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I. Introduction

Imagine you, a New Jersey resident, have downloaded a legal, state approved sports gambling mobile app. You just watched Rutgers University's Scarlet Knights football team go toe to toe with the nineteenth nationally ranked University of Michigan Wolverines for four quarters, coming up just short of completing an epic comeback and upset.¹ Their showing is encouraging, you resolve to bet on them to pull off an even bigger upset the following week against Ohio State. You open up your new sports betting app, looking to place your bet, only to discover that "Rutgers vs. Ohio State" is not listed. There are no game lines, over/under totals, or even prop bets to be found on the app, although other games in the same conference are included. And while this missing game may have saved you from betting on a team that lost by thirty-nine points, you are still curious why you did not have the option to do so.²

You face the same problem when trying to bet on the Army vs. Navy football game being played in New Jersey at MetLife Stadium.³ Your curiosity and excellent legal training lead you to do a little research, only to discover that New Jersey law prohibits wagers on in-state college teams and college athletic contests that take place in the state.⁴ And in even more disappointing

¹ Larry Lage, No. 19 Michigan holds off Rutgers for 20-13 victory, ESPN (Sep. 25, 2021), https://www.espn.com/college-football/recap/_/gameId/401282775.

² Buckeyes Roll Rutgers, 52-13, (Oct. 2, 2021) <https://ohiostatebuckeyes.com/ohio-state-rutgers-recap-october-2-2021/>.

³ Mitchell Northman, 2021 Army-Navy: Everything you need to know about the 122nd meeting between the Black Knights and Midshipmen, (Dec. 11, 2021, 4:05 AM), <https://www.againstallenemies.com/2021/12/11/22829088/2021-army-navy-preview-notes-black-knights-midshipmen-fbs-football-monken-niumatalolo>.

⁴ Sports Wagering Law, N.J.S.A. C.5:12A-10.

news, a ballot question to remove such restrictions in the fall of 2021 was rejected by 57% of New Jersey voters.⁵

New Jersey is not the only state to have these rules. Neighboring New York, which just legalized gambling this year, has also implemented a ban on both in-state college teams and college sports played in the state.⁶ Six other states and Washington D.C. have followed suit and adopted similar restrictions on in-state college gambling.⁷ Five states allow for bets on in-state college sports, but do not allow for individual athlete prop bets on in-state college athletes.⁸ Of the thirty-two states that have legalized sports gambling, only thirteen and Washington D.C. have prohibitions on college gambling, and none have extended their location based betting prohibitions to professional sports.⁹

There is a clear difference between collegiate and professional sports in this country: collegiate sports are amateur competitions, while professional sports are not. Supporters of in-state college sports gambling restrictions argue that they protect local college athletes and their amateur sports from the corruption of gambling. Even the Supreme Court of the United States has recognized that the National College Athletic Association (NCAA, the governing body of college sports in the United States) plays a critical role in maintaining a “revered tradition of

⁵ Sen. Con. Res. 133 (N.J. 2021).

⁶ Steve Petrella, [New York College Sports Betting Rules: No In-State Teams, No Players Props](https://www.actionnetwork.com/legal-online-sports-betting/new-york-college-rules-props), (Jan. 27, 2022, 3:41 PM) <https://www.actionnetwork.com/legal-online-sports-betting/new-york-college-rules-props>.

⁷ Darren Rovell, [Where Is Sports Betting Legal? Projections for All 50 States](https://www.actionnetwork.com/news/legal-sports-betting-united-states-projections), (Feb 12, 2022, 1:05 PM), <https://www.actionnetwork.com/news/legal-sports-betting-united-states-projections> (Connecticut, Delaware, New Hampshire, Oregon, Rhode Island, and Virginia).

⁸ DK Playbook, [DraftKings Sportsbook College Team Betting Restrictions by State](https://dknation.draftkings.com/playbook/2021/3/2/22310053/draftkings-ncaa-team-betting-restrictions?an=adwords&wpscid=129014514850&wpcrid=584291162375&wpcid=16392042408&_gl=1*wglvph*), (Mar 23, 2021, 6:37 AM) https://dknation.draftkings.com/playbook/2021/3/2/22310053/draftkings-ncaa-team-betting-restrictions?an=adwords&wpscid=129014514850&wpcrid=584291162375&wpcid=16392042408&_gl=1*wglvph* (Colorado, Iowa, Michigan, Tennessee, and West Virginia).

⁹ Rovell [supra](#) note 7.

amateurism in college sports.”¹⁰ The question is, do the restrictions New Jersey and other states have placed on college sports gambling actually accomplish that goal?

This paper will discuss New Jersey’s in-state college gambling restrictions, and whether they actually accomplish their intended goals. Part II will examine the history of sports gambling in America, various scandals and acts of corruption involving gambling, how they have shaped this nation’s perceptions of sports gambling, and what lessons can be learned from those events. Part III will give an overview into twentieth century instances of gambling legalization, and the impact of the decision in Murphy v. NCAA that allowed for states to legalize sports gambling. Part IV will compare and contrast New Jersey’s sports gambling laws with other states’ sports gambling laws. Part V will explain the main arguments against New Jersey’s restrictions on college sports gambling. Part VI will conclude this paper by summarizing why New Jersey’s restrictions on college sports gambling are futile and do not accomplish the goals they intend.

II. Historical Background of Sports Gambling and Corruption in the United States

The United States has had a long and complicated history with gambling. Gambling predates the Union itself, and helped shape the new nation.¹¹ Lotteries, a popular form of gambling around the time of the nation’s founding, were used to help build cities like New York and Philadelphia, and the federal government used their proceeds to build Washington D.C.¹² But with these lotteries came America’s first gambling scandal.

¹⁰ NCAA v. Board of Regents of Oklahoma Univ., 468 U.S. 85, 120 (1984) (noting in dicta that amateurism in college sports was a long-standing tradition, but doing so in the context of a dispute over televising college sporting events).

