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Going “All In” after *Murphy v. NCAA*: An Approach for California to Legalize Sports Gambling

by KAILEY J. WALSH¹

Abstract

While Nevada has long been the only state with legalized sports gambling, after the recent *Murphy v. NCAA* Supreme Court decision, individual states are now in control when it comes to deciding whether or not to legalize sports gambling. *Murphy v. NCAA*, the Supreme Court ruled that the Professional and Amateur Sports Protection Act (“PASPA”) was unconstitutional because it violated the anticommandeering doctrine by infringing on states’ right to legislate on and legalize sports gambling. This note discusses the steps that other states have taken to legalize sports gambling since the *Murphy v. NCAA* decision as well as the reasons that California should do the same.

California has yet to pass legislation that would legalize sports gambling, but as the state continues to decide whether they should or not, this note outlines the economic incentives and impacts that the state would face as well as some potential roadblocks. With Nevada, and fifteen other states, as their guide, California can, and should, confidently move forward with the legalization of sports gambling.

I. Introduction

When people think of sports gambling, they think of Las Vegas. Until recently, Nevada was the only state where one could legally place bets on sporting events. However, since the recent Supreme Court decision, *Murphy v. NCAA*, states are now in control when it comes to deciding whether or not to legalize sports gambling.² As a result of the *Murphy v. NCAA* decision, some states have started to pass legislation to allow its citizens to legally

1. Class of 2020, Loyola Law School, Los Angeles; B.S. Economics and Communications 2016, University of Miami. Thank you to Professor Robert Brain for his guidance, to the members of *UC Hastings Communications and Entertainment Law Journal* for their thoughtful editing, and to my amazing family for their love and support.

2. *Murphy v. Nat’l Collegiate Athletics Ass’n*, 138 S. Ct. 1461, 1465 (2018).

place bets on certain sporting events.³ The driving force to legalize sports gambling stems from states' desires to increase revenue through the taxation of sports betting.⁴ By allowing people to legally place bets on sporting events, not only will casinos and other sportsbook operations generate a tremendous profit, but the state itself will also generate revenue from its ability to tax these casinos and sportsbook operators.⁵ States which are contemplating passing legislation legalizing sports gambling should, and have, looked to Nevada, or any of the other fifteen states who have since passed legislation legalizing sports gambling, to be their guide.⁶ Before the *Murphy v. NCAA* decision, Nevada was the only state profiting from legal sports betting.⁷ States who have legalized sports betting since *Murphy v. NCAA*, like New Jersey, have looked to Nevada as its model to set up sports gambling and other states are sure to follow. And why not? In one month, Nevada's casinos raked in over \$581 million dollars from sports gambling, a figure that could be instrumental in revitalizing and generating a tremendous amount of revenue for states.⁸ This type of revenue influx would especially help California, a state that currently faces an exorbitant amount of debt. When states like California realize that they could be able to generate that amount of revenue, they would be doing their citizens a disservice to not explore the opportunity further. With Nevada's model as a guide, California should follow suit and legalize sports gambling.

California, a state that is in a tremendous amount of debt, has yet to make a decision on whether or not it will choose to legalize the practice. While sports betting's proponents and opponents battle over the details, California must first pass an amendment to its State Constitution that permits specific sports betting legislation.⁹ This amendment process will likely be somewhat tumultuous due to the conflicting interests of the public and the

3. Ryan Rodenberg, *State-By-State Sports Betting Bill Tracker*, ESPN (Feb. 13, 2019), http://www.espn.com/chalk/story/_/id/19740480/gambling-sports-betting-bill-tracker-all-50-states.

4. David Sheldon, *Could Gambling Be California Budget Crisis' Hollywood Ending?*, CASINO.ORG (July 3, 2015) <https://www.casino.org/blog/could-gambling-be-california-budget-crisis-hollywood-ending/>.

5. *Id.*

6. Dustin Gouker, *Legal US Sports Betting—Bill and Law Tracker 2019*, LEGALSPORTSREPORT.COM (Aug. 27, 2019, 8:50 PM) <https://www.legalsportsreport.com/sports-betting-bill-tracker/>.

7. Adam Candee, *Nevada Sports Betting Breaks Another Record As US Handle Nears \$1 Billion in November*, LEGAL SPORTS REPORT (Dec. 27, 2018, 11:23 AM) <https://www.legalsportsreport.com/27151/nevada-sports-betting-november-2018-revenue/>.

8. *Id.* (explaining that in the month of November, sportsbooks in Nevada took in \$581 million. November in general is a strong month due to "the confluence of NFL and college football with NBA and college basketball" which in turn creates tremendous revenue).

9. Andrew O'Malley, *California Legalized Sports Betting May Be On The Horizon*, VEGASLOTSONLINE.COM (Aug. 24, 2018) <https://www.vegasslotsonline.com/news/2018/08/24/california-legalized-sports-betting-may-be-on-the-horizon/>.

Indian tribes who currently have a monopoly on gambling in the state.¹⁰ While the future of legalized sports gambling in California is unclear at this point, the longer the state waits to take action, the more monetary gains it is losing out on. As of June 2019, California has introduced yet another sports betting bill (ACA 16) in hopes of bringing sports betting to California.¹¹ For now, California looks ahead to the 2020 ballot to try and succeed on a State Constitution amendment and then can move forward with plans for legalization of sports gambling.

With more and more states embarking on the path of legalization because of the potential for economic growth, some political and social concerns cause other states to stop dead in their tracks.¹² California is not immune to this phenomenon as, if legalizing sports gambling were to appear on the California ballot in 2020, there are many groups who would vehemently oppose making sports gambling legal. For example, states like California who have a large Indian tribe presence are facing tremendous pushback from the Indian tribes who, at this point, do not support the legalization of sports gambling.¹³ Indian tribes in California have agreements with the state that allow them to exclusively own and operate casinos—an activity that non-Indian tribes cannot legally engage in.¹⁴ In addition to Indian tribes wanting to protect their control over the industry, California likely does not want to jeopardize the over \$8 billion dollars that Indian tribes generate annually in tax revenue for the State, unless it can be reasonably certain that legalizing sports gambling will bring in more money for the state.¹⁵ For these reasons, Indian tribes are reluctant to support the legalization of sports gambling and will likely exercise their tremendous amount of lobby power to prevent the legalization in order to preserve their position as the sole entity that is allowed to operate casinos and gambling within the state.¹⁶

In addition to the potential roadblock presented by the Indian tribes, many opponents fear sports gambling will jeopardize the integrity of

10. *Id.*

11. Eric Ramsey, *California Sports Betting Bill Appears Suddenly, But What Are Its Chances?*, LEGAL SPORTS REPORT (June 27, 2019, 4:45 PM) <https://www.legalsportsreport.com/34092/california-sports-betting-2019-bill/>.

