

Entertainment and Sports

New Jersey Not All-In on College Sports Betting Yet

The Bottom Line

- The rejection of the New Jersey ballot measure expanding college sports betting is a temporary setback to unrestricted sports gaming in the state.
- Yet, the rejection reflects lingering concerns about the potential corruption of college athletes and highlights the different approaches taken by each state to this burgeoning market.
- Gaming operators, sponsors and marketers in the gaming industry will need to target messaging by state and navigate a patchwork of regulatory restrictions.

New Jersey bettors will have to wait a little longer before than can place a wager on their hometown college teams as voters rejected a November ballot measure that would have greatly expanded betting on college sports in the state.

A Constitutional Concern

New Jersey currently prohibits betting on college sporting events taking place in the state and any sporting events featuring a New Jersey college, regardless of where it is played. Because of restrictions in the New Jersey Constitution, any change in these restrictions require more than legislative action. So, after passing in the state Senate and Assembly and being signed by Governor Murphy, the ballot measure was put to New Jersey voters. Unfortunately for gaming advocates, the ballot measure was soundly defeated by a margin of 57% to 43%.

Momentum Stalled

The defeat was a blow to those in the gaming industry and other supporters of the growing betting market. Hopes were high that the strength of the New Jersey gaming market and its impact on state budgets would carry the measure through. In September 2021, New Jersey became the first state in the United States to take in more than a billion dollars in sports bets. With college football in full swing and college basketball around the corner, the opportunity to eclipse that total was at hand. But the promise of increased gaming revenue for the state was not enough to overcome voters' concerns.

Corruption Concerns

The restriction on college sports betting in New Jersey is rooted in concerns about the particular susceptibility of college athletes to the corrupting effects of gambling. Unlike professional athletes, whose salaries and endorsement income regularly exceed seven figures annually, college athletes have historically been limited to non-cash scholarships, room and board during their collegiate careers. The lure of under the table payments to fix games was considered too great a risk to allow. Curiously, this concern did not extend to college games in general, just those taking place in New Jersey or featuring New Jersey teams.

In any event, the rationale for this distinction between professional and college athletes has begun to weaken. The United States Supreme Court's decision in *Alston v. NCAA* and the legislation passed in a multitude of states, including New Jersey, permits college athletes to enter into endorsement contracts and earn compensation from the use of their name, image and likeness (NIL). With some college athletes already signing million dollar endorsement deals, the risk of gambling corruption would seem to be receding. Yet, the full impact of the changes in collegiate NIL rules remains to be seen and the concerns of New Jersey voters have not been assuaged.

Patchwork of Regulations

The failure of the New Jersey ballot measure highlights the patchwork nature of sports betting rules across the United States. New Jersey bettors who want to wager on Seton Hall in the NCAA March Madness basketball tournament can drive to Connecticut, where betting on college tournaments (but not individual games) is permitted. Even better, those who want to wager on Rutgers football games can drive to Pennsylvania, where betting on college sports is permitted without the restrictions found in New Jersey or Connecticut.

For More Information

Please contact the attorney listed below or the Davis+Gilbert attorney with whom you have regular contact.

James Johnston

Partner

212 468 4867

johnston@dglaw.com