

The logo consists of an orange square with the text "K&L GATES" in white, sans-serif, uppercase letters. The background of the slide is a blue image with a bokeh effect, featuring numerous out-of-focus light spots in shades of blue and white.

K&L GATES

December 5, 2013

# USA ONLINE GAMBLING INTENSIVE 2013

## OVERVIEW OF CURRENT LANDSCAPE

Linda J. Shorey

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# LEGAL GAMBLING IN THE US

## FAST FACTS ABOUT GAMBLING IN THE U.S.

- 48 of 50 States have some form of legal gambling
- In 2012, 43 States operated a lottery
- In 2012, there were 466 Tribal casinos in 28 states: 114 in OK, 70 in CA, 39 in MN, 34 in WA, 31 in WI, 26 in AZ
- In 2012, there were 503 casinos/racinos in 23 States: 265 in NV, 30 in MS, 22 in MI, 18 in LA & IA, 13 in MO, 12 in NJ, 11 in PA
- As of 2010, pari-mutuel wagering was legal in 42 states
- Legal age to gamble is 18 or 21, depending on the state
- No federal law directly forbids gambling

## POPULATION COMPARISON

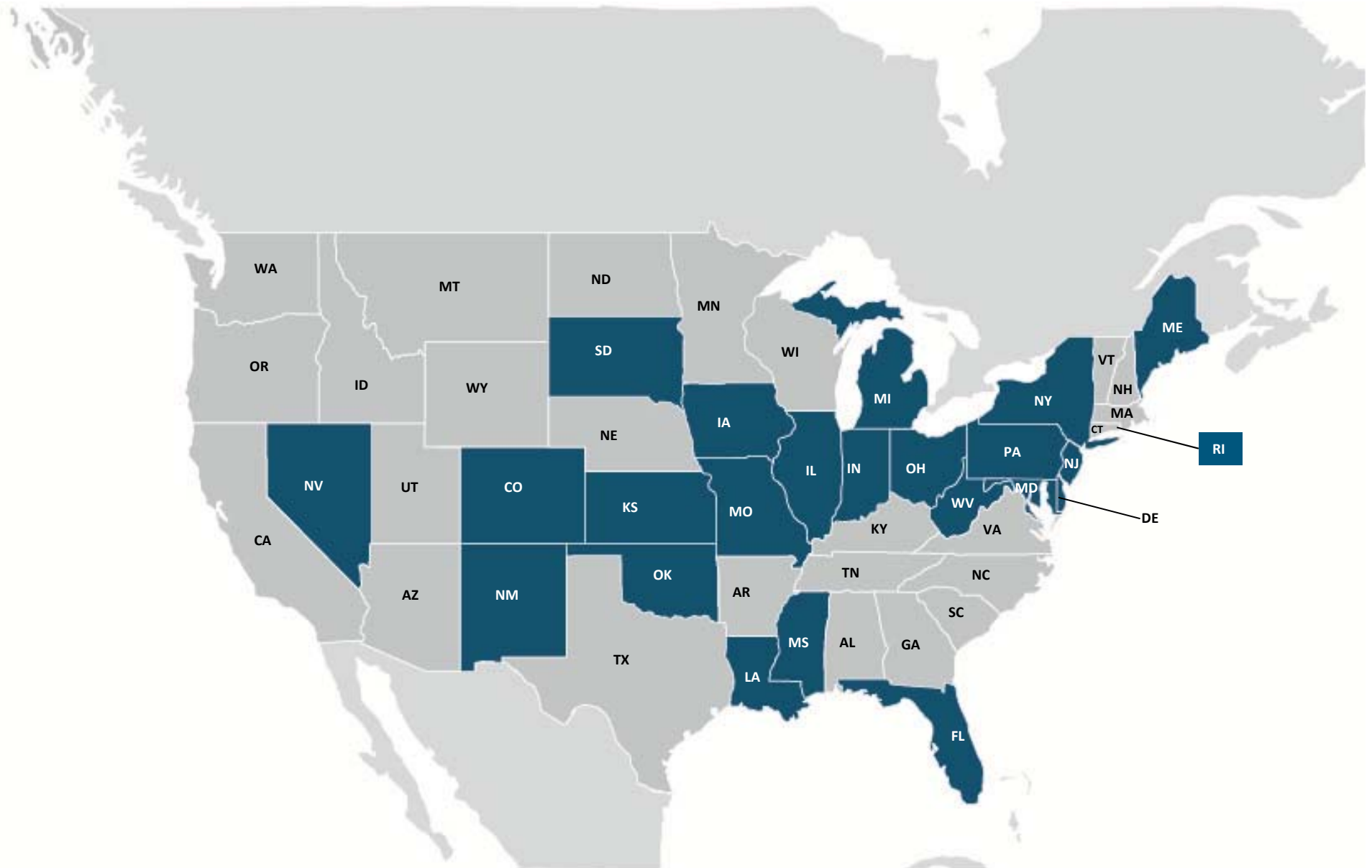
California (1)	38,041,430
Texas (2)	26,059,203
New York (3)	19,570,261
Florida (4)	19,317,568
Illinois (5)	12,875,255
Pennsylvania (6)	12,763,536
Ohio (7)	11,544,225
Georgia (8)	9,919,945
Michigan (9)	9,883,360
New Jersey (11)	8,864,590
Massachusetts (14)	6,646,144
Nevada (36)	2,758,931
Delaware (46)	917,092
US Virgin Islands	105,256

Germany	80,640,000
UK	64,231,000
France	63,820,000
Italy	59,789,000
Spain	46,958,000
Poland	38,548,000
Netherlands	16,795,000
Ontario, Canada	12,851,821
Quebec, Canada	7,903,001
Denmark	5,612,000
Ireland	4,662,000
BC, Canada	4,400,057
Malta	419,000
Isle of Man	87,000

