

Betting on Sports

Should it be legal nationwide?

Americans spend billions of dollars a year betting on sports, the vast majority of it illegally through offshore websites, local bookies and office pools. Some states are considering legalizing sports gambling in order to regulate and tax it. But an appellate court in August blocked a 2014 New Jersey law to legalize sports betting, saying it violated a 1992 federal ban on such gambling in states where it was not already legal. New Jersey's experience is at the heart of a growing debate over whether other states should be allowed to legalize sports betting. Proponents say doing so would produce additional tax revenues, discourage organized crime, protect gamblers from fraud and decrease match-fixing. But opponents challenge each of those arguments and also say legalized sports betting could increase gambling addiction. Meanwhile, professional sports leagues are investing in daily fantasy sports, which some states have legalized as games of skill and others have defined as an illegal form of betting.

SB 50 at SANTA CLARA, CA				
SUNDAY, FEBRUARY 7, 2016				
3:30 PM - CBS				
ID	TEAM	PS/TOT	ML	
101	PANTHERS	-6	-240	12001
102	BRONCOS	45½	+200	12002
1ST QUARTER WAGERING				12003
3101	1Q PANTHERS	-½-110	-170	12004
3102	1Q BRONCOS	7½u20	+150	12005
2ND QUARTER WAGERING				12006
4101	2Q PANTHERS	-½-125	-175	12007
4102	2Q BRONCOS	13½o20	+155	12008
3RD QUARTER WAGERING				12009
5101	3Q PANTHERS	-½-110	-175	12010
5102	3Q BRONCOS	7½o20	+155	12011
4TH QTR WAGERING (EXCL OT)				12012
6101	4Q PANTHERS	-½+105	-145	12013
6102	4Q BRONCOS	10½o30	+125	12014
				12015
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				12018
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				12020

The point spread for bets on Super Bowl 50 between the Carolina Panthers and the Denver Broncos is displayed at the Race & Sports SuperBook at the Westgate Las Vegas Resort & Casino in Las Vegas on Feb. 2, 2016. Nevada is the only state allowed under federal law to offer a full menu of sports betting options, but some states want to expand sports betting.

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Betting on Sports

BY BARBARA MANTEL

THE ISSUES

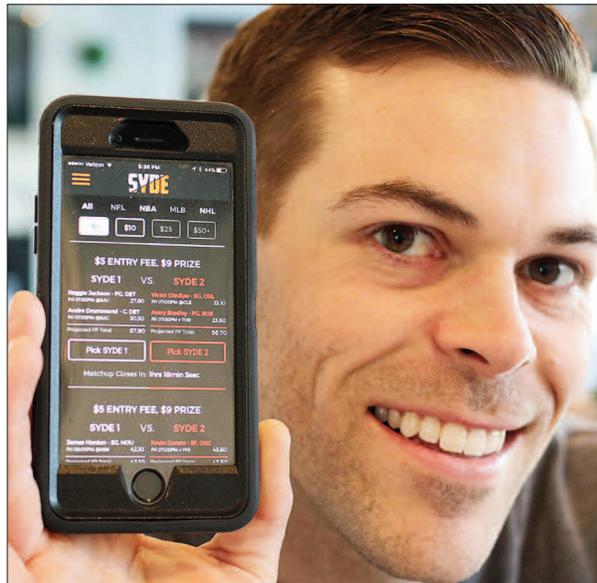
With business at its casinos and horse racing tracks declining, New Jersey has looked longingly at a potential new source of revenue: betting on professional and college sports. Make it legal to place sports bets at casinos and tracks, proponents believe, and gamblers would flock to those facilities and help keep them in business, while producing badly needed revenue for the state.

But New Jersey lost its bet. After it passed legislation in 2014 authorizing sports betting, opponents promptly filed a lawsuit. In August a federal appellate court ruled that the measure violates the 1992 Professional and Amateur Sports Protection Act (PASPA), which bars state-sponsored sports betting in all but four states.*¹

New Jersey's experience is at the heart of a growing debate over whether states should be allowed to legalize betting on sporting events. For those in favor, the court's decision was misguided. The ruling "will be celebrated by illegal bookies all across New Jersey and the rest of America, as it keeps sports betting underground and on the black market," said Joe Asher, chief executive officer of the U.S. bookmaking operations of U.K.-based William Hill, one of the world's largest gambling and betting companies.²

But for those who oppose legalized sports betting, such as the National Collegiate Athletic Association (NCAA), the court made the right call. "The NCAA continues to believe that PASPA is an

* Betting on sports is legal, with limitations, in Delaware, Montana and Oregon. Nevada is the only state allowed to offer a full menu of sports betting options under the 1992 legislation.



AP Photo/Harry Hamburg

Scott Burlingame of Aldie, Va., shows off a fantasy sports website on his smartphone. Virginia is one of several states that this year began to legalize daily fantasy sports games, which have come under scrutiny from some regulators over whether they constitute gambling.

important law that appropriately protects the integrity of sport in America," the association said in a statement.³

Billions of dollars are at stake. In 2015, bettors in Nevada legally wagered about \$4.2 billion on sports. But illegal sports betting, which occurs on gambling websites based offshore, at neighborhood bookmakers and in office betting pools, involves far higher sums: nearly \$150 billion in 2015, according to the Washington-based American Gaming Association (AGA), the trade association for the U.S. casino industry.⁴

Nearly two-thirds of Americans gamble in some fashion, mostly on state lottery tickets, according to a June Gallup Poll. About 10 percent of adults said they bet on professional sports in the past year, 15 percent said they participated in an office sports betting pool and 5 percent said they bet on college sports.⁵

The AGA is mounting a campaign to press Congress to repeal PASPA and permit all states to decide whether to

allow sports betting, as they can with other forms of gambling. The U.S. Conference of Mayors and the National Conference of State Legislatures this year also called for the law's repeal. The mayors want more tax revenue and jobs, while the conference bristles at what it sees as congressional interference in state government.⁶

Proponents of legalizing and regulating sports betting say it would discourage illegal betting and associated organized crime, protect gamblers from being defrauded by illegal bookies, generate state tax revenue and decrease match-fixing. Sara Rayme, the AGA's senior vice president of public affairs, says the current environment must change.

"You cannot tell me that an underground, unregulated industry with no oversight . . . is going to be better for the consumer and for the integrity" of sport than a regulated one, she says.

But opponents say legalization would do little to diminish the appeal of illegal betting and would encourage gambling addiction and crime, boost state coffers only slightly and do little to reduce corrupt matches. "It's nothing more than a phony narrative driven by commercial gambling interests to create a rationale for why we should legalize sports gambling," says Les Bernal, national director of Washington-based Stop Predatory Gambling, a nonprofit opposed to all government-sponsored gambling, which the group labels predatory.

Many sports fans, at least those who watch football, seem to agree with Rayme.⁷ A February survey, commissioned by the AGA, of voters who planned to watch the Super Bowl showed that 66 percent supported changing federal law to allow each

dominate daily fantasy sports, paying winners a predetermined pot funded by entry fees.

The NBA has invested in FanDuel while Major League Baseball is an equity partner in DraftKings, and nearly every professional sports team has a sponsorship agreement with one of the companies, according to ESPN.¹⁵ “They are denying that daily fantasy sports is gambling because they’ve got their money tied up in it,” says Daniel Wallach, a Fort Lauderdale, Fla.-based gambling and sports law attorney, who favors legalizing and regulating sports betting. “If you gave sports industry executives a truth serum, they would admit flat out it’s gambling.” Spokespersons for professional sports leagues either did not respond to or declined interview requests.

In the meantime, individual gamblers betting on sports don’t need to worry about being prosecuted for placing illegal sports bets, say attorneys. Many states allow recreational betting, such as office pools, as long as the organizer doesn’t take a cut of the money.¹⁶ And law enforcement officials pursue operators of illegal betting rings and offshore websites, not gamblers. “Federal law on this subject applies to gambling businesses and payment processors, not to individuals who place wagers on these sites,” says Peter Carr, a U.S. Department of Justice spokesman.

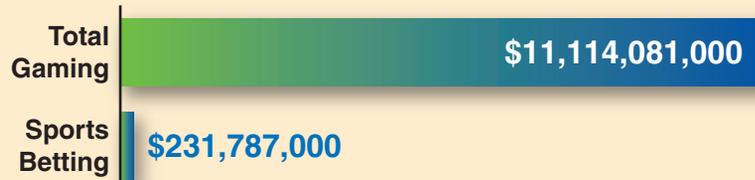
For example, a few years back executives with the now-defunct Legendz Sports, an online sports-betting operation based in Panama, were convicted in U.S. federal court of running an illegal gambling operation and of money laundering. Bookies and runners had transported millions of dollars in cash and checks made out to shell corporations from U.S. gamblers to Panama.¹⁷

Prosecutors also pursue legal sports books for malfeasance. Last month one of Nevada’s largest sports betting operations, an affiliate of the financial services firm Cantor Fitzgerald, admitted to money laundering and aiding and abetting illegal gambling from out of state.

