



Sports Betting

Appropriations and Revenue Committee

August 30, 2018



The Professional and Amateur Sports Protection Act (PASPA)

- Enacted by Congress in 1992 based on concerns:
 - The trend of increased gambling extending to sports
 - Detrimental effects on young people
 - Integrity of the games



The PASPA Prohibitions

- Unlawful for a **State** to sponsor, operate, promote, license, or authorize by law or compact a gambling or wagering scheme based on competitive sporting events
- Unlawful for a **Person** to sponsor, operate, or promote any sports-betting scheme



PASPA Grandfather Provision

- Allowed sports betting to continue in four states where it already existed
 - Nevada, Delaware, Oregon, Montana
- Gave New Jersey one year in which to legalize sports betting because they were considering legislation at the time
 - They didn't until later and the NCAA objected



Murphy v. NCAA

- U. S. Supreme Court Decision
 - Struck down the federal Act
 - Anti-commandeering doctrine
 - The severability of unconstitutional statutory provisions
- This decision did not legalize sports betting
- It merely cracked the door open for States to decide



Anti-commandeering Doctrine

- Seven justices agreeing that PASPA violated this doctrine - No justice openly disagreeing
- What is it? The Tenth Amendment
 - The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.



Severability Clause

- Mixed bag in the dissenting opinions
 - Prohibition for the State to authorize sports betting by law
 - Prohibition for the Person to operate
- Three justices would have allowed the ban on private sponsoring of sports betting to remain in effect



We may not have a final answer!

- All but Justice Thomas agreed that Congress could achieve its goal of stopping sports betting through a direct ban under the Commerce Clause
- Will Congress act?



Best Practices – Nevada

- Nevada legalized sports betting in 1949
- Wagers accepted from Nevada residents via sportsbooks and, since 2013, online websites
- NFL, NBA, MLB, NHL, and NCAA
- All sportsbooks are regulated by the Nevada Gaming Commission
- Legal gambling age is 21 years or older



Nevada Taxes

- Not much money here
- In 2017, \$4.8 Billion wagered (handle)
- Approximately 190 sportsbooks in NV
- Net-profits of approximately \$240 M = 5%
- NV excise tax rate of 6.75%
- \$16.2 M in receipts to the state



Kentucky Constitution

State Lottery
Horse Racing
Charitable Gaming

Is a Constitutional Amendment Required?



How will the industry be regulated?

- Which agency will be the regulator?
- Will operators be licensed?
- Will there be a license fee?
- Will fantasy sports be included?
- Should the fee be the same for this industry segment?
- Will the industry be taxed? How and at what rate?



Other Questions

- What about the age of participants?
- What about problem gambling?
- Will credit cards be accepted for payment?
- How will you determine the geographic location of the participant?
- What is the impact on current industries?



Integrity Fee

- Should the sports governing body be allowed an integrity fee?
 - NBA and MLB are actively opposing legislation that does not include an integrity fee
- Governing bodies are proposing a **1%** integrity fee on the amount of wagers
- Some argue that this is merely a transfer of money from gaming operators to the leagues

Questions

