



NOTE

**HIGH STAKES, LOW BARRIERS: THE ROLE OF
TECHNOLOGY AND REGULATION IN THE RISE
OF ONLINE SPORTS GAMBLING**

Conner Martin[†]

In the years since the Supreme Court struck down federal law prohibiting sports gambling, the industry has seen a meteoric rise in popularity. States around the country have implemented laws allowing sportsbooks to conduct sports gambling operations, receiving new tax revenue in return.

While these laws have allowed sportsbooks and states to make billions of dollars, users of these sportsbooks are taking massive losses. Sportsbooks use several technological features in their apps and advertising to ensure profits are maximized. This often leaves the most vulnerable users, such as problem gamblers and minors, at a high risk of serious financial and mental health issues. Absent further regulation to protect at-risk groups, the resultant harms will far outweigh sports betting's benefits.

This Note discusses possible solutions to this growing problem, including the recently proposed SAFE Bet Act, a federal bill designed to address public health issues stemming from the legalization of sports gambling. Passage of the Act would establish federal standards for advertising practices, artificial intelligence usage, and affordability requirements—all of which are necessary to make sports betting safer for all users.

TABLE OF CONTENTS

I. INTRODUCTION	512
-----------------------	-----

© 2025 Conner Martin.

[†] J.D. Candidate, University of North Carolina School of Law, 2026.

II. LEGALIZATION OF SPORTS BETTING IN NORTH CAROLINA ... 519

III. THE ROLE OF TECHNOLOGY IN THE SPORTS BETTING
INDUSTRY..... 524

 A. Accessibility Issues..... 525

 B. Data Collection and Usage Issues..... 527

 1. Data Collection..... 527

 2. Data Usage 528

IV. CURRENT SPORTS BETTING REGULATIONS..... 530

 A. Examples of Insufficient Regulation..... 532

 B. Examples of Sufficient Regulation..... 536

V. SPORTS BETTING RECOMMENDATIONS 540

 A. Why Sports Betting Should Remain Legal 540

 B. Why Sports Betting Requires Further Regulation..... 543

VI. CONCLUSION..... 545

I. INTRODUCTION

A thirteen-year-old boy sits on the bus ride home, glancing over at his friend who is playing a mobile game he has never seen before. He asks his friend what game he is playing; his friend smiles and reveals a slot machine with bright flashing colors and gold coins scattered across the screen. His friend tells him it is an app his older brother downloaded to his phone that lets him win real money. In awe, the boy downloads the app himself and uses his mother’s ID to set up an account. Within minutes, the boy is gambling his weekly allowance on games such as “Cash Eruption,” “Willy Wonka Pure Imagination,” and “Ultimate Fire Link.”¹

Meanwhile, a recovering gambling addict is mindlessly scrolling on his phone one night. An advertisement pops up on his Instagram feed, offering one free bet to use on any game. The promotion promises that a deposit is not required; he only needs to download an app. “What’s the harm?” the man thinks as he downloads the app and puts down the free bet on his favorite team. After the game, he is ecstatic when his underdog team wins, leading to a big payout. When he sees his new sports betting account loaded with money, the man goes on to

1. *All Games*, FANDUEL, <https://casino.fanduel.com/> [<https://perma.cc/5YQ3-SKFH>] (last visited Mar. 3, 2025).

HIGH STAKES, LOW BARRIERS

place more bets on other games that night. After all, he is not *really* losing his own money.

Since 2018, scenarios such as these have become increasingly common.² The origin of the legalization of sports betting stems from *Murphy v. National Collegiate Athletic Ass'n*,³ where the Supreme Court held that the Professional and Amateur Sports Protection Act⁴—which forced states to prohibit sports betting under their own laws—violated the Constitution.⁵ Writing for the majority, Justice Alito focused on the policy considerations involved in the legality of sports gambling, which he concluded was best determined by the states.⁶

Following this opinion, thirty-nine states and D.C. have legalized sports betting.⁷ Additionally, five states have legalized online casinos that allow users to play games such as blackjack, slot games, table games, online baccarat, and live dealer casino games.⁸ Sports betting was legalized in North Carolina in March 2024, when North Carolina House Bill 347⁹ went into effect. The North Carolina General Assembly passed this bill to “authorize and regulate wagering on professional, college, and amateur sports and on horse racing in North Carolina.”¹⁰ Governor Roy Cooper signed the bill into law and designated the North Carolina State Lottery Commission as the state’s licensing and regulatory body for the industry.¹¹

2. Simon Shaykhet, ‘Gambling Is All Around.’ *Parents & Experts Concerned About Underage Online Betting*, WXYZ DETROIT (Feb. 6, 2025), <https://www.wxyz.com/news/voices/gambling-is-all-around-parents-experts-concerned-about-underage-online-betting> [https://perma.cc/4JR8-7F64].

3. 584 U.S. 453 (2018).

4. 28 U.S.C. § 3702.

5. *Murphy*, 584 U.S. at 474.

6. *Id.* at 483.

7. *State of Play*, AM. GAMING ASS’N, <https://www.americangaming.org/research/state-of-play-map/> [https://perma.cc/9PRA-YTEW] (last visited Mar. 29, 2015).

8. *Where You Can Play Online Casino Games for Real Cash*, FANDUEL, <https://www.fanduel.com/casino/states-where-online-casinos-are-legal> [https://perma.cc/BHL5-9XQU] (last visited Mar. 16, 2025).

9. H.B. 347, 156th Gen. Assemb., Reg. Sess. (N.C. 2023).

10. *Id.*

11. N.C. GEN. STAT. § 18C-902.

Sports betting in North Carolina has skyrocketed.¹² A significant reason for this rapid rise is sportsbooks' focus on advertising. In 2022, sportsbooks spent a collective \$1.4 billion on advertising.¹³ The biggest spenders are FanDuel, DraftKings, BetMGM, and Caesars,¹⁴ companies that also dominate the sports betting market in terms of market cap.¹⁵ TV networks are now more reliant than ever on sportsbook advertisements.¹⁶ It is nearly impossible to watch sports—whether on TV or in person—without being bombarded by betting advertisements.¹⁷ Beyond TV ad campaigns, sportsbooks employ online targeted advertising, including social media advertisements¹⁸ and emails.¹⁹ These ad campaigns are displayed to individuals sportsbooks deem

-
12. Brian Murphy, *North Carolina Wagers More Than \$6B in Real Money in First Year of Legal Sports Betting*, WRAL NEWS (Mar. 15, 2025, 11:38 AM), <https://www.wral.com/story/north-carolina-wagers-more-than-6b-in-real-money-in-first-year-of-legal-sports-betting/21902398/> [<https://perma.cc/L3UU-DSC6>].
 13. Christopher Palmeri, *Sports-Betting Companies Cut Ad Spending by 21% Last Year*, BLOOMBERG (May 2, 2024, 1:22 PM), <https://www.bloomberg.com/news/articles/2024-05-02/sports-betting-companies-cut-their-ad-spending-by-21-last-year> [<https://perma.cc/A66E-L4AW> (staff-uploaded, dark archive)].
 14. Elizabeth Sramek, *How Much Sportsbooks Spend on Marketing*, SCALEO (Oct. 24, 2024), <https://www.scaleo.io/blog/how-much-sportsbooks-spend-on-marketing-2024-updated-stats/> [<https://perma.cc/8PK2-FPNK> (staff-uploaded)].
 15. Jack Caporal, *The Biggest Sports Betting Companies*, MOTLEY FOOL (Aug. 21, 2023, 2:41 PM), <https://www.fool.com/research/biggest-sports-betting-companies/> [<https://perma.cc/L3JR-Q769>].
 16. Eric Raskin, *Where Would the TV Networks Be Without Sports Book Ad Spend?*, SPORTS HANDLE (Jan. 9, 2024), <https://sportshandle.com/media-notebook-sportsbook-ad-spend/> [<https://perma.cc/VRC8-JJKS>].
 17. Matt Rybaltowski, *Sportsbooks Ratchet up Targeted Advertising at Start of NFL Season*, SPORTS HANDLE (Sept. 22, 2023), <https://sportshandle.com/sportsbooks-targeted-advertising-spike-nfl-2023/> [<https://perma.cc/6TZX-73EU>] (stating that sportsbook advertisements accounted for over 34% of all advertising during the first NFL weekend of 2023; DraftKings accounted for 46.6%, FanDuel accounted for 29.6%, BetMGM accounted for 11.7%, and UnderDog accounted for 8.1%).
 18. Raffaello Rossi, Jamie Wheaton, Agnes Nairn, Saeid Moradipour & Edoardo Tozz, *Betting on Social Media*, U. BRISTOL 16 (Sept. 2024) (U.K.), https://www.bristol.ac.uk/media-library/sites/business-school/documents/Bristol_SM_Research_Report.pdf [<https://perma.cc/JB9P-7B2Y>].
 19. *Gamblers Email List & Mailing Lists*, EXACT DATA, <https://www.exactdata.com/gamblers-mailing-lists.html> [<https://perma.cc/MDE3-5496>] (last visited Mar. 17, 2025).

most likely to be interested in placing bets. Sportsbooks have partnered with specific sports teams and leagues to attract fans of a particular region or demographic.²⁰ Sportsbook apps even send push notifications directly to users' phones encouraging them to place bets.²¹

All this spending on advertising appears to have paid off: The industry cashed in on \$11 billion in revenue in 2023—a figure expected to increase dramatically in coming years.²² The sports betting industry's projected revenue for 2030 recently increased to \$63 billion, up from an original forecast of \$40 billion.²³ Yet, as sportsbooks win big, their users do not. Since sports gambling was legalized in North Carolina, bettors have lost more money than they have won every month.²⁴ North Carolina residents lost \$470 million in the first eight months of legalized sports betting.²⁵ From 2018 to 2025, American sports bettors wagered almost \$450 billion collectively, with an average