Sports Betting a Fraction of Nevada Gambling

In 2015, gamblers spent \$4.2 billion on legal sports betting in Nevada. After paying out winnings, sports bookmakers kept about \$232 million — or about 2 percent of the \$11 billion that Nevada casinos kept from all forms of gambling.

Gambling Revenue after Paying Winners, 2015



Source: “Nevada Sports Betting Totals: 1984-2015,” Center for Gaming Research, University of Nevada, Las Vegas, January 2016, pp. 1-2, <http://tinyurl.com/hp26qmp>

It agreed to pay \$22.5 million in penalties to the U.S. government.¹⁸

As calls for legalized sports betting increase, here are some issues that gambling opponents, the gambling industry, sports fans, sports executives and elected officials are debating:

Would legalizing sports betting erode the integrity of sports?

Professional sports leagues sometimes have indirect relationships with companies in the gambling business.

For example, the NHL and the NFL have contracts with the St. Paul, Minn.-based sports data company Sportradar, which distributes game data to media outlets. But Sportradar’s Swiss parent company provides real-time game data to regulated sports bookmakers around the world, allowing them to set gambling odds.¹⁹

And some leagues’ relationships with the gaming industry are in flux. For example, professional leagues had always barred teams from operating in Las Vegas because of its legal sports gambling. But in June, the NHL awarded an expansion franchise to the city, and the NFL is considering allowing the Oakland Raiders to relocate there.²⁰

The NCAA, on the other hand, unequivocally supports the federal ban on sports betting. Sports gambling

threatens both the integrity of games and the well-being of student-athletes, says NCAA spokesperson James. “Student-athletes, especially those who are in financial trouble, are viewed by organized gambling as easy marks for obtaining inside information or affecting the outcome of the game.”

A case in point is a three-year FBI investigation dubbed Operation Hook Shot that ended in 2013 with the conviction of eight people for taking part in a bribery conspiracy involving basketball at the University of San Diego (USD). Those caught up in the scandal included illegal bookmakers, gamblers and then-USD basketball star Brandon Johnson.

“The case began — as most of our sports bribery matters do — as an organized crime investigation,” the FBI said on its website. Agents were looking into a suspected drug-selling criminal enterprise in the San Diego area and discovered a scheme to bribe USD players to influence game outcomes. A former assistant coach, Thaddeus Brown, played a pivotal role in the conspiracy, recruiting Johnson to shave points in at least four games, according to the FBI. (In point-shaving, a player tries to control the score so that his team’s total falls under the amount by which it is favored.) Gamblers paid

BETTING ON SPORTS

Johnson \$1,000 and Brown up to \$10,000 per fixed game.²¹

Professional sports, on the other hand, have a reputation for being relatively clean. A study by a Las Vegas consulting firm in 2000 found “only 0.01 percent of games across 12 U.S. sports from 1990 to 2000 showed signs of unusual wagering,” according to ESPN.²² Because most professional players are well paid, they are less easily tempted than college athletes, say gambling experts.

says Balsam. “But we don’t know the answers to all these questions.”

Advocates of legalization say they have most of the answers. Bringing sports betting out into the open will advance the integrity of sports, said NBA Commissioner Silver. That’s how it works in Europe, where sports betting is legal, he said. “It’s like tracking insider trading on the New York Stock Exchange. If there’s a blip, if there’s unusual activity, they know to investigate,” he said.²³

number of suspicious soccer matches between 2008 and 2011: 680 games, including 380 European games and 150 international matches, mostly in Africa, Asia and Latin America.²⁴ A year later, the University Paris 1 Panthéon-Sorbonne, a public research university, and the International Centre for Sport Security (ICSS), a nonprofit watchdog group based in Qatar, issued a report saying Europe had far more match-fixing scandals over the previous three years than other continents.²⁵

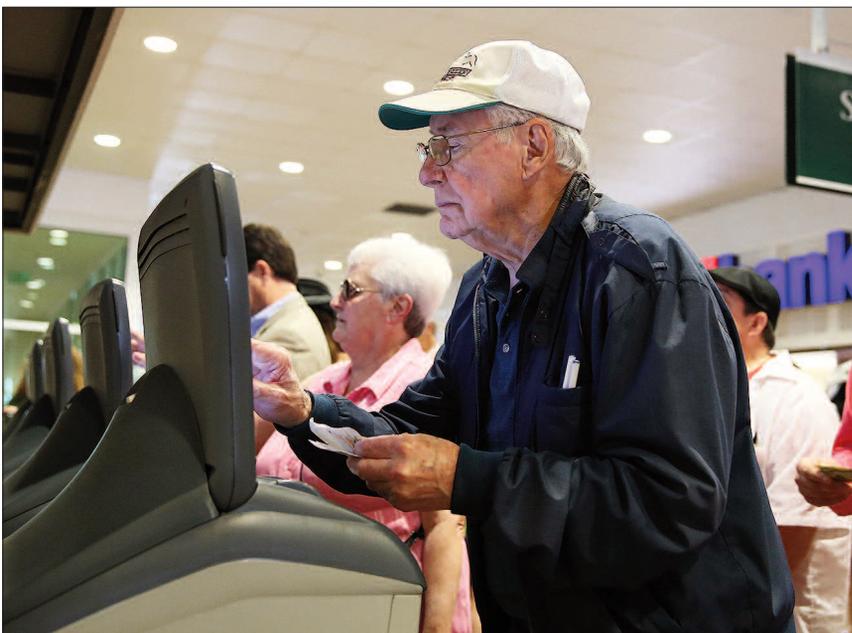
“So Europe, which has the most jurisdictions with legalized sports gambling, also has the largest number of known fixed matches,” says Balsam.

But University of Liverpool sports economist David Forrest says the legal and regulated sports betting market in Europe actually does a good job of detecting and preventing match-fixing. Criminals who try to fix a European match and then place a bet with a regulated bookmaker there “will be caught,” says Forrest. “The real problem behind European soccer is the fact that no one is regulating [sports betting] in Asia.”

When Europol officials released their report, they said an Asian crime syndicate was largely responsible for the fixed soccer matches. The syndicate arranged for bribes of players and on-field officials and then placed bets on the tainted games through unregulated bookmakers in Asia, according to Europol.²⁶

The best way to clean up European soccer would be to legalize and regulate sports betting worldwide, says Forrest.

Those who oppose expanding legal sports betting are also concerned about the integrity of the fan experience. As then-Sen. Bill Bradley, a Democrat from New Jersey and a former college and professional basketball star who sponsored the 1992 law limiting sports betting, said when his measure passed, “Legalizing sports gambling would encourage young people to participate in sports to win money. They would no



Getty Images/Icon Sportswire/Jeff Moreland

A fan places a bet at an automated wager machine before the 141st running of the Kentucky Oaks horse race at Churchill Downs in Louisville, Ky., on May 1, 2015. Betting at horse racing tracks has long been legal in many states, but gambling on other sports is illegal in most states.

But that study is old. Jodi Balsam, a Brooklyn Law School professor and former NFL attorney, would like to see a rigorous, neutral and possibly government-sponsored study of sports betting’s impact on match-fixing before Congress and the states expand legal gambling on sports beyond Nevada.

“If we knew that we could keep the games clean, if we knew we could prevent athletes and others from manipulating games, and if we knew that people would not become addicted to gambling, then why not legalize sports betting?”

In Europe, specialized technology firms work with sports books to track bets in real time, notifying leagues and gambling authorities if unusual patterns can’t be explained by, say, bad weather or an in-game injury, and might instead be associated with match-fixing. (*See sidebar, p. 900.*)

But bringing gambling out of the shadows has not prevented match-fixing scandals in Europe, Balsam says. In 2013, Europe’s police intelligence agency, Europol, announced that a 19-month investigation revealed a massive

longer love the game for the purity of the experience.”²⁷

At the July gambling conference, attorney Gardiner said the NFL is actively discussing the impact legalized sports gambling would have on how people view the game and whether the money-making enterprise becomes “more important than the game?”²⁸

“That’s a concern for the teams because they’re almost sacrificing one level of fan engagement for another. They’re engaging their fans in an activity of commerce,” says sports attorney Wallach. “But the name of the game for the sports teams is, you’re selling a product. You want to win championships and keep your fans active and involved and rooting for your team to win.”

And betting does that, he says.

Would legalizing sports betting reduce crime and fraud?

