



The Case for Mobile Sports Betting: Revenue, Regulation and the Path to Defeating the Illegal Market

Abstract:

As state lawmakers consider regulating sports betting, it is important that they authorize operators to make their products available to customers via internet-connected mobile devices. Sports betting in the United States and around the world is primarily done via mobile devices, both in regulated and unregulated markets. Mobile sports betting provides user convenience, a wider array of betting options, and a more robust set of consumer protection measures than in-person sports betting at a casino or other retail locations. The regulated markets in states like Colorado, Pennsylvania, and New Jersey show that the overwhelming majority of sports betting takes place via mobile, and states that limit sports betting to casino locations have seen far less revenue than those that have authorized mobile. In order to compete and defeat the illegal offshore sports betting market, states must allow customers the same convenience to register, deposit/withdraw and place bets entirely via mobile device.

Sports Betting in the U.S. Today is Predominately Online

It should come as no surprise that sports betting today is largely conducted online. In an increasingly cash-less society, people use their phone to conduct all matters of business from paying for lunch to applying for a mortgage. Mobile technology has proven safe, effective and convenient, three elements that are essential to today's sports betting consumer.

Generally speaking, digital platforms are reshaping how people access entertainment, including sports betting. While sports betting in a casino environment still has an important role, the convenience and interactivity of mobile sports betting makes it a much more desirable and accessible medium for most customers. The proof is in the numbers - in New Jersey, which led all states in sports betting revenue in 2021, 91% of all sports betting handle comes through mobile and online channels.ⁱ In Colorado, online sports betting regularly comprises 95% or more of the total amount bet.ⁱⁱ

Competing with the Offshore Market Requires Mobile Options

People simply cannot, or will not, legally bet on sports if there isn't a reasonably convenient method available. The fact that it wasn't technically legal to bet on sports outside of Nevada until 2018 was hardly a hindrance –sports betting prohibition has given rise to a multi-billion-dollar black market that will continue to thrive until convenient and legal alternatives are available for people in every state.

As of January 2022, 27 states, including California, Texas and Florida, still do not have regulated mobile sports betting. This means that over 150 million Americans are still likely to resort to illegal sports betting options, and an estimated 92% of these bettors are using offshore and illicit websites and mobile apps.ⁱⁱⁱ These customers have the choice of dozens, if not hundreds, of illicit websites, each offering round-the-clock access to place bets conveniently from their location, with no need to travel to a retail establishment or casino in order to place a bet. Sports fans today might have an interest in laying a few dollars on the game, but very few are willing to spend the time and money to make a trip to a casino in order to do so. In a survey, 71% of participants said they would continue to use illegal online sportsbooks if the only legal options required them to drive to a casino in order to place a bet.^{iv}



While data from the offshore market is scarce, anecdotally some offshore sportsbooks have observed a significant uptick in business even as legal sports betting is now available to a slight majority of US residents. This is because of the tremendous amount of media exposure that mainstream outlets have dedicated to sports betting, especially in the realm of sports coverage. An increase in advertising and media coverage of sports betting has led to an increase in interest from the American public, which in turns leads to increased internet search activity. Unfortunately, many of the top search results provide links to offshore sports betting websites and casinos that make every effort to conceal their less-than-legal status. People who are looking to place a bet for the first time may think that these websites are legitimate. Or, in the alternative, they may be disheartened to learn that sports betting is not legal in their state yet or that the only legal method is to go to a casino, in which case the offshore sportsbook is still appealing.

This trend shows that illegal online channels will continue to siphon business away from legal sports betting operators until states authorize legal online sports betting and allow direct competition against these illegal outlets. As legal online sportsbooks grow in popularity and establish a user base, they will ultimately be able to crowd out the offshore mark and decrease the footprint of these illegal operators.

If states want to defeat the unregulated and untaxed offshore market, they must allow a robust and competitive legal market to occupy the same online landscape. Regulated sportsbooks will enjoy certain competitive advantages such as endorsement and marketing with pro sports leagues, and verification from state regulators that these books are safe and legal. Customers will increasingly gravitate towards these legal options as long as they enjoy the same convenient access.

Revenue is Severely Limited Without Mobile

As of January, 2022, 33 states have authorized sports betting and 23 of these states allow online sports betting. One trend among the states without online sports betting is clear - revenue is significantly diminished if sports betting is limited to casino locations. Without mobile, states such as Delaware and Mississippi have seen disappointing revenues from sports betting, indicating that a large percentage of people in these states are either traveling to states that have more robust mobile betting options or are continuing to use illegal offshore sports betting websites.

A few states, including Delaware and Mississippi, have not yet grasped the opportunity to expand from brick-and-mortar casinos sports betting to true mobile options, and the revenue numbers in these two states have been lackluster as a result. In 2021, Delaware casinos generated only \$11.36 million in sports betting revenue, less than the \$12.5 million generated in 2019, their first full year of legal sports betting.^v In Mississippi, a gaming-friendly state with 28 commercial casinos, sports betting revenue has grown from \$44.5 million in 2019 to \$76 million in 2021. While Mississippi's retail sports betting growth is encouraging, it is still minimal compared to the growth rate of sports betting in states with mobile sports betting. To use New Jersey as a mobile sports betting success story, the Garden state's sports betting revenues in 2019 totaled \$299 million,^{vi} but this number has nearly tripled to \$815^{vii} million in 2021. More impressively, nearly \$740 million of New Jersey's 2021 revenue came from mobile sports betting.