12. Nicholas Garcia, *California Sports Betting On the Horizon? MGM, GVC Strike Deal With CA Tribe*, LEGAL SPORTS REPORT (Oct. 9, 2018, 1:49 PM) <https://www.legalsportsreport.com/24776/california-sports-betting-deal/>.

13. *Id.*

14. O'Malley, *supra* note 9.

15. Garcia, *supra* note 12.

16. Hugo Martin, *Sports gambling may be coming to California — but it's unclear who will take your bets*, L.A. TIMES (May 20, 2018, 3:00 AM), <https://www.latimes.com/business/la-fi-sports-betting-20180520-story.html>.

sports.¹⁷ The NCAA has long been an opponent of sports betting on amateur sports because of the fear that large bettors will bribe susceptible college players in order to make a profit off of their sporting events.¹⁸ Proponents of the legalization of sports gambling counter the NCAA's argument by addressing an issue that they are faced with each day: if amateur athletes are going to be influenced by those seeking to profit from their result, they can be influenced regardless of whether sports betting on amateur sports is legal or illegal.¹⁹ In reality, there are systems in place at most universities that account for the fact that some people will approach student athletes in an attempt to gain information and athletic departments are proactive in trying to prevent these types of interactions.²⁰ On the other hand, professional sports leagues have come around to the idea of the legalization of sports gambling and have in fact embraced it as somewhat of a new reality. Sports leagues are using the new law to their advantage by altering their regulations and bylaws and allowing for gambling entities to act as sponsors to both the organization and to its' players.²¹

Other opponents to the legalization of sports gambling rest their arguments on the fear that legalizing this activity will lead to more crime and corruption. While the fear that illegal activity will occur is always a concern, illegal activity in this industry has been the industry for so long.²² It is true that illegal marketplaces still exist to accomplish sports betting, but with the legalization of the activity, sports gambling can come out of the shadows and give people a safe, legal place to engage in sports betting.²³ If anything, the legalization of sports gambling will act as a way to reduce criminal and illegal activity because it gives people who might otherwise engage in illegal betting a legal, regulated alternative. Furthermore, by having legal spaces where people can physically go to place sports bets, the economy is stimulated and revitalized in a variety of ways, including an increase in the

17. John Warren Kindt & Thomas Asmar, *College And Amateur Sports Gambling: Gambling Away Our Youth?*, 8 VIL. SPORTS & ENT. L.J. 221 (2002) (citing NAT'L GAMBLING IMPACT STUDY COMM'N, FINAL REPORT, at 3-8 TO 3-9 (1999)).

18. *Id.*

19. Andrew Maykuth, *What are the odds? Colleges fear sports betting will lead to cheating*, PHILADELPHIA INQUIRER (Sept. 14, 2018) <https://www.philly.com/philly/business/college-sports-betting-ncaa-laws-pennsylvania-new-jersey-20180914.html>.

20. *Id.*

21. Mike McAllister, *PGA TOUR Revises Sponsorship Regulations With Gambling Entities*, PGATOUR.COM (Feb. 26, 2019), <https://www.pgatour.com/company/2019/02/26/pga-tour-revises-sponsorship-regulations-with-gambling-entities.html>.

22. Jeannie O'Sullivan, *Sportsbooks Face Black-Market Competition, NJ Attys Told*, LAW 360 (May 16, 2019, 3:07 PM), <https://www.law360.com/articles/1160491/sportsbooks-face-black-market-competition-nj-attys-told>.

23. *Id.*

availability of employment opportunities.²⁴ As more states take steps to legalize sports gambling, the stigma around sports betting will quickly dissipate.

While states are in the driver's seat when it comes to choosing whether or not to legalize sports gambling within their borders, law firms are wasting no time preparing for the change on the horizon.²⁵ Big law firms around the world are adjusting and preparing for the new reality that is legal sports betting among the states.²⁶ With more and more states choosing to legalize sports betting, law firms are creating and improving specific practice groups that are dedicated to sports betting issues.²⁷ Just as legal sports betting creates more employment opportunities in and around casinos, it works the same for creating more legal employment opportunities. Although sports gambling is not a new concept, it is a new legal concept and will require experts to handle both high profile casino matters as well as individual legal issues.²⁸ Overall, the legalization of sports gambling has the potential to stimulate employment and economic activity in ways that could help states in a multitude of ways.

II. Background

A. Federal Regulations on Gambling

The practice of gambling in general is a topic that has been hotly contested. In fact, before the 1920s, gambling was an illegal activity in almost all fifty states.²⁹ While gambling was largely illegal, the decision whether to legalize the activity or not was left up to the states until the 1960s when the federal government began to have greater involvement. Due to a rising concern about the method in which gambling took place,

[i]n 1961, Congress enacted the Wire-Act—the first federal gambling regulation—to prohibit people who were in the business of betting from knowingly using any wire communication, including “any and all instrumentalities, personnel, and services” to transmit bets or betting information on any sporting event or contest.³⁰

24. Dylan Oliver Malagrino, *Off The Board: NCAA v. Christie Challenges Congress To “Move The Line” On The Professional and Amateur Sports Protection Act*, 118 PENN. ST. L. REV. 375, 403 (2013).

25. Zachary Zagger, *Gibson Dunn Ups The Ante on Gambling After High Court Win*, LAW 360 (April 19, 2019, 3:52 PM), <https://www.law360.com/articles/1149740/gibson-dunn-ups-the-ante-on-gambling-after-high-court-win>.

26. *Id.*

27. *Id.*

28. *Id.*

29. NAT'L GAMBLING IMPACT STUDY COMM'N, FINAL REPORT, at 2-1 (1999)); S. DURHAM & K. HASHIMOTO, THE HISTORY OF GAMBLING IN AMERICA, 34-35 (2010).

30. Robert E. Goeller, *The Money, Man, The Money: Sports Gambling In Professional and Amateur Sports*, 12 WILLAMETTE SPORTS L.J. 1, 20 (2015); 18 U.S.C. § 1084.

