

UNIVERSITIES & SPORTS BETTING ALERT

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Overview of Issues in Pennsylvania and Other States

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Universities should prepare for the impact of sports betting in Pennsylvania and other states. On May 14, 2018, the United States Supreme Court in *Murphy v. National Collegiate Athletic Association* struck down the Professional and Amateur Sports Protection Act (“PASPA”), concluding that the law violated the anti-commandeering doctrine contained in the Commerce Clause of the U.S. Constitution. More specifically, the *Murphy* Court held that PASPA was unconstitutional because it required states to enforce a federal policy against state-regulated sports betting. The effect of this decision is that states are no longer prohibited from permitting and regulating sports betting operations.

Ultimately, the Supreme Court’s decision gave a green light to sports betting operations in Pennsylvania and many states throughout the country. As sports betting is new in many states, the *Murphy* decision also created uncertainty for local universities, sports organizations, betting establishments, regulators, and patrons. Several states, including Pennsylvania, have moved ahead to allow and regulate sports betting operations, looking to reap the potential benefits of increased tax revenue generated from these activities.

Sports Books in Pennsylvania

In Pennsylvania, six casinos in eight locations are currently licensed by the Pennsylvania Gaming Control Board (“PGCB”) to operate sports books, including Rivers Casino in Pittsburgh, SugarHouse Casino in Philadelphia, Parx Casino, located just outside of Philadelphia, and Hollywood Casino at Penn National Race Course in Grantville. Sports wagering operations commenced in late 2018. From these initial casinos, a total of \$1,986,962 of tax revenue was generated and

paid to the Commonwealth as of March 2019 (comprised of \$1,876,576 in state tax and \$110,386 in local share tax assessments). Thus, in spite of the steep initial sports betting authorization fee of \$10 million, as well as the \$250,000 yearly renewal fee, tax rates of 34% of revenue, and local share assessment of 2% of revenue, these casinos have already realized significant income from their sports betting operations.

Internet Gaming

In addition to the sports book expansion in casinos, Pennsylvania is currently in the process of rolling out an internet gaming program, with live online gambling expected in June 2019. Called “Interactive Gaming” or “Internet Gaming,” existing casino license holders now may request authorization to offer this product. Patrons will be located via GPS and IP identification to ensure they are in Pennsylvania at the time they are signed in to the gaming website or app, and will be prohibited from online gaming while inside a Pennsylvania casino. Currently, the PGCB expects that non-banking table games, simulated table games, and slot machine simulations will be available through interactive gaming. At this time, 12 operators including Chester Downs and Marina, LLC, operator of Harrah’s Casino Philadelphia, Greenwood Gaming & Entertainment, Inc., operator of the Parx Casino, and Mount Airy #1, LLC, operator of the Mount Airy Resort Casino, have been granted Interactive Gaming Certificates.

To regulate these new gaming activities, the PGCB promulgated temporary regulations, called the “Temporary Expanded Gaming Rulemakings,” which include provisions for interactive gaming, sports betting, casino simulcasting, and fantasy contests. While these provisions have not yet been finalized, they constitute

the current rules that govern casinos with respect to the gaming expansion. On January 17, 2019, the PGCB stated that “[a]dditional new gaming initiatives are expected to launch in the coming months.”

Pennsylvania Regulatory Provisions Which Merit Close Attention

Interactive Gaming

- Only existing casino operators with demonstrated business experience and expertise will be granted a license to operate an interactive gaming system.
- There is a focus on data security and petitioners must demonstrate an ability to use sophisticated methods to ensure that no individuals under 21 years of age or other persons excluded or prohibited will be able to access interactive gaming sites.
- Petitioners will be required to operate a system of internal and accounting controls applicable to interactive gaming and to the security and integrity of all financial transactions in connection with the interactive gaming system.

Casino Simulcasting

- A casino simulcasting permit holder must establish a policy that: prohibits individuals under 21 years old from entering a simulcasting facility; establishes compliance with age limitations for simulcasting wagering; trains employees to identify individuals who are less than 21 years old and removes them from the simulcasting facility; reports to the casino compliance representative and the Pennsylvania State Police any time an individual less than 21 years of age is discovered in a simulcasting facility; and ensures that no one under the age of 21 receives promotional materials relating to casino simulcasting activities.

Fantasy Contests

- Licensed operators of fantasy contests may not: offer a fantasy contest based in whole or in part on collegiate or high school events or players; permit the use of scripts by participants; share confidential information with third parties that could affect fantasy contest play until such information is made publically available; or knowingly

permit a principal, an employee of a licensed operator or a relative living in the same household of an employee, or a principal of a licensed operator to become a participant in a fantasy contest offered by any licensed operator in which a prize or award is offered.

Sports Betting

- Wagering may be offered for: professional athletic events; collegiate athletic events; professional motor race events; international team and international individual athletic events including Olympic events and events governed by the International Federation of Association Football.
- Wagering on high school and other amateur athletic events is prohibited.
- A sports wagering certificate holder or operator is prohibited from knowingly accepting wagers for athletes on athletic events in which the athlete competes as well as athletic events governed by the same governing body under which the athlete competes.
- No one under the age of 21 is permitted to engage in sports wagering.
- Operators and certificates holders may not have any ownership interest or control of an athletic team, organization, or governing body of an athletic team or organization upon which the sports wagering certificate holder or operator accepts wagers.

Conclusion

Universities should consider taking steps to prepare for the impact of sports betting in Pennsylvania and other states. Administrators, coaches, and other employees as well as all athletes and students may benefit from receiving clear information and training about the rules, prohibitions, and consequences. Athletic teams and administrative departments may need to update their policies regarding the privacy of data and information about athletes. Additional areas of impact may include compliance programs, intellectual property and licensing issues, and much more. By taking these crucial actions, as appropriate, universities can safeguard the integrity of their athletic pro-

grams and their overall public reputation, as well as protect against potential legal consequences. ♦

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