-
20. Ted Dahlstrom, *Sports Betting Partnership Tracker*, SPORTS HANDLE (Mar. 14, 2025), <https://sportshandle.com/partnership-tracker/> [https://perma.cc/HSE2-JVHM].
 21. Krushna Kutaval, *The Role of Push Notifications in User Retention for Gambling Apps*, SDLC CORP (Nov. 28, 2024), <https://sdllccorp.com/post/the-role-of-push-notifications-in-user-retention-for-gambling-apps/> [https://perma.cc/E5TP-TVBS].
 22. Doug Greenberg, *Sports Betting Industry Posts Record \$11B in 2023 Revenue*, ESPN (Feb. 20, 2024, 1:53 PM), https://www.espn.com/espn/betting/story/_/id/39563784/sports-betting-industry-posts-record-11b-2023-revenue [https://perma.cc/6YWT-2VHL] (stating that this was a 44.5% increase from the previous year).
 23. Wall Street Journal What's News, *Big Tech Commits to Massive AI Outlays*, WALL STREET J., at 12:30 (Feb. 7, 2025), <https://open.spotify.com/episode/6g4YGurCPeMJwMkgMQcQVA> [https://perma.cc/FP2X-H4HG].
 24. *North Carolina's Sports Betting in the Red*, NC FAM. POL'Y COUNCIL (Oct. 28, 2024), <https://ncfamily.org/north-carolinas-sports-betting-in-the-red/> [https://perma.cc/LZ5E-68GQ] (stating that North Carolinians lost over one million dollars a day in September of 2024).
 25. Kenny Beck, *NC Residents Lost \$470M in First Eight Months of Legalized Online Sports Gambling*, WXII 12 (Mar. 6, 2025, 3:24 PM), <https://www.wxii12.com/article/470m-gambling-losses-nc-sports-gambling/62876059> [https://perma.cc/Y3R7-J4K4].

of \$1,100 per bettor.²⁶ According to FanDuel, users in 2024 averaged a loss of \$518.21.²⁷

Notably, even as users bleed money, sportsbooks generate revenue from commissions.²⁸ This commission, referred to as the “vigorish,” represents the cut that a sportsbook charges for taking the bet and handling the transaction.²⁹ As a result, regardless of an individual bet’s outcome, the sportsbook makes money. It seems that the old gambling mantra “the house always wins” also applies to online sportsbooks.

Recently, there has been outcry demanding scaled-back advertising and restricted access to these sportsbooks.³⁰ This development follows the trend that many other “vice industries”³¹ have faced in the past. Cigarettes,³² alcohol,³³ and cannabis³⁴ have all faced regulations to tamp down the popularity that can rapidly develop,

-
26. Jonathan Ponciano, *Are Americans Betting Their Future on Sports? Uncover the Surprising Stats*, INVESTOPEDIA (Jan. 10, 2025.), <https://www.investopedia.com/americans-sports-betting-losing-8768618> [<https://perma.cc/AW4N-FJEH>].
 27. *FanDuel Trust & Safety*, FANDUEL, <https://www.fanduel.com/trust> [<https://perma.cc/8ZBH-AHFH>] (last visited Feb. 21, 2025).
 28. *How Do Online Sportsbooks Make Money?*, PLAY OHIO, <https://www.playohio.com/sports-betting/vigorish/> [<https://perma.cc/4EX9-NSG3> (staff-uploaded)] (last visited Mar. 16, 2025).
 29. *Id.*
 30. Ben Krauss, *The Sports Gambling Industry Needs Reform*, SLOW BORING (Jan. 3, 2024), <https://www.slowboring.com/p/the-sports-gambling-industry-needs> [<https://perma.cc/3X5M-NW5K>].
 31. Andrew K. Jennings & Kimberly D. Krawiec, *Vice Capital*, 15 U.C. IRVINE L. REV. (forthcoming 2025) (manuscript at 18), <https://ssrn.com/abstract=4816474> [<https://perma.cc/69AE-V6UL> (staff-uploaded)] (discussing what constitutes a vice industry).
 32. *Rules, Regulations, and Guidance Related to Tobacco Products*, U.S. FOOD & DRUG ADMIN., <https://www.fda.gov/tobacco-products/products-guidance-regulations/rules-regulations-and-guidance-related-tobacco-products> [<https://perma.cc/FF38-2K7Y> (staff-uploaded)] (last visited Mar. 17, 2025).
 33. *Distilled Spirits*, U.S. FOOD & DRUG ADMIN., <https://www.fda.gov/about-fda/domestic-mous/distilled-spirits> [<https://perma.cc/255J-A9DZ> (staff-uploaded)] (last visited Mar. 17, 2025).
 34. *FDA Regulation of Cannabis and Cannabis-Derived Products, Including Cannabidiol (CBD)*, U.S. FOOD & DRUG ADMIN., <https://www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-including-cannabidiol-cbd> [<https://perma.cc/UV36-LU7T> (staff-uploaded)] (last visited Mar. 17, 2025).

HIGH STAKES, LOW BARRIERS

especially among vulnerable groups. In late 2024, U.S. lawmakers introduced a bill to curb the rise of sports gambling at the federal level.³⁵ After seeing no action in the previous congressional session, the Supporting Affordability and Fairness with Every Bet Act³⁶ (“SAFE Bet Act”) was reintroduced in March 2025.³⁷ Various states have implemented regulations to limit the industry’s impact on their citizens.³⁸

Industry proponents and lobbyists emphasize that more betting means more tax dollars for states.³⁹ For example, in October 2024, North Carolina collected more than \$8.7 million in taxes from sports betting operators.⁴⁰ However, opponents question whether this added tax revenue is enough compensation for the resultant harms.⁴¹

-
35. Jessica Golden, *U.S. Lawmakers Introduce Bill to Put Regulations on Sports Betting Operators*, CNBC (Sept. 13, 2024), <https://www.cnbc.com/2024/09/13/federal-bill-regulations-sports-betting-operators-safe-bet-act.html> [<https://perma.cc/HE4M-K7Y8>] (explaining that this was known as the SAFE Bet Act that aimed to address the public health implication of legalized sports betting).
 36. H.R. 950, 118th Cong. (2024).
 37. Press Release, Rep. Paul D. Tonko, *Tonko, Blumenthal Reintroduce SAFE Bet Act Addressing Sports Gambling* (Mar. 12, 2025), <https://tonko.house.gov/news/documentsingle.aspx?DocumentID=4351> [<https://perma.cc/RHA3-LQV7>].
 38. Chris Bengal & Shanna McCarriston, *U.S. Sports Betting: Here Is Where All 50 States Currently Stand on Legalizing Online Sports Betting Sites*, CBS SPORTS (Nov. 17, 2023), <https://www.cbssports.com/general/news/u-s-sports-betting-here-is-where-all-50-states-currently-stand-on-legalizing-online-sports-betting-sites/amp/> [<https://perma.cc/DLJ7-8PDV> (staff-uploaded)].
 39. William J. Pascrell III, *The Case for Legalized Gambling: How Legal, Regulated Sports Betting Benefits Society*, IMGL (Jan. 25, 2024), <https://www.imgl.org/publications/imgl-magazine-volume-3-no-1/the-case-for-legalized-gambling-how-legal-regulated-sports-betting-benefits-society/> [<https://perma.cc/3VHZ-LMW9>].
 40. Brian Murphy, *NC Gamblers Bet More than \$600 Million on Sports in October. Will State Change the Way Winnings Are Taxed?*, WRAL (Nov. 12, 2024, 11:41 AM), <https://www.wral.com/story/north-carolina-sets-sports-betting-record-in-october-total-wagered-eclipses-600-million/21719101/> [<https://perma.cc/R3FK-6RXY>].
 41. North Carolina Gov. Roy Cooper Signs Sports Betting Bill in Charlotte, ABC 11 (June 14, 2023), <https://abc11.com/nc-sports-betting-north-carolina-is-sport-legal-in-roy-cooper/13380746/> [<https://perma.cc/NWT3-C6DN>] (stating that Governor Cooper was joined by representatives from the Hornets, Panthers, Hurricanes, Charlotte Football Team, NASCAR, and PGA Tour).

Due to its recent legalization, the sports betting industry's current regulatory landscape remains underdeveloped. Sportsbooks have taken advantage of this freedom by leveraging technology—such as easily accessible apps,⁴² targeted advertising,⁴³ collection of user data,⁴⁴ AI integration,⁴⁵ and micro-betting⁴⁶—to attract large segments of the population and increase the number of bets placed. This has caused significant financial losses for bettors⁴⁷ and contributed to mental health issues among vulnerable groups, including minors and problem gamblers.⁴⁸ To mitigate sportsbooks' crushing effects on society, lawmakers must strictly regulate the industry.

This Note proceeds in five parts. Part II examines the legalization of sports betting in North Carolina, reviewing the state's history with gambling laws, the passage of Bill 347, and drawing comparisons to legislation in other states. Part III looks at technology's role in the industry—specifically, sports betting apps' accessibility, the use of personal data for targeted advertising, cybersecurity of sports betting

42. *This Is How You Play FanDuel*, FANDUEL, <https://www.fanduel.com/how-to-play-android> (last visited March 12, 2025) [<https://perma.cc/5DYH-UEMF>].

43. Elizabeth Sramek, *How Much Sportsbooks Spend on Marketing (2024 Updated Stats!)*, SCALEO (Oct. 24, 2024), <https://www.scaleo.io/blog/how-much-sportsbooks-spend-on-marketing-2024-updated-stats/> [<https://perma.cc/8PK2-FPNK>].

44. Luke Goldstein, *Rollups: The Big Data Machine Driving Online Sports Betting*, AM. PROSPECT (Apr. 4, 2022), <https://prospect.org/power/rollups-big-data-machine-driving-online-sports-betting/> [<https://perma.cc/H4XG-LC33>].

45. *The Future of White Label Sportsbooks*, WHITE LABEL WONDER, <https://whitelabelwonder.com/the-future-of-white-label-sportsbooks-8-key-trends-to-look-for-in-the-next-generation-of-sports-betting/> [<https://perma.cc/4PZ7-CK3J>] (last visited Mar. 12, 2025).

46. Cole Rush, *Small but Mighty: The Rise of Microbetting*, GLOB. GAMING BUS. MAG. (Nov. 20, 2024), <https://ggbmagazine.com/article/small-but-mighty-the-rise-of-microbetting/> [<https://perma.cc/W2W5-99TK>].

