

#2008-10 © Copyright 2008, all rights reserved worldwide. GAMBLING AND THE LAW® is a registered trademark of Professor I Nelson Rose, www.GAMBLINGANDTHELAW.com.

Gambling and the Law®: Minimum Age To Bet On The Internet

About every other week I get asked, “What is the minimum age to gamble on the internet?” Usually these are from college-age students, who know how to make sports bets or play poker online -- and, in fact, are already doing it from their dorm rooms -- but get worried they will be busted if they win. But, I've even been asked by agents of government and law enforcement, including police, prosecutors and regulators.

Unfortunately, there is no easy answer. This is mainly because law-makers have not thought about Internet gambling at all, let alone a minimum age. If legislators have considered betting online, they have made it illegal. And if it is illegal, there cannot be a minimum age: You might have to be more than 21 to buy an alcoholic drink. But even if you're 22, you not suppose to be buying (non-medicinal) marijuana.

But there are some guidelines.

The first place to look for a minimum age to make bets online is with the operator. Some countries that license Internet gaming require that no bets be taken from anyone under 18 or 21.

Other jurisdictions say that it is up to the operator to set the limits. Many put the minimum age at 21. This doesn't necessarily make it legal. But it does make it hard for prosecutors to claim the operator is targeting children. And it prevents additional charges from being leveled, such as "contributing to the delinquency of a minor."

But some operators take the position that they cannot police the world. Just as they will take bets from everywhere, they say that the minimum age is whatever the law says it is where the player is located. These online operators put into their terms and conditions that it is the duty of the player to determine whether it is legal to bet money online, which would include checking to see if local lawmakers have imposed a minimum age.

The problem is that even lawyers would find it difficult to say what their local law is on the minimum age to play poker on the Internet.

Take California, for example. The State Penal Code makes it a crime to allow anyone under 18 to “play at a game of chance,” in “any house used in whole, or in part, as a saloon or drinking place.” But, tribal casinos almost always limited poker to 21-year-olds, because the state-tribal compacts allows 18-year-olds to play only when no booze is available. The state's licensed cardrooms also won't seat anyone under 21. The State

Legislature recently enacted a law allowing charities to run poker tournaments; again, the minimum age was set at 21.

But, do any of these laws apply to an overseas operator taking bets from California? Probably not.

State law makes it a crime to run a commercial poker game if you are not licensed. But it is not clear that even this law applies. There is a strong presumption that a law does not reach beyond a state's borders unless it says so, and this prohibition on poker never mentions having operators or other players outside California.

The funny thing about all this is that the students asking the questions have a better chance of winning the World Series of Poker than of being arrested for playing poker online. But, there is actually some small danger in betting from a dorm room. Colleges have rules against gambling, especially if you are using a school computer.

And the schools don't care if you are over or under 21.

END

© Copyright 2008. Professor I Nelson Rose is recognized as one of the world's leading experts on gambling law and is a consultant and expert witness for players, governments and industry. His latest books, INTERNET GAMING LAW and GAMING LAW: CASES AND MATERIALS, are available through his website, www.GAMBLINGANDTHELAW.com.