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Gambling world set to take off with positive high court ruling

The sports world is awaiting a ruling by the U.S. Supreme Court that could create a brave new world of regulated gambling on professional and amateur sports. A decision in favor of legalization would be a seismic event in an industry that supported the original gambling ban but has seen a variety of key figures expressing a change of heart in recent years.

Gambling on sports is estimated to generate anywhere between \$150 billion and \$400 billion a year in the United States, most of it illegally.

The Big Four professional sports leagues have said legalized betting would threaten their business interests, yet have been quietly preparing — to varying degrees — for the possibility. At the same time, states have teed up legislation to regulate sports betting within their borders and at least one federal measure has been introduced.

Shifting public opinion on sports betting, the desire to legitimize and capitalize on a lucrative revenue stream and the need for increased consumer protections have all helped pave the way for a potential overturning of the ban on gambling that was enacted in the early 1990s.

The federal Professional and Amateur Sports Protection Act of 1992, or PASPA, bars state governments from getting involved in betting on amateur or professional sports. PASPA grandfathered in four states — Nevada, Montana, Delaware and Oregon — allowing them to continue their established sports lotteries.

New Jersey has been trying to get sports betting legalized to help its struggling casinos and racetracks ever since residents

SPORTS MARKETING PLAYBOOK



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voted in favor of the move in 2011. The state enacted a law in 2012 to allow sports wagering, but several sports leagues successfully sued the state under PASPA to overturn the law.

The state then passed a law in 2014 to lift the sports gambling ban for casinos and racetracks. The National Collegiate Athletic Association and the four major professional sports leagues — the National Basketball Association, National Football League, National Hockey League and Major League Baseball — sued New Jersey, arguing that PASPA overrode the state law.

New Jersey countered that Congress had unconstitutionally “commandeered” New Jersey into enforcing federal programs by requiring the state to adhere to PASPA’s gambling restrictions. Both a federal district court and the U.S. 3rd Circuit Court of Appeals rejected the state’s argument.

The litigation, consolidated with a similar lawsuit filed by the NCAA and the leagues against the New Jersey Thoroughbred Horsemen’s Association, is now before the U.S. Supreme Court. The legal issue is whether

PASPA violates the U.S. Constitution’s anti-commandeering doctrine, which states that Congress lacks the power directly to compel states to require or prohibit acts which Congress itself may require or prohibit.

Changing attitudes about wagering on sports has prompted states and leagues to embrace the idea, or, in some cases, at least to prepare to accept what they see as the inevitable legalization.

Last year, a poll by The Washington Post and the University of Massachusetts at Lowell found that a majority of Americans — 55 percent — now favor legalizing betting on sports, in contrast with the 56 percent of Americans that supported the ban on gambling when PASPA was enacted. This flip has been attributable, in part, to the rise in popularity of fantasy sports leagues and the aging demographic of those that disapprove of gambling.

Currently, Nevada is the only state where a broad spectrum of sports betting is legal. A handful of states — Connecticut, Mississippi, New Jersey, Pennsylvania and West Virginia — have legis-

lation passed and ready to go in the event PASPA’s federal sports betting ban is amended or repealed, according to ESPN.

An additional 14 states, including Illinois, have introduced bills to authorize some form of sports betting, federal law permitting. The other states are California, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Missouri, New York, Oklahoma, Rhode Island and South Carolina.

Federal measures to regulate sports gambling are also in the works. Notably, New Jersey representative Frank Pallone introduced the Gaming Accountability and Modernization Enhancement, or GAME, Act last year, which would repeal PASPA and allow states to make betting on sports legal.

Meanwhile, the Big Four leagues are preparing for the possibility that legal gambling will become part of the sports landscape and, in some cases, laying the groundwork to receive a piece of the action.

NBA Commissioner Adam Silver, who has expressed support for gambling on sports since 2014 when he wrote an op-ed for The New York Times, outlined a framework for regulated gambling earlier this year.

He said gaming operators should pay the league a 1 percent “integrity fee” on the total wagers made in states where sports gambling becomes legal. The fee would compensate the league for the expenses it would incur to create products used by gaming operators, among other things, Silver said.

Both the NBA and the MLB are hedging their bets by lobbying legislators in multiple states where sports gambling bills have been introduced to ensure the leagues’ interests are protected. The NBA and MLB are pushing

for the 1 percent integrity fee paid to the leagues based on the amounts wagered and want input on the types of betting offered, as well as data rights, according to ESPN.

NHL officials have noted far less money is wagered on hockey games compared to other sports. The NHL is also the first major U.S. league to establish a franchise in the gambling mecca of Las Vegas. The NFL is moving the Oakland Raiders to Las Vegas, even as it continues to officially oppose legalizing sports

gambling.

Players have banded together to assert a unified voice in the debate to protect their own interests.

The players associations for the MLB, NBA, NFL and NHL issued a joint statement in April that they plan to collectively address the potential impact of legalized gambling on players' privacy and publicity rights, and the integrity of games.

The NCAA has remained steadfastly opposed to legalizing sports betting, refusing to hold

events in Nevada because gambling on sports is legal there. The association cites concerns that legal betting would undermine the integrity of college sports and have a negative effect on student-athletes.

A Supreme Court ruling in favor of legalizing gambling will set off a flurry of action as some states implement pending legislation and other states introduce new bills.

Negotiations will commence among the leagues, gaming operators, players associations and

other stakeholders to determine rights, responsibilities and consumer safeguards. And the growing support to legalize sports gambling all but ensures that a Supreme Court ruling against legalization won't be the final word on the dispute.

Legislative measures or litigation to repeal or amend PASPA are likely to follow, as are cooperative efforts by stakeholders to influence their outcome. It's a safe bet that this issue will not be settled regardless of the high court's ruling.