While the Wire Act focused on regulating individuals who were engaged in gambling practices, Congress also worried about the lack of regulation surrounding businesses involved in the same sorts of activity.³¹ In response, in 1970, Congress enacted the Illegal Gambling Business Act and the Racketeer Influenced and Corrupt Organizations Act, commonly known as “RICO” which focused on regulating businesses who were engaged in gambling practices.³² While these acts were the federal government’s first attempts at regulating gambling, the laws themselves were “not intended to preempt state gambling laws” and were drafted “to assist the several [s]tates in the enforcement of their laws pertaining to gambling.”³³

Congress’ initial legislative efforts around gambling left much to be desired, however, and “[b]y the late 1980s, a significant congressional concern was the increasing number of state lotteries that were determined by the outcome of sporting events.”³⁴ As a result, Congress felt that “further legislation was necessary to regulate sports betting.”³⁵ In response to these growing concerns, in 1992 the federal government enacted the Professional and Amateur Sports Protection Act (hereafter, “PASPA”), which forbid states from authorizing sports gambling.³⁶ Under 28 U.S.C. § 3702 (1):

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.³⁷

While PASPA itself did “not make sports gambling a federal crime,” it acted as a protection for professional and amateur sports by “allow[ing] the Attorney General, as well as professional and amateur sports organizations, to bring civil actions to enjoin violations.”³⁸ When PASPA was adopted, the legislation included a grandfather clause “which protected all states that had conducted legalized sports betting between September 1, 1989, and August

31. Robert E. Goeller, *The Money, Man, The Money: Sports Gambling In Professional and Amateur Sports*, 12 WILLAMETTE SPORTS L.J. 1, 20 (2015)

32. *Id.*

33. *Id.*

34. Jason Goldstein, *Take the Money Line: PASPA, Bureaucratic Politics, and the Integrity of the Game*, 11 VA. SPORTS & ENT. L.J. 362, 363–64 (2012).

35. *Id.*

36. 28 U.S.C. § 3702 (1).

37. 28 U.S.C. § 3702.

38. 28 U.S.C. § 3702; *Murphy*, 138 S. Ct. at 1470–71.

1, 1990.”³⁹ Some states, including Nevada, which had legalized sports gambling in 1951, were not affected by PASPA because the state already allowed for sports gambling and was therefore grandfathered in under this provision in PASPA.⁴⁰ Under this grandfather clause of PASPA, states were given a “one-year window to enact legalized sports betting” within the state before PASPA became effective.⁴¹ Although New Jersey was eligible to be grandfathered in under the same clause, the state failed to enact legalized sports betting within the one-year period and was therefore not permitted to continue the practice of sports gambling within the state.⁴² However, years later when the state fell on hard times, they sought to revitalize Atlantic City and one way of doing so was to increase revenue by legalizing sports gambling once again.⁴³

B. New Jersey’s Next Steps Towards Legalization

In order to legalize sports gambling in New Jersey, there needed to be an amendment to the state constitution. As a response, in 2011, voters in the state of New Jersey “approved an amendment to the State Constitution making it lawful for the legislature to authorize sports gambling” and in 2012 the legislature enacted a law legalizing sports gambling in New Jersey.⁴⁴ Soon thereafter, the 2012 Act was challenged on the basis of a PASPA violation because New Jersey had legislated to legalize sports gambling—a clear violation of the provisions set forth in PASPA.⁴⁵ However, New Jersey in response argued, “that PASPA unconstitutionally infringed the State’s sovereign authority to end its sports gambling ban.”⁴⁶

C. The Real Issue in *Murphy v. NCAA*

While *Murphy v. NCAA* is popularly known as the case that legalized sports gambling, that description is a bit of a misnomer.⁴⁷ Though it is true that the case itself was topically about sports gambling, the real issue in the case was one of constitutionality.⁴⁸ What was at issue in *Murphy v. NCAA*, was that “PASPA [did] not make sports gambling a federal crime” but instead restricted the states’ ability to regulate sports betting.⁴⁹ Essentially, the federal law (PASPA), “regulated a state’s exercise of its lawmaking

39. Goldstein, *supra* note 34.

40. *Murphy*, 138 S. Ct. at 1471.

41. Goldstein, *supra* note 34.

42. *Murphy*, 138 S. Ct. at 1471.

43. *Id.*

44. *Id.*

45. *Id.*

46. *Id.*

47. *Murphy*, 138 S. Ct. at 1468.

48. *Id.* at 1471.

49. *Id.* at 1470–71.

power by prohibiting it from modifying or repealing its laws prohibiting sports gambling.”⁵⁰

In Article VI, Clause 2 of the United States Constitution, the Supremacy Clause reads as follows:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.⁵¹

The language of the Supremacy Clause was examined in *Murphy v. NCAA* because traditionally, when a conflict arises between federal and state law, federal law rules. But in this case, because Congress has the enumerated powers and states have the legislative power, the states (New Jersey in this particular case) has the power to pass legislation repealing PASPA. Additionally, under the anticommandeering doctrine, the federal government is not permitted to tell the states what to do. As explained in *Murphy v. NCAA*, the “anticommandeering doctrine emerged in *New York v. U.S.* and *Printz v. United States*” and essentially outlined that “Congress may not simply ‘commandeer the legislative process of the States by directly compelling them to enact and enforce a federal regulatory program.’”⁵² Therefore, PASPA’s regulation on the ability of the states to pass legislature that would make sports gambling legal was found to be unconstitutional because it violated the anticommandeering doctrine by infringing on states’ right to legislate.⁵³

In looking back at the actual language of PASPA, had the language used in the statute banned sports gambling generally (i.e., the federal government can regulate and make illegal acts of individuals)—as opposed to prohibiting states from legislating on the issue of sports gambling—the statute would have likely been found to be constitutional. The Court used cases such as *Printz v. United States*, *New York v. U.S.*, and *Gonzales v. Raich* to help to support the reasoning of why certain powers are left for the states.⁵⁴ These Supreme Court cases are all instances where federal laws were struck down “based on what has been dubbed the ‘anticommandeering’ principle.”⁵⁵ When federal laws “unconstitutionally order [a] [s]tate to regulate in accordance with federal standards” the law will be found to be unconstitutional.⁵⁶

50. *Id.*

51. U.S. Const. art. VI, cl. 2.

52. *Murphy*, 138 S. Ct. at 1467 (quoting *New York v. U.S.*, 505 U.S. 144, 145 (1992)).

53. *Murphy*, 138 S. Ct. at 1481.

54. *Printz v. United States*, 521 U.S. 898, 902 (1997); *New York v. U.S.*, 505 U.S. 144, 149 (1992); *Gonzalez v. Raich*, 545 U.S. 1, 5 (2005).

55. *Murphy*, 138 S. Ct. at 1471.

