



Sports Betting

Professional and Amateur Sports Protection Act (PAPSA)

The federal PAPSA prohibited states from authorizing or licensing sports betting (28 U.S.C. § 3701 et seq.).

In 2012 and again in 2014, New Jersey enacted laws that attempted to legalize sports betting. In the federal court cases stemming from those laws, New Jersey argued PAPSA violated the 10th Amendment which provides that, if the Constitution does not give a power to the federal government or take a power away from the states, that power is reserved for the states or the people themselves.

The Supreme Court decided to hear the case and ultimately agreed with New Jersey that PAPSA unconstitutionally “commandeered” states into enforcing federal law (*Murphy v. NCAA et al.*, 138 S. Ct. 1461).

Justice Alito, writing for the majority, concludes that, “[t]he legalization of sports gambling requires an important policy choice, but the choice is not ours to make. Congress can regulate sports gambling directly, but if it elects not to do so, each State is free to act on its own.”

Tribal Agreements

Currently, the Mashantucket Pequot Tribe conducts gambling at the Foxwoods Casino under federal procedures and the Mohegan tribe conducts gambling at the Mohegan Sun under a tribal-state compact.

The federal procedures and the compact authorize the tribes to operate video facsimile machines (e.g., slot machines) only pursuant to (1) an agreement between the tribe and state (e.g., memoranda of understanding (MOU)); (2) a court order; or (3) a change in state law that allows the operation of video facsimile machines by any person, organization, or entity. Currently, both tribes are able to operate video facsimile machines because of the MOU each has with the state.

Under separate but virtually identical MOU agreements, each tribe contributes at least 25% of its gross slot machine revenue monthly to the state. The tribes agree to continue to make these payments so long as the state does not pass a law or regulation to allow others to operate any video facsimile games of chance or commercial casino games in the state.

Attorney General Testimony

The attorney general provided written testimony on how sports betting under [HB 5307](#) (2018) could affect the tribal agreements. He testified that sports betting is not a video facsimile, but whether it is a commercial casino game is an open question and he is uncertain as to how a court might decide such question.

He further stated that he does not believe the tribes are authorized to offer sports betting under existing gaming agreements, thus the tribes need certain state actions before offering sports betting.

Finally, the attorney general wrote that if the state allows sports betting and the court finds it to be a casino game, then the tribes could cease making payments to the state under the MOUs. But the tribes would also no longer be able to operate video facsimile games, absent one of the conditions set in the procedures or compact (see Tribal Agreements above).

Connecticut Law and Proposed Legislation

Existing law requires the consumer protection commissioner to adopt regulations to regulate wagering on sporting events to the extent allowed under state and federal law ([CGS § 12-565a](#)).

However, sports betting is still prohibited under state law. Thus, to allow it, the legislature would have to first legalize it and presumably provide a framework for licensing and regulating the industry.

In 2018, the legislature considered two sports betting bills ([SB 540](#) & [HB 5307](#)). SB 540 established a regulatory framework for sports wagering in the state, but did not contemplate how the legislation would affect the tribal agreements, while HB 5307 made technical changes to the existing law authorizing regulations. Neither bill became law.

States Where Sports Betting is Legal

Currently, sports betting on individual games is legal and operational in eight states (Delaware, Mississippi, Nevada, New Jersey, New Mexico, Pennsylvania, Rhode Island, and West Virginia).

Additionally, Arkansas and New York have legalized sports betting but have not taken the regulatory steps needed to operate it. In November 2018, Arkansas voters approved a constitutional amendment to allow sports betting. New York, in its casino expansion act, allowed sports betting in four on-site locations, but the New York State Gaming Commission has not completed regulations for these locations.

Things to Consider for Sports Betting Legislation

- How to deal with the tribal agreements (e.g., governor negotiates a new agreement as a condition of sports betting authorization)
- Who offers the sports betting (e.g., casino, off-track betting, or lottery)
- Where to offer the bets (e.g., brick and mortar or online)
- What types of bets should be allowed (e.g., all or limited to certain professional sports)
- What tax rate (e.g., 8.25% of sports wagering gross revenue)

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“FAQs: Indian Casinos and Gaming Compacts,” OLR Issue Brief [2017-R-0064](#)

“States Offering Legal Sports Betting,” OLR [Report 2018-R-0059](#)

