



SKILLED AT DECEPTION:

*How Unregulated Gaming Machines Endanger
Consumers and Dilute Investments in Local
Economies*



EXECUTIVE SUMMARY

Once the province solely of Las Vegas and Atlantic City, casino gaming is now a legal, regulated industry in 44 states, generating over \$261 billion in economic impact and over \$41 billion in direct tax revenue and supporting more than 1.8 million jobs nationwide. Regulated casino gaming operations are substantial economic engines of their communities. Gaming revenue has been used to reinvigorate tourism, boost employment, redevelop blighted areas, create opportunities for minorities, provide upward mobility for workers, and provide many with health insurance for the first time in their lives, and much more.

Gaming was legalized with specific objectives in mind, and these important policy goals are possible because the purposeful way jurisdictions have authorized what was previously a criminal activity. Moreover, governments have demanded rigorous regulatory standards that the casino gaming industry strives to uphold—and exceed—every day. Casino companies and employees must be licensed, games must be tested, and operators and suppliers must regularly report on revenue and a variety of compliance matters to state, tribal, and federal regulators.

The robust licensing and operational standards for all gaming companies are essential to the industry's success. These standards promote confidence among consumers, ensuring that when they visit our properties they will be treated fairly. Consumers know that licensed gaming provides robust consumer protections, including upholding responsible gaming standards, while generating meaningful tax revenue and job creation for states and local communities.

Unfortunately, unregulated and illegal gambling machines continue to proliferate across the country and threaten the economic benefits and consumer protections provided by the regulated industry. These illegal machines do not undergo any meaningful testing, the companies that create and operate them are not subject to licensing or other regulatory standards, and they do not provide states with essential tax revenue. These machines also fail to ensure that game integrity and responsible gaming are upheld, putting consumers at risk by targeting the most vulnerable populations—including children. Further, these machines are often tied to criminal activity, including money laundering, drug trafficking, violent crime, and more.

At a time when states and local communities are looking to new forms of revenue growth to meet the unprecedented challenges due to the pandemic and related economic uncertainty, it is critical to prevent the unchecked growth of unregulated gaming that will depress tax revenue and job creation at regulated gaming properties.

This paper provides an overview of the regulatory environment for the casino gaming industry, specifically the gaming machines found on the casino floor, and analyzes how those standards ensure consumer safety while generating significant tax revenue for states. Then, it explains how unregulated gaming can cut into these essential economic benefits while failing to protect consumers and communities.

The casino gaming industry is one of the most regulated businesses in the United States. A gaming license is a privilege that businesses take seriously. Only through cooperation with policymakers and law enforcement to protect against unregulated gaming machines will gaming continue to be an economic driver and entertainment innovator that protects consumers.

To ensure regulated gaming continues to support our communities and that consumers are protected, the American Gaming Association (AGA) and the casino gaming industry recommend:

- **Law enforcement and policymakers must prioritize robust enforcement of laws to root out illegal and unregulated gaming machines. This includes enforcing laws already in force but also clarifying the law to make the illegality of these machines clear where any ambiguity exists.**
- **States and communities must resist the temptation to simply authorize these machines. While many jurisdictions are looking for novel revenue sources, especially in response to the economic impacts of the COVID-19 pandemic, allowing these machines to continue will only reward bad behavior, erode investment made by regulated entities, and expose consumers to unnecessary risks.**
- **Other industries need to ensure they understand their responsibility to eliminate illegal gaming machines at their businesses. Businesses cannot rely on illegal and unregulated games that put their customers at risk and should actively work to remove them from their communities.**

THE RIGOROUS STANDARDS OF THE REGULATED CASINO GAMING INDUSTRY

“As a gaming regulator, we work closely with the licensed gaming industry on important regulations and safeguards to maintain integrity and consumer protections. The regulated gaming industry is a key community partner. When I served with the New Jersey state police, I saw firsthand the threat of the unregulated gambling machines. These illegal enterprises have ties to organized crime, dangerous effects on public safety, and undermine the regulated gaming industry. We must continue to thwart and prevent the proliferation of unregulated machines. Only then will consumers be protected and the legitimate industry will be able to economically support our communities.”

