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HORSE RACING

- The Interstate Horseracing Act
 - * The operative sections
 - * 15 U.S.C. § 3002. Definitions - ...
 - * (3) "interstate off-track wager" means a legal wager placed or accepted in one State with respect to the outcome of a horserace taking place in another State and includes pari-mutuel wagers, where lawful in each State involved, placed or transmitted by an individual in one State via telephone or other electronic media and accepted by an off-track betting system in the same or another State, as well as the combination of any pari-mutuel wagering pools.

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HORSE RACING

- The Interstate Horseracing Act
 - * The operative sections:
 - 15 U.S.C. § 3003. Acceptance of interstate off-track wager
 - * No person may accept an interstate off-track wager except as provided in this chapter.
 - 15 U.S.C. § 3004. Regulation of interstate off-track wagering
 - * (a) Consent of host racing association, host racing commission, and off-track racing commission as prerequisite to acceptance of wager

An interstate off-track wager may be accepted by an off-track betting system only if consent is obtained from—

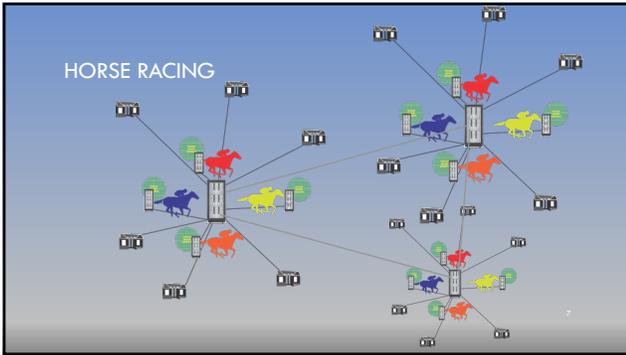
 - (1) the host racing association, except that—

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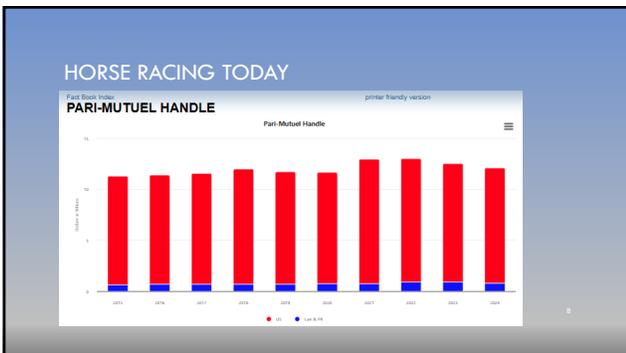
HORSE RACING

- The Interstate Horseracing Act
 - * The operative sections:
 - 15 U.S.C. § 3004. Regulation of interstate off-track wagering
 - * (b) Approval of tracks as prerequisite to acceptance of wager; exceptions
 - * (1) In addition to the requirement of subsection (a) of this section, any off-track betting office shall obtain the approval of—
 - * (A) all currently operating tracks within 60 miles of such off-track betting office; and
 - * (B) if there are no currently operating tracks within 60 miles then the closest currently operating track in an adjoining State.

