

Sports Betting: What Radio Stations Need to Know After Supreme Court Decision

Legal Alert
August 13, 2018

Is Sports Betting Legal?

Until a recent Supreme Court decision addressed the question, the answer was fairly straightforward: sports betting was allowed in only four states. All other states were prohibited from legalizing sports betting.

On May 14, 2018, in *Murphy v. NCAA*, the Supreme Court struck down the Professional and Amateur Sports Protection Act (“PASPA”) on grounds that the Constitution prevents Congress from “commandeering” the legislative decision of States.

It is important to understand that the Supreme Court’s decision did *not* automatically make sports gambling legal. The decision opened the door for each state to decide whether sports betting will be legal within its borders. Many states have begun the legislative process to legalize sports betting, and New Jersey has already officially legalized sports betting. A breakdown of each state’s current position on sports betting appears at the end of this alert.

The Supreme Court’s decision struck down PASPA, but did not prohibit Congress from regulating sports gambling so long as federal law clearly “preempts” state law, rather than prohibiting states from adopting their own laws. Congress, the courts, and the states may all help shape the future of sports betting. For now, broadcasters should proceed with caution.

Advertising Sports Betting on Your Station

Broadcasters must now be aware of specific sports betting laws in their state and the nuances of gambling law generally. For example, in addition to regulating certain kinds of gambling, many states regulate the “promotion” of gambling. Those regulations can affect decisions on when, how, and to whom broadcasters may advertise sports betting. What happens when adjoining states take different approaches? Can broadcasters in New Jersey solicit bets from listeners in New York, where sports betting is still illegal?

Program contracts may also have restrictions on specific types of advertising. For example, the contracts of many sports leagues have terms that restrict certain kinds of ads from being run during their programs. Sports betting may be included among these categories of impermissible ads.

Do commercial advertising restrictions on gambling apply to underwriting on noncommercial stations? Could a state decide that an underwriting message on behalf of a sports betting organization “promotes” illegal gambling simply by identifying the organization, and providing contact information?

Will the FCC play a role in regulating ads and underwriting for sports betting, or will it leave these issues to the courts?

Questions like these will need to be answered in the coming months.

Conclusion

Murphy v. NCAA did not legalize sports gambling or the advertising of sports betting in the United States, but instead allowed the states to fashion their own approach to sports gambling. It is essential to look at your state’s laws about sports gambling to understand how to approach this new development. If you would like to know more about your specific state’s position on sports betting, your state’s gaming commission website will likely have plenty of information. You may also contact us with questions about your state’s laws, or where the federal government currently stands on sports gambling.

List of Each State’s Position on Sports Betting^[1]

Limited sports betting was already legal in Nevada, Delaware, Oregon, and Montana because the states were grandfathered in under the 1992 Professional and Amateur Sports Protection Act.

On June 5, Delaware became the first state after the Supreme Court decision to legalize sports betting by expanding its offerings from the grandfathered 3 game parlay bets into single-game wagering. New Jersey followed six days later on June 11. Mississippi’s sports betting regulations took effect on July 22.

Rhode Island, Connecticut, Iowa, New York, Pennsylvania and West Virginia are currently in the process of legalizing sports betting through their legislation.

California, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Oklahoma, Louisiana, and South Carolina have all introduced bills that are currently pending hearings and votes.

Alaska, Alabama, Arkansas, Arizona, Colorado, Florida, Georgia, Hawaii, Idaho, Maine, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington D.C., Washington State, Wisconsin and Wyoming have laws that currently prohibit sports betting.

[1] This list is current as of August 2, 2018. Information is subject to change depending on state legislation and the federal government.