Treasury’s Financial Crimes Enforcement Network (“Fin Cen”). In recent years, FinCen and the Office of the US Attorney have increased their civil and criminal AML enforcement efforts with respect to U.S. gaming operations.

3 The Restrictions on Online Supply/Technology Support/Machines

3.1 Does the law restrict, permit or prohibit certain online activity and, if so, how?

Currently, online gaming is prohibited in Illinois but for two exceptions: Internet wagering on horseracing; and the online purchase of a State lottery ticket.

3.2 What other restrictions have an impact on online supplies?

Not applicable. See question 3.1.

3.3 What terminal/machine-based gaming is permitted and where?

Under the Riverboat Gambling Act, any type of slot machine or video game of chance authorised by the IGB as a wagering device is permitted at Illinois riverboats. The IGB allows local progressive slot machines and Ticket-in, Ticket-out (TITO).

Under the Video Gaming Act, allowed VGTs include any authorised electronic video game machine that, upon insertion of cash, electronic cards or vouchers, or any combination thereof, is available to play or simulate the play of a video game, including but not limited to video poker, line up, and blackjack, as authorised by the Board, utilising a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The IGB currently does not allow progressive VGTs. Although the Video Gaming Act allows TITO, the IGB has not yet implemented such for VGTs.

4 Enforcement and Liability

4.1 Who is liable for breaches of the relevant gambling legislation?

The IGB is responsible for enforcing violations of the Riverboat Gambling Act and Video Gaming Act. The IGB may bring a disciplinary complaint by seeking a fine or revocation against any licensee for such violation. The disciplinary process begins by the IGB voting to issue a disciplinary complaint against a licensee. A licensee may request an administrative hearing to contest the allegations of the complaint. The case is assigned to an administrative law judge (“ALJ”) for a hearing. The ALJ ultimately issues findings of fact and conclusions of law, and a recommendation to the IGB. The IGB then makes a final determination in the matter. A licensee who disagrees with the final Board action may file a complaint for administrative review in State court.

Any civil penalty imposed by the IGB upon a licensee cannot exceed \$10,000 or an amount equal to the daily gross receipts, whichever is larger, for each violation of any provision of the Riverboat Gambling Act, the Video Gaming Act or the Rules. A patron, or any other non-licensee, may be prosecuted by local law enforcement agencies for any violation of the Criminal Code.

4.2 What is the approach of authorities to unregulated supplies?

The IGB strictly enforces the licensing requirements for riverboat casinos and video gaming suppliers (including video gaming manufacturers and distributors). Only licensed suppliers may provide gaming equipment and all gaming equipment must be approved by the IGB prior to distribution.

4.3 Do other non-national laws impact upon enforcement?

No, there are no non-national laws that impact enforcement.

4.4 Are gambling debts enforceable in your jurisdiction?

Riverboat casinos are authorised to issue credit to patrons. Gambling debts legally incurred are enforceable in Illinois.

5 Anticipated Reforms

5.1 What (if any) intended changes to the gambling legislation/regulations are being discussed currently?

Casino gambling expansion is a perennial topic of discussion in Illinois. Currently, there is proposed legislation for casinos in the City of Chicago and four other cities, and slot machines at certain licensed horseracing tracks. Some argue that the gaming market in Illinois is oversaturated, while others believe expansion will bring much-needed revenue to the State. Internet gaming has been discussed but does not appear to have much traction in Illinois.



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Bill represents clients in highly regulated industries and has worked for all three branches of the Illinois government: executive; legislative; and judiciary.

A former legal adviser to the Illinois Gaming Board (IGB), he authored portions of Illinois' gaming regulations and advised the IGB and the Governor's Office on all aspects of gaming law and regulation. Bill draws upon this and his other government experience to counsel clients in gaming and other industries that have heavy regulatory oversight.

Bill guides gaming industry companies, suppliers and investors in navigating complex gaming laws. He also regularly represents gaming licensees and applicants in administrative hearings before the IGB.

Bill also counsels clients on promotional sweepstakes, contests, fantasy sport leagues and charitable raffles, ensuring that such programs comply with State and federal laws and do not constitute illegal gambling.



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Donna provides counsel to clients in highly regulated industries such as gaming, medical cannabis, liquor, sweepstakes and contests. Drawing upon her experience as general counsel to the Illinois Gaming Board (IGB), Assistant U.S. Attorney for the Northern District of Illinois and Assistant Cook County State's Attorney, Donna advises clients on all licensing and regulatory issues in hearings before administrative agencies.

Donna represents casinos, video gaming terminal operators, manufacturers and distributors, game developers and other companies involved in the gaming industry. As the first general counsel to the IGB, she was involved in the process of legalising gaming in Illinois and helped write aspects of the regulations that remain in place today. This first-hand knowledge enables Donna to provide extensive insight and counsel to companies regarding licensing, compliance, investigations and commercial disputes. Additionally, she advocates for clients before agency boards and commissions, litigates compliance issues and negotiates settlements.



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In addition to providing a full range of legal services to public and private companies, Fox Rothschild is home to one of the largest gaming law practices in the United States. Ranked among the top gaming lawyers worldwide in *Chambers Global*, our attorneys are known in the industry and are well-respected by both clients and regulators. We routinely represent casinos, suppliers and investors.

Fox Rothschild's gaming law attorneys guide companies, licensees, suppliers, vendors and investors on regulatory, licensing, compliance, financing and operational issues and disputes. The firm's attorneys are also at the forefront of Internet gaming in the United States and handle promotional sweepstakes, contests, fantasy sport leagues, charitable raffles and other programs.

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