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## Gamblization: The Rise of Sports Gambling and the Need to Repeal PASPA

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## Gamblization: The Rise of Sports Gambling and the Need to Repeal PASPA

### Abstract

The National Gambling Impact Study Commission, in its final report to Congress, estimated American's bet as much as \$380 billion per year on sports, making it by far the largest form of illegal wagering, and that report was released in 1999. With the growth of the Internet and technology, there is no doubt that these staggering figures are far larger today. Based on the current structure, 99% of sports gambling continue to operate untaxed and unregulated in defiance of state and federal law. The time has come for the United States to repeal the Professional and Amateur Sports Protection Act of 1992 ("PASPA") and develop modern laws to regulate the sports gambling industry and cash in on the billions of dollars it generates in revenue.

### Keywords

gambling, sports gambling, gaming, amateur sports, PASPA, legalized gambling

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GAMBLIZATION: THE RISE OF SPORTS GAMBLING AND  
THE NEED TO REPEAL PASPA

*ALEX LOWELL*

TABLE OF CONTENTS

Introduction .....	256
Sources of Sports Gambling Law .....	257
A. Wire Act of 1961.....	257
B. Professional Amateur Sports Protection Act of 1992 .....	258
C. Unlawful Internet Gambling Enforcement Act of 2006.....	260
Challenging PASPA.....	261
Sports Leagues Softening Their Stance .....	265
Ineffectiveness of PASPA.....	267
Economic Benefits of Legalized Sports Gambling .....	272
Conclusion .....	273

## INTRODUCTION

The United States needs to reform its stance on sports gambling and create legislation consistent with the trends of modern day America. Professional sports have played an integral role in the evolution of society in the United States. The sports market in North America was valued at \$60.5 billion in 2014 with the industry expected to reach \$73.5 billion by 2019.<sup>1</sup> Alongside the growth of professional sports has been the unquestioned rise in popularity of sports betting. There is no better illustration of the dichotomy between sports and gambling than the annual National Collegiate Athletic Association (NCAA) Men's Basketball "March Madness" tournament. In 2006, more than 55% of American workers participated in some form of March Madness betting pool, with the Federal Bureau of Investigations (FBI) estimating the total amount wagered on March Madness to be in excess of \$2.5 billion.<sup>2</sup> It has become so widely accepted in American culture that previous President Barack Obama hosted an annual live segment on ESPN to make his March Madness selections.

Despite a growing public acceptance throughout the United States, sports betting remains illegal under both state and federal law. The

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<sup>1</sup> Darren Heitner, Sports Industry To Reach \$73.5 Billion by 2019 (April 30, 2017), <https://www.forbes.com/sites/darrenheitner/2015/10/19/sports-industry-to-reach-73-5-billion-by-2019/#740c129c1b4b>

<sup>2</sup> C. Spencer Beggs, What Is the Price of March Madness, Fox News (Mar. 16, 2006), <http://www.foxnews.com/story/0,2933,188043,00.html>.

American Gaming Association (AGA) estimates that Nevada, the only state that currently offers legal sports betting, facilitated around \$3 billion in sports gambling, which represents less than 1% of all sports gambling nationwide.<sup>3</sup> The National Gambling Impact Study Commission, in its final report to Congress, estimated American's bet as much as \$380 billion per year on sports, making it by far the largest form of illegal wagering, and that report was released in 1999.<sup>4</sup> With the growth of the Internet and technology, there is no doubt that these staggering figures are far larger today.<sup>5</sup> Based on the current structure, 99% of sports gambling continue to operate untaxed and unregulated in defiance of state and federal law.<sup>6</sup> The time has come for the United States to repeal the Professional and Amateur Sports Protection Act of 1992 ("PASPA") and develop modern laws to regulate the sports gambling industry and cash in on the billions of dollars it generates in revenue.