Commissioner Gayle Cameron, Massachusetts Gaming Commission, former Lt. Col. of New Jersey State Police

STATE STANDARDS

Casino gaming is regulated by over 4,000 state and tribal regulators across the country. These regulators have an essential oversight role, including granting licenses, testing games on the casino floor, and ensuring vital consumer protections are upheld. Gaming companies must comply with the unique regulatory system in every jurisdiction in which they operate, spanning 25 commercial jurisdictions and over 200 tribal jurisdictions. With this regulatory environment, gaming is one of the most regulated industries in the country.

LICENSING

Before any gaming activity can begin, a casino gaming company, its officers, directors, and key employees must be investigated and licensed or found suitable. Licensing requires applicants to “establish by clear and convincing evidence [that they possess] the financial stability, integrity, and responsibility” to offer gaming to the public.¹¹ Both gaming operators and manufacturers of gaming equipment undergo suitability determinations prior to operating in any jurisdiction.

The licensing process begins when the company and its officers, key employees, and relevant directors file their applications, covering educational history, financial records, professional history, familial ties, and more. For example, New Jersey specifies that their investigation of associated individuals includes but is not limited to:

[B]ank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or the division.²

Paperwork is not the end of the process. Applicants are also subject to interviews by law enforcement and gaming regulators before approval becomes final. In these interviews, applicants answer questions about their personal and professional history, while giving regulators a chance to meet the businesses and individuals that will be working in their jurisdictions.

1. N.J.S.A § 5:12-89.

2. Id. See also, e.g., 58 Pa. Code § 423(a)(3) (requiring Pennsylvania State Police to conduct a background check, the Department of Labor to do a tax clearance and unemployment compensation review, and “any agencies” to conduct other investigations as necessary), La. Rev. Stat. § 27:28 (providing that applicants must establish good character, including lack of criminal record or adverse tax or licensing proceedings); Mo. Rev. Stat. § 313.810 (requiring disclosure of criminal record, background check, and experience as regulators deem appropriate); New York Gaming and Economic Development Act §§ 1314–19 (requiring applicants demonstrate good character of applicants, along with sufficient capital investment and community support for casino sites).

Any company or person that exerts control over the business or interacts with gaming equipment must go through the approval process in every jurisdiction in which they operate, which means many companies and individuals hold licenses in dozens of jurisdictions. Beyond the business and key officers, directors, and employees that work on the casino floor, interacting with customers and maintaining gaming machines, must hold occupational licenses as well.³ Moreover, all investors in the gaming company over a certain threshold of ownership must undergo investigation and licensing.⁴ Throughout the investigation process, regulators retain discretion to investigate any other portion of the business or individuals they deem necessary.

These licenses are a privilege. Failure to continue to exhibit transparency, compliance with applicable laws and regulations in all jurisdictions, or demonstrate sound business judgment can result in fines or suspension or revocation of a gaming license. Loss of the privilege of a gaming license in one jurisdiction has a ripple effect, as license holders must report any adverse actions to all other regulatory bodies in which they are licensed.

GAME TESTING AND REPORTING

Consumers that play gaming machines should rest assured that machines operate fairly and will not be compromised. The testing standards set out in law and by regulators ensure gaming machines live up to consumer expectations.