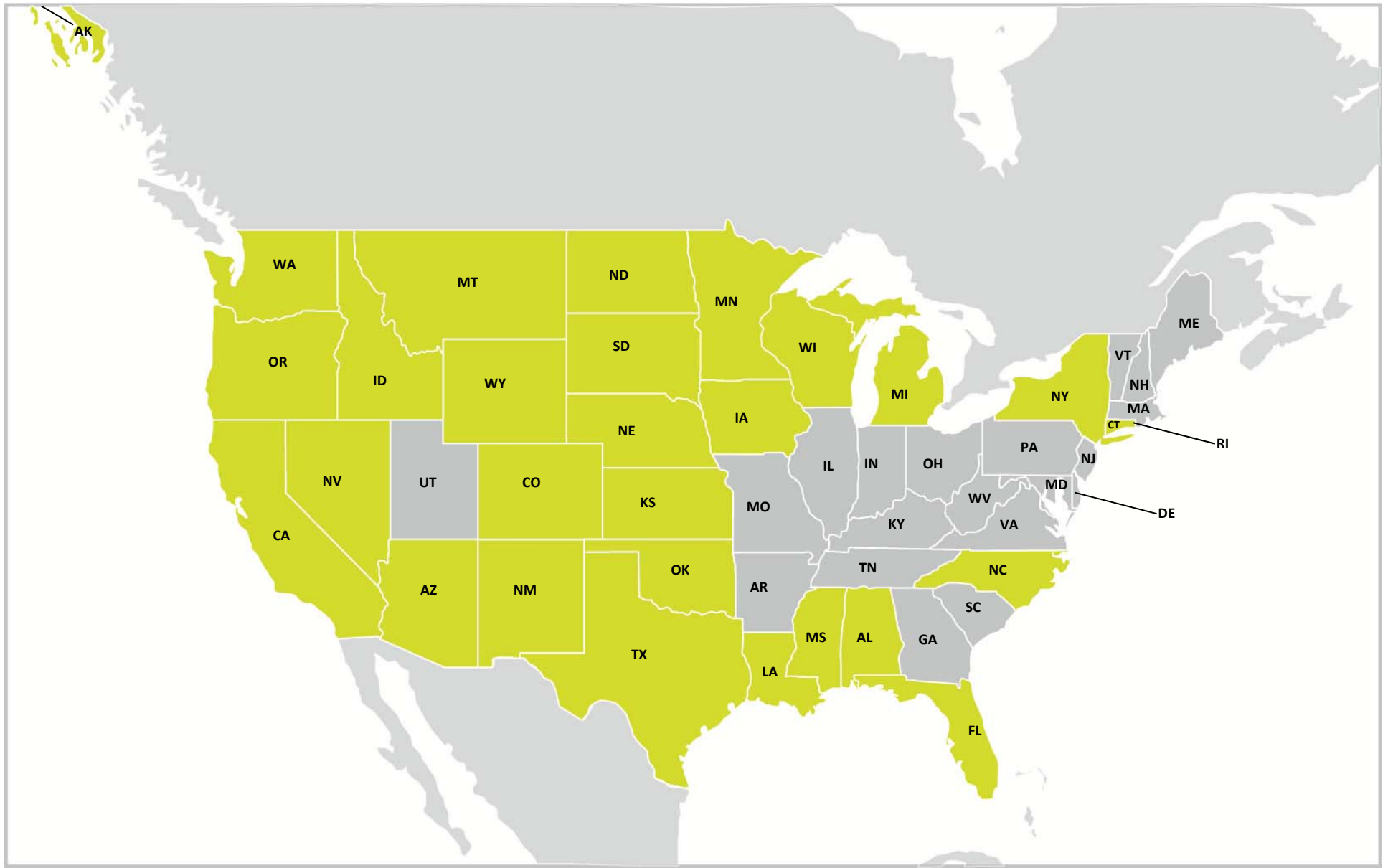
The image features a background of blue bokeh light effects. A solid orange horizontal band is positioned in the center, containing the text "Land Based Gambling" in white.

# Land Based Gambling

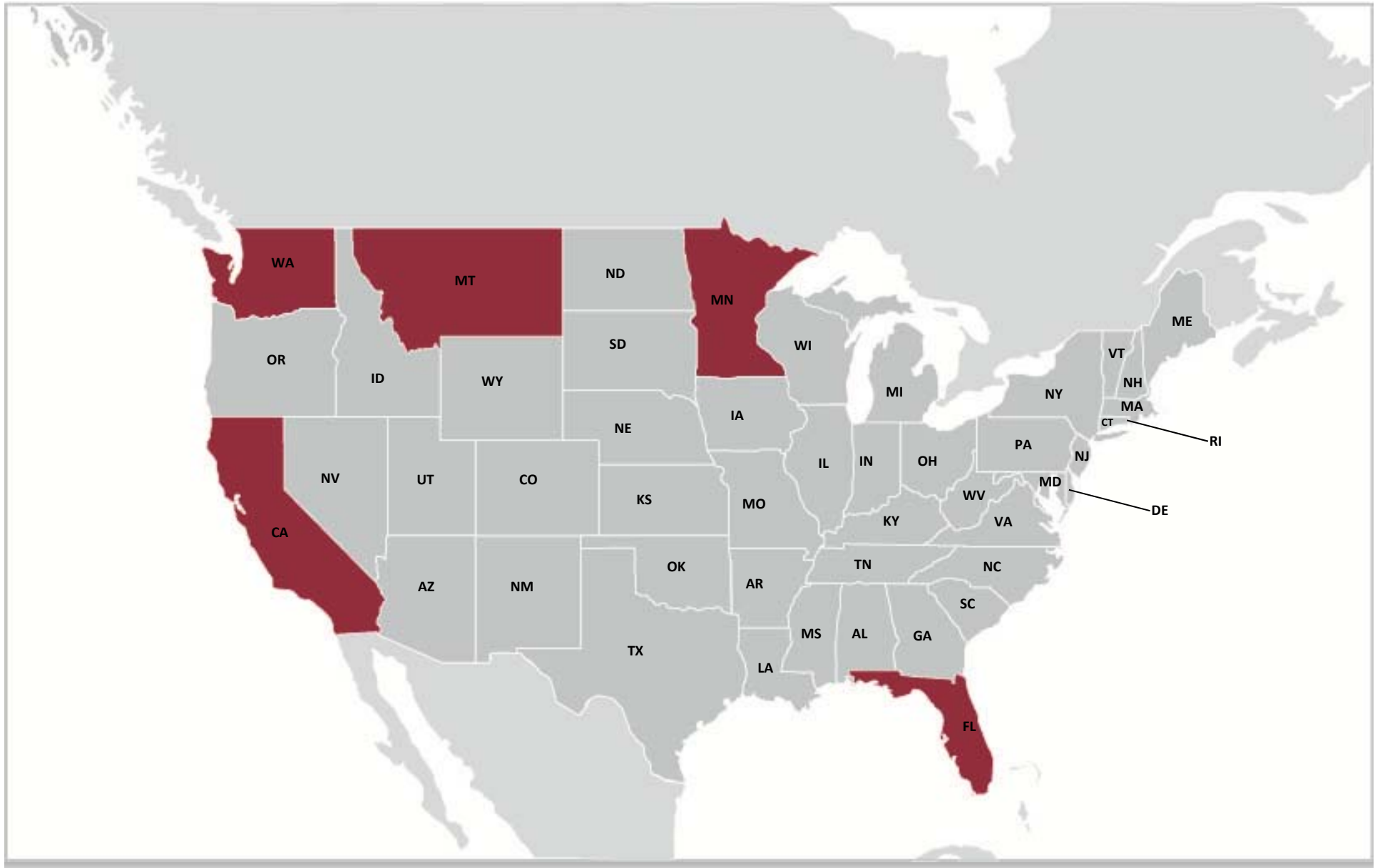
## STATES WITH COMMERCIAL CASINOS AND/OR RACINOS (2012)



