

Sportsbetting & States

Conference of Western Attorneys General

Annual Meeting

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What States Need to Know

- Tribal Compact Issues
 - Often revenue sharing is tied to an exclusivity clause
 - Legal analysis of sports betting legalization and impact on gaming compacts
- League Fees
 - Integrity
 - Data
- Impact on Illegal Sportsbetting
 - Numbers hard to know for certain—but big
 - e.g. 97% of all bets on March Madness = illegal (\$295 million legally placed, \$9.7 Billion illegal).
 - NFL approx. \$58 Billion bet...\$2 Billion legally

Regulatory Regime/ Oversight

- Existing State Gaming Regime
 - Gaming/ Gambling traditionally state by state (Core state sovereignty determination)
 - Expertise to handle
 - Gaming Commission
 - Lottery Board
 - Horse Racing Commission
 - Law Enforcement/ Prosecutor Instruction
- Regulatory Regime (Thank you Nevada!)
 - Fraudulent Acts by bettors (<https://www.leg.state.nv.us/NRS/NRS-465.html>)
 - Acceptance of Wagers (<http://gaming.nv.gov/modules/showdocument.aspx?documentid=2900>)
 - Wager/ Payout in excess of \$10,000 (aggregate multiple wagers) (reporting)
 - Payment of winning wagers/ Reserve Requirements
 - Prohibited wagers
 - Suspicious wagers (reporting)
 - Terms and Conditions (fair treatment of bettors).

State Fee Structures

- PA: 36% + 10 Million licensing fee
 - 34% to state & 2% to local community
- MS: 12%
- WV: 10% + 100,000 licensing fee
- NJ: 8.5% (in casino); 13% online (casino); 14.25% (racetrack)
- NV: 6.5%
- DE/ RI: Revenue sharing agreements
- Everyone .25% federal excise tax

- Research—Once tax moves above 20%, gamblers migrate to illegal bookmakers
 - No taxes, no compliance costs
 - Rebate 25% of losses at end of year etc..

State v. State...



Understanding Game Integrity

- Not every game is “fixable”
- Elements
 - Low present and future earnings prospects
 - Comiskey/ Black Sox
 - Free Agency
 - Expected Gain
 - Costs
 - Likelihood of getting caught
 - Lost future earnings
 - Reputation
- Vulnerabilities
 - Lower leagues with lower expected future earnings
 - Often sportsbetting not offered through legal establishments
 - Referees
 - Avg salary NBA Player: \$ 6.4 million a year
 - Avg salary NBA Referee: \$ 300,000 a year (league very tight lipped about referee salary)
 - Avg. salary NFL player: \$1.9 million a year
 - Avg. salary NFL referee: \$173,000 (rise to \$201,000 in 2019) a year
 - NCAA
 - Players unpaid
 - Referees between \$1500 - \$3000 a game
- Sportsbook Operators key
 - Identify suspicious betting patterns/ heavy money on one side of the line
 - Donaghy identified and reported by Sportsbooks

Understanding League Data

- Fee designed to protect accuracy of data from league
 - What bets are being allowed
 - Game outcome/ over/ under point totals
 - Championship bets
 - Proposition bets
 - Score/ Champion generally not in dispute
 - Most sports bets (who wins/ over under/ margin of victory)
 - Data beyond score matters for “Prop” bets
 - E.g. Tiger Woods total strokes on Sunday (70) vs. Larry Fitzgerald receiving yards v. Steelers (72).
 - Who’s stats are you using?
 - Data arising from sporting events “does not fall within the subject matter of federal copyright protection” because “[u]nlike movies, plays, television programs, or operas, athletic events are competitive and have no underlying script.” *National Basketball Association v. Motorola, Inc.*, 105 F.3d 841, 846 (2d. Cir. 1997).
 - Question—should states address or should this be handled by contract negotiation with operators/ leagues?

Follow up

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