Illegal sports betting is not a victimless crime, says the AGA’s Rayme: “Right now there is no accountability for these websites that operate offshore without regulatory oversight.” And consumers are not always paid their winnings, the correct amounts or in a timely fashion, say gambling experts.

In addition, said Jay Bartholomew, chief of the FBI’s transnational organized crime unit, “most people don’t understand the ties of organized crime to illegal sports betting. We see it every day at the FBI.” Bartholomew was speaking at a June summit of the AGA’s illegal-gambling advisory board, comprised of local, state and federal law enforcement officials. Illegal gambling operations finance criminal activities, including money laundering, racketeering, drug trafficking, extortion and human trafficking, according to a report from the board, whose members are calling for replacing the sports betting ban with strong consumer protections and strict oversight of legalized betting.²⁹

But oversight takes money, says Mike Fagan, a former assistant U.S. attorney in St. Louis who prosecuted offshore

sports betting operations and opposes expanding legal sports betting. “If [legal] sports betting grew as predicted, you’d have to grow the infrastructure to regulate it, and that means regulators, lawyers, judges, investigators,” says Fagan, who doubts that the industry or taxpayers would be willing to pay for it.

At this point, it’s unclear what a regulated sports betting market would look like in the United States. One possibility: Congress mandates basic federal regulations before each state creates its own rules. “States may want to limit the number of licenses [granted to sports betting operations] and the number of locations where sports betting occurs,” says Jennifer Roberts, associate director of the International Center for Gaming Regulation at the University of Nevada, Las Vegas. “I’ve heard comments about having sports wagering in taverns and smaller establishments. There could be sports lotteries as in Delaware, where residents can buy a lottery card for a minimum of \$2 and bet on a series of football games, says Roberts. States could allow sports bets to be placed online, with technology that blocks out-of-state gamblers.

GamblingCompliance, a London-based firm that provides business intelligence to the global gambling industry, estimates that a legal U.S. sports betting market could bring betting operators as much as \$11.9 billion a year in gross gambling revenue, the amount left after the gambling operator pays winners. That would be the equivalent to the gross gambling revenue from all types of gambling in Nevada, which was \$11.1 billion last year.³⁰ James Kilsby, GamblingCompliance’s managing director for the Americas, says the firm’s estimate assumes that all states would allow sports betting at casinos, retail locations and online, which many say is unlikely. “The political realities are not reflected in this report,” says Kilsby.

The American Gaming Association and other supporters of repealing or

amending the current national ban on sports betting assume that gamblers would migrate to legal, regulated bookmakers. They point to the United Kingdom as an example.

In the U.K., “there is simply no demand for a black market,” said Paul Scotney, director of U.K.-based Sports Integrity Services, an adviser to gambling regulators, governments and sports governing bodies. “Our gambling sector is robustly regulated, but its liberal nature (you can bet on almost anything) means no market for illegal gambling operations,” Scotney told participants at the AGA’s June summit.³¹

Bernal of Stop Predatory Gambling is skeptical of that claim and says many U.S. sports bettors, especially hard-core gamblers, would continue to use illegal neighborhood bookmakers and offshore websites to avoid paying taxes on winnings.

“The IRS will come calling for the tax money on those winnings” if the bet is placed with regulated bookmakers, says Bernal. Plus, anyone involved in shady business who doesn’t want attention called to their finances would prefer using unregulated bookies where identification is not required, he adds. To bet on sports in Nevada, a gambler must register in person and provide a government photo ID and a Social Security number.³²

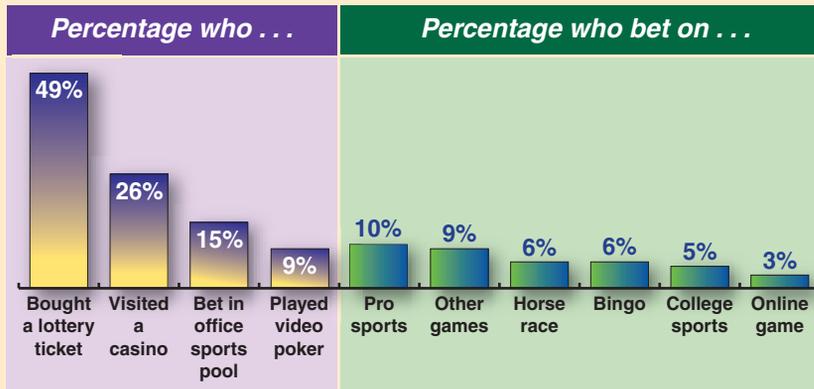
In addition, says Bernal, “illegal operators can afford to offer better odds because they’re unregulated and not paying state taxes.” But sports attorney Wallach says: “There will always be a level of illegal wagering activity, but most of it will migrate over to the legal market for obvious reasons,” such as consumer safeguards and recourse to the courts in case of disputes.

Apparently, few researchers have looked into what would happen to the size of the illegal gambling market if government starts to regulate sports betting. Colleagues of Roberts told her they couldn’t identify any specific research but thought it was “a great issue” that should be studied,” she says.

Majority of Americans Gambled Last Year

Nearly two-thirds of American adults said they had gambled in the past 12 months, according to a Gallup Poll, with half of those polled participating in state lotteries. Fifteen percent wagered in an office sports pool, 10 percent bet on professional sports and 5 percent on college sports.

U.S. Gambling Activity, 2015



Source: "About Half of Americans Play State Lotteries," Gallup, July 22, 2016, <http://tinyurl.com/hou2b6y>

One small survey sought to assess what happened eight months after New Jersey allowed online gambling in November 2013. The survey of online gamblers in the state showed that 44 percent said they had never gambled online before it became legal, while 29 percent said they continued to use the unapproved websites they had used before November.³³

Would legalizing sports betting pay off for states?

Most proponents of expanding legal sports betting argue that states would enjoy a windfall in tax revenues and licensing fees.

"Legal, regulated and taxed sports wagering will provide potential funds for community development projects, jobs and revenue for cities," said the U.S. Conference of Mayors.³⁴

And Democratic state Sen. Raymond Lesniak, sponsor of the New Jersey sports betting legislation struck down by a federal court last summer, quoted estimates that legalized sports wagering

in New Jersey "could generate up to \$1.3 billion in [annual] gross revenues and \$120 million in tax revenues for New Jersey, along with thousands of new jobs for New Jersey residents."³⁵

That tax revenue sounds like a lot of money, but in the scheme of things, it's really not, say state budget experts. Money flowing to states from legalized sports betting "would be a nice chunk of revenue but not a windfall that's going to prevent any long-term structural budgetary problems," says Jackson Brainerd, a policy associate at the National Conference of State Legislatures. Look at the money that states already receive from all other types of gambling, says Lucy Dadayan, a senior policy analyst at the Albany-based Nelson A. Rockefeller Institute of Government, the public policy research arm of the State University of New York. Gambling revenues represent just 2.0 to 2.5 percent of state general revenues, excluding federal aid. Any additional tax revenue from legalized sports betting would be "tiny," says Dadayan, who recently

wrote a report on state revenues from gambling.³⁶

"I've heard at conferences that the [casino] industry is proposing or hoping for about a 20 percent tax rate on revenue from sports betting," she says. So 20 percent of \$11.9 billion — the best-case estimate for gross gambling revenues if sports betting were legalized nationwide — is about \$2.4 billion. That's less than one-half of 1 percent of total state government revenue.

In addition, any potential tax revenue from sports betting could come at the expense of tax revenue from other forms of gambling, says Dadayan. In other words, someone betting on sports for the first time might scale back the amount they spend on lottery tickets or at casino slot machines.

But the AGA's Rayme disagrees. There are legitimate concerns about whether something like online slots or table games would cannibalize brick-and-mortar casinos, she says, but allowing sports betting is different: "You're actually bringing a new product, a new game to the market, that is currently not allowed to be offered."

Bernal of Stop Predatory Gambling says sports betting would cost states and citizens by encouraging more people to bet on sports, some of whom could become addicted, stressing their families and increasing the risk of bankruptcy.

"The majority of studies that we've seen seem to show that people who bet on sports are more likely to have gambling problems than people who participate in other forms of gambling," says Keith Whyte, executive director of the Washington-based National Council on Problem Gambling, an advocacy group for problem gamblers and their families. The council does not take a position on legalizing sports betting.

In a survey of nearly 10,000 adults in Massachusetts, sports bettors had higher rates of problem gambling — 5.7 percent — compared with adults who bet at casinos, bought lottery and raffle tickets or made private bets. Only

gamblers who bet on horses or online had higher problem gambling rates, 9.5 percent and 18.2 percent, respectively. The researchers defined problem gamblers as individuals who cannot control their gambling and suffer significant negative consequences as a result.³⁷

Whyte says the higher rate of gambling problems among sports bettors could be related to the fact that it is illegal in most of the country. “Participating in illegal gambling has been long associated with higher rates of problem gambling,” says Whyte. “If sports betting were legalized, would it somehow reduce the risk for gambling problems? It is a very difficult question to answer.”