#### SOURCES OF SPORTS GAMBLING LAW

##### *A. Wire Act of 1961*

In the 1950s, there was widespread coverage of organized crime networks and their influence on interstate commerce. As a result, the

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<sup>3</sup> 2016 State of the States, The AGA Survey of the Casino Industry (April 30, 2017), [https://www.americangaming.org/sites/default/files/2016%20State%20of%20the%20States\\_FINAL.pdf](https://www.americangaming.org/sites/default/files/2016%20State%20of%20the%20States_FINAL.pdf)

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

Kennedy administration established the Wire Act of 1961 (Wire Act)<sup>7</sup>, which reads:

“Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitled the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined under this title or imprisoned not more than two years, or both.”<sup>8</sup>

The Wire Act was enacted as part of a series of antiracketeering laws aimed at restricting interstate bookmaking.<sup>9</sup> These federal statutes were intended to complement then existing state laws, which made unauthorized in-state bookmaking illegal.<sup>10</sup> These laws helped to prevent large organized operations from participating in interstate gambling activities, leaving states to regulate and control aspects of sports gambling as they saw fit within their borders.<sup>11</sup> This changed in 1992 with the enactment of PASPA.

#### *B. Professional Amateur Sports Protection Act of 1992*

The federal government currently regulates sports gambling as if we

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<sup>7</sup> 18 U.S.C. §1084 (2012).

<sup>8</sup> *Id.* §1084(a)

<sup>9</sup> Jeffrey Rodefer, Federal Wire Act, Gambling-Law-US.com, <http://www.gambling-law-us.com/Federal-Laws/wire-act.htm> (last visited April 30, 2017).

<sup>10</sup> See *Id.* (“The Wire Act complements other federal bookmaking statutes, such as the Travel Act (interstate travel in aid of racketeering enterprises, including gambling), the Interstate Transportation of Wagering Paraphernalia Act, and the Illegal Gambling Business Act (requires a predicate state law violation).”).

<sup>11</sup> See Rodefer, *supra* note 9; Jeffrey R. Rodefer, *Internet Gambling in Nevada: Overview of Federal Law*, 6 Gaming L. Rev. 393, 394 (2002).

live in the world as it was between 1976 and 1990. These dates are important in this context because the states that did not legalize sports gambling during that period are now barred from engaging in it because of PASPA.<sup>12</sup> PASPA was enacted in 1992. The main provision provides that:

“[i]t shall be unlawful for (1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact, or (2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of governmental entity, a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly, on one or more performances of such athletes in such games.”<sup>13</sup>

Four states, Nevada, Oregon, Montana, and Delaware, were grandfathered in as exceptions because they had some form of sports betting at the time of enactment.<sup>14</sup> The Act’s expressly stated purpose is “to prohibit sports gambling conducted by, or authorized under the law of, any state or other governmental entity.”<sup>15</sup>

One of the biggest proponents of PASPA was New Jersey Senator Bill Bradley, a former professional basketball player.<sup>16</sup> Bradley was concerned that state-sanctioned sports gambling would send the wrong message to children and injure the integrity of sport by causing fans to

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<sup>12</sup> Professional and Amateur Sports Protection Act, 28 U.S.C. §§3701-3704 (2006).

<sup>13</sup> *Id.* §3704

<sup>14</sup> *Id.* § 3704(a)(3)

<sup>15</sup> S. REP. NO. 102-248, at 3(1992), *reprinted in* 1992 U.S.C.C.A.N 3553, 3553.

<sup>16</sup> See Senator Bill Bradley, *The Professional and Amateur Sports Protection Act-Policy Concerns Behind Senate Bill 474*, 2 Seton Hall J. Sport L. 5 (1992).

believe matches were “fixed.”<sup>17</sup> Bradley “believed that ‘the harm that state-sponsored sports betting causes’-that is, threatening the integrity of sports in the eyes of both fans and young people-far outweighed the financial advantages received.<sup>18</sup> PASPA also received vocal support from the National Football League (“NFL”), the National Basketball Association (“NBA”), Major League Baseball (“MLB”), the National Hockey League (“NHL”) and the NCAA.<sup>19</sup> The commissioners of the major sports leagues believed that preventing state-sponsored sports gambling would reduce the overall activity of sports betting, thus decreasing the likelihood that a scandal could affect their leagues.<sup>20</sup>

