



Research Brief: Sports Betting & Recent U.S. State Legislative Action

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As the calendar reaches the midpoint, many state legislatures are adjourning for the summer or finalizing their budgets prior to the start of the fiscal year. The end of June is also the time when the Supreme Court of the United States' (SCOTUS) term comes to an end, decisions are rendered, and announcements made for cases to be taken up in the next term that begins in October. GMA provides the following summary of relevant legislative happenings across the United States.

SPORTS BETTING

Last week, SCOTUS changed the dialogue within the United States gaming landscape when it announced that it would hear the New Jersey sports betting case (Christie Vs. NCAA) in its next term. Currently, only Nevada, Delaware, Montana, and Oregon allow some form of sports betting. The American Gaming Association (AGA) estimates that the illegal, unregulated sports betting market is a \$150 billion-a-year industry. Many estimate that number to be far greater. While most in the industry see this as an opportunity on sports betting, a ruling by SCOTUS in this case has far more to do with states' rights than wagering on sports.

In 2012, the New Jersey Legislature passed a law that was signed by Governor Chris Christie to allow sports wagering at existing casino and track facilities. This was done through a ballot measure approved by the voters of New Jersey in November 2011 by a two-to-one margin.

Debates on expanding sports betting have taken place over the last twenty-five years since the passage of the Professional and Amateur Sports Protection Act in 1992 (PASPA). Every proposed expansion of sports betting to date has been opposed by the National Collegiate Athletic Association (NCAA), National Football League (NFL), National Basketball Association (NBA), National Hockey League (NHL), and Major League Baseball (MLB).

With SCOTUS taking up the case, arguments for and against the New Jersey law will take place late this year or early 2018. Initial briefs will have to be filed by both parties and then oral arguments will be scheduled, with a decision to be rendered by the court no later than a year from now in June 2018. To hear the case initially, it takes a minimum of four justices to have



shown an interest in hearing the case. It will take a minimum of five justices to get the ruling that New Jersey desires and the rest of the gaming industry seeks.

While the current focus on sports betting surrounds the judicial branch with the SCOTUS announcement, earlier this year U.S. Representative Frank Pallone, Democrat from New Jersey, proposed the Gaming Accountability and Modernization Enhancement Act (GAME Act). The bill would repeal PASPA as well as remove any other federal barriers, give oversight to the Federal Trade Commission, and outline consumer protections that would have to be included in any state legalization efforts.

The AGA continues to be extremely vocal in its support of the repeal of PASPA. The AGA recently formed the American Sports Betting Coalition to bring stakeholders together to allow for the legalization of sports betting nationally. The AGA, which filed an amicus brief in 2016, stated the following on the recent SCOTUS announcement:

“We are pleased the Supreme Court appears to have responded favorably to our arguments as to why they should hear this important case and we are hopeful their engagement will provide further encouragement for Congress to take the steps necessary to create a regulated sports betting marketplace in the United States. The gaming industry, and the American Sports Betting Coalition, is committed to working with all relevant stakeholders to build a system that protects states' rights, fans and the integrity of sports.”

In order for the legislative process to address all issues surround sports betting, the Wire Act of 1961 and the Unlawful Internet Gambling Enforcement Act of 2006 should also be revisited as they have the potential to affect the full opportunity involved with sports betting legalization in the United States (some members of the AGA offer conflicting opinions on these two existing pieces of legislation).

The NCAA and the major professional sports leagues will continue to have various levels of concern on how sports betting is regulated should it be legalized through the GAME Act or ruled as permissible by SCOTUS in the New Jersey case. Some of these negative perceptions may be reduced with the introduction of professional sports in Las Vegas, as the city adds the Vegas Golden Knights this fall as an NHL expansion team and the future relocation of the NFL's Oakland Raiders to the city in 2020. Additionally, there continues to be discussion for the NCAA to relax its position on Las Vegas hosting sanctioned championships in addition to events currently hosted by Las Vegas in the form of conference championships and other tournaments. The NBA is the only league that has come out strongly in favor of developing a framework to legalize sports betting.



Other states continue to take up the issue of sports betting in an effort to legalize it in their respective states. In addition to New Jersey, states including Connecticut, Maryland, Michigan, New York, Oklahoma, Pennsylvania, South Carolina, and Virginia have introduced sports betting legislation. Each has a different level at which sports betting would be allowed, from only permitting bets to be taken on professional sports to allowing legalization upon either the repeal of PASPA or future action by Congress.

While it is still unknown how SCOTUS may rule, Global Market Advisors contends that the court will side with New Jersey based on SCOTUS' previous views on states' rights. This would potentially lead to an active legislative discussion on sports betting in statehouses across the country toward the end of 2018 for full time legislatures and into 2019 for all state legislatures. As the magnitude of this case surrounds state's rights, some believe that the court will not rule until the end of its session in June 2018. Should SCOTUS rule in New Jersey's favor and for state's rights, legalized sports betting could begin in other states as early as late 2018, but most likely in 2019.

