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How to Banish the Black Market and Ensure Integrity: What States Legalizing Sports Betting for the First Time Can Learn From Nevada and Legalized Cannabis States

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Integrity, integrity, integrity. The integrity of the game is a top concern of regulators and the college and professional sports leagues as legalized sports wagering expands across the United States. But what steps can regulators take to ensure that the “fix” is not in on games being wagered upon?

In theory and in practice, legalization of sports wagering provides a better framework to track and trace aberrations in betting patterns that may indicate game fixing. After all, if sports wagering is illegal, there is no one monitoring the action to ensure that those placing wagers are not being ripped off by game fixing. Once wagers are placed in a legal setting, you can bet that the legal bookmakers will be watching the betting patterns closer than anyone to make sure they are not being taken for a ride. And the veteran Nevada sports book operators who are sure to be running many of the books in newly legalized states have the experience in tracking the numbers to know when something is off.

Indeed, Nevada sports books have long assisted regulators – and the leagues – in uncovering game-fixing schemes, such as the 1999 Arizona State Sun Devils point-shaving scandal, by tracking and notifying regulators when they have spotted irregular betting patterns.

But what about the black market? In theory, the legalization and regulation of sports wagering should bring the industry into the light, allowing the wagering action to be taxed and the backroom sports books to be shut down. And that certainly is an important policy goal of regulators. But it isn't necessarily that simple.

States drafting their sports wagering laws and regulations can learn a lot from another black-market activity that has been legalized in a number of states – cannabis – to better understand the impact that legalization has had on the black market for cannabis in those states.

The surprising result: the black market has not magically disappeared in the states where cannabis sales have been legalized. One of the key reasons why is the simple fact that legal cannabis prices are generally higher than black-market cannabis because of the additional costs of state-mandated testing, security systems, etc., and, of course, taxes. Coupled with a lack of adequate resources and funding for local law enforcement to crack down on illegal cannabis sales, this makes for a thriving black market, even in states that have legalized cannabis.

What can the regulators who are drafting sports-wagering laws and regulations take away from this? We would not advocate stepping back from drafting the laws to legalize sports wagering, as a lack of any legal market would only help the black market. Instead, regulators should just keep this issue in mind as they draft regulations and try to find a balance between meaningful regulation and over-taxing and heavy regulatory requirements that will add to the costs of legal sports wagering in a way that will either make it unprofitable for legal sports books

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to operate or make the costs of such wagers so high that bettors continue to seek backroom options.

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