Tennessee Goes with Online-Only, and Thrives

The majority of states with sports betting have allowed at least some brick-and-mortar sports betting facilities. However, Tennessee, which has no casinos and arguably no natural retail outlet for

sports betting, has shown that mobile sports betting is more than viable as a standalone product. In Tennessee's first year of sports betting, which began in November of 2020, the state far exceeded all expectations by delivering \$2.35 billion in sports betting handle, generating \$35.5 million in tax revenue for the state.^{viii} All signs indicate that Tennessee is still far from reaching market maturity – in September through November, each successive month set new monthly revenue records.

New York Finally Turns on the Money Tap with Mobile Rollout

New York has the potential to be one of the most profitable sports betting markets in the United States, and astronomical numbers from the first few weeks of the state's mobile sports betting operators certainly support this projection. Mobile sports betting launched in New York in January of 2022, and by the end of that month the Empire State held a new record for sports betting handle. In 23 days of January, New York generated \$1.625 billion in bets, far surpassing New Jersey's previous monthly record of \$1.3 billion.^{ix}

But it certainly wasn't always like this. For nearly three years sports betting was confined solely to upstate casinos, and as a result New York's sports betting market plodded along to absolutely abysmal numbers. During Covid, retail sports betting in New York was an afterthought, and all but ground to a halt. During this time, New Jersey's thriving mobile sports betting market completely dominated by successfully drawing New Yorkers across the border to partake in mobile and retail sports betting.

The industry will be watching the New York – New Jersey sports betting battle for supremacy very closely. While New York boasts a dominant population pool to draw from, New Jersey has several advantages that should keep it in competition to remain the top U.S. sports betting market. Chief among these advantages is a reasonable 13% tax rate on mobile sports betting revenue, compared to New York's oppressive 51% tax rate. Once the honeymoon phase is over in New York, New Jersey could still attract enough of the New York market by offering better odds, lower prices, and an exciting in-person experience at conveniently located racetracks and Atlantic City casinos.

In-Casino Registration Requirement Hinders Consumers

Nevada, the only state with substantial sports betting prior to the repeal of The Professional and Amateur Sports Betting Act (PASPA) in 2018, has always required customers to set up their mobile sports betting account at a casino location. Because Nevada is a unique state with an economy largely dependent upon tourism and gaming, the negative effects of this policy were not made clear until other states began doing away with this requirement.

Several states, including Illinois, Iowa, and Rhode Island, made the early policy choice to adopt the Nevada model, but did so at their own peril. In these states, customers had to travel to a casino in order to register for a mobile sports betting account. This not only inconveniences the customer; it effectively limits them to the mobile platform offered by their local casino unless they are willing to drive a significant distance to obtain access to a preferred platform. While some in the casino industry advocated for this policy, it became clear that it was a significant hindrance to the market, resulting in fewer bets, less revenue for casinos and fewer tax dollars for states. Fortunately, each of these states has corrected their course. The Illinois in-person registration requirement will cease to exist as of March, 2022, leaving Nevada as the sole state to require customers to enter a retail facility in order to set up a mobile sports betting account. Now, even Nevada seems poised to consider removing this policy.^x

Rhode Island is an interesting case study. In 2018, the Governor signed a bill to authorize sports betting solely at the state's two casinos, without mobile sports betting. Perhaps not surprisingly, they fell well short of their projected estimate of \$11.5 million, pulling in less than \$3.5 million in FY 2019.^{xi} Acknowledging that these lagging revenues were largely the result of a lack of mobile sports betting access, the Legislature approved mobile sports betting in 2019, but with one significant catch – customers would first have to register for a sports betting account at a local casino. The state opened up mobile sports betting in early September 2019, but almost immediately the problem with in-casino registration became evident. As of October 2019, more than 12,000 people had started the registration process for an online account via the website, but fewer than half of those had visited the casino to complete the in-person activation requirement.^{xii} Sensing the problem, and noting that in-casino registration provided no tangible consumer safety advantages, Rhode Island finally authorized fully remote sports betting registration in July of 2020. The positive results were nearly instantaneous – the completion rate for setting up an account more than doubled from 42.5% to 87.7%.^{xiii} Despite early missteps, sports betting revenue is now steady and growing modestly in Rhode Island, setting a new monthly record of \$52.7 million in handle in November 2022.^{xiv}

Likewise, the state of Iowa placed artificial limitations on the availability of mobile sports betting. As a result, sports betting growth was initially very sluggish in Iowa. In the first three months of Iowa sports betting, August through October, 2019, the state has generated only \$12.77 million in sports betting, and only 55.75% of the betting activity had come from mobile. Compared to a state such as New Jersey which has no in-casino registration requirements and a mobile betting component that is consistently over 80% of the total, it was clear that Iowa's growth was being hindered by this policy. However, as of January, 2021, the in-person registration requirement has been lifted, and Iowa revenue has seen a significant increase. In December 2020, Iowa handled \$105 million^{xv} in sports bets, but by December of 2021, the handle had shot up to \$266 million.^{xvi} Tellingly, approximately 90% of Iowa's handle now comes from online and mobile platforms, which is consistent with most states that never required mobile registration.