47. NC FAM. POL'Y COUNCIL, *supra* note 24.

48. Richard Anemone, *Adolescent Gambling: A Growing Concern*, BEHAV. HEALTH NEWS (Apr. 24, 2024), <https://behavioralhealthnews.org/adolescent-gambling-a-growing-concern/> [<https://perma.cc/AN8G-L9NS>]; FAQs: *What Is Problem Gambling?*, NCPG, <https://www.ncpgambling.org/help-treatment/faqs-what-is-problem-gambling/> [<https://perma.cc/37F5-KHXF>] (last visited Feb. 14, 2025) (defining problem gamblers as individuals whose gambling behavior is damaging to themselves or their families, often disrupting their daily lives and careers).

services, and technological advances in sports betting. Part IV investigates current legal regulations and challenges, including protections against underage and problem gambling. It evaluates both state and federal regulation to determine whether they sufficiently address issues caused by sports betting. Part V looks to the industry's future: Though sports betting should remain legal, the industry requires further regulation.

II. LEGALIZATION OF SPORTS BETTING IN NORTH CAROLINA

While North Carolina legalized sports gambling less than a year ago, other forms of gambling have existed in the state for decades. Certain bingo games and raffles have been legal in some North Carolina cities since the 1950s.⁴⁹ Mecklenburg County first legalized bingo at fairs and exhibitions in 1954.⁵⁰ The entire state subsequently permitted this form of gambling in 1979.⁵¹ The laws required that bingo games and raffles be run by nonprofit organizations as a fundraising mechanism.⁵²

Similarly, state-run lotteries started in 2005, offering a variety of games, such as scratch offs and number drawing like Powerball.⁵³ The proceeds from these games fund state education initiatives and help achieve goals such as reducing class size in early grades, funding kindergarten programs, supporting school construction, and providing scholarships for low-income college and university students.⁵⁴

49. Julia Coin, *Timeline of Gambling in North Carolina: Legal Casinos; Games Banished*, CHARLOTTE OBSERVER (Mar. 7, 2024), <https://www.charlotteobserver.com/news/state/north-carolina/article273511315.html> [https://perma.cc/E5YU-ZVBY].

50. *Id.*

51. *Id.*

52. *See id.*

53. *Exploring the Rich History of Gambling in North Carolina*, COASTLAND TIMES (Feb. 20, 2024, 6:24 AM), <https://www.thecoastlandtimes.com/2024/02/20/exploring-the-rich-history-of-gambling-in-north-carolina/> [https://perma.cc/M8Z4-9UWK].

54. *Education Lottery Funding*, N.C. DEP'T PUB. INSTRUCTION, <https://www.dpi.nc.gov/districts-schools/district-operations/financial-and-business-services/allotments-funding-public-school-units/education-lottery-funding> [https://perma.cc/9W5M-4JCX] (last visited Feb. 14, 2025).

Additionally, casinos have existed on Native American reservations throughout the state since the 1990s.⁵⁵ Harrah's Cherokee Casino Resort became the first to open its doors in the mountains of western North Carolina in 1997,⁵⁶ with two more casinos opening in the following decades.⁵⁷ These casinos feature physical sportsbooks where patrons are able to place bets in person (instead of over apps like FanDuel and DraftKings).⁵⁸

Since online sports betting became legalized in 2023, the gambling industry has exploded throughout the state. However, there are several key differences between gambling of the past and the modern gambling industry.⁵⁹ Before 2023, potential gamblers were required to travel to a charity or nonprofit event to partake in a raffle or a game of bingo.⁶⁰ Further, when they had the urge to try their luck, those looking to buy a lottery ticket had to trek to a gas station, convenience store, or supermarket.⁶¹ In addition, to place bets on sporting events in a casino, most bettors had to voyage hours by car into the mountains of western North Carolina.⁶²

55. See *Gambling Comes to Cherokee*, N.C. DEP'T NAT. & CULTURAL RES. (Nov. 13, 2016), <https://www.dncr.nc.gov/blog/2016/11/13/gambling-comes-cherokee> [https://perma.cc/XG7S-9SUJ].

56. *Id.*

57. *North Carolina Casinos 2025 Updates*, 500 NATIONS, https://www.500nations.com/North_Carolina_Casinos.asp [https://perma.cc/J43W-G4CH] (last visited Mar. 29, 2025).

58. See *Casino at Harrah's Cherokee Valley River*, CAESARS ENT., <https://www.caesars.com/harrahs-cherokee-valley-river/casino> [https://perma.cc/66WX-FAUU] (last visited Feb. 27, 2025).

59. See Tom Campbell, *Why Gambling Is Likely to Increase in North Carolina*, STARNEWS ONLINE (Feb. 22, 2025), <https://www.starnewsonline.com/story/opinion/2025/02/22/why-gambling-is-likely-to-increase-in-north-carolina-with-casinos/78950453007/> [https://perma.cc/V5AK-JF37].

60. N.C. GEN. STAT. § 14-309.15(a).

61. See *Where to Play?*, N.C. EDUC. LOTTERY, <https://nclottery.com/wheretoplay> [https://perma.cc/FR2Z-WQY5] (last visited Feb. 14, 2025).

62. *North Carolina Casinos Map*, AM. CASINO GUIDE BOOK, <https://www.americancasino guidebook.com/north-carolina-casinos-map.html> [https://perma.cc/N43H-BRW7] (last visited Feb. 14, 2025).

HIGH STAKES, LOW BARRIERS

Today, these obstacles are no longer in place. Online sportsbooks are free to download on any iOS or Android device.⁶³ Once downloaded, these apps boast an easy sign-up process that “takes less than 2 minutes.”⁶⁴ These apps allow users to directly link their bank accounts for quick and easy deposits,⁶⁵ or to deposit through additional options like Apple Pay or Venmo.⁶⁶ While these apps require consumers to sign in to their account before each use, users can reduce the process to seconds by using face ID.⁶⁷ The apps then provide thousands of potential bets, available at the click of a button. A user can wager as much money as they desire on a sports bet as easily as sending a text message.

In North Carolina, this new era of sports betting was ushered in on June 14, 2023, when Governor Cooper—surrounded by representatives of the major professional sports teams in the state—signed House Bill 347.⁶⁸ The bill garnered bipartisan support, as proponents pointed to the economic and job-creating benefits that the legalization of sports betting would bring to the state.⁶⁹ However, not all state representatives agreed with the bill. Pricey Harrison, a representative from Guilford County, declared the bill “predatory,”

63. *FanDuel Sportsbook & Casino* APPLE APP STORE, <https://apps.apple.com/us/app/fanduel-sports-book-casino/id1413721906> [<https://perma.cc/H689-T8P3>] (last visited Feb. 14, 2025); *DraftKings Sportsbook & Casino*, GOOGLE PLAY STORE, <https://play.google.com/store/apps/details?id=com.draftkings.sportsbook> [<https://perma.cc/VA9G-9LUG>] (last visited Feb. 14, 2025).

64. *Fanduel*, FANDUEL, <https://www.fanduel.com/mm-promo> [<https://perma.cc/RT35-XJD8>] (last visited Feb. 14, 2025).

65. *What Payment Methods Can I Use for Deposits and Withdrawals on FanDuel?*, FANDUEL, <https://support.fanduel.com/s/article/What-payment-methods-can-i-use-for-deposits-and-withdrawals-on-FanDuel> [<https://perma.cc/QUN4-WM9M>] (last visited Feb. 14, 2025).

66. *Id.*

67. *Step-By-Step Guide to Register for Fanatics Sportsbook*, BETTING HERO (Feb. 21, 2024), <https://bettinghero.com/help/betfanatics/registration-verification/step-by-step-guide-creating-your-account-on-betfanatics-sportsbook-app/> [<https://perma.cc/7VRS-9K5M>] (suggesting users enable Face ID on a sportsbook for faster logins).

68. *North Carolina Gov. Roy Cooper Signs Sports Betting Bill in Charlotte*, *supra* note 41.

69. *Id.*

claiming that it siphons money from people who can least afford to bet with little benefit in return.⁷⁰

The “return” Representative Harrison referred to is the 18% privilege tax the state receives from gambling revenue.⁷¹ In addition to this revenue tax, prospective gambling operators must also pay a \$1 million application fee to obtain a state-issued wagering license and an additional \$1 million renewal fee after five years.⁷² The tax revenue generated by these fees is being spread across numerous state-run departments, including the athletics departments of public colleges such as Appalachian State, East Carolina, and North Carolina Central.⁷³ This additional tax revenue comes at a time of great economic need, as the state faces a projected \$2 billion budget shortfall by 2028.⁷⁴ Many state lawmakers look to the sports betting tax as the means to fill this void, expecting \$100 million to be generated for the state annually.⁷⁵

There is still a question as to whether North Carolinians are receiving their fair share of revenue, compared to citizens of other states. Among the states that have legalized sports betting, there is a wide range of tax structures. For example, states such as Nevada, South Dakota, and Mississippi charge licensing fees of only \$5,000 for sports betting companies to operate in the state.⁷⁶ Massachusetts, however, requires a \$5 million fee along with \$5 million renewal fees every five years.⁷⁷ Some states, such as New York, New Hampshire, and Rhode

70. *Id.*

71. Grant Lefelar, *Cooper Signs Sports Betting Bill into Law*, CAROLINA J. (June 14, 2025), <https://www.carolinajournal.com/cooper-signs-sports-betting-bill-into-law/> [https://perma.cc/6XBM-JKTU].

72. *Id.*

73. *Id.*

74. Bryan Anderson, *The State Faces a Looming Budget Shortfall*, ASSEMBLY (Apr. 22, 2024), <https://www.theassemblync.com/politics/casinos-budget-shortfall-nc/> [https://perma.cc/5DW8-LH66].

75. *See id.*

76. Adam Hoffer, *Bets on Legal Sports Markets Pay Off Big for States*, TAX FOUND. (Dec. 10, 2024), <https://taxfoundation.org/research/all/state/sports-betting-tax-revenue/> [https://perma.cc/7BW8-8UD3].

77. *Id.*

Island, have tax rates of 50% or above.⁷⁸ Other states, like Nevada and Iowa, have tax rates lower than 7%.⁷⁹ North Carolina's tax rate of 18% ranks as the eleventh-highest in the country, but this is well below the highest figures of 51%.⁸⁰ Some state representatives seem content with North Carolina's tax standing and are optimistic about the opportunities the additional tax dollars will bring.⁸¹ Others, such as Representative Harrison, believe the current tax rates leave money on the table and that the current tax revenue does not adequately compensate for damage done to the state's residents.⁸²

Outside of varying tax rates, there are also several regulatory models that states have adopted.⁸³ The North Carolina State Lottery Commission was placed in charge of distributing and enforcing licensing rules.⁸⁴ Numerous other states have followed this model with differing success rates. For example, Delaware, Montana, and Oregon have all operated sports betting through their state lottery commissions and quickly transitioned into sports betting due to the "existing expertise and legislative delegation" within these commissions.⁸⁵ However, other states with lottery commission models, such as Tennessee, have run into issues with their licensees due to the commissions failing to follow correct protocol.⁸⁶ Other regulatory models include the Nevada model, followed by states such as New

78. Adam Hoffer, *Online Sports Betting Taxes by State, 2024*, TAX FOUND. (Sept. 17, 2024), <https://taxfoundation.org/data/all/state/sports-betting-taxes-by-state-2024/> [<https://perma.cc/6PZK-U8LZ>].