¹¹ David G. Schwartz, Roll the Bones: The History of Gambling 135 (2006) (Native American tribes, such as the Navajo, played gambling games for sacred purposes. Early British colonists in America also brought their own forms of gambling across the Atlantic, including the pious Puritan settlers of Massachusetts. As the colonies were developing, they used lotteries to build streets, wharves, and ironically enough, even churches.).

¹² Id. at 147-148.

Created in 1868, the Louisiana Lottery Company became the largest and most financially successful lottery of its time, selling tickets across the United States.¹³ The lottery was notorious for rampant corruption, with rumors that the lottery's officials and employees were taking bribes and stealing funds.¹⁴ The corruption was so widely known that Congress outlawed the interstate sale of lottery tickets, and even the governor of Louisiana eventually signed legislation banning its operation, even though the governor believed the law itself was unconstitutional.¹⁵ As a result, the lottery and its owner fled to Honduras, and unsuccessfully tried to operate the lottery from there for a year before permanently shutting down in 1893.¹⁶

Sports gambling has deep roots in American life, most notably in horse racing, particularly in the South where it was most popular.¹⁷ Wagers on cockfighting were also common in the seventeenth and eighteenth centuries (and sadly was not banned completely until 2008).¹⁸ Sports gambling on athletic contests like race walking and baseball increased in popularity in the late nineteenth century.¹⁹

The rise of unregulated sports gambling coupled with incredibly low salaries for baseball players in this era was a dangerous combination, leading to rampant corruption in the sport, and the infamous Black Sox Scandal.²⁰ Eight baseball players for the Chicago White Sox accepted

¹³ J. Paul Leslie, Louisiana Lottery, (Nov. 30, 2016), <https://64parishes.org/entry/louisiana-lottery>.

¹⁴ Id.

¹⁵ Leslie supra note 13. Schwartz, supra note 11, at 343-345.

¹⁶ Id.

¹⁷ Schwartz, supra note 11, at 138-139.

¹⁸ B. David Zarley, On the Edge of the Pit: Cockfighting in America (Mar. 11, 2015, 9:05 AM) <https://www.vice.com/en/article/vvakn9/on-the-edge-of-the-pit-cockfighting-in-america>.

¹⁹ Schwartz supra note 11, at 337-339 (sports gambling on human events rose with the import of "pedestrianism," best described as competitive walking, from Europe. A little later in this same century, fans started to get in on the action with team sports, especially in collegiate sports as well as professional baseball).

²⁰ John Thorn, Forget What You Know About the Black Sox Scandal, (Oct. 9, 2019) <https://www.nytimes.com/2019/10/09/opinion/black-sox-scandal-1919.html>.

bribes from gamblers to intentionally lose the 1919 World Series.²¹ The players involved in the scheme were never convicted, but the trial and media coverage left American's pastime disillusioned.²² Yet, despite the Black Sox scandal, gambling on other sports continued to increase.²³

Six decades later, it was collegiate basketball's turn to grapple with a sports gambling scandal. Henry Hill, a convicted felon, admitted to federal officials that he had and others paid Boston College basketball players between \$1,000 and \$2,000 to "fix games."²⁴ Rick Kuhn, one of the Boston College players involved in the conspiracy, testified at trial he was paid to "see to it" that his team would not win by more than the point spread in games in which they were the favorites.²⁵ Kuhn was able to convince other players on the team to participate in point shaving, including the team's leading scorer, Ernie Cobb.²⁶ The gamblers who paid Kuhn and his teammates off would then bet on Boston College's opponent to "cover" the spread, thereby winning their bets and making money.²⁷

At trial, Kuhn testified that college athletes were more susceptible to corruption from gamblers, particularly "in their junior and senior years, when it becomes reality that they're not

²¹ Id.

²² Bill Lamb, The Black Sox Scandal, <https://sabr.org/journal/article/the-black-sox-scandal/>.

²³ Schwartz supra note 11 at 339-340 (Football's betting popularity struggled in the early days of the sport due to the low scoring nature of the games, but once point spread betting was introduced in the 1940s, it has since become a preferred betting sport among Americans. Boxing relied on gambling for much of its revenue in the late nineteenth and early twentieth centuries. Gambling on golf also became popular, as friends could compete against each other with a friendly wager to raise the stakes.)

²⁴ Dan Lauck and Joe Picharillo, Point Shaving is Alleged at Boston College, (Jan. 16, 1981)

<https://www.washingtonpost.com/archive/politics/1981/01/16/point-shaving-is-alleged-at-boston-college/a8ddc39a-add7-4e48-a9e7-dbc9f0fbee59/>.

²⁵ Eric Schmitt, Rick Kuhn Recalls Point-Shaving Case, (Jun. 26, 1985)

<https://www.nytimes.com/1985/06/26/sports/rick-kuhn-recalls-point-shaving-case.html>.

²⁶ Tom Van Riper, ESPN Looks Back on Boston College Point Shaving Scandal - And A Player Speaks Out, (Oct. 1, 2014, 6:42 AM) <https://www.forbes.com/sites/tomvanriper/2014/10/01/espn-looks-back-on-boston-college-point-shaving-scandal-and-a-player-speaks-out/?sh=76c629bd26b8>.