In-Play Betting Requires Mobile

One of the most popular ways to bet on sports is during the course of an event, known as "in-play betting." In-play betting allows a customer to place bets on occurrences throughout the game as well as on the final outcome of the game, with ever-shifting odds that can be updated as frequently as every few seconds. For example, an in-play bet could allow a customer to bet on whether the next pitch is a ball or a strike, a golfer will reach the green with his next shot, or a football team will score on the current drive. These up-to-the-second bets are impractical in a typical brick-and-mortar sportsbook, and require an instantaneous method of input from the customer, i.e. a mobile device. As technology continues to advance in this realm, in-play bets are expected to comprise an even larger amount of the total amount bet on sports. Without in-play betting, customers will either look to neighboring states or the offshore market to find their desired bet type.

Mobile Increases Consumer Protection

Mobile betting is the most robust and effective method of sports betting from a consumer safety standpoint. Using tried and true methods to verify a customer's age, identity and location, mobile sports wagering is every bit as safe and effective as in-person registration at a casino or other location. In addition, mobile access provides enhanced fraud and problem gambling protection by analyzing customer's play history to detect unusual occurrences, as well as patterns indicative of compulsive play.

Betting in a casino sportsbook offers no such safeguards – most casino sportsbook transactions under a certain threshold can be done anonymously, which means casino sportsbooks have no records of previous play.

Finally, as discussed above, without convenient options in the legal market, customers seek out illicit offshore websites to place their bets. Not only are these sites unregulated, they offer no problem gaming support, nor guarantees of data security or payout. For customers who partake in these unregulated offerings, there is no recourse if a problem arises and state regulators have little enforcement power over bad actors in other jurisdictions. For this reason, regulators in an increasing number of states are speaking out about the perils of unregulated sports betting websites. As succinctly said by the Executive Director of the Michigan Gaming control Board, “If you share personal information with an unregulated gambling site, there are no guarantees your information won’t be sold to or used by criminals.”^{xvii}

Conclusion

The results of policy choices made by early adopter states have distinguished clear winners and losers; states with successful sports betting regulatory frameworks allow for mobile betting, including mobile registration options. To generate significant revenue and protect consumers from illicit offshore sportsbooks, states must allow for regulated mobile sports betting.

ⁱ New Jersey Division of Gaming Enforcement, December 2021 Total Gaming Revenue Results: <https://www.nj.gov/oag/ge/docs/Financials/PressRelease2021/December2021.pdf>

ⁱⁱ Colorado Department of Revenue, Gaming Division. Sports Betting Monthly Reports: <https://sbg.colorado.gov/sports-betting-monthly-reports>

ⁱⁱⁱ ⁱⁱⁱ Eilers and Krejciek Regulated Sports Betting: Defining the US Opportunity (2017), p. 46

^{iv} Id.

^v Delaware Lottery – Sportsbooks Distribution of Net Proceeds Reports: <https://www.delottery.com/Sports-Lottery/Monthly-Net-Proceeds>

^{vi} <https://www.nj.gov/oag/ge/docs/Financials/PressRel2019/December2019.pdf>

^{vii} <https://www.nj.gov/oag/ge/docs/Financials/PressRelease2021/December2021.pdf>

^{viii} <https://tnlottery.com/sports-gaming/>

^{ix} <https://www.nationalfootballpost.com/sports-betting-legalization/new-york-sports-betting-shatters-records/>

^x <https://www.legalsportsreport.com/60207/end-nevada-sports-betting-remote-registration/>

^{xi} See Rhode Island Lottery, Sports Betting Revenue by Facility FY 2019. Available at

<https://www.rilot.com/content/dam/interactive/ilottery/pdfs/financial/SportsBookSummaryFY2019.pdf>

^{xii} Patrick Anderson, R.I. sports betting revenues for first quarter were less than half of what state budgeted, *Providence Journal*, October 22, 2019. Available at <https://www.providencejournal.com/news/20191022/ri-sports-betting-revenues-for-first-quarter-were-less-than-half-of-what-state-budgeted> [Accessed December 18, 2019].

^{xiii} <https://www.legalsportsreport.com/44506/ri-sports-betting-remote-registration/>

^{xiv} <https://www.igbnorthamerica.com/rhode-island-sets-new-sports-betting-revenue-record-in-november/>

^{xv} <https://irgc.iowa.gov/sites/default/files/documents/2021/08/FY2021%20Sports%20Wagering.pdf>

^{xvi} <https://irgc.iowa.gov/december-2021-sports-wagering-revenue>

^{xvii} <https://www.michigan.gov/mgcb/0,4620,7-351-79263-573473--,00.html>