

Sports Wagering Prohibitions

August 2010

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Sports Wagering has become a larger issue recently with both tribal and non-tribal sports books looking to open beyond their traditional environments. Generally sports wagering is considered illegal gaming unless handled by a casino entity legally licensed by the state in which they are located. Conversely, professional leagues have been to opposed locating teams proximate to sports book operations. Much of this opposition is due to prior scandals such as the "Chicago Black Sox" and the Pete Rose incidents both of which arose from gaming activity tied to sports.

Sports Wagering Prohibitions

Existing federal law prohibits betting on sporting events. The Professional and Amateur Sports Protection Act of 1992, which enacted this prohibition, "grandfathered-in" four states which had previously offered some form of sports betting. Those states were: Nevada, Delaware, Montana, and Oregon. New Jersey which had not previously had sports betting was given one year to gain voter approval; however, the state was unable to act on their option by the specified deadline. For all other states, the federal Professional and Amateur Sports Protection Act specifically prohibit them from sanctioning any sports betting.

The State of California also has a specific prohibition on sports betting, making it a misdemeanor. A bill enacted in 2010, reduced the penalty for a friendly wager between two non-commercial parties, of less than \$2,500, to an infraction.¹

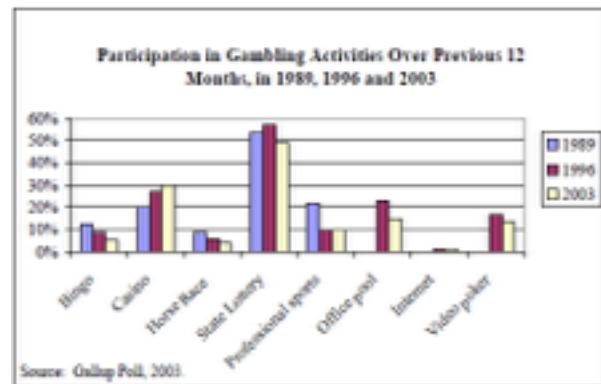
Position of Sports Leagues

All of the major professional sports leagues, including the National Football League (NFL), Major League Baseball (MLB), National Basketball Association (NBA), and National Hockey League (NHL) have all taken a position against legalized sports wagering. Also in opposition is the National Collegiate Athletic Association (NCAA). They indicate that in their view sports betting is a "corrupting influence." This has been the historical view of these organizations dating back to the 1919 "Black Sox" who threw the World Series at the behest of gamblers. National Football League spokesman Brian McCarthy has said that "We recognize that many states have many pressing economic issues, but more state-operated single-game wagering presents a threat to the long-term health and integrity of our sport."²

Economic Impact of Sports Wagering

According to a sports betting expert at the UCLA Gambling Studies Program, more than \$100 billion is

wagered in the U.S., legally and illegally, on sporting events each year. According the Nevada Gaming Commission, approximately \$2.6 billion is bet legally in Nevada, where the state takes a share with a tax on the profits of the casinos in which betting occurs – that tax brought in more than \$9 million in 2009 for the state. A proponent of legalizing sports betting in California, based at the Whittier Law School, has stated that the state could generate more than \$1 billion in annual revenue depending upon the total aggregate amount bet and the structure within which that betting were allowed.³



Activity in the States

- **California.** European bookmaking firms have been lobbying to legalize Internet poker, in the hope that legalized sports betting will soon follow. The managing director of an Irish bookmaking company Paddy Power, has stated that allowing sports betting could mean 10,000 or more jobs for California. Currently, the only legislator expressing their desire to legalize sports betting in California is State Sen. Rod Wright (D-Inglewood). Senator Wright has stated that he believes California should join onto a suit filed in New Jersey (see below) that would overturn the federal prohibition on sports betting.⁴
- **Delaware.** In 2009, Governor Markell was successful in getting a proposal to legalize sports betting through the legislature. The four pro sports leagues and the NCAA filed a brief with the Supreme Court, arguing that games cannot be considered a game of chance because skill "plays an impermissible" role. The 3rd U.S. Circuit Court of Appeals, upheld by the Supreme Court, have stated that Delaware's plans must be limited to a scheme similar to that of the lottery game it had offered in 1976. This action was considered a severe blow to the state, and sports wagering proponents, who

hoped for a far broader interpretation leading to greater revenues.⁵

- **New Jersey.** The state filed a suit against the U.S. Justice Department in the U.S. District Court in Newark to overturn the 1992 law that restricting sports betting. The suit alleges that the law is unconstitutional since it treats these states differently, violating the 10th Amendment. However, the state's new Governor, Chris Christie, has indicated that he will not sign onto the lawsuit, his spokesman stating that: "there were just too many steep legal hurdles to clear, and it would at best be a legal long shot."⁷
- **Oregon.** In 2007, the state ended its Sports Lottery program. The National Basketball Association had sued the state over the lottery, and the NCAA had vowed not to hold any postseason games there as long as sports wagering was allowed.⁸

Conclusion

The legalization of sports wagering in the State of California may bring in additional revenue and a few jobs. However, it would also bring the unsavory elements that follow sport wagering closer to the teams, professional, collegiate and amateur alike that make their homes here. With reports of ethics abuses abounding at both the professional and collegiate levels, is it really appropriate to compound these problems by bringing temptation closer to the playing field? A Fairleigh Dickinson University PublicMind poll found in March of 2010 that more than fifty percent of those surveyed oppose allowing bets on the outcome of professional or college sporting events.⁹

As with every gaming expansion we have seen, it is highly likely that the proponents are once again exaggerating the benefits to the state. As with tribal gaming expansions and the state lottery revenues have not matched expectation.

California residents already have ample opportunity to gamble their money away, at one of the state's many Indian casinos, card rooms, racetracks, off-track betting facilities, and through the state's own lottery. It should also be noted that placing a bet in a Nevada sports book is not limited to the day or week of the scheduled sporting event. In fact multiple bets can be placed on any scheduled or forecasted event. Thus the timeliness of the bet is not of paramount concern in this regard.

If you have any questions regarding this document, contact Peter Renevitz at peter@pradvocacy.com.

3. California may benefit from legalized sports betting, Patrick McGreevy, August 1 2010, Los Angeles Times.
4. California may benefit from legalized sports betting, Patrick McGreevy, August 1 2010, Los Angeles Times.
5. Supreme Court rejects Delaware sports betting appeal, James Vicini, May 3 2010, Reuters News Service.
6. Lawsuit seeks to lift ban on sports betting, 2009, The SeattleTimes.
7. Christie won't fight for sports betting, Claire Heininger, July 13 2010, The Star-Ledger Bridgeton News.
8. Lawsuit seeks to lift ban on sports betting, 2009, The SeattleTimes.
9. FDU poll finds opposition to internet, sports betting, March 11 2010, Associated Press. Located at: www.nj.com.

NOTE: Since this Issue Brief was originally written on the topic there has been significant movement on this issue, including the authorization of professional sports franchises in the Las Vegas market (both NHL and NFL). This document should be regarded as representing a snapshot in time. (author, 2017)

1. AB 58 Jefferies Ch 72 of 2010, Penal Code 337a & 336.9.
2. California may benefit from legalized sports betting, Patrick McGreevy, August 1 2010, Los Angeles Times.