The regulatory environment for the casino gaming industry not only mandates that gaming equipment manufacturers and suppliers undergo a rigorous licensing and suitability process in order to receive a license to distribute equipment, but they must also comply with gaming agency minimum technical standards for machine hardware and game software,⁵ submit machine hardware and software for independent testing and agency approval,⁶ and adhere to ongoing compliance⁷ and reporting requirements.⁸ The testing and agency approval process also applies to modifications or updates to gaming devices. Further, new

games may also be subject to a lengthy field trial process that allows the regulator to evaluate the product to confirm it operates appropriately and with integrity before it may be approved and widely distributed.⁹

The approval process is not as simple as just submitting a request to place a product out in the market. Manufacturers must provide comprehensive and technical information and documentation that describes and demonstrates how the product functions and operates in accordance with statutes, regulations, and technical standards. A copy of executable software, including data and graphic information, and a copy of all source code for programs that cannot be reasonably demonstrated to have any use other than in a gaming device must also be provided. And some states require a manufacturer representative to provide a statement, under penalty of perjury, that to the best of the manufacturer's knowledge the gaming device meets the minimum standards for gaming devices.

Regulated gaming device manufacturers must also comply with ongoing compliance and reporting requirements. For instance, when the manufacturer becomes aware that an approved gaming device no longer complies with gaming agency requirements, such as anomalies that may impact the integrity of the gaming machine, the manufacturer must notify the gaming agency. This mechanism provides an avenue for the gaming regulator to determine if the machine should be removed from play or modified to rectify regulatory concern.

In fact, most states require regulated gaming machines to meet a theoretical payout percentage, guaranteeing a certain amount of wins for patrons. **Only through a regulated and robust product approval and testing process and ongoing compliance and reporting scheme will patrons feel confident that they will be treated fairly.**

3. See, e.g., *N.Y. Gaming and Econ. Dev. Act* §§ 1322–25; *Miss. Code Ann.* § 75-76-55.

4. See, e.g., *La. Rev. Stat.* § 27:28 H.(1)(a) (all investors over 5% ownership); *N.J.S.A.* § 5:12-85.1 (all persons with a “beneficial interest or ownership interest of 5% or more in such holding, intermediary or subsidiary company”).

5. See, e.g., *Ind. Code* § 4-33-7-2(b), 68 *Ind. Admin. Code* § 2-6-5, 68 *Ind. Admin. Code* §§ 2-6-8—21, 68 *Ind. Admin. Code* § 2-6-23—30; *Nev. Gaming Regs.* 14.025(1), 14.040, *Nev. Gaming Cont. Board, Tech Stds 1 and 2*; 58 *Pa. Code* § 461a.2; *Gaming Labs. Int’l, Tech. Std 3*, <https://gaminglabs.com/gli-standards/>.

6. See, e.g., 68 *Ind. Admin. Code* §§ 2-6-2, 2-6-3; *La. Admin. Code tit. 42, Part III, §§ 4202, 4203, 4209(A)(3)(b), (A)(17)*; *Nev. Rev. Stat.* § 463.305, *Nev. Gaming Reg.* § 14.030(1); *N.J.A.C.* § 13:69E-1.28R; 58 *Pa. Adm. Code* § 461a.4.

7. See, e.g., 68 *Ind. Admin. Code* § 13-1-1(a); *La. Rev. Stat.* § 27:28(G), *La. Admin. Code, tit. 42, Part III, § 2112*.

8. See, e.g., 68 *Ind. Admin. Code* § 1-5-1; *La. Admin. Code, tit. 42, Part III, § 2112*; *N.J.A.C.* § 13:69E-1.28R(f).

9. See, e.g., *La. Admin. Code, tit. 42, Part III, § 4209(A)(2)*; *Nev. Gaming Regs.* §14.240; *N.J.A.C.* § 13.69e-1.28S; 58 *Pa. Code* § 461a.4(h).

RESPONSIBLE GAMING

Responsible gaming programs are a critical part of everyday business practices in the U.S. casino gaming industry. The central goal of these programs is to ensure that patrons responsibly enjoy casino games as a form of entertainment.

Responsible gaming programs operate in compliance and in parallel with state laws and regulations, including the funding and provision of problem gambling services.

