

# William Hill Exec Sees More States, Tribes Challenging U.S. Betting Ban

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By Tony Batt

Other states and possibly Indian tribes will file lawsuits challenging a federal sports-betting ban if New Jersey loses its latest appeal to allow sports wagering within its borders, according to the head of William Hill's U.S. operations. Joe Asher, CEO of William Hill U.S., said he expects another sports-betting lawsuit "over the next year or two" in a federal circuit court that has traditionally favored states' rights. Speaking on a panel at last week's Southern Gaming Summit in Biloxi, Mississippi, Asher mentioned the 8th and 10th U.S. Circuit Courts of Appeals as potential venues for sports-betting lawsuits.

The jurisdiction of the 8th Circuit, which is based in St. Louis, includes parts of Minnesota where a state bill has already been introduced this year to allow its residents to bet on professional sports events. The 10th Circuit, which is based in Denver, includes parts of Oklahoma where tribal casinos are thriving. Four other states which lie outside the 8th and 10th Circuits but have introduced legislation to allow sports betting are Indiana, Mississippi, New York and South Carolina.

Meanwhile, a decision is expected any day from the 3rd U.S. Circuit Court Appeals in Philadelphia on New Jersey's sports-betting law. The court heard arguments from New Jersey and its opponents, the major sports leagues and the U.S. government on March 17. New Jersey already plans to draft another sports-betting bill if it loses again. "A New Jersey win will have a boomerang effect around the United States," said Daniel L. Wallach, a gaming attorney with the Fort Lauderdale firm of Becker & Poliakoff.

"I wouldn't be surprised to see Pennsylvania and Delaware immediately pass identical legislation because they will be covered by the 3rd Circuit's opinion and then you're likely to see a movement around the country ... and that will pressure Congress to do something about it sooner rather than later," said Wallach, who appeared on the same panel as Asher at the Southern Gaming Summit. After the 3rd Circuit struck down a previous version of New Jersey's sports-betting law in 2013, New Jersey appealed to the U.S. Supreme Court,

which declined to schedule a hearing on the case.

“It’s interesting because the Supreme Court did not take the appeal from the New Jersey case, but that doesn’t mean that they eventually won’t hear and decide the issue,” William Hill’s Asher said. “One of the surefire ways to get a case in front of the Supreme Court is to have a split amongst the federal circuits. I mean that is the one time the Supreme Court really likes to take a case.”

The sports-betting ban is prescribed by the Professional and Amateur Sports Protection Act (PASPA), which Congress passed in 1992. PASPA allows exemptions for Nevada, Delaware, Montana and Oregon as each state allowed at least some form of sports betting before the law’s enactment. PASPA also applies to Indian tribes as well as states, and Asher said “we could very easily have a tribal plaintiff.”

So far, however, there have not been any reports of a tribe contemplating a legal challenge to PASPA as a violation of tribal sovereignty. “I think folks generally have wanted to see how the [New Jersey appeal] plays out in the 3rd Circuit,” Asher said.

Among those embracing this wait-and-see position on sports betting is Allen Godfrey, executive director of the Mississippi Gaming Commission. “Mississippi has probably never been at the forefront of jumping out there and actually doing that kind of controversial lawsuit,” Godfrey said on another panel at the Southern Gaming Summit.

“I would say that there are a lot of people in this state that, should the federal ban be lifted, it would really be discussed seriously,” Godfrey said of sports betting. “I like to think it would because I really think it’s a good idea. I think it drives a lot of people to the casinos to enjoy some of the non-gaming amenities. So I think it’s a positive move.”

But even though Mississippi is one of the five states where legislation has been introduced to legalize sports betting, Godfrey said he thinks the Magnolia State is content to let other states take the lead “and see how the cards fall.”

Wallach agreed with Asher’s view that more legal challenges to PASPA are likely in other federal circuit courts.

“It’s just a question of what kind of appetite state governments have for a legal battle with the professional sports leagues,” Wallach said. “The bottom line is the arguments have already been framed in New Jersey, and I believe the cost of litigating will be substantially lower the next time around because of the extensive briefing and legal argument that already has been waged at the 3rd Circuit twice.”