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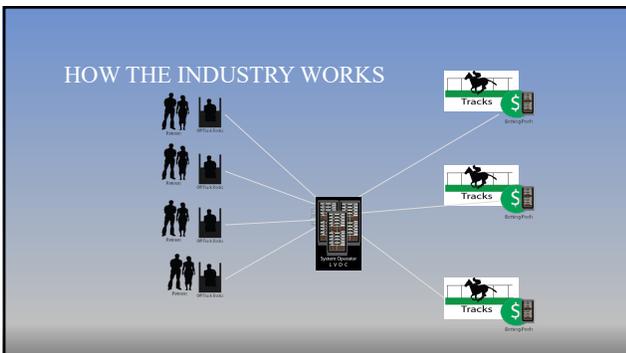
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Year	On Track	Off Track	Total	% Change
1990	-	-	9,388	1.1
1991	-	-	9,460	0.8
1992	-	-	9,839	3.9
1993	-	-	9,950	1.1
1994	-	-	9,987	0.4
1995	-	-	10,029	0.4
1996	2,444	8,883	11,327	21.8
1997	2,328	8,839	11,167	-1.4
1998	2,498	8,871	11,369	1.8
1999	2,396	8,966	11,362	-0.1
2000	2,270	10,281	12,551	10.5
2001	2,172	12,427	14,599	16.3
2002	2,008	13,238	15,246	4.4
2003	2,029	13,033	15,062	-1.2
2004	1,921	13,274	15,195	0.9
2005	1,825	13,457	15,282	0.6
2006	1,741	13,520	15,261	-0.1
2007	1,675	13,065	14,740	-3.4
2008	1,439	12,173	13,612	-7.4
2009	1,328	11,962	13,290	-2.4
2010	1,198	10,220	11,418	-12.7
2011	1,228	9,844	11,072	-3.0
2012	1,158	9,843	10,999	-0.7
2013	1,115	9,882	10,997	-0.0
2014	1,178	8,777	9,955	-9.5
2015	1,221	8,643	9,864	-0.9
2016	1,258	8,888	10,146	2.8
2017	1,241	8,992	10,233	0.8
2018	999	10,288	11,287	10.2
2019	811	10,427	11,238	-0.4
2020	671	11,545	12,216	8.7
2021	892	12,174	13,066	7.0
2022	741	12,174	12,915	-1.1
2023	790	10,848	11,638	-10.7
2024	790	10,848	11,638	-0.0

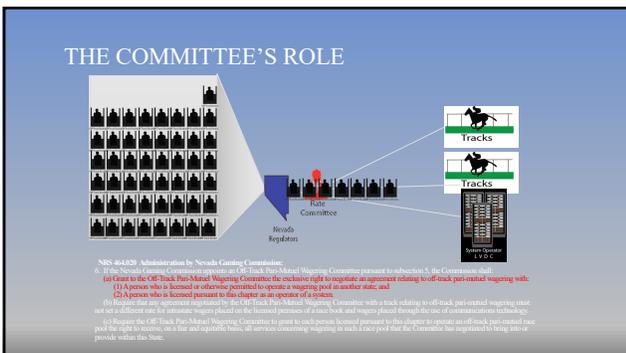
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THE COMMITTEE'S ROLE

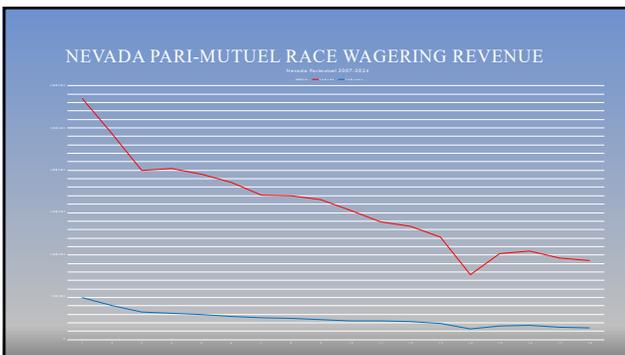
NRS 444.020 Administration by Nevada Gaming Commission:
 6. The Nevada Gaming Commission shall appoint an Off-Track Pari-Mutuel Wagering Committee pursuant to subsection 5, the Commission shall:
 (a) Grant to the Off-Track Pari-Mutuel Wagering Committee the exclusive right to negotiate an agreement relating to off-track pari-mutuel wagering with:
 (1) A person who is licensed or otherwise permitted to operate a wagering pool in another state; and
 (2) A person who is licensed pursuant to this chapter as an operator of a pool;
 (b) Require that any agreement negotiated by the Off-Track Pari-Mutuel Wagering Committee with a track relating to off-track pari-mutuel wagering meet certain conditions such as minimum wager placed on the licensed premises of a track book and wagers placed through the use of communications technology;
 (c) Require the Off-Track Pari-Mutuel Wagering Committee to grant to each person licensed pursuant to this chapter to operate an off-track pari-mutuel race pool the right to receive, on a fair and equitable basis, all services concerning wagering in such a race pool that the Commission has negotiated to being, since it provide, within this State.

