

*The Developing State of Affairs of Legalized Sports Gambling*  
By Peter J. Glantz

The Supreme Court recently struck down the Professional and Amateur Sports Protection Act (“PASPA”). Since then, states throughout the country have moved rapidly to form legal sports gambling markets in their applicable jurisdictions. In New York, for example, the New York State Legislature remains optimistic that efforts to legalize sports gambling will arrive in 2019. Prior to that however, the four New York commercial casinos previously approved in 2013 will be permitted to accept sports wagering in the coming months if and when the New York State Gaming Commission enacts appropriate regulations.

Recently, Utah Senator Orrin Hatch gave a speech from the Senate floor lamenting the lack of congressional debate over sports gambling in the months following the Supreme Court’s decision to strike down PASPA. Notably, Hatch was an original PASPA co-sponsor. He took to the floor to speak about both the risks for the sports gambling markets in the absence of federal legislation and the steps he believed were appropriate for Congress to take in order to constitutionally regulate the entire industry.

While Senator Hatch appears to personally opposes legalized sports gambling, he seems to also acknowledge that “the genie is out of the bottle” now that several states, including New Jersey, Delaware, Pennsylvania and West Virginia, have taken concrete steps to establish operational legal sports betting markets. As such, Senator Hatch wants Congress to establish minimum federal standards. Senator Hatch contends that such minimum standards would prevent states from engaging in a deregulatory “race to the bottom” in which states lure sports gambling money from outside their respective borders. For example, such minimum common sense standards would likely include the restriction of certain individuals, such as athletes and employees of a sport’s governing body, from placing wagers on games in which they have a proximate relationship. Currently, the State of New Jersey has enacted this kind of prohibition, among other robust sports gambling regulations. Yet, Senator Hatch appears to be concerned that absent federal legislation establishing baseline protections, both the integrity of sporting events and consumers would suffer. Accordingly, for those businesses interested in penetrating the sports gambling market, it is probably best practice to adhere to those minimum standards introduced in any of Senator Hatch’s new sports gambling bills he hopes will help encourage Congressional action in the near future.

Tellingly, states appear to be moving at a much quicker pace than Congress to address sports gambling issues. In light of the rapidly-changing regulatory climate and the uncertainty surrounding it, it is critical that those interested in entering the industry work closely with knowledgeable gaming lawyers to review all aspects of their prospective licensing applications and associated offerings.