²⁷ Id.

going to have lucrative careers as players."²⁸ Kuhn was originally sentenced up to ten years in prison for his actions, but his sentence was reduced to four years after an appeal.²⁹ Despite the effort Kuhn and the players put into fixing these games, and the punishment they received for it, Kuhn has since admitted they were not paid by the gamblers they conspired with for every game they attempted to shave points.³⁰

Other sports gambling scandals in the world of college athletics arose around this time. In 1985, the Tulane University basketball team tanked two of their games, beating Southern Mississippi by one point (Tulane was a ten and half point favorite) and losing to Memphis State by more than the seven-point spread.³¹ Four starters for the Tulane basketball team accepted roughly \$23,000 to throw the games.³² The scheme was hatched with three non-basketball player Tulane students, who placed wagers of \$7,000 on the Southern Mississippi game and \$34,000 on the Memphis State game.³³ The gamblers, to avoid detection, placed their bets in various locations, with \$18,000 of the money being bet at ten Las Vegas, Nevada sports books, \$10,000 at a Birmingham sports book, and the remaining \$6,000 placed with a local New Orleans, Louisiana, bookmaker.³⁴ Eventually, rumors of the scheme circulated around campus and the city of New Orleans and authorities uncovered the conspiracy before a third game could be fixed.³⁵ Charges were brought against three of the players, the three students who participated in

²⁸ Schmitt *supra* note 25

²⁹ *Id.*

³⁰ *Id.*

³¹ Big Trouble at Tulane, (Apr. 8, 1985), <https://vault.si.com/vault/1985/04/08/big-trouble-at-tulane>.

³² *Id.*

³³ Frances Frank Marcus, 8 INDICTED IN TULANE SCANDAL; SCHOOL TO GIVE UP BASKETBALL, (Apr. 5, 1985) <https://www.nytimes.com/1985/04/05/sports/8-indicted-in-tulane-scandal-school-to-give-up-basketball.html>; see also Big Trouble at Tulane, (Apr. 8, 1985), <https://vault.si.com/vault/1985/04/08/big-trouble-at-tulane>.

³⁴ Big Trouble at Tulane, *supra* note 31.

³⁵ *Id.*

the scandal, and two bookmakers unaffiliated with the school.³⁶ The University, in response, dropped the men's basketball program following the season, but would reinstate it four years later.³⁷

Members of the Northwestern University basketball and football teams made similar headlines a decade later.³⁸ Like the Tulane basketball team's scheme, basketball players and gamblers were caught point shaving after their second successful attempt, but before they could fix a third game.³⁹ The bets were placed by those involved in fixing the games in four different states.⁴⁰ Later that same year, four Northwestern football players were indicted on perjury charges after falsely testifying that they did not gamble on their own games.⁴¹ The investigation began when a coach overheard another player complain about players purposely losing.⁴² Evidence that they did do so came from testimony by a former Northwestern football player and illegal bookmaker who took their bets (totaling between \$25 and \$1,000), as well as teammates who suspected the four players had been intentionally losing.⁴³ When asked about this specific scandal, then NCAA Director of Agent and Gambling Activities said:

Any college athletic program is at risk for sports wagering. People need to realize that gambling is not a victimless crime. The other players on the team, the cheerleaders, the fans, the alumni, the other team -- these are the victims. We need to convince colleges to remove the student bookies from our college campuses.

³⁶ Id.

³⁷ Tulane Returning to Conference, (Oct. 14, 1988) <https://www.nytimes.com/1988/10/14/sports/tulane-returning-to-conference.html>.

³⁸ Matt O'Connor, 4 SENTENCED IN GAMBLING PLOT AT NU, (Nov. 25, 1998, 12:00 PM).

³⁹ Id.

⁴⁰ Id.

⁴¹ Four Former Northwestern Players Indicted (Dec. 4, 1998)

<https://www.washingtonpost.com/archive/sports/1998/12/04/four-former-northwestern-players-indicted/d844eeaf-7f3d-484a-b912-86340f7a696b/>.

⁴² Id.

⁴³ Id.

We need the media to realize that printing point spreads in the newspaper is not O.K.⁴⁴

But regarding the integrity of the game, the Director said "We're not concerned about the integrity of our game as it exists today. We're confident that the games are square and on the up and up."⁴⁵

III. PASPA and Subsequent Legalization

A. Twentieth Century Gambling Legalization

While the Black Sox scandal and Louisiana Lottery Company scandal left many Americans against legalized gambling in the 1910's, it made a comeback in the ensuing decades.⁴⁶ Many states realized, like the Prohibition on alcohol, banning merely drove the industry underground where it served as a revenue source for organized crime.⁴⁷

The first form of state sanctioned gambling in this time period was on horse racing, which was heavily regulated in order to ensure the races were fair.⁴⁸ The industry peaked during the Great Depression, but it found a revitalization in the 1970's when states like New York legalized Off-Track Betting (OTB), which allows bettors to gamble on horse races without having to go to the track in person.⁴⁹

The 1960's saw another form of gambling return to legal status: lotteries.⁵⁰ New Hampshire was the first to bring a state-run lottery back after roughly half a century had passed since they

⁴⁴ Bill Dedman, COLLEGE FOOTBALL: 4 Are Indicted in Northwestern Football Scandal, (Dec. 4, 1998) <https://www.nytimes.com/1998/12/04/sports/college-football-4-are-indicted-in-northwestern-football-scandal.html>.

⁴⁵ Id.

⁴⁶ Schwartz supra note 11 at 369-372.

⁴⁷ Id. at 369.

⁴⁸ Id. at 369-371.

⁴⁹ Thomas P. DiNapoli, Are Off-Track Betting Corporations Nearing the Finish Line?, 1-3 (2015).