56. *Id.*

In *Printz v. United States*, a federal law required that firearm dealers obtain background information from handgun buyers.⁵⁷ After the information was obtained, dealers then turned the information over to state law enforcement to run background checks before the sale could be completed.⁵⁸ The Supreme Court found the federal law to be unconstitutional because Congress cannot compel state police officers to take part in their federally enacted regulatory system.⁵⁹ Essentially, “[a]ny law that ‘commandeers the legislative processes of the States by directly compelling them to enact and enforce a federal regulatory program’ exceeds Congress’s constitutional power.”⁶⁰ In turn, “Congress ‘lacks the power directly to compel the States to require or prohibit acts which the federal government sees fit to require or prohibit.’”⁶¹ However, the issue in *Murphy v. NCAA* was that instead of the federal government affirmatively requiring states to do something, as Congress did in *Printz v. United States*, Congress was prohibiting states from taking legislative action.⁶²

In May of 2018, the Supreme Court decided *Murphy v. NCAA* and held that PASPA was unconstitutional.⁶³ The Court held that PASPA, in depriving states the opportunity to legislate, violated the anticommandeering principle and was unconstitutional.⁶⁴ What this meant for New Jersey, and for other states, is that after this decision, each state is free to pass legislation legalizing or regulating sports gambling within its borders.

III. The Future of Sports Betting

A. Developments Post-*Murphy v. NCAA*

Since the *Murphy v. NCAA* decision, sixteen states have already implemented or passed legislation legalizing some form of sports betting.⁶⁵ Because these states have already passed legislation, they are sixteen sources of information that California can use to determine how best to implement sports betting within the state. According to ESPN’s Bill Tracker, most states are on the path towards legalization, with the exception of Utah who will probably not move forward because of their anti-gambling stance.⁶⁶ These states will act as a guide for California in that the legislators will be

57. *Printz*, 521 U.S. at 902.

58. *Id.* at 902–03.

59. *Id.* at 935.

60. Matthew A. Melone, *New Jersey Beat The Spread: Murphy v. National Collegiate Athletic Association and the Demise of PASPA Allows For States To Experiment In Regulating the Rapidly Evolving Sports Gambling Industry*, 80 U. PITT. L. REV. 315, 329 (2018).

61. *Id.*

62. *Murphy*, 138 S. Ct. at 1478.

63. *Id.* at 1484–85.

64. *Id.*

65. Rodenberg, *supra* note 3.

66. *Id.*

able to pick and choose the best ways to implement legislation to legalize sports gambling within the state.

In enacting sports betting legislation, there are several issues a state has to deal with: (1) where betting can take place; (2) age restrictions; and (3) what games on which bets can be taken. New Jersey has answered these questions, and in doing so has provided a clear path towards legalization for other states such as California. In anticipation of the ruling in *Murphy v. NCAA*, New Jersey had already begun to put in place locations that could engage in sports gambling pending a positive verdict.⁶⁷ In June 2018, Governor Phil Murphy signed a sports betting law that permitted citizens of New Jersey to begin placing bets on June 14, 2018, citing that it would help strengthen New Jersey's economy while also cleaning up "an industry that needs to be changed."⁶⁸ This anticipatory legislation allowed New Jersey to move forward quickly after the decision in *Murphy v. NCAA* and essentially allowed New Jersey to pass legislation on sports gambling. In deciding what, if any, restrictions to include in the new legislation, New Jersey passed the law under which people 21 years of age and older are allowed to bet either in person or on the internet in New Jersey casinos, racetracks and former racetracks.⁶⁹ However, people are not allowed to bet on "high school sports, on college events taking place in the state, or any event involving a New Jersey college team anywhere."⁷⁰ These restrictions were likely important to New Jersey who tried to appeal to as many people as possible. By restricting the age to include only those persons who are 21 years or older, New Jersey aimed to ensure that minors are not being corrupted by an industry that has long held a negative stigma. Additionally, by prohibiting people from placing bets on high school sports or local college events, New Jersey aimed to preserve the integrity of the games and prevent individuals from potentially trying to influence unsuspecting youth. California would be wise to include similar restrictions within any proposed legislation, as the goals of these restrictions are legitimate and even admirable.

B. Economic Incentives and Impacts

A recurring argument in favor of the legalization of sports gambling is that "the primary benefit of allowing sports betting is that states can increase

67. Rick Maese, *What the Supreme Court's Sports Gambling Decision Means*, WASH. POST (May 14, 2018, 8:27 AM), https://www.washingtonpost.com/news/sports/wp/2018/05/14/what-the-supreme-courts-sports-gambling-decision-means/?noredirect=on&utm_term=.1359f620ef3b (In addition to scouting locations, New Jersey had been working to have legislation ready to pass if and when the Supreme Court decision came down in their favor).

68. Brent Johnson, *Phil Murphy signs N.J. sports betting law. You can start betting on Thursday*, NJ.COM (June 11, 2018), https://www.nj.com/politics/index.ssf/2018/06/sports_betting_to_begin_in_nj_after_phil_murphy_si.html.

69. Maese, *supra* note 67.

70. *Id.*

revenue.”⁷¹ In fact, one of the main goals of New Jersey wanting to legalize sports gambling was to revitalize Atlantic City and the economy as a whole.⁷² New Jersey surely looked to Nevada and some of the related statistics, which outline the amount of money Nevada typically brings into the state each month.⁷³ After New Jersey passed legislation legalizing sports gambling, over 16 million dollars in wagers were placed in the opening weeks and New Jersey took in about 3.5 million dollars in gross revenue.⁷⁴ Additionally, after the legalization of sports gambling in New Jersey, the state brought in \$330 million in November alone.⁷⁵ This type of economic influx of gross revenue for a state could be instrumental in dealing with potential debt. In California, this type of revenue would likely be exponentially larger considering the size and population of the state.

Another potential issue to address is whether to allow online sports gambling and not restrict it to brick and mortar locations like racetracks and casinos. Online gambling has been a revenue generator for a few states and California might be next.⁷⁶ While “online gambling won’t solve California’s budget problems overnight, [a] long-term legalized, regulated iGaming network unquestionably has the potential to greatly lessen the strain.”⁷⁷

Online gambling is already legal in some states and since the *Murphy v. NCAA* decision, adding sports to the mix would likely increase its popularity. If states like Nevada, New Jersey and Delaware, where online gambling is already legal, are bringing in large sums of revenue through taxes from online gambling, a state like California, with an even greater population, would likely double if not triple the amount of money coming into the state.⁷⁸ Furthermore, having a safe and regulated online market for this type of betting to take place would reduce the risk and fear of criminal activity while also keeping the money within the state.⁷⁹

In addition to the aforementioned states that have legalized sports gambling, states are proposing legislation that includes special provisions such as integrity fees.⁸⁰ An integrity fee is a tax on legal sports betting that

71. Malagrino, *supra* note 24.

72. *Murphy*, 138 S. Ct. at 1469.

