

FOR THE W O R D



By Frank J. Fahrenkopf, Jr.,
President and CEO,
American Gaming Association

Welcome to the 2009 edition of *Nevada Gaming Lawyer*. As you well know, the past year has been one of great change. The political playing field has shifted tremendously since last November, and equally significant the national economy has experienced severe turmoil, affecting millions of American families and businesses of all stripes. I have worked on behalf of the commercial casino industry in one capacity or another for more than 30 years, and I can say, without hesitation, that we are facing uniquely challenging times.

The current economic recession is deep and enduring. Though every sector of the American economy has been impacted, consumer-driven industries like ours have been especially hard hit. Two issues in particular the precipitous drop in consumer spending and the global credit crunch have severely crippled the commercial casino industry.

When the economy began to decline sharply in late 2008, many people tightened their belts and cut back on recreational spending. According to early 2009 survey results, the majority of Americans are now taking fewer, more abbreviated vacations, and they have significantly reduced their entertainment expenses.

As a result, consumer spending on casino gaming declined in 2008, dropping 4.7 percent to \$32.54 billion, and overall 2009 revenues remain depressed. Las Vegas which, perhaps more so than any other gaming community, is a destination resort market is especially struggling. At press time, according to the Las Vegas Convention and Visitors Bureau, gaming revenue in Clark County, Nev., was down an estimated \$3.8 million per day when compared to 2008. Similarly, Las Vegas hoteliers were generating \$5.8 million per day less than they were a year ago, and room rates had dipped 31 percent.

In addition, in mid-2008, available capital dissolved

abruptly, grinding casino development projects across the country to a halt projects that would have injected much-needed jobs and revenue into their communities. Expansion, a key barometer of the economic health of the commercial casino industry, has almost completely stalled in Nevada.

Thankfully, some analysts predict that the national economic downturn has bottomed out and that credit markets will soon begin to loosen. Likewise, recent visitation data from Las Vegas and encouraging revenue reports from smaller gaming markets seem to suggest that better days for the commercial casino industry aren't far off. Still, the impact of the recession will be felt for years to come; it has likely permanently changed the way your clients do business.

The changing regulatory climate also promises to significantly impact the commercial casino industry. The new administration's top priorities which include restructuring our health care system, transforming the way in which our country generates and consumes energy, and reforming our immigration policies will require massive investment, and will fundamentally change how Americans live and work, as well as how businesses in our industry operate. Additionally, renewed debate about the Employee Free Choice Act suggests that labor policy change may be forthcoming. Our industry will be actively engaged in discussions on these pressing issues to ensure that its interests are protected.

Also, legislation regarding the legalization and regulation of online gambling arguably the most controversial gaming sector was introduced earlier this year. When this issue comes to a head in the fall, likely spurring heated debate, it has the potential to substantially impact the gaming companies you represent.

All of these matters have significant legal ramifications, and staying on top of the key issues in Washington as well as the Nevada statehouse will be essential to providing your clients with critical legal counsel in the months ahead.

It is perhaps an understatement to say that these are challenging times. But they are also stimulating, exciting times. The commercial casino industry is at a crossroads. As it recalibrates to the changed political and economic environments and reinvents itself once more, your guidance and counsel will be invaluable.

You can help ensure that our industry not only rebounds, but that it emerges from this downturn even stronger than before.



Frank J. Fahrenkopf, Jr. as chief executive of the American Gaming Association (AGA) serves as the national advocate for the commercial gaming industry. A lawyer by profession, Frank gained national prominence during the 1980s when served as chairman of the Republican National Committee during six of President Ronald Reagan's eight years in the White House (1983-1989). His tenure as chairman is the longest in the 20th century and second-longest in the history of the party. He is