## STATES WITH TRIBAL CASINOS (2012)

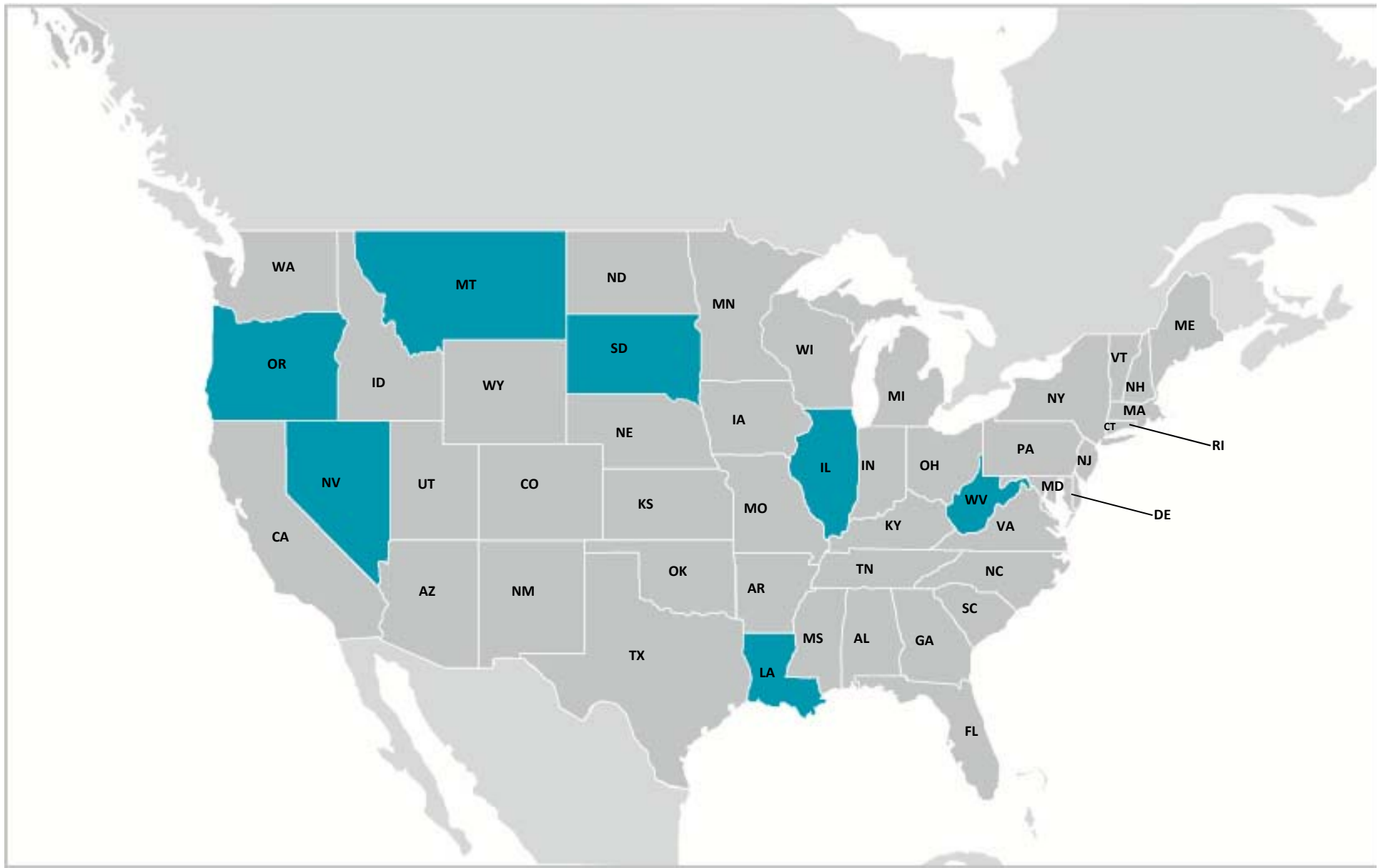


## STATES WITH CARD ROOMS (2012)





## STATES WITH ELECTRONIC GAMING DEVICES (2012)



## SPENDING ON CASINO GAMBLING AT CASINOS/RACINOS (2012)

Rank	State	Amount
1	Nevada	\$10.86 Billion
2	Pennsylvania	\$ 3.16 Billion
3	New Jersey	\$ 3.05 Billion
4	Indiana	\$ 2.61 Billion
5	Louisiana	\$ 2.40 Billion
6	Mississippi	\$ 2.25 Billion
7	New York	\$ 1.80 Billion (VLTs only)
8	Illinois	\$ 1.64 Billion
9	Iowa	\$ 1.47 Billion
10	Michigan	\$ 1.42 Billion