### C. *Unlawful Internet Gambling Enforcement Act of 2006*

The Unlawful Internet Gambling Enforcement Act of 2006 (“UIGEA”)<sup>21</sup> was passed in response to the growing concern over Internet gambling and its threat to family values.<sup>22</sup> The purpose of the UIGEA is “to prevent the use of certain payment instruments, credit cards, and fund

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<sup>17</sup> Bradley, *supra* note 16 at 7-8.

<sup>18</sup> Anthony G. Galasso, Jr., Note, *Betting Against the House (and Senate): The Case for Legal, State-Sponsored Sports Wagering in a Post-PASPA World*, 99 KY. L.J. 163-166 (2011) (quoting Bradley, *supra* note 14, at 8).

<sup>19</sup> S. REP NO. 102-248, at 3, 8.

<sup>20</sup> As Commissioner Tagliabue testified, “Sports gambling threatens the character of team sports... With legalized sports gambling, our games instead will come to represent the fast buck, the quick fix, the desire to get something for nothing. The spread of legalized sports gambling would change forever- and for worse- what our games stand for and the way they are perceived.” S. Rep. No. 102-248, at 4.

<sup>21</sup> The Unlawful Internet Gambling Enforcement Act, 31 U.S.C. §5361-5367 (2006).

<sup>22</sup> Anthony Cabot, *Betting on the Budget: Can State Legislatures Go All In or Will the Federal Government Force Them to Fold?: The Absence of a Comprehensive Federal Policy toward Internet and Sports Wagering and a Proposal for Change*, 17 Vill. SPORTS & ENT. L.J. 271, 298-304 (2010).

transfers for unlawful Internet gambling.”<sup>23</sup> The UIGEA does this by making it illegal for financial institutions to conduct financial transactions for a person in the United States operating an Internet gambling site.<sup>24</sup> The UIGEA makes it a felony for those engaged in the business of betting or wagering to knowingly accept transactions made in participation of unlawful Internet gambling.<sup>25</sup>

#### CHALLENGING PASPA

PASPA received opposition from the Department of Justice (“DOJ”) and Iowa Senator Chuck Grassley at the time of its enactment.<sup>26</sup> Both Grassley and the DOJ felt that PASPA was a “substantial intrusion” into states’ rights, raising constitutional issues and violating the principles of freedom.<sup>27</sup> The DOJ argued that “determinations of how to raise revenue have typically been left to the states.”<sup>28</sup> Senator Grassley contended “if professional sports leagues were truly concerned about the risk of ‘fixed’ games and the integrity of professional sports... they would have sought to prohibit the \$1.8 billion head-to-head sports wagering industry in Nevada.”<sup>29</sup> Instead, the leagues supported a section of the legislation that allowed for a grandfather clause. In addition, the NBA held exhibition

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<sup>23</sup> H.R. 4411, 109th Cong. (2d Sess. 2006).

<sup>24</sup> 31. U.S.C. §5363 (2006).

<sup>25</sup> *Id.*

<sup>26</sup> S. Rep. No. 102-248 at 5.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 13.

<sup>29</sup> *Id.* at 14.

games in Nevada in the four years leading up to PASPA and Nevada gaming laws gave the NBA permission to prohibit wagering on these games, but the NBA chose to allow wagering to take place.<sup>30</sup> The main explanation that the leagues gave for allowing the grandfather clause to exist was their reluctance to “threaten Nevada’s economy, which had subsisted for decades on gambling revenue.”<sup>31</sup>

Since its inception in 1992, PASPA has rarely been examined in court.<sup>32</sup> In recent years, however, support has been growing to reexamine the statute and shift sports gambling legislation back to the states. The recent challenges to PASPA have been on both statutory grounds as well as constitutional grounds, yet both have been unsuccessful. In 2009, Delaware enacted legislation that allowed single-game wagering in addition to its lottery parlay.<sup>33</sup> While Delaware relied on the “grandfather clause” of PASPA, the Third Circuit held that “because single-game betting was not ‘conducted’ by Delaware between 1976 and 1990, such betting is beyond the scope of 3704(a)(1) of PASPA, and thus prohibited under the statute’s plain language.”<sup>34</sup> This ruling was based on statutory interpretation, while most recent challenges have been constitutional in nature.

