


3.13.13 #16

TO: The Honorable Chairman and Members of the
Board of County Commissioners

FROM: James L. Bennett, County Attorney 

SUBJECT: Consideration of Options for Regulating Internet Gambling Devices and
Internet Gambling Facilities in Pinellas County

DATE: March 12, 2013

RECOMMENDATION: I RECOMMEND THAT THE BOARD OF COUNTY COMMISSIONERS CONSIDER THE FOLLOWING OPTIONS FOR REGULATING INTERNET GAMBLING DEVICES AND INTERNET GAMBLING FACILITIES PINELLAS COUNTY.

DISCUSSION: The regulation of simulated gambling machines, devices and internet cafés has increased over the past several months. Currently, Florida Statutes sections 849.15 and 849.231 specifically prohibit the manufacture, ownership or possession of any slot machine, gambling machine or other game of chance in which a credit is provided a player or operator based on chance. Pursuant to section 849.16, any machine that provides a credit based on chance in response to insertion of money or any other thing of value is a slot machine. This definition is intended to address all gambling devices that are not otherwise exempted by state law, but the internet devices of concern attempt to skirt these statutory prohibitions by relying on exceptions in the statutes that allow game promotions for consumer products, section 849.094, and by suggesting that the purpose of these machines is to provide internet access to the public. Based on these alleged distinctions, internet cafés promoting gambling devices have been proliferating in the state generally and in the Tampa Bay area specifically. Hillsborough County recently passed an ordinance similar to a Seminole County ordinance which is currently being challenged but survived a preliminary injunction. Enforcement of this new ordinance may result in a shift in business operations to Pinellas. To that end, I bring forward the following options for your consideration regarding internet gambling and devices:

1. Complete Ban. Under this option, the Board would enact an ordinance prohibiting the operation of any facility defined as an internet café or otherwise designated as a house of gambling. The ordinance would also prohibit gambling machines and devices on the premises. This would be an absolute ban that would be easily enforceable, but it would also subject the County to potential liabilities given the preemptive nature of the gambling regulations and does not address the State Attorney's recent concerns with establishing their status under those statutes.

2. Moratorium. A moratorium would freeze us in our current position by banning any new internet cafés from starting up in Pinellas County while allowing those currently in operation to continue. In a manner similar to this Board's action on "pill mills," this option would preserve the status quo and allow time to determine the future prospects for these enterprises in the state as the State Legislature will consider its own set of options for addressing this growing concern

in its 2013 Legislative Session. The outcome of the Session will have a major impact on the appropriate response at the county level.

3. Regulation. There are several options for regulating these businesses. Licensing, certification or controlling the manner of operations are just a few to begin the discussion. The concern with regulation though is that it creates the appearance of approval by the County and tacitly lends a level of legitimacy to the operation of these enterprises. On the upside, we would have more information on the individuals responsible for the businesses but once in place, these businesses would be very difficult to remove if such action were deemed necessary in the future.

Overall, considering the above options, my opinion is that the moratorium is the best option as it will allow us to control the influx of new internet cafés while allowing the time to determine the outcome of 2013 Legislative Session.

JLB:CEB:elb

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