

New York State Gaming Commission Conditionally Approves Proposed Sports Wagering Regulations

On January 28, 2019, the New York State Gaming Commission (“Commission”) voted to conditionally approve proposed sports wagering regulations for the state. The approval of these proposed regulations is an important event in the fast-developing landscape of legal, state-regulated sports betting.

I. Background

Until 2018, the Professional and Amateur Sports Protection Act (“PASPA”) generally made it unlawful for states to authorize commercial sports gambling.¹ That changed on May 14, 2018, when the United States Supreme Court held in *Murphy v. National Collegiate Athletic Association* that PASPA’s prohibition was unconstitutional.² In the wake of *Murphy*, several states rushed to legalize sports betting, hoping to turn a chunk of the estimated \$150 Billion in yearly illegal wagers into much-needed state revenue.³

New York regulators, however, did not take immediate steps to authorize and implement a legalized sports betting regime. That changed on January 28, 2019, when the Commission voted unanimously to conditionally approve proposed sports wagering regulations, launching a 60-day public comment period. After the 60-day period, the Commission will meet again to modify and/or finalize the regulations.

II. The Regulations

A majority of the proposed New York sports wagering regulations do not appear to be controversial—as the Commission noted, they are similar to regulations passed in other states. Generally speaking, they allow “licensed casinos in good standing” to obtain sports betting operator licenses (referred to as “sports pool licenses”) from the Commission subject to financial stability and good character standards. In addition to establishing the procedures and requirements for obtaining a license, the regulations contain restrictions on how a casino may run its sports betting operations, what type of wagers are permitted, who can and cannot place wagers, what regular disclosures casinos must make to state authorities, and how sports betting will be taxed.

Two features of the proposed New York regulations are particularly noteworthy. First, the regulations do not permit online or mobile sports betting—forms of wagering that are growing in popularity and represent a huge source of potential tax revenue for any state. Instead, the regulations strictly limit betting to wagers placed in person at New York’s upstate casinos in specially designated “sports wagering lounges.”

Second, the regulations do not require payment of an “integrity fee.” Integrity fees are fees that sports betting facilities are required to pay directly to sports governing bodies (for example, the NBA or MLB). They are generally calculated as a small percentage of the total amount wagered. Sports governing bodies are lobbying for inclusion of these fees in sports betting bills throughout the country. It is unclear whether integrity fees are going to gain traction with other state regulatory bodies, but New York’s regulations are seen as an important battleground.

You can view the proposed regulations in their entirety on the Commission’s [website](#).

¹ Pub. L. No. 102-559, 106 Stat. 4227 (1992) (codified at 28 U.S.C. §§ 3701–3704 (2012)).

² *Murphy v. Nat’l Collegiate Athletic Ass’n*, 138 S. Ct. 1461, 1469, 200 L. Ed. 2d 854 (2018).

³ Adam Liptak & Kevin Draper, *Supreme Court Ruling Favors Sports Betting*, THE NEW YORK TIMES, May 14, 2018, <https://www.nytimes.com/2018/05/14/us/politics/supreme-court-sports-betting-new-jersey.html>.

III. Looking Forward

If the Commission finalizes these regulations after the public comment period, New York's upstate casinos could be open for in-person sports betting as early as this spring or summer. In addition, a bill authorizing mobile betting was recently filed in the New York State Senate.⁴ The changing landscape of sports betting laws in New York is sure to raise interesting legal issues, in terms of both compliance and legal disputes. Quinn Emanuel will be watching these developments closely to help clients navigate these challenges.

If you have any questions about the issues addressed in this memorandum, or if you would like a copy of any of the materials mentioned in it, please do not hesitate to reach out to:

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⁴ Jill R. Dorson, *New York Sports Betting Bill: Mobile Betting Throughout State and .2% 'Royalty' to Pro Leagues*, SPORTS HANDLE, Jan. 2, 2019, <https://sportshandle.com/ny-sports-betting-bill-mobile-betting/>.