Moreover, legal sports betting would be accompanied by advertisements. In another study, researchers in Australia, where sports betting is legal, examined the impact of sports-betting promotions, such as betting operators’ logos, signage, websites, commentary and betting odds, during televised sports broadcasts. The conclusion: Gambling promotions led to “increased betting frequency; increased expenditure and time spent on sports betting; more money and time expended than intended; and harm caused to the person gambling or those close to them.”³⁸

But Democratic state Sen. Tony Avella of New York, a sponsor of a bill to legalize sports betting within the state, said, “If New York were to allow professional and collegiate sports betting, the money received by the state could be used to support education-related programs that are designed to address these social challenges. . . .”³⁹

However, Whyte says he fears states would not properly fund services for problem sports gambling. “There are still states that run billion-dollar lotteries that don’t have any problem-gambling funds, such as Texas. Not a single penny of the lottery profits or general funds goes to any problem-gambling services whatsoever,” he says. “And remember, Nevada only adopted financing of problem-gambling services in 2005.” ■



Getty Images/Education Images/UiG

Former Major League Baseball player and Cincinnati Reds manager Pete Rose was banned from baseball for life in 1989 for betting on games. In 2015 MLB Commissioner Rob Manfred upheld Rose’s lifetime ban.

BACKGROUND

Early Sports Betting

Before the Civil War, the most popular spectator sports were cockfighting, dogfighting and bare-knuckle boxing. These blood sports, associated with gambling, “operated on the margins of society,” wrote journalist Matthew Algeo in a history of early sports. Most Americans — religious and living in a largely rural, agricultural society with little spare time and minimal disposal income — considered sports frivolous.⁴⁰

But as the nation industrialized and urbanized in the decades following the war, the public’s attitude toward sports changed. The expanding working class had some spare money and time, “and many chose to spend it watching other people walk,” Algeo wrote. Competitive walking, known as pedestrianism, captured the nation’s attention, unlike horse racing, which brought mostly the affluent to the track, said Algeo.⁴¹

Pedestrianism could not have succeeded without urban development.

Large urban buildings, built for public events such as political rallies, religious revivals and livestock shows, “would become America’s first big sports arenas,” said Algeo. “In the 1870s and 1880s, fans regularly packed massive arenas like the first Madison Square Garden [in New York City] and Chicago’s Interstate Exposition Building, paying 25 or 50 cents apiece to watch people walk in circles for days at a time.” The best competitive walkers became celebrities, earning fortunes in prize money and endorsements.⁴²

Track-side betting at horse races was legal, but sports gambling in most states was not, or operated in a gray zone.⁴³ Nevertheless, Madison Square Garden had a section reserved for bookmakers, who “scrawled their odds on blackboards and traded betting slips,” under the protection of corrupt police officials, wrote Algeo. Bookmakers accepted bets on more than competitive walking’s winners and losers. Gamblers could also wager on which contestant would be the first to drop out of the race or how many minutes it would take a particular competitor to complete a certain number of laps. The opportunities for match-fixing were numerous.⁴⁴

BETTING ON SPORTS

The most notorious example took place during a six-day contest in 1881 at the Garden. Twelve of the 19 competitors, including the two favorites to win, dropped out in the first two days of the race under suspicious circumstances. Rumors abounded that gamblers had bought them off. By the early 1880s, gambling and match-fixing scandals had eroded the public's confidence in the contests, and the sport's attendance and prestige plummeted.⁴⁵

At about the same time, baseball was gaining in popularity. First played

Abram in *Betting the Line: Sports Wagering in American Life*. Fans could bet not only on a game's outcome but on whether the next pitch would be a ball or a strike and whether a batter would score. The scene in the stands was raucous, and "gamblers would blatantly assemble under a sign proclaiming 'No Gambling,'" according to Davies and Abram. Team owners also bet.⁴⁶

Betting took place outside the parks as well, just as it did for horse racing. For as little as 10 cents a ticket, bookmakers on street corners and in taverns

York gambler to throw late-season games so their team would lose the pennant. National League President William Hulbert banned the players from the league for life. Not made public at the time was the fact that the team had failed to pay the players' salaries.⁴⁸

Major Betting Scandals

The early history of baseball was "rife with gambling-induced corruption," Davies and Abram wrote. Bribery of players, particularly pitchers, was common but mostly hidden from public view as baseball became the national pastime.

Thus the ground had been prepared for baseball's biggest scandal, the crooked 1919 World Series, according to gambling historians. The federal government inadvertently did the final spadework in 1917, when it shut down horse racing during World War I. Professional gamblers and bookmakers shifted their attention to baseball, and gamblers boasted about the players they controlled.⁴⁹

The Chicago White Sox had some of the best players in the American League, but team owner Charles Comiskey paid most of them "no more than the worst," and player resentment was rampant, according to a newspaper account. In September 1919, first baseman Chick Gandil approached bookmaker-gambler Joseph "Sport" Sullivan and offered to throw the World Series to the Cincinnati Reds for \$80,000, later raised to \$100,000. Gandil rounded up several teammates, while Sullivan turned to organized crime and New York gambling kingpin Arnold Rothstein for the payoff money. Eventually, eight players and several gamblers were indicted on charges of conspiracy to defraud the public by throwing several games in the best-of-nine series, allowing the Reds to win their first world championship.⁵⁰

The trial took place in notoriously corrupt Cook County, Ill. Signed con-

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Getty Images/Bloomberg/Rick Maiman

Former National Basketball Association referee Tim Donaghy leaves Federal District Court in New York City after being sentenced to 15 months in prison on July 29, 2008. Donaghy pleaded guilty to betting on games he officiated and to supplying inside information to gamblers about player injuries.

in New York in the 1840s by young gentlemen, then encouraged during the Civil War as a way to build morale and relieve boredom, baseball was introduced across the nation as ball-playing veterans returned home. Wagering on the sport would soon follow.

"Betting on baseball was an integral part of the game, especially in cities, since the inception of organized professional leagues in the 1870s," wrote historians Richard Davies and Richard

and pool halls peddled baseball "pool" cards, which allowed fans to wager on a week's worth of games. Fans could bet on variables such as "which teams would win the most games, strike out the most opposing batters, score the most runs, or hit the most home runs," Davies and Abram said.⁴⁷

Baseball's first major betting scandal occurred in 1877, when four Louisville Grays players were found to have accepted relatively small bribes from a New

Chronology

1860s-1919

Betting scandals taint baseball and competitive walking.

1865

Baseball-playing Civil War veterans spread the sport nationwide.

1870

Edward Payson Weston walks 100 miles in less than a day at a roller rink to win \$2,500; spectators flock to days-long walking contests, betting on winners.

1876

Fans routinely place bets at baseball games and with neighborhood bookmakers. . . . Four members of baseball's Louisville Grays accept a gambler's bribe to lose the pennant.

1881

Accusations of gambling-related fixes taint a walking match, and the sport's popularity fades.

1917

The federal government shuts down horse racing during World War I; professional gamblers and bookmakers focus on baseball.

1919

Several Chicago White Sox players throw the World Series in exchange for payments from gamblers; Commissioner Kenesaw Mountain Landis bans eight players from baseball for life.

1930s-1990s

Congress bans sports betting in most states after college scandals.

1931

Nevada legalizes gambling and be-

comes the only state to have legal sports betting.

1941

Bookmakers start using the point spread to even out betting on lopsided games.

1945

Five Brooklyn College basketball players take payments from criminals to shave points in a game.

1951

Twenty basketball players from multiple colleges and 14 gamblers are convicted of holding down scores between 1947 and 1951. . . . Congress imposes a 10 percent tax on gross receipts from sports bets in Nevada.

1958

Baltimore Colts owner Carroll Rosenbloom is rumored to have bet on the championship game against the New York Giants, one of the most famous pro football games ever played. . . . Televised sports spur viewership and wagering.

1961

At least 50 players from 27 colleges are found to have been fixing basketball games in 22 states. . . . Congress enacts the Wire Act to combat organized crime's grip on illegal sports gambling; it bans using wire communications in sports betting across state lines.

1974

Congress reduces the tax on gross receipts from sports bets to 2 percent; legal sports betting blossoms at Nevada casinos.

1989

Celebrated player and Cincinnati Reds manager Pete Rose is banned from baseball for betting on games.