79. *Id.*

80. *Id.*

81. Pat Moran, *One Year Later, Was Legalizing Sports Gambling in NC a Smart Bet?*, QUEEN CITY NERVE (Mar. 21, 2025), <https://qcnerve.com/sports-gambling-in-nc/> [<https://perma.cc/S959-DDNN>].

82. ABC II, *supra* note 4141.

83. John T. Holden et al., *Legalized Sports Wagering in America*, 44 CARDOZO L. REV. 1383, 1406–11 (2023).

84. Rules, N.C. STATE LOTTERY COMM'N, <https://ncgaming.gov/rules-and-compliance> [<https://perma.cc/5H36-7X4N>] (last visited Mar. 29, 2025).

85. Holden et al., *supra* note 83, at 1407.

86. *Id.* at 1408 (discussing a Tennessee licensee that also operated a pay-day lending service and withheld winning wagers from pay-day clients that had not paid off loans).

Jersey and Mississippi, and the tribal governance model, followed by states such as New Mexico.⁸⁷

Which regulatory model a state chooses largely depends on how the state previously regulated gambling.⁸⁸ Like those of other states, North Carolina's statute establishes requirements for licensees—such as FanDuel and DraftKings—to mitigate harms caused by sports betting.⁸⁹ For example, sportsbooks are required to include a voluntary exclusion program, submit to audits, comply with advertising rules, and provide information about resources for gambling addictions.⁹⁰ If the Commission determines that a licensee has violated a requirement, it may suspend or revoke the license or impose a fine of up to \$10,000 per violation.⁹¹ Today, when evaluating whether these measures provide adequate protection to North Carolinians, the gambling industry's use of technology must be considered.

III. THE ROLE OF TECHNOLOGY IN THE SPORTS BETTING INDUSTRY

Modern technology has made everyday life easier in many respects, and access to sports betting is no exception. Ridesharing apps provide a personal driver at the click of a button.⁹² Online shopping platforms offer next-day shipping on nearly any item a consumer would want.⁹³ Artificial intelligence (“AI”) chatbots instantly answer complex questions.⁹⁴ This trend has continued into the world of sports betting since its legalization.

87. *Id.* at 1406, 1408.

88. *Id.* at 1410.

89. See N.C. GEN. STAT. § 18C-904.

90. *Id.* § 18C-910.

91. *Id.* § 18C-916(a)(1) to (2).

92. *About Us*, UBER, <https://www.uber.com/us/en/about/> [<https://perma.cc/E4DC-PYX7>] (last visited Feb. 14, 2025).

93. *Order with Prime Free Same-Day Delivery*, AMAZON, <https://www.amazon.com/gp/help/customer/display.html?nodeId=GFUT24ALVAVC6VFD> [<https://perma.cc/7EHH-D2LQ>] (last visited Feb. 14, 2025).

94. CHATGPT, <https://chatgpt.com/> [<https://perma.cc/PUV4-Z4UH>] (last visited Feb. 14, 2025).

A. Accessibility Issues

Sports betting apps, such as DraftKings and FanDuel, serve as poignant examples of how quickly and easily everyday people can access the world of sports gambling. These apps frequently display advertisements promoting how easy it is to sign up and place bets on their services.⁹⁵ Within minutes of downloading the app, users can link their bank account and instantly put down as much as \$5 million on a single bet.⁹⁶ Health experts have warned that sports betting being just a tap away could be a severe problem for some, especially when the urge to bet becomes uncontrollable.⁹⁷

One example of problems arising from easy access to mobile gambling is “micro-betting.” While traditional betting involves placing bets before a game begins, “live betting” offers betting options throughout a game that has already begun.⁹⁸ Micro-betting is a subset of live betting that allows bettors to rapidly wager bets on small moments in a game with near-immediate results.⁹⁹ Because micro-bets are often settled moments after they are placed, users are able to place dozens per game.¹⁰⁰ For example, micro-bets available during a football game could include betting on (1) whether the next play will be a run or pass, (2) whether there will be a first down on the next play, (3) or whether the next pass will be complete or incomplete.¹⁰¹ This has

95. *Getting Started*, FANDUEL, <https://www.fanduel.com/casino-101/getting-started> [<https://perma.cc/N6XP-984H>] (last visited Feb. 14, 2025).

96. *FanDuel Sportsbook House Rules – North Carolina*, FANDUEL SPORTSBOOK (Feb. 11, 2025), <https://www.fanduel.com/fanduel-sportsbook-house-rules-nc> [<https://perma.cc/J76M-WU3G>].

97. Elissa Bass, *Easy Access to Sports Gambling Could Cause Problems*, HARTFORD HEALTHCARE (Oct. 27, 2021), <https://healthnewshub.org/easy-access-to-sports-gambling-could-cause-problems/> [<https://perma.cc/4Q3Y-Y3WH>].

98. Daniel Thomas Mollenkamp, *Live Betting: What It Is and How It Works*, INVESTOPEDIA (Sept. 27, 2024), <https://www.investopedia.com/live-betting-definition-5217206> [<https://perma.cc/N65R-ENJD>].

99. Rhianna Padman & James Whitelock, *What Is Microbetting and How Does It Work?*, WSN (July 9, 2024, 9:52 AM), <https://www.wsn.com/betting-guide/microbetting/> [<https://perma.cc/Z7ND-HKCD>] (demonstrating that nearly every sportsbook today has some form of micro-betting available to their customers).

100. *What Is Micro Betting?*, BALLEY BET, <http://ballybet.com/how-to-bet/micro-betting> [<https://perma.cc/JX9N-EWFW>] (last visited Feb. 14, 2025).

101. *Id.*

grown in popularity: DraftKings expanded its micro-betting options on college football in 2022, allowing users to bet on one-hundred-thousand plays across eighty-five games during the first weekend of the season alone.¹⁰²

Recently, the Lancet Public Health Commission—comprised of academic experts from dozens of countries—released a report outlining these dangers.¹⁰³ The report estimated that nearly 448.7 million people globally may experience an adverse consequence from gambling, a number expected to grow in coming years.¹⁰⁴ Among these harms are significant financial losses, loss of employment, damaged relationships, and even increased rates of domestic violence.¹⁰⁵ Moreover, there are often secondhand victims of gambling harms, such as the bettor’s family, who could face financial crisis or hardship, including homelessness.¹⁰⁶ DraftKings and FanDuel were specifically named as contributors to these issues, in part because of their twenty-four seven accessibility in the United States.¹⁰⁷ One thirty-four-year-old gambling addict pointed to the accessibility of sports gambling apps as a main reason for his addiction.¹⁰⁸ “Mobile betting is really what is killing everyone,” he said. “[A] lot of times people go through addiction, whether it’s drugs or alcohol or anything, but [with sports betting] the problem is that you have your phone with you 24/7, so you can literally do it at any time.”¹⁰⁹ Simply put, over-

102. *US Sports Betting: Is Micro Betting the Sports Equivalent of iGaming*, IGB (Feb. 2, 2023), <https://igamingbusiness.com/sports-betting/sports-book/h2-us-sports-betting-5/> [https://perma.cc/45E5-YK43].

103. Heather Wardle et al., *The Lancet Public Health Commission on Gambling*, 9 LANCET PUB. HEALTH e950, e950 (2024) (stating that the Lancet Public Health is a world leading health journal with over 100 million downloaded articles).

104. *Id.* at e951.

105. *Id.*

106. *Supporting Families and Friends of a Loved One with Gambling Problems*, CAMBRIDGE HEALTH ALL., <https://www.divisiononaddiction.org/outreach-resources/gdsd/toolkit/families-and-friends/> [https://perma.cc/7VRW-SFH8] (last visited Mar. 14, 2025).

107. *Id.*

108. Jacob Zinkula, *Don’t Lose Your Life Savings on Your Phone*, BUS. INSIDER (Mar. 18, 2023), <https://www.businessinsider.com/sports-betting-addiction-warns-bettors-lose-money-march-madness-2023-3> [https://perma.cc/SF8Z-HLMP].

109. *Id.*

accessibility is a quick and easy way to “lose your life savings on your phone.”¹¹⁰ Medical research performed by the Lancet Public Health Commission supports these sentiments.¹¹¹ In response, the group recommends “reduction of population exposure and availability of gambling, through prohibitions or restrictions on access.”¹¹²

B. Data Collection and Usage Issues

Aside from accessibility concerns associated with sports betting apps, other technological problems persist in the industry. This includes the industry’s collection and use of consumer data for purposes such as targeted advertising.

1. Data Collection

Sports betting apps have been attacked by hackers looking to mine their valuable data several times throughout the past few years. BetMGM was hacked in May of 2022, which resulted in one-and-a-half million users having their data breached by hackers.¹¹³ The hackers took users’ names, email addresses, and phone numbers.¹¹⁴ In November of 2022, sixty thousand DraftKings users had the balances on their accounts withdrawn by hackers.¹¹⁵ In total, the hackers were able to steal approximately \$600,000 from roughly 1,600 compromised accounts.¹¹⁶ FanDuel was the next sportsbook to experience a data breach when, in early 2023, users had their names and email addresses taken.¹¹⁷ While the sports betting industry is not the only industry to

110. *Id.*

111. Wardle et al., *supra* note 103, *passim*.

112. *Id.* at e985.

113. *BetMGM Notifies Patrons of Data Security Issue*, PR NEWswire (Dec. 21, 2022), <https://www.prnewswire.com/news-releases/betmgm-notifies-patrons-of-data-security-issue-301707831.html> [<https://perma.cc/NE39-K5B6>].

114. *Id.*

115. Ionut Arghire, *Two More Individuals Charged for DraftKings Hacking*, SEC. WEEK (Jan. 31, 2024), <https://www.securityweek.com/two-more-individuals-charged-for-draftkings-hacking/> [<https://perma.cc/Z95E-K58Q>].