⁵⁰ National Gambling Impact Study Commission Final Report, Chapter 2, Pg. 1 (1999).

had fallen out of favor.⁵¹ New York, New Jersey, and other states followed New Hampshire's lead, and by 1999 thirty-seven states and Washington D.C. ran legalized lotteries.⁵² The revenue generated from these lotteries exploded over time, growing from two billion dollars annually in 1973 to thirty-seven billion dollars in 1999.⁵³ State and local government revenue since has since decreased, producing twenty-eight billion dollars in revenue in 2021.⁵⁴

Gambling has been legal in Nevada since 1869, and for roughly one-hundred years it enjoyed a monopoly on legalized gambling within the United States.⁵⁵ That changed in 1976, when New Jersey passed a casino referendum in Atlantic City.⁵⁶ Having legalized a lottery and horse racing, New Jersey residents were already receptive to increasing legalized gambling in the state.⁵⁷ As Atlantic City began to fall on hard times in the 1960's, pro-gambling backers began to push for the legalization of gambling, promising the revenue would be dedicated to revitalizing the declining city.⁵⁸ After nearly a decade of political battles and failed ballot initiatives, New Jersey finally passed a casino referendum in 1976, with a compromise to limit casinos only to Atlantic City.⁵⁹ The legalization of casinos in Atlantic City proved to be a significant financial success early on, as the Resorts International casino in the city generated almost \$225 million in revenue in its first year, compared to Las Vegas's MGM Grand (Nevada's largest casino revenue

⁵¹ Id.

⁵² Id.

⁵³ Id.

⁵⁴ <https://www.naspl.org/nasplmembers/#:~:text=North%20American%20Lotteries&text=Lotteries%20transferred%20%2428%2C137%2C713%2C120%20to%20state,assistance%20and%20much%2C%20much%20more.>

⁵⁵ Schwartz supra note 11, at 351-353.

⁵⁶ Id. at 427-429.

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ Casino Control Act, N.J.S.A. 5:12-1 (1976); see also Walter H. Waggoner, Jersey Adopts Casino-Control Bill, (May 27, 1977) <https://www.nytimes.com/1977/05/27/archives/jersey-adopts-casinocontrol-bill-assembly-gives-final-approved-to.html>.

generator) generated \$84 million.⁶⁰ By the 1980's, Atlantic City saw more than double Las Vegas's visitor total, and nearly matched Las Vegas's \$2 billion in annual revenue.⁶¹

With the financial success of gambling in Atlantic City, other entities became increasingly open to the idea of legalizing gambling as well. Native American Tribes in the 1980's began to push for legalized gambling on their reservations, with the battle eventually landing in the Supreme Court.⁶² This decision was soon followed by the Indian Gaming Regulatory Act of 1988, which was passed by Congress in an effort to promote economic development of the tribes.⁶³ The Act also created the National Indian Gaming Commission to provide federal regulation over this newly legalized gambling.⁶⁴

B. PASPA: From Enactment to Murphy v. NCAA

With legalized gambling continuing to increase in popularity, some states such as Iowa, Illinois, and Mississippi began to legalize riverboat gambling in the early 1990's.⁶⁵ Other states like Colorado legalized "limited gambling," which allowed only for slots, poker, and blackjack capped at five dollars a hand or spin.⁶⁶ As legalized gambling began to make serious headway across the country, the major sports leagues of the United States began to fear the possibility of ubiquitous legalized sports gambling, and looked to Congress for protection.⁶⁷

⁶⁰ Schwartz *supra* note 11, pg. 427-429.

⁶¹ *Id.* at 431-432.

⁶² California v. Cabazon Band of Mission Indians, 480 U.S. 202, 202-203 (1987) (California tribes of Native Americans began running bingo parlors and card clubs on their reservations, and the state government brought action to prevent them from doing so, citing their statute governing the operation of bingo games. The Supreme Court held for the Native American Tribes, finding California could not enforce the gambling regulation laws against the tribes on their reservation because the laws were only regulatory and not criminal.).

⁶³ Indian Gaming Regulatory Act of 1988, 25 U.S.C. 29 § 2701.

⁶⁴ *Id.*

⁶⁵ Schwartz *supra* note 11, at 440-442.

⁶⁶ *Id.* at 445.

⁶⁷ Murphy v. National College Athletic Ass'n, 138 S.Ct. 1461, 1469-1470 (2018).

This lobbying led to the enactment of the Professional and Amateur Sports Protection Act (PASPA) in 1992, with the intended purpose of protecting young people and safeguarding the integrity of sports.⁶⁸ PASPA's key provision made it “unlawful” for a state or any of its subdivisions “to sponsor, operate, advertise, promote, license, or authorize by law or compact ... a lottery, sweepstakes, or other betting, gambling, or wagering scheme based ... on” competitive sporting events.⁶⁹ Excluded from the reach of PASPA were jai alai, as well as parimutuel horse and dog racing.⁷⁰ In order to enforce PASPA, Congress added a provision allowing either the Attorney General of the United States, a professional sports organization, or an amateur sports organization whose competitive game is alleged to be the basis of such violation to sue in federal district court for an injunction against the state violating PASPA.⁷¹

When PASPA was in the process of being drawn up and enacted, Congress had to consider the states that had already legalized gambling.⁷² Nevada had legalized sports gambling for years at this point, New Jersey’s legalized Atlantic City casinos were thriving, and other states had legalized sports lotteries and pools.⁷³ As a carve out, Congress provided a one-year window from the effective date of PASPA (January 1, 1993) for states which operated licensed casino gaming for the previous ten years to pass laws legalizing sports gambling.⁷⁴ This exception was made with New Jersey in mind, but the state failed to take advantage of the opportunity.⁷⁵

Almost twenty years later, during the recession of the late 2000’s, proponents of sports betting in New Jersey sought to challenge PASPA by passing the Sports Wagering Law of 2012,

⁶⁸ Id. at 1470.

⁶⁹ Professional and Amateur Sports Protection Act, 28 U.S.C. § 3702 (1992).

⁷⁰ Id.

⁷¹ Professional and Amateur Sports Protection Act, 28 U.S.C. § 3703 (1992).

⁷² See Murphy 138 S.Ct. at 1470.

⁷³ Id.

⁷⁴ Professional and Amateur Sports Protection Act, 28 U.S.C.A. § 3704 (1992).