1992

Professional and Amateur Sports Protection Act prohibits state-sanctioned or state-run sports gambling, except in Nevada, and also on a limited basis in Oregon, Delaware and Montana.

2000-Present

Congress tries to stop online gambling, while some states legalize daily fantasy sports.

2006

The Unlawful Internet Gambling Enforcement Act requires U.S. financial institutions to block payments for illegal online bets.

2007

Former NBA referee Tim Donaghy pleads guilty to betting on games he officiated and to supplying inside information to gamblers.

2014

New Jersey Republican Gov. Chris Christie signs a law making sports betting legal at casinos and racetracks; professional sports leagues, the Justice Department and the NCAA sue.

2015

A total of \$4.2 billion is wagered at Nevada's regulated sports books, while Americans illegally bet an estimated \$150 billion on sports through offshore websites, local bookmakers or in office pools. . . . Nine states affirm the legality of daily fantasy sports this year and next, while 10 others define it as illegal gambling.

2016

A federal court rules New Jersey's sports betting law is illegal.

Sports Betting in U.K. Is Legal, Regulated

“Gambling has always been integral to British sports.”

Betting on sports is popular and legal in much of Europe, but the United Kingdom by far has the most liberal attitudes toward sports gaming.

While Germany bans online betting and France does not allow betting at retail outlets, the U.K. allows fans to place bets by phone, in person at betting parlors and stadium gambling kiosks or online through a computer or smart phone. They can place bets before and during a match on everything from the final score to who will kick the next soccer goal or ace a serve in tennis.

“Gambling has always been integral to British sports,” and even the first rule book for cricket in the 1800s included a section on proper betting, said Tony Collins, a professor at the International Centre for Sports History and Culture at De Montfort University in Leicester, England. “There’s perhaps a more moralistic strain to American sports than there is elsewhere. There is a different attitude toward gambling in Britain, of greater leniency.”¹

The U.K. also has a highly competitive gambling market, in contrast to other European countries. In France, only about six companies are licensed to provide online betting, and in Germany a state-run monopoly called OddBet controls all betting. But the U.K. does not limit the number of gaming companies, says University of Liverpool sports economist David Forrest. Such companies saturate the airways with advertisements during sporting events, and players’ jerseys are covered with gaming company logos. Roughly 8,000 betting shops and nearly 100

legal online betting websites compete to offer gamblers the best odds, says Forrest.

“As a result, there is actually no illegal [gambling] sector in Britain, and there’s also very little use of unlicensed websites for betting,” says Forrest. “If you get equal value for money, why wouldn’t you do the legal thing? You’ve got protection if there’s a dispute over payouts, for example, and you can go to the regulator with complaints.”

Instead, he says, most of the illegal betting on European sports is done by gamblers in China, India and Southeast Asia, where most sports betting is banned. They place bets with local bookies who then pass it up the internet chain until the bets arrive at several large, unregulated sports betting operations based in the Philippines province of Cagayan, says Forrest. Cagayan is a special economic zone and home to the world’s five biggest bookmakers, he says. Gamblers who want to bribe European sports officials and players to fix soccer matches funnel their bets through this Asian marketplace, according to investigators.²

But despite Europe’s lenient attitudes about sports gambling, the practice spurs debate. In 2013, the European Parliament called on member states to ban live sports betting, known as in-play betting, because, it said, it is more vulnerable to match-fixing.³ Detecting suspicious betting patterns is much harder with live sports bets, according to some studies, because of the short period between the placing of bets and the event being bet on.⁴

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fessions from two players mysteriously disappeared from a locked cabinet, key gambling witnesses fled to Mexico and Europe on the dime of organized crime and other witnesses could not remember events. Not surprisingly, the defendants were acquitted.⁵¹

Meanwhile, team owners, fearing the scandal would drive fans away, had hired federal District Judge Kenesaw Mountain Landis, known for his honesty, as their new commissioner. Landis demanded absolute power and banned the eight players from professional baseball for life immediately after the verdict.⁵²

Ironically, the scandal “seemed to intensify interest in sports betting among the American people,” said Davies and Abram. During the decades between the two world wars, “The number of

gamblers and the estimates of amounts wagered grew steadily, despite strong opposition from politicians, journalists, religious spokespeople, and assorted other reformers,” they said.⁵³

By 1949, “bookmakers were handling more money on sporting events than on horse races, with baseball accounting for the lion’s share of the sports action,” wrote sports gambling authority Arne Lang in *Sports Betting and Bookmaking: An American History*. Within a decade, college football and basketball were also attracting heavy play.⁵⁴

But bookmakers had a problem. In severely mismatched games, they potentially could lose it all if a big underdog won in an upset against steep odds, or they could incur huge losses if most bettors cashed in on a sure winner at low odds. So bookies mostly refused

to take wagers on lopsided games, alienating customers. That changed with the invention of the point spread in the 1940s, credited to Chicago bookmaker and former mathematics teacher Charles K. McNeil. Instead of offering odds on two sides of a contest, bookies would require that the favorite win the game by a certain number of points, reflecting the strengths and weaknesses of each team. The point-spread system evened out the betting on each team, which guaranteed bookmakers a profit and allowed them to offer many more games to customers, according to Jeremy Martin, the lead editor for *Doc’s Sports*, an online handicapping service. The invention of the point spread, combined with the advent of televised sports, encouraged massive growth in sports betting, Martin said.⁵⁵

In response, the U.K. Gambling Commission, which regulates commercial gambling, released a position paper on in-play betting in September. It concluded: “Despite the concerns raised about the risks to integrity from in-play betting there is limited evidence to show that the risks are greater than those associated with pre-event betting.”⁵

But in-play betting may result in higher rates of problem gambling, according to a 2016 survey conducted by the commission. It found that “online gamblers are more likely to be classified as problem gamblers if they bet in-play, and more likely to be classified as at greater risk of harm from gambling than those who do not bet in-play.”⁶

Citing similar studies, Australia tightened its ban on live sports betting in April.⁷

However, the U.K. commission said its regulations already require licensed betting operators to identify and contact problem gamblers and to put information on their websites about responsible gambling and how to seek help for problem gambling.⁸ Despite calls from the European Parliament, the commission said it has no plans to ban live sports betting, so it appears that — at least for now — the U.K. sports betting market will remain the most liberal and competitive in Europe.

— **Barbara Mantel**

¹ Will Hobson, “Sports gambling in U.S.: Too prevalent to remain illegal?” *The Washington Post*, Feb. 27, 2015, <http://tinyurl.com/oy4yfub>.



AFP/Getty Images/Leone Neal

Student Karishma Kapoor, 20, holds a betting slip on May 1 for a soccer match between Leicester City and Manchester United. British fans can place bets on any sport by phone, in person at betting parlors and stadium gambling kiosks or online.

² Declan Hill, “Match-fixing: How gambling is destroying sport,” BBC, Feb. 5, 2013, <http://tinyurl.com/gqy59hh>.

³ “EP calls for action against illegal operators and ban on live betting,” *Gaming Intelligence*, Sept. 11, 2013, <http://tinyurl.com/jgq65zy>.

⁴ “In-play (in-running) betting: position paper,” UK Gambling Commission, September 2016, p. 5, <http://tinyurl.com/j5ef33x>.

⁵ *Ibid.*, p. 5.

⁶ *Ibid.*

⁷ Perry Williams, “Government bans online in-play betting on sports, dealing blow to Tom Waterhouse,” *The Sydney Morning Herald*, April 28, 2016, <http://tinyurl.com/gwhroqf>.

⁸ “In-play,” *op. cit.*

But the point spread also created greater opportunities for fixing games. Instead of having to persuade players to lose a game they were expected to win, corrupt gamblers only had to persuade them to win the game by fewer points than the spread. College basketball was the most susceptible to point-shaving because players received no salary and only one or two players were needed to manipulate the final score.

The full extent of corruption in college basketball was revealed in 1951. In February, City College of New York beat Temple University in Philadelphia, 95-71. Hours later, police arrested City College players Ed Warner, Ed Roman and Al Roth at Penn Station in New York City and charged them with accepting bribes to shave

points. Eventually, a grand jury heard testimony implicating 35 players from seven colleges in the fixing of 86 games played in 17 states between 1947 and 1951. Twenty players, including the three from City College, and 14 men accused of bribing them were indicted and convicted.⁵⁶

“The numbers, of course, could not begin to offer proper scope,” wrote veteran reporter Stanley Cohen in *The Game They Played*. Cohen speculated that a nationwide investigation would have turned up figures several times higher.⁵⁷

At one sentencing hearing, Judge Saul Streit listed abuses at the University of Kentucky that he believed created a commercialized environment conducive to match-fixing, including “covert subsidization of players, ruthless exploitation of players, cribbing at exam-

inations, illegal recruiting, a reckless disregard for players’ physical welfare, matriculation of unqualified students . . . and the most flagrant abuse of the athletic scholarship.” After the scandal, the NCAA suspended the University of Kentucky’s basketball program for a year, and the New York Board of Higher Education banned New York City’s municipal colleges from playing at Madison Square Garden, the venue for some of the fixed games. However, the colleges’ “attempts at curbing the abuses in their basketball programs were perfunctory,” argued Albert J. Figone, a former Humboldt State University physical education professor and baseball coach, in a review of the episode.⁵⁸

In 1961, another, even larger point-shaving scandal broke. After a two-year investigation, at least 50 basketball

Gamblers Embrace 'E-Sports'

Betting on video gaming draws regulators' scrutiny.