State gaming laws require slot machine licensees to submit a plan or program to help mitigate problem and compulsive gaming. In most cases, the plan must be approved by the regulatory body or agency prior to the approval of a license or operation of a slot machine. In order to receive a license, the plan is required to address multiple aspects of problem gaming, including:

- Awareness and promotion of the state-monitored self-exclusion system;
- Promotion of the problem gambling toll-free hotline and other resources;
- Manager or floor operator procedures to train casino employees to notice and address symptoms of compulsive and problem gambling or underage gaming on the casino floor; and
- The option for patrons to self-limit their budget for gaming while on a casino property.

Regulations also require the establishment of self-exclusion lists, whereby patrons may exclude themselves from a casino and online or mobile wagering site. Once on this list, a casino is obligated to prevent a patron from utilizing in-person or online gaming products. State statutes vary in the length of the self-exclusion available and in the procedures for reversing self-exclusion. Pennsylvania is an illustrative example, allowing patrons to self-exclude from gaming activities, including interactive gaming, at all licensed facilities, for one year, five years, or a lifetime.¹⁰

Failure to comply with responsible gaming obligations can result in fines and other sanctions for operators. In Louisiana, for example, sanctions begin with \$5,000 for the first offense, increasing for later offenses, and can result in suspension or revocation of the gaming license for ongoing failure to comply.¹¹

DATA PRIVACY, SHIPPING SECURITY, CONSUMER RECOURSE AND MORE

Beyond the above requirements, there are myriad other obligations that casino operators and suppliers must comply with to ensure their licenses remain in good standing.

For example, the casino gaming industry prides itself on being an innovative, cutting-edge business that deploys the latest in technology to enhance customer experience. Whether that means digital payments methods for a gaming machine or customized consumer experiences through loyalty programs. However, all this comes with requirements that casino operators uphold the latest in data privacy and security standards.¹²

To protect the integrity of the gaming machines themselves, there are robust and frequent checks when new machines are shipped to and installed at a gaming property. Prior to shipping any gaming equipment, licensees must notify state regulators and receive written approval for the incoming shipment.¹³ Once en route, the gaming machines must be secured, and the shipping containers can only be opened by approved employees, law enforcement, or regulators. And in some cases, machines must be shipped in multiple parts or via trucks that may not make additional stops to ensure equipment is not tampered with.¹⁴

Finally, should a consumer ever have a concern or complaint about their experience with a gaming machine, they are protected. State gaming regulators are available for consumers to report concerns or complaints about casino operations, including gaming machines. Regulators will investigate complaints, working with the consumer and the licensees to resolve any concerns, including updating

10. See 58 Pa. Code § 503a.

11. La. Admin. Code, tit. 42, part III, §301(H).

12. See Industry Notice from Randall E. Sayre, Member, Nev. Gaming Control Bd., to All Non-restricted Licensees Who Maintain Personal and/or Financial Information of Patrons in a Computerized Database and Interested Persons, (Dec. 15, 2010), available at <https://gaming.nv.gov/modules/showdocument.aspx?documentid=5571>.

13. See, e.g., Nev. Gaming Comm'n Reg. 14.180; N.J.S.A. § 13:69E-1.23; Pa. Code § 463(a)(2).

14. To learn more about shipping regulations, see David O. Stewart, *Three Reforms to Streamline Shipping of Gaming Machines*, Amer. Gaming Ass'n (2018), available at https://www.americangaming.org/wp-content/uploads/2018/12/Three-Simple-Steps-to-Streamline-Shipping-of-Gaming-Machines_2018.pdf.

gaming equipment, returning consumer funds, or promulgating improved gaming standards.¹⁵ As with other enforcement measures, consumer complaints that result in a finding of a violation can result in further sanctions, including fines or even suspension of the gaming license.

FEDERAL STANDARDS

Regulation does not stop at the state border. Most U.S. gaming operations are also subject to federal anti-money laundering (AML) requirements. Since 1985, commercial casinos have been defined as “financial institutions” under the Bank Secrecy Act.¹⁶ Accordingly, they must file currency transaction reports (CTRs) when a patron either provides the casino with or takes away from the casino more than \$10,000 in currency during a casino’s defined 24-hour gaming day. Casinos also must file suspicious activity reports (SARs) when a casino knows, suspects, or has reason to suspect that a transaction or attempted transaction aggregating at least \$5,000 that may derive from or support illicit or unlawful activity.