⁷⁵ See Murphy 138 S.Ct. at 1471.

which allowed gambling on the results of professional, college, and amateur sporting events in New Jersey.⁷⁶ In response, American sports leagues, including the NCAA, NFL, MLB, and others, sought to enjoin the law in federal court.⁷⁷

The Sports Wagering Law of 2012 contained a provision prohibiting gambling on New Jersey college and university teams and all collegiate sporting events within New Jersey.⁷⁸ The state contended this was included in response to a request from the NCAA and that their mere acquiescence to the NCAA's request was not a concession of injury.⁷⁹ The District Court ultimately observed this provision when announcing its decision.⁸⁰

In 2018, after six years of litigation, New Jersey got their victory when the Supreme Court held in New Jersey's favor and repealed PASPA.⁸¹

A month later, New Jersey Governor Phillip D. Murphy signed legislation that legalized sports gambling in the state of New Jersey.⁸² The 2018 statute contained the same prohibition on college sports gambling in the initial Sports Wagering Act of 2012, banning wagers on college sporting events taking place in the state, or any college sporting event involving a New Jersey college team outside the state.⁸³

⁷⁶ National College Athletics Ass'n v. Governor of N.J., 730 F.3d 208, 214 (3rd Cir. 2013).

⁷⁷ See Governor of N.J., 730 F.3d at 214.

⁷⁸ National College Athletic Ass'n v. Christie, No. 12-4947 (MAS)(LHG) 2012 WL 6698684 (D.N.J. 2012).

⁷⁹ Id.

⁸⁰ Id.

⁸¹ Id. at 1484-1485.

⁸² Governor Murphy Signs Sports Betting Legislation (Jun. 11, 2018).

https://nj.gov/governor/news/news/562018/approved/20180611b_sportsBetting.shtml.

⁸³ Sports Wagering Law, N.J.S.A. C.5:12A-10.

IV. The Landscape of Interstate Collegiate Sports Betting Restrictions

Other states soon decided to take advantage of PASPA's defeat and implement legalized sports gambling of their own. In 2018, other states joined New Jersey and passed their own sports gambling legislation in 2018.⁸⁴ In 2019, six more states joined the ranks of states with legalized sports gambling.⁸⁵ At the time of this paper, thirty-two states have passed some form of legalized gambling.⁸⁶ Ten states allow only retail sports gambling.⁸⁷ Nineteen allow some form of online gambling.⁸⁸ Finally, three states have also legalized sports gambling, and are in the process of establishing sports gambling regulations in some form in their states.⁸⁹

Of these states, some have followed New Jersey's lead in restricting in-state college gambling. Virginia, New Hampshire, Connecticut, and most recently New York have bans on sports bets on in-state college teams and/or on college events played in their states.⁹⁰ Colorado, Iowa, Indiana, Michigan, and Pennsylvania allow bets on in-state teams and games, but not on individual prop bets (a wager on a specific event or statistical milestone for a single player within a game).⁹¹

The original sports gambling mecca, Nevada, does not prohibit college sports gambling, having repealed an in-state college sports gambling ban in 2001.⁹² Initially enacted in the 1950's, the ban prevented sports gambling in Nevada on both in-state teams and college sporting events

⁸⁴ <https://www.sportsbettingdime.com/guides/legal/sports-betting-state-by-state-legal-tracker/> (Mississippi, Rhode Island, West Virginia, and New Mexico).

⁸⁵ *Id.* (Arkansas, Indiana, Iowa, New Hampshire, Oregon, and New York (retail sports gambling only at the time)).

⁸⁶ Darren Rovell, [Where Is Sports Betting Legal? Projections for All 50 States](https://www.actionnetwork.com/news/legal-sports-betting-united-states-projections), (Feb 12, 2022, 1:05 PM), <https://www.actionnetwork.com/news/legal-sports-betting-united-states-projections>.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ DK Playbook *supra* note 8.

⁹¹ *Id.*

⁹² Gaming Regulation 22.120(b) (Nev. 2001).

taking place in the state.⁹³ The NCAA opposed the repeal, but then Gaming Commission Chairman (and eventually Nevada Governor) Brian took the position that Nevada's issue was with illegal college sports gambling outside the state of Nevada, not legalized, regulated gambling taking place in Nevada.⁹⁴ Sandoval said the repeal of the ban, approved unanimously by the Commission, would allow for more stringent regulation of college sports gambling within the state.⁹⁵ The new regulations still prohibited casinos from accepting wagers from college athletes, coaches and other interested parties on their own games.⁹⁶

Mike Olsen, then president and general manager of the IBL's Las Vegas Bandits at the time the ban was repealed, agreed with Sandoval and believed that the proposition actually decreases the likelihood of foul play.

There's always been gambling on basketball in this town and there's always been gambling on Rebel basketball, it just hasn't been above board. Now it's legal, so at least now it can be monitored, which means they'll have an easier time of catching point-shavers by tracking the unusual betting cycles at the sports books.⁹⁷

Illinois also had in-state college sports gambling restrictions similar to the restrictions Nevada used to have and the restrictions New Jersey currently has.⁹⁸ Just two years after the state legalized gambling, however, Illinois followed Nevada's lead and removed some of these restrictions.⁹⁹ The state removed the ban on betting on in-state college sporting events in 2021,

⁹³ Darren Rovell, UNLV: Betting Ban Removal Won't Change Much, (Feb. 12, 2001) <https://www.espn.com/gen/s/2001/0210/1077033.html>.

⁹⁴ Kenn Ritter Gaming Control Board Allows Betting on Nevada College Sports, (Jan. 25, 2001, 6:52 AM) <https://lasvegassun.com/news/2001/jan/25/gaming-control-board-allows-betting-on-nevada-coll/>; see also National College Athletic Ass'n v. Christie, No. 12-4947 (MAS)(LHG) 2012 WL 6698684 (D.N.J. 2012).

⁹⁵ Id.

⁹⁶ Id.

⁹⁷ Rovell supra note 93.

