

# The Wire Act: Is Its Bark Worse Than Its Bite?

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The specter of the Wire Act continues to haunt sports-betting states, and the latest example occurred Wednesday in Pennsylvania when regulators ruled all sports-betting servers must be located within the state's borders.

The regulation of the Pennsylvania Gaming Control Board (PGCB) on sports-betting servers differs from its requirements for servers for online casino and poker games, which can be located anywhere in the United States.

Doug Harbach, director of communications for the PGCB, acknowledged that the [restriction on sports-betting servers](#) was specifically intended to comply with the Wire Act of 1961, a federal statute which is widely considered to prohibit the transfer of bets across state lines.

The PGCB regulations dovetail not only with the Wire Act but also the landmark legal opinion released by the [U.S. Department of Justice](#) on December 23, 2011, which found that the 1961 federal law applies only to sports-betting transactions and not other forms of online gambling.

"So now you have a situation where a [Pennsylvania gaming] operator may have a server in New Jersey for casino games, and on the same platform has to have a server for sports betting in Pennsylvania," said Jeremy Kleiman, a partner at Saiber, a Florham Park, New Jersey, law firm which represents gaming clients in Pennsylvania.

"It's more expensive for the operators and it requires additional infrastructure, but it's not insurmountable," Kleiman said.

As well as Pennsylvania, New Jersey and West Virginia are also preparing to launch online sports-betting operations in the wake of the historic decision by the [U.S. Supreme Court](#) on May 14 to overturn the Professional and Amateur Sports Protection Act (PASPA) of 1992.

The dismantling of PASPA is expected to open the floodgates for sports betting across the nation, creating a market worth \$3.1bn to \$5.2bn in annual revenue by 2023, according to a [GamblingCompliance report](#) released earlier this week.

Yet the [Wire Act](#) looms as a formidable compliance challenge, and the question is whether other sports-betting states will follow the cautious example of Pennsylvania or approve less restrictive regulations to test the limits of the Wire Act regarding interstate wagering.

"I'm certainly not dismissive of the Wire Act's power ... It's a very real threat," said John Holden, who recently left the Florida State University Department of Sport Management to become an assistant professor of business at Oklahoma State University.

"That being said, I don't know if the federal government wants to have a showdown with state governments over an activity that is regulated by the states and occurs primarily within the states," Holden said.

Kleiman also is not convinced the Justice Department is eager for an opportunity to invoke the Wire Act in a confrontation with states on sports betting.

"As a practical matter, the likelihood that the Justice Department would expend the resources necessary to prosecute sportsbooks that are operating under state law, I think, is slim," Kleiman said.

In another regulatory provision adopted by the PGCB on Wednesday, Pennsylvania casinos will be limited to one website or "skin" for sports betting and the casino's brand name must be included on the skin.

Joe Grad, a gaming attorney in Scranton, Pennsylvania, said the tight control of skins reflects the 36 percent tax rate on sports-betting revenue included in the [massive gaming bill](#) approved last year by the state legislature.

"I'm not surprised that the PGCB listened to the casinos that were fearful of the additional competition that might be created by permitting multiple skins in the sports wagering vertical," Grad said.

Holden agreed that the one-skin restriction favors established brick and mortar casinos in Pennsylvania.

"I think that's a limit certainly on daily fantasy companies that are trying to get into the [sports-betting] space and might seek to operate under a few different skins," Holden said.

Kleiman said that Pennsylvania may end up following in the footsteps of New Jersey, which originally allowed its casinos to have one platform for internet games but eventually raised the limit to five.

"I'm hopeful that there's an opportunity down the road for the board to reconsider if the industry can demonstrate that it makes sense to have more than one skin," Kleiman said.

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