

Sports Betting In The South: A Status Update On Gulf States

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With Mississippi launching legal sports betting in August 2018, what is the potential for sports wagering in other states in the Gulf region? This article will provide a summary for each of the relevant states.

Alabama

As of this writing, sports wagering remains illegal in the state of Alabama, but the law could soon change.

In April 2019, Rep. John W. Rogers, D-Jefferson, of the Alabama House of Representatives introduced House Bill 315, titled the Alabama Sports Wagering Act, which would allow wagering on “certain professional or collegiate sports or athletic events.” As presently drafted, the act does not appear to allow wagering on sporting events involving Alabama-based colleges or universities. However, if enacted, the act would allow sports wagering on “any mobile application or other digital platform used to place wagers,” which would make Alabama one of the first states in the Gulf South to permit mobile sports wagering throughout the state.

To regulate the industry and issue licenses, the act proposes the creation of the Alabama Sports Wagering Commission. The act would authorize the issuance of seven operator licenses, each at a cost of \$100,000. Revenues would be taxed at 10% under the act. Whether the act is passed into law remains to be seen, but more should be known very soon with the legislative session in Alabama set to conclude in June 2019.

Arkansas

In November 2018, Arkansas voters approved Arkansas Issue 4, which authorized four casinos in the state, including sports wagering at each property. While casino gaming commenced in April 2019 at Oaklawn Racing Casino Resort in Hot Springs and Southland Gaming & Racing in West Memphis, neither offers sports wagering, and neither is likely to until later this year when authorized by the Arkansas Racing Commission.



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However, the Arkansas Legislature is considering a bill called the Athletic Event Wagering Act of 2019, which if enacted would authorize mobile sports wagering in the state. The bill includes a 12.5% tax rate on sports wagering gross gaming revenue (13.5% for mobile revenue) and an “integrity fee” of 1% of handle for the professional sports leagues.

Florida

The 2019 60-day Florida legislative session began on March 5, 2019, and is expected to end on May 3, 2019 — more than two weeks after the date of this writing. Whether sports betting will be legalized in the Sunshine State remains an open question — one that rests primarily on the interpretation of the phrase “casino gambling” in Amendment 3, a ballot measure passed by more than 70% of Florida voters in 2018. Amendment 3 shifts the power from legislators to voters to authorize new casino gambling in the state, as well as the ultimate outcome of ongoing negotiations between the state and the Seminole Tribe of Florida.

Whether Amendment 3 requires a voter referendum to authorize sports betting in Florida is a matter of much legal debate about whether sports betting is included within the scope of the now-restricted “casino gambling” addressed by the amendment. This question and the question of whether Florida voters had fair notice that Amendment 3 could restrict sports betting are issues that may ultimately be placed before the courts to determine.

The much more pertinent question is whether Florida legislators can legalize sports betting without putting at risk the more than \$300 million in revenue-sharing payments that the state receives from the Seminole Tribe under a 2010 gaming compact. Under the compact, the state granted the tribe the exclusive right to offer “banked” table games, such as blackjack, and “any new game authorized by law,” which could ostensibly include sports betting. The compact between the state of Florida and the Seminole Tribe permits the tribe to cease making all or a portion of the revenue-sharing payments if it loses its exclusivity because of a change in state law.

Florida lawmakers must therefore first reach an amended agreement with the Seminoles. If such an agreement can be reached, the interpretation of Amendment 3 can then be addressed — either through a voter referendum if the Legislature takes the position that Amendment 3 applies to sports betting, or by the courts if Amendment 3 is disregarded as inapplicable.

Georgia

Georgia’s 2019 legislative session ended on April 2, 2019. Despite two initiatives that originated in the House of Representatives, Georgia remains one of the few U.S. states with laws on the books prohibiting sports wagering. Although neither initiative made it out of the House, they do provide some insight into the growing bipartisan sentiment among Georgia lawmakers that the prohibition should be lifted as neighboring states rush to cash in on sports betting revenues.

On Feb. 27, the Georgia House of Representatives received House Resolution 380, which was co-sponsored by six representatives: four Democrats and two Republicans. H.R. 380 attempted to kick off the legalization process in the Peach State by calling for an amendment to Georgia’s constitution. Had it passed, the people of Georgia would have had the right to vote on the constitutional amendment, which



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in turn would have allowed the Georgia General Assembly to create laws for sports betting.

A few days after the introduction of H.R. 380, Rep. Ron Stephens, R-Savannah, chairman of the House Economic Development & Tourism Committee, sponsored and introduced House Bill 570. Had the bill passed, it would have legalized mobile sports betting on college and professional sports across the state. The Georgia Lottery Corporation was to be the regulatory body vested with the authority to license up to 10 interactive sports betting operators in the state.

