

Congress of the United States
Washington, DC 20515

January 11, 2018

The Honorable Rod Rosenstein
Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

Dear Deputy Attorney General Rod Rosenstein:

We write to urge you to keep in place the Department of Justice's 2011 decision holding that the Wire Act only applies to sports betting. The statutory language and legislative history of the Wire Act support the Department's current decision.

As you know, the Wire Act states, "Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on *any sporting event or contest*, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined under this title or imprisoned not more than two years, or both" [emphasis added]. The statutory language itself makes clear that the Wire Act only applies to sports betting. And in 2002, the Fifth Circuit agreed.¹ Specifically, the Fifth Circuit wrote, "We agree with the district court's statutory interpretation, its reading of the relevant case law, its summary of the relevant legislative history, and its conclusion."²

The legislative history of the Wire Act also supports the Department's 2011 decision. Enacted in 1961, the Wire Act was meant to restrain organized crime by making sports betting over phone lines illegal. When it issued its decision, the Department noted, that while the new policy "differs from the department's previous interpretation of the Wire Act, it reflects the department's position in Congressional testimony at the time the Wire Act was passed in 1961."³ In other words, Congress could not have fathomed the advent of the Internet and all that it would bring.

When the Department issued its opinion, critics predicted an avalanche of state legislation that would turn "every smartphone, tablet, and personal computer in our country into a casino

¹ *In re Mastercard*, 132 F.Supp.2d 468 (E.D. La), aff'd. 313 F.3rd 257 (5th Cir. 2002)

² *Ibid.*

³ Wyatt, Edward. "Ruling by Justice Dept. Opens a Door on Online Gambling." *The New York Times*. December 24, 2011. Accessed December 02, 2017. <http://www.nytimes.com/2011/12/25/us/online-gaming-loses-obstacle-at-justice-department.html>.

available 24 hours a day, 7 days a week.”⁴ These doomsday scenarios have not come to pass. Since 2011, only four states have passed online gambling legislation, including the online casino sites in New Jersey. Strict registration procedures, rigorous regulations, and constant monitoring have proven effective at preventing underage gambling in New Jersey, with some studies stating that online gambling may be more effective at verifying identification and preventing underage gambling than land-based casinos.⁵ Additionally, gambling addiction experts at Washington University in St. Louis found that “based on available research, it is unclear if the Internet contributes to more gambling problems.”⁶

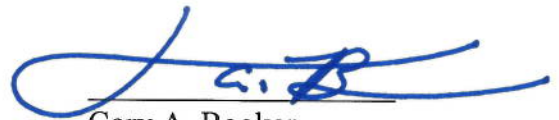
Since 2011, New Jersey has enjoyed robust revenues from online gambling. In fact, 2017 has already shattered records with \$200 million in revenue in the first ten months. This has coincided with a rebirth of Atlantic City. This growth in revenue is in large part due to significant capital investments by the state in online gaming facilities, equipment, and technology that makes online gaming safe and secure. New Jersey has some of the strictest online gaming regulation protocols in the world, featuring technologies which were developed or implemented for state-mandated requirements, including precise geolocation and regulatory monitoring of all operated platforms.⁷ Additionally, players are guaranteed that the online games in the state meet regulatory standards and requirements, thus ensuring that they are protected from cheating and fraud.⁸

Placing a blanket prohibition for online gambling would be an antiquated approach to a 21st century issue, punishing states like New Jersey – which have invested in creating a safe and secure online gaming structure – while also permitting black market operators to put millions of American’s at risk. Given the statutory language, legislative history, and clear evidence that online gaming has shown clear benefits, we respectfully request that you uphold the 2011 decision that the Wire Act does not prohibit online gambling. Please do not hesitate to contact us with any questions.

Sincerely,



Robert Menendez
United States Senator



Cory A. Booker
United States Senator

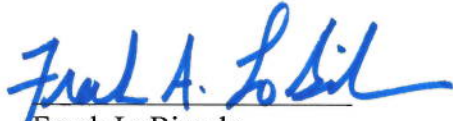
⁴ Tummarello, Kate. "Senators push DOJ on online gambling ban." The Hill. February 02, 2016. Accessed December 01, 2017. <http://thehill.com/policy/technology/213848-senators-push-doj-on-online-gambling-ban>.

⁵ Meister, Alan, Ph.D., and Gene Johnson. "Economic Impact of New Jersey Online Gaming: Lessons Learned." IDEAgrowth.org. June 2017. Accessed December 1. https://ideagrowth.org/wp-content/uploads/2017/06/Impact-of-NJ-iGaming-Draft-6-16-17_ExecSummary_FINAL.pdf.

⁶ United States of America. Congressional Research Service. Internet Gambling: Policy Issues for Congress. By Michaela D. Platzer. November 7, 2016. Accessed December 1, 2017. <http://www.crs.gov/reports/pdf/R44680>.

⁷ Meister and Johnson, 5.

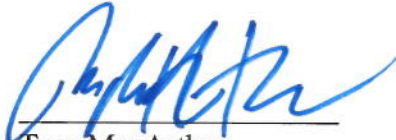
⁸ Ibid.



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Member of Congress




Leonard Lance
Member of Congress



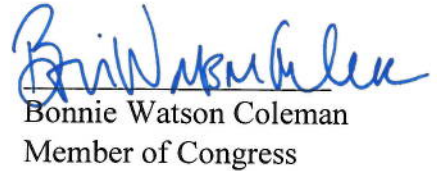
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Member of Congress



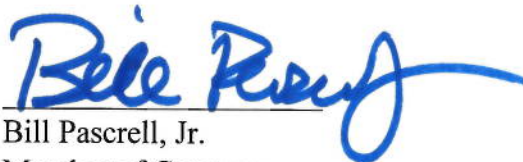
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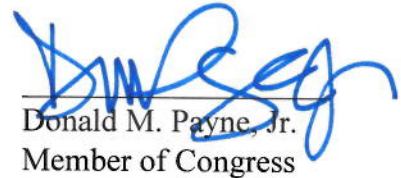
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