116. *Id.*

117. *FanDuel Data Breach: What and How It Happened?*, TWINGATE (June 20, 2024), <https://www.twingate.com/blog/tips/Fanduel-data-breach> [<https://perma.cc/5LUQ-MYHH>].

experience data breaches, measures must be taken to limit the frequency of these events.

Adding to these concerns is the sheer amount of data the sportsbooks are mining from users without their knowledge. A 2024 report by Incogni, a cybersecurity company, examined the number of data points collected by sports betting apps.¹¹⁸ The research team behind the report found that between nine and twenty-two data points were taken by the most popular apps, with DraftKings leading the way.¹¹⁹ The data points included highly sensitive information—such as financial, location, and personal information—collected by the app itself.¹²⁰ Further, on some apps, data points are taken offline, including data regarding web browsing, health and fitness, messages, photos, and videos.¹²¹ Lastly, the report found that nearly half of the data taken was then shared with third parties for advertising or marketing purposes, among other things.¹²² Therefore, not only are sportsbooks benefiting from targeted advertising, but they are also profiting from the sale of highly sensitive personal information.

2. Data Usage

Subsequently, after sportsbooks collect data from their users, they use it to attract customers to their apps.¹²³ One way this is done is through targeted advertisements.¹²⁴ This form of advertising allows companies to increase response rates and lower the cost per acquisition of customers.¹²⁵ These advertisements rely on a “treasure trove” of consumer data to efficiently target users most likely to

118. *The Reality of Data Practices in Online Sports Betting*, INCOGNI BLOG, <https://blog.incogni.com/online-sports-betting-data-research/> [https://perma.cc/BNK5-8ZPJ] (last visited Feb. 14, 2025).

119. *Id.*

120. *Id.*

121. *Id.*

122. *Id.*

123. Roger Mills, *Behavioral Targeting Helps Major Sports Betting Provider Score a New Fanbase*, SPEEDEON (Apr. 11, 2024), <https://speeдеondata.com/behavioral-targeting-major-sports-betting-provider-scores-a-new-fanbase/> [https://perma.cc/HQW2-55BY].

124. *Id.*

125. *Id.*

gamble frequently,¹²⁶ utilizing factors such as the frequency of bets the user places.¹²⁷ The goal is to send a higher volume of advertisements to those deemed—to borrow a baseball term—“high value prospects,” those that place a higher frequency of bets.¹²⁸

The value of these bettors can be seen in data from the 2023–24 season of the National Football League (“NFL”), which revealed that eighty-two percent of sportsbook operator revenue comes from only three percent of bettors.¹²⁹ The more bets a gambler places, the more targeted advertisements they are flooded with, which can lead to more bets.¹³⁰ Other targeted groups include “those who follow gambling-related content or specific demographic groups, such as young males, who are frequently exposed to gambling advertising.”¹³¹

Unfortunately, issues surrounding the usage of user data do not stop at targeted advertising. It is important to highlight AI’s role in the sports betting industry. Like many other industries,¹³² one of the main uses of AI for sportsbooks is the ability to provide AI chatbots that assist users. These chatbots simulate conversations and provide “instant support, answer player queries, assist with account management, and even offer personalized betting recommendations.”¹³³ Since AI chatbots are offered twenty-four seven, users can *always*

^{126.} *Id.*

^{127.} *Id.*

^{128.} *Id.*

^{129.} Jonathan Cohen, *60% of Super Bowl Bettors Should Be Ignored by Sportsbooks*, OPTIMOVE (Feb. 6, 2025), <https://www.optimove.com/blog/60-of-super-bowl-bettors-should-be-ignored-by-sportsbooks> [<https://perma.cc/8RKJ-9XMX>].

^{130.} *See Ad Tracking in the Gambling Industry Under Scrutiny*, PUBLIC GAMING (Oct. 15, 2023), <https://www.publicgaming.com/news-categories/responsible-gaming/11799-ad-tracking-in-the-gambling-industry-under-scrutiny> [<https://perma.cc/JCN3-D574>] (finding that sportsbooks use targeted advertising towards specific individuals to maximize its profits, with 60% of profits coming from 5% of users, many of whom are problem gamblers).

^{131.} Wardle et al., *supra* note 103, at e962.

^{132.} Bhanu Teja P, *16 Leading Companies Using Chatbots for Customer Service*, SITEGPT (Sept. 14, 2023), <https://sitegpt.ai/blog/companies-using-chatbots-for-customer-service> [<https://perma.cc/8J58-XCHL>].

^{133.} Krushna Kutaval, *The Rise of AI Chatbots in Gambling Apps for Enhanced User Support*, SLDC CORP (Nov. 28, 2024), <https://sdlccorp.com/post/the-rise-of-ai-chatbots-in-gambling-apps-for-enhanced-user-support/> [<https://perma.cc/FVN5-Y2FW>].

receive support or recommendations. AI can also access user data points collected by the app and use this information to provide personalized betting advice that ensures the user keeps betting.¹³⁴ For example, a user who repeatedly places a certain type of bet on a particular team will be recommended a similar bet by the AI chatbot.¹³⁵ Sports betting apps leverage technology to provide users as many opportunities as possible to spend money.

AI is also used in sportsbook algorithms. Sports betting algorithms work by “analyzing past and real-time data to predict the likelihood of different outcomes” of a game.¹³⁶ The algorithms take in massive amounts of data, including player performance, team dynamics, injuries, historical outcomes, and even weather conditions affecting the game.¹³⁷ Today, algorithms are more advanced than ever due to the use of AI and machine learning.¹³⁸ Now, sportsbooks consider additional game factors that a human might miss,¹³⁹ leading to predictions more accurate than ever before.¹⁴⁰ This makes it significantly harder for humans to beat sportsbooks.¹⁴¹ However, easily accessible apps and micro-betting allow customers to frequently and continuously attempt to outsmart sportsbooks’ advanced algorithms, driving the industry’s ever-growing profits.

IV. CURRENT SPORTS BETTING REGULATIONS

The primary federal law governing sports betting is the Wire Act of 1961.¹⁴² By disallowing wire communication on information of bets, this law was originally intended to curb the prevalence of organized

^{134.} See *id.*

^{135.} *Id.*

^{136.} Sol Fayerman-Hansen, *The Best Algorithms for Sports Betting*, RG (Sept. 6, 2024), <https://rg.org/guides/sportsbetting-guides/sports-betting-algorithms> [<https://perma.cc/PNF7-A6Y6>].

^{137.} *Id.*

^{138.} *Id.*

^{139.} *Id.*

^{140.} *Id.*

^{141.} *Id.*

^{142.} 18 U.S.C. § 1084.

crime in the world of gambling.¹⁴³ Primarily, the Act prohibited interstate transmission of betting line information, a tool necessary for illegal bookies to run their sportsbooks.¹⁴⁴ Casinos were still allowed to operate in cities such as Las Vegas and Atlantic City due to the wagers being placed in person instead of through wired communications.¹⁴⁵

Today, the American Gaming Association (“AGA”) is urging the federal government to take better action in enforcing the Act, specifically against unregulated gambling operators.¹⁴⁶ The AGA reports that the country loses over \$13 billion in tax revenue annually to unregulated gambling operators that do not pay taxes or follow regulations.¹⁴⁷ The market for illegal gambling is massive: Almost half of sports bettors use these markets, and fifteen percent use them exclusively.¹⁴⁸ It remains to be seen whether the federal government will respond to requests from the AGA and increase its enforcement of the Wire Act.

Another federal law impacting intrastate betting, the Professional and Amateur Sports Protection Act¹⁴⁹ (“PASPA”), failed to adequately regulate betting. This law barred states from regulating and taxing sports betting, with an exception made for states with laws allowing

143. Luke Campbell, *The Legal and Regulatory Framework for Online Gambling in the United States*, LEGAL READER (Apr. 12, 2023), [https://www.legalreader.com/legal-and-regulatory-framework-for-online-gambling-in-the-united-states/\[https://perma.cc/WY2W-XD6J\]](https://www.legalreader.com/legal-and-regulatory-framework-for-online-gambling-in-the-united-states/[https://perma.cc/WY2W-XD6J]).

144. 18 U.S.C. § 1084(a); John Holden, *Opinion: Does Wire Act Still Serve a Purpose in Regulating Sports Betting?*, LEGAL SPORTS REP. (Nov. 9, 2022), [https://www.legalsportsreport.com/83502/opinion-wire-act-as-friend-or-foe-of-regulated-sports-betting/\[https://perma.cc/7CC5-KDC3\]](https://www.legalsportsreport.com/83502/opinion-wire-act-as-friend-or-foe-of-regulated-sports-betting/[https://perma.cc/7CC5-KDC3]).

145. *Id.*

146. *Sizing the Illegal and Unregulated Gaming Markets in the United States*, AM. GAMING ASS’N 1 (2022), [https://www.americangaming.org/wp-content/uploads/2022/11/Sizing-the-Illegal-and-Unregulated-Gaming-Markets-in-the-US.pdf\[https://perma.cc/7QY5-XVK7\]](https://www.americangaming.org/wp-content/uploads/2022/11/Sizing-the-Illegal-and-Unregulated-Gaming-Markets-in-the-US.pdf[https://perma.cc/7QY5-XVK7]) (noting that the AGA is made up of companies and casinos in the betting industry and seeks to lobby and advocate for the industry on their behalf).

147. *Id.*

148. *Id.* at 5.

149. 28 U.S.C. § 3702.

sports betting at the time the Act was passed.¹⁵⁰ In 2018, the Supreme Court struck down PASPA, which returned the decision to regulate or tax sports betting to the states.¹⁵¹ Justice Alito wrote for the Supreme Court in holding that PASPA violated the Constitution's anti-commandeering rule.¹⁵² That rule, which is inferred from the Constitution's structure,¹⁵³ bars the federal government from requiring states to adopt or enforce a federal law.¹⁵⁴ While the rule itself is controversial, it is clear from the Supreme Court's ruling in *Murphy* that state governments—and not the federal government—individually control sports gambling.

Since the ruling, the industry has exploded.¹⁵⁵ While some states have allowed loose guidelines for gambling companies, others have attempted to implement strict regulations to limit harmful effects.¹⁵⁶ Some of these regulations have proven to not adequately restrict sportsbooks' ability to target vulnerable groups. The best solution to solve this problem is to implement comprehensive federal law that specifically addresses the technological issues associated with sportsbooks.