73. Candee, *supra* note 7 (for reference, this past November, Nevada brought in about \$581 million).

74. Samantha Marcus, *N.J. sports betting took \$16M in wagers in opening weeks. Here’s what we bet on.*, NJ.COM (July 12, 2018), https://www.nj.com/politics/2018/07/nj_sports_betting_took_16m_in_bets_in_opening_week.html.

75. Candee, *supra* note 7.

76. Sheldon, *supra* note 4.

77. *Id.*

78. *Id.*

79. *Id.*

80. Jill R. Dorsen, *IL Lawmaker: It Will Be A ‘Failure’ If Sports Betting Doesn’t Become Law*, SPORTS HANDLE (Feb. 27, 2019, 12:00 PM), <https://sportshandle.com/illinois-pritzker-sports-betting/>.

many professional sports leagues have been pushing for.⁸¹ In fact, Illinois currently has a bill in the state legislature, which includes an “integrity fee” as well as “a 12.5 percent tax on adjusted gross revenue.”⁸² With the legalization of sports gambling on the horizon for many states, professional sports leagues are looking to and pushing for the inclusion of an integrity fee provision in proposed legislation.⁸³ Professional sports leagues hope to profit off of the legalization of sports betting and if an integrity fee were to be included, “the fee would transfer money from sportsbooks to sports governing bodies themselves.”⁸⁴ These types of provisions seem to be common in bills but continue to be a point of contention amongst those who want to legalize sports gambling and those who would rather not see this type of legislation pass.⁸⁵

In addition to the revenue that legalizing sports gambling will bring in for both casinos and the states directly tied to the placing of sports bets, there are additional indirect hospitality and tourism opportunities that will generate economic boosts in states which legalize sports betting.⁸⁶ If states continue to make sports gambling legal, people will not only place bets online or through a sportsbook but they will also come to the casinos to place live bets.⁸⁷ Legalizing this activity goes far beyond the ability to place a bet on a game. Instead, it becomes an event in and of itself. For example,

[L]egalized sports betting can also encourage gamblers to place live bets on sports. Instead of sitting at home and making a bet with an illegal bookie or risking their money with an unknown foreign website, sports bettors might be more inclined to seek out a traditional casino that they can trust with their bets. This could lead to more traffic inside casinos, which will help casinos derive more money through their restaurants and boutiques.⁸⁸

With more people engaged in sports gambling, the economy will be stimulated in a variety of ways. A state legislating to legalize sports gambling is the first of many dominos that will lead to increased revenue for the state. As mentioned above, if more people are getting out of their homes to go to an actual casino to place a bet on a sporting event, they are spending money on transportation to get to the casino, parking expenses, food and

81. *Sports Betting Integrity Fee*, LEGAL SPORTS REPORT (Aug. 2, 2019, 3:04 PM), <https://www.legalsportsreport.com/integrity-fee/>.

82. Dorsen, *supra* note 80.

83. *Sports Betting Integrity Fee*, *supra* note 81.

84. *Id.*

85. Dorsen, *supra* note 80.

86. Malagrino, *supra* note 24 at 402–03.

87. *Id.* at 402.

88. *Id.* at 403.

beverages, and much more.⁸⁹ In addition to the costs expended by the gambler, “[i]ncreased local traffic within casinos can lead to more employment to meet this increased demand.”⁹⁰ While California would not have actual sports specific casinos, sportsbooks could act as another source of revenue for the state. If legislation passed in California, people would be able to place sports bets online and in sportsbooks, which are physical locations that are authorized to receive bets from patrons. Once sportsbook locations open in California, a new opportunity for revenue is created in the physical space itself. If a state was not convinced by this “theory” if you will, all the state would need to do is look to Nevada and their “sports-betting scheme” which, until the *Murphy v. NCAA* decision, was the only state without restrictions.⁹¹ States who are thinking about legalizing sports gambling should do their due diligence and focus on states like Nevada who have long been in the industry of gambling and even more specifically sports gambling. It is rare to have such an established example leading the way, but states would be wise to take advantage of Nevada’s example and do their best to learn from Nevada’s successes and the mistakes.

C. How Will *Murphy v. NCAA* Impact California?

While analyzing how other states have implemented sports gambling within their borders acts as a helpful guide to California, the effect of the *Murphy v. NCAA* decision has not yet been realized in California. Currently, “California’s Constitution prohibits sports wagering. But Assemblyman Adam Gray (D-Merced) said [] he would pursue a state constitutional amendment that, if approved by voters, would allow sports betting in the state.”⁹² The position that Assemblyman Gray and co-sponsor Senator Bill Dodd takes is that “[w]hether we like it or not, Californians are already betting on sports through illegal and often unscrupulous websites in foreign countries, [i]t is time to bring this multibillion-dollar industry out of the shadows.”⁹³ By creating a legal platform where Californians can place wagers on sporting events, Assemblyman Gray believes that an industry that has traditionally been one that is conducted “in the shadows”, and with the stigma of criminal activity, will now be one that can benefit the state financially.⁹⁴ Senator Bill Dodd believes that “[b]y legalizing sports wagering we can avoid some of the problems associated with an underground market such as fraud and tax evasion while investing in

89. *Id.*

90. *Id.*

91. Malagrino, *supra* note 24 at 403.

92. Samantha Masunaga, *Supreme Court rules on sports betting: What you need to know*, L.A. TIMES (May 14, 2018, 1:35 PM), <https://www.latimes.com/business/la-fi-qa-sports-betting-20180514-story.html>.

93. *Id.*

94. *Id.*

problem gambling education.”⁹⁵ However, while the legalization of sports gambling seems like a no-brainer for California, an added challenge is presented by the fact that Indian casinos have agreements with the state regarding exclusive rights to gambling.⁹⁶ Because each individual tribe has their own separate agreement with the state, “if sports betting is not mentioned, tribes may choose to renegotiate, and those deals could take years to work out.”⁹⁷

In addition to Assemblyman Gray’s efforts to legalize sports gambling in California, when the *Murphy v. NCAA* decision came down, many other parties have been advocating the legalization of sports betting.⁹⁸ Amongst those in favor of the legalization, “a group called Californians for Sports Betting has submitted paperwork to the office of the attorney general to put a constitutional amendment on the ballot that would allow legalization of sports betting.” This proposal would be considered in the 2020 election.⁹⁹ However, even “[i]f a majority of voters approve, both houses of the legislature have to approve it by a super majority” which is no small feat.¹⁰⁰ While the legalization of sports gambling could have a huge impact on the state of California because of its size, the Indian tribes have already begun voicing their concerns and displeasure with the idea of legalization.¹⁰¹

