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Supreme Court Strikes Down Law Banning States from Legalizing Sports Gambling

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The U.S. Supreme Court has struck down the federal law known as the Professional and Amateur Sports Protection Act of 1992 (PASPA) that bans states from permitting gambling on sporting events. *Murphy v. National Collegiate Athletic Assn.*, No. 16-476 (May 14, 2018).

This decision effectively ends Nevada's long-time monopoly in this arena and opens the floodgates for states to pass their own legislation regarding sports wagering.

The original action spent close to eight years winding its way through federal courts before landing before the Court. New Jersey challenged the constitutionality of PASPA, alleging the law violated the Tenth Amendment by "commanding" the states to act (or not act) in a certain way. This, New Jersey argued, violated the Tenth Amendment's anti-commandeering principle and encroached on the goals of public policy, which have generally favored allowing the states to legislate, free of federal interference and constraint.

Justice Samuel Alito, writing for the Court majority, explained **the problem with PASPA** is that "state legislatures are put under the direct control of Congress." He continued, moreover, that **"[a] more direct affront to state sovereignty is not easy to imagine."**

States around the country have been hoping to receive a cut of the nearly \$150 billion that Americans spend on illegal sports wagering each year. States also stand to gain by taxing sports gambling in a variety of ways. Numerous states have been prepared to launch sports gambling legislation in the event of a favorable decision. Governor Phil Murphy of New Jersey, in particular, stated that New Jersey would be ready to act "sooner than later."

Still unclear is the effect the decision will have on major sports leagues and organizations such as the NFL, MLB, and NCAA. In the past, the leagues have taken positions opposing legalized sports wagering. However, as of late, many prominent sporting organizations, led by the NBA and Commissioner Adam Silver, have expressed support for sports gambling and the positive effects it might have on professional and amateur sports across the nation.

This support, of course, comes with the caveat that the NBA, NFL, and others want a "seat at the table." For example, Commissioners Robert Manfred and Roger Goodell of the MLB and NFL (respectively) have indicated that gambling laws should preserve the "integrity" of their sports. When discussing a pro-sports gambling law proposed in West Virginia, **Manfred stated, "[The MLB is] not opposed to the idea of West Virginia passing a sports betting bill . . . We'd**

just like them to pass one that creates a framework that protects the integrity, recognizes the variety of interests at play here and quite frankly puts the state in a position to maximize the revenue return from it.”

Expect leagues to lobby both the states and Congress to adopt gambling legislation assuring them some form of control over wagering and permitting them a revenue stream from bets placed and payouts awarded.

Jackson Lewis will continue to monitor the progress of state and federal gambling legislation and keep you updated with any and all developments. If you have any questions, please contact a Jackson Lewis attorney.

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