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<sup>30</sup> S. Rep. No. 102-248, *supra* note 26 at 14.

<sup>31</sup> *Id.*

<sup>32</sup> The Supreme Court has heard only on PASPA-related case, *Greater New Orleans Broadcasting Ass’n v. U.S.*, 527 U.S. 173 (1999) (determining the advertising limits of local casino gambling under PASPA).

<sup>33</sup> *Office of the Comm’r of Baseball v. Markell*, 579 F.3d 293, 295-96 (3d Cir. 2009).

<sup>34</sup> *Id.* at 304.

In *Flager v. United States Attorney*, a private citizen of New Jersey challenged PASPA on the grounds that it violated the Tenth Amendment because “the power to outlaw sports wagering was not expressly granted to the federal government” by the Constitution.<sup>35</sup> The court did not address the Tenth Amendment claim and dismissed the case, holding that the plaintiff lacked standing to bring suit. In *Interactive Media Entertainment and Gaming Association, Inc. v. Holder*, Interactive Media Entertainment and Gaming Association, Inc. (“iMEGA”), New Jersey state senator Raymond Lesniak and the New Jersey horse-racing industry filed suit against the US attorney general, Eric Holder, claiming that PASPA was unconstitutional and violated the First, Fifth, Tenth, Eleventh, and Fourteenth Amendments in addition to the Commerce Clause and Equal Protection Clause.<sup>36</sup> iMEGA outlined three main arguments in support of their claim: 1) that Congress had exceeded the power vested in it through the Commerce Clause; 2) that PASPA violates the Equal Protection Clause of the Fourteenth Amendment; and 3) that PASPA does not pass constitutional muster because it violates the Tenth Amendment’s reservation of rights by the states.<sup>37</sup> Despite the extensive substantive arguments, the United States District Court for the

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<sup>35</sup> Galasso, *supra* note 18, at 170-171; *Flager v. U.S. Att’y*, No. 06-3699, 2007 WL 2814657, at 1 (D.N.J. Sept. 25, 2007).

<sup>36</sup> *Interactive Media Entm’t & Gaming Ass’n v. Holder*, No. 09-1301, 2011 WL 802106, at 1-2 (D.N.J. Mar. 7, 2011).

<sup>37</sup> *Id.*

District of New Jersey dismissed the lawsuit for lack of standing.<sup>38</sup>

The lack of standing in previous cases centered on the fact that no legislation existed that could provide relief for the claims. In each challenge, the plaintiffs had not suffered any injury, resulting in the lack of standing. In response, New Jersey legislature agreed to propose to the electorate an amendment to the state constitution that would authorize the state to regulate sports wagering.<sup>39</sup> The amendment was approved by sixty-four percent of New Jersey voters.<sup>40</sup> The Third Circuit found that PASPA is a valid exercise of Congress's Commerce Clause power, that PASPA does not violate the anti-commandeering principle of the Tenth Amendment, and does not violate the doctrine of equal sovereignty.<sup>41</sup>

While New Jersey Governor Chris Christie has acknowledged the possibility of petitioning the U.S. Supreme Court to take up the case, it would be a dubious use of state money. A more practical alternative would give legislatures the opportunity to act proactively and repeal PASPA consistent with modern day America. The sports leagues softened stance regarding sports gambling and PASPA's ineffectiveness in achieving its core purposes show the public acceptance of sports gambling within today's society. In addition, repealing PASPA would benefit both states and the

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<sup>38</sup> *Holder*, No. 09-1301, 2011 WL 802106, at 1-2.

