

Place Your Bets (or Don't): Legal Sports Gambling in Texas Not Likely Anytime Soon

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The recent decision of the United States Supreme Court in *Murphy v. National Collegiate Athletic Association*, is expected to have far-reaching effects on the sports betting landscape in the United States. The case was the appeal of a lawsuit in which the National Collegiate Athletic Association ("NCAA") and four professional sports leagues sued the State of New Jersey after that state's legislature repealed certain prohibitions on sports gambling at the state's racetracks and casinos. The NCAA and sports leagues argued that the legislature's actions violated the Professional and Amateur Sports Protection Act of 1992 ("PASPA"), which prohibits states from licensing or authorizing sports gambling. The Supreme Court's 6-3 ruling siding with the State, and authored by Justice Alito, held that PASPA's prohibitions on New Jersey's rights to regulate gambling was a violation of the Tenth Amendment to the United States Constitution. "A more direct affront to state sovereignty is not easy to imagine," according to Justice Alito's opinion.

As a direct result of the ruling, which represented a victory for the casino and hospitality industries across the country, states are now provided the option of whether or not to legalize sports gambling. In addition to New Jersey, several other states and tribal governments appear ready to jump on the sports gambling bandwagon. However, Texas – the nation's second most populous state – has been largely silent on the opinion. Governor Greg Abbott's office has not yet issued a statement on the ruling, and the Legislature has not recently considered any legislation pertaining to the expansion of any legalized gambling at all. However, past efforts to increase gambling options in Texas have been met with solid resistance by Governor Abbott, Lt. Governor Dan Patrick, the socially conservative Legislature, and powerful religious lobbying groups.

For sports gambling to become a reality in Texas, there would need to be a seismic shift in the historically hostile attitude of the state's socially conservative government towards any expansion of gambling. In addition to the regulatory and tax implications associated with bringing sports betting into Texas, multiple criminal laws would require significant change or complete repeal, and an amendment to the Texas Constitution would almost certainly be necessary as well. Even if the two-thirds majority required in both houses of the Legislature to have a proposed constitutional amendment placed on the ballot in a statewide election was reached, Texas voters would then still be required to approve the amendment before becoming law.

Hospitality and restaurant interests in Texas should not expect any forthcoming change in the state's position on sports betting or any other form of gambling not already permitted in the state. Although organizations such as the American Gaming Association are elated with what they predict will be significantly increased future revenues associated with sports gambling for many groups, including the hospitality industry, those promised gambling windfalls will likely not be seen in Texas in the foreseeable future.

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