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07 Sports Betting: States Are Doubling Down

By Edward Smith



When it comes to policy and politics, predictions are precarious.

A year ago, at NCSL's Legislative Summit in Los Angeles, a session on sports betting focused on how quickly states would begin to authorize the activity in their states in the wake of the May 2018 decision by the U.S. Supreme Court on the federal Professional and Amateur Sports Protection Act. The court declared it unconstitutional and opened the door to state-authorized sports betting.

At that time, panelists who included professional sports and gaming industry executives and legislators were pleased that sports betting could now come out of the black market but expressed skepticism that states would act rapidly.

Think again.

States, in fact, have been quick to act. Nine states are now offering commercial sports betting, and tribes in New Mexico and New York are offering it as well. Sports betting has been legalized in another eight states and Washington, D.C., and operations are expected to commence in the coming months.

Legislatures in Colorado and Maine have enacted measures to allow sports betting, but Maine's governor delayed action until 2020, and Colorado voters will have to approve it at the ballot in November. At least 22 other states have considered legislation to legalize sports betting or let tribal casinos offer it in 2019.

Fast forward to Tuesday's session on sports betting at the Legislative Summit in Nashville. A panel of legislators made it clear they are moving aggressively on sports betting legislation—in some cases more successfully than others—but they are moving.

Nevada Attorney General Aaron Ford (D), former majority leader in the Nevada Senate, shared his considerable experience in the area and noted that sports betting in some fashion has been legal in his state since 1949.

"Legalized sports wagering is an aspect of everyday life," Ford said. "The Nevada sports wagering industry is a resounding success story."

But he also offered a few thoughts for legislators as they work on legislation in their states.

Where can you bet? Just in casinos or on your phone?

What can you bet on? How about the presidential election or the Oscars?

How do you protect consumers and ensure the integrity of the games?

Ford also offered a word of caution about revenue expectations.

"The taxes from sports betting is \$20 million," Ford said. "It's not a cash cow. It's a skim cow."

Skim or whole, New Jersey Assemblywoman Carol Murphy (D) called the legislation in her state a "no-brainer."

The legislation was largely aimed at helping the casinos in Atlantic City, and a variable tax rate was devised based on where the bets were placed. Sports books in New Jersey have taken in \$2.9 billion since the law passed and brought the state \$200 million in total revenue.

Maybe the most interesting metric was this: 80% of the bets were on a mobile device.

That population of bettors is crucial, everyone on the panel agreed, especially if you want millennial gamers. It turns out large numbers of people are driving into New Jersey from New York and Pennsylvania to lay their wagers. Geofencing technology ensures that people are physically in New Jersey before laying their bets.

West Virginia Delegate Shawn Fluharty (D) was enthusiastic about mobile, noting that while his state has a small population it is close to large cities with eager bettors, including the D.C. area and Pittsburgh.

"Mobile, that's where it's all going," he said, though conceding that legal challenges have stalled the implementation of mobile in his state.

Fluharty also touched on one of the most contentious issues in the policy area, the desire by professional sports leagues to have so-called integrity fees, essentially a piece of the money wagered.

"We were able to deny the integrity fee," he said, and also kept the tax rate at 10% to encourage out-of-state bettors to drive into West Virginia.

Ohio Senator Bill Coley (R) conceded that his state has "not done anything yet." But he added that when they do, they want to be sure to create a system that provides consumer protections, has safeguards to detect money laundering, match fixing and problem gamblers.

He also urged his fellow legislators to push for a national system that would create a portal where every bet is visible and can be audited by the state.

If there is "no anonymous betting, then we can look at the data and see patterns that show money laundering, consumer protection, match fixing. Use technology to your benefit and gather information on every bet. ... you can share that information across stateliness."

Pennsylvania Representative Robert Matzie (D) offered a more colorful caution. Observing that the jury is still out on his state's 34% tax rate, he recalled that his uncle "Skinny" once had a betting book.

"Illegal betting is something ingrained for generations," Matzie said. "The population will dictate the revenue" by whether they go with legal bets or go looking for "Skinny."

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