To maintain game integrity and prevent unlawful activity, each casino company implements a comprehensive and robust compliance program that identifies and mitigates its risks and ensures that it submits appropriate CTRs and SARs as required. Further, casinos regularly work with local, state, and federal law enforcement to understand current trends, train and educate casino staff on AML compliance, and coordinate on investigations as appropriate.¹⁷

The Indian Gaming Regulatory Act (IGRA)¹⁸ provides another layer of oversight for tribal gaming. This statute empowers tribal sovereign nations to offer certain forms of gaming on tribal lands, subject to the National Indian Gaming Commission (NIGC). NIGC, established in 1988, has authority to review and approve tribal operators’ contracts with suppliers and vendors, conduct background checks on managers and investors of tribal gaming, enforce violations against IGRA and its regulations, refer matters for criminal prosecution, and more.¹⁹

Further, there are a variety of federal statutes that make it unlawful to trade in unregulated gaming devices, which the U.S. Department of Justice enforces through criminal prosecution. It is illegal under federal law to operate a gambling business outside the bounds of state law²⁰ or to transfer wagering paraphernalia through interstate channels if not permitted by state law.²¹ Similarly, the Johnson Act prohibits the manufacture, possession, use, sale, or transportation of any “gambling device” in Indian Country (that is not otherwise permitted by IGRA), the District of Columbia, and possessions of the United States.²²

15. See, e.g., N.J. Div. of Gaming Enforcement, *Contact Us*, <https://www.njoag.gov/contact-dge/>; Ind. Gaming Comm’n, *Contact Us*, <https://www.in.gov/igc/2350.htm>; Ohio Casino Control Comm’n, *Submit a Patron Inquiry/Complaint*, <https://casinocontrol.ohio.gov/Legal/PatronInquiryComplaint.aspx>.

16. 31 U.S.C. § 5312(a)(2)(X).

17. To learn more, please see the American Gaming Association’s *Best Practices for Anti-Money Laundering Compliance, 2019-2020*, https://www.americangaming.org/wp-content/uploads/2019/12/AGA-AML-Best-Practices_12-9.pdf.

18. 25 U.S.C. § 2701, et seq.

19. See *About Us*, Nat’l Indian Gaming Comm’n, <https://www.nigc.gov/commission/about-us> (last visited Mar. 11, 2021).

20. 18 U.S.C. § 1955.

21. 18 U.S.C. § 1953.

22. 15 U.S.C. § 1175.

REGULATED CASINO GAMING SERVES CONSUMERS

The licensing, game testing and approval, and compliance standards are in place to ensure that consumers are protected. From the moment a patron steps on the casino floor, they will see the regulated industry's commitment to the consumer and game integrity.

As players sit at a gaming machine in a licensed casino, they will see signage marked with a hotline number where they can reach responsible gaming and problem gaming specialists 24 hours a day, 7 days a week. While they move throughout the casino property and to other gaming machines, additional signage provides hotline information, along with reminders about how to keep gameplay fun and safe. Further, licensed and trained casino employees remain vigilant for signs of problem gaming behavior and are ready to intervene to assist. And now, new technologies in gaming allow automated processes to flag unusual activity at gaming machines, allowing trained staff to step in if necessary.

For the games themselves, consumers have confidence that they will perform as expected and in compliance with state and house rules. They know that games have been tested many times before being introduced to the casino floor and are constantly monitored to ensure they are performing as expected. And if and when they win, patrons can be certain their winnings will be paid.

As one casino industry expert puts it, "Because licenses are granted as privileges to those individuals and entities that have demonstrated their good character, honesty and integrity, the public gains confidence that the games being offered are fair, trustworthy and address critical public interests such as adhering to responsible gaming practices."²³ The regulations, testing, licensing, and other standards that the regulated gaming industry upholds create an exciting atmosphere so patrons can relax and enjoy this form of entertainment.