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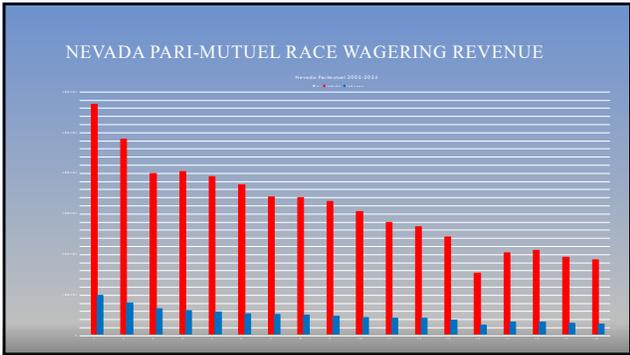
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HISTORY OF SPORTS WAGERING

Meanwhile, in the 1800s a new game in America was growing in popularity. Baseball was becoming a national past time to rival horse racing. Just as with horse racing, wagering on baseball was not uncommon.

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HISTORY OF SPORTS WAGERING

In the 1800s there was a relaxed attitude toward betting on baseball. For example, in 1894, the Washington Post reported that "Uncle Anson (Manager of the Chicago Colts) has already started making wagers on the position the Chicago Colts will have in the race for the National League Pennant next year. He put up \$100 a few days ago that his team would finish higher up in the race than the Pittsburgh Pirates."

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HISTORY OF SPORTS WAGERING

In the late 1800s and early 1900s, sports wagering was generally an acceptable form of unregulated wagering.



Since the time baseball became a spectator sport, there were allegations of cheating and match fixing. By the time of the turn of the 20th Century, the term "hippodroming" became part of the lexicon to reference games exhibited or fixed for gambling purposes.

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HISTORY OF SPORTS WAGERING



In 1919, the Chicago White Sox were one of the best teams in baseball.

The team had won a championship in 1917, and in 1919 it was expected to do so once again.

While the Chicago White Sox were good, their owner, Charles Comiskey, was well known for his miserly ways, and it was well known that players were underpaid.

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HISTORY OF SPORTS WAGERING

In 1919, baseball player contracts had a reserve clause that prevented players from negotiating or playing for other teams.

Thus, the underpaid Chicago Whitesox players had no bargaining power for higher wages, despite the fact that their performance was superior to most players in the league.

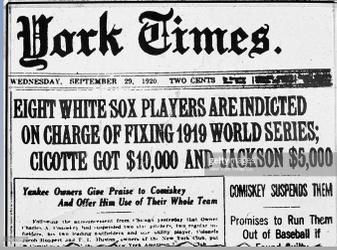


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HISTORY OF SPORTS WAGERING

The Chicago White Sox lost the 1919 world series, and many speculated that key players threw the series in order to get a payoff from a bookmaker.



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HISTORY OF SPORTS WAGERING

In the early 20th century Nevada saw the growth of Turf Clubs and sports books. Turf Clubs were stand alone sports betting locations (not part of a Casino).



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HISTORY OF SPORTS WAGERING

Meanwhile, many other states were quick to prohibit sports wagering and bookmaking.

Pennsylvania Title 18 § 3301. Pool betting and bookmaking.
A person is guilty of a misdemeanor of the first degree if
he:
(1) engages in pool betting or bookmaking;
(2) engages any person for the purpose of conducting, maintaining or registering bets or money, or of selling tickets;
(3) receives, obtains, negotiates, forwards, or purports to forward to himself, to another, any bet or money upon the result of any political contest, appointment or election, or upon any contest of any nature;
(4) obtains the titleholder or beneficiary, the date or date, of any property contest, election or poll, or to be

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HISTORY OF SPORTS WAGERING

Florida - Chapter 849.25 "Bookmaking" defined; penalties; exceptions.

