

Connecticut Legislature Passes Bill Legalizing Retail and Online Sports Betting, Online Casino Gaming, and DFS

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On May 25, 2021, the Connecticut General Assembly enacted legislation authorizing retail and online sports betting, online casino gaming and online daily fantasy sports (DFS), to be offered exclusively by the Connecticut Lottery Corporation (the Lottery) and the state's Mashantucket Pequot and Mohegan Indian Tribes (the Tribes). The expanded gaming bill was developed alongside a new state-tribal gaming compact that will allow the Tribes to conduct retail and online sports betting and DFS operations on tribal land. Even after the bill is signed into law by Governor Ted Lamont, its expanded gaming provisions will only take effect once the new compacts are approved by the U.S. Bureau of Indian Affairs. Gov. Lamont is expected to submit the compacts for Bureau approval in the coming weeks.

The bill is expected to dramatically disrupt the DFS industry, as it imposes a moratorium on statewide DFS operations until the government has developed expanded gaming regulations, a process that could take months, and it permanently shuts out any DFS operators who are unable to procure a partnership deal with the Lottery or the Tribes.

Key Provisions of Connecticut's Expanded Gaming Bill

Pursuant to the new legislation, the Connecticut Department of Consumer Protection (the Department) will issue Master Wagering Licenses to each of the Tribes and the Connecticut Lottery Corporation. These licenses will permit the Tribes to conduct online sports betting, online casino gaming and DFS operations throughout the state. Each Tribe will be permitted to operate one online sports betting skin and one online casino gaming skin. The bill makes no mention of a skin limit for DFS.

The legislation also allows the Tribes to partner with online gaming platform operators, which can conduct online betting, casino gaming and DFS operations on the Tribe's behalf, provided they have obtained Online Gaming Operator Licenses from the Department. The Mashantucket Tribe previously announced that it would partner with DraftKings for its online gaming operations, and the Mohegan Tribe has indicated it will partner with Kambi.

As indicated above, the Department will also issue a license to the Lottery, which will allow the organization to: (i) offer in-person sports betting at up to 15 retail locations, including at licensed off-track-betting sites; and (ii) offer one online sports betting skin in partnership with a licensed online gaming operator. The bill expressly provides that the Lottery's online sports betting skin cannot be branded with the name of any organization or gaming brand that operates a physical casino in any jurisdiction, nor can it directly market or promote any physical casino. The bill also allows the Lottery to conduct DFS operations and makes no mention of a skin limit.

Each Master Wagering License will be issued for a 10-year period, with a single 5-year renewal option. All Master Wagering Licensees will be required to make monthly payments to the state ranging from 13.75% to 20% of their gross revenue from sports betting, online casino gaming and DFS operations. Master Wagering Licensees will also be required to make annual payments ranging from \$500,000 to \$1 million into the state's problem gambling programs.

The new gaming bill also requires an Online Gaming Service Provider License for any entity providing goods or services to licensed operator that are in any way "related to" online sports betting, casino gaming or DFS. The statute provides limited examples of the

types of services that may be considered "related to" online gaming, which includes payment processors and geolocation service providers. At the same time, however, the legislation compels the Department to develop specific criteria for determining who must obtain an Online Gaming Service Provider License in the future.

The bill also states that anyone providing goods or services to a licensed operator that are in any way "related to" online sports betting, casino gaming or DFS must obtain an Online Gaming Service Provider License. It is unclear, based on the plain language of the legislation, what types of services might be considered "related to" online gaming. That said, the bill includes a provision that tasks the Department with developing specific criteria for determining when a license is required.

The bill instructs the Department to draft, issue and adopt regulations to govern the expanded gaming operations, which must address, among other things, (i) licensing criteria and application procedures; (ii) procedures for the approval of specific games; (iii) marketing and advertising standards; and (iv) compliance reporting and disclosure requirements.

DFS Controversy

Historically, DFS operators have offered contests in Connecticut, arguing DFS is a game of skill, not a game of chance that requires explicit authorization. The new bill explicitly legalizes DFS, but only permits Master Wagering Licensees to conduct DFS operations. As a result, to continue offering DFS in Connecticut, DFS operators will be required to partner with Master Wagering Licensees. Even the operators who manage to secure partnership deals with licensees will be required to halt DFS operations at least temporarily, as the bill imposes a moratorium on DFS in Connecticut until the Department has promulgated expanded gaming regulations, a process that could take months.

That said, state officials have expressed optimism that the Department will work quickly to draft, issue and adopt expanded gaming regulations, and expect that sports betting, casino gaming and DFS will all be online in time for the start of the 2021-2022 NFL season.

White and Williams will continue to monitor the progress of Connecticut's expanded gaming bill and the corresponding regulations and will provide updates on significant developments. If you have questions or would like more information, please contact Frank A Bruno (brunof@whiteandwilliams.com; 215.864.6225) or Zachery B. Roth (rothz@whiteandwilliams.com; 215.864.6274).

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