GAMING LICENSEES DRIVE ESSENTIAL TAX REVENUE FOR STATES AND COMMUNITIES

Through the privilege of a gaming license, gaming companies drive critical tax revenue to their states and localities. Gaming companies are subject to taxes on gross gaming revenue, along with standard business taxes (such as payroll taxes). Annually, the regulated casino gaming industry generates \$261 billion in economic impact, including \$41 billion in direct gaming tax revenue annually.

Each state sets the tax rate for gaming machines slightly differently, whether establishing a single rate for all gross gaming revenue, a different rate depending on the type of gaming, or graduated rate based on revenue. For gaming machines, the tax rate is often in the double digits and, in some cases, even exceeds 50% of revenue.²⁴ These rates are in addition to initial and renewing license fees that can run into the tens of millions of dollars. While tribal gaming jurisdictions are not directly taxed by the state, they provide revenue sharing, often amounting to hundreds of millions of dollars a year.

Gaming revenue is reported to gaming regulators on a regular basis, allowing regulators to publish monthly reports on tax revenue generated. This transparency allows consumers and communities to see the direct support gaming provides. Across the country, this essential form of tax revenue supports schools, services and assistance for the elderly, infrastructure, and more. Revenue from regulated gaming machines have allowed local communities to purchase new fire trucks, build health clinics, develop new advanced education programs at community colleges, establish rural broadband networks, and more.²⁵

23. Spectrum Gaming Group, *Expert Witness Report: Impact of Distributed Gaming on Land-Based Casinos*, Jan. 8, 2021, at 7 [hereinafter "Spectrum Report"]. See also Spectrum Gaming Group, *Gaming Study: Analysis of Current and Potential Gaming Activities in North Carolina*, Mar. 16, 2020, at 13–20, available at <https://www.spectrumgaming.com/wp-content/uploads/2021/04/spectrum-gaming-study-report-for-ncei-3-16-20.pdf> (explaining the different types of unregulated and illegal gaming machines and their impacts on consumers and tax revenue).

24. See *State of Play*, Amer. Gaming Ass'n, at 8-12 (June 2020), https://www.americangaming.org/wp-content/uploads/2020/06/AGA-2020-State_of_the_States.pdf.

25. To learn more, see the American Gaming Association's *Casinos & Communities* reports, available at https://www.americangaming.org/research/?research_category=Community+Impact#filter.

THE CONTINUED THREAT OF UNREGULATED GAMING TO OUR COMMUNITIES

“History has taught us that unregulated gambling gives rise to an array of legal and social concerns, and ultimately erodes public confidence in the safety and integrity of the whole gaming industry.”

Arizona Attorney General Mark Brnovich, former Director of the Arizona Department of Gaming

Almost every state has laws that make unregulated casino gaming illegal. Nonetheless, gaming machines that take advantage of loopholes or outright flaunt the law continue to proliferate in many states. These machines include so-called “gray”, “nudge”, “sweepstakes”, “skill”, and “no-chance” types of game.²⁶ Regardless of the name, these machines mimic the slot machines found in regulated gaming properties but lack any of the diligence, testing, or supervision from regulators.

Unregulated and illegal machines do not uphold any of the standards of the regulated casino gaming industry. The machine manufacturers and their operators are not subject to the stringent licensing requirements to ensure they possess the integrity and credibility to offer gaming to the public. Nor is there any check to certify that the businesses have the knowledge and financial backing to be long-term community partners.²⁷

The gaming machines themselves are not tested or monitored to ensure the games are fair for consumers. Without the rigorous testing, consumers do not know if they have a fair chance at winning or even an honest understanding of the rules of the game. The lack of testing and oversight also prevent the ability to detect anomalies or malfunctions that may impact the consumer’s odds

of winning. In an unregulated or illegal market, there is no guarantee that machines available for play support a fairness concept or are configured in a manner to safeguard against unscrupulous activity as the entities that manufacture and supply the equipment are not subject to licensing, any product requirements, or ongoing compliance obligations.

