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None but the Brave

Governor Chris Christie says Federal law be damned, New Jersey is taking sports bets

Surprise

New Jersey Gov. Chris Christie, in a June 6th speech, declared that his state would begin taking sports bets this Fall, in the wake of state voters electing to amend their constitution to permit the activity last November.

This flies in the face of a 20-year-old Federal law, banning the expansion of state-regulated betting:
Professional & Amateur Sports Protection Act
PASPA

background

PASPA

“Professional & Amateur Sports Protection Act of 1992”
Prohibited expansion of state-regulated sports wagering

Sen. Bill Bradley (D-NJ; retired)
Basketball Pro & College Hall of Fame, Rhodes scholar

Law was enacted in response to...nothing
No scandals, no public outcry, no need
“Values-based” legislation

Pushed for total ban
Four states “grandfathered”
Nevada, Montana, Oregon and Delaware

background

“New Jersey Rule”

One-year for states with casino gaming in previous 10 years to pass sports betting

Only New Jersey met the criteria

New Jersey failed to pass law

Effective date of PASPA: January 1, 1993

referendum

NJ Constitution requires state-wide vote for new forms of gaming
Voters approved sports betting by 64%-to-36% margin on Nov. 8, 2011

Gov. Christie endorsed vote; committed state attorney-general to refile challenge

“The people of New Jersey want sports betting, which is clear to me now, by a 2-1 (ratio) almost that they do. One of my jobs as governor is to listen to the people. They’ve spoken. I’ll work as hard as I can to try to make it a reality.” Nov. 10, 2011

moving on

“We intend to go forward and allow sports gambling to happen. If someone wants to stop us, then they’ll have to take action to try and stop us.”

Gov. Chris Christie, June 6, 2012

Why now?

Take on the US Department of Justice, the professional sports leagues, and eventually, the Federal courts?

Answer: **Atlantic City**

the boss

“Everything dies, baby that's a fact / But maybe everything that dies someday comes back / Put your makeup on, fix your hair up pretty and meet me tonight in Atlantic City.”

Bruce Springsteen

The halo effect

Draw bettors in for the action, giving the casino an opportunity to cross-sell players
--Other casino games, restaurants & shopping

Seasonality:

As a beach resort, AC has much higher numbers in the Summer months, declining as the months turn colder.

A significant draw exactly when traffic begins to decline:

September is when the American football season begins

--Largest betting market in US, both regulated and black market

a bone for the horses

Permits the state's racetracks to take wagers, too, which is also a significant draw
US racing industry has long been in decline, and many
states have responded by adding casinos to their tracks
"Racinos" subsidize purses for the tracks, better draw for owners and bettors

New Jersey's tracks are prohibited from installing slot machines
Casino gambling is limited to Atlantic City by the state constitution
Also prohibits the tracks from intra-state online gambling market that New Jersey
Likely before the end of 2012.

Gov. Christie divested the state of its tracks
will veto any attempt to use state money to prop up the industry.

He can, though, give the tracks a boost by permitting them to accept sports wagers.
Revenue to offset what the tracks cannot make in the casino and online market
Draw higher-margin bettors to track windows instead of through ADWs

why wait?

“I have every confidence that we’re going to be successful. Will we have to go through some litigation to get there? Probably.”

Gov. Chris Christie, June 6, 2012

“I think the attorneys in the [state] Attorney General’s Office have studied this issue and they feel that the federal law is probably unconstitutional,” I think there is a sense that the federal law won’t survive and that is why the governor has been so strongly advocating for it.”

None of the surrounding states will be offering full sports betting in the near future
A competitive advantage New Jersey’s casinos to reverse their long decline.
Not the only answer to bringing Atlantic City back, but it improves chances

basis

The law is inherently unconstitutional

US Constitution

Reserves to states all rights not explicitly granted to the Federal government

Gambling regulation

US Department of Justice

Advisory opinion on PASPA legislation for Senate Judiciary Committee

US DOJ objected to PASPA

1. Congress has historically left the decision on how to raise revenue to the states
2. Put into question issues of federalism (10th Amendment)
3. Permits leagues to seek enforcement of PASPA through civil injunctions

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Instead of challenging, invite challenge from the “defenders”

Who?

US Department of Justice

Toughest opponent to face in court, however

Not certain it would ever come to that kind of showdown

DOJ would have to contend with the fact that it actually opposed the Federal ban when it was being enacted 20 years ago

“[D]eterminations of how to raise revenue (i.e. gambling taxes) have typically been left to the states. The Department is concerned that, to the extent the bill can be read as anything more than a clarification of current law, it raises federalism issues.”

“When were you wrong? Now, or then?”

“Bad politics”

USA-G Holder would have to recuse himself; was counsel to NFL

Block a popular measure (2-to-1 margin) in “Blue State”?

Ascendant Republican governor

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Instead of challenging, invite challenge from the “defenders”

Who?

Professional sports leagues & NCAA

Congress: leagues can go to court to seek “relief” against any state that might attempt to regulate sports betting

A lack of compelling interest for Federal government to involve itself in a matter of state gambling regulation and taxation

It’s possible that the DOJ concludes that the leagues should contest New Jersey in court, since they are the only entity with standing and an interest in upholding the ban.

Example: Delaware, 2009

However, different issue contested

PASPA constitutionality not challenged; sought broader interpretation of statute

risks

Temporary and/or permanent injunction to halt betting

Multi-jurisdictional operators

--How would regulators elsewhere treat this activity?

--Caesars, Boyd, Tropicana will not open up betting

“2006 moment”

Does this lead to legal jeopardy similar to post-UIGEA

How would public markets treat failure

Too early

No critical mass

Only OTC; web/mobile uncertain

American sports v. International sports

Convenience v. other choices

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Questions/Comments

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