<sup>39</sup> S. Con. Res. 132, 214th Leg., 1st Sess. (N.J. 2010).

<sup>40</sup> Christopher L. Soriano, *The Efforts to Legalize Sports Betting in New Jersey- A History*, N.J. Law., Apr. 2013, at 22, 24.

<sup>41</sup> NCAA II, 730 F. 3d 208 (3d. Cir. 2013)(No. 13-1715)

federal governments, which stand to benefit greatly from the potential tax revenue.

#### SPORTS LEAGUES SOFTENING THEIR STANCE

In 1992, when PASPA was enacted, all the major sports leagues were vocal in their support of the Act. Paul Tagliabue, former commissioner of the NFL, testified before Congress that “sports gambling threatens the integrity of, and public confidence in, amateur and professional sports.”<sup>42</sup> Not all of the sports leagues have publicly jumped on board for change in legislation but there is substantial evidence that their stances have significantly softened. The NHL voted to create an expansion team in Las Vegas that is set to begin play in the 2017-2018 season. Additionally, the NFL owners recently voted 31-1 to approve a move from the Oakland to Las Vegas for one of its signature franchises, the Raiders.<sup>43</sup> MLB commissioner Rob Manfred recently stated that the Las Vegas would “be on the list if we were looking at relocation or expansion.”<sup>44</sup> While those three leagues have either already approved of a move, or openly voiced their desire to enter the Las Vegas market, the NBA already holds its annual summer league games in Las Vegas, and commissioner Adam Silver has

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<sup>42</sup> NCAA II, 730 F. 3d 208, at 5.

<sup>43</sup> NFL Approves Raiders’ Move to Las Vegas, <http://money.cnn.com/2017/03/27/news/nfl-raiders-las-vegas-move/> (last visited April 30, 2017).

<sup>44</sup> Commissioner Rob Manfred Discusses the Odds of an MLB Franchise in Las Vegas, <http://www.foxsports.com/mlb/story/las-vegas-rob-manfred-commissioner-relocation-expansion-raiders-golden-knights-042017> (last visited April 30, 2017).

been one of the biggest advocates in favor of legalizing sports gambling.<sup>45</sup>

In addition to the willingness of each major professional sports league to expand to Las Vegas, each has also established partnerships with foreign-based companies with a strong presence in the sports gambling industry. The NFL, NBA and NHL have deals with Sportradar, a Switzerland-based conglomerate that is a parent company of Betradar, a major player in the global sports betting industry.<sup>46</sup> The MLB has a partnership with Genius Sports, a multi-faceted gambling data firm located in London.<sup>47</sup> Even the NCAA has a commercial affiliation with Sportradar, with the Pac-12 conference using the services in CG Analytics, a subsidiary of a prominent Nevada sportsbook.<sup>48</sup>

These partnerships represent a profound shift in the leagues' position on line monitoring, the task of tracking gambling data in an attempt to identify unusual moves or unnatural money. As recently at 2007, representatives of the NBA, NCAA, NHL and NFL sent a letter to Congress dismissing the value of line monitoring.<sup>49</sup> Game integrity concerns, which is often cited as a reason to oppose regulated sports betting, are now

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<sup>45</sup> *Legalize and Regulate Sports Betting*, <https://www.nytimes.com/2014/11/14/opinion/nba-commissioner-adam-silver-legalize-sports-betting.html> (last visited April 30, 2017).

<sup>46</sup> David Purdum & Ryan Rodenburg, *Future of Sports Betting: The Marketplace*, [http://www.espn.com/chalk/story/\\_/id/17892685/the-future-sports-betting-how-sports-betting-legalized-united-states-the-marketplace-look-like](http://www.espn.com/chalk/story/_/id/17892685/the-future-sports-betting-how-sports-betting-legalized-united-states-the-marketplace-look-like) (last visited April 30, 2017).

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

increasingly being used as a reason to support legalized sports wagering, given the ability to track statistical data.

