



Landmark U.S. Supreme Court Decision Paves The Way For Legalized Sports Betting

Client Advisories

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On May 14, 2018, the United States Supreme Court issued a highly anticipated decision that struck down the federal ban on state authorization of sports betting. This decision opens the door to states that wish to allow betting on sporting events, a process that all of the states in the tristate area have already begun.

In the Supreme Court case at issue, *Murphy v. National Collegiate Athletic Association*, the Court was faced with a challenge by New Jersey to the federal Professional and Amateur Sports Protection Act ("PASPA"). PASPA prohibited states from sponsoring, operating, advertising, promoting, licensing, or authorizing betting schemes based on competitive sporting events. The ban also applied to individuals, who were prohibited from sponsoring, operating, advertising, or promoting the same types of activities. Although the four states (Nevada, Delaware, Montana, and Oregon) that allowed sports betting at the time that PASPA was passed were allowed to continue their programs, the law prevented the rest of the states from legalizing sports betting.

Writing for the Court, Justice Alito held that PASPA violated the anti-commandeering rule of the Constitution. This rule, which is inferred from the structure of the Constitution and not from the text itself, prevents the federal government from commanding the states to undertake a specific act or refrain from undertaking a specific act. Since PASPA prevented the states from authorizing sports betting, it violated the anti-commandeering rule. The Court went on to strike down the rest of PASPA on the same grounds.

As stated above, many states have already taken steps to legalize sports betting. For example, New Jersey, which brought the suit challenging PASPA, has a [2014 law](#) authorizing sports betting in casinos, licensed racetracks, and former racetracks. In addition, lawmakers are moving quickly to pass a comprehensive regulatory scheme to regulate sports betting, introducing a [bill](#) to that effect on May 14, 2016. Although some venues sought to begin taking bets on Memorial Day, the governor and the legislature warned that those who did so before the enactment of the bill would be barred from taking bets. Despite that minor setback, however, the legislature sought to take action in the next month, with the goal of presenting Governor Murphy with a bill to sign into law in June.

Delaware is even closer to implementing sports betting. Last week, Finance Secretary Rick Geisenberger issued a **statement** explaining that the state is preparing “to launch full-scale sports gaming in Delaware next month.”

In 2017, Pennsylvania passed a **law** that would legalize sports betting in the state in the event that PASPA was repealed or struck down. With PASPA no longer on the books, Pennsylvania is free to allow sports betting in the state.

The recent Supreme Court decision opens the door to legalized sports betting, and in the coming weeks and months, many significant events will occur as the states scramble to pass laws and regulations to accommodate the public demand for sports betting. We will keep you updated on the progress of the states’ efforts. In the meantime, if you have any questions about how these recent developments may affect you or your business, we are here to help. Please contact **Deborah A. Hays** at (856) 354-3089, **William J. Caruso** at 856-673-3915, or any member of Archer’s **Business Counseling** or **Government Affairs** Practice Groups in Haddonfield, N.J., at (856) 795-2121, in Princeton, N.J., at (609) 580-3700, in Hackensack, N.J., at (201) 342-6000, in Philadelphia, Pa., at (215) 963-3300, or in Wilmington, Del., at (302) 777-4350.

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