(1)(a) The term "bookmaking" means the act of taking or receiving, while engaged in the business or profession of gambling, any bet or wager upon the result of any trial or contest of skill, speed, power, or endurance of human, beast, fowl, motor vehicle, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event whatsoever.

(b) The following factors shall be considered in making a determination that a person has engaged in the offense of bookmaking:

1. Taking advantage of betting odds intended to produce a profit for the bookmaker or changing a percentage on accepted wagers.
2. Placing all or part of accepted wagers with other bookmakers to reduce the chance of financial loss.
3. Taking or receiving more than five wagers in any single day.
4. Taking or receiving wagers totaling more than 2000 in any single day, or more than \$1,500 in any single week.
5. Engaging in a common scheme with two or more persons to take or receive wagers.
6. Taking or receiving wagers on both sides or a contest at the identical point spread.
7. Any other factor relevant to establishing that the operating procedures of such person are commercial in nature.

(c) The existence of any two factors listed in paragraph (b) may constitute prima facie evidence of a commercial bookmaking operation.

(d) Any person who engages in bookmaking shall be guilty of a felony of the third degree, punishable as provided in s. 823.01, 823.02, or 823.03, notwithstanding the provisions of s. 819.04, any person convicted

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PASPA

§ 3702. Unlawful sports gambling

"It shall be unlawful for—

(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact, or

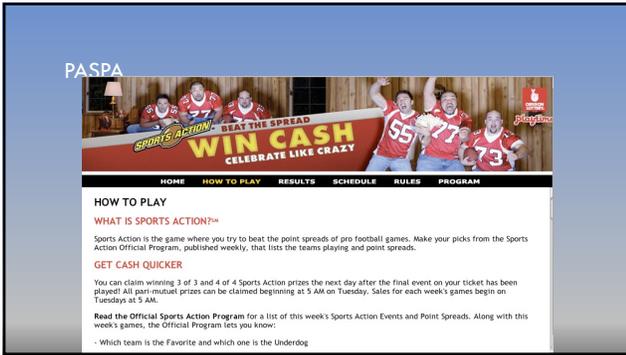
(2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity, a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographical references or otherwise), on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.

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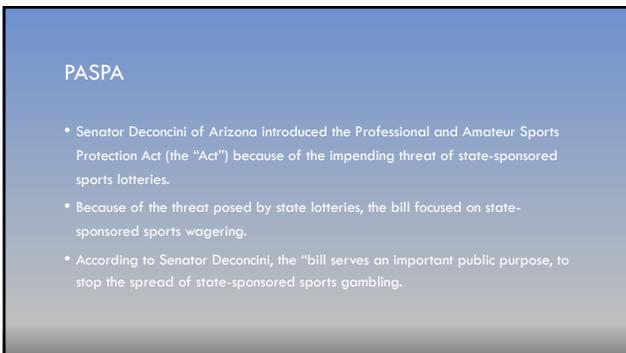
PASPA

- Professional and Amateur Sports Protection Act

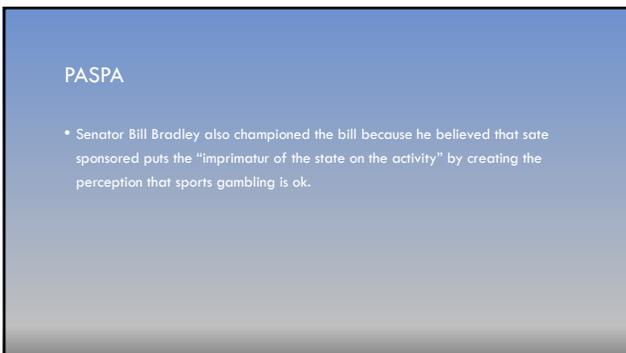
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PASPA

- Sec. 3702. Unlawful sports gambling
- It 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 a governmental entity, a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographical references or otherwise), on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.