Professional competitive video gaming, or e-sports, has become a popular spectator sport in the United States, filling the same arenas that host professional hockey and basketball teams, even as the events are watched online by millions of viewers. In April, a tournament between video gaming teams at the Nationwide Arena in Columbus, Ohio, sold out, and the four-day contest generated 71 million online views.¹ That same month, a championship tournament for the game "League of Legends" packed the Mandalay Bay Events Center in Las Vegas.² It, too, garnered a huge online audience.

"More people watched the 'League of Legends' final online than watched the NBA Finals," says Peter Schoenke, owner of the online website RotoWire, which sells editorial content about fantasy sports and e-sports.

More than 213 million people will watch competitive gaming this year in Asia, Europe and North America, and worldwide revenue will reach \$892.8 million in 2016, a figure that includes advertising, ticket sales, merchandise — and betting, according to SuperData Research, a New York-based video game market analytics company.³

Regulators are monitoring the growing trend. Betting on e-sports is widely available in Europe through regulated sports books — places where gamblers can legally place wagers on sports. But Americans who want to bet on competitive video gaming must do so illegally by opening accounts at unregulated betting websites run from the Caribbean or Central America. They can, however, create a fantasy e-sports team and enter contests on daily fantasy sports websites, in states that allow such sites.

The illegal status of e-sports betting may soon change. In May, the Nevada Gaming Policy Committee discussed whether the state should allow betting on e-sports. "We should make this a priority. Good for sportsbooks, good for bricks-and-mortar [casinos], good for Nevada," said committee Chairman Tony Alamo.⁴ The casino industry would like to capture the predominantly male Millennial e-sports audience,

which is less attracted to slot machines and craps tables than their elders.

It comes down to one question: Is competitive video gaming really a sport?

If Nevada's gambling authorities conclude it is a sport, then sports books would be able immediately to offer betting on e-sports to adults inside the state, although placing wagers would be illegal in the 46 states where a 1992 federal law bans sports betting.

But if authorities rule e-sports is not a sport, Nevada would have to figure out how to add it to its roster of casino games, such as blackjack and slots.

"There is certainly no state — whether it is Nevada or otherwise — that has a statute on the books that would capture e-sports. It's just too new," says Ryan Rodenberg, a professor of sports law at Florida State University. Other states interested in making e-sports betting legal would also have to pass a law to add it to their list of allowable gambling options and determine that it is not a sport.

Another way to "bet" on e-sports, says Rodenberg, is through daily fantasy sports websites, such as DraftKings. "Instead of picking running backs and quarterbacks and wide receivers, you are picking e-sport competitors and compiling a fantasy team," he says. Prizes are available for e-sports, just as they are for football or baseball daily fantasy contests. This market is concentrated in Canada and the United States, and it is legal in the states that allow fantasy sports.

E-sports enthusiasts can also gamble on video games using the murky, and possibly illegal, trade in "skins." Many video game websites allow individuals to spend real money to buy decorative alterations, or skins, for a game's virtual knives, guns, machine guns and other weapons. Those skins can then be transferred to third-party websites where gamblers can use them as currency to bet on e-sports competitions. Gamblers also can use skins to bet on casino-like games, such as virtual dice rolls or coin flips, that are unrelated to e-sport competitions.

players from 27 colleges were found to have fixed games in 22 states. Yet big-time college basketball managed to survive, despite a series of smaller point-shaving episodes over subsequent decades. "It had become too successful a business" to fail, Figone said.⁵⁹

Compared with amateur sports, American professional sports, with its highly paid players, have had fewer gambling-related scandals. Some of the most notable include the dramatic 1958

pro football championship game between the New York Giants and the Baltimore Colts, who won in overtime — the first NFL playoff game to go into overtime. One of the most famous professional football games ever played, it attracted an estimated 40 million television viewers and jumpstarted the transformation of pro football into the nation's "most successful, lucrative and popular spectator sport," wrote Davies and Abram. But that game has also been

dogged by rumors that Colts owner Carroll Rosenbloom bet on the game and influenced the play.⁶⁰

In 1989, celebrated baseball player and Cincinnati Reds manager Pete Rose was banned from baseball for life for betting on games. In 2007, former NBA referee Tim Donaghy pleaded guilty to betting on games he officiated and to supplying inside information to gamblers. Over the years, lower-level tennis tournaments have faced allegations of match-fixing.⁶¹

“The [video] game where this has gotten all the attention is ‘Counter-Strike: Global Offensive,’” says Rodenberg. Valve, a video game maker based in Bellevue, Wash., developed “Counter-Strike.” “People are using the virtual decorations for the game’s pistols to wager on coin flips, dice rolls and virtual slot machines,” he says. Winners typically get paid in more skins, which they can use to gamble or to sell for cash on foreign-exchange-like websites.

More than 3 million people wagered \$2.3 billion worth of skins on the outcome of e-sports matches in 2015, according to research firm Eilers & Krejcik Gaming, and it predicts skins betting could reach \$7.4 billion by the end of 2016.⁵

But there is growing criticism of betting with skins and its appeal in particular to young people and minors.

In response, Valve in July sent cease-and-desist letters to 23 skin gambling sites.⁶ Several shut down, but as of mid-October, 19 were still using “Counter-Strike” skins for gambling, according to *eSports Betting Report*.⁷ And in September, the Washington State Gambling Commission notified Valve that it must stop allowing the transfer of skins for gambling activities.

The commission called betting on skins a “large, unregulated black market for gambling” that “carries great risk for players,” in particular those who are underage.⁸

Corruption is also becoming a problem in e-sports. Last year, Valve banned seven players from e-sports events it sponsors on suspicion of match-fixing.⁹

The professionals who play on e-sports teams are quite young, even teenagers, and many are poorly paid, says Daniel Wallach, a gaming and sports law attorney in Fort Lauderdale, Fla. “The temptation to cheat and to match-fix in e-sports is multiples greater than in the four major professional sports, where the athletes, for the most part, are over the age of 21 and make a seven-figure livelihood.”

— **Barbara Mantel**

¹ Joshua Brustein and Eben Novy-Williams, “Virtual Weapons Are Turning



Getty Images/Activision/Imeh Akpanudosen

Players celebrate their win at the 2015 Call of Duty World Championship at LA Live on March 29, 2015, in Los Angeles, Calif. Betting on e-sports such as Call of Duty is allowed in Europe but illegal in the United States. The Nevada Gaming Policy Committee is discussing whether the state should allow betting on e-sports.

Teen Gamers Into Serious Gamblers,” *Bloomberg Business Week*, April 20, 2016, <http://tinyurl.com/z665n9o>.

² J.D. Morris, “E-sports poised to become source of action in Las Vegas sports books,” *Las Vegas Sun*, July 1, 2016, VegasInc, <http://tinyurl.com/gr9jtv>.

³ “eSports Market Report 2016,” SuperData Research, 2016, <http://tinyurl.com/hzpo0ql>.

⁴ Joss Wood, “How Aggressively Will Las Vegas Embrace Esports Betting? It Depends On Whether Or Not It’s A Sport,” *eSports Betting Report*, May 16, 2016, <http://tinyurl.com/hnjxd92>.

⁵ Brustein and Novy-Williams, *op. cit.*; also see Joshua Brustein and Eben Novy-Williams, “Game-Maker Valve Moves to Choke Off \$7.4 Billion Gambling Market,” *Bloomberg Business Week*, July 13, 2016, <http://tinyurl.com/h4439k2>.

⁶ John T. Holden, Ryan M. Rodenberg and Anastasios Kaburakis, “Esports Corruption: Gambling, Doping, and Global Governance,” *Maryland Journal of International Law*, Aug. 29, 2016, p. 6, <http://tinyurl.com/zc6x6d4>.

⁷ Will Green, “Skin Wagering Scorecard: 19 Named Sites Still Using Steam For Commercial Purposes,” *eSports Betting Report*, Oct. 13, 2016, <http://tinyurl.com/he6t7f3>.