Also, these unregulated machines and operators do not have any training in responsible gaming or support services for consumers that need it. The only staff responsible for the games are counter clerks, sales associates, or bartenders that are otherwise employed on the premises. They are not trained to support and assist a customer with problem gambling behaviors. Without this sort of training or regulatory oversight, problem gamblers and children may use these machines freely.²⁸

Without sufficient oversight, the most vulnerable populations—including children—are at risk. Patrons who have otherwise self-excluded from casino gaming on the state self-exclusion lists are still susceptible to these unregulated games at places they frequent, such as gas stations, convenience stores, or bars and taverns. Further, there is no regulation on the type of advertising or marketing materials, meaning advertising may unfairly target children and fail to provide consumers with information about

26. See Fact Sheet, Ass’n of Gaming Equip. Manufacturers & Amer. Gaming Ass’n, Feb. 2020, <https://agemonline.org/factsheet.pdf>. See also Kevin Mullally, *Illegal & Unregulated Gambling in America*, Gaming Lab. Int’l, <https://content.gaminglabs.com/illegalgambling>.

27. For example, recent Virginia legislation allowed “skill-based” gaming machine to operate until July 1, 2021. However, those machines were not subject to any oversight or licensure, other than a brief monthly reporting on revenue. See Va. Code §§ 2.2-115.1 and 18.2-325 and Va. Skill Games Return and Schedule of Local Tax, Form SK-1, available at <https://www.tax.virginia.gov/sites/default/files/tax-forms/miscellaneous/any/sk-1-any.pdf>.

28. Spectrum Report at 10–13.

helplines should they be experiencing a gambling problem.²⁹ Worse yet, without adequate supervision of the machines, children may play without understanding how these games work, putting them at significant risk.

Most recently, these gaming machines continued to operate during the COVID-19 pandemic, in contravention of public health orders. While casinos around the country closed to help slow the transmission of disease, unregulated gaming continued unabated, creating a public health hazard. Not only were the machines in a place where consumers might congregate, putting their health at risk, the machines themselves were not distanced or subjected to enhanced cleaning protocols. In stark contrast, casinos were closed nationwide for several weeks and have only reopened with limited capacity and amenities, alongside top-of-the-line sanitation procedures to keep employees and patrons safe.³⁰

Beyond the direct threat to consumers due to lack of integrity or protections, unregulated gaming also drives other forms of crime. Illegal gambling operations have been tied to drug trafficking, gang activity, violence, and more. Recent raids have spanned the country, seizing machines, cash, and illicit paraphernalia in California, New Jersey, Arkansas, Pennsylvania, North Carolina, Hawaii, and Tennessee, among others.³¹ One major federal criminal prosecution out of the Southern District of New York implicating illegal gambling machines spanned several states and several major organized crime families. Members of the conspiracy were charged with offering illegal casino gaming, including gaming machines, at illicit clubs in New York.³² Gambling outside the purview of regulators is rife with opportunity for money laundering and other activities that nefarious actors hope will go undetected.

The manufacturers of these unlawful or unregulated machines have a path to market by developing devices that

meet the strict requirements set by lawmakers and selling them to licensed gaming operators. What they seek is not to compete, but to gain a niche monopoly in the shadowy fringes of an overstretched interpretation of old, often outdated, illegal gambling laws that have failed to keep pace with the development of technology.

29. *Id.*

30. In fact, casinos have reopened under direct guidance of public health authorities and gaming regulators, having drafted reopening plans that detail health precautions that were reviewed and approved by regulators. See, e.g., *Nev. Gaming Cont. Bd., Policy Memo., Procedures for Reopening After Temporary Closure Due to COVID-19*, Apr. 21, 2021, <https://gaming.nv.gov/modules/showdocument.aspx?documentid=16703>.