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PASPA

- Sec. 3704. Applicability
- Section 3702 shall not apply to -
- (1) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity, to the extent that the scheme was conducted by that State or other governmental entity at any time during the period beginning January 1, 1976, and ending August 31, 1990;

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PASPA

- Sec. 3704. Applicability
- Section 3702 shall not apply to -
- (1) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity, to the extent that the scheme was conducted by that State or other governmental entity at any time during the period beginning January 1, 1976, and ending August 31, 1990;

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PASPA

- Sec. 3704. Applicability
 - Section 3702 shall not apply to -
 - (2) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity where both -
 - (A) such scheme was authorized by a statute as in effect on October 2, 1991; and
 - (B) a scheme described in section 3702 (other than one based on parimutuel animal racing or jai-alai games) actually was conducted in that State or other governmental entity at any time during the period beginning September 1, 1989, and ending October 2, 1991, pursuant to the law of that State or other governmental entity;

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PASPA

- Sec. 3704. Applicability
 - Section 3702 shall not apply to -
 - (3) a betting, gambling, or wagering scheme, other than a lottery described in paragraph (1), conducted exclusively in casinos located in a municipality, but only to the extent that -
 - (A) such scheme or a similar scheme was authorized, not later than one year after the effective date of this chapter, to be operated in that municipality; and
 - (B) any commercial casino gaming scheme was in operation in such municipality throughout the 10-year period ending on such effective date pursuant to a comprehensive system of State regulation authorized by that State's constitution and applicable solely to such municipality; or
 - (4) parimutuel animal racing or jai-alai games.

https://azrules.be/19_WK51d_4

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PASPA

- States that fall within the exemption:
 - Nevada
 - Delaware
 - Montana
 - Oregon
 - Maybe New Jersey*

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PASPA

- New Jersey



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PASPA

- Delaware
 - Delaware has a broad-based lottery statute.
 - Delaware engaged in offering a lottery product in the 1970s and 1980s that based the outcome of the wager on NFL games.
 - National Football League v. Governor of State of Del 435 F.Supp. 1372 (D. Del. 1977).

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PASPA

- Delaware
 - National Football League v. Governor of State of Del 435 F.Supp. 1372 (D. Del. 1977).
 - In August 1976, the Office of the Delaware State Lottery announced a plan to institute a lottery game based on games of the National Football League ("NFL"). Immediately thereafter, the NFL and its twenty-eight member clubs filed suit in this Court against the Governor and the Director of the State Lottery seeking preliminary and permanent injunctive relief barring such a lottery scheme. The State of Delaware intervened, and the complaint was amended to add a request that the Court create a constructive trust on behalf of the NFL clubs of all revenues derived from such a lottery. Finding no threat of immediate irreparable injury to the NFL, the Court denied the prayer for a temporary restraining order.

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PASPA

- Delaware
- Delaware football lottery is known as "Scoreboard" and it involves three different games, "Football Bonus", "Touchdown" and "Touchdown II". All are weekly games based on regularly scheduled NFL games. In Football Bonus, the fourteen games scheduled for a given weekend are divided into two pools of seven games each. **A player must mark the lottery ticket with his or her projections of the winners of the seven games in one or both of the two pools** and place a bet of \$1, \$2, \$3, \$5 or \$10. To win Football Bonus, the player must correctly select the winner of each of the games in a pool. If the player correctly selects the winners of all games in both pools, he or she wins an "All Game Bonus". The amounts of the prizes awarded are determined on a pari-mutuel basis, that is, as a function of the total amount of money bet by all players.
- In Touchdown, the lottery card lists the fourteen games for a given week along with three ranges of possible point spreads. **The player must select both the winning team and the winning margin in each of three, four or five games**. The scale of possible bets is the same as in Bonus and prizes are likewise distributed on a pari-mutuel basis to those who make correct selections for each game on which they bet.
- Touchdown II, the third Scoreboard game, was introduced in mid-season and replaced Touchdown for the remainder of the season. **In Touchdown II, a "line" or predicted point spread on each of twelve games is published on the Wednesday prior to the games. The player considers the published point spread and selects a team to "beat the line", that is, to do better in the game than the stated point spread.** To win, the player must choose correctly with respect to each of from four to twelve games. Depending upon the number of games bet on, there is a fixed payoff of from \$10 to \$1,200. There is also a consolation prize for those who beat the line on nine out ten, ten out of eleven or eleven out of twelve games.

