

What Are the Odds? Proposed Legislation Could Modernize Canada's Sports Betting Industry

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The long-awaited reform to Canadian gaming law may finally be approaching. Over the last decade, several attempts to legalize single-event sports betting have stalled. However, recent support from governments at the federal and provincial levels has renewed efforts to modernize the sports betting industry in Canada in the hopes of bringing the sector up to speed with other global markets.

The federal government has introduced new legislation which would allow the provinces and territories to regulate and license single-event sports betting in their respective jurisdictions. If the legislation passes, Canadian bettors would be permitted to wager on single sporting events in a legal and regulated sector, either through online platforms or brick and mortar locations.

Following one of the largest sports betting days of the year on Super Bowl Sunday, it is a fitting opportunity to review the current legislative framework, look ahead at the proposed regulatory regime, and discuss what this could mean for the sports betting industry in Canada.

Current Legislative Framework

As sports betting has rapidly evolved and become more prevalent in other markets, policymakers in Canada have resisted a number of attempts to implement changes to the existing legislation for quite some time.

Currently, single game sports betting in Canada is broadly prohibited under Section 207(4)(b) of the *Criminal Code*. Canadians are only permitted to wager on sports by placing bets on the outcome of a combination of multiple sporting events, which is commonly referred to as a parlay.

These restrictions have created a lucrative “grey market” for illegal and unlicensed sports betting channels. According to the Canadian Gaming Association, Canadians wager approximately \$10 billion annually through illegal bookmaking operations, often run by criminal organizations. Furthermore, an additional \$4 billion is wagered through offshore online sports wagering sites. As it stands now, only \$500 million is wagered through legal provincial sports lottery products, meaning that many Canadians have relegated to placing bets through illegal and potentially dangerous outlets.

There are significant financial incentives for the Canadian government to legalize single-event sports

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betting, given the opportunity to access untapped revenue streams, create new jobs and reduce criminal activity. Some may argue that this is particularly true in response to the financial impact that COVID-19 has had on the Canadian economy.

Proposed Regulatory Regime

On November 26, 2020, the federal government introduced Bill C-13, *An Act to amend the Criminal Code (single-event sport betting)*, which if passed, would decriminalize single-event sports betting in Canada. The proposed legislation would allow the provinces and territories to regulate and license single-event sports betting (other than horse racing) in their respective jurisdictions.

The proposed regulatory framework provides the provinces and territories with the option to adopt a private operator model for single-event sports betting. This model would open the door for third party operators to apply for a license, creating a competitive marketplace for sports betting products and platforms which can be offered online or in brick and mortar locations. The emergence of a new sports betting industry in Canada has garnered much attention from businesses that have thrived in other markets, such as the United States. It is also an exciting opportunity for Canadians searching for the proper channels to engage in sports betting within a legal and regulated environment.

On November 5, 2020, the Ontario government released plans in its annual budget bill to modernize its online gaming marketplace. The plans set out to establish a subsidiary of the Alcohol and Gaming Commission of Ontario responsible for managing and regulating online gaming sites operated by private businesses and third-party service providers. The expectation within Ontario's gaming industry is that the provincial government would be quick to implement regulatory changes to modernize the provincial online gaming industry and allow for entry into the lucrative market.

Future Outlook

Although Bill C-13 has yet to successfully pass through the legislative process, early indications suggest that it has gained support and continues to build momentum, with some speculating the legislation could be passed this upcoming spring.

Discussions on the reform of Canadian gaming law have received overwhelming support from both the gaming industry and professional sports leagues. This past summer commissioners from the NHL, NBA, MLB, MLS, and CFL collaborated to submit a letter to Prime Minister Justin Trudeau urging the federal government to revisit the legalization of single-event sports betting.

The successful legalization of sports betting in the United States, which includes 18 states and the District of

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Columbia, has provided a precedent to follow. In May 2018, the United States Supreme Court ruled in favour of overturning the *Professional and Amateur Sports Protection Act*, which opened the gates for single-event sports betting in other states outside of Nevada. Over the course of the past two years, online gaming revenues have soared throughout the United States, with estimates of US\$20 billion having been wagered during that period.

The introduction of Bill C-13 has led to speculation amongst stakeholders that the next sports betting boom could take place in Canada. Private businesses and service providers continue to watch with keen interest as Bill C-13 progresses through the legislative process. If passed, significant opportunities will be available to those well-positioned to capitalize on the lucrative and untapped market of single-event sports betting in Canada.

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