⁸ “Valve Corporation Told to Stop Facilitating Gambling,” press release, State of Washington Gambling Commission, Oct. 5, 2016, <http://tinyurl.com/jk7gvbj>.

⁹ Brustein and Novy-Williams, “Virtual Weapons Are Turning Teen Gamers Into Serious Gamblers,” *op. cit.*

Sports Gambling Laws

As college basketball and other sports struggled with the fallout from illegal betting, legal sports betting in Nevada, which the state approved in 1931, was negligible into the 1970s. That’s because Congress had imposed a 10 percent tax on sports bets in 1951, following the college basketball scandals, making it difficult for Nevada’s casinos

to earn a profit on the activity.⁶²

Instead, Nevada gamblers placed their sports bets with illegal bookmakers or at “turf” clubs, small stand-alone shops that often operated without the required license or federal tax payments. Sports fans and gamblers in the rest of the country continued to use their neighborhood bookie, some of whom had ties to organized crime.

In 1961, Congress enacted the Wire Act and other legislation “to combat or-

ganized crime’s grip on illegal sports gambling,” then-law student Eric Meer wrote in the *UNLV Gaming Law Journal*. These criminal operations accepted wagers and passed along betting information through phones and telegraphs, “openly defying state authorities,” Meer said. The Wire Act made it a crime to conduct such business across state lines, except between two states that allowed sports betting.⁶³

In 1974, Congress reduced the tax on sports bets to just 2 percent, and

in 1983 to .025 percent. Nevada's casinos took over sports betting from the turf clubs. And while casinos made more money on slots and blackjack, they recognized that sports betting helped bring in customers.⁶⁴

Illegal sports betting outside of Nevada continued to thrive, and both legal and illegal sports wagering came under increasing attack. In 1986 *Sports Illustrated* observed: "As fans cheer their bets rather than their favorite teams, dark clouds of cynicism and suspicion hang over games, and the possibility of fixes is always in the air."⁶⁵

In 1992, Congress passed the Professional and Amateur Sports Protection Act. Also known as the Bradley

In the late 1990s, a series of isolated point-shaving scandals in college sports led to a growing perception that a serious problem continued, and the NCAA abandoned "its benign neglect" toward gambling and became the main crusader for federal legislation, wrote Davies and Abram. The NCAA wanted Congress to ban college sports from Nevada sports books. The casino industry argued that such a ban would have no effect on the estimated 250,000 illegal bookies operating nationwide and that the state's legal bookmakers helped to prevent fixes by spotting, and reporting, unusual swings in betting.⁶⁷

Such legislation never made it to the floor of Congress. But Congress did act

CURRENT SITUATION

Daily Fantasy Sports

Four New York citizens, with help from the nonprofit group Stop Predatory Gambling, are suing Gov. Andrew Cuomo and the State Gaming Commission over a state law that legalized daily fantasy sports contests this summer.⁶⁹ The law defines the contests as games of skill so the contests are exempt from state gambling prohibitions. It allows FanDuel, DraftKings and other fantasy sports companies to operate their online contests in New York and was largely a response to New York Attorney General Eric Schneiderman's efforts to ban daily fantasy sports. Nevertheless, Schneiderman continued to pursue FanDuel and DraftKings, charging them with misleading consumers during an advertising blitz last year about their chances of winning and about the significant advantages of high-volume professional players, who use automated computer programs and sophisticated statistical strategies. The companies each agreed in late October to pay \$6 million to Schneiderman's office to settle claims of false and deceptive advertising.⁷⁰

"The plaintiffs seek to protect the public from predatory gambling consistent with the [state] constitution," said attorney Neil Murray, who filed the citizens' lawsuit with the New York state Supreme Court in early October. "They also intend to stop FanDuel, DraftKings and other internet gambling operators from exploiting the financially desperate and the addicted in New York."⁷¹

The lawsuit argues that daily fantasy sports violate the state constitution and

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"The majority of studies that we've seen seem to show that people who bet on sports are more likely to have gambling problems than people who participate in other forms of gambling."

— Keith Whyte,

Executive Director,

National Council on Problem Gambling

Act after its sponsor, former New York Knicks star Bradley, the law prohibited state-sanctioned or state-run sports gambling schemes. The law exempted the four states that had some form of legal sports betting: Nevada and its sports books; Oregon and its now repealed sports lottery; Delaware and its limited sports lottery; and Montana and its limited sports betting pool. The law also gave New Jersey one year to legalize sports betting at its casinos, which the state declined to do.⁶⁶

against online gambling. By the mid-2000s, illegal sports betting, as well as other forms of gambling, increasingly was occurring online, at websites operated offshore. But the operators were beyond the jurisdiction of U.S. courts and the Wire Act. So Congress passed the Unlawful Internet Gambling Enforcement Act of 2006, which required U.S. financial institutions to block payments for illegal online bets.⁶⁸ Instead of accepting credit cards, offshore sports books have turned to bagmen to collect bets and pay out winnings. ■

At Issue:

Should daily fantasy sports contests include college sports?



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WRITTEN FOR *CQ RESEARCHER*, OCTOBER 2016

betting on sports is fun, and many sports fans do it at some point in their lives. It's also a multibillion-dollar industry that boosts viewership and teams' revenue.

Whether fantasy or not, college or professional, sports betting is happening. Current bans on legal gambling not only are at odds with reality but also prevent states from enacting consumer protections.

Prohibition doesn't work. Despite, or because of, the U.S. ban on sports gambling, in place since 1992, the illegal gambling market in this country has blossomed into a several-hundred-billion-dollar-a-year industry — many times greater than the legal market. According to the American Gaming Association, \$60 billion to \$70 billion is spent betting on college football each year and more than \$9 billion is wagered illegally on March Madness. Clearly, the fact that it's illegal has done little to stop gambling.

Moreover, there's no evidence that gambling bans protect the integrity of college games or decrease the odds of illicit behavior within those games. But even if evidence existed that legalized gambling leads to match-fixing, it's not the duty of government or American taxpayers to protect teams' reputations. That's a matter for the leagues, the schools and courts of law.

Athletes already are barred from wagering on sports, including fantasy sports, under NCAA rules. League rules prohibit players from betting on games, divulging insider information or altering their game in any way in exchange for gifts, money or favors. The penalties for violating these rules are severe, including loss of scholarships and eligibility. There's no reason to believe that if gambling were legal, players would be any more inclined to violate league rules and risk their reputations and potential professional careers.

Moreover, legalizing professional and college sports gambling would almost certainly reduce the power of criminals operating on the black market. Offering legitimate avenues for gamblers means less money flowing onto the illicit market and greater ability for oversight by law enforcement.

If the leagues truly care about sports integrity, not just the "perception" of integrity, they should do more to educate and monitor players and stop trying to deputize government to police their industry. Americans have a right to spend their money as they choose. Gambling on sports should be legal for all sports — fantasy, real, professional and amateur.



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the wagering ban is vital for both the protection of student athletes and the integrity of collegiate games, and the majority of state policymakers and representatives of the daily fantasy sports (DFS) industry agree.

More than 460,000 student athletes compete in 24 sports across three divisions of college sports. These student athletes are as young as 17. Their often frugal college years may be the first time student athletes are away from home, and they depend on the trusted guidance, counsel and support of a coach, academic adviser, professor or other nonfamily mentor.

It is certainly the first time that as a condition to play the sport they love, they are bound by a set of rules that bars them from participating in any form of sports wagering for any purpose at any time, or risk their eligibility to participate in their sport.

The sports wagering ban is a good thing and is meant to help shield student athletes from undue influence or financial pressure by peers, alumni, faculty or members of the general public, as well as to discourage any intentional suppression of athletic performance that may affect the outcome of their competitions.

As DFS games on sites such as DraftKings and FanDuel have grown in popularity, so has the interest of state regulators worried about the potential risk to student athletes. The Student Sports Protection Alliance (SPAN) is a coalition formed in early 2016 to ensure that daily fantasy sports do not bet on college, high school or youth athletics. SPAN arrived just in time to see 107 DFS-related bills introduced in 36 states, ranging from legalizing sports fantasy games to banning them — creating a host of practical business, marketplace and regulatory challenges.

As these legislative discussions have continued, SPAN has worked to highlight the importance of getting individual states to ban DFS betting on student sports. Lawmakers have been receptive to this exemption, which has led to the passage of DFS regulations in seven states.

SPAN was also pleased when the DFS industry decided in March to voluntarily suspend games featuring student athletes. This is absolutely the right thing to do. As the director of SPAN and the mother of a Division I student athlete, I applaud and join with the DFS representatives in supporting this common-sense solution.