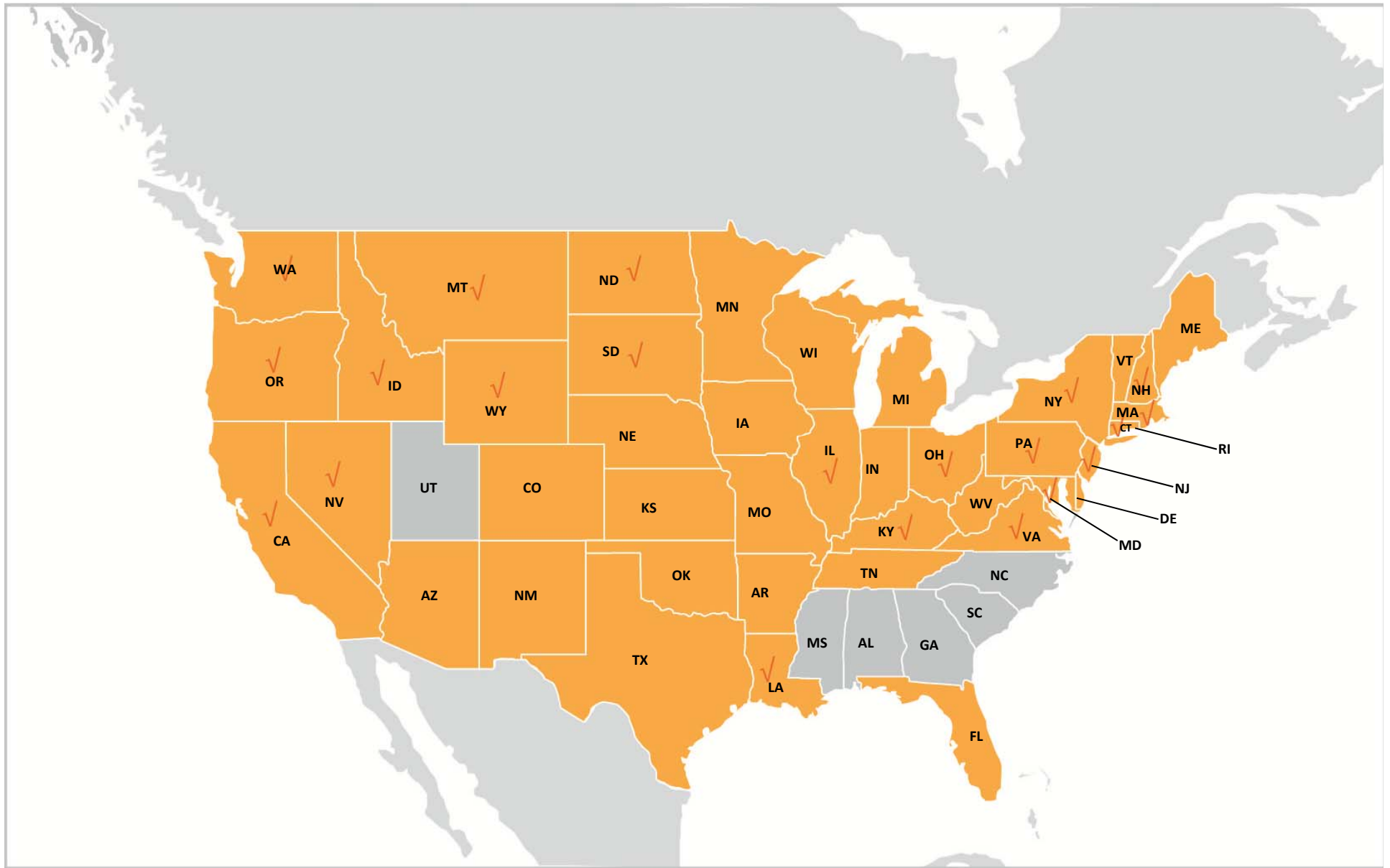
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# Mixed Land & Interactive Gambling

## PARI-MUTUEL WAGERING

- At the track or jai alai fronton
- Off-track simulcast facilities
- ADW using phone or Internet

