

Attorney Claims PASPA Has Loophole

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It is time to stop trying to overturn the sports-betting ban in the Professional and Amateur Sports Protection Act (PASPA) because the act does not prevent leagues from forging agreements with individual states to allow betting on games, according to an Ohio lawyer.

Kevin Braig, a business attorney in Columbus, said there is nothing in PASPA to prohibit the **National Basketball Association** from agreeing to allow Ohio casinos to accept wagers on events such as Friday night's playoff game between the Golden State Warriors and the Cleveland Cavaliers.

"PASPA is not a monolithic wall or dam that permanently blocks the authorization of wagering on every sport in the 46 states that are not exempt from the betting ban," Braig said.

Instead, Braig describes PASPA as a gate which can be opened or closed by the leagues whenever they wish to enable a state to accept bets on their sporting events.

Braig bases his argument on agreements between the leagues and daily fantasy sports companies such as DraftKings and FanDuel.

"PASPA, on its face, should apply to daily fantasy sports, but the [U.S.] Justice Department has never sought to apply PASPA to daily fantasy sports," Braig said.

Likewise, similar agreements could be negotiated in which leagues agree not to sue states for legalizing and regulating bets on their games, according to Braig.

Essentially, the leagues and states would become sports-betting partners with little to lose and much to gain.

"This is the way sports betting is handled in the state of Victoria in Australia," Braig said. "The leagues work together with the companies offering bets on their games."

So far, there is not any indication any U.S. league or state is negotiating a sports-betting agreement. Braig acknowledged that he is still searching for a lawmaker who might be interested in introducing legislation based on his PASPA theory.

Nevada is fully exempt from PASPA. Delaware, Montana and Oregon are partially exempt.

Braig is scheduled to present his views on PASPA on Sunday in Denver during the summer meeting of the National Council of Legislators from Gaming States.

"I just want to simply educate the lawmakers, as the New Jersey case appears to be winding down, that there is another path to expanding sports betting in the United States," Braig said.

Braig was referring to New Jersey's sports-betting appeal to the U.S. Supreme Court, which is expected to be denied after the **acting U.S. Solicitor General** recommended a rejection on May 24.

New Jersey lawmakers are preparing to introduce **yet another sports-betting bill** to remove virtually all state regulations of wagering on games if the Supreme Court denies its appeal.

"If you allowed anyone in New Jersey to run a sportsbook without any regulation, you would seriously threaten the future viability of the **regulated online gaming industry** that is growing and prospering there right now," Braig said.

Such a bill would not convince the leagues to pressure Congress to repeal or amend PASPA to create federal regulation of sports betting, according to Braig.

"You're just talking about formalizing the black market, and saying it's no longer black — it's just acceptable in New Jersey," Braig said. "The underlying economics will not change at all, and the bill will not move the leagues one inch."

Braig acknowledged that sports betting eventually will expand across the country, but the effort to persuade Congress to repeal or amend PASPA will take 10 to 15 years.

"That's way too long in the digital age," Braig said. "The way to approach this, in my view, is to look for a path that is PASPA compliant, and if that happens, we could see the expansion of sports betting in five or less years."

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