A. Examples of Insufficient Regulation

One avenue for decreasing gambling's damaging effects on children is to prevent them from accessing the apps in the first place. North Carolina law states that “interactive sports wagering operator[s]

150. 28 U.S.C. § 3704(a)(2); Eric Meer, *The Professional and Amateur Sports Protection Act (PASPA): A Bad Bet for the States*, 2 UNLV GAMING L.J. 281, 287 (2011) (noting that Nevada, Delaware, Montana, and Oregon had state laws allowing for sports betting at the time the Act was passed.).

151. 3 *Murphy v. Nat'l Collegiate Athletic Ass'n*, 584 U.S. 453 (2018).

152. *Id.* at 474.

153. *Id.* at 470; *Amdt10.4.2 Anti-Commandeering Doctrine*, CONST. ANNOTATED, https://constitution.congress.gov/browse/essay/amdt10-4-2/ALDE_00013627/ (last visited Feb. 14, 2025) (stating that the Court first used the doctrine to retreat from the narrow conception of state power and as the modern court continues to emphasize state rights).

154. *Id.*

155. *State of Play*, *supra* note 77.

156. *A State-by-State Guide to Legal Gambling in the U.S.*, ROCKLAND CNTY. TIMES (Aug. 15, 2024), <https://rocklandtimes.com/2024/08/15/a-state-by-state-guide-to-legal-gambling-in-the-u-s/> [<https://perma.cc/9GXN-GA6S>].

shall put in place sufficient measures to verify the age and identity of the registered player needed to allow the establishment of interactive accounts remotely.”¹⁵⁷ Currently, gambling apps have built-in features intended to block minors from accessing their services, including age and identity verification processes.¹⁵⁸ However, sportsbooks concede that once an account is verified, minors can access the account by simply utilizing a verified user’s device.¹⁵⁹ To combat this threat, FanDuel encourages users to install their own parental control software to prevent access to its site.¹⁶⁰

These protective measures are not doing nearly enough to prevent the problem, as evident from the staggering statistics around underage gambling.¹⁶¹ While these apps verify the age and identity of the registered player during the sign-up phase,¹⁶² they do not sufficiently verify age and identity during logins, after the account has been activated.¹⁶³ This failure allows underage gamblers to access previously verified accounts and illegally gamble underage. Sportsbooks should not allow users to save their sign-in information; instead, they should require that a password be entered before every use. This would likely

157. N.C. GEN. STAT. § 18C-912(d).

158. *Responsible Gaming*, DRAFTKINGS, <https://www.draftkings.com/responsible-gaming-about> [<https://perma.cc/9HPA-457U>] (last visited Feb. 25, 2025) (stating these processes include entering the user’s name, birthday, address, social security number, phone number, and a photograph of the user’s ID).

159. *Parental Controls*, FANDUEL, <https://account.dc.sportsbook.fanduel.com/responsible-play/parental-controls> [<https://perma.cc/75PE-67WL>] (last visited Feb. 25, 2025).

160. *Id.*

161. Marsha Mercer, *States Tackle Teenage Gambling as Sports Betting Grows*, EDUC. WEEK (July 13, 2022), <https://www.edweek.org/leadership/states-tackle-teenage-gambling-as-sports-betting-grows/2022/07> [<https://perma.cc/Q4DX-49AD>].

162. *Why Am I Being Asked to Verify My Identity?*, DRAFTKINGS, <https://help.draftkings.com/hc/en-us/articles/360058767233-Why-am-I-being-asked-to-verify-my-identity-US> [<https://perma.cc/522E-YJDW>] (last visited Mar. 29, 2025).

163. *Log In*, DRAFTKINGS, <https://myaccount.draftkings.com/login?intendedSiteExp=US-NC-SB> [<https://perma.cc/PVN7-7BLR>] (last visited Mar. 29, 2025) (showing that on the log in screen for DraftKings, all that is required to enter the account is an email and password).

decrease the number of minors that can access sportsbooks through a verified user's device.¹⁶⁴

Despite these concerns, FanDuel's actions indicate an unwillingness to implement greater protections against underage gambling. A 2023 report exposed that while New York's Gaming Commission was establishing regulations for newly legalized sports betting, FanDuel actively lobbied against several protective safeguards.¹⁶⁵ Some policies FanDuel lobbied against included banning gambling advertisements in college areas with large underage populations, imposing strict liability for sportsbooks that serve underage and problem gamblers, and requiring compulsive gambling assistance messages on gambling advertisements.¹⁶⁶ These lobbying efforts stand in stark contrast to FanDuel's public commitment to preventing underage and problem gambling.¹⁶⁷

FanDuel is not alone in having questionable practices that potentially affect underage bettors. Caesars partnered with several large public universities to expand its customer base to college students.¹⁶⁸ Michigan State University, Louisiana State University, and

164. *The Need for Age Verification with Online Gambling*, AGECHECKER.NET (Jan. 12, 2024), <https://agechecker.net/blog/the-need-for-age-verification-with-online-gambling> [https://perma.cc/8EGS-EDK7] (stating that age verification systems protect minors from underage gambling).

165. Callum Jones, *Top US Betting Firm Lobbied Against Rules to Protect Young People and Problem Gamblers*, GUARDIAN (Dec. 9, 2023), <https://www.theguardian.com/us-news/2023/dec/09/fanduel-new-york-safety-minors-gambling-addiction-sport-betting> [https://perma.cc/PL7Y-5MCN].

166. *Id.*

167. *FanDuel Launched "Trusted Voices"*, FANDUEL (Sept. 4, 2024), <https://www.prnewswire.com/news-releases/fanduel-launches-trusted-voices-conversations-about-betting-focused-on-helping-parents-and-families-discuss-gambling-302237369.html> [https://perma.cc/S558-2U2W] (stating that in late 2024, FanDuel launched "Trusted Voices" which is a program that is "designed to equip trusted adults, including parents, guardians and coaches, with tools and resources to talk to young people about gambling, associated risks, how to recognize warning signs and where to go for support").

168. Anna Betts, Andrew Little, Elizabeth Sander, Alexandra Tremayne-Pengelly & Walt Bogdanich, *How Colleges and Sports-Betting Companies 'Caesarized' Campus Life*, N.Y. TIMES (Nov. 21, 2022), <https://www.nytimes.com/2022/11/20/business/caesars-sports-betting-universities-colleges.html> [https://perma.cc/EN29-DHFC].

the University of Colorado have all inked deals worth more than \$1 million annually with Caesars, in exchange for the right to promote gambling at the universities.¹⁶⁹ These schools then sent out emails to their student bodies encouraging them to place their first bet with the sportsbook and earn a bonus bet.¹⁷⁰ In return, the schools received thirty dollars every time one of their students downloaded Caesars' app.¹⁷¹ To defend these actions, the schools pointed to the increase in funding used to offset revenue lost during COVID-19.¹⁷² However, questions exist as to what these institutions are doing to protect their underage students from participating in illegal gambling. These same universities provide numerous resources for alcohol and other drug disorders,¹⁷³ while at the same time promoting sports gambling despite its similar addictive nature.¹⁷⁴ It is time for schools to treat gambling like other addictive vices and offer support—not promotion.

North Carolina law states that sportsbooks must ensure “all advertisements and marketing of sports wagers . . . does not target persons under the age of 21.”¹⁷⁵ Even the AMA's Responsible Market Code for Sports Wagering states, “no sports betting message should be designed to appeal primarily to those below the legal age for sports wagering.”¹⁷⁶ These marketing practices, however, seem to toe the line of illegal activity, if not outright breaking the law. Eventually, the AMA's members agreed to disallow these partnership forms and restrict advertising to media where three-quarters of the audience are

169. *Id.*

170. *Id.*

171. *Id.*

172. *Id.*

173. *MSU Biennial Review of Alcohol and Other Drug Programs*, MICH. STATE UNIV., <https://uhw.msu.edu/students/aod> [https://perma.cc/G4AT-U2Q6] (last visited Mar. 15, 2025).

174. Lin Sternlicht & Aaron Sternlicht, *The Similarities Between Alcoholism and Gambling Addiction*, FAM. ADDICTION SPECIALIST, <https://www.familyaddiction-specialist.com/blog/the-similarities-between-alcoholism-and-gambling-addiction> [https://perma.cc/C26M-KD6X] (last visited Mar. 15, 2025).

175. N.C. GEN. STAT. § 18C-910(e)(1).

176. *Responsible Marketing Code for Sports Wagering Overview*, AM. GAMING ASS'N 2, <https://www.americangaming.org/wp-content/uploads/2020/09/AGA-Responsible-SB-Marketing-Code.pdf> [https://perma.cc/SF4K-6RXP] (last visited Mar. 29, 2025).

under the age of twenty-one.¹⁷⁷ This decision provides an example of an industry appropriately self-governing, a trend that will hopefully continue into the future.

B. Examples of Sufficient Regulation

Legislation has been introduced in several states to combat marketing tactics such as those discussed above. One such example is in New Jersey, where Bill A5207¹⁷⁸ would drastically restrict the reach of sports betting advertising in the state.¹⁷⁹ The bill aims to ban posting, distributing, broadcasting, or disseminating any online sports betting ad.¹⁸⁰ Brian Bergen, the Assemblyman who introduced the bill, stated that online sports betting “[is] like a runaway train and it needs to be reeled in.”¹⁸¹ Bergen further stated that the bill’s primary focus was to protect children from advertisements that glorify sports betting; he plans to take aim at prohibiting TV sports betting advertisements next.¹⁸²

One of the main policy concerns of gambling regulations around the country is preventing minors and problem gamblers from placing bets. The legal age for gambling varies by state, with many states opting for a minimum age of twenty-one, while others allow eighteen-year-olds to place bets.¹⁸³ Despite this, between sixty and eighty percent of high school students report having gambled money in 2022.¹⁸⁴ Of this group between four and six percent are considered

177. *New Updates to AGA Responsible Marketing Code for Sports Wagering*, AM. GAMING ASS’N (Mar. 28, 2023), <https://www.americangaming.org/new-updates-to-aga-responsible-marketing-code-for-sports-wagering-prohibit-risk-free-enhance-college-aged-protections/> [https://perma.cc/D4BX-57ZQ].