## STATES WITH PARI-MUTUEL WAGERING/ADW (2010)



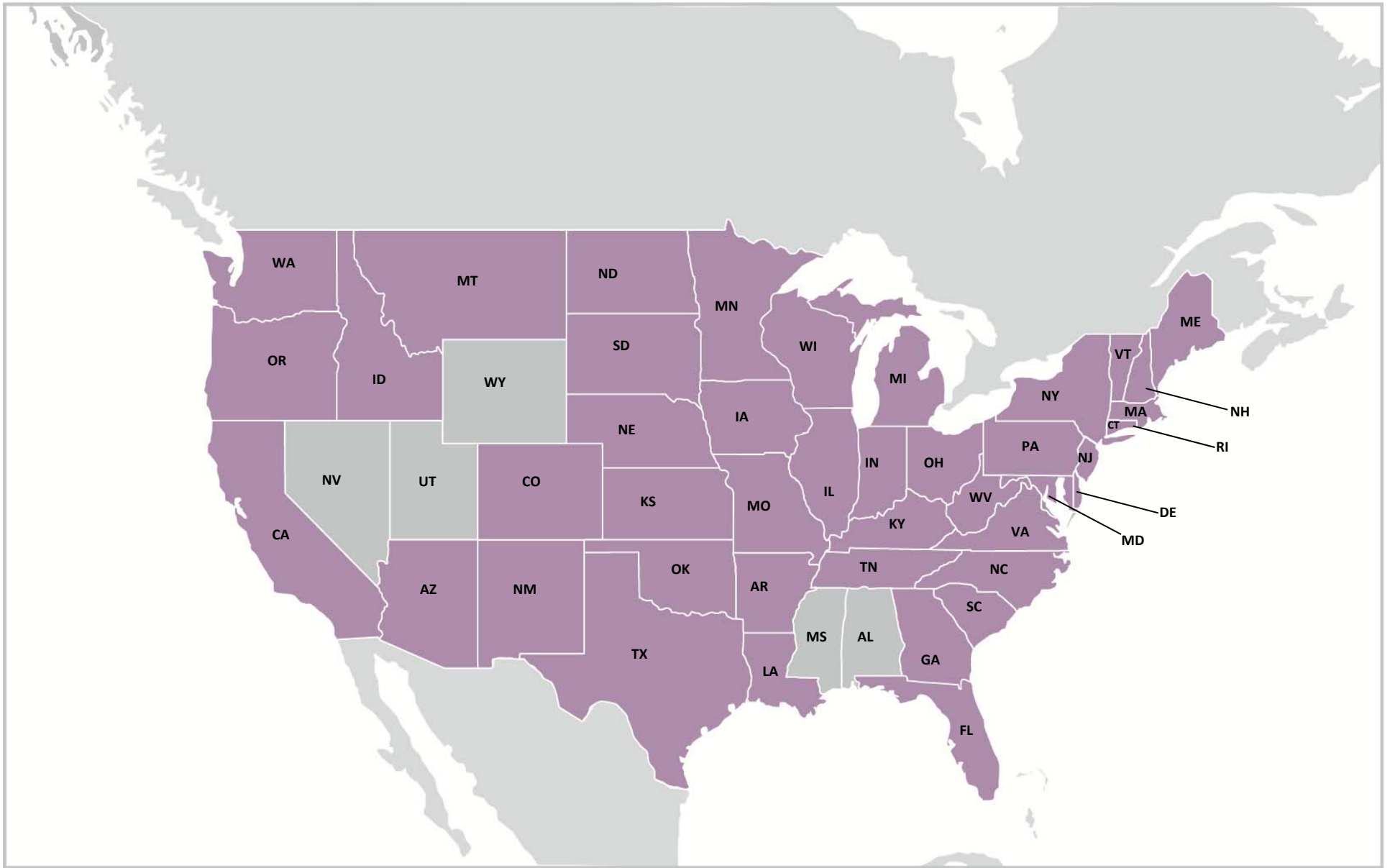
## AMOUNT BET ON PARI-MUTUEL WAGERING

Year	At the Track	Off Track	Total
2000	\$2,270 Billion	\$12,051 Billion	\$14,321 Billion
2001	\$2,112 Billion	\$12,487 Billion	\$14,599 Billion
2002	\$2,029 Billion	\$13,033 Billion	\$15,062 Billion
2003	\$1,902 Billion	\$13,278 Billion	\$15,180 Billion
2004	\$1,860 Billion	\$13,239 Billion	\$15,099 Billion
2005	\$1,741 Billion	\$12,820 Billion	\$14,561 Billion
2006	\$1,688 Billion	\$13,097 Billion	\$14,785 Billion
2007	\$1,670 Billion	\$13,055 Billion	\$14,725 Billion
2008	\$1,489 Billion	\$12,173 Billion	\$13,662 Billion
2009	\$1,325 Billion	\$10,990 Billion	\$12,315 Billion
2010	\$1,199 Billion	\$10,220 Billion	\$11,419 Billion
2011	\$1,229 Billion	\$ 9,541 Billion	\$10,770 Billion
2012	\$1,239 Billion	\$ 9,643 Billion	\$10,882 Billion

## STATE-OPERATED LOTTERIES

- Ticket (drawing or instant) purchase from land-based lottery agent/retailer at counter or at lottery terminal
- “Online play” - instant ticket bought and played on a lottery terminal located at a lottery retailer’s premises
- Internet purchase of tickets (subscription/individual)
- “Play later” tickets/cards played using Internet (“credit redemption”) or physically (scratch tickets, pull tabs)
- Second chance drawings
- i-lottery games – games paid for and played via Internet

## STATES OPERATING LOTTERIES





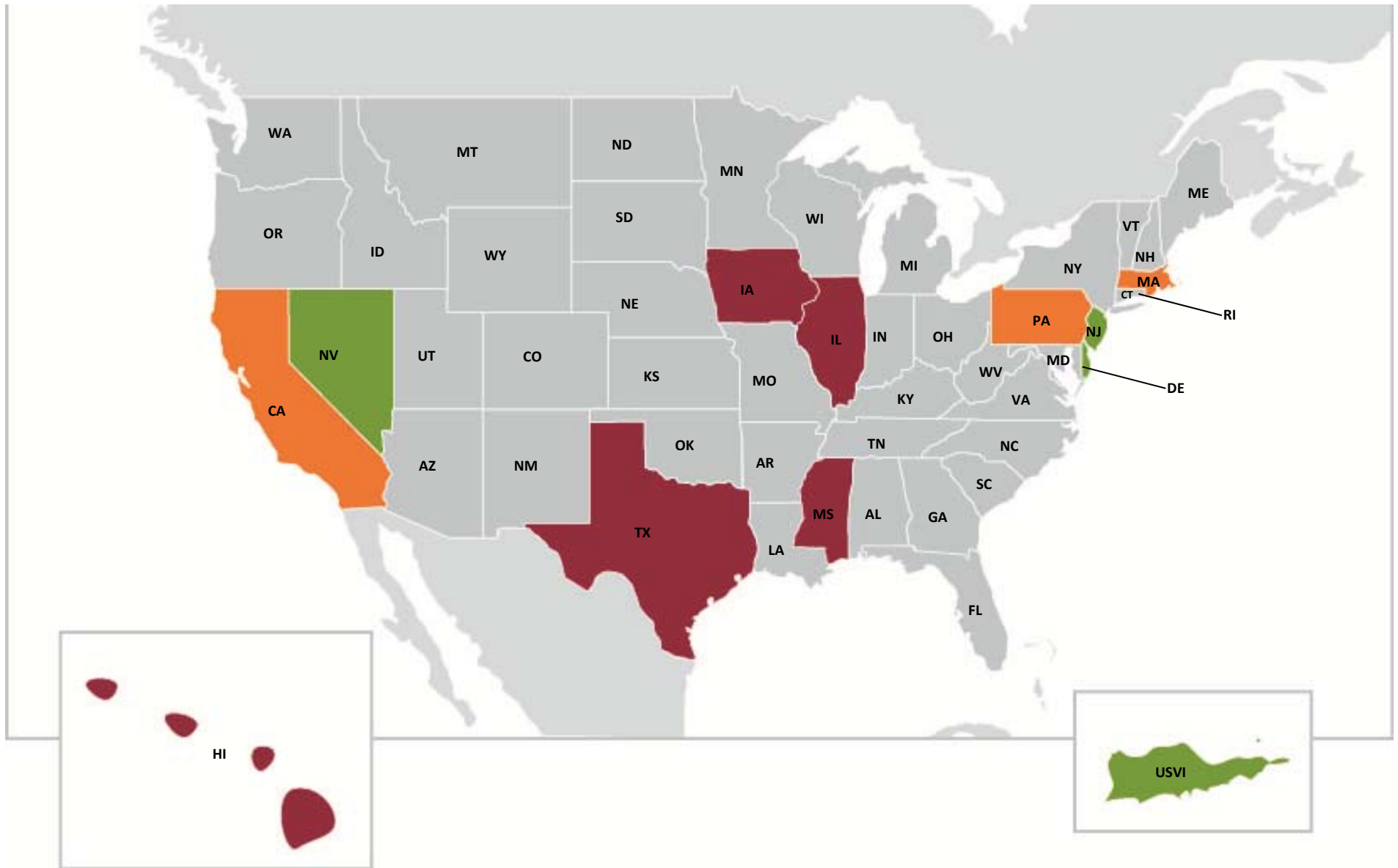
## STATE, POPULATION, LOTTERY SALES (2012)