FANTASY SPORTS LEGALIZATION

One of the other most debated developments in state legislatures was the legalization of draft fantasy sports (DFS). Measures have been introduced to allow DFS operators like DraftKings and FanDuel to operate their business models by allowing wagers on fantasy sports including football, basketball, and other sports. Participation in daily fantasy sports has grown significantly over the last several years. Additionally, DraftKings and FanDuel are currently attempting to execute a merger. However, the action was put on hold last month by the Federal Trade Commission.

Nearly twenty states have introduced legislation this year to regulate DFS in some fashion ranging from complete bans, calls for additional studies, adding consumer protections, to exemption from current gaming laws. States that currently allow DFS include Arkansas, Colorado, Indiana, Kansas, Maryland, Massachusetts, Mississippi, Missouri, New York, Rhode Island, Tennessee, Virginia, and Vermont. Delaware and New Jersey most recently passed legislation to legalize DFS. Both bills currently await signatures by their respective Governors.

Nevada continues to be a state that requires formal gaming licensing of a DFS operator. DraftKings and FanDuel have since vacated the state since the Attorney General's notification in 2015. The Nevada Gaming Policy Committee has continued to discuss this issue while operators including US Fantasy conduct licensed businesses in the state.



OTHER GAMING DEVELOPMENTS ACROSS THE COUNTRY

NEVADA

Earlier this year, Nevada made two significant enhancements to its gaming regulations by allowing pari-mutuel wagering on eSports and modernizing some of the regulatory structure on applicants. While eSports had already been approved in the recent 78th Session of the Nevada Legislature, it further defined the “other events” beyond the scope of traditional sporting events, horse, or greyhound races. For example, this would allow bets based on the results of the NBA draft or the winner of the Heisman Trophy award. The Nevada Gaming Commission has since codified the regulations and they will go into effect next month in August 2017.

Nevada Legislators also passed AB75, which broadens the ability for the Nevada Gaming Commission to make recommendations on gaming applicants. Previously, the Board had the option of denying, reversing the denial, or remanding the matter to the Board. Under this previous scenario, applicants could withdraw from the process if they believe they would be denied a license to conduct business with an existing licensee. Under the new regulations, the term of rejection has been added and applicants will not suffer the same consequences as a denied applicant. This has been viewed as a welcome change as members of the Commission lobbied for this action.

PENNSYLVANIA

Pennsylvania continues to debate an expansion of gaming in the General Assembly as this research brief is released. The legislature could potentially allow the largest expansion of gaming in the state since table games were introduced in the Commonwealth in 2010. There are several different expansion opportunities including the legalization of video gaming terminals (VGTs) at bars and other locations throughout the state. The gaming industry is extremely divided on this issue. The most significant opposition to VGTs occurred last month when Las Vegas Sands bought over \$1 million in media buys to voice opposition to VGTs; an additional \$500,000 was contributed by the operators of the Parx Casino in Bensalem to oppose the issue.

The proposed VGT legislation in Pennsylvania is in addition to finalizing the local revenue share/host fee issues that came up last year through a court challenge, online gaming, fantasy sports, and sports betting. Currently, Pennsylvania is in a budget deficit of \$2.2 billion with gaming potentially shoring up the budget once again as it did with the table games expansion in 2010. Before its recess on June 30th, the Pennsylvania General Assembly passed a nearly \$32 billion budget. However, the revenue to fulfill the budget will be taken up after the Fourth of



July holiday. VGTs will continue to be the decisive measure that will potentially hold up any other expansion including online gaming.

CONNECTICUT

Another significant legislative battle this year came to an end in Connecticut when Governor Dan Malloy signed a bill last week to allow a third casino in the state. This casino will be jointly operated by Foxwoods and Mohegan Sun and will be located in East Windsor. The partnership between the Mohegan and Mashantucket Pequot tribal nations was opposed by MGM Resorts International, which had lobbied for an open, competitive process for a third casino location in the state. MGM Resorts is currently constructing a nearly \$1 billion resort in Springfield, Massachusetts. MGM Resorts had previously challenged the bill and its attempt was defeated. Nevertheless, the legal challenges over a third casino in Connecticut seems far from over.

ELSEWHERE

While other states continue to look at issues surrounding gaming, Georgia once again went down the path to add destination resorts in the state. Though it was discussed through end of session, nothing was passed but this issue will be back in the Georgia General Assembly in future years. Florida also continues to be a hot bed for potential future gaming expansion between the lack of action by the Florida Legislature and court rulings. The state will continue to be a source for potential development in the years to come.

Global Market Advisors will continue to monitor legislative, regulatory, and other government actions in the United States and around the globe that affect the gaming, hospitality, and leisure industries. Many of the issues in the United States have commonality with other jurisdictions and as they are resolved, can offer best practices for other highly regulated markets in order to allow responsible operators to offer entertainment and services to their guests.



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ABOUT GLOBAL MARKET ADVISORS

GMA is the leading provider of consulting services to the gaming and hospitality industry, providing clients with market feasibility studies, primary research, economic impact studies, due diligence, payroll control, operations analysis, business and marketing plan development, and player reward program design. GMA also assists governments in developing public policy for integrated resorts, evaluates new markets and opportunities for public and private companies, and performs due diligence for potential acquisitions. The firm maintains active clients throughout North America, Europe, and Asia.