

Minnesota's Regulatory Approach

SUMMARY

Minnesota's gambling laws and regulatory approach have evolved as the scale and nature of legal gambling have changed, resulting in a segmented and specialized oversight structure. We identified a number of similar problems among several of Minnesota's regulatory agencies, including inadequate use of technology, limited strategic analysis, and insufficient staff expertise. However, we did not find a compelling case for consolidating gambling regulatory agencies. Many of the deficiencies we identified did not appear to result from the state's segmented approach to gambling oversight, nor would solutions necessarily result from consolidation. Still, addressing some challenges will require a cooperative, multi-agency response.

Minnesota has a segmented and specialized approach to state oversight of gambling.

Minnesota's approach to regulating gambling has evolved as the scale and nature of legal gambling have changed, resulting in a segmented and specialized oversight structure. In 1989, the Legislature tried a more unified approach and created the Department of Gaming to oversee lottery games, horse racing, and charitable gambling. However, gambling oversight continued to be compartmentalized within the agency, and on the recommendation of the Gaming Commissioner, the Legislature dissolved the agency in 1991.

As discussed in earlier chapters, the Gambling Control Board, Minnesota Racing Commission, Minnesota State Lottery, and Alcohol and Gambling Enforcement Division (AGED) each take a different approach to regulating gambling and have had varied degrees of success with gambling oversight. In this chapter, we address the following questions:

- **What common challenges affect Minnesota's gambling regulatory agencies?**
- **Is Minnesota's current regulatory structure reasonable?**

To answer these questions, we relied primarily on the results of our work at each of the four agencies, particularly our understanding of the vulnerabilities associated with each type of gambling, agencies' compliance strategies to address vulnerabilities, and problems we found in implementing these strategies.

COMMON PROBLEMS

We identified similar problems at some of the agencies we evaluated. Specifically, we found that:

- **Except at the Lottery, the agencies involved in gambling regulation make inadequate use of technology and strategic analysis and are hindered by staffing limitations.**

Outdated or limited use of technology by gambling regulatory agencies has created inefficiencies. For example, Racing Commission staff receive horse racing wager and payout data from paper reports, which they re-enter into their own system by hand. AGED agents keep casino inspection data inconsistently and on several laptop computers. Agencies transmit fingerprints to the Federal Bureau of Investigation in hardcopy rather than using electronic fingerprinting technology. Gambling Control Board staff keep data for licensing, compliance, and investigations on separate systems. In addition, Gambling Control Board staff have had limited electronic access to important data from the Department of Revenue. For the most part, only the Lottery uses sophisticated information technology to fulfill its responsibilities.

Better use of technology would improve gambling oversight in Minnesota.

In addition to process inefficiencies, insufficient use of technology means that agencies have missed opportunities to analyze data and to use this analysis to better target resources at specific areas of risk or noncompliance. For example, AGED agents do not fully use available casino-generated data to examine slot machine operations. Gambling Control Board compliance reviews are primarily scheduled based on the amount of time that has elapsed since an organization's last review, rather than targeted at organizations whose data show problem patterns. According to Racing Commission members, the staff could be more proactive in analyzing data to identify emerging compliance issues. For example, commission staff could systematically review Canterbury Park surveillance logs to identify common problems or trends in card club activity. In general, agencies do not use data to identify outliers or patterns that may indicate a problem.

Finally, in some cases, agencies have limited in-house expertise. AGED uses generalist special agents (sworn peace officers) to conduct casino inspections, with agents doing so on a part-time basis. Although some agents have received specialized, casino-related training, some of these agents are not assigned to tribal gaming matters. The Racing Commission does not have adequate in-house expertise to assess card club operations. Instead, the commission relies on the expertise of Canterbury Park, the organization they are responsible for regulating. Over time, these agencies need to develop an appropriate mix of staff resources and expertise. Once that occurs, the agencies can be more strategic in their gambling oversight.

REGULATORY STRUCTURE

In doing our work at the Gambling Control Board, the Racing Commission, the Lottery, and AGED, we considered whether the deficiencies or challenges we identified were the result of the state's segmented approach to gambling oversight and could be improved if oversight were consolidated. Overall, however, we found few problems resulting directly from the division of duties among agencies, and concluded that:

- **There is not a compelling case for consolidating Minnesota's gambling regulatory agencies, although there are some disadvantages to the current segmented structure.**

For the most part, we think the state's current approach is reasonable because the various types of gambling are quite distinct and require different forms of state involvement. Disadvantages that do exist could be addressed within the current regulatory structure.