The leagues softened stance and support for legalized sports gambling has never been more prominent than it is today. A majority of the major sports leagues in the United States have invested into daily fantasy sports companies. The NBA is an investor in FanDuel, while the MLB, NHL and Major League Soccer (“MLS”) have all partnered with DraftKings.<sup>50</sup> With the UIGEA aimed at cracking down on online gambling, the willingness of professional sports leagues to invest in online daily fantasy sports websites shows a willingness to adapt to the modern trend in society.

#### INEFFECTIVENESS OF PASPA

In addition to the softened stance of the once biggest advocates of PASPA, the federal statutes ineffectiveness to accomplish its goals further supports the need to repeal. PASPA has three primary goals: 1) “to prohibit sports gambling conducted by, or authorized under the law of, any state or governmental entity”; 2) maintain sport’s integrity; and 3) reduce the promotion of gambling to youth.<sup>51</sup> Since its enactment, PASPA has failed to achieve each of its intended purposes.

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<sup>50</sup> *Sports Leagues and Daily Fantasy: What’s at Stake?*, <http://www.pbs.org/wgbh/frontline/article/sports-leagues-and-daily-fantasy-whats-at-stake/> (last visited April 30, 2017).

<sup>51</sup> S. REP. NO. 102-248, at 5 (1992).

PASPA has failed to prevent the overall spread of sports gambling since its inception. The Internet was in its infancy in 1992 and has evolved at a rapid pace ever since. The sports gambling industry has undoubtedly increased dramatically in the United States since 1992. The technological advances of the Internet and the e-commerce industry have led to proliferation of offshore sportsbooks and gambling websites accessible to bettors worldwide, including the United States. There are approximately eighty-five countries, including the United Kingdom, France, and Italy that offer legal but regulated sports betting.<sup>52</sup> These jurisdictions offer unique online gambling services, including sportsbooks, accessible to anyone with Internet connection. A clear illustration of the growth of sports gambling since 1992 can be seen clearly when looking at America's biggest sport event, the Super Bowl. In 1992, \$50.3 million was legally wagered on the Super Bowl.<sup>53</sup> In 2017, by contrast, \$148.5 million was wagered legally on the Super Bowl in the state of Nevada alone.<sup>54</sup> According to Forbes, over \$4.7 billion was bet on the 2017 Super Bowl illegally, nearly 97% of all wagers.<sup>55</sup> Despite PASPA's aims, the advent of Internet sportsbooks has

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<sup>52</sup> David O. Stewart, *Online Gambling Fiver Years after UIGEA 4* (Am. Gaming Ass'n., 2011).

<sup>53</sup> Jimmy Boyd, *How Much Money is Bet on the Super Bowl*, Jimmy Boyd's Locksmith Sports Picks (April 30, 2017). <https://www.boydsbets.com/super-bowl-how-much-bet/>

<sup>54</sup> *Id.*

<sup>55</sup> Darren Heitner, *\$4.5 Will Be Wagered Illegally on Super Bowl 51* (April 30, 2017). <https://www.forbes.com/sites/darrenheitner/2017/01/31/4-5-billion-will-be-wagered-illegally-on-super-bowl-51/#6a917822217f>

significantly increased the levels of sports gambling activity in this country. There is no federal law that punishes the individual who places the bet; just the people who are taking the bets are subject to liability under the current laws. It is also imperative to look at the growth of sports gambling through the mainstream media. From sports announcers giving their “picks of the week” on television to major newspapers and sports websites now offering betting lines and gambling advice to their followers, the progression of gambling within society has never been more evident.

