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New York could well hit the jackpot with sports betting

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New Jersey has, against all odds, gotten the U.S. Supreme Court to agree to consider overturning the federal ban on sports betting. If the court does so, some think that allowing sports betting in New York still will require another amendment to the state constitution's already eviscerated gambling prohibition. But this is not so.

Dramatic incidents of past corruption and fears of the effects of rigged outcomes on sports' popularity and profitability led in 1992 to a federal ban on sports betting, based upon the national power to regulate interstate commerce. Professional leagues and collegiate associations and conferences were fully supportive. To avoid disrupting the status quo, when the bill was passed exceptions were allowed not only for Nevada – then and still the national sports betting mecca – but also Delaware, Oregon, and Montana, which had in place limited sports-related betting before 1991. (Oregon and Delaware have since forgone their sports-linked lotteries). Another provision envisioned an exception for New Jersey, but that state failed to act to take advantage of it.

As other states legalized casinos and Atlantic City faced intensified competition, New Jersey leaders had a change of heart. In a 2011 referendum, two-thirds of New Jersey voters supported a repeal of the state's constitutional ban on sports betting in casinos and at racetracks. The next year, sports betting was decriminalized in New Jersey, and two years later authorizing legislation to permit it was passed. But suits by the major sports leagues and the National Collegiate Athletic Association blocked implementation.

Strong college-level support for a sports betting ban persists, but heads of the major professional leagues are rethinking the matter. Big money is at stake for increasingly strapped state governments. Estimates are notoriously problematic, but in New York City alone tens of billions of dollars are thought to be illegally wagered annually on sporting events.

More Information

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Now, against widespread expectations and the recommendation of the Solicitor General, the U.S. Supreme Court has agreed to take New Jersey's case on appeal. Arguments in favor of state policy autonomy, likely to be ideologically attractive to justices on the court's right, may – with conservative Republican dominance in Washington – have some unexpected appeal as well to their more liberal colleagues.

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If New Jersey wins its lawsuit, New York is ready. When the New York state constitution was amended to allow casino gambling in 2013, the Legislature made clear its intent to include sports betting. It specified in the accompanying legislation a contingent provision that sounds like a prohibition but is actually an authorization. "No gaming facility may conduct sports wagering until such time as there has been a change in federal law authorizing such or upon a ruling of a court of competent jurisdiction that such activity is lawful." The law then goes on to provide considerable additional detail on licensing and other regulatory requirements specific to sports betting.

Wagering on sports in casinos across the U.S. could be made legal this year. If that happens, some smart bill writers in Albany placed New York's recently authorized casinos at the front of the line to hit the jackpot — and the state government will be there to get its cut off the top.

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