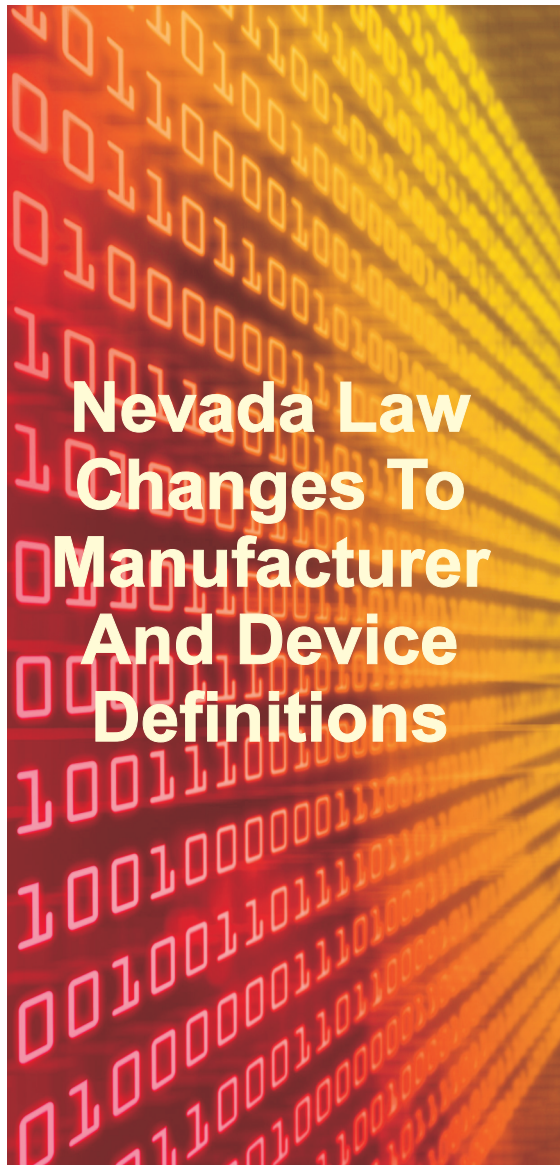
also a frequent commentator on political and gaming issues, including such network television shows as Crossfire, Inside Politics, Meet The Press, Hardball, Face the Nation, The Today Show, This Week and Good Morning America. Frank continues to serve in a variety of political capacities, including co-chairman of the Commission on Presidential Debates (which he co-founded in 1986 with Democratic National Committee chairman, Paul Kirk). He is also the founder of the National Endowment for Democracy, where he served as vice chairman and a board member from 1983 to 1993. In 1984, he founded the International Republican Institute where he continues to serve as a board member.

Prior to becoming the AGA's first chief executive on June 1, 1995, Frank was a partner in the Washington D.C. office of Hogan & Hartson, where he chaired the International Trade Practice Group. He practice specialized in regulatory, legislative and corporate matters for multi-national, foreign and domestic clients. His early legal career included 17 years of practice as a trial and gaming lawyer in Nevada, his home state. In

that capacity, he represented clients before the Nevada State Gaming Control Board and the Nevada Gaming Commission. Frank also served as the first chairman of the American Bar Association's (ABA) Committee on Gaming Law and was a founding trustee of the International Association of Gaming Attorneys. For many years, he was a member of the board of trustees for the National Judicial College, an ABA-sponsored judicial education center for federal and state judges. Frank has also served as chairman of the Legal Policy Advisory Board of The Washington Legal Foundation, a member of the Nevada State Board of Bar Examiners, president of the Washoe County Bar Association and vice president of the Nevada Trial Lawyers Association.

Frank currently sits on the board of directors for five New York Stock Exchange public companies: Gabelli

Equity Trust, Inc., Gabelli Utility Trust, Gabelli Global Multimedia Trust, Gabelli Dividend and Income Trust, and Gabelli Gold and Natural Resources. His civic involvement includes service as chairman of the board of governors of the City Club of Washington, member of the board of trustees of the E.L. Weigand Foundation, The Economic Club of Washington and the Federal City Council, as well as trustee of the Culinary Institute of America and member of the Advisory Board of the Ladies Professional Golf Association (LPGA). **NGL**



Nevada Law Changes To Manufacturer And Device Definitions

**By Mark A. Lipparelli, Member
Nevada State Gaming Control Board**

During the 2009 Nevada legislative session material changes to the statutory definitions of a gaming device and a manufacturer were enacted. The changes also included the addition of a new definition for independent contractor. These changes will have a meaningful impact on the Nevada regulatory licensing and evaluation of parties in Nevada and elsewhere who develop gaming devices and gaming device content for casino operators. A key framework in most gaming law and regulation in Nevada and throughout the world is the protection of the reputation of the industry and its patrons. Gaming operators, manufacturers and regulators have, for a long period of time, developed a tradition of valuable trust with casino patrons that the products offered for play are fair and, with very few exceptions, not subject to dishonesty and manipulation. The laws and regulations requiring licensing and review of this technology have played a key role in bolstering that trust.

A short review of the historical timeline of the definitions of a manufacturer and a gaming device will assist in putting the current changes in context. During the 1989 Nevada legislative session material changes to NRS 463.650 were enacted. Prior to this change, technology developers in Nevada could make gaming devices without a state gaming license, provided it was their intent to sell their products in jurisdictions outside Nevada. Licensing, at the time, was, however, required by those who wished to sell gaming devices for operation within Nevada casinos. The adoption of the 1989 amendments to NRS 463.650 mandated a manufacturer's license, regardless of the final destination of a device, if the manufacturer was based in Nevada. One of the primary justifications for requirement of licensing was borne out of a concern that a Nevada based developer could create an impression, in expanding gaming markets, that their Nevada address implied state suitability or