Since Indian tribes have somewhat of a monopoly on gambling within the state of California, the tribes are worried that “a lot of their current business might be diverted” if sports gambling were to be legalized within the state.¹⁰² At first glance this may not seem like an issue because if sports gambling is legalized, Indian tribes will also be able to have a sportsbook at their casino—essentially another way to generate even more revenue. However, because the “casinos contribute hundreds of millions in taxes annually, [] politicians will not want to jeopardize this revenue if they can avoid it.”¹⁰³ In fact, “[t]he chairman of the Californian Nations Indian Gaming Association, Steve Stallings, has already spoken about their hesitation about having sports betting legalized, saying: ‘[e]xpansion of gaming is a slippery slope.’”¹⁰⁴ The Indian tribes “might also feel that, if sports betting is allowed, there is nothing to stop non-tribal casinos being allowed in the future, which would have a massive impact on the amount of

95. Ramsey, *supra* note 11.

96. Masunaga, *supra* note 92.

97. *Id.*

98. O’Malley, *supra* note 9.

99. *Id.*

100. *Id.*; *see infra* p. 90-92, 101.

101. *Id.*

102. *Id.*

103. O’Malley, *supra* note 9.

104. *Id.*

revenue they garner annually.”¹⁰⁵ California, unlike other states who are in the process of legalizing sports gambling, has 63 Indian tribes that run casinos, which is more than any other state.¹⁰⁶

Interestingly enough, after the *Murphy v. NCAA* decision “MGM Resorts International has agreed to partner with United Auburn Indian Community for a future sports betting venture”, despite the fact that California has yet to identify whether they will legalize sports betting in the state.¹⁰⁷ Even though the *Murphy v. NCAA* decision now allows for states to legalize sports gambling if they wish to, politicians will likely not put themselves in a position where they will upset any of their major revenue generators, and therefore this might stand as a roadblock on the path towards California’s legalization.

Other states like Oklahoma face similar barriers posed by Indian tribes.¹⁰⁸ While states that do not have any tribes have already seen tremendous revenue from the legalization of sports gambling, states with a large Indian tribe presence will likely continue to face resistance.¹⁰⁹ Indian tribes face an interesting dilemma; on the one hand they would love to see the profits and revenue generated by their casinos due to the introduction of sports gambling.¹¹⁰ On the other hand, if they legalize sports gambling, they fear that the loss of business and the potential growth of competitors will hurt them more than the potential benefit.¹¹¹ Because of this dilemma, experts are predicting that it might take states with a large presence of Indian tribes longer to pass legislation to legalize sports betting.¹¹² An additional concern is that “[i]f a state considers sports betting to be a new form of gambling not covered by its contract with tribes there, the state might ask for more revenue sharing in return for the tribes having exclusive access to that market, requiring tough decisions from the tribes.”¹¹³ Ultimately, Indian tribes will have to decide whether the potential profits they would realize from sports betting are great enough to support the legalization of sports gambling.¹¹⁴ Indian tribes will continue to do their due diligence about whether or not they want sports gambling to become legal until November 2020, when a vote will be available to amend the California Constitution to

105. *Id.*

106. Martin, *supra* note 16.

107. Garcia, *supra* note 12.

108. Andrew Westney, *Why Tribal Sports Betting Hasn't Taken Off*, LAW 360 (April 22, 2019, 8:09 PM), https://www.law360.com/sports-and-betting/articles/1147564/why-tribal-sports-betting-hasn-t-taken-off?nl_pk=0078eec2-635d-4230-bc37-5b4751338096&utm_source=newsletter&utm_medium=email&utm_campaign=sports-and-betting.

109. *Id.*

110. *Id.*

111. *Id.*

112. *Id.*

113. Westney, *supra* note 108.

114. *Id.*

allow for the legalization of sports gambling.¹¹⁵ If Indian tribes do not support the legalization of sports gambling in California, the state will lose out on an enormous economic opportunity and the Indian tribes will continue to have a monopoly on gambling within the state.

D. NCAA and Professional Sports Impact

While many proponents of sports gambling focus solely on the benefits they perceive will come from the legalization of sports gambling, the NCAA and professional sports leagues disagree. One of the main arguments presented against the legalization of sports gambling is that it will jeopardize the integrity of the game.¹¹⁶ Some of the worry stems from the belief that “[l]egal college sports betting undermines college sports across the country and encourages gamblers to tempt college students into gambling problems and point-shaving schemes[.]”¹¹⁷ As a result, these opponents believe that “[a] national ban on college and high school sports betting will send a strong message to students that sports gambling and point shaving schemes will not be tolerated.”¹¹⁸ Many opponents contend that “sports betting threatens the integrity of and public confidence in professional and amateur team sports, converting sports from wholesome athletic entertainment into a vehicle for gambling . . . sports gambling raises people’s suspicions about point-shaving and game-fixing.”¹¹⁹ While the argument that NCAA sports should be excluded from sports gambling laws provides valid concerns, the end result seems inevitable. A main concern is that the integrity of the game will be jeopardized if people are allowed to place wagers on NCAA sports, but it is important to remember that placing bets on college sports has already been going on for some time in Nevada, Europe and illegally in other local and offshore accounts.¹²⁰ In fact, it would seem that having legal options for people to place bets would actually help the integrity of the game.¹²¹ With so many illegal alternatives posing a threat to the integrity of the game, legal sports gambling could be the answer to the NCAA’s concerns about integrity.¹²² Ultimately, each state has the ability to set its own restrictions on what types of sports can be bet on and as the trend favors legalizing sports betting on NCAA sports, more states will likely follow suit.

The NCAA as well as other amateur athletic programs are not convinced that allowing people to place bets on youth sporting events is

115. *Id.*

116. Gouker, *supra* note 6.

117. 4 No. 10 ANGILR 8 (NCAA Backs Effort to Ban All College Sports Gambling S. 2021).

118. *Id.*

119. Kindt & Asmar, *supra* note 17 at 3-8 to 3-9.

120. Gouker, *supra* note 6 (However, Nevada and New Jersey prohibit betting on in-state games or teams).

121. *Id.*

122. *Id.*

wise.¹²³ The main reason for this opposition stems from one important fact: NCAA athletes are not compensated.¹²⁴ Because these college athletes are not compensated for their sports, the thought is that allowing others to place bets and profit off of their results would make NCAA athletes more prone to be influenced by compensation in exchange for performing a certain way during the sporting event.¹²⁵ This argument however, assumes that college athletes could be swayed to throw a game or a match in exchange for compensation. While it is true that this could happen, there is nothing preventing this same transaction from occurring now. In fact, athletic directors around the country have long been concerned about their players and about the idea of preserving the integrity of the game.¹²⁶ Phil Esten, the deputy athletic director at Penn State says that he is particularly worried about situations “. . . where student athletes could be influenced, where somebody tries to intercept them as they’re going from study hall to dorm room to cafeteria, to try to get information from them.”¹²⁷ The main problem with this argument is that there is no way to stop these kinds of encounters and the people seeking this information likely do not care whether sports betting is legal or illegal. These conversations could happen regardless of whether the state has made it legal to place sports bets or not. It seems that universities will have to take on a larger educational role in making sure that the student athletes know that they are not allowed to disclose information like this to people who approach them regardless of whether they are offered money or not.