New York	19,570,261 (3)	\$8,439 million (includes VLTs)
Massachusetts	6,646,144 (14)	\$4,471 million
Florida	19,317,568 (4)	\$4,450 million
California	38,041,430 (1)	\$4,371 million
Texas	26,059,203 (2)	\$4,191 million
Georgia	9,919,945 (8)	\$3,835 million
Rhode Island	1,050,292 (44)	\$3,532 million (includes VLTs)
Pennsylvania	12,763,536 (6)	\$3,208 million
New Jersey	8,864,590 (11)	\$2,759 million
Ohio	11,544,225 (7)	\$2,750 million (includes VLTs)
Illinois	12,875,255 (5)	\$2,680 million
Michigan	9,883,360 (9)	\$2,413 million
Maryland	5,884,563 (19)	\$1,990 million (includes VLTs)
Delaware	917,092 (46)	\$ 687 million (includes VLTs)
Minnesota	5,379,139 (21)	\$ 520 million

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# State/Territory i-Gambling Legislation Update

## STATUS OF STATE/TERRITORY I-GAMBLING LEGISLATIVE EFFORTS



## LEGAL I-GAMBLING

- **Nevada** —
  - 2001 law authorized i-gambling by licensed casino operators with i-gaming license; regulations for i-poker put in place in 2011
  - real money i-poker went live on April 30, 2013
- **Delaware** —
  - i-casino (including poker) and i-lottery authorized 2012
  - i-gambling platform awarded in May 2013 to consortium of Sci Games, WMS, and 888.com
  - Real money i-casino (no poker) went live on November 8, 2013
- **New Jersey**
  - i-gambling (casino and poker) authorized 2013
- **US Virgin Islands**
  - i-gambling authorized 2002 but yet to be implemented