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that the Legislature cannot unilaterally amend the constitution. But the industry disagrees. “The state constitution specifically gives the Legislature the power to define what is — and what is not — gambling,” said a spokesperson for DraftKings and FanDuel, who added, “This is a layup — they have no case.”⁷²

The lawsuit also argues that the daily fantasy sports industry misrepresents its contests as games of skill, rather than gambling.⁷³ But Peter Schoenke, chairman of the Chicago-based Fantasy Sports Trade Association, disagrees. “Some people are just better than others. They study harder, they try harder, they have an innate ability to spot trends and good athletes,” he says. According to the association’s website, “The highest levels of competition within fantasy sports (for example, the National Fantasy Baseball Championship) routinely see top players win games more frequently than if the contests were random or highly based on chance.”⁷⁴

Participation in daily fantasy sports exploded in 2013, after FanDuel offered its first ever \$1 million prize and the two dominant companies blitzed the airwaves with advertisements. An estimated 16 million players spent more than \$4 billion in 2015 competing in daily fantasy sports contests, said Republican state Sen. Curt Bramble of Utah, president of the National Conference of State Legislatures.⁷⁵ Even with the growing interest, that is still a fraction of what fans wager on real sports contests each year. And that massive ad campaign has cost the companies. In October, FanDuel laid off employees, and both it and DraftKings owe vendors money. The two companies are reportedly in merger talks.⁷⁶

States to Decide

Dozens of states have started to examine the legality of this rel-

atively new industry, and the federal government has left it up to them to decide the issue. When Congress took aim at online gambling in 2006 by passing the Unlawful Internet Gambling Enforcement Act, it carved out exceptions for fantasy sports, online lotteries and horse or harness racing.⁷⁷ So, as daily fantasy sports contests grew in popularity, dozens of states decided to examine whether they violated state gambling laws.

In addition to New York, eight states — Colorado, Indiana, Kansas, Missouri, Massachusetts, Mississippi, Tennessee and Virginia — have legalized and often regulated daily fantasy sports since last year.⁷⁸ Most exclude contests involving college and high school players.

In many other states where legislatures have not acted or state attorneys general have not issued opinions, daily fantasy sports is de facto legal.

Attorneys general in Alabama, Delaware, Georgia, Idaho, Illinois, Texas and Vermont have issued opinions that the contests are illegal gambling. In Nevada, where licensed bookmakers fear competition from fantasy competitors, the attorney general and state gaming commission said daily fantasy sports is gambling and operators need a gambling license.⁷⁹

“It’s self-serving, but that is what the agency is designed to do — ensure an environment where the state’s licensed operators have the best chance of success,” said Chris Grove, who writes for the blog *Legal Sports Report*.⁸⁰

Former U.S. Rep. Jim Leach, an Iowa Republican, who drafted the Unlawful Internet Gambling Enforcement Act, said he too believes that daily fantasy sports is gambling. “Only a sophist” can argue otherwise, said Leach.⁸¹

In fact, some legal experts say many state laws that legalize and regulate daily fantasy sports violate the Professional and Amateur Sports Protection Act, the 1992 law that bans

state-sponsored betting on sports games. “The language of PASPA also targets performance of athletes within those games,” says sports attorney Wallach, and so it would apply to fantasy sports teams put together by fans. In addition, the legislative history surrounding the law makes it “crystal clear” that “the mix of skill to chance is irrelevant and that PASPA is intended to be a broad application,” Wallach says.

The New York law, in particular, goes exceptionally far, he says. It doesn’t simply repeal prohibitions but taxes and licenses the activity and “puts the state imprimatur on fantasy sports in such a way that it does violence to PASPA,” says Wallach. He says it’s a double standard for the Justice Department to challenge New Jersey’s law authorizing sports gambling but to leave unchallenged state laws authorizing and regulating daily fantasy sports.

When asked whether any of the new state laws on daily fantasy sports violate PASPA, Justice Department spokesman Carr responded in an email: “The Department . . . remains concerned about Internet gambling because of the potential for gambling by minors and compulsive gambling, the potential for fraud and money laundering, and the potential for involvement of organized crime. We’ll decline to speculate on the legality of specific online sites.”

New Jersey Law

In New Jersey, both Republican Gov. Chris Christie and the New Jersey Thoroughbred Horsemen’s Association, which represents Monmouth Park Race-track, asked the U.S. Supreme Court in early October to review the Third Circuit’s recent decision declaring the state’s sports betting law in violation of PASPA.

“This federal takeover of New Jersey’s legislative apparatus is dramatic, unprecedented, and in direct conflict with

this Court's Tenth Amendment jurisprudence barring Congress from controlling how the States regulate private parties," said the Thoroughbred Horsemen's Association's petition.⁸²

The petition also argues that the professional sports leagues are being selective in how they want PASPA enforced. The leagues, the petition said, are challenging the New Jersey law authorizing sports betting, an activity in which they have no financial stake, while not challenging state laws that authorize daily fantasy sports, an industry in which professional sports has significant investments.⁸³

New Jersey state Sen. Lesniak, the sponsor of his state's sports betting law, has said it's "a long shot" that the Supreme Court will take the case.⁸⁴

Meanwhile, U.S. Rep. Frank Pallone Jr., a Democrat from New Jersey, told ESPN in late October that he plans to introduce legislation to update U.S. gambling laws, including those dealing with sports betting, but he gave no timeline.⁸⁵ ■

OUTLOOK

Betting on the Future

Advocates of sports gambling and daily fantasy sports are confident the future is bright for both legalized betting and fantasy contests.

The Fantasy Sports Trade Association, which is sending lobbyists around the country, is hopeful more states will legalize daily fantasy sports contests. The association's Schoenke says legislators in more than 30 states have introduced bills in the past two years. Of those, nine have legalized it, and measures have passed at least one legislative chamber in at least another 10 states — including Illinois, Minnesota and Nebraska.

"That puts us in a good place for a lot of success this next year," says Schoenke. "We'll keep pushing on the states to hopefully be able to get some more victories."

Whyte says the National Council on Problem Gambling will continue lobbying for strict safeguards to prevent minors from playing and to protect problem gamblers. State laws should require that the fantasy websites have a hyperlink to an organization that helps with gambling addiction and tools that permit customers to set time, frequency and financial limits, he says. But right now state regulations are lacking, Whyte says.

"If you look at Virginia, that statute is pretty remarkable in its lack of any type of regulation or protection. Colorado's is pretty minimal. Once you get away from Massachusetts, most [are lacking]," says Whyte. Instead, his organization has successfully lobbied the fantasy sites to voluntarily adopt these measures. "It took us years of working with DraftKings and FanDuel to adopt our consumer protection standards. They started out with nothing, and there is no guarantee that tomorrow or next year they might change or remove some of these standards," he says.

As for the future of sports betting, Kilsby of Gambling Compliance predicts it eventually will be legalized throughout the United States. "It just doesn't make sense that you have a wide availability of different forms of gambling across the country, and sports gambling is restricted essentially to just the one state, Nevada," he says. "I think there is public support for legal sports betting, and the arguments against it are fairly flimsy."

But putting a time frame on legalization is difficult, Kilsby says. "If you said in 30 years, I could say confidently, yes. Twenty years, with confidence, yes. But pinning it down to five to 10 years is difficult."

Predicting exactly what sports betting would be like in each state is

also difficult, says Kilsby. "You should expect to see some disagreement over who should be eligible to offer sports betting, whether it's commercial casinos, tribal casinos, racetracks or state lotteries."

States could sign cross-border agreements, says the American Gaming Association's Rayme. "That's happening right now . . . between Nevada and Delaware on online gaming, but not sports. Sports cannot be offered as part of that, given PASPA."

Sports attorney Wallach believes a state besides New Jersey or an Indian tribe will attempt to legalize sports betting, resulting in another challenge to PASPA in the courts. "It will be within the next two years," he says. In any case, Wallach expects Congress to act before long. There's just too much money to be made from legalized sports betting by states, casinos and also professional sports leagues, who could charge companies that would provide game data to bookmaking operations, he says.

Bernal of Stop Predatory Gambling has the opposite prediction. "In five to 10 years, you are going to see a backlash to the extreme forms of predatory gambling that are already happening," he says. "Sports gambling elevates the debate to a national level around predatory gambling in general. This whole expansion of predatory gambling in America has occurred without a national debate." ■

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About the Author

Barbara Mantel is a freelance writer in New York City. She was a 2012 Kiplinger Fellow and has won several journalism awards, including the National Press Club's Best Consumer Journalism Award and the Front Page Award from the News-women's Club of New York for her Nov. 1, 2009, *CQ Global Researcher* report "Terrorism and the Internet." She holds a B.A. in history and economics from the University of Virginia and an M.A. in economics from Northwestern University.

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