

Sports Wagering in Louisiana Might Be on the Horizon

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With the introduction and serious consideration of Senate Bill 153 during the 2019 Regular Session, Louisiana is primed to join the growing number of states that have legalized sports wagering in recent years.

Senate Bill 153, sponsored by Senator Danny Martiny (R-Metairie), would authorize sports wagering in Louisiana. The bill, if passed, would call for a public referendum to be held on October 12, 2019, in which the majority of the voters in each parish would decide whether to legalize sports wagering in their respective parishes. If the bill is approved by the voters of a particular parish, sports wagering on collegiate and professional sporting events could then be offered in that parish by licensed riverboat casinos or any live racing facilities with licensed slot machine gaming areas. If the bill is approved by the voters of Orleans Parish, the land-based casino in New Orleans would also be authorized to begin offering sports wagering to its patrons. However, before making sports wagering available, any such facility would first be required to apply to the Louisiana Gaming Control Board for prior approval to offer sports wagering and to obtain a sports wagering certificate from the Board.

The bill provides for the enactment of the Louisiana Sports Wagering Control Act (the Act) to govern sports wagering, including the process of applying for and obtaining sports wagering certificates. Importantly, the Act provides that, if sports wagering were to be approved by the majority of the voters in a particular parish, authorized facilities (i.e., riverboat casinos, live racing facilities, or the land-based casino) could begin applying for sports wagering certificates on January 1, 2020. The Act provides that a sports wagering certificate shall not be issued following an application unless the Louisiana Gaming Control Board specifically finds that (1) the applicant is capable of conducting sports wagering, and (2) the applicant's submission of a detailed plan relative to the design of the areas of its establishment to be used for sports wagering is acceptable. Only if the Louisiana Gaming Control Board so finds will the Board issue a sports wagering certificate to an applicant, provided that the Board has received payment of the applicable fees to be set by the Board.

To facilitate sports wagering in parishes where it has been approved, the Act would also create a new category of permits for persons or entities qualifying as "sports wagering service providers." The Act requires the Board to issue a "sports wagering service provider permit to any suitable person who desires to contract to manage, administer, and control sports wagers" for the holder of a sports wagering certificate. Under the Act, the holder of a sports wagering service provider permit will be required to keep books and records for managing, administering, and controlling of sports wagering, and to file a quarterly return with the Louisiana Gaming Control Board listing all of its contracts and services related to sports wagering. To obtain a sports wagering service provider permit, an applicant will be required to submit to the requisite suitability determination(s) and to pay any fees required by the Louisiana Gaming Control Board. Should the Act become law, it is likely that additional details relative to sports wagering service provider permits, and the requirements for obtaining them, will be set forth by the Board in post-enactment guidance and regulations.

Under the Act, sports wagering would be required to take place on location at certificated riverboat casinos, live racing facilities, or the land-based casino in New Orleans. Patrons will be allowed to make wagers in cash or via verified wagering accounts established at the respective facilities. Wagers will likely be accepted on most



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collegiate and professional sporting events, with the sports wagering certificate holders able to select the events on which to accept wagers. The Act would allow certificated facilities to install self-service wagering machines, self-service kiosks, or wagering windows at which patrons would be allowed to make and submit their wagers. Specific regulations on these issues will need to be put into place should the Act be passed into law.

The Act would also permit electronic or mobile sports wagering in Louisiana, subject to certain conditions. Before the holder of a sports wagering certificate may accept an electronic wager, the patron making the wager must have established a verified wagering account with the sports wagering certificate holder. Furthermore, any such electronic wager must be placed from within the physical “gaming area” of the sports wagering certificate holder, meaning that all electronic wagers would need to be made on-site. To ensure compliance with this condition, the Act would require the holders of sports wagering certificates offering electronic sports wagering to maintain geofencing or geo-location services to prevent off-site patrons from placing electronic wagers.

When Senator Martiny introduced similar legislation in the 2018 Regular Session, the legislation was narrowly defeated. Senate Bill 153, however, appears to have a better chance of success in the 2019 Regular Session, with industry experts predicting that Louisiana will soon become the latest in the growing number of states to legalize sports wagering. The reasons for this are twofold. First, in May 2018, the United States Supreme Court invalidated the Professional and Amateur Sports Protection Act, which opened the door for states to begin legalizing sports wagering. Second, the state of Mississippi recently legalized sports wagering, and many believe that Louisiana’s casinos are losing patrons and business to casinos in Mississippi. Legalization of sports wagering would thus keep Louisiana competitive with its neighbor to the east and keep Louisiana’s entertainment and tax dollars at home.

Indeed, sports wagering would likely result in significant financial benefits for the state. At the same time that Senate Bill 153 is being considered, the Louisiana House of Representatives is considering parallel legislation that would impose a tax on sports wagers. The House Appropriations Committee recently voted to advance House Bill 587, which would impose a 13 percent tax on net proceeds from wagers placed in Louisiana on sporting events at the collegiate and professional levels. The state of Mississippi imposes a slightly lower 12 percent tax on net proceeds from sports wagers placed in the state, and media outlets have reported that Mississippi realized in excess of \$1 million in proceeds over the first few months that sports wagering was legal and offered in Mississippi’s casinos. Relatedly, some pundits predict that tax revenues from sports wagering in Louisiana could exceed \$50 million per year. Whether Louisiana will in fact realize such significant tax benefits from sports wagering depends first on the success of Senate Bill 153 and its goal of legalizing sports wagering.

In late April 2019, Senate Bill 153 was passed in the Senate on a 24-15 vote, after which it was received in the House of Representatives and referred to the House Committee on the Administration of Criminal Justice. On May 21, 2019, the bill was reported favorably out of the House Committee, and it will now be debated in and considered by the full constituency of the House of Representatives, likely culminating with a vote in the coming weeks. The 2019 Regular Session of the Louisiana Legislature concludes on June 6, 2019, so any vote in the House must take place prior to that date.

Should sports wagering soon become legal in Louisiana, several questions and unresolved issues remain to be addressed. The Louisiana Gaming Control Board will need to prescribe the requisite application forms to be completed by persons or entities interested in obtaining sports wagering certificates or sports wagering service provider permits. The Board will also likely set forth additional rules and regulations to govern sports wagering in Louisiana and the entities offering sports wagering to their patrons. Indeed, should the Louisiana Sports Wagering Control Act be passed into law, the Act will require the Board to adopt all rules necessary to implement, administer, and regulate sports wagering, including adopting rules setting forth the standard and procedures to govern the conduct of sports wagering. The Board will also be tasked with developing approved methods and procedures for calculating gross sports wagering revenues, the daily counting and recording of cash and cash equivalents received from sports wagering, and the amount of cash reserves to be maintained by certificated facilities offering sports wagering to their patrons.

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