Even with the increase in sports gambling activity, the integrity of professional and amateur sports has remained intact with the help of technology, while popularity and revenues are at an all-time high.<sup>56</sup> Legislatures believed PASPA would protect the integrity of sports and prevent sports-related scandals regarding gambling. However, since PASPA’s enactment, there have been several episodes of point shaving that would lead one to believe the integrity of sport will always be challenged, regardless of whether sports gambling is legal.<sup>57</sup> Nevada’s sports books

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<sup>56</sup> For example, revenues for the National Football League in 2010 are estimated to be at \$9 billion compared to \$1.2 billion in 1990. Compare Sports Industry Overview, Plunkett Research, Ltd., [http:// www.plunkettresearch.com/sports-recreation-leisure-market-research/industry-statistics](http://www.plunkettresearch.com/sports-recreation-leisure-market-research/industry-statistics) (April 30, 2017), with Dcrepancies in N.F.L. Revenue, N.Y. Times (July 2, 1992), [http:// www.nytimes.com/1992/07/02/sports/discrepancies-in-nfl-revenue.html](http://www.nytimes.com/1992/07/02/sports/discrepancies-in-nfl-revenue.html).

<sup>57</sup> Yang-Ming Chang & Shane Sanders, *Corruption on the Court: The Causes and Social Consequences of Point-Shaving in NCAA Basketball*, 5:1 REV. L. & ECON. 272 (2009), available at <https://www.k-state.edu/economics/staff/websites/chang/publications/RLE-09%20Corruption%20on%20the%20Court.pdf> (noting the Arizona State and Northwestern

have played an integral role in detecting and reporting unusual betting patterns that could dictate point shaving to the NCAA and FBI.<sup>58</sup> In 2007, game fixing made its way to the NBA when it was discovered that one of its referees, Tim Donaghy, who had officiated games for thirteen years, was placing bets on NBA games, including games that he officiated.<sup>59</sup> While this shows that PASPA has been ineffective of protecting the integrity of the game, with the expansion of legalized sports gambling, the integrity of the game would be even more protected than it is today.

The National Gambling Impact Study Commission acknowledges many advocates who argue that “the introduction of legalized, but regulated, gambling would in fact undermine illegal gambling and the organized crime it supports.”<sup>60</sup> Professional sports leagues are increasingly of belief that a regulated sports betting market that allows wagers to be transparently tracked would actually help protect the integrity of their games, not hurt it.<sup>61</sup> This is consistent with recent partnerships with big data companies by the professional sports leagues, representing a profound shift in the leagues’ position on line monitoring, the task of tracking gambling

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men’s basketball point shaving scandals)

<sup>58</sup> *Id.*

<sup>59</sup> *60 Minutes: Personal Foul* (CBS television broadcast Dec. 3, 2009), available at <http://www.cbsnews.com/video/watch/?id=5914330n>.

<sup>60</sup> Nat’l Gambling Impact Study Comm’n: Final Report 1-5 (1999),

<sup>61</sup> David Purdum & Ryan Rodenberg, *Future of Sports Betting: The Pitfalls*, <http://abcnews.go.com/Sports/future-sports-betting-pitfalls/story?id=43633226> (April 30, 2017).

data in an attempt to identify unusual moves or unnatural money.<sup>62</sup>

While Congress was concerned that “state-sanctioned sports gambling would promote gambling among the nation’s young people,”<sup>63</sup> they did not anticipate the rapid growth of the Internet and the impact it would have on the country’s youth. The Internet has made everything more accessible, including gambling. In addition, the age of the Internet allows an individual to hide behind a screen, making it nearly impossible to enforce age restrictions. The main issue with online sportsbooks is that they operate unregulated. A recent Common Sense Media study revealed that teenagers spend about nine hours per day on the Internet.<sup>64</sup> Furthermore, CRC Health recently concluded that 70% of teens admit to some form of gambling, while one in three high school students gambles on a regular basis.<sup>65</sup> If PASPA were repealed, and states were allowed to regulate sports gambling, they would be able to impose strict age restrictions that would alleviate the teenage gambling problem, as well as provide education regarding the potential harms of gambling. It is clear that since PASPA’s inception in 1992, the federal statute has proved to be ineffective in accomplishing its three main goals.

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<sup>62</sup> Rodenberg, *supra* note 61.

<sup>63</sup> S. REP. NO. 102-248, at 5 (1992).