178. Assemb. 5207, 221st Leg., Reg. Sess. (N.J. 2025).

179. *See generally id.*

180. *See id. passim.*

181. Justin Byers, *Lawmaker in New Jersey Wants to Ban Online Sports Betting Ads*, SBC AMS. (Jan. 4, 2025), <https://sbcamerica.com/2025/01/24/bill-nj-ban-online-sports-betting-ads/> [https://perma.cc/2QWV-5328].

182. *Id.*

183. Dmytro Sashchuk, *Guide to Legal Gambling*, VERIFF (Dec. 11, 2024), <https://www.veriff.com/identity-verification/news/guide-legal-gambling-age-verification-us> [https://perma.cc/V4Z8-WNCY].

184. Mercer, *supra* note 161.

gambling addicts.¹⁸⁵ To combat this worrying trend, states have begun to implement gambling education programs within public schools.¹⁸⁶ Virginia was the first state to enact laws requiring these classes, and since then, New Jersey and Michigan have followed suit.¹⁸⁷ The instruction on gambling addiction will be integrated into the existing curriculum on drug and alcohol abuse.¹⁸⁸ Time will tell the impact these classes have on childhood gambling addiction, but it is nonetheless a step in the right direction.

In Massachusetts, state legislators have their sights set on solving a host of issues associated with sports betting. Bill S. 302¹⁸⁹ seeks to increase the tax rate in the state dramatically, from twenty percent to fifty-one percent.¹⁹⁰ This would place the state in line with other states in the region with the highest tax rate in the country.¹⁹¹ Notably, the bill would also seek to eliminate live betting (and thereby micro-betting) by adding it to the category of “unfair and deceptive practices.”¹⁹² Examples of these “unfair and deceptive practices” would be bonus bets and same-game parlays that sportsbooks win over consumers at a significant rate.¹⁹³

Next, the bill would set mandatory daily and monthly limits for bettors, \$1,000 and \$10,000, respectively, before an affordability

¹⁸⁵. *Id.*

¹⁸⁶. Dee Dee Gatton, *States Push Gambling Education as Ease of Access Increases for Kids*, ABC 7 (June 2, 2023, 10:10 PM), <https://katv.com/news/nation-world/states-push-gambling-education-as-ease-of-access-increases-for-kids-sports-betting-market-children-restrictions-public-schools-new-jersey-virginia-division-1-athletes-national-institutes-of-health-public-safety> [https://perma.cc/ZR6U-75TZ].

¹⁸⁷. *Id.*

¹⁸⁸. *Id.*

¹⁸⁹. An Act Addressing Economic, Health and Social Harms Caused by Sports Betting, S. 302, 194th Gen. Ct., Reg. Sess. (Mass. 2025).

¹⁹⁰. *Id.* § 7 (amending MASS. GEN. LAWS ch. 23N, § 14, which states that “[a]n excise is hereby imposed upon sports wagering operators in the commonwealth at the rate of: . . . 20 per cent of the operator’s adjusted gross sports wagering receipts from the operation of sports wagering through mobile applications and other digital platforms approved by the commission”).

¹⁹¹. Anderson, *supra* note 74.

¹⁹². S. 302 § 10.

¹⁹³. *Id.*

assessment would need to be conducted.¹⁹⁴ An affordability assessment would include checking the user's bank account to ensure they are not wagering more than fifteen percent of their funds.¹⁹⁵ The affordability assessment would be the first of its kind and a progressive move to ensure sportsbook users are betting responsibly.¹⁹⁶

Lastly, the bill would aim to disallow sports betting advertisements during any televised sporting event.¹⁹⁷ While not quite at the same level as the advertising limitation proposed in New Jersey, it would be well-received by those who wish to watch a sporting event without constant reminders of the options to bet on the game. In all, the bill's measures represent the most drastic set of regulations that have been proposed to manage the sports betting industry yet. While proponents of sports betting regulation see the bill as a necessary check on the industry, opponents with a more libertarian perspective may view the bill as impeding on individuals' freedom to gamble.¹⁹⁸

Though some states have made commendable efforts to regulate the rapid rise of the sports betting industry, a nationwide federal law would be the most impactful. Sports betting addiction and underage betting is a problem afflicting people across the country.¹⁹⁹ United States Senator Richard Blumenthal and Representative Paul Tonko introduced the SAFE Bet Act in late 2024.²⁰⁰ The Act would attack three main aspects of the sports betting industry—advertising,

194. *Id.* § 4.

195. *Id.*

196. Giovanni Shorter, *New Massachusetts Sports Betting Bill Includes Massive Tax Hike and Ban on Live Betting*, MASSLIVE (Jan. 21, 2025, 4:10 PM), <https://www.masslive.com/betting/2025/01/new-massachusetts-sports-betting-bill-includes-massive-tax-hike-and-ban-on-live-betting.html> [https://perma.cc/Q3P8-EB3L].

197. S. 302 § 2.

198. Guy Calvert, *Gambling*, LIBERTARIANISM (Aug. 15, 2008), <https://www.libertarianism.org/topics/gambling> [https://perma.cc/Q97U-867J].

199. Cassandra Happe, *Most Gambling-Addicted States (2025)*, WALLETHUB (Apr. 23, 2024), <https://wallethub.com/edu/states-most-addicted-to-gambling/20846> [https://perma.cc/J8UR-G9EU].

200. Safe Bet Act, H.R. 9590, 118th Cong. (2024).

affordability, and artificial intelligence—with a focus on curbing gambling addiction and problem gambling.²⁰¹

Advertising regulations would ensure promotions do not target vulnerable populations, such as minors and problem gamblers.²⁰² Specifically, the bill would restrict sports betting advertisements during live sporting events and between 8:00 AM and 10:00 PM, when most minors watch television.²⁰³ Other advertisements that would be banned under the bill include those with phrases such as “no sweat” and those with information on how to place a sports bet.²⁰⁴ The bill addresses affordability by requiring affordability checks, like the measures proposed in Massachusetts.²⁰⁵ It takes it a step further, however, by outlawing the use of credit cards in sportsbooks completely.²⁰⁶ Lastly, the bill takes aim at AI by prohibiting sportsbooks from tracking user’s betting history or utilizing targeted advertising through personalized promotions.²⁰⁷ AI used for micro-betting would also be banned.²⁰⁸

The SAFE Bet Act’s drafters have made it clear they realize the important role technology has in the industry. Senator Blumenthal stated that sports betting has become a “science for gambling entities.”²⁰⁹ Blumenthal clarified that the science is of “exploitation and targeting and tracking individuals who are prone to addiction.”²¹⁰ AMA’s response to the proposed Act was a familiar one: “[R]egulated sports wagering operators are contributing billions in state taxes

201. Cf. *id.* § 317w(a)(2), (b) (explaining the Act’s plan to address gambling addiction and problem gambling).

202. *Id.* § 103(b)(7).

203. *Id.* § (b)(7)(C)(i).

204. *Id.* § (b)(7)(D)(i)–(ii).

205. *Id.* § (b)(6)(F)(i)–(iii).

206. *Id.* § (b)(6)(F)(ii).

207. *Id.* § (b)(6)(G)(ii).

208. *Id.* § (b)(6)(G)(iii).

209. *Blumenthal & Tonko Reintroduce SAFE Bet Act Addressing Sports Gambling*, RICHARD BLUMENTHAL (Mar. 12, 2025), <https://www.blumenthal.senate.gov/newsroom/press/release/blumenthal-and-tonko-reintroduce-safe-bet-act-addressing-sports-gambling> [<https://perma.cc/8TC3-79EY>].

210. *Id.*

across the U.S.”²¹¹ Although this is true, at a certain point, generating tax dollars is not enough.

Opposition to the Act has also come from lawmakers, with some considering it unconstitutional.²¹² Along with this, some pushback has come from a “lack of confidence in state regulators and the prevalence of existing regulatory measures.”²¹³ However, these concerns are dwarfed by the current public health crisis. An estimated seven million people in the U.S. have a gambling problem, and “one in five problem gamblers have attempted suicide.”²¹⁴ American citizens are losing their homes, families, and lives due to the impacts of unregulated sports gambling.²¹⁵ It is time for the federal government to address these issues by passing the SAFE Bet Act.²¹⁶

V. SPORTS BETTING RECOMMENDATIONS

A. *Why Sports Betting Should Remain Legal*

Although regulation is certainly needed in the sports betting industry, it is also important to acknowledge the benefits that sports betting has brought. The legalization of sports betting has increased the popularity of sports leagues themselves.²¹⁷ Eighty-six percent of sports bettors watch a game at least once a week, and sixty-three

²¹¹ Press Release, Am. Gaming Ass’n, AGA Statement on Introduction of Safe Bet Act (Sept. 12, 2024) [<https://perma.cc/D4UN-DCUY>].

²¹² Justin Byers, *Lawmakers Reinroduce SAFE Bet Act Ahead of March Madness*, SBC AMS. (Mar. 12, 2025), <https://sbcamericas.com/2025/03/12/reintroduce-safe-bet-act-march-madness/> [<https://perma.cc/Z8JF-6KHR>].

²¹³ *Id.*

²¹⁴ Jessica Golden, *US Lawmakers Introduce Bill to Put Regulations on Sports Betting Operators*, CNBC (Sept. 13, 2024), <https://www.cnbc.com/2024/09/13/federal-bill-regulations-sports-betting-operators-safe-bet-act.html> [<https://perma.cc/HS7R-UWYZ>].

²¹⁵ Wardle et al., *supra* note 103, at e971–77.

²¹⁶ *The Dangers of Problem Gambling*, GATEWAY FOUND., <https://www.gatewayfoundation.org/blog/gambling-dangers/> [<https://perma.cc/EGW2-YV3A>] (last visited Mar. 31, 2025).