Similar to H.R. 380, H.B. 570 contemplated that Georgia's constitution must first be amended to legalize sports betting before the bill could become effective. From a fiscal perspective, H.B. 570 prescribed a \$20,000 sports betting license application fee and a \$10,000 renewal fee, as well as a tax rate of 10% on adjusted gross revenues. Although H.R. 380 and H.B. 570 failed to survive the General Assembly's 2019 session, such initiatives appear to be the first real steps toward the legalization of sports betting in the Peach State.

Louisiana

The 2019 session of the Louisiana Legislature began on April 8, 2019, and Sen. Danny Martiny, R-Metairie, has prefiled a bill that would authorize sports betting on a parish-by-parish basis in the same way that daily fantasy sports was legalized last year.

Sports wagering received limited support during the 2018 session, but things may be different this year. First of all, the U.S. Supreme Court opened the door when it struck down the federal Professional and Amateur Sports Protection Act in May 2018, and sports wagering is sweeping the country. Perhaps more importantly, Louisiana's neighboring state of Mississippi now offers legalized sports wagering, and the anecdotal information and the general feeling in the gaming industry is that the casinos in South Mississippi are gaining customers from Louisiana.

Even if the Louisiana Legislature approves of sports wagering this year, a statewide voter referendum will be required. Such a vote would probably take place on Oct. 12, 2019, the same date for elections for Louisiana statewide and legislative offices. The referendum requirement will delay legal sports betting in Louisiana until at least 2020. The taxation of sports betting will be the subject of separate legislation, and a tax rate of 12%, the same as in Mississippi, is anticipated. Those companies interested in sports wagering in Louisiana should closely monitor developments in the Louisiana Legislature this year.

Mississippi

Because the Mississippi Legislature amended the Mississippi Gaming Control Act in 2017 to remove sports wagering prohibitions, sports betting became legal in Mississippi when the U.S. Supreme Court struck down PASPA in May 2018, which opened the door for states to legalize sports wagering within their respective boundaries.

The Mississippi Gaming Commission quickly promulgated regulations for race and sports books, including authorization for mobile betting but only within casinos. The commission accepted, investigated, and approved license applications for companies seeking to assist casinos with offering sports wagering and sports book applications for casinos, and gamblers placed the first legal sports bets in Mississippi in August 2018.

All but a handful of licensed casinos in the state offer sports books. The tax rate is approximately 12% of

gross gaming revenue. By virtue of its compact with the state of Mississippi, the Mississippi Band of Choctaw Indians is able to offer sports wagering, as well, at its Pearl River Resort and Bok Homa casinos. The Choctaws are the first to offer mobile wagering in the state.

Tennessee

Sports betting legislation has been introduced this year in both the state senate (S.B. 16) and the House of Representatives (H.B. 1) by Sen. Steven Dickerson, R-Nashville, and Rep. Rick Staples, D-Knoxville. Currently, the legislation has moved out of the Tennessee State Committee and is being considered by the Government Operations Committee.

While the original legislation contemplated wagering in both mobile and brick-and-mortar formats, the amended version has been limited strictly to mobile wagering. The legislation provides for a 20% state privilege tax from sports betting operators, and it includes an additional requirement that licensees shall use only official league data provided by the relevant sport governing body or an explicitly authorized entity. Finally, there is an explicit prohibition on wagering on any collegiate sports activity — a broader prohibition than the in-state ban that has been contemplated elsewhere.

Though the bill has passed out of its initial committee, there is still strong opposition against the bill, both from the governor and from other members of the Legislature.

Texas

State Rep. Eddie Lucio III, D-Brownsville, filed two companion pieces of legislation providing a framework for sports betting in Texas. H.B. 1275 would provide a framework for regulating the sports betting industry, and House Joint Resolution 61 would authorize a referendum on Nov. 5, 2019, in which voters statewide would be asked to amend the Texas Constitution to authorize “the legislature to legalize sports betting in this state.”

Two relevant limitations in the bill are a cap on licenses issued at five, and prohibition of betting on Texas collegiate and youth sports. However, perhaps the most significant component of the bill is the proposed 6.25% tax on handle. While the percentage is lower than that of most other states, the prevailing practice is to tax gaming revenue rather than handle. A tax on handle has the possibility to outstrip actual gaming revenue, which would be a strong barrier to entry. Though it does not appear that the Republican-led legislative branch and governor support legalizing sports betting, the proposed tax, as it currently stands, may be sufficient to limit any potential market entrants even if the bill passes.

Conclusion

Other than Mississippi (in which the legislative and statutory structure for sports wagering is relatively fixed), the situation is unsettled and fluid in all the jurisdictions that are the subject of this article. As in any hot area of gambling that requires new legislation, the status of sports wagering in the Gulf changes on virtually a daily basis.

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