<sup>64</sup> The Common Sense Census: Media Use by Tweens & Teens (November 3, 2015), <http://www.common sense media.org/the-common-sense-census-media-use-by-tweens-and-teens-infographic#>

<sup>65</sup> CRC Health, Recognizing Teen Gambling Addiction, <http://www.crchealth.com/addiction/gambling-addiction-treatment/teen-gambling/> (April 30, 2017).

## ECONOMIC BENEFITS OF LEGALIZED SPORTS GAMBLING

Given the United States' current economic predicament and shrinking state budgets, tax revenue from sport gambling could help solve many problems and keep vital state funded programs afloat. Legalized sports gambling can be extremely profitable for both state and local governments, as these governments would experience significant tax revenue and job creation. It is estimated that \$380 billion is wagered illegally on sports each year.<sup>66</sup> This money is continually siphoned away illegally, unregulated and untaxed. Gambling Compliance Research Services (GCRS) released a research note predicting that the United States would earn nearly \$12 billion in revenue if legalized sports betting extended beyond Nevada.<sup>67</sup> Based on the current system, sports gambling generates less than \$300 million in revenue in the United States.<sup>68</sup>

Besides tax revenue, the most direct economic impact legalized sports wagering would have is job creation. According to Gamble Aware, a non-profit organization dedicated to gambling education, the United Kingdom's sports betting industry directly and indirectly supports over 100,000 employment opportunities, many of which require few formal

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<sup>66</sup> 2016 State of the States, The AGA Survey of the Casino Industry (April 30, 2017), [https://www.americangaming.org/sites/default/files/2016%20State%20of%20the%20States\\_FINAL.pdf](https://www.americangaming.org/sites/default/files/2016%20State%20of%20the%20States_FINAL.pdf)

<sup>67</sup> Leonard Postrado, *Legal Sports Betting Expansion to Reap US \$11.9B in Revenue*, <https://calvinayre.com/2016/09/07/business/legal-sports-betting-expansion-to-reap-us-11-9b-in-revenue-study/>

<sup>68</sup> *Id.*

qualifications.<sup>69</sup> If the United States legalizes sports gambling and regulates it in a manner similar to the United Kingdom, an abundance of jobs would become available. The Department of Labor estimates that “gaming and sports book writers and runners accounted for 14,790 jobs nationwide in 2009, and a vast majority of which were employed in Nevada.”<sup>70</sup> With the widespread unemployment issue severely impacting the United States, legalized sports gambling can help solve one of the main issues facing our country today.

#### CONCLUSION

In the twenty-five years since the enactment of PASPA, it has become clear that legislatures need to repeal the federal statute and implement modern laws and regulations to control sports gambling. Many factors have contributed to the need to reevaluate the current sports gambling legislation, including technological advances, change in public perception, newfound support from professional sports leagues, and the need for fiscal revenues. PASPA has been wholly ineffective in accomplishing its purpose dating back to 1992. While the statute was intended to prevent the spread of sports gambling throughout the United

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<sup>69</sup> Gambling Facts and Figures, Gamble Aware, <https://www.begambleaware.org/understand-more-about-gambling/how-is-gambling-regulated/> (April 30, 2017).

<sup>70</sup> See Occupational Employment and Wages for Gaming and Sports Book Writers and Runners, U.S. Dep’t of Labor: Bureau of Labor Statistics, May 2008, available at <https://www.bls.gov/oes/current/oes393012.htm>.

States, its popularity has never been as widespread as it is today. Despite the surge of sports betting in the United States, the integrity of professional and amateur sports leagues has remained intact. Furthermore, the desire to protect the youth has had a damaging effect, as teenagers are easily able to engage in sports gambling by hiding behind the Internet. Online sportsbooks currently lack regulation and enforceable age restrictions. The potential revenue that legalized and regulated sports gambling could provide state and local governments is further reason to repeal PASPA and create new legislation.

Many states have the desire to control and regulate sports betting activities within their borders. Instead of fighting PASPA through judicial means, which has proven ineffective, lawmakers should focus their energies on federal legislators in Washington to work towards a repeal or modification of PASPA.