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PASPA

- Delaware
 - Section 3702 shall not apply to –
 - (1) a lottery, sweepstakes, or other betting, gambling, or **repeating scheme** in operation in a State or other governmental entity, to the extent that the scheme was conducted by that State or other governmental entity at any time during the period beginning January 1, 1976, and ending August 31, 1990.

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PASPA

- MLB vs. Markell
 - Facts
 - Delaware had a state lottery with football betting in 1976
 - Delaware ended its football betting lottery in 1977
 - In 1992 PASPA is enacted
 - In March 2009 Delaware enacts legislation to engage in broad based sports betting through the lottery
 - On July 24, 2009, the NFL, MLB, NHL, NBA and NCAA join in suit to prevent the operation of the expansion of the Delaware lottery.
 - On July 25, 2009, the NFL asked for an order to shorten time, a discovery conference, and at that conference asked for a preliminary injunction and resolution to the matter.

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PASPA

- MLB vs. Markell
 - Facts
 - On July 24, 2009, the NFL, MLB, NHL, NBA and NCAA join in suit to prevent the operation of the expansion of the Delaware lottery.
 - On July 25, 2009, the NFL asked for an order to shorten time, a discovery conference, and at that conference asked for a preliminary injunction and resolution to the matter.
 - On July 29, 2009 the District Court held the conference at which the NFL offered to have the court decide the matter on its pleadings.
 - On August 10, the District Court held against the NFL.
 - On August 7, the NFL appealed the expected district court ruling against its motion for a preliminary injunction.

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PASPA

- MLB vs. Markell
 - Facts
 - On August 13, the 3rd Circuit granted the NFL's motion for an expedited appeal and held a hearing on August 24.
 - On August 24th, the Third Circuit conducted the hearing.

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PASPA

- MLB vs. Markell
 - What was at issue for the appeal?

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PASPA

- MLB vs. Markell
 - What was at issue for the appeal?

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PASPA

- MLB vs. Markell
 - What was at issue for the appeal?
 - We begin, as always, by considering whether we have jurisdiction to hear this appeal. The Leagues claim we have jurisdiction under 28 U.S.C. § 1292(a), which provides: "courts of appeals shall have jurisdiction of appeals from: (1) Interlocutory orders of the district courts . . . granting, continuing, modifying, refusing, or dissolving injunctions." (emphasis added).
 - The State disagrees, arguing that we must apply the test set forth in *Carson v. American Brands, Inc.*, 450 U.S. 79 (1981), which requires the Leagues to show that the District Court's denial of the motion for preliminary injunction (1) will have a serious, perhaps irreparable, consequence; and (2) can be effectively challenged only by immediate appeal.

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PASPA

- MLB vs. Markell
 - What did the court believe was the scope of its jurisdiction?
 - We have adopted a broad view of appellate jurisdiction under this section.
 - ... Moreover, we have held that "[w]hen an appeal is taken from an order made appealable by statute, we have all the powers with respect to that order....Accordingly, we have broad authority to decide this case as appropriate under § 2106.
 - Having determined that we have authority to address all aspects of this case, we must determine whether it is proper to exercise that authority.
 - Thus, although this appeal arises from a ruling on a preliminary injunction, we have before us an unusually complete factual and legal presentation from which to address the important constitutional issues at stake. The customary discretion accorded to a district court's ruling on a preliminary injunction yields to our plenary scope of review as to the applicable law.

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PASPA

- MLB vs. Markell
 - The balancing of the harms?
 - Because we reach the merits of this case, we need not consider the parties' arguments regarding irreparable harm and the balancing of the equities.