While the NCAA has taken a more unified firm stance against the legalization of sports gambling, professional sports leagues are not in complete agreement. Professional leagues have mixed reviews about whether sports betting should be allowed, yet most admit that “some form of legal sports gambling seems inevitable and they have teamed together to urge states to pass bills that would help protect the integrity of their sports—while also directing some profits in the direction of the leagues.”¹²⁸ With professional sports, it seems reasonable to have legal sports gambling since the leagues could likely afford to monitor the players to help ensure that the integrity of the sport is not breached. It also helps that professional athletes—for the most part—are paid through either contractual agreements or through winnings based on success in a particular event. Although it seems more likely that the integrity of the sports will be preserved because

123. Maykuth, *supra* note 19.

124. *Id.*

125. Stacey Osburn, *NCAA Examining Impact of Sports Wagering*, NCAA (July 19, 2018, 2:01 PM), <http://www.ncaa.org/about/resources/media-center/news/ncaa-examining-impact-sports-wagering>.

126. Maykuth, *supra* note 19.

127. *Id.*

128. Maese, *supra* note 67.

professional athletes are paid, this would not be conclusive, as it is impossible to predict whether or not an athlete will be bribed to throw a game in order to receive a payout.

However, while some professional sports leagues have questioned how the legality of sports gambling might affect the integrity of the game as well as the economic concerns, “the PGA Tour recently revised its regulations toward sponsorships with gambling entities.”¹²⁹ This revision will allow gambling companies to sponsor tournaments and players and the revision is “effective immediately.”¹³⁰ This change is instrumental in how other leagues and organizations view sports betting. Seeing a large and influential body, such as the PGA Tour, moving forward to embrace the legalization of sports betting will likely have an impact on other sports organizations’ decisions to do the same. In fact, the NBA, MLB, NHL and MLS, all organizations who were firmly against legalizing sports gambling, have had a change of heart.¹³¹ These organizations that once lobbied against the passing of legislation have now “each reached official sports betting partnerships with gambling operators such as MGM Resorts.”¹³² While this may seem like professional sports were not being genuine about their position before the *Murphy v. NCAA* decision, NHL Commissioner Gary Bettman who was once “involved” in the passage of PASPA, said that “. . . the world has changed” and “[t]he way people consume sports has changed.”¹³³ This forward momentum of evolving perspective should give California some reassurance that sports betting is not just a trend or a fad that will soon be over, but instead is something that leagues and organizations are adapting to and building into their overall rules.

In fact, some professional sports leagues have “shifted their position on sports betting, they made it clear that they wanted a direct cut, pushing states to include so-called integrity fees or data rights into sports wager bills.”¹³⁴ The idea behind integrity fees is that the fees “reimburse [the teams] for risk to the integrity of their games they take on when others place and accept wagers on those games without the leagues’ direct control.”¹³⁵ Some leagues have even gone as far to claim that the use of their statistics and results are part of their intellectual property and anyone who uses them should compensate the organization appropriately.¹³⁶ So far, the organizations have been mostly unsuccessful in obtaining these integrity fees. It is somewhat unclear whether these integrity fees will ever be distributed to professional

129. McAllister, *supra* note 21.

130. *Id.*

131. Zagger, *supra* note 25.

132. *Id.*

133. *Id.*

134. *Id.*

135. Zagger, *supra* note 25.

136. *Id.*

leagues, but “[o]pponents of the integrity fees point out that the leagues will make money from sports betting both from increased interest from people with money riding on games and from commercial partnerships and sponsorships between leagues and gambling operators.”¹³⁷ Currently, the system seems relatively fair, as gambling industry operators will profit from the bets being placed in their casinos and sports leagues are free to capitalize on the legal activity by obtaining lucrative sponsorship deals with gambling operators.¹³⁸

E. The Stigma Surrounding Sports Gambling

Opponents of the legalization of sports gambling often argue that by allowing people to place bets on sporting events, we are encouraging an activity that perpetuates crime. While many critics of sports gambling condemn the activity because of fear that gambling will negatively influence youth and perpetuate crime, the public at large does not share that same concern.¹³⁹ Although there had long been strict “federal gambling regulations, the public does not consider gambling to be illegal . . . [instead,] [t]he media contributes to this public perception because it portrays sports gambling as an ‘enjoyable and legal pastime,’ such as covering friendly bets between governors, President Obama’s NCAA March Madness bracket, and the widespread gambling on fantasy sports.”¹⁴⁰ Because sports gambling has become normalized through the public’s enjoyment in the activity, this stigma should not prevent states from taking steps towards legalization. If anything, by legalizing sports gambling, those who once bet illegally will now have a platform to place their sports bets legally and in a safer, more regulated way.

However, it would be naïve to think that just because sports gambling is now legal in some states, all illegal sports gambling has ceased. In fact, it is estimated that these illegal “black-market bookies rake in \$150 billion in wagers each year nationwide.”¹⁴¹ While the black market does still exist and is still generating a lot of money, with the new legal market in place, the black market has surely taken a hit in their profits. Some of this hit to profits can be seen in a more indirect way, through the revenue that states are generating. For example, “New Jersey sportsbooks have generated \$178.4 million in revenue since Gov. Phil Murphy signed legislation in June allowing sports betting at Garden State casinos and racetracks. Of the \$2.6 billion in wagers placed during that time, \$100 million (or 3%) alone came