²¹⁷ Will Johnson, *Have Sports Viewership and Sports Betting Been Impacted by the Pandemic?*, HARRIS POLL (Nov. 19, 2020), <https://theharrispoll.com/briefs/have-sports-viewership-and-sports-betting-been-impacted-by-the-pandemic/> [<https://perma.cc/D27E-3EGF>].

percent said they have watched games more often since they started betting on them.²¹⁸

This trend can be found throughout history, dating back to the nineteenth century when baseball was the most popular sport in the United States. Originally thought of as a boys' game, baseball eventually gained popularity throughout the nineteenth century as gambling took hold in society.²¹⁹ Older baseball fans obsessed over statistics and data to place more winning bets.²²⁰ Later, when gambling was outlawed, baseball's popularity steadily declined throughout the twentieth century.²²¹

Modern-day sports leagues are beginning to embrace sports gambling, as viewership and revenue hit all-time highs.²²² This has led to a sudden acceptance of sports betting after years of pushing to keep it banned amidst corruption concerns.²²³ The NFL, for example, has suspended players and league employees for gambling violations to keep the league's image intact.²²⁴ Sportsbooks bring increased sponsorship and advertising opportunities for teams and the league as a whole.²²⁵ Sports betting has been especially useful for drawing

²¹⁸. *Id.*

²¹⁹. Rebecca Edwards, *How Gambling Built Baseball – and Then Almost Destroyed It*, CONVERSATION (Oct. 16, 2019, 7:27 AM), <https://theconversation.com/how-gambling-built-baseball-and-then-almost-destroyed-it-123254> [https://perma.cc/72GS-C8Y5].

²²⁰. *Id.*

²²¹. Colby Hopkins, *Is Baseball a Dying Sport?*, MICH. J. ECON., <https://sites.lsa.umich.edu/mje/2022/12/20/is-baseball-a-dying-sport/> [https://perma.cc/GHX3-SDZ2] (last visited Feb. 28, 2025).

²²². *Super Bowl LIX Average Record Audience of 127.7 Million Viewers*, ASSOCIATED PRESS (Feb. 11, 2025, 3:29 PM), <https://apnews.com/article/super-bowl-ratings-fox-nielsen-eagles-chiefs-e0c22boe956e16637870110140933cea> [https://perma.cc/9DQK-YKND (staff-uploaded)].

²²³. Alex Semancik, *Sports Betting and the NFL: Why the League Embraced Gambling and What's Next*, OHIO TODAY (Nov. 14, 2024), <https://www.ohio.edu/news/2024/11/sports-betting-nfl-why-league-embraced-gambling-whats-next> [https://perma.cc/32KL-USFR].

²²⁴. Charean Williams, *NFL Has Suspended 10 Players for Gambling Over Past Two Years*, PRO FOOTBALL TALK (June 29, 2023, 3:21 PM), <https://www.nbc.com/nfl/profootballtalk/rumor-mill/news/seven-players-now-have-ben-suspended-for-betting-on-nfl> [https://perma.cc/4HWJ-FA8P].

²²⁵. Semancik, *supra* note 223.

attention to games that otherwise would not receive high viewership numbers.²²⁶ Teams are finding a new segment of fans watching their games due to those individuals betting on their games.²²⁷ A review of the financial data shows why sports leagues have changed their stance on the legalization of sports betting: It results in *significant* monetary gains.²²⁸

Sports leagues are not the only ones to see increased revenue due to sports betting. State governments around the country have seen significant increases in tax revenue from legalizing sportsbooks.²²⁹ In 2024, state and local governments pulled in a collective \$2.9 billion in taxes.²³⁰ This is up from \$1.8 billion just a year ago, representing a sixty-two percent increase.²³¹

This money is spent on an array of different programs that vary by state. Some states opt to place the money in a general fund, and others put the money towards education or retirement programs.²³² Revenue from sports betting is further justified as regulation allows for the money to be put to good use. Without legalized sports betting, unauthorized sports betting revenue would go directly into the hands of bookies and offshore, unregulated sportsbooks instead of state

226. *Id.*

227. Gavin Bridge, *How Sports Betting Is Improving Engagement with Televised Games*, VARIETY (Dec. 19, 2022, 7:00 AM), <https://variety.com/2022/sports/tech/how-sports-betting-is-driving-fan-engagement-viewership-1235460169/> [https://perma.cc/ET92-N3CK].

228. *How Much Do Leagues Stand to Gain from Sports Betting*, AM. GAMING ASS'N (Oct. 18, 2018), <https://www.americangaming.org/resources/how-much-do-leagues-stand-to-gain-from-legal-sports-betting/> [https://perma.cc/KUS3-2K5K].

229. Dana Gentry, *Good Sports: How Betting Is Getting Bigger Than the Game*, R.I. CURRENT (Feb. 9, 2025, 6:09 PM), <https://rhodeislandcurrent.com/2025/02/09/good-sports-how-betting-is-getting-bigger-than-the-game/> [https://perma.cc/4A67-WW2H].

230. *Id.*

231. Adam Hoffer, *Bets on Legal Sports Markets Pay Off Big for States, Sportsbooks, and Consumers*, TAX FOUND. (Dec. 10, 2024), <https://taxfoundation.org/research/all/state/sports-betting-tax-revenue/> [https://perma.cc/BE6B-6MAT].

232. Jackson Brainerd, *The Early Bets Are In: Is Sports Betting Paying Off?*, NCSL (Mar. 1, 2021), <https://www.ncsl.org/fiscal/the-early-bets-are-in-is-sports-betting-paying-off> [https://perma.cc/D7TT-KRG5].

governments.²³³ Furthermore, these unregulated sportsbooks lack resources for consumers who are at risk of gambling addiction.²³⁴ “[The] only way to stamp out corruption is to have a legal sports betting market,” explained one executive at a prominent Irish gambling company.²³⁵

However, while sports betting should remain legal, this does not mean stricter regulations are unnecessary.

B. Why Sports Betting Requires Further Regulation

To protect against its harmful attributes, the sports betting industry must face regulations similar to those of other vice industries. Alcohol advertisements, for example, are prohibited from providing misleading statements, money-back guarantees, or promotions, or from being placed in areas with predominately underage populations.²³⁶ These same restrictions could also be implemented on sports gambling, since both are particularly harmful to youth and have addictive characteristics.²³⁷ States that have legalized cannabis have placed restrictions on this industry also, including advertisement regulations, mandatory warning statements, location-based marketing, and promotional event restrictions.²³⁸ Like the sports betting industry, the cannabis industry is primarily regulated by

²³³. *Dangers of Offshore Sportsbooks: States Cracking Down*, BIRCHES HEALTH (Dec. 4, 2024, 1:24 PM), <https://bircheshealth.com/resources/offshore-sportsbooks> [<https://perma.cc/DT8V-HQNV>].

²³⁴. *Id.*

²³⁵. Shannon Doyne, *Should Sports Betting Be Legal Everywhere?*, N.Y. TIMES (Feb. 3, 2014, 5:03 AM), <https://archive.nytimes.com/learning.blogs.nytimes.com/2014/02/03/should-sports-betting-be-legal-everywhere/> [<https://perma.cc/ED2Y-ZU6G>].

²³⁶. *Rules & Regulations About Marketing Alcohol*, AM. ADDICTION CTR. (Oct. 25, 2022), <http://alcohol.org/laws/marketing-to-the-public/> [<https://perma.cc/VU7U-XD54>].

²³⁷. *Get the Facts About Underage Drinking*, NIH (Jan. 2025), <https://www.niaaa.nih.gov/publications/brochures-and-fact-sheets/underage-drinking> [<https://perma.cc/LU96-LWCD>].

²³⁸. Jen Lamboy, *Cannabis Marketing Guidelines by State*, HYBRID MKTG. CO. (Jan. 29, 2025), <https://hybridmarketingco.com/cannabis-marketing-guidelines-by-state/> [<https://perma.cc/93E7-LZ7Q>].

states; however, states have been much more likely to adopt strict regulations when it comes to cannabis marketing.²³⁹

For sports betting, a useful regulatory approach can be gleaned from the tobacco industry.²⁴⁰ The tobacco industry's framework currently utilizes a multiagency regulatory model, due to its complexity—which would serve as an ideal template for the sports betting industry.²⁴¹ For example, tobacco companies are required to place warning labels on every cigarette box informing the public of the dangers of smoking, and they are barred from advertising cigarettes on television.²⁴² These restrictions would translate well to the sports betting industry as they would discourage underage and problem gamblers from using their products and inform the public of the industry's negative effects.

Like other vice industries, sports betting is addictive, especially harmful to underage users, and potentially devastating to users' finances, relationships, and health.²⁴³ During his reintroduction of the SAFE Bet Act, Representative Tonko stated that the Act attempts to impose regulations similar to those the tobacco and alcohol industries have faced.²⁴⁴ A compassionate public health approach, as utilized in the regulation of the alcohol and tobacco industries, is the right path forward.²⁴⁵

The federal government is in the best position to implement these regulations. It has done so in the past with other vice industries and therefore has a proven regulatory framework already in place.²⁴⁶ Further, it would have the greatest reach in protection of American citizens, compared to a patchwork of state laws. For these reasons, the

²³⁹. See *id.*

²⁴⁰. Cole Eisenshtadt, *Betting on Oversight: Repurposing Regulations for Cigarette and Tobacco Advertising to Address Sports Gambling, America's Fastest Growing Vice Industry*, 74 ADMIN. L. REV. 387, 392 (2022).

²⁴¹. *Id.*

²⁴². *Id.* at 405.

²⁴³. *Id.* at 394.

²⁴⁴. Tonko, *supra* note 37.

²⁴⁵. *Id.*

²⁴⁶. *Id.*

HIGH STAKES, LOW BARRIERS

SAFE Bet Act is the best solution to the current public health crisis²⁴⁷ that has been brought on by unchecked gambling operations.

VI. CONCLUSION

The sports betting industry's rise in popularity has been meteoric. As a result, sportsbooks, state governments, and sports leagues benefit from billions of dollars of new revenue. However, this comes at a cost: The exploitation of vulnerable groups exacerbates the mental health issues and financial distress experienced by these users.

Sports betting is likely here to stay. Nevertheless, further regulation is necessary to mitigate the negative effects caused by the industry. These regulations must address the technological features sportsbooks leverage to hook consumers on their products.

By providing protections for all bettors—including problem gamblers and minors—the SAFE Bet Act would address many of these issues. The Act's overarching goal is to address the growing public health crisis associated with legalized sports betting. Specifically, the Act aims to restrict sportsbook advertising practices, disallow excessive betting, and prohibit AI's use in targeted advertising.

Proponents of sportsbooks resist federal regulation by pointing to the beneficial tax revenue legalized gambling provides. This tired rhetoric does not suffice. The public will be watching closely to see what is more important to Congress: money or the American people.

²⁴⁷. See Katrina Vanden Heuvel, *Is Sports Gambling a Public Health Crisis?*, NATION (June 5, 2024), <https://www.thenation.com/article/society/addiction-sports-betting-debt/> [https://perma.cc/NDB4-Q7ZP].