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PASPA

- MLB vs. Markell
 - PASPA INTERPRETATION?
 - Delaware's Argument:
 - Delaware contends that its sports betting scheme qualifies for the exception in § 3704(a)(1), claiming: "[t]he plain language of the pertinent PASPA exemption allows Delaware to reintroduce a sports lottery under State control because Delaware conducted such a scheme at some time between January 1, 1976, and August 31, 1990." Del. Br. at 3. The State also contends that the exemption "is broad in scope, and nowhere states that it restricts Delaware to operating particular lottery games for a particular sport."

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PASPA

- MLB vs. Markell
 - PASPA INTERPRETATION?
 - NFL's Argument:
 - In contrast to Delaware's argument, the Leagues contend that the exception in § 3704(a)(1) applies only to lotteries or other schemes "to the extent" that such lottery or scheme "was conducted" by the State between January 1, 1976 and August 31, 1990. The Leagues insist that it is not sufficient that a particular lottery may have been contemplated, or even authorized, but rather we must consider the specific means by which the lottery was actually conducted.

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PASPA

- MLB vs. Markell
 - PASPA INTERPRETATION
 - The Court's View:
 - We agree with the Leagues' interpretation. As the exception found at § 3704(a)(2) makes clear, there is a distinction between wagering schemes that were merely "authorized" and those that were "conducted." See 28 U.S.C. § 3704(a)(2) (which applies to a wagering scheme that was both (i) "authorized by a statute as in effect on October 2, 1991," and (ii) "actually was conducted during the period beginning September 1, 1989 and ending on October 2, 1991"). Whatever the breadth of the lottery authorized by Delaware state law in 1976, PASPA requires us to determine "the extent" — or degree — to which such lottery was conducted. We cannot hold — as the State impliedly suggests — that Congress meant to confute "authorized" and "conducted."

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PASPA - NJ

- In 2011 - NJ holds a referendum on a statewide ballot to amend its constitution to permit wagering on college, amateur, and professional sports at casinos in Atlantic City and at racetracks.
- In 2012, the NJ legislature enacted statutes to comply with the referendum.
- In 2012 the sports leagues, with the NFL in the forefront filed for injunctive relief under PASPA

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PASPA - NJ

- In 2012 – The Sports Leagues Win the Injunction
- In 2012 – The 3rd Circuit Court of Appeals Upholds
- In 2013 – Cert Denied
- In 2014 – New Jersey enacts law to decriminalize sports betting in regulated casinos

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PASPA - NJ

- In 2014 – The leagues seek an injunction and win
- In 2015 – The 3rd Circuit Agrees
- In 2016 – The 3rd Circuit Agrees En banc
- In 2017 – Cert Granted

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PASPA - NJ

- In 2018 – The U.S. Supreme Court Issues A New Opinion Regarding PASPA

The legalization of sports gambling requires an important policy choice, but the choice is not ours to make. Congress can regulate sports gambling directly, but if it elects not to do so, each State is free to act on its own. Our job is to interpret the law Congress has enacted and decide whether it is consistent with the Constitution. PASPA is not. PASPA “regulate[s] state governments’ regulation” of their citizens, New York, 505 U. S., at 166. The Constitution gives Congress no such power.

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PASPA



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FEDERAL WIRE ACT

- Part of the 1961 legislative package designed to cut off activities that financially sustained organized crime and to help states enforce their gambling laws.

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FEDERAL WIRE ACT

- 18 USC §1084
 - (a) 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 entitles 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.

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ILLEGAL GAMBLING BUSINESS ACT

- 18 U.S.C. §1955 the Statute
 - (a) Whoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business shall be fined under this title or imprisoned not more than five years, or both

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ILLEGAL GAMBLING BUSINESS ACT

- 18 U.S.C. §1955 the Statute
- (b) As used in this section—
 - (1) "illegal gambling business" means a gambling business which—
 - (i) is a violation of the law of a State or political subdivision in which it is conducted;
 - (ii) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and
 - (iii) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of \$2000 in any single day.

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ILLEGAL GAMBLING BUSINESS ACT

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QUESTIONS/DISCUSSION

Questions/Discussion

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