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STATE HOUSE NEWS: While lottery sales are flat, Grossman sees online gaming pilot as unlawful

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[State House News Service](#)

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BOSTON —

Though online gaming could be a future money-maker for the state with implications for expanded gambling in Massachusetts and flat Lottery sales, Treasurer Steven Grossman on Tuesday said a proposed pilot program to sell Lottery tickets online would violate federal law.

"While I fully share Senator Michael F. Rush's view that the Massachusetts State Lottery should be a leader in online gaming if it is legalized, I cannot support Senate Bill 132 in its present form, which calls for the Lottery to undertake a 'pilot project' to test the feasibility of online sales because of a conflict with federal law," Grossman wrote in testimony submitted to legislative committee.

Grossman said any payment or collection of funds for online gaming through U.S. banks by credit card would violate the Unlawful Internet Gambling Enforcement Act of 2006.

Five states - New York, Minnesota, Virginia, Maryland and North Dakota - currently sell lottery tickets online within their state borders, but Massachusetts Lottery officials have a different interpretation of the federal law.

Rush, who is serving overseas in Iraq with the Navy Reserves, filed legislation this session ordering the Lottery Commission to launch a pilot program exploring the possibilities for selling Lottery tickets online.

"The goal of this legislation is to develop a pilot program under the purview of the Massachusetts Lottery Commission to study and evaluate new technologies and delivery mechanisms for online lottery sales," said John Regan, chief of staff to Rush, in a statement. "By no means does it make online gaming universally legal in Massachusetts. Likewise, mechanisms of payments would also be studied by the Commission separate from credit card transactions."

Grossman, who supports legalizing casinos, said he also favored taking actions to prepare Massachusetts for the possibility that online gambling could be legalized at the federal level, but said until that time the pilot project as envisioned "is not possible." The treasurer reiterated his plans to form an online gaming task force to "explore our options and to develop a strategy by which Massachusetts will be a national leader in that market."

Grossman noted that "influential members of Congress" are pushing to legalize online poker and

other games, and several states are "threatening to launch online games of their own."

"This activity is clearly a threat to the Massachusetts Lottery and the urgently needed local aid that it helps finance," Grossman said.

The hearing before the Joint Committee on Consumer Protection and Professional Licensure drew a gaggle of television and print reporters expecting to hear testimony on the bill, but not one person spoke for or against the proposal.

Lottery Executive Director Paul Sternburg said Massachusetts sells season tickets for games such as Megabucks over the phone, accepting customer credit cards, but added that only 1 percent of the \$4 million in seasonal tickets sales are processed over the phone out of total of roughly \$4.5 billion in annual Lottery sales.

Sternburg said the Lottery believes the practice is permissible under the federal Wire Act of 1961 because the Lottery maintains control of the actual Lottery ticket and manages the accounts for its customers by only sending the purchasers a receipt for their tickets.

Les Bernal, the executive director of the Stop Predatory Gambling Foundation, submitted testimony to the committee sharply criticizing any attempt to expand gambling into the online sphere, warning of increased problem gamblers and citing a Fairleigh Dickinson University's survey that found 67 percent of Americans want Internet gambling to remain illegal.

"Because it is a policy based on aggressively encouraging citizens lose their money rather than save their money, predatory gambling has failed to expand the middle class and driven citizens deeper into America's debt culture," Bernal wrote.

Bernal said the state Lottery currently provides just 4 percent of the funding for cities and towns despite being created with the promise of becoming a major source of financial support for municipalities. "It has failed as a revenue source," Bernal said.

Lottery officials said the unaudited Lottery sales for fiscal 2011 total \$4.427 billion, a slight \$3 million uptick from fiscal 2010, and the expected transfer to the state's General Fund for local aid fell just short of original projections.

Budget writers had initially projected \$898 million in net profit from the Lottery for fiscal 2011, but Grossman told lawmakers in February that those estimates had been downgraded to \$865 million with Lottery sales behind more than \$30 million.

Officials now project that they will close the fiscal year with \$886.2 million in net profits to be transferred to the General Fund. Sternburg said the Lottery closed the year with a strong June performance with sales finishing more than \$19 million higher than the year before.

Those positives were tempered by decreases in the interstate Powerball and Cash WinFall games driven by low jackpots, Sternburg said.