

BID TO MODIFY ATM BAN RAISING HACKLES OF CASINO FOES

By Matt Murphy
STATE HOUSE NEWS SERVICE

STATE HOUSE, BOSTON, DEC. 29, 2014.....A quiet push by lawmakers to update the state's rules around locating automated teller machines, or ATMs, at casinos has sparked a heated debate over whether the cash machines belong at casino resorts and confusion over what the Legislature is trying to accomplish.

Lawmakers working on the law change in the waning days of the session said Monday they're simply attempting to level the playing field between state and federally chartered banks, but casino opponents view the proposed changes as a relaxation of the current ban on ATMs at gambling facilities.

The fear of casino opponents is that easy access to automated cash machines will contribute to gambling addiction, but lawmakers behind the proposed change said they share the advocates' desire to keep ATMs far from the slot machines and black jack tables of the state's new casinos, if not altogether out of the hotels and shops.

One high-ranking Senate Democrat said it would be wrong to try to ban ATMs from the hotels, restaurants and entertainment venues that are due to be a part of the resort-style casinos licensed in Springfield and Everett, and so legislators are trying to strike a balance.

On Christmas Eve, the Senate slipped an amendment sponsored by Senate Ways and Means Chairman Stephen Brewer into a banking reform bill (H 4110) that would give the Gaming Commission the authority to regulate the placement of ATMs, rather than the Division of Banks.

While the proposed change would prohibit ATMs from being located in the "gaming area," it would also repeal a 1981 banking statute that banned all electronic banking on the "premises" of a legal gambling facility, except where the Lottery is sold. The bill currently sits before the House, which did not address the amendment on Monday when it met for an extended informal

session. Any action on the bill must occur before Jan. 7 when a new session begins and all old bills die and must be refiled.

While the commissioner of banks can currently regulate state chartered banks and credit unions, federally chartered banks could potentially negotiate with the operators of a casino in Massachusetts to locate ATMs directly on the gaming floor, according to Senate officials.

"We can't regulate federal banks, so federal banks can install them with the permission of the operator or licensee. And so what we're trying to do is to say we don't want them on the gaming floor. In fact, some of us don't want them even close to the gaming floor," Senate Majority Leader Stanley Rosenberg said.

Asked about the concern that lawmakers were actually opening the door to ATMs at casinos, Rosenberg said, "There's a subtlety here that people are missing. The intention of the amendment is actually the reverse. No ATMs on the gaming floor."

Les Bernal, executive director of the Stop Predatory Gambling Foundation, said lawmakers may be rushing to pass a law without fully understanding the ramifications.

"If the intent is to prohibit ATMs on the premises of casinos, then they're way off the mark because this allows ATMs to be on the premises now and the biggest vendor of casino ATMs doesn't meet the criteria that they're prohibiting," Bernal said.

According to Bernal, a company called Global Cash Access markets a brand of non-bank ATM prevalent in casinos around the country that are neither state nor federally chartered that could slip through the cracks of the new rules.

Aides to the Senate say they believe non-bank ATMs would be covered by the proposed ban in the gaming area.

"Why do it on Christmas Eve morning when no one is watching," Bernal said. "This is a huge issue with tens of millions of dollars to casinos at stake and if there are good intentions then why not ban Global Cash Access and don't narrow the definition to the casino floor."

Rosenberg said the Senate is trying to level the playing field by giving the Gaming Commission the authority to set regulations and negotiate with casino licensees around the location of all ATMs. An earlier House version of the bill, according to Senate aides, would have eliminated the ATM ban from the banking regulations without replacing it with new rules.

While the Gaming Commission operates independently, Rosenberg said he intends to send the message publicly that the intent of the proposed law is to keep cash machines far from gambling areas where they might entice players.

He called Gaming Commission Chairman Stephen Crosby on Monday morning to deliver that message.

"A lot of people will go to these facilities and they'll be there for entertainment and meals and stuff like that, and shopping. Not fair to keep them from getting access to ATMs. People in the heat of the battle with your slot machine may run out because they're convinced that the next play is going to do it. No. Don't want that dynamic in our casino," Rosenberg said.

Bernal would not say whether he believes ATMs should be barred from hotels, restaurants and shops at the resort casinos, suggesting lawmakers could deal with that later "if and when" the casino operators build those facilities.

While the 2011 expanded gambling law does not address the placement of ATMs in casinos, it does mention that ATMs should be prohibited from accepting electronic welfare benefit cards. Some in the gaming community and at the commission have interpreted the mention of ATMs to be the Legislature's intent that the machines would be allowed at casinos.

The Gaming Commission in August asked for an interpretation from the Division of Banks and is still awaiting an answer. The commission temporarily put in place a regulation that would prohibit ATMs within 15 feet of the gaming floor, but the regulation has not yet been finalized.

"Policy decisions such as this are made by the legislature not the Commission. If the Commission is asked for an opinion, it would support a ban on ATMs from the gaming area, but do not believe that it is reasonable to ban ATMs from the entire destination-resort," said Elaine Driscoll, a spokeswoman for the Gaming Commission, in a statement.

John Ribeiro, chairman of the group Repeal the Casino Deal, disagreed with the Senate's interpretation of state's regulatory power over federally chartered banks, and criticized the push as one that would add discretion to a process that is currently clear cut in law.

"States can regulate federal banks beyond what the federal banking commission does. They can be more strict, just not less strict," Ribeiro said. "No matter how many feet you apply whether it's 15 feet or 25 feet from the gaming floor, it's a joke."