31. See Kristina Davis & Teri Figueroa, *San Diego's Hidden Gambling Problem: Illicit Casinos Attract Gangs, Drugs, Violence*, *LA Times*, Jan. 2, 2021, <https://www.latimes.com/california/story/2021-01-02/san-diego-secret-gambling-casinos>; Lauren Cook, *Illegal Bar and Gambling Operation Busted in Newark: Police*, *PIX 11*, Jan. 24, 2021, <https://pix11.com/news/local-news/new-jersey/illegal-bar-and-gambling-operation-busted-in-newark-police/>; 16 Arrested During Illegal Gambling Machine Raid in Arkansas, *ABC 7*, Mar. 5, 2021, <https://katv.com/news/local/16-arrested-during-illegal-gambling-machine-raid-in-arkansas>; Nearly 60 Gaming Machines Seized in Illegal Gambling Raid, *Associated Press*, Aug. 21, 2020, <https://www.abc27.com/news/local/nearly-60-gaming-machines-seized-in-illegal-gambling-raid/>; Rachel Berry, *Authorities Raid Liberty Business Accused of Running an Illegal Casino*, *The Courier-Tribune*, Jan. 22, 2021, <https://www.courier-tribune.com/story/news/crime/2021/01/22/authorities-raid-liberty-business-accused-running-illegal-casino/6673008002/>; Laura Schweizer, *A Dozen Gambling Machines Seized in Wai'anae Illegal Gambling Room Raid*, *KITV 4 ABC*, Mar. 16, 2021, <https://www.kitv.com/story/43514844/a-dozen-gambling-machines-seized-in-waianae-illegal-game-room-raid>; Josh Rayburn, *1 Charged, More Than 100 Machines Seized in Raid of Suspected Madison Illegal Gambling Site*, Aug. 7, 2020, <https://www.waaytv.com/content/news/1-charged-more-than-100-machines-seized-in-raid-of-suspected-Madison-illegal-gambling-site-572045591.html>.

32. *Manhattan U.S. Attorney Charges 46 Leaders, Members, And Associates of Several Organized Crime Families of La Cosa Nostra With Wide-Ranging Racketeering Charges*, U.S. Att'y, S.D.N.Y., Aug. 4, 2016, <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-charges-46-leaders-members-and-associates-several-organized-crime>.

WHAT WE CAN DO

“Unregulated machines are a net negative to public safety in our communities. They often bring other forms of criminal activity to local communities whether drugs, violence, or money laundering. Organized criminal operations profit from the use of these machines and take advantage of unsuspecting consumers. State and local law enforcement must be on the front lines and partner with prosecutors to root out these machines from our communities.”

Major Chuck McNeal, Louisiana State Police, Gaming Enforcement Division

Combating illegal gaming machines must remain a priority. Their continued existence takes advantage of consumer confusion while depriving states of essential tax revenue and economic development.

While it may seem like use of unregulated or illegal gaming machines is a victimless crime, these machines support other nefarious, dangerous, and illegal activity. When unregulated machines proliferate, they draw essential, important state tax revenue away and into environments that support other forms of crime.

Lawmakers and law enforcement must evaluate the laws in their jurisdiction to understand—and eliminate—the gray areas and loopholes that so many unregulated manufacturers and operators take advantage of. Where the laws are already sufficient, law enforcement must prioritize enforcement against illegal operators. If laws are ambiguous

or vague and allowing unregulated gaming to proliferate, lawmakers should prioritize clarifying those laws so that law enforcement will be empowered to root out unlawful machines.

The regulated casino gaming industry will continue to uphold the standards that ensure we remain valuable and trusted community partners. In addition, the industry will continue to work with policymakers and law enforcement allies to educate them on the regulated gaming industry and its rigorous regulatory standards and to help root out illegal gaming machines.

The casino gaming industry prides itself on being a strong community partner. It is only through our allies in state capitols, law enforcement, and related industries that we can successfully protect consumers and support our communities' economic success.

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