As discussed throughout this report, each type of gambling operates very differently, requiring specialized knowledge on the part of regulators and different regulatory approaches. For example, the Lottery needs flexibility to operate the business of producing, distributing, and marketing lottery games. At the same time, horseracing and charitable gambling are very different types of gambling that require different oversight expertise. For example, horse racing oversight requires veterinarians, stewards, and other specialized and seasonal staff that need to be on site at the racetrack. In contrast, the Gambling Control Board requires staff with different expertise and a year-round field presence across the state. In addition, by the terms of tribal-state compacts, the state's oversight of blackjack and slot machine gambling at Indian casinos must reside in the Department of Public Safety, and the department is also the logical home for gambling-related law enforcement work. In the end, if the law required all four agencies to consolidate into one organization, this specialization would still be needed, and day-to-day regulatory activity would likely remain segmented as it did from 1989 to 1991 when consolidated in the state's Department of Gaming.

Division of responsibilities among agencies presents challenges—particularly at the policy level. For example, it is difficult to coordinate a statewide gambling policy and allocate resources accordingly under the current regulatory structure. There is no “ultimate authority” to decide when an investigation should move from civil to criminal jurisdiction. In addition, there is likely some administrative redundancy in the current structure, for example in processing licensing applications and fingerprints and providing technology support.

However, improved coordination among agencies could help address common challenges and other issues, resulting in improved gambling oversight overall. Specifically, we found that:

- **Opportunities exist to improve information sharing and coordination among agencies.**

Consolidation would not eliminate the need for specialization in gambling regulation and oversight.

Absent consolidation, agencies can work together to identify enforcement priorities and coordinate the transfer of cases from civil to criminal jurisdiction. They can also partner to share data and technology.

As discussed in Chapter 5, improving AGED's use of its investigative resources will require cooperation from other agencies. We found that to effectively target its resources and maximize the chance that investigations will lead to arrest and successful prosecution, the division needs to work with the other agencies to define compliance priorities and use these priorities to guide which cases should be referred to AGED and when. However, AGED cannot implement this targeted strategy on its own. The regulatory agencies need to communicate with AGED regarding allegations of criminal conduct that fit with these compliance priorities. The regulatory agencies also need to refer the cases at the right time and accept responsibility for regulatory action on those cases AGED and local law enforcement do not pursue.

Some disadvantages of having separate gambling oversight agencies could be addressed through improved interagency coordination.

As discussed earlier, inadequate use of technology is a common concern, and solutions may lie in a cooperative response. For example, communication between AGED and other agencies' compliance staff regarding criminal allegations would be easier if AGED agents could electronically access other agencies' case data. As discussed in Chapter 2, the Gambling Control Board needs to improve its use of data analysis to target its compliance activities, but much of the relevant data is held by the Department of Revenue. The board needs to continue working with the Department of Revenue to create a smooth information exchange. Finally, investing in and maintaining technology systems can be a resource challenge for small agencies. For the Racing Commission and Gambling Control Board, in particular, we think there are opportunities to share information technology support. Both agencies' directors have said that, given their tight budgets, neither can afford full-time technical support personnel. However, both agencies have a real need for improved technology systems that would ultimately allow them to work more efficiently and effectively.

CONCLUSIONS

As we have discussed throughout this report, Minnesota's legal gambling industries are diverse, and the laws governing their regulation are complex. We found that the state's gambling regulatory agencies engage in oversight activities suited to their respective types of gambling, but they have had varying degrees of success in protecting game integrity. Our work shows that, in general, agencies need to more proactively identify and prioritize compliance problems and vulnerabilities, then target resources accordingly. But, the agencies will be challenged in doing so by technology limitations, data access problems, and gaps in staff expertise. We do not, however, think that consolidating some or all of the agencies is a necessary solution to these challenges or other problems we identified. Segmented gambling regulation has some disadvantages, but overall, we concluded that the current structure makes sense given the unique features of each type of gambling.