## STATES WHERE I-GAMBLING BILLS FAILED IN 2013

- IOWA
- ILLINOIS
- HAWAII
- MISSISSIPPI
- TEXAS

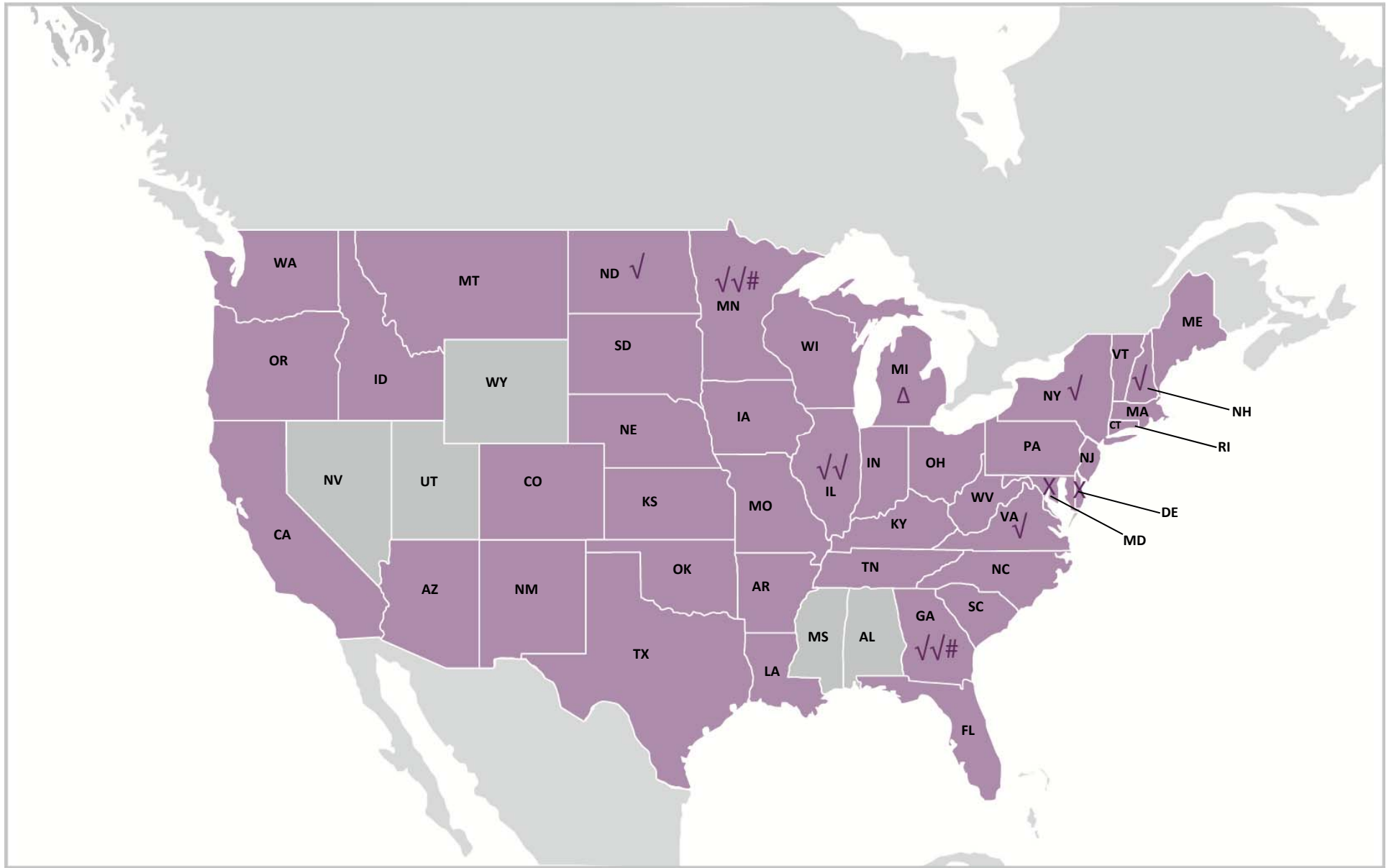
## STATES WITH PENDING BILLS THAT WOULD PERMIT I-GAMBLING

- California
  - SB 51 – introduced by Senator Wright
  - SB 678 – introduced by Senator Correa, supported by the San Manuel Band of Mission Indians
- **Pennsylvania**
  - HB 1235 would permit casino licensees to offer approved i-gambling games
  - HB 1404 would prohibit i-gambling
- Massachusetts
  - SB 101 would permit State Lottery to offer i-lottery games
  - SB 197 would permit casino/slots license holders to offer i-gambling not being offered by Lottery or that looks/acts like slots

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# Status of State Lottery Efforts

## STATES WITH INTERNET LOTTERY TICKET SALES, GAME PLAY, AND I-LOTTERY GAMES IN PROCESS





## LEGAL I-LOTTERY (TICKETS & GAMES)

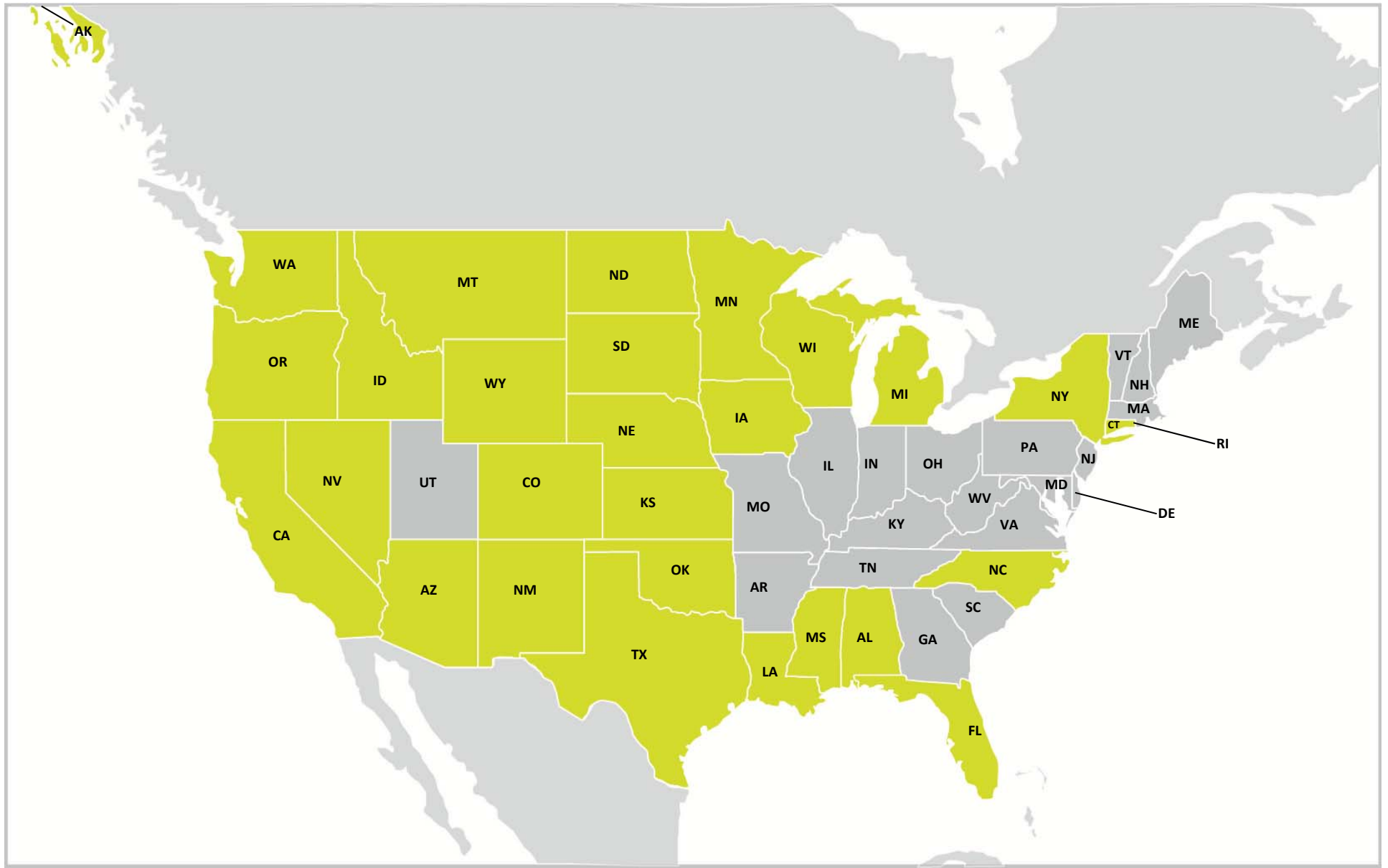
- States currently selling individual draw tickets via internet/mobile device: IL (March 2012), MN (Sept. 2013), GA (Nov. 2013 via pre-paid card); State authorized to sell individual draw tickets via internet: DE (√√)
- States currently selling subscriptions for certain lottery draw games: NH, ND, VA, NY, MN (√)
- State currently selling Keno games at lottery retailers playable via Internet: MD; State authorized to sell instant ticket games at lottery retailers or via pre-paid card: DE (X)
- States slated to offer real money i-lottery games via Internet before end 2013: GA, MN (#)
- State announcing award for i-lottery (ticket sales & games) in Nov. 2013: MI (bills pending to prohibit i-lottery) (Δ)