137. *Id.*

138. *Id.*

139. Goeller, *supra* note 30 at 20.

140. *Id.*

141. O’Sullivan, *supra* note 22.

from March Madness bets, the American Gaming Association estimated.”¹⁴² This revenue is generated through taxes that are imposed on sportsbook operators.¹⁴³ In New Jersey, “[t]he state government gets a cut of that revenue through an 8.5% tax imposed on sportsbook operators for casino and racetrack bets and a 13% tax on internet wagers, according to the latest report by the gaming enforcement division.”¹⁴⁴ These types of taxes on sports gambling can be instrumental for a state, especially a state like California who carries a tremendous amount of debt. While illegal sportsbooks are rarely detectable, they are prevalent and are still avoiding paying taxes, which makes it difficult for legal sportsbooks to stay competitive.¹⁴⁵ However, experts say that “[b]uilding awareness of the existence of legitimate sportsbooks could be a solution, according to the American Gaming Association, which estimates that only 56% of the sports betting population is aware that legal sports wagering platforms exist.”¹⁴⁶ By building awareness that legal platforms exist, our society can begin to reduce the stigma that still exists around sports gambling. Simply because an illegal platform exists for this activity does not mean that the activity itself is corrupt. Many people enjoy sports gambling because it makes them feel part of and more engaged with the sporting event they are watching. While “[t]he societal benefits of gambling are primarily economic in nature—the industry long has been a source of jobs, infrastructure development, and tax revenues. Gambling also provides entertainment value.”¹⁴⁷

F. Changing Laws and Changing Legal Practice

With more and more states choosing to pass legislation that would legalize sports gambling, more big law firms are taking note.¹⁴⁸ The prestigious law firm Gibson Dunn has recently “launched a revamped practice group focused on sports betting and gambling.”¹⁴⁹ While Gibson Dunn was the firm who “led the fight to overturn a federal ban on sports betting” in the *Murphy v. NCAA* case, they are now ready to capitalize on this quickly growing market.¹⁵⁰ Even though many firms have a wide variety of practice areas, some dealing with sports and some dealing with gambling, firms are starting to focus more heavily on sports betting because it is becoming a new reality for many states.¹⁵¹ As firms expand and improve

142. *Id.*

143. *Id.*

144. *Id.*

145. *Id.*

146. O’Sullivan, *supra* note 22.

147. Melone, *supra* note 60 at 329.

148. Zagger, *supra* note 25.

149. *Id.*

150. *Id.*

151. *Id.*

practice areas relating to sports betting, more opportunities for employment are created and again legalized sports gambling helps to stimulate the economy.

IV. California's Ideal Approach to Sports Gambling

With more states taking steps towards legalizing sports gambling, it is time for California to follow suit. Despite the arguments made by opponents of sports gambling, this gambling industry is not going away and California should realize that opposing change will only act as encouragement for people to either engage in illegal activity or take their money to other states to engage in sports betting. California already loses a tremendous amount of money to residents who go to Nevada to gamble on sports in casinos and through sportsbooks so this is a perfect time for the state to take action.

The legalization of sports betting in California will not be a free for all, but instead will be subject to regulation.¹⁵² California Assembly member Adam Gray said that sports wagering should be subject to regulation that would “ensure the safety of consumers.”¹⁵³ Regulations that protect the safety of consumers have been, and should be, top priority of the legislature and this is why their task of crafting appropriate legislation is extremely important. The good news for California is that they have good role models to look to for guidance. While California's neighbor Nevada is a great resource, other states since the *Murphy v. NCAA* decision have also legalized sports betting.¹⁵⁴ The ideal approach for California should include restrictions on age of those who are allowed to place bets on sporting events. Most states, including New Jersey in their recent legalization of sports gambling included a minimum age requirement of 21 years to be eligible to bet on sports.¹⁵⁵ By setting an age requirement, casinos and sportsbooks alike are able to assuage some of the opponents of sports betting fear that the youth will be corrupted by sports betting.¹⁵⁶

In addition to age restrictions, California would be wise to follow New Jersey's lead in implementing other parameters to the legalization of sports gambling. California, like New Jersey should restrict and regulate the types of sports that people can legally place bets on. While some argue that the public should not be able to place bets on NCAA and professional sporting events due to the fear that the integrity of the game will be jeopardized, with the proper regulation this will not be an issue.¹⁵⁷ However, California should

152. Rodenberg, *supra* note 3.

153. *Id.*

154. *Id.*

155. Johnson, *supra* note 68.

156. Kindt & Asmar, *supra* note 17 at 3-8 to 3-9 (citing NAT'L GAMBLING IMPACT STUDY COMMISSION, FINAL REPORT).

157. Gouker, *supra* note 6.

place limitations on sports betting to exclude the public from betting on sporting events outside of the NCAA and professional leagues. For instance, if the public were allowed to place bets on youth or high school sporting events, the argument for jeopardizing the integrity of the game would become more relevant.

Once age requirements and sporting event type restrictions have been decided, the last major decision will be about locations where sports bets can be placed. As discussed above, Indian tribes have had a monopoly on casinos due to the long-standing agreements they have in place with the states.¹⁵⁸ If California decides to legalize sports gambling, Indian tribes will already have a location where bets can be placed, and will have an advantage over others who will need to invest time and money into creating a location suitable to accept these sports bets. Additionally, Indian tribes' fear that if sports betting is legalized, there is nothing to stop the state from ultimately allowing non-Indian tribe casinos from opening.¹⁵⁹ While that idea may seem outside the scope of what could be included in a legislation legalizing sports gambling, it may be a natural next step if establishments that are allowed to accept sport bets are permitted to open. Regardless of what the future holds, if legislation passes legalizing sports gambling, the state will have to make decisions about who can run sports gambling specific casinos and where they can be located. California, in an effort to further stimulate the economy, should allow free standing, sports gambling specific operations to exist. Overall, age, event type, and location of where bets can be placed are three main areas that California should focus on when drafting their legislation.

V. Conclusion

Despite the concerns raised by opponents of legalized sports gambling, the benefits of legalizing this activity greatly outweigh the risks. Overall, legalizing sports gambling is something that California should strongly consider moving forward with. While there are valid concerns that must be addressed while drafting legislation, ultimately it would provide tremendous economic growth for the state and for various sports leagues. Not only would the economic growth help to chip away at the state's enormous debt, it will also help to reduce the illegal gambling that has been taking place in the shadows for so long.¹⁶⁰ The road ahead for California's legalization of sports betting is not an easy one, but with the right regulations put in place, it could be a tremendous opportunity for California to bring money and jobs back into the state.¹⁶¹ It is time for California to remove the stigma from 'sports

158. O'Malley, *supra* note 9.

159. *Id.*

160. *Id.*

161. Sheldon, *supra* note 4.

gambling' and move towards bringing a lucrative activity into the light. California should take the necessary steps to legalize sports gambling by first approving an amendment to the state constitution. Once the amendment passes, California can then pass legislation that would permit citizens of the state to legally place bets on sporting events. Within the legislation, California should put the necessary regulations in place to ensure that the consumers are protected.¹⁶² By restricting age, type of event and location where sports bets can be placed, California will have a well-regulated industry that will bring in revenue that could help the state out of some of its debt. Overall, California would be wise to strongly consider the potential growth the state could achieve by legalizing sports gambling.

162. Rodenberg, *supra* note 3.