⁹⁸ Mitchell Armentrout, Illinois College Teams on the Board as Pritzker Signs Law Lifting Betting Ban on In-State Schools (Dec. 17, 2021, 8:26 AM) <https://chicago.suntimes.com/2021/12/17/22843064/illinois-sports-betting-college-sports-in-state-allowed-gambling-sportsbooks-wintrust>.

⁹⁹ 230 ILCS 45/25-25 (Ill. 2021).

but kept the restriction on individual prop bets on in-state college athletes.¹⁰⁰ The newly allowed bets can only be made at a physical location such as a racetrack or a casino, and cannot be made on a mobile sports gambling app.¹⁰¹ Illinois also faced pressure against their removal of the restrictions, this time from schools within the state such as the University of Illinois.¹⁰² The University of Illinois's Athletic Director feared athletes could face undue pressure and even physical threats from bettors, even those who they might share a dorm with.¹⁰³

Illinois State Representative Mike Zalewski, who spearheaded the repeal of Illinois' in-state college sports gambling ban, said the repeal was best for both the gambling industry and Illinois' schools.¹⁰⁴ Zalewski pointed to the fact that such bets were being made by Illinois residents in neighboring Indiana and Iowa legally anyway, or illegally in the state of Illinois by way of illegal bookmakers.¹⁰⁵ The ban was ultimately futile, according to Zalewski, and the state was better served legalizing it in-state than forcing gamblers elsewhere.¹⁰⁶

Unlike Illinois and Nevada, Colorado has never had any restrictions on in-state college sports gambling.¹⁰⁷ When asked why Colorado took a different approach to their legalized sports gambling structure, Dan Hartman, the director for the Colorado Division of Gaming was quoted as saying:

The debate to include home teams seems to be a public policy issue with many different sides. In Colorado, the conclusion was made that, because we had set up

¹⁰⁰ Id.

¹⁰¹ Id.

¹⁰² Armentrout supra note 98.

¹⁰³ Id.

¹⁰⁴ Mitchell Armentrout, State Lawmakers Put Illinois College Teams on the Board Under New Sports Betting Bill, (Oct. 28, 2021) <https://chicago.suntimes.com/2021/10/28/22751889/illinois-college-sports-betting-in-state-ban-repealed-gambling-wagers>.

¹⁰⁵ Id.

¹⁰⁶ Id.

¹⁰⁷ Ian St. Clair, Colorado Breaks the Mold by Allowing Fans to Wager on Local College Teams, (Mar. 19, 2021), <https://www.playcolorado.com/colorado-breaks-the-mold-allowing-wagers-on-local-college-teams/>.

a strong and sturdy system, we wouldn't eliminate certain teams or games because of our belief and trust in the regulatory framework we established.¹⁰⁸

Colorado recognized one of the strongest arguments for allowing gambling on in-state collegiate sports: the fewer gambling restrictions you have, the fewer gamblers you drive towards illegal gambling.¹⁰⁹ By allowing wagers on in-state college sports teams, Colorado can ensure such wagers are above board, and receive the revenue from fans betting on their favorite teams.¹¹⁰

V. The Reasoning Behind New Jersey's College Sports Gambling Prohibitions

The justification for New Jersey's ban appears to be threefold. Former Governor of New Jersey Chris Christie, has recently reaffirmed his support of the in-state college sports gambling restrictions of New Jersey.¹¹¹ While speaking at the Global Gaming Expo in Las Vegas, Christie responded to criticism of New Jersey's gambling restrictions:

For New Jersey people, they are not knocking down the doors to bet on Rutgers or Seton Hall, and those are essentially our only two major university sports programs — God love Princeton, but I don't think people are dying to bet on Ivy League football or basketball. If the ban was repealed, I wouldn't stomp my feet up and down, either.¹¹²

If true, the crux of former Governor Christie's remarks suggests that there is no meaningful basis for the ban and no great harm would occur if it was repealed. Essentially, lifting the ban in the state would have the same effect as keeping it.

But there is no evidence this is true. Rutgers' football team had two matchups in its most recent season that drew over one million viewers on television, including the previously

¹⁰⁸ Id.

¹⁰⁹ Id.

¹¹⁰ Id.

¹¹¹ John Brennan, Chris Christie Criticizes Pennsylvania Sports Betting — 'A Rolling Dumpster Fire', (Oct. 16, 2019) <https://georgeganchev.info/pennsylvania-sports-betting-chris-christie-g2e-las-vegas/>.

¹¹² Id.

mentioned matchup against Ohio State that was played in New Jersey.¹¹³ Even if one were to argue Rutgers fans would not want to bet on Rutgers, there were thousands of Ohio State fans (one of the largest and most popular football programs in the nation) who traveled to the most recent Ohio State vs. Rutgers game in New Jersey who could have had interest in betting on the game while attending it.¹¹⁴

In basketball, both Rutgers and Seton Hall had impressive 2022 seasons that earned their men's teams spots in the annual NCAA March Madness Tournament to compete for a national championship.¹¹⁵ St. Peter's University of Jersey City also received a bid for the tournament, and made an unlikely run to one of the final eight spots in the tournament, a performance that garnered all of New Jersey's and the entire country's attention.¹¹⁶ There does not appear to be evidence of a lack of interest in New Jersey residents betting on these teams, despite former Governor Christie's claims.

It is also important to note that when the United States District Court for the District of New Jersey heard Christie I, neither party in the litigation cited the reasons former Governor Christie used to support the ban.¹¹⁷ The sports leagues in that case argued New Jersey implemented the ban because they were aware of the integrity concerns and potential for sports gambling injury in the state.¹¹⁸ However, New Jersey denied this reasoning, and instead claimed the restriction on

¹¹³ College Football TV Ratings, <https://www.sportsmediawatch.com/college-football-tv-ratings/>

¹¹⁴ Steve Politi, Ohio State blowout is a reminder of how far Rutgers still has to go, (Oct. 2, 2021, 9:36 PM), <https://www.nj.com/rutgersfootball/2021/10/ohio-state-blowout-is-a-reminder-of-how-far-rutgers-still-has-to-go-politi-5-observations.html>.