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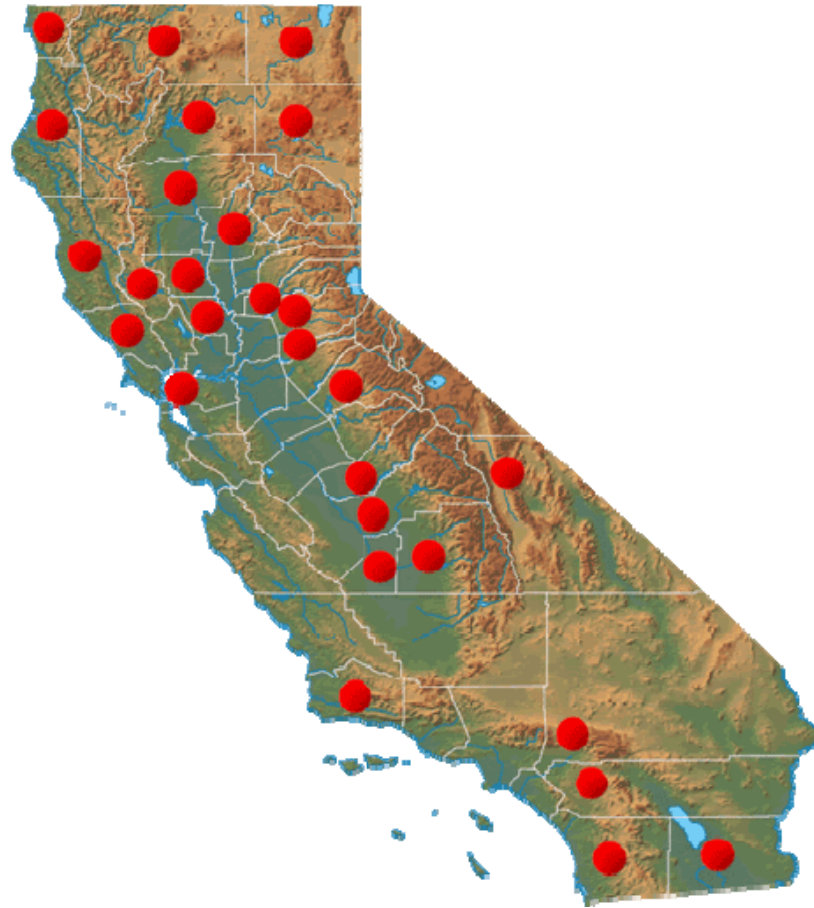
# Tribal Gaming

# WHY TRIBES?

## TRIBES OPERATE CASINOS IN 28 STATES



# TRIBAL CASINOS IN CALIFORNIA



## TRIBES WILL HAVE A SAY IN I-GAMING

- Tribes earned gaming revenues of \$27 billion, or almost 44 percent of total US casino gaming revenues of \$63 billion (2011)
- Tribes have exclusive land-based gaming rights in states including California, Oklahoma, Connecticut, and Florida
- Tribes and tribal coalitions have the political clout at the state and federal level to impact online gaming development
- How will they use it?

# WHAT GOVERNS & WHO REGULATES TRIBAL GAMING?

# INDIAN GAMING REGULATORY ACT ("IGRA")

- 25 U.S.C. §§ 2701-2721 (enacted October 17, 1988)
- IGRA accommodates Federal, State and Tribal interests:
  - Federal statutory oversight over gaming to protect from organized crime and corruption
  - Provide States with some authority over gaming on Tribal land
  - Promote Tribal government, self-sufficiency and economic development



## PREREQUISITES TO GAMING UNDER IGRA

- Possession of “Indian lands”
- Federal approval of gaming ordinance
- Tribes regulate “**Class II**” games (bingo and non-banked card games permitted by state)
- If “**Class III**” (casino-type games – slot machines, house banking games, roulette, craps, and keno):
  - Tribal land is located in a state that permits Class III gaming activity
  - Tribal-state gaming compact is source of law
  - Tribal gaming authority is primary regulator

# TRIBAL-STATE GAMING COMPACTS

- Compacts typically address:
  - Revenue share
  - Regional gaming exclusivity
  - Games permitted
  - Duration
  - Investigation and licensing of participants
  - Civil and criminal jurisdiction
  - Internal controls
- Some compacts do not address I-gaming; some are ambiguous; some condition or limit I-gaming

# TRIBAL CONCERNS ABOUT I-GAMING

- Sovereignty
- Protection of existing tribal land-based casinos
- Whether I-gaming is governed by IGRA
- Whether I-gaming is covered by Tribal-State gaming compacts
- Types of I-gaming proposed to be offered
- Taxation/revenue share
- Regulation/enforcement
- Exclusivity
- Source of law

# SOURCE OF LAW WILL IMPACT TRIBAL ONLINE GAMING

- Federal law
  - Federal law is supreme law of land
  - Only the US Congress has the constitutional power to regulate commerce with Native American tribes
- State law
  - States can license and regulate tribal gaming enterprises undertaken outside tribal lands as they do for non-tribal commercial activities

# TRIBAL AND COMMERCIAL GAMING

## Tribal Gaming

- Conducted on sovereign Tribal land
- Regulated by Tribe under federal oversight
- Scope of gaming established by Tribal-State compact
- Gaming revenue not subject to state taxation; “revenue-share”
- Tribal self-sufficiency

## Commercial Gaming

- Privately owned by operator or consortium
- Regulated by state gaming commission
- Scope of gaming based on state legislation and license
- Gaming revenue subject to state taxation
- Profit/revenues to state

# OPPORTUNITIES EXIST IN INDIAN COUNTRY

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# Issues

# INTERACTIVE GAMBLING ISSUES

- Will more states authorize i-gambling/i-lottery in 2014?
- How will smaller states/territories address liquidity for i-poker?
- Why should large states enter into interstate compacts?
- Should i-gambling licenses be limited to entities with state gambling licenses or open to all qualified applicants?
- Should entities involved in US-facing i-gambling pre- or post-UIGEA be permitted to seek licenses?
- What are the pros and cons to the NJ and DE models?
- In states with lotteries and commercial casinos, should both be permitted to offer interactive games?



## ISSUES CONTINUED

- Will Adelson's opposition to i-gambling have an impact?
- How will the tribal i-gambling issues be resolved?
- Will tribes be willing to compete (as in PA and MA for commercial casino licenses) for state i-gambling licenses?
- Will Congress take any action in connection with i-gaming?
- Will credit card companies/banks make credit card use easier?
- Will/can lottery retailers be convinced that i-lottery games will not undercut their profit/business?

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# Questions?

## CONTACT INFORMATION

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