¹¹⁵ Nick Caloway, Saint Peter's, Seton Hall and Rutgers ready for the unpredictability of March Madness, (Mar. 14, 2022, 6:01 PM), <https://www.cbsnews.com/newyork/news/saint-peters-seton-hall-and-rutgers-ready-for-the-unpredictability-of-march-madness/>.

¹¹⁶ Kyle Tucker, Cinderella Has a 'stache: Meet Doug Edert and Saint Peter's, the New March Madness Darlings, (Mar. 20, 2022) <https://theathletic.com/3197327/2022/03/20/cinderella-has-a-stache-meet-doug-edert-and-saint-peters-the-new-march-madness-darlings/>.

¹¹⁷ National College Athletic Ass'n v. Christie, No. 12-4947 (MAS)(LHG) 2012 WL 6698684 (D.N.J. 2012).

¹¹⁸ Id.

in-state collegiate betting was instituted to placate the NCAA by acceding to the NCAA's request (as the NCAA was one of the plaintiffs of Christie I).¹¹⁹ There seems to be no indication from either side of this litigation that the in-state sports gambling restrictions were in place because there was a lack of interest in sports gambling on local college teams.

Virginia, like New Jersey, recently attempted to repeal their ban on in-state college sports gambling.¹²⁰ A bill was introduced in the state legislature to repeal the ban, but the measure died in their House General Laws Committee.¹²¹ When Virginia first made sports gambling in the state legal, college presidents within the state wrote a joint letter to lawmakers requesting they implement the same in-state college gambling restriction New Jersey implemented.¹²² Carolyn Hawley, president of the nonprofit Virginia Council on Problem Gambling, also spoke in support of the ban, suggesting that without such a ban, student athletes would be at risk of "sabotaging games."¹²³

This argument has been used to defend these bans in Virginia, New Jersey, Illinois and Nevada.¹²⁴ But this argument ignores the reality of the situation. There are many bets placed on college sports across the nation, so carving out in-state restrictions does not remove alleged integrity concerns.¹²⁵ Manipulating college games is far from easy, and in order to make such a

¹¹⁹ Id.

¹²⁰ Sen. B. 576 (Va. 2022).

¹²¹ Id.

¹²² Kaitlyn Fulmore, All Bets Are Off: Wager on College Sports Bill Will Not Pan Out, (Mar. 17, 2022 4:22 PM) <https://www.wric.com/news/virginia-news/all-bets-are-off-wager-on-college-sports-betting-bill-will-not-pan-out/>.

¹²³ Id.

¹²⁴ Ritter supra note 94; see also Armentrout supra note 98.

¹²⁵ Dan Stupp, Punch It In: It's Time to Lift Virginia's College Betting Ban on In-State Schools, (Jan. 20, 2022) <https://www.playvirginia.com/virginia-college-betting-ban-in-state-schools/>.

risky and difficult endeavor worthwhile, these saboteurs would have to place large bets to ensure significant returns on their investments, which in turn, makes these schemes easier to detect.¹²⁶

In cases involving college sports gambling corruption, most have been isolated incidents that were quickly uncovered and resolved. Both the Tulane University and Northwestern University basketball gambling scandals were discovered within two games of point fixing, and both involved unlicensed bookmakers.¹²⁷ Therefore, legalizing in-state college betting, regulating the activity, and squeezing out illegal bookmakers would actually accomplish the goal of the in-state college sports gambling restriction more effectively than the ban itself does, as Illinois State Representative Mike Zalewski argued.¹²⁸

Legalized and sanctioned sportsbooks have a new tool to help curb illegal sports gambling that was not available in the days of the Boston College, Tulane, and Northwestern college sports gambling scandals: technology. This was best demonstrated in a recent sports gambling controversy involving a professional athlete, Calvin Ridley. On March 7, 2022, Atlanta Falcons wide receiver Calvin Ridley was suspended by the National Football League (NFL) for the entirety of the upcoming season for placing bets during a five-day period in late November 2021.¹²⁹ During this time, Ridley was not an active participant in Falcons games, as he was away from the team to focus on his mental wellbeing.¹³⁰ Before announcing the suspension, the league

¹²⁶ *Id.*

¹²⁷ O'Connor *supra* note 38; *see also* Marcus *supra* note 33.

¹²⁸ Armentrout *supra* note 104.

¹²⁹ Kevin Patra, Falcons WR Calvin Ridley suspended indefinitely through at least 2022 season for betting on NFL games, (Mar. 7, 2022, 3:41 PM), <https://www.nfl.com/news/falcons-wr-calvin-ridley-suspended-indefinitely-through-2022-season-for-betting->.

¹³⁰ *Id.*

had conducted an investigation into Ridley’s conduct, and found that no inside information was used in placing the wagers, and the integrity of no games that season were compromised.¹³¹

The NFL discovered Ridley’s wagers after he placed them on a sports gambling app in Florida.¹³² Hard Rock, the gambling app where Ridley placed the bet, and Genius Sports, a U.K.-based tech platform that provides play-by-play statistics and data to sports betting, sports media companies, and sports leagues, flagged Ridley’s bet and alerted the NFL.¹³³ League spokesman Brian McCarthy addressed both companies flagging Ridley’s wagers, saying: “The process worked... Integrity of the game is crucial to the health of the NFL.”¹³⁴

Using this technology, sportsbooks can flag bets made illegally by college athletes, coaches, and others affiliated with the program. It can also be used to flag suspicious bets.¹³⁵ By legalizing in-state college sports wagers, collegiate programs could partner with integrity watchdogs like Sports Genius to detect illegal wagers by interested parties through legalized betting institutions, and give fewer opportunities for illegal bookmakers in-state to take these bets and grow their operations.

For some states, the biggest flaw of the in-state college sports gambling restriction is that gamblers who really want to bet on an in-state game or on a college team in the state can cross their state border to place the bet. This is especially true for New Jersey, a geographically small state that is surrounded by states who have legalized sports gambling. Northern New Jersey

¹³¹ Id.

¹³² Will Yakowicz, Meet the Gambling Tech Company That Caught the NFL’s Calvin Ridley, (Mar. 16, 2022) <https://www.forbes.com/sites/willyakowicz/2022/03/16/meet-genius-sports-the-gambling-tech-company-that-caught-the-atlanta-falcons-wide-receiver-calvin-ridley/?sh=13b7b7df9ef7>.

¹³³ Id.

¹³⁴ Id.

¹³⁵ Marcus supra note 33.

residents can easily cross the New York border to place a bet on a New Jersey team if they so desire, and Southern New Jersey residents can do the same in Delaware or Pennsylvania.

VI. Conclusion

As Part II of this paper demonstrated, our nation has a long and complicated history with gambling. Americans have spent centuries wrestling with two different approaches to it: either criminalizing gambling, or legalizing it with regulations. As gambling scandals have come and gone, the nation's idea of which approach is better has changed. This usually means that in the immediate aftermath of a scandal, Americans respond by shutting down legalized gambling.

While an understandable reaction, does such an approach successfully curb gambling? The answer appears to be no, as Part II and Part III of this paper demonstrate that gambling will always have a presence in this country, whether it is legalized or not. Sports gambling in particular seems to be even stronger in today's world, regardless of its legal status, especially with upgrades in technology that allow for online offshore gambling.¹³⁶

With this in mind, New Jersey should fully embrace the ideals they fought for when they went to court for almost an entire decade with the sports leagues of the United States. The state's first stated goal for legalizing sports gambling in Christie II was to help the economy after the recession of the late 2000's.¹³⁷ While New Jersey's revenue from sports gambling has reached astronomical numbers, the state's in-state college sports gambling restrictions are holding it back

¹³⁶ See Howard Stutz, Indy Gaming: Could Illegal Offshore Sportsbooks be the Next 'Black Friday' Target?, (Apr. 20, 2022, 7:00 AM) (Since the internet has become ubiquitous, illegal offshore sportsbooks have been popular among American sports gamblers. Even with the removal of PASPA and increase in legalized sports gambling among the states, illegal and unregulated offshore sports wagering sites still have a presence in the online sports gambling world).

¹³⁷ National Collegiate Athletic Assn. v. Governor of N. J., 832 F.3d 389, 395 (3rd Cir. 2016).

from reaching its potential.¹³⁸ With other states in the area legalizing sports gambling, including New Jersey's largest neighbor New York, New Jersey should be doing everything in its power to maximize its sports gambling revenue. And the last thing New Jersey should be doing is driving its hometown college sports fans to other states to place their bets.

The second stated goal of New Jersey in Christie II was to legalize sports gambling in order to both curb illegal sports gambling and increase transparency and regulation in the betting industry.¹³⁹ New Jersey has largely accomplished this goal, but they fall short of completely doing so by banning in-state college bets. In fact, the restrictions could likely have the opposite effect, forcing some New Jersey residents who want to bet on their local college teams to go to illegal bookmakers, as Nevada and Illinois found to be an issue for their states.¹⁴⁰

Despite former Governor Christie's comments on the matter, there is no indication that New Jersey residents do not want to bet on their local college teams.¹⁴¹ Christie's comments appear to be nothing more than post hoc justifications for sports gambling restrictions that do not accomplish their intended goals. Neither New Jersey nor the sports leagues who litigated the Sports Wagering Act and PASPA argued New Jersey's lack of interest in gambling on those events had anything to do with the in-state college sports gambling restrictions.¹⁴² Christie also said he "wouldn't stomp [his] feet up and down, either" if the ban were repealed, which leads one to think he is not particularly beholden to the restrictions or that he genuinely believes they

¹³⁸ N.J. Breaks Own Monthly Sports Betting Record with \$1.3B in Bets, (Nov. 18, 2021 8:18 AM) <https://www.nj.com/atlantic/2021/11/nj-breaks-own-monthly-sports-betting-record-with-13b-in-bets.html>.

¹³⁹ See Governor of N. J., 832 F.3d at 395.

¹⁴⁰ Ritter supra note 94; see also Armentrout supra note 104.

¹⁴¹ Brennan supra note 111.

¹⁴² National College Athletic Ass'n v. Christie, No. 12-4947 (MAS)(LHG) 2012 WL 6698684 (D.N.J. 2012).

protect the integrity of New Jersey college sports (a concern he did not even address in his defense of the ban).¹⁴³

The recent Calvin Ridley gambling scandal further supports the argument that New Jersey should lift their in-state college gambling restrictions. Ridley's actions were promptly discovered and reported to the NFL because gambling was legalized.¹⁴⁴ By using technology together with an efficient regulation system, we can stop those with a conflict of interest (such as athletes, coaches, and those with inside knowledge) from placing such bets. If interested parties use proxies to make these wagers, this technology can also be used to flag suspiciously large bets.¹⁴⁵ By restricting legalized gambling, we push these wrongdoing gamblers back to illegal bookmakers, where their actions are harder to detect and stop.

The reality of gambling, both in this country and around the world, is that no matter what governments do, gambling will always be there. The United States learned this lesson after Prohibition, and have since legalized and regulated it. Gambling's negative effects, both real and imagined, become greater when we criminalize it. If the history of gambling has taught us anything, it is that legalization and regulation, along with utilizing up-to-date technology, is our best bet to curb those negative effects and protect the integrity of our sports.

¹⁴³ Brennan supra note 111.

¹⁴⁴ Yakowicz supra note